

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

APPEALS

Friday, June 28, 2024
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 May 17, 2024, 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. **George Montoya v. Matherly Mechanical Contractors LLC and Valley Forge Insurance Co., File #2018-01421L**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Gary G. Prochaska and D. Eliot Yaffe are the attorneys of record for the Claimant. Angela Odell Reinstein 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. **Miriam Bryant v. City of Tulsa (OWN RISK #10435), File #CM3-2019-06964H**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. William E. Sparks and Jack G. Zurawik are the attorneys of record for the Claimant. Bert M. Kendrick 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. **Linda Atchley v. LX Hausys America Inc. and Great American Alliance Ins. Co., File #CM3-2021-05334H**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Laura Beth Murphy 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.

4. **Travis Dukes v. Plan B Services and Solutions, File #CMC-2022-03376P**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Esther M. Sanders and Patricia Podolec are the attorneys of record for the Claimant. Kenneth L. Brune 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. **Shaneese Schultz-Butzbach v. OBI Holding Co. and Sentry Casualty Co., File #CM3-2022-05254R**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. J. Kord Hammert is the attorney of record for the Claimant and Patrick S. Parr 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. **Michael Reiss Jr. v. City of Broken Arrow, File #CM3-2023-00148P**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Robert A. Flynn is the attorney of record for the Claimant and Connor E. Brittingham 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. **Bonnie Duvall v. Express Employment Professionals DBA and AIU Insurance Co. (NATIONAL UNION FIRE OF PITTS PA), File #CM3-2023-02250T**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. D. Eliot Yaffe is the attorney of record for the Claimant and Travis A. Fulkerson 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. Maria Mota v. SJS Hospitality Inc. and New Hampshire Insurance Company, File #CM3-2023-06004M, File #CM3-2023-06004M

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 Connie M. Wolfe 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. Rachel Fritz v. City of Tulsa (OWN RISK #10435), File #CM3-2019-06216R

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

This case came on for Oral Argument on December 1, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to reverse the Administrative Law Judge's order on the TTD issue.

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. Juliette Santos v. The Kaiser Group Inc. DBA Dynamic, Compsource Mutual Insurance Company, Ross Innovative Employment Solutions, and QBE Insurance Corporation, File #CM3A-2021-05456Q

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Anthony F. Gorospe is the attorney of record for the Claimant. Stan Koop, Connor Brittingham, and Nicole S. Bryant appeared for the Respondents.

This case came on for Oral Argument on February 23, 2024. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary

action to reverse the Administrative Law Judge's order in part and reserve the right to request additional briefing from the parties via order of the Chairman.

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. Sheridan Greenhaw v. St. John Medical Center Inc. and Ascension Health Alliance, File #CM3-2022-06820R

Cross Respondent and Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Michael R. Green appeared for the Claimant and Daniel C. Blanchard appeared for the Respondent.

This case came on for Oral Argument on April 19, 2024. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to take preliminary action to reverse and remand the Administrative Law Judge's order issued on November 16, 2023.

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.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND VOTE TO APPROVE, DISAPPROVE, OR TAKE ANY OTHER ACTION CONSISTENT WITH THE COMMISSION'S AUTHORITY.

D. Business Meeting Item

4. Discussion and Possible Action to Approve List of Independent Medical Examiners and Independent Case Managers

Title 85A OS §112 requires the Workers' Compensation Commission to create, maintain and review a list of licensed physicians who shall serve as independent medical examiners (IMEs). The Commission shall, to the best of its ability, include the most experienced and competent physicians in the specific fields of expertise utilized most often in the treatment of injured employees. The period of qualification shall be two (2) years. Likewise, for case managers, 85A OS. §113 requires a list of qualified case managers be developed, maintained and periodically reviewed by the Commission.

Attached is the list of IMEs and case managers requiring approval by the Commission. These physicians and case managers have been vetted by the Medical Director and the staff in Medical Services. It is our recommendation that the Commission approve the list of IMEs and case managers.

5. **Discussion and Possible Approval of Interagency Agreement with the Administrative Office of the Courts regarding the performance of certain administrative duties and shared costs with the Oklahoma Court of Existing Claims.**

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