

1 Workers' Compensation Full Board Meeting Minutes

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3 **Date:** Tuesday, October 18, 2022
4 **Location:** 328 State Street, Schenectady, NY
5 Room 329
6 **Webex Broadcast**

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9 **Time:** 10:00 a.m.

10 **MEMBERS OF THE BOARD**

11 Clarissa M. Rodriguez, Chair
12 Freida Foster, Vice Chair
13 Mark Higgins
14 Loren Lobban, Esq.
15 Samuel G. Williams
16 Linda Hull
17 Fredrick M. Ausili, Esq.
18 Steven A. Crain, Esq.
19 Mark R. Stasko
20 Arelis Tavares
21 Martin M. Dilan
22 Pamela Caggianelli
23 Renee Delgado

24 **SECRETARY TO THE BOARD**

Virginia Cawthon

GENERAL COUNSEL

David F. Wertheim, Esq.

Also Present

Patrick Cremo, Supervising Attorney

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CLARISSA RODRIGUEZ: Good morning,
everyone, thank you for being here. I'm Clarissa
Rodriguez, Chair of the New York State Workers'
Compensation Board. Today's meeting is webcast live
for members of the public. Please note for the record
that Virginia Cawthon from the Office of the Secretary
will assume the secretary's responsibilities for this
meeting.

Now I have the distinct honor, with my gavel and
all, to call the 1014th meeting of the Full Board to
order. Okay. Mrs. Cawthon, will you please call
attendance?

VIRGINIA CAWTHON: Vice Chair Foster.

FREIDA FOSTER: Here.

VIRGINIA CAWTHON: Board Member Higgins.

MARK HIGGINS: Here.

VIRGINIA CAWTHON: Board Member Lobban.

LOREN LOBBAN: Here.

VIRGINIA CAWTHON: Board Member Williams.

SAMUEL WILLIAMS: Here.

VIRGINIA CAWTHON: Board Member Hull.

LINDA HULL: Here.

VIRGINIA CAWTHON: Board Member Ausili.

FREDRICK AUSILI: Here.

1 VIRGINIA CAWTHON: Board Member Crain.
2 STEVEN CRAIN: Here.
3 VIRGINIA CAWTHON: Board Member Stasko.
4 MARK STASKO: Here.
5 VIRGINIA CAWTHON: Board Member Tavares.
6 ARELIS TAVARES: Here.
7 VIRGINIA CAWTHON: Board Member Caggianelli.
8 PAMELA CAGGIANELLI: Here.
9 VIRGINIA CAWTHON: Board Member Dilan.
10 MARTIN DILAN: Here.
11 VIRGINIA CAWTHON: Board Member Delgado.
12 RENEE DELGADO: Here.
13 VIRGINIA CAWTHON: Madam Chair, all Board
14 Members are present.
15 CLARISSA RODRIGUEZ: Thank you very much.
16 Thank you, Board Members. Agenda Item 1, approval of
17 the September 20, 2022 meeting minutes. Board
18 Members, you have all received a copy of the September
19 meeting minutes for your review. Are there any
20 questions or need for discussion? Okay. Hearing
21 none, is there a motion to accept the September 20,
22 2022 meeting minutes?
23 RENEE DELGADO: Yes, Madam Chair, I, Board
24 Member Delgado, make the motion to approve the

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September 20, 2022 Board Meeting Minutes.

CLARISSA RODRIGUEZ: Thank you, Board Member Delgado. Is there a second?

PAMELA CAGGIANELLI: Yes, Madam Chair, this is Board Member Pam Caggianelli, and I second that motion.

CLARISSA RODRIGUEZ: Okay, thank you, Board Member Caggianelli. Is there any opposition to the motion? Okay, hearing none, all in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: All opposed? Hearing none, I am also a yes. That motion is passed. Thank you. Agenda Item 2, Office of General Counsel's Departmental Report. General Counsel, David Wertheim, will now present the Statistical and Informational Report for September.

DAVID WERTHEIM: Thank you. Good morning, Chair, Vice Chair, Board Members, and colleagues. Here's a Statistical and Informational Report for September 2022 of the areas at the Workers' Comp Board where issues are resolved.

First, in the Adjudication Division, there were 13,401 hearings held in September, 8,765 cases fully

1 resolved at the hearing, with 324 Reserve Decisions
2 being issued.

3 The Board also held 1,416 Pre-Hearing Conferences
4 and finalized 1,763 Section 32 Waiver Agreements. In
5 the Administrative Review Division, in September there
6 were 994 Applications for Review received, 899 fully
7 processed, leaving an end-of-September inventory of
8 4,839.

9 With respect to Full Board Review Applications,
10 115 were received in September, 139 processed, leaving
11 an end-of-month inventory of 196. That concludes the
12 Statistical Report for September. Of course, I would
13 take any questions. Thank you.

14 CLARISSA RODRIGUEZ: Thank you, David.
15 Board Members, are there any questions or need for
16 discussion? Okay, hearing none, may I please have a
17 motion to accept the Office of General Counsel's
18 Departmental Report?

19 RENEE DELGADO: Yes, Madam Chair, I make a
20 motion to accept the Office of General Counsel's
21 Departmental Report.

22 CLARISSA RODRIGUEZ: Thank you, Board
23 Member Delgado. Is there a second?

24 PAMELA CAGGIANELLI: Yes, Madam Chair, I

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second that motion.

CLARISSA RODRIGUEZ: Thank you, Board Member Caggianelli. Is there any opposition to the motion? Hearing none, Board Members all in favor, please say aye.

ALL: Aye.

CLARISSA RODRIGUEZ: All opposed? Okay, hearing none, I am also a yes. That motion is passed. Thank you. Agenda Item 3, License Applications. Supervising Attorney, Patrick Cremo, will now present the Licensing Applications.

PATRICK CREMO: Good morning, Chair Rodriguez, Vice Chair Foster, Board Members and colleagues. You have before you the recommendations from the Assigned Board Panel regarding the Licensing Applications listed in Part 3 of your agenda today. WCL Section 24-a, Alan Quig, three-year renewal. Section 50(3-b), Claims Service Bureau of New York, Inc., three-year renewal. And Section 50(3-d), well, none. I present these recommendations to the Board for your consideration. Thank you.

CLARISSA RODRIGUEZ: Thank you so much. Board Members, are there any questions or need for discussion? Okay, hearing none, may I please have a

1 motion to accept the Licensing Applications -- the
2 recommendations of the Board Panels as laid out in the
3 agenda?

4 RENEÉ DELGADO: Yes, Madam Chair, I make the
5 motion to accept the Licensing Applications as stated.

6 CLARISSA RODRIGUEZ: Okay, thank you, Board
7 Member Delgado. May I have a second?

8 PAMELA CAGGIANELLI: Yes, Madam Chair, I
9 second that motion.

10 CLARISSA RODRIGUEZ: Okay, thank you, Board
11 Member Caggianelli. Is there any opposition to the
12 motion? Okay, hearing no opposition, Board Members
13 all in favor, please say aye.

14 ALL: Aye.

15 CLARISSA RODRIGUEZ: All opposed? Hearing
16 none, I am also a yes. That motion is passed. Thank
17 you, Board Members. Thank you, Patrick. Okay.
18 Agenda Item 4, Legal Appeals. David Wertheim will now
19 present the recommendations concerning decisions by
20 the Appellate Division.

21 DAVID WERTHEIM: Thank you, Madam Chair.
22 From the time of the last Board Meeting until today,
23 the Appellate Division, Third Department issued ten
24 decisions with respect to workers' compensation

1 claims. All ten of those decisions were affirmances
2 of the Board Panel Decisions. It's the recommendation
3 of the Office of General Counsel that all of the
4 decisions of the Court be adopted as decisions of the
5 Board. Thanks.

6 CLARISSA RODRIGUEZ: Okay, thank you,
7 David. May I have a motion to accept the
8 recommendations of the Office of General Counsel?

9 RENEE DELGADO: Yes, Madam Chair, I make the
10 motion to accept the recommendations of the Office of
11 General Counsel regarding the Legal Appeals.

12 CLARISSA RODRIGUEZ: Thank you, Board
13 Member Delgado. Is there a second?

14 PAMELA CAGGIANELLI: Yes, Madam Chair, I
15 second that motion.

16 CLARISSA RODRIGUEZ: Thank you, Board
17 Member Caggianelli. Is there any opposition to the
18 motion? Okay, hearing none, Board Members, please say
19 aye.

20 ALL: Aye.

21 CLARISSA RODRIGUEZ: All opposed? Hearing
22 none, I am also a yes. That motion is passed. Thank
23 you. Agenda Item 5, Mandatory Full Board Review. We
24 start with case 5A, Delta Airlines Inc., case number

1 G2597178. Is there a motion with respect to 5A on the
2 agenda?

3 LINDA HULL: Yes, Madam Chair, this is Board
4 Member Linda Hull, and I make a motion that neither
5 the majority nor the dissent be adopted as a decision
6 of the Full Board, but rather a new decision be
7 fashioned to be our decision.

8 CLARISSA RODRIGUEZ: Okay. Thank you,
9 Board Member Hull. Is there a second?

10 MARK STASKO: Yes, Madam Chair, this is
11 Board Member Mark Stasko, and I second that motion.

12 CLARISSA RODRIGUEZ: Thank you, Board
13 Member Stasko. Are there any recusals from this
14 matter? Is there any opposition to the motion?

15 STEVEN CRAIN: Yes, Madam Chair, this is
16 Board Member Crain, I do oppose that.

17 CLARISSA RODRIGUEZ: Okay, thank you, Board
18 Member Crain. In light of the opposition, I call upon
19 the Secretary for a roll call vote.

20 VIRGINIA CAWTHON: Board Member Ausili.

21 FREDRICK AUSILI: Yes.

22 VIRGINIA CAWTHON: Board Member Caggianelli.

23 PAMELA CAGGIANELLI: Yes.

24 VIRGINIA CAWTHON: Board Member Crain.

1 STEVEN CRAIN: No.
2 VIRGINIA CAWTHON: Board Member Delgado.
3 RENEE DELGADO: Yes.
4 VIRGINIA CAWTHON: Board Member Dilan.
5 MARTIN DILAN: Yes.
6 VIRGINIA CAWTHON: Board Member Higgins.
7 MARK HIGGINS: Yes.
8 VIRGINIA CAWTHON: Board Member Hull.
9 LINDA HULL: Yes.
10 VIRGINIA CAWTHON: Board Member Lobban.
11 LOREN LOBBAN: Yes.
12 VIRGINIA CAWTHON: Board Member Stasko.
13 MARK STASKO: Yes.
14 VIRGINIA CAWTHON: Board Member Tavares.
15 ARELIS TAVARES: Yes.
16 VIRGINIA CAWTHON: Board Member Williams.
17 SAMUEL WILLIAMS: Yes.
18 VIRGINIA CAWTHON: Vice Chair Foster.
19 FREIDA FOSTER: Yes.
20 VIRGINIA CAWTHON: Chair Rodriguez.
21 CLARISSA RODRIGUEZ: Yes.
22 VIRGINIA CAWTHON: That motion is passed 12
23 to 1.
24 CLARISSA RODRIGUEZ: Thank you. 5B, Abatar

1 LLC, case number G2471466. Is there a motion with
2 respect to 5B on the agenda?

3 LINDA HULL: Yes, Chair, this is Board
4 Member Linda Hull, and I make a motion that the
5 dissent is modified to be adopted as the decision of
6 the Full Board.

7 CLARISSA RODRIGUEZ: Thank you, Board
8 Member Hull. Is there a second?

9 FREDRICK AUSILI: Yes, Madam Chair, this is
10 Board Member Fredrick Ausili, and I second that
11 motion.

12 CLARISSA RODRIGUEZ: Okay, thank you, Board
13 Member Ausili. Are there any recusals from this
14 matter? Hearing none, is there any opposition to the
15 motion? Okay, hearing none, Board Members all in
16 favor, please say aye.

17 ALL: Aye.

18 CLARISSA RODRIGUEZ: All opposed? I am
19 also a yes. That motion is past unanimously. Thank
20 you, Board Members. Agenda Item 6, is there anything
21 to -- there is nothing to consider under Discretionary
22 Full Board Review. Agenda Item 7, Other Business. Is
23 there any other business, Board Members? Okay,
24 hearing none, agenda item 8, adjourning the meeting.

1 May I please have a motion to adjourn today's meeting?
2 RENEÉ DELGADO: Yes, Madam Chair, I make a
3 motion to adjourn today's meeting.
4 CLARISSA RODRIGUEZ: Thank you, Board
5 Member Delgado. Is there a second?
6 PAMELA CAGGIANELLI: Yes, Madam Chair, I
7 second that motion.
8 CLARISSA RODRIGUEZ: Thank you, Board
9 Member Caggianelli. Is there any opposition to the
10 motion? Okay, hearing none, Board Members all in
11 favor, please say aye.
12 ALL: Aye.
13 CLARISSA RODRIGUEZ: Thank you. All
14 opposed? Hearing none, I am also a yes. Meeting
15 adjourned. Thank you.
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17 (Whereupon, the meeting was adjourned.)
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