

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

~ APPEALS ~

Friday, February 17, 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 January 27, 2023, were considered for approval.

Motion: Commissioner Biggs made a motion to approve the Regular Appeals Meeting of January 27, 2023, minutes.

Second: Commissioner Tilly

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. Andrew Little v. City of Tulsa (OWN RISK #10435), File #CM3-2015-01112R

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. April Spurgeon is the attorney of record for the Claimant and Travis R. Colt 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

2. Shawn Holland v. City of Tulsa (OWN RISK #10435), File #CM3-2018-04265Q

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Kathryn Black is the attorney of record for the Claimant and Travis R. Colt 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

3. Eva Handle v. MITE, File #CM3F-2018-02950L

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. David P. Reid is attorney of record for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

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

Second: Chairman Russell

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

THE MOTION CARRIED: CASE CONTINUED

4. **Andrea Green v. First Transit Inc. and New Hampshire Insurance Co., File #CM3-2019-01317J**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Robert L. Smith is the attorney of record for the Claimant and Blake Farris 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

5. **Rhonda Gwartney v. MITF, File #CM3F-2019-06247A**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Herbert E. Elias Jr. is the attorney of record for the Claimant and Travis R. Colt 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

6. **Kamarrah Cunningham v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2020-05014R**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Robert A. Flynn is the attorney of record for the Claimant and Steven E. Hanna is the attorney of record for the Respondent.

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

Second: Chairman Russell

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

THE MOTION CARRIED: CASE CONTINUED

7. **Jeffery Hurst v. Northeastern A&M College and State of Oklahoma Consolidated Workers Compensation Program, File #CM3-2021-05934X**

Respondent filed an appeal from the order issued by Administrative Law Judge Curtin. Bryce A. Hill is the attorney of record for the Claimant and Cynthia J. Braly 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

8. **Pauline Hernandez v. Cintas Corp. and Farmington Casualty Co., File #CM3-2021-02415H**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Nathan Lobaugh is the attorney of record for the Claimant and Robert P. Powell 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

9. **Cheryl Gee v. City of Tulsa, File #CM3-2021-05276W**

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

Motion: Commissioner Tilly moved to continue this case to the June appeals docket.

Second: Chairman Russell

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

THE MOTION CARRIED: CASE CONTINUED

10. Anita Wagner v. Macys Inc. (OWN RISK), File #CM3-2020-02294R

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones is the attorney of record for the Claimant and Chad R. Whitten 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. Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Chairman Russell moved to adopt the order as proposed.

Second: Commissioner Biggs

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

THE MOTION CARRIED: ORDER ADOPTED

2. 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

3. 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

4. Wanda Gibby v. MITF, File #CM3F-2019-07638F

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

5. Norma Chavez v. Lopez Foods Inc. (OWN RISK), File #CM3A-2017-07276R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. W. Wicker and James G. Devinney appeared for the Claimant. Norman Lemonik appeared for the Respondent.

This case came on for Oral Argument on August 26, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the

law clerk or other staff member to draft a proposed order with finding of facts and conclusions 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

6. Robert Page v. City of Tulsa (OWN RISK #10435), File #CM3-2020-06114Y

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Micah Felton appeared for the Claimant and Cyrus Nathaniel Lawyer appeared record for the Respondent.

This case came on for Oral Argument on September 16, 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

7. Nancy Gonzalez-Rubio v. Pacific Painting Co. Inc. and Continental National Indemnity Co., File #CM3A-2019-04881X

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Milly Daniels appeared for the Claimant and Nicole S. Bryant appeared for the Respondent.

This case came on for Oral Argument on September 16, 2022. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to vacate and remand the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions 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: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

8. Allen Schuster v. Grady Memorial Hospital (OWN RISK), File #CM3-2021-00425R

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Claimant represented himself, pro se, and Donald A. Bullard 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, Commission Tilly moved to take preliminary action to affirm the order in-part and overrule the order in-part, specifically, to affirm the findings of a compensable injury to the thoracic back; affirm the award of TTD; overrule the finding of compensable injury to the neck; and remand the matter to the ALJ on the appointment of an IME for psych overlay.

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

Second: Commissioner Tilly

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

THE MOTION CARRIED: ORDER CONTINUED

9. 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 continue this order to the next appeals meeting.

Second: Commissioner Tilly

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 2:26 p.m.

Second: Commissioner Tilly.

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

THE MOTION CARRIED: MEETING ADJOURNED.