BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H506074

TERRY BRANSTETTER,
EMPLOYEE CLAIMANT

DASSAULT FALCON JET CORPORATION,
EMPLOYER RESPONDENT

AMERICAN ZURICH INSURANCE COMPANY,
CARRIER/TPA RESPONDENT

OPINION FILED JULY 17, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant, Pro Se, failed to appear.

Respondents represented by the Honorable Rick Behring, Jr., Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on June 2, 2026, in the present matter pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

Appropriate notice of this hearing was tried on all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the June 2, 2026, hearing and the documents contained therein. Commission's Exhibit 1 includes one page; and Respondents' Exhibit 1 is a Hearing Exhibit consisting of ten numbered pages, and a cover sheet.

No testimony was taken.

BACKGROUND

On April 23, 2025, the Claimant alleged that he sustained a compensable injury to his abdomen as the result of a specific incident injury during and within the course and scope of his employment with the respondent-employer.

The respondent-insurance-carrier filed a Form AR-2 with the Commission after investigating the claim. At that time, they controverted compensability of the claim in its entirety.

On September 23, 2025, the Claimant wrote to the Commission to appeal the denial of his workers' compensation claim.

Subsequently, the claim was assigned to my office in October 2025. My office sent out Prehearing Questionnaires and Preliminary Notices to the parties, with deadlines for filing their pre-trial responses.

Instead of filing prehearing pleadings and a preliminary response, on November 26, 2025, the Claimant sent an e-mail to the Commission stating. "I no longer wish to pursue this claim."

Therefore, on March 31, 2026, the Respondents filed a Motion to Dismiss and Incorporated Brief in Support with the Commission, along with a Certificate of Service to the Claimant. Hence, the Respondents properly served a copy of the foregoing pleading on the Claimant by depositing a copy thereof, in the United States Mail (with the proper prepaid postage) to his last known address.

The Notice of Hearing was mailed to the parties on April 23, 2026. At that time, the case was set for a dismissal hearing on June 2, 2026, at the Arkansas Workers' Compensation Commission, in Little Rock, Arkansas. This Notice was sent to the Claimant via the United States Postal Service via both first-class and certified mail. The Notice sent first class mail has not been

returned to the Commission. Thus, the evidence preponderates that the Claimant received proper notice of the dismissal hearing.

A hearing was in fact held on the Respondents' motion for dismissal of this claim. The Claimant failed to appear at the hearing. However, the Respondents appeared through their attorney. Counsel for the Respondents moved that this claim be dismissed for a lack of prosecution because the Claimant has made no bona fide request for a hearing. Counsel pointed out that the Claimant has indicated that he no longer wishes to pursue his claim. Moreover, counsel for the Respondents asked that the claim be dismissed *without prejudice* under the statutory provisions of Ark. Code Ann. §11-9-702 and the Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)).

DISCUSSION

The statutory provisions and Commission Rule applicable in this claim are outlined below.

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

> If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Ark. Code Ann. §11-9-702(d) reads:

> If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110 (d)) states:

> The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.
>
> In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.
>
> Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution. (Effective March 1, 1982)

Although the Claimant did not formally file a claim via a Form AR-C, his letter of September 23, 2025, wherein he appealed the denial of his claim constitutes the filing of a claim for workers' compensation benefits.

My review of the evidence in this matter shows the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits within the last six months. Moreover, no probative action whatsoever has been put forth by the Claimant to resolve or otherwise pursue his claim within the last six months. Despite having received proper notice of the dismissal hearing, the Claimant did not appear at the hearing to object to his case being dismissed. Most significantly, the Claimant has indicated that he no longer wishes to pursue his claim.

Considering all the foregoing evidence, I am compelled to conclude that the Claimant has abandoned his claim for workers' compensation benefits. Hence, the evidence before me clearly proves that Claimant has failed to timely prosecute his claim. Therefore, based on all the aforementioned reasons, I find that the Respondents' motion to dismiss this claim is warranted pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702(d); and 11 C.A.R. §25-110 (d) (previously Commission Rule 099.13). Accordingly, this claim is hereby respectfully dismissed due to a lack

of prosecution. Said dismissal is *without prejudice*, to the refiling of this claim within the limitation period specified by law.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Because of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The Claimant has never filed a Form AR-C in this matter. However, there is supplementary documentation before the Commission in this claim which constitutes the filing of a claim, which is Claimant's September 23, 2025, letter to the Commission.

3. Appropriate Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.

4. The Claimant did not appear at the hearing to object to his claim being dismissed. However, he has informed the Commission that he no longer wishes to pursue his claim.

5. The evidence proves that the Claimant has failed to timely prosecute his claim.

6. The Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, per Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and 11 C.A.R. §25-110(d) (previously Commission Rule 099.13), *without prejudice*, to the refiling of it within the limitation period specified by law.

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, I find that pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and 11 C.A.R. §25-110 (d) (formerly Commission Rule 099.13), this claim is hereby respectfully dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

**IT IS SO ORDERED**.

**CHANDRA L. BLACK**
**Administrative Law Judge**