

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H501814**

**SHAWANNA BAILEY,  
EMPLOYEE**

**CLAIMANT**

**HINO MOTORS MFG USA, INC.,  
EMPLOYER**

**RESPONDENT**

**FIRST LIBERTY INSURANCE CORP.,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED MARCH 31, 2025**

Hearing conducted on Friday, March 6, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Forrest City, St. Francis County, Arkansas.

The Claimant is *Pro Se*, of West Memphis, Arkansas.

The Respondents were represented by Mr. Zachary F. Ryburn, Attorney at Law, Little Rock, Arkansas.

**I. BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on October 14, 2025. A hearing on the motion was conducted on March 6, 2026, in Forrest City, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a team member. The date for Claimant's alleged injury was on March 13, 2025. This incident was reported to the Respondent/Employer on March 14, 2025. Admitted into evidence was Respondents' Exhibit 1, pleadings, consisting of 3 pages, and Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 17 pages, *as discussed infra*.

The record reflects on April 9, 2025, a Form AR-C was filed by Claimant purporting that Claimant sustained an injury to her left shoulder during a work incident. On March 21, 2025, a Form AR-1 was filed purporting that Claimant was doing normal operation but at a faster rate resulting in shoulder pain at the end of the workday. On March 27, 2024, a Form AR-2 was filed disputing that Claimant was injured during the course and scope of employment.

On August 8, 2025, Claimant's counsel filed a Motion to Withdraw as Counsel. The Full Commission granted the motion on August 227, 2025. Respondents filed a motion to dismiss on October 14, 2025, for failure to prosecute. The Claimant was sent, on October 17, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to her last known address. The certified motion notice was claimed by Claimant as noted by the return of the certified return receipt dated October 20, 2025. This notice was also sent regular U.S. Mail and did not return to the Commission. The Claimant did not respond to the Motion, in writing, as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at her current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on December 4, 2025. The certified notice was not claimed as noted by the return of the certified letter on January 2, 2026. The hearing notice sent regular First-Class was not returned to the Commission. The hearing was scheduled for January 2, 2026. But due to sickness, I cancelled the hearing.

On January 14, 2026, another Motion to Dismiss hearing notice was sent, and again was not claimed by the Claimant per the return receipt dated January 30, 2026. The notice sent regular First-Class mail did not return to the Commission. The hearing took place on March 6, 2026. And as mentioned before, the Claimant did not show up to the hearing.

## **II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the March 6, 2026, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute her claim under 11 C.A.R. §25-110(d) (formerly AWCC Rule 099.13).
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

## **III. DISCUSSION**

11 C.A.R. §25-110(d) provides:

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.

*See generally Johnson v. Triple T Foods*, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 C.A.R. §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was not claimed by Claimant. The notice sent regular U.S. Mail was not returned to the Commission. The Claimant is responsible for keeping the Commission apprised of her current address. The Claimant did not do that. Nevertheless, sending notices to the last known address of

record is reasonable. Thus, I find by the preponderance of the evidence that the Claimant did receive reasonable notice of this motion to dismiss hearing.

Furthermore, 11 C.A.R. §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed a Form AR-C on April 9, 2025, since then the Claimant has not requested a bona fide full hearing, thus failing to prosecute her claim. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her claim. Thus, Respondents' Motion to Dismiss should be granted.

**CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

**IT IS SO ORDERED.**

---

STEVEN PORCH  
Administrative Law Judge