

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday March 4, 2016
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 9:00 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 Thursday, December 10, 2015 at 9:04 a.m., in compliance with the Open Meeting Act.

The Agenda was posted at 8:18 a.m. on Thursday, March 3, 2016, more than 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 North Stiles, the Commission's principal office.

MINUTES:

- The drafted Minutes of the Special Meeting of February 24, 2016 & February 26, 2016 will be considered for approval.

Presiding Appellate Officer Chairman Gilliland presented the minutes of the February 24, 2016 & February 26, 2016 special meetings for approval.

Motion: Commissioner Young made a motion to approve the minutes of the February 24, 2016 & February 26, 2016 special meetings.

Second: Commissioner Liotta

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

THE MOTION CARRIED: MINUTES APPROVED

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

Mike Malenski v. Cherokee County & CompSource Mutual Ins. CO., File #CM2015-03360L

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Jack Stipe represented the Claimant and Raegan D. Sifferman 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

William Cleveland v. American Plant Products & Services Inc., File #CM2015-02171F

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Ryan Polchinski represented the Claimant and David J. Frette represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Commissioner Young moved to take preliminary action to reverse the Administrative Law Judge's Order on the grounds that cumulative trauma was not the sole and direct cause of Claimant's injury; and instruct the Law Clerk or other staff member to draft a proposed order with findings of facts and conclusions of law to be considered for continued action at a future meeting.

Second: As there was no second this Motion failed.

Motion: After hearing the oral argument of counsel and deliberating, 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 Liotta

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

Those Voting Nay: Commissioner Young

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Benjamin Lee Holden v. Express Personnel Services & New Hampshire Insurance Co., File #CM2015-02006X

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Stacey Lobaugh is the attorney of record for the Claimant and Travis A. Fulkerson is the attorney of record for the Respondent. Lew Berkowitz appeared on behalf of the parties to announce that a settlement agreement had been reached and request that the oral argument be stricken. Mr. Fulkerson confirmed the pending settlement through an email to the Commission.

After hearing the announcement by Mr. Berkowitz and reviewing the email from Mr. Fulkerson, Presiding Appellate Officer Chairman Gilliland agreed to strike the oral argument.

Rita McAdoo v. Riverstone Residential Group LLC & Pacific Indemnity Co., Files #CM2014-10122R and CM2014-11620K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Esther M. Sanders represented the Claimant, and Malcom D Smith Jr. 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: APPEAL AFFIRMED

Renee Ruth May v. Heritage Healthcare Inc. & Stonetrust Commercial Insurance Co., File #CM2014-05470R

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Esther M. Sanders represented the Claimant and Jeffrey W. Dasovich represented the Respondent.

Motion: After hearing the oral argument of counsel and deliberating, Presiding Appellate Officer Chairman Gilliland moved to take preliminary action to remand the Order, with instructions to set out the reasons for deviating from the opinion of the Independent Medical Examiner; and instruct the Law Clerk or other staff member to draft a proposed order with findings of facts and conclusions of law to be considered for continued action at a future meeting.

Second: Commissioner Liotta

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

THE MOTION CARRIED: ALJ ORDER REMANDED

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

David M. Waltman v. Five Star Equipment Leasing & Rental Co. LLC & Liberty Mutual Insurance Co., File #CM20154-04492J

At the Special Meeting on February 26, 2016, the Commission heard oral arguments from Robert S. Post, counsel for the Claimant, and Jacque Dean Brawner, counsel for the Respondent. After deliberating, the Commission voted to remand the Administrative Law Judge's Order for correction and clarification.

After reviewing the record, hearing oral arguments, and deliberating, a proposed order was drafted and considered for adoption by the Commission.

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 Wednesday, March 23, 2016. Commission's next Special Meeting regarding Appeals is scheduled for Friday, April 15, 2016.

ADJOURNMENT

Motion: Commissioner Liotta moved to adjourn the meeting at approximately 11:23 a.m.

Second: Presiding Appellate Officer Chairman Gilliland

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

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.