

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Wednesday, April 22, 2015
8:30 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Troy Wilson, Commissioner Denise Engle and Commissioner Bob Gilliland.

Staff present to support the Commission: Lindsey Christopher and Dana Esparza.

CALL TO ORDER Presiding Appellate Officer, Commissioner Gilliland

Call to order 8:30 a.m. by Commissioner Gilliland, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Commissioner Gilliland

After the roll call was taken, Commissioner 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 Friday, April 6, 2015 at 4:19 p.m., in compliance with the Open Meeting Act.

The Agenda was posted at 3:15 p.m. on April 17, 2015, 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 April 1, 2015 were considered for approval.

Presiding Appellate Officer Commissioner Gilliland presented the minutes of the April 1, 2015 special meeting for approval.

Motion: Chairman Wilson made a motion to approve the minutes of the April 1, 2015 special meeting.

Second: Commissioner Engle

Those Voting Aye: Commissioner Engle, Commissioner Gilliland and Chairman Wilson.

THE MOTION CARRIED: MINUTES APPROVED

8:30 a.m. David W. Holybee v. Southern Oklahoma Regional Disposal Inc. & CompSource Mutual Ins. Co., File #2014-03050F

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. John R. Colbert represented Claimant and Warren E. Mouldoux, III represented Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Engle moved that the Commission take preliminary action to reverse the Administrative Law Judge's Order issued on the 24th day of February, 2015, in Commission File # CM-2014-03050F on the grounds that the decision was contrary to law and against the clear weight of the evidence and instruct 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. As there was no second, this motion failed.

Motion: Presiding Appellate Officer Commissioner 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: Chairman Wilson

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland and Chairman Wilson

Those Voting Nay: Commissioner Engle

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8:50 a.m. Theresa Maxwell v. Sprint PCS & American Casualty Co. of Reading PA File #2014-03443H

Claimant filed an appeal from the order issued by Administrative Law Judge Sommer. Bob Burke represented Claimant and John A. McCaleb represented Respondent.

Motion: After counsel for both parties waived argument, Chairman Wilson 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 Engle

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland, Commissioner Engle and Chairman Wilson

THE MOTION CARRIED: ALJ ORDER AFFIRMED

9:10 a.m. Jacob Bradley v. Superior Fabrication Inc. & Bitco General Insurance Company (FKA Bituminous Casual), File #2014-05411R

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Aaron Corbett represented Claimant and Dan M. Caldwell represented Respondent.

Motion: After hearing the oral argument of counsel, Presiding Appellate Officer Commissioner 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 Engle

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland Commissioner Engle and Chairman Wilson

THE MOTION CARRIED: ALJ ORDER AFFIRMED

9:45 a.m. William Spears v. Big Lots Stores Inc. & Arch Insurance Co., File #2014-06475A

Claimant filed an appeal from the order issued by Administrative Law Judge Sommer. Mark Litton represented Claimant and Jordan S. Ensley represented Respondent.

Motion: After hearing the oral argument of counsel, Presiding Appellate Officer Commissioner 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: Chairman Wilson

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland
Commissioner Engle and Chairman Wilson

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**10:05 a.m. Kylea M. Green v. Advance America Cash Advance Centers
Inc. & Hartford Accident & Indemnity Co., File #2014-06664A**

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Herbert E. Elias represented Claimant and Jeffrey D. Black represented Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Engle moved that the Commission take preliminary action to reverse the Administrative Law Judge's Order issued on the 24th day of February, 2015, in Commission File # CM-2014-06664A on the grounds that the finding of compensability was against the clear weight of the evidence and contrary to law when the accident did not arise in the course and scope of employment and instruct 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. As there was no second, this motion failed.

Motion: Chairman Wilson 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 Commissioner Gilliland

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland and
Chairman Wilson

Those Voting Nay: Commissioner Engle

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**10:25 a.m. Jimmie Lee Long v. Burdt Masonry LLC & American
Interstate Insurance Co., File # 2014-07689A**

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Gary Prochaska represented the Claimant and Paul A. Scott represented Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Engle moved that the Commission take preliminary action to reverse the Administrative Law Judge's Order issued on the 27th day of February, 2015, in

Commission File # CM-2014-07689A on the grounds that the finding of compensability was against the clear weight of the evidence and contrary to law as the treating physician did not clearly confirm an identifiable and significant aggravation of a pre-existing condition and instruct 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. As there was no second, this motion failed.

Motion: Presiding Appellate Officer Commissioner 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: Chairman Wilson

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland and Chairman Wilson

Those Voting Nay: Commissioner Engle

THE MOTION CARRIED: ALJ ORDER AFFIRMED

11:00 a.m. Matthew Miller v. H&H Plumbing & Utilities Inc. & Valley Forge Insurance Co., File #2014-07820R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. John R. Colbert represented Claimant and Jerrod Geiger represented Respondent.

Motion: After hearing the oral argument of counsel, Commissioner Engle moved that the Commission take preliminary action to reverse the Administrative Law Judge's Order issued on the 12th day of February, 2015, in Commission File # CM-2014-07820R on the grounds that the award of temporary total disability was against the clear weight of the evidence and contrary to law and instruct 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. As there was no second, this motion failed.

Motion: Chairman Wilson 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 Commissioner Gilliland

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland and Chairman Wilson

Those Voting Nay: Commissioner Engle

THE MOTION CARRIED: ALJ ORDER AFFIRMED

11:20 a.m. Jerry D. Hoffman v. Tulsa Gas Technologies Inc. & Commerce & Industry Insurance Co., File #2014-08354J

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Arthur H. Adams represented Claimant and Kevin E. McCarty represented Respondent.

Motion: After hearing the oral argument of counsel, Chairman Wilson 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 Engle

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland Commissioner Engle and Chairman Wilson

THE MOTION CARRIED: ALJ ORDER AFFIRMED

11:40 a.m. Octavio Pina v. American Piping Inspection Inc. & Berkshire Hathaway Homestate Insurance Co. (BHHIC), File #2014-09405Y

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Kim N. Nguyen represented Claimant and Jacque Brawner Dean represented Respondent.

Motion: After hearing the oral argument of counsel, Presiding Appellate Officer Commissioner 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 Engle

Those Voting Aye: Presiding Appellate Officer Commissioner Gilliland Commissioner Engle and Chairman Wilson

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Announcements

Commission's next regularly scheduled meeting is Friday, May 8, 2015 at 1:30 p.m.

ADJOURNMENT

Motion: Commissioner Engle moved to adjourn the meeting at approximately 11:48 a.m.

Second: Presiding Appellate Officer Commissioner Gilliland

Those Voting Aye: Commissioner Engle, Presiding Appellate Officer Commissioner Gilliland and Chairman Wilson

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.