

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA

Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 31, 2013 – 1:00 p.m.

Present:	David Parker	Chairman (video conference)
	Kathleen Oster	Vice Chair
	John A. McCarthy, Jr.	Member
	Michael G. Sanders	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Chris Anderson	Legal Counsel
	Jessie Atencio	Acting Director, ADOSH
	Renee Pastor	Manager, Self Insurance
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Susan Strickler was not able to attend. Also in attendance were Scot Butler, the agency's lobbyist; Jeff Homer of General Dynamics; Jeremy Bethancourt; and Jason Weber of Snell & Wilmer.

Approval of Minutes of January 23, 2013 Meeting

The Commission unanimously approved the Minutes of January 23, 2013 on motion of Mr. McCarthy, second of Mr. Sanders.

Consent Agenda:

- a. Approval of Proposed Civil Penalties Against Uninsured Employers.
 1. 2C12/13-0718 I-10 Barbershop & Salon, L.L.C.
dba The League Barbershop
 2. 2C11/12-1357 Wireless Medics, L.L.C.

Chairman Parker asked whether any items needed to be removed from the consent agenda. Secretary Hilton stated that there were not. The Commission unanimously approved the consent agenda on motion of Ms. Oster, second of Mr. McCarthy.

Discussion & Action regarding ADOSH Discrimination Complaint

#12-31 Deborah Giannecchini v. GlynLyon/Odysseyware – Jessie Atencio advised that staff is requesting this matter be tabled. Mr. Parker stated that this matter would be tabled.

Discussion & Action regarding Application for Renewal of Self-Insurance Authority

Wal-Mart Associates, Inc. – Commissioner McCarthy recused himself from discussion and action for this agenda item. Ms. Pastor presented staff's renewal report along with current Moody's, Fitch and Experian credit ratings. She stated that the Commission is now using information provided by Experian and provided a summary that defines terms used by Experian. Administration is recommending renewal of workers' compensation self-insurance authority based on the company's financial stability and profitability, with total assets of just over \$193.4 billion, a clean audit report, and acceptable credit ratings. Ms. Pastor stated that the ADOSH Consultation Program has performed two surveys of Walmart Stores. Jessie Atencio described the surveys and summarized the findings. The Commission approved renewal of self-insurance authority on motion of Mr. Sanders, second of Ms. Oster. The motion passed with Mr. Parker, Ms. Oster, and Mr. Sanders voting in favor of the motion.

Discussion &/or Action regarding Legislation

Scot Butler provided a summary of current legislative activity and described two bills of interest, HB 2485 and SB 1148. Mr. Butler and Ms. McGrory identified concerns with potential consequences of the bills and responded to questions from the Commissioners. Mr. Butler and Ms. McGrory summarized meetings with legislative leadership and described meetings scheduled.

Discussion & Action regarding Request for Attorney's Fees

Sandra A. Day, Attorney v. Audrie L. Coleman - Andrew Wade stated that Sandra A. Day, an attorney with Day Kavanaugh PC, has petitioned the Industrial Commission to set attorney' fees with respect to work performed for Mr. Coleman in connection with Mr. Coleman's August 13, 1996 workers' compensation claim. Staff attorney, Chris Anderson, was also present. Mr. Wade presented a history of the claim and the work performed by Ms. Day on behalf of Mr. Coleman.

Mr. Wade explained the options and staff's recommendation and responded to questions from the Commission. Following discussion, the Commission unanimously granted additional attorneys' fees based on the contingency fee arrangement agreed upon by the parties of 25% of permanent disability benefits and awarded Ms. Day \$109.69 per month for a period of 10 years until the amount of \$12,466.29 has been collected on motion of Mr. Sanders, second of Ms. Oster. The Commissioners gave approval for Mr. Wade to type in their signatures on the Findings and Order.

Mr. Wade stated that the Commission has been using a reasonable hourly rate for many years and recommend the Commission consider whether the rate should be adjusted to reflect current market conditions. It was agreed that a future agenda item would be the hourly rate that the Commission uses in consideration of attorney fee petitions.

Announcements and Scheduling of Future Meetings

Ms. McGrory advised that there was some confusion on the CASPA response deadline date which is February 1 rather than February 8. She stated the response will be filed tomorrow.

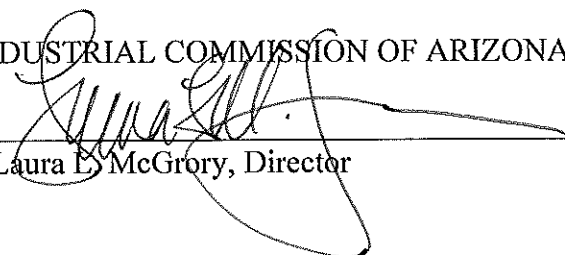
Ms. McGrory advised that the ADOSH Director position will be posted within the next day or two and will remain open until filled with the first review of resumes planned for 3 weeks after posting. She explained that the State is moving to a new hiring system in which "Hiring Gateway" will be replaced by "Talent Acquisition."

The next Commission meeting will be held on Wednesday, February 6, 2013.

There being no further business to come before the Commission and no public comment, Chairman Parker adjourned the meeting at 1:55 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By



Laura E. McGrory, Director

ATTEST:



Teresa Hilton, Commission Secretary