

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday September 11, 2015
10:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Bob Gilliland, Commissioner LeRoy Young, Commissioner Mark Liotta and Special Commissioner Neal Leader.

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

CALL TO ORDER Presiding Appellate Officer, Chairman Gilliland

Call to order 10:02 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 August 27, 2015 at 11:16 a.m., in compliance with the Open Meeting Act.

The Agenda was posted at 9:33 a.m. on September 10, 2015, more than 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted at 1915 North Stiles, the Commission's principal office.

**Olivia Heim v. Westhaven Nursing Home & Great American Alliance
Ins. Co. File #CM2014-08318Q**

Special Commissioner Neal Leader sat on the panel instead of Commissioner LeRoy Young. Dr. Young has recused in this case.

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney represented the Claimant and John S. Oldfield represented the Respondent.

Motion: After hearing the oral argument of counsel, 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.

Motion: Special Commissioner Leader moved to amend the motion to include a finding that the Claimant failed to overcome the presumption of constitutionality of the Title 85A, Section 56.

Second: Commissioner Liotta

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

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**Dallas Suits v. Transformers Disposal & CompSource Mutual Ins. Co.
File #CM2014-10757A**

Special Commissioner Neal Leader sat on the panel instead of Commissioner LeRoy Young. Dr. Young has recused in this case.

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. James G. Devinney represented the Claimant and Peter Mills represented the Respondent.

Motion: After hearing the oral argument of counsel, Special Commissioner Leader moved to take preliminary action to remand the case to the Administrative Law Judge with instructions to make specific findings regarding the credibility of the witnesses and to order an MRI to aid in the determination of whether there was an aggravation of a preexisting injury. As there was no second, this motion failed.

Motion: 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: Special Commissioner Neal Leader

THE MOTION CARRIED: ALJ ORDER AFFIRMED

MINUTES:

- The drafted Minutes of the Special Meeting of August 7, 2015 were considered for approval.

Presiding Appellate Officer Chairman Gilliland presented the minutes of the August 7, 2015 special meeting for approval.

Motion: Commissioner Liotta made a motion to approve the minutes of the August 7, 2015 special meeting.

Second: Commissioner Young

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

THE MOTION CARRIED: MINUTES APPROVED

Sue Gwendolyn Henderson v. HIS Wynnewood Care Center & Oklahoma Property & Casualty, File #CM2014-09762R

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Joe Farnan represented the Claimant and Dean Lott represented the Respondent.

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

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Betty Ragsdale v. Mitchell Manor, Inc. & CompSource Mutual Ins. CO., File #CM2014-10006A

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Mark Litton represented the Claimant and Todd Saucedo is the attorney of record for the Respondent.

Motion: After hearing the oral argument of counsel, 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

Donal C. Lawson v. S&D Trucking LLC & CompSource, File #CM2015-00656A

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Brandon J. Burton represented the Claimant and W. Jeffrey Dasovich represented Respondent.

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

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Helen Pitts v. Sooner Medical Staffing LLC (QE #864540), File #CM2015-04340H

Respondent filed a Motion to Dismiss for Lack of Subject-Matter Jurisdiction. Brandon J. Burton represented the Claimant and Dana L. Gish represented the Respondent.

Motion: After the attorneys announced their agreement to the dismissal without prejudice, Presiding Appellate Officer Chairman Gilliland moved to dismiss the case without prejudice 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: CASE DISMISSED WITHOUT PREJUDICE

Becky Lee Chennault v. Sequoyah Enterprises Inc. (QE #864627) (NP) Atlantic Specialty Insurance Co, File #CM2015-02560L

Respondent filed a Motion to Dismiss for Lack of Subject-Matter Jurisdiction. Brandon J. Burton represented the Claimant and Dana Gish represented the Respondent.

Motion: After the attorneys announced their agreement to the dismissal without prejudice, Presiding Appellate Officer Chairman Gilliland moved to dismiss the case without prejudice 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: CASE DISMISSED WITHOUT PREJUDICE

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

Stephanie Pauline Wilson v. WalMart Stores Inc. & Own Risk, File #CM2014-04292Y

At the August 7, 2015, Special Meeting, the Commission heard the oral arguments in this case. After hearing oral argument from Brandon Burton, counsel for the Claimant, and Jill Fidelie, counsel for the Respondent, the Commission voted to take preliminary action to remand the Administrative Law Judge's Order and instruct the Commission staff

to draft a proposed order for consideration in continued deliberation at a future meeting. The drafted Order has been distributed to the Commissioners. The Commission considered final action and adoption of a final Order.

Motion: Presiding Appellate Officer Chairman Gilliland moved to adopt the 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, Commissioner Young and Commissioner Liotta

THE MOTION CARRIED: ORDER ADOPTED

In the Matter of the Petition of Donald A. Bullard for a Declaratory Ruling Determining the Application of Commission Rule 810:10-1-5

The Commission has before it a petition filed June 29, 2015 by Donald A. Bullard. The Petition requests a declaratory ruling regarding the application of Commission Rule 810:10-1-5 and the circumstances under which a Commission CC-Form 2A must be filed. After consideration of the applicable statutes and the underlying purpose of the CC-Form 2A, Commission Counsel has drafted a proposed Declaratory Order. The drafted Order has been distributed to the Commissioners. The Commission considered final action and adoption of a final Order.

Motion: Presiding Appellate Officer Chairman Gilliland moved to adopt the order and authorize the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Young

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 Thursday, October 8, 2015. Commission's next Special Meeting regarding Appeals is scheduled for Friday October 16, 2015.

ADJOURNMENT

Motion: Presiding Appellate Officer Chairman Gilliland moved to adjourn the meeting at approximately 12:11 p.m.

Second: Commissioner Liotta

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

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.