

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

APPEALS

Friday February 22, 2019
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

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 Appeal Meeting of February 1, 2019 and Special Appeals Meeting Minutes of February 15, 2019, 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. George Flowers v. Multiple Injury Trust Fund, File #CM2016-07648AMIF

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Michael C. Bell is the attorney of record for the Claimant. Richard Cole is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action; 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

2. Crescencio Rodriguez v. Trinity Industries Inc. & Ace American Insurance Co. File #CM2016-07223L

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Craig R. Armstrong is the attorney of record for the Claimant and Travis A. Fulkerson is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

3. Kristal Nicholson v. University of Oklahoma, (Own Risk #14839), File #CM2018-01658J

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 D. Wade Christensen is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

4. Robert R. Brooks Jr. v. Multiple Injury Trust Fund, File #CM2016-05426QMIF

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Ray Lahann is the attorney of record for the Claimant and Richard Cole is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

5. Shawna L. James V. Braums Ice Cream & Dairy Stores (Own Risk #13610), File #CM2017-02909L

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Eric W. Quandt is the attorney of record for the Claimant. Travis A. Fulkerson is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

6. Tammy G. Kallam v. Emerson Proces Management Regulator Technologies & Old Republic Insurance Co., File #CM2017-02159L

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green is the attorney of record for the Claimant and Cyrus Nathaniel Lawyer is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

7. Deidra Kay Mills v. Railcrew Express LLC & Liberty Insurance Corp., File #CM2017-06167J

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

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

8. Brittany N. Smith v. Whataburger Restaurants LLC & Safety National Casualty Corp., File #CM2017-02425Y

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green is the attorney of record for the Claimant and Catherine C. Taylor is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

9. Donald Williams v. Carlisle Foodservice Inc. & New Hampshire Insurance Co., File #CM2017-07135J

Claimant filed an appeal from the order issued by Administrative Law Judge Curtain. Milly Daniels and William R. Emig are the attorneys of record for the Claimant and John A. McCaleb is the attorney of record for the Respondent.

Possible Action:

Possible action may include, but is not limited to: taking no action, 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, remand or if otherwise do not fully affirm the order of the Administrative Law Judge and instructing the Appellate Counsel or other staff member to draft a proposed order to be considered in further deliberations at a future Commission meeting, or continuing the matter.

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

1. James E. Dunlap v. MITF, File # CM2015-08328XMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan represented the Claimant. Michael Fagan represented the Respondent.

This case came on for Oral Argument on November 30, 2018. After reviewing the record hearing oral argument of counsel, and deliberating, the Commission took to continue this case for consideration at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

2. Billy J. Schmidt v. MITF, File #CM2016-02288JMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joe Farnan represented the Claimant and Michael Fagan represented the Respondent.

This case came on for Oral Argument on November 30, 2018. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

3. Alicia A. Breuer v. Bounce Back Rehab PLC, & State Farm Fire and Casualty Co., File #CM2017-02739F

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

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instruct Commission Counsel or other staff member to draft a proposed order to be considered at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

4. Bovas George v. Synergies 3 Tec Services LLC, and North American Specialty Insurance Co. File #CM2017-05267Q

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Esther M. Sanders represented the Claimant and Robert Paczkowski represented the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

5. Dustin Wilson V. Dirt Wurx LLC, CompSource Mutual Ins. Co. (FKA CompSource Oklahoma), File #CM2018-00497R

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

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to reverse the Administrative Law Judge's order and instruct Commission Counsel or other staff member to draft a proposed order to be considered at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

6. Roger Bastien v. Mathis Brothers Furniture Co. Inc., (Own Risk #19602), File #CM2018-00536A

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Arthur H. Adams represented the Claimant. Kelly Bodell represented the Respondent.

This case came on for Oral Argument on February 1, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took preliminary action to affirm the Administrative Law Judges Order and instruct Appellate Counsel or another staff member to draft a proposed order with findings of fact and conclusions of law for consideration at a future meeting. A proposed order has been distributed to the Commissioners for consideration of adoption. A proposed order has been distributed to the Commissioners for consideration of adoption.

Possible Action:

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

C. Announcements

Commission's next special business meeting is Thursday, March 14, 2019.
Commission's next regular meeting regarding Appeals is scheduled for Friday, March 22, 2019.

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