

SPECIAL MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday October 21, 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 Mark Liotta and Commissioner Russell.

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 Regular Meeting was filed with the Secretary of State's office on Monday, November 2, 2015 at 9:04 a.m., in compliance with the Open Meeting Act.

The Agenda was posted at 2:21 p.m. on Wednesday, October 18, 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 August 12, 2016 were considered for approval.

Presiding Appellate Officer Chairman Gilliland presented the minutes of the August 12, 2016 Special Meeting for approval.

Motion: Commissioner Liotta made a motion to approve the minutes of the August 12, 2016 Special Meeting.

Second: Presiding Appellate Officer Chairman Gilliland

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

ABSTAINED: Commissioner Russell

THE MOTION CARRIED: MINUTES APPROVED

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

Larry McCann v. Dependable Mobile Home Transportation & Comp Source Mutual Ins. Co. (FKA CompSource Oklahoma), File #CM2015-04009H

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

Parties presented with a joint request to continue this appeal until the Supreme Court rules on an identical case. The case was continued.

NO MOTION: CONTINUED

Dwayne Smith v. Hotel Equities Group LLC, & Zenith Insurance Co. File #CM2015-05496J

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Tava Jones represented the Claimant and Jennifer E. Jackson 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: Commissioner Russell

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

THE MOTION CARRIED: ALJ ORDER 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 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 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 Liotta and Commissioner Russell.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

**David Glenn Robertson v. Whirlpool Corp. (OWN RISK #18709), File
#CM2015-01114A**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Richard A. Shallcross represented the Claimant and Robert Simpson represented the Respondent.

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

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Sabrina D. Keithline v. O'Reilly Auto Parts & Safety National Casualty Corp. File #CM2014-06829Y

Respondent filed an appeal from the order issued by Administrative Law Judge Sommer. Reagan D. Sifferman appeared and announced that the parties would like to strike the case due to settlement. Presiding Appellate Officer Chairman Gilliland, struck the case from the docket.

ORAL ARGUMENT STRICKEN

Jorge Talavera v. Landmark Outdoor Services LLC & National Fire Insurance Co. of Hartford, File #CM2014-10938A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Pam Cornett 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 Liotta and Commissioner Russell.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

Howard Lefler v. TPI Staffing Service Inc. & Comp Source Mutual Ins. Co. (FKA CompSource Oklahoma) File CM2015-02184A

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Ryan Polchinski represented Claimant and Cynthia Dugger represented the Respondent. The parties announced agreement to waive oral argument and to submit case on the record.

Motion: After 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, Commissioner Liotta and Commissioner Russell.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

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

Lester Schultz v. Ponca City Foods & RPCS Inc. (OWN RISK 19964), File CM2015-03659A

On August 12, 2016, Claimant attorney James G. Devinney presented a joint motion to remand this matter to allow the parties to submit relevant surveillance footage that was inadvertently omitted from the record. The Commission voted to remand the matter to the Administrative Law Judge with instructions in accordance with the agreement of the parties; and to instruct Commission staff to draft a proposed order for future consideration by the Commission. The proposed order has been distributed to the Commissioners for consideration of adoption.

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

ABSTAIN: Commissioner Russell

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

THE MOTION CARRIED: ORDER ADOPTED

LaDonna Cotton v. Western Sizzlin Steak House & Mid Century Insurance Co., File #CM2015-07081A

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Henry Dalton represented the Claimant and Lacy N. Vassar represented the Respondent.

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

Announcements

Commission's next regularly scheduled meeting is Thursday December 2, 2016. Commission's next regular meeting regarding Appeals is scheduled for Friday, December 9, 2016.

ADJOURNMENT

Motion: Presiding Appellate Officer Chairman Gilliland moved to adjourn the meeting at approximately 11:23 a.m.

Second: Commissioner Liotta

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

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.