

**REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION**

~ APPEALS ~

Friday, November 3, 2023
9:00 a.m.
Commission En Banc Courtroom
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER Presiding Appellate Officer, Commissioner Tilly

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Commissioner Tilly

After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of September 22, 2023, were considered for approval.

Motion: Commissioner Tilly made a motion to approve the Regular Appeals Meeting of September 22, 2023, minutes.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Cheryl Hunt v. Brookside Cleaners LLC and Trumbull Ins. Co., File #CM3-2023-01287H

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Bret Untershuetz appeared the Claimant and Jennifer A. Sloan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

2. Brandy Hill v. Refresco US Inc. and Sentinel Ins. Co., File #CM3-2022-06021A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Bret Untershuetz appeared the Claimant and Travis Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. Kevin Buckmaster v. Walmart Associates Inc., File #CM3-2023-00465W

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Eric W. Quandt is the attorney of record for the Claimant and Steven E. Hanna is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

4. Chris Gallegos v. City of Tulsa, File #CM3-2022-06872J

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Michael R. Green appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. Robert Ramsey v. Express Employment Professionals DBA and AIU Insurance Co. (NATIONAL UNION FIRE OF PITTS PA), #CM3-2022-01227Y

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant and Travis A. Fulkerson appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Shana Stone v. Southwest Airlines Co. and Indemnity Insurance Co. of North America, File #CM3-2019-04356A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Mitchell E. Shamas appeared for the Claimant and H. Grady Parker Jr. appeared for the Respondent.

Motion: Commissioner Biggs moved to continue this case to the next available docket.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: CASE CONTINUED

7. **Dylan Bradshaw v. Car Mart of Owasso DBA and Federated Mutual Ins. Co., File #CM3-2022-05953N**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Kathryn Black appeared for the Claimant and Steve Hanna appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8. **Glenn Kellum v. Crete Carrier Corp. and Ace American Insurance Company, File #CM3-2022-06071R**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Glenn Keller is the attorney of record for the Claimant and Tess Bullard is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. **Allan Hare v. MITF, File #CM3F-2019-04761J**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Ray Lahann is the attorney of record for the Claimant and Stefan Wenzel is the attorney of record for the Respondent.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

2. James Crittenden Jr. v. MITF, File #CM3F-2019-07602A

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. McCaffrey & Associates are the attorneys of record for the Claimant and Michael A. Fagan is the attorney of record for the Respondent.

This case came on for Oral Argument on November 18, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

3. Jimmie Wilson v. MITF, File #CM3F-2017-01505K

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Micah Felton appeared for the Claimant and Stefan Wenzel appeared for the Respondent.

This case came on for Oral Argument on January 27, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission Tilly moved to take preliminary action to affirm the administrative law judge's order and find that it's neither contrary to law nor against the clear weight of the evidence.

Motion: Commissioner Biggs moved to adopt the order as previously circulated.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER ADOPTED

4. James Randy Westlake v. MITF, File #CM3F-2022-01067X

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann is the attorney of record for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

This case came on for Oral Argument on March 17, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. Jerry Green v. MITF, File #CM3F-2015-07692A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the Administrative Law Judge's order and issue a supplemental order at a future date.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. Virgil Breeze v. Premium Transportation Group Inc. and XL Insurance America Inc., File #CM3-2021-06787E

Both parties filed an appeal from the order issued by Administrative Law Judge Inhofe. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

7. Patricia Troxell v. MITF, File #CM3F-2017-00855A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. April Spurgeon appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Chairman Russell moved to take preliminary action to draft an order directing the Administrative Law Judge to appoint an independent nurse manager to accompany the claimant to the physician's examination.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

8. Fernando Colunga v. MITF, File #CM3F-2015-01300K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on May 19, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

9. Leticia Arevalo v. Worldwide Printing & Distribution and Great American Alliance Ins. Co., File #CM3-2022-006317G

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Arthur H. Adams is the attorney of record for the Claimant and James B. Cassody is the attorney of record for the Respondent.

This case came on for Oral Argument on June 16, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to modify the order and award TTD from October 7, 2022 to October 13, 2022 in the agreed upon stipulated rate and remand in part.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

10. Debra Ferguson v. Selco LLC and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-04017X

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Margaret E. Otterson is the attorney of record for the Claimant and Cathy C. Barnum is the attorney of record for the Respondent.

This case came on for Oral Argument on June 16, 2023 After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the portion of the order awarding evaluation and the treatment for weight loss and reverse and remand the portion of the order for the shower for appointment of a nurse case manager to evaluate and make recommendations to the Administrative Law Judge on that matter.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

11. Travis Oakes v. City of Stillwater, File #CM3-2022-07536Y

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Daniel J. Talbot appeared for the Claimant and John D. Valentine appeared for the Respondent.

This case came on for Oral Argument on July 21, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to reverse the denial of Respondent's motion to terminate TTD.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

12. James Brock v. Starlight Express LLC and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2021-04119R

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to preliminary action to reverse the order sustaining Respondent's request for dismissal of certain body parts and authorize the Commission's appellate counsel or other staff member to draft a proposed order findings and facts and conclusion of law to be considered for continued action at a future meeting.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

13. Jimmy Mills v. Gary A. Crain Inc. and Imperium Insurance Co., File #CM3-2020-00795Q

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take this case under advisement.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

14. Richard Carmichael v. G.T. Bynum Co. LLC and Old Glory Insurance Co., File #CM3-2022-00963T

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Bret Untershuetz appeared for the Claimant and David Custar appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to reverse the denial of TTD, remand the case back to the ALJ, and issue an order at a later date.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

15. Kevin Power v. Flow Testing Inc. and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2020-02016R

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Ray Lahann is the attorney of record for the Claimant and Laurie D. Judy is the attorney of record for the Respondent.

This case came on for Oral Argument on September 22, 2023. Commissioner Biggs moved to take preliminary action to vacate the denial and remand back to the ALJ for the submission of further evidence as requested by the CIME in his report.

Motion: Commissioner Biggs moved to continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Commissioner Biggs moved to adjourn the meeting at approximately 2:55 p.m.

Second: Chairman Russell.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MEETING ADJOURNED.