

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday December 11, 2015
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Bob Gilliland, Commissioner LeRoy Young and Commissioner Mark Liotta.

Staff present to support the Commission: Lindsey Christopher and Dana Esparza.

CALL TO ORDER Presiding Appellate Officer, Chairman Gilliland

Call to order 9:05 a.m. by Chairman Gilliland, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Chairman Gilliland

After the roll call was taken, Chairman Gilliland announced the presence of a Quorum and the Statement of Compliance with the Open Meeting Act was read.

NOTICE OF COMPLIANCE..... Dana Esparza

STATEMENT OF OKLAHOMA OPEN MEETING LAW
COMPLIANCE

Notice of this Special Meeting was filed with the Secretary of State's office on Tuesday, June 2, 2015 at 9:51 a.m., in compliance with the Open Meeting Act.

The Agenda was posted at 2:25 p.m. on Monday, December 7, 2015, more than 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted at 1915 North Stiles, the Commission's principal office.

MINUTES:

- The drafted Minutes of the Special Meeting of November 20, 2015, were considered for approval.

Presiding Appellate Officer Chairman Gilliland presented the minutes of the November 20, 2015 special meeting for approval.

Motion: Commissioner Young made a motion to approve the minutes of the November 20, 2015 special meeting.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: MINUTES APPROVED

Anthony T. Orman v. Econo Lodge Airport & Employers Preferred Insurance Co., File #CM2014-08226Y

Claimant filed an appeal from the order issued by Administrative Law Judge Sommer. Bret Unterschuetz represented the Claimant and Elizabeth Grey represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Presiding Appellate Officer Chairman Gilliland moved to affirm the Order and issue an order with specific findings and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Mark A. Caron, II v. Asplundh Tree Expert Co. & Liberty Mutual Insurance Co. File #CM2015-01147R

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Bret A. Unterschuetz represented the Claimant and Travis R. Colt represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Commissioner Young moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

John A. Dolph v. M&M Detail/Mark Meeks, Hopkins Transports, Inc., Nationwide Agribusiness Insurance Co., Timmons Oil Co. Inc., Nationwide Agribusiness Insurance Co. File #CM2015-02656A

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Bret Unterschuetz represented the Claimant and Norman Lemonik represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Commissioner Liotta moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Presiding Appellate Officer Chairman Gilliland

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Jason Phillips v. RTS Shearing LLC & American Interstate Insurance Co. File #CM2014-10679K

Claimant filed an appeal from the order issued by Administrative Law Judge Sommer. Cyrus Lawyer represented the Claimant and Daniel Blanchard is the attorney of record for the Respondent.

Motion: After the parties waived oral argument, Presiding Appellate Officer Chairman Gilliland moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Young

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Meshell Lee Lamonica v. NAPA Auto Parts & Safety National Casualty Corp., File #CM2014-10935K

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Gary G. Prochaska represented the Claimant and John A. McCaleb represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Commissioner Liotta moved to affirm the Administrative Law Judge's Order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Presiding Appellate Officer Chairman Gilliland

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Elizabeth Loving v. McAlester Regional Health Center Rural Health Clinic (OWN RISK #19534), File #CM2015-00787A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Mark Litton represented the Claimant and Gary D. Long is the attorney of record for the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Presiding Appellate Officer Chairman Gilliland moved to remand the Administrative Law Judge's Order to provide specific findings to clarify the Claimant met her burden of proof regarding her fall and the basis of the award of Temporary Total Disability after her surgery.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ALJ ORDER REMANDED

Felix Bustos v. Wedge Measurement Systems, LLC & Travelers Indemnity Company, File #CM2014-10829A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Robert A. Flynn is the attorney of record for the Claimant and Kevin D. Berry is the attorney of record for the Respondent.

The parties forwarded joint correspondence to the Commission regarding the Appeal being moot due to the parties settling the case. The referenced correspondence is attached to these minutes as Exhibit "1".

No action was taken on this agenda item in view of settlement of the case.

Commission Consideration of Adoption of Final Order in the Following Cases:

Darla Jean Camp v. Atwood Distributing LP & Zurich American Insurance Co. File #CM2014-05687X

At the Special Meeting on November 20, 2015, the Commission heard oral arguments from Brandon J. Burton, counsel for the Claimant, and Tomothy E. Lurtz, counsel for the Respondent. After deliberating, the Commission voted to affirm the Administrative Law Judge's Order and issue an order with further findings supporting the decision.

Motion: Commissioner Young moved to adopt the order as proposed and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: ORDER ADOPTED

Regina Ann Killough v. Wal-Mart Stores Inc., (Own Risk #20000) #CM2015-02115R

At the November 20, 2015, Special Meeting, the Commission heard oral arguments from Chris D. Caldwell, counsel for the Claimant, and Norman Lemonik, counsel for the Respondent. After deliberating, the Commission voted to take preliminary action to remand the Order and instruct the law clerk or other staff member to draft a proposed order with instructions to the Administrative Law Judge to provide specific findings relating to the sufficiency of the Employer's initial light duty offer, the circumstances of Claimant's termination and basis for the award of Temporary Total Disability from June 29, 2015 to August 24, 2015; and instructing the Law Clerk or other staff member to draft a proposed Order to be considered in further deliberations at a future Commission meeting.

Motion: Presiding Appellate Officer Chairman Gilliland moved to adopt the order as proposed and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta.

THE MOTION CARRIED: ORDER ADOPTED

Announcements:

Commission's next regularly scheduled meeting is Thursday, January 14, 2016. Commission's next Special Meeting regarding Appeals is scheduled for Friday, January 29, 2016.

ADJOURNMENT

Motion: Presiding Appellate Officer Chairman Gilliland moved to adjourn the meeting at approximately 11:24 a.m.

Second: Commissioner Liotta

Those Voting Aye: Presiding Appellate Officer Chairman Gilliland, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.