

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

Tuesday, February 6, 2024
10:30 a.m.
En Banc Courtroom
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

AGENDA

CALL TO ORDER..... Chairman Russell

ROLL CALL Chairman Russell

Open Meeting Act Statement

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

A. Commission Business Items:

1. Discussion and Possible Action to Approve Minutes

The drafted minutes of the January 25, 2024, Regular Meeting of the Commission will be considered for approval.

2. Proposed Executive Session Pursuant to 25 O.S. § 307(B)(4) to Confidentially Discuss *Andrews v. Oklahoma Workers' Compensation Commission*, Case No.: 21-cv-609-R (W.D. Okla.).

A. Motion and vote to enter into Executive Session.

B. Discussion in Executive Session. The Commission will discuss only the topic stated in this agenda item.

C. Motion and vote to reconvene in Open Session.

D. Motion and vote on Possible Action.

3. Discussion of Draft 2024 Medical Fee Schedule and Possible Action to Approve Proposed Changes to Initial Draft

B. Commission Consideration of Adoption of Final Order in the Following Cases:

1. Allan Hare v. MITF, File #CM3F-2019-04761J

The Commission is considering the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

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. James Crittenden Jr. v. MITF, File #CM3F-2019-07602A

The Commission is considering the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

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3. **James Randy Westlake v. MITF, File #CM3F-2022-01067X**

The Commission is considering the adoption of the following order in the above referenced case:

This matter comes before the Commission on its *sua sponte* inquiry to determine the need for a stay of appellate proceedings. The instant case involves the same jurisdictional issue raised by the Multiple Injury Trust Fund in *Stricklen v. Multiple Injury Trust Fund*, No. 120,753, which is pending certiorari review by the Oklahoma Supreme Court. In the interest of judicial economy, the Commission finds a stay of appellate proceedings is necessary. It is therefore **ORDERED** that Petitioner's appeal is hereby **STAYED** pending final resolution in *Stricklen* or until further order of the Commission.

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. **Virgil Breeze v. Premium Transportation Group Inc. and XL Insurance America Inc., File #CM3-2021-06787E**

Both parties filed an appeal from the order issued by Administrative Law Judge Inhofe. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on April 21, 2023. 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. **James Brock v. Starlight Express LLC and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2021-04119R**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to preliminary action to

reverse the order sustaining Respondent's request for dismissal of certain body parts and authorize the Commission's appellate counsel or other staff member to draft a proposed order findings and facts and conclusion 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.

6. **Jimmy Mills v. Gary A. Crain Inc. and Imperium Insurance Co., File #CM3-2020-00795Q**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Daniel J. Talbot appeared for the Claimant and R. Jay McAtee appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take 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.

7. **Kevin Power v. Flow Testing Inc. and Compsource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2020-02016R**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. J. Kord Hammert appeared the Claimant and David J. Frette appeared for the Respondent.

This case came on for Oral Argument on September 22, 2023. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take 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.

8. 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.

9. Kendall Jobe v. City of Tulsa (OWN RISK #10435), File #CM3-2019-01638K

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant and Travis R. Colt appeared for the Respondent.

This case came on for Oral Argument on January 26, 2024. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take 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.

10. Charles Caul v. Shelton Redi Mix LLC and Ins. Co. of the West, File #CM3-2023-00661K

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Kathryn Black appeared for the Claimant and David Custar appeared for the Respondent.

This case came on for Oral Argument on January 26, 2024. After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take 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.

ADJOURNMENT.....Chairman Russell