

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

APPEALS

Friday, July 21, 2023
9:00 a.m.
Commission En Banc Courtroom
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

AGENDA

- CALL TO ORDER.....Commission’s Chair, Chairman Russell**
- ROLL CALL.....Presiding Appellate Officer, Commissioner Tilly**
- BUSINESS.....Presiding Appellate Officer, Commissioner Tilly**

STATEMENT OF COMPLIANCE BY CHAIRMAN

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

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of June 16, 2023 will be considered for approval.

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. **Arlizeth Mendez v. Jack in the Box 6145 and Employers Preferred Ins. Co., File #CM3-2022-05999Q**

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Arthur H. Adams is the attorney of record for the Claimant and Cathy C. Barnum 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. **Grover Summey v. Craigs Tulsa RV LLC and Compsource Mutual Insurance Company, File #CM3-2022-07135E**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Arthur H. Adams is the attorney of record for the Claimant and Blake I. Whitten 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. **Chris Wade v. Accent Pest Control Inc. and Amtrust Insurance Co., File #CM3-2021-05270G**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Arthur H. Adams is the attorney of record for the Claimant and Dana L. Gish 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. **Leah Nunn v. Sprouts Farmers Markets Inc. and Ace American Insurance Co., #CM3-2019-06190X**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Terrel B. Doremus is the attorney of record for the Claimant and Jerrod Geiger 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. **Bobby Ross v. Bird Equipment LLC and Zurich American Ins. Co., File #CM3-2022-01159A**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Charles Simons is the attorney of record for the Claimant and James B. Cassody 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. **Travis Oakes v. City of Stillwater, File #CM3-2022-07536Y**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Daniel J. Talbot is the attorney of record for the Claimant and John D. Valentine 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. **James Massey v. MITF, File #CM3F-2022-04402N**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones is the attorney of record for the Claimant and Jordan S. Ensley 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. Steve Cruz v. Vanguard Equipment Inc. and Compsource Mutual Insurance Company, File #CM3-2022-02954H

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Jack G. Zurawik 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.

9. Timothy Thompson v. Staffing Solutions Southwest Inc. and XL Insurance America Inc., File #CM3-2022-03941R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Daniel M. Davis is the attorney of record for the Claimant and Todd A. Estes 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.

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

1. 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.

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. **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.

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. **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.

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. **James Randy Westlake v. MITF, File #CM3F-2022-01067X**

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ray Lahann is the attorney of record for the Claimant and Travis R. Colt is the attorney of record for the Respondent.

This case came on for Oral Argument on March 17, 2023. 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; 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. **Michael Lewis v. H3S Investments, LLC and Stonetrust Commercial Ins. Co., #CM3-2022-00255Y**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Jennifer Finley appeared for the Respondent.

This case came on for Oral Argument on March 17, 2023. 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; 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. **Jerry Green v. MITF, File #CM3F-2015-07692A**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the Administrative Law Judge's order and issue a supplemental order at a future date.

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. **Virgil Breeze v. Premium Transportation Group Inc. and XL Insurance America Inc., File #CM3-2021-06787E**

Both parties filed an appeal from the order issued by Administrative Law Judge Inhofe. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. 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; 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. **Patricia Troxell v. MITF, File #CM3F-2017-00855A**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. April Spurgeon appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. After reviewing the record, hearing oral argument of counsel, and deliberating, the Chairman Russell moved to take preliminary action to draft an order directing the Administrative Law Judge to appoint an independent nurse manager to accompany the claimant to the physician's examination.

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.

9. **Fernando Colunga v. MITF, File #CM3F-2015-01300K**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on May 19, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

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.

10. Leticia Arevalo v. Worldwide Printing & Distribution and Great American Alliance Ins. Co., File #CM3-2022-006317G

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

This case came on for Oral Argument on June 16, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to modify the order and award TTD from October 7, 2022 to October 13, 2022 in the agreed upon stipulated rate and remand in part.

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.

11. Debra Ferguson v. Selco LLC and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-04017X

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Margaret E. Otterson is the attorney of record for the Claimant and Cathy C. Barnum is the attorney of record for the Respondent.

This case came on for Oral Argument on June 16, 2023 After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to affirm the portion of the order awarding evaluation and the treatment for weight loss and reverse and remand the portion of the order for the shower for appointment of a nurse case manager to evaluate and make recommendations to the Administrative Law Judge on that matter.

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.

ADJOURNMENT.....Presiding Appellate Officer, Commissioner Tilly