

**WORKER'S COMPENSATION COMMISSION**  
**Regular Board Meeting**  
**Third Floor – DOL Conference Room**  
**March 14, 2019, Thursday, 4 pm to 5pm**

**AGENDA**

**I. CALL TO ORDER**

**II. ROLL CALL**

**Commissioner David M. Dell'Isola**  
**Mayor Doris F. Lujan**  
**Dr. Annette David**  
**Ms. Candise Aragon**  
**Mr. Sanjay Sharma**

**III. APPROVAL OF MINUTES FOR DECEMBER 20, 2018**

**IV. OLD BUSINESS**

**Compensation Order No. 2019-0001 – Approval of Lump Sum Payment - Motion Carried**  
**Compensation Order No. 2019-0002 – Approval of Lump Sum Payment for Fatality**  
**– Motion Carried**  
**Compensation Order No. 2019-0003 – Approval of Lump Sum Payment – Motion Carried**

**V. New Business**

**Compensation Order No. 2018-002719 - Approval of Lump Sum Payment for Fatality and Attorney Fees**

**Formal Hearing for Victor P. Zamora WCC 2015-002450**

**VI. ADJOURNMENT**

**Workers' Compensation Commission  
Board Meeting Summary  
March 14, 2019**

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**Call to Order**

Meeting called to order by Commissioner David M. Dell'Isola at around 4pm.

Commissioner Dell'Isola introduced himself and the new WCC Board Member Candise N. Aragon. Introduction of WCC Board Members. Announced the resignation of Atty. Cynthia Ecube; and that he was awaiting to hear from the Governor's Office re Atty. Ecube's replacement and the new member for the CPA slot.

Commissioner Dell'Isola also informed the Board that Dr. Annette David was unable to attend the Board meeting today.

**Roll Call**

Commissioner David M. Dell'Isola  
Mayor Doris Lujan  
Dr. Annette David - Absent  
Atty. Cynthia Ecube - Resigned  
Candise N. Aragon -New GovGuam Representative  
Sanjay Sharma

**Approval of Minutes for December 20, 2018**

Sanjay Sharma motion to approve  
Mayor Doris Lujan seconded  
Minutes of March 14,2019 approved – Motion Carried

**Old Business**

Compensation Order No. 2019-0001 – Approval of Lump Sum Payment - Motion Carried  
Compensation Order No. 2019-0002 – Approval of Lump Sum Payment for Fatality – Motion Carried  
Compensation Order No. 2019-0003 – Approval of Lump Sum Payment – Motion Carried

**New Business**

Compensation Order No. 2018-002719 - Approval of Lump Sum Payment for Fatality and Attorney Fees  
– Motion Carried

(Widow Mrs. Pwechar had no children under 18 yrs.- Sanjay Sharma moved to approved and Candise Aragon seconded)

Commissioner announces that the Board will be going into a Formal Hearing regarding Victor Zamora. At this time he would like to make a motion to expedite the formal hearing faster; requesting that he be

the lone hearing officer thereby relieving the WCC Board of the burden of attending all the formal hearings, making quorum, etc. Commissioner asked Atty. David Rivera (OAG) to go into detail regarding motion pursuant to Administrative Adjudication Law (AAL) under Section 9221 Hearing Officer – the Commissioner can serve as the hearing officer unless otherwise disqualified. Under Section 9221 a case may be heard by the hearing officer alone. Commissioner will prepare the findings and present to the WCC Board to vote on whether they accept the findings or not. Also, Commissioner said that the WCC Board are welcomed to sit in and that they will still have a chance to review the findings and to vote on the decision for the case.

Commissioner asked if there are any arguments for or against the request?

Someone asked if this was to be case specific and the Commissioner replied yes.

Both the attorneys for the Victor P. Zamora Case had no objections to the request for lone hearing officer.

Hence,

Approval for Commissioner David M. Dell'Isola to hear the following case alone in accordance with the authority permitted in the discretion of the agency by 5 GCA § 9221:

Victor P. Zamora WCC2015-002450 - Motion Carried

Commissioner adjourned the meeting.

Atty. Rivera - Is there a potential issue on the open government notice the way the agenda is worded today – to proceed on the Zamora Case – Commissioner to withdraw the statement of adjournment, hereby continuing with the meeting. Commissioner is now the lone hearing officer. Normally a formal hearing on a case alone is a special notice. Perhaps we should just go forward on the technical aspects.

Atty. Bell asking about witness(es) – Wendy Baigac

Commissioner to move forward with the formal hearing – ground rules:

1. Allow attorney to give an opening statement
2. Start off with Atty. Bell to present his witnesses (allowed one rebuttal )
3. Limit repetition of witnesses
4. Limit repetition of materials
5. Atty. Thompson present his case and witnesses (allowed one rebuttal)
6. Closing

Commissioner would like to reschedule the formal hearing, please limit the witness time. Commissioner wants to come to a fair and just ruling with the Board. Commissioner – will be off-island for 2 weeks.

Any technical issues- Atty. Bell brought his paralegal to table.

Atty. Thompson and Wendy can also sit at the table.

Commissioner said that the Formal Hearing has started. Going into procedural aspects.

Atty. Rivera – can now excuse the WCC Board members.

Atty. Bell – no objections to WCC Board Members leaving.

Atty. Thompson – Brief filed on March 12 --objected to the large stack of exhibits that was from the employee 278 pages multiple copies of the same docs. Atty. client privilege – some docs were part of the record. Just compensation claim and not errors by the Commission, Ms. Baigac or Ms. Fullerton.

Commissioner - in this spirit of this new administration and moving forward and stick to the issues.

Commissioner rules that the private correspondents (rules of privilege will be maintained) if erroneously given by either party. Rule 2 the documents must stick to facts and focus on your arguments.

Commissioner thanked the attorneys.

Rescheduling will be after the Commissioner returns from off island.

Commissioner stated that he knows there are several doctors involved giving their own conclusions.

Atty. Rivera – stipulate certain witnesses – if parties will agree – cut down on time.

Atty. Bell – subpoenas of witnesses.

Atty. Thompson- do you have a list of witnesses? Any subpoenas? He will look into it. Suggested that the opening statements that I was going to give – no need for 3 witnesses for bronchitis – checklist of 9 issues.

Atty. Bell – respiratory infection.

Commissioner agrees.

Commissioner - Do you want to do your opening statements today? Or do you want to include it into your arguments?

Commissioner prepared to stop now but asked if the attorneys wanted to give their opening arguments now? Or schedule for another time? Bell did not prepare an opening argument. Commissioner said that was fine, he was not trying to push the attorneys.

Commissioner – agree to reschedule. Atty. Bell – hard for Mr. Zamora to get to the hearing.

Commissioner trying to do this right the first time, I will ask for counsel when I get the questions.

Atty. Bell – re subpoenas re Mrs. Baigac.

Atty. Thompson – witness – Bell witness is now down to three from 12.

Commissioner – please work out the issues so that we don't have to work it out in the hearing.

Atty. Thompson – stipulate the witnesses. What relief is the employee seeking – total disability – compensation? Not clear on what the employee is seeking.

Atty. Bell – compensation re respiratory infection that led to the shoulder – compensation for his knees as a work injury; and that he is disabled.

Commissioner – I do not see the knee situation to be part of this formal hearing that could be a separate issue, if you choose it to be. Unless you can provide some real medical evidence to show that this is tied into the bronchitis and the shoulder.

Atty. Bell – we did file Form 203. Just to be clear. The knee was separate.

Commissioner - are you looking for permanent disability?

Atty. Bell – Just to be clear, Dr. Cunningham came up with a disability rating regarding his shoulder.

Commissioner – unless you can give me some evidence regarding knee I am looking more at the shoulder. Mr. Thompson do you have any evidence of this?

Atty. Bell - there was a claim filed.

Commissioner asked Mr. Thompson for any evidence of this.

Atty. Thompson – claim file for a knee injury in 2016, no 201 no 202, never a Commission action, our position is that there never was a claim.

Atty. Bell – The employer refused to file a claim, and the administrator.

Commissioner – I can certainly relook into this. And if it has anything to do with us and the employer. I will look in to this. But his would be a separate issue.

Atty. Thompson agreed.

Atty. Bell agreed.

Commissioner – please review your documents and clean them up and resubmit to me, from both sides.

Commissioner - witness lists, Mr. Thompson?

Atty. Thompson – what is the employee seeking?

Atty. Bell – still have to work on this.

Commissioner – can I count for the record what statement of what your relief is? – is that right Mr. Thompson?

Atty. Thompson – yes

Atty. Bell – August 2015

Commissioner – knees are separate issue.

Commissioner – we will work out the date. I am flexible.

Commissioner – thanked both parties.

Commissioner – adjourned the meeting.