

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

APPEALS

Friday, August 26, 2022
9:00 a.m.
Commission Chambers
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 July 15, 2022 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. **Derrick Hopkins v. Best Buy Co. Inc. and XL Insurance America Inc., File #CM3-2020-04456A**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Gary G. Prochaska is the attorney of record for the Claimant and Kevin D. Berry 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. **Elias Solis v. MITF, File #CM3F-2019-07725A**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Daniel M. Davis is the attorney of record for the Claimant and Michael A. Fagan 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. **Migdalia Wakefield v. Goodyear Tire & Rubber Co. (OWN RISK), File #CM3-2020-02071A**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Daniel M. Davis is the attorney of record for the Claimant and Mathew J. Graves 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. **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. Brad W. Wicker and James G. Devinney are the attorneys of record for the Claimant. Norman Lemonik 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. Trevor Dilorenzo v. Janzen Toyota Scion and Oklahoma Auto Dealers Sia (GROUP #75058), File #CM3-2021-01636F

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Daniel M. Davis is the attorney of record for the Claimant and Eric L. Tabor 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. Joan Olejua v. Lopez Food Inc. (OWN RISK), File #CM3-2021-01621Y

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. W. Jeffrey Dasovich is the attorney of record for the Claimant and Norman Lemonik 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. Rita Morales v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2015-07958X

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

This case came on for Oral Argument on April 29, 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, adopting an order as proposed or as modified at the hearing, or continuing the matter.

2. **Julian Slater v. MITF, File #CM3F-2019-00356F**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bob Burke 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 Chairman Russell 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.

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. **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.

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. **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.

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. Joseph Handley v. Nationwide Fixture Installation Inc. and Hanover American Insurance Co., File #CM3-2019-00808J

Both parties filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Rose M. Sloan appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commissioner Biggs moved to take preliminary action to affirm in-part, in regards to consequential injury, and remand in-part, in regards to intervening accident, and remand back for determination of medical treatment and instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

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. Kamarrah Cunningham v. Walmart Inc. (OWN RISK), File #CM3-2020-05014R

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

This case came on for consideration on Respondent's Motion to Dismiss Appeal and Strike Written Argument, filed on August 18, 2022.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; granting the motion and issuing an order to that effect; denying the motion and issuing an order to that effect; or taking preliminary action and instructing 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