

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H500901**

ERICA BEARFIELD, EMPLOYEE

CLAIMANT

**ROCK REGION METRO,
EMPLOYER**

RESPONDENT

**ATA WC SI TRUST, CARRIER/
RISK MANAGEMENT SOLUTIONS, TPA**

RESPONDENT

OPINION FILED JUNE 29, 2026

Hearing conducted on Tuesday, May 12, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant is represented by Mr. Steven McNeely, Attorney at Law, Jacksonville, Arkansas.

The Respondents were represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on March 11, 2026. A hearing on the motion was conducted on May 12, 2026, in Little Rock, Arkansas. Claimant and her counsel both appeared at the hearing.

The Claimant worked for the Respondent/Employer as a bus operator. The date for Claimant's alleged injury was on August 29, 2024. This incident was reported to the Respondent/Employer on the same day. Admitted into evidence was Respondents' Exhibit 1, pleadings, consisting of 11 pages, Claimant's Exhibit 1, medical records, consisting of 8 pages, and Commission Ex. 1, U.S. Mail return receipts, consisting of 3 pages, *as discussed infra*.

The record reflects on February 10, 2025, a Form AR-C was filed by Claimant's attorney, Steven McNeely, purporting that Claimant sustained an injury to her neck with pain radiating to her upper back, right arm, and hand. On February 11, 2025, a Form AR-1 was filed purporting that

she injured her neck when her bus shut off and she tried to steer the bus off the road without power steering. Also filed on February 11, 2025, Respondents filed a Form AR-2 neither accepting or denying the claim as compensable.

During the claim, the Claimant requested a change of physician and was granted the request to change from Dr. Scott Carle to Dr. James Bryan, IV on February 28, 2025. On March 11, 2026, Respondents filed a motion to dismiss for failure to prosecute. The Claimant was sent, on March 13, 2026, 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 March 23, 2026. This notice was also sent regular U.S. Mail and did not return to the Commission. The Claimant did object to the motion, through counsel, as required. Nevertheless, 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 April 8, 2026. The certified notice was claimed as noted by the return receipt dated April 10, 2026. The hearing notice was also sent regular First-Class mail was not returned to the Commission. The hearing was scheduled for May 12, 2026. And as mentioned before, the Claimant and her counsel did show up to the hearing.

At the hearing, Claimant's counsel argued that she desires to keep her Claim open so if she needs treatment for her neck, she can receive that treatment. The Claimant has not received treatment for her neck since July 2025, approximately eleven months ago. Claimant was released by Dr. Bryan at maximum medical improvement in June 2025 and released to full duty. The Claimant testified that she is currently receiving treatment for her shoulder that also helps with her neck pain. Her shoulder is a separate workers' compensation claim. Claimant testified that when

her neck hurts, she will massage it until she gets relief. Claimant also testified that she wants a full hearing, but Claimant's counsel later admitted that there are no issues in dispute. The Claimant has received everything she asked for regarding the treatment of her neck. Respondents argued that the claim should not remain open in perpetuity when there are no genuine issues of potential treatment or ongoing treatment.

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 May 12, 2026, hearing.
3. Respondents have not 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) and A.C.A. §11-9-701.
4. The Respondents' Motion to Dismiss should be denied.

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 claimed by Claimant on April 10, 2026. The Claimant and her counsel appeared for the

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

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 February 10, 2025, since then the Claimant has not requested a bona fide full hearing, nevertheless, she doesn't have to perform vain and useless acts. She testified to continuous neck trouble. I acknowledge that Claimant has reached MMI and has not received medical treatment for her neck injury since July of 2025. But at present, I do not see this claim as ripe for dismissal. Therefore, I do find by the preponderance of the evidence that Claimant has not failed to prosecute her claim. Thus, Respondents' Motion to Dismiss should be denied.

Moreover, Respondents also request dismissal under A.C.A. §11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012). Dismissal under this statute is not automatic, but discretionary. The statute, the same as 11 C.A.R. §25-110(d), uses the term "may" revealing its discretionary application. Based on the foregoing, I find the Respondents have failed to prove by the preponderance of the evidence that Claimant's claim should be dismissed pursuant to A.C.A. §11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012). Thus again, Respondents' Motion to Dismiss should be denied.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby denied.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge