

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H003775**

<b>ROGELIO BRISENO-RODREGUEZ, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>ANGELO ROOFING, LLC, EMPLOYER</b>	<b>RESPONDENT</b>
<b>AMTRUST NORTH AMERICA, INSURANCE CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED AUGUST 31, 2021**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas.**

**Claimant is *pro se* and appeared.**

**Respondents are represented by their attorney, William C. Frye, of North Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on August 3, 2021, in Little Rock, Arkansas, on the respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by Gary Davis, who was allowed to withdraw from the case by an Order dated June 25, 2021. The claimant was *pro se* at the time of the hearing and appeared in person. The claimant alleged he had "serious injuries to his spine" as provided in a Form AR-C filed on June 23, 2020. Although the respondents originally accepted the claim as compensable, the respondents later controverted the claim in its entirety contending that the claimant was not an employee and filed a Form AR-2 on August 6, 2020, stating their position. A Motion to Dismiss was filed by the respondents on May 12, 2021, contending that at no time had the claimant requested a hearing due to an alleged injury that occurred on November 3, 2019. At the time of the hearing for the

Motion to Dismiss, the claimant stated that he wished to pursue his claim. He was advised that it was in his best interest to attempt to obtain an attorney.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for August 3, 2021, in regard to the Motion to Dismiss. The claimant did not file a response but did appear on his own behalf on the hearing date in Little Rock, Arkansas. At the time of the hearing, William C. Frye appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, which included all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents and the statements of the claimant, there is no alternative but to find that this matter should not be dismissed at this time for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. It is further determined that the prehearing process will commence immediately.

**ORDER**

Pursuant to the above statement of the case, there is no alternative but to deny the Motion to Dismiss at this time.

**IT IS SO ORDERED.**

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**JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE**