

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

APPEALS

Friday, December 18, 2020

9:00 a.m.

Commission Chambers

1915 N. Stiles Ave.

Oklahoma City, Oklahoma

www.wcc.ok.gov

[Interim Guidance on Commission Appellate Proceedings](#)

AGENDA

CALL TO ORDERPresiding Appellate Officer, Chairman Liotta

ROLL CALLPresiding Appellate Officer, Chairman Liotta

BUSINESSPresiding Appellate Officer, Chairman Liotta

STATEMENT OF COMPLIANCE BY CHAIRMAN

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of November 20, 2020, will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION

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

The hearings before the Commission en banc will be conducted pursuant to the authority and jurisdiction of the Administrative Workers' Compensation Act, Title 85A O.S. § 1 et seq., and the Workers' Compensation Commission's Permanent Rules, OAC 810. The Commissioners may recess for lunch.

The procedure for the hearings before the Commission en banc is as follows:

- Each side will be allowed ten (10) minutes for oral arguments.
- The appellant will present first. Appellant may divide his or her ten minutes for argument, allowing a portion of that time for rebuttal.
- Both parties are subject to questioning by Commissioners.

1. **Michael Pemberton v. Boyd & Co. Construction and Zurich American Insurance Co., File #CM2017-01215Q**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Philip D. Ryan is the attorney of record for the Claimant and J. William Archibald is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

2. **Merle Leach v. Oklahoma Department of Veteran Affairs and the State of Oklahoma, File #CM2017-04941K**

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 Preston G. Hanner is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

3. **Charlene Skene v. Dress Barn Inc. and Safety National Casualty Corp., File #CM2018-04158A**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Arthur H. Adams and Bret A. Unterschuetz are the attorneys of record for the Claimant and Clark P. Busyhead is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

4. **Vincent Dopler v. NCED Conference Center Marriot and Marriot International Inc. (OWN RISK), File #CM2018-06999K**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Kurt W. Goodwin and Spencer Housley are the attorneys of record. Jennifer Finley is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

5. **Araceli Aranda v. IC Bus of Oklahoma LLC and IC Bus of OK a Navistar Inc. Co. (OWN RISK #19208), File #CM2019-03076A**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann is the attorney of record for the Claimant and David J. Frette is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

6. **Jashon Ryan v. Certified Source Inc. and COMPSOURCE Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM2019-03425A**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Jeffery M. Cooper is the attorney of record for the Claimant and Robert A. Manchester is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

7. Mary James v. Tyson Food Inc. (OWN RISK), File #CM2019-06488A

Respondent filed an appeal from the order issued by Administrative Law Judge Curtin. John R. Colbert is the attorney of record for the Claimant and Rose Sloan is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

8. Van Hadder v. OK Foods Inc. and OK Foods Inc. FKA OK Industries Inc. (OWN RISK #16925), File #CM2019-06965K

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Margaret Otterson is the attorney of record for the Claimant and R. Jay McAtee is the attorney of record for Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; affirming the order and decision of the Administrative Law Judge and issuing an order to that effect; or taking preliminary action in the matter to reverse, modify, or remand. If the Commissioners do not fully affirm the order of the Administrative Law Judge, the Commission may instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

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

1. Marcus McDonald v. Kelvion Inc. FKA GEA Heat Exchangers Inc. (OWN RISK #17805), File # CM2014-09940A

Respondent and Claimant both filed an appeal from the order issued by Administrative Law Judge Lawyer. On December 3, 2018, the Commission entered an order affirming the Administrative Law Judge's decision as modified. Pursuant to Respondent's appeal, the Court of Civil Appeals entered an order sustaining in part and remanding for further proceedings.

A proposed order on remand has been to circulated to the Commissioners for consideration of adoption.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

2. **Glenn Stonebridge v. American Airlines Inc. and New Hampshire Insurance Co., File #CM2018-00189L**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Pam Cornett represented the Claimant. Lee Endicott represented Respondent.

This case came on for Oral Argument on February 21, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

3. **Diana Burbank v. Tropical Plant Design Inc. and Compsource Mutual Ins. Co. (FKA Compsource Oklahoma), File #CM2017-01135Q**

Claimant and Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Edward Grimes appeared for the Claimant and Cynthia J. Braly appeared for the Respondent.

This case came on for Oral Argument on June 19, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

4. **Selene Castro v. Cameron International Corp. and Travelers Indemnity Co. of America, File #CM2019-00763Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney appeared for the Claimant. Steven K. Bunting appeared for the Respondent.

This case came on for Oral Argument on June 19, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

5. **Victor Martinez v. Multiple Injury Trust Fund, File #CM2018-02303YMIF**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Marcus Gowens appeared for the Claimant and Jon Derouen appeared for the Respondent.

This case came on for Oral Argument on October 23, 2020. After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to take preliminary action to affirm the Administrative Law Judge's Order and instruct Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

6. **Bernard Debord Jr. v. Action Group Staffing and CompSource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA) and Flintco LLC and Arch Insurance Co., File #CM2019-02911A**

Respondent Flintco, and its insurance carrier, Arch Insurance Company, filed an appeal from the order issued by Administrative Law Judge Inhofe. Respondent Action Group Staffing, and its insurance carrier, CompSource Mutual Insurance Company, filed a cross-appeal. David P. Reid appeared for the Claimant. Dana L. Gish appeared for Action Group Staffing and CompSource Mutual Insurance Company. John A. McCaleb appeared for Flintco and Arch Insurance Company.

This case came on for Oral Argument on October 23, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

7. **Bobby Collings v. Multiple Injury Trust Fund, File #CM2017-00899FMIF**

Respondent filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan appeared for the Claimant. John Derouen appeared for the Respondent.

This case came on for Oral Argument on October 23, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

8. Steven Bachlor v. IC Bus of Oklahoma LLC and IC Bus of OK A Navistar Inc. Co. (OWN RISK #19208), File #CM2017-05790A

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Ray Lahann appeared for the Claimant and David J. Frette appeared for Respondent.

This case came on for Oral Argument on October 23, 2020. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

9. Quincy Tran v. Boeing Co. and Indemnity Insurance Co. of North America, File #CM2017-05844R

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Claimant represented himself pro se. Theresa Bullard appeared for the Respondent.

This case came on for Oral Argument on October 23, 2020. After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to take preliminary action to reverse and remand the Administrative Law Judge's decision as contrary to law and instruct Appellate Counsel or other staff member to draft a proposed order to be considered for continued action at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

D. Announcements

The Commission's next regular business meeting is Thursday, January 28, 2021, at 1:30 p.m. The Commission's next regular appeals meeting is Friday, January 29, 2021, at 9:00 a.m.

ADJOURNMENT.....Presiding Appellate Officer, Chairman Liotta