BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H304069

TONYA BRASFIELD,
EMPLOYEE **CLAIMANT**

PERSONAL THERAPY OF NEA INC.,
EMPLOYER **RESPONDENT**

WESCO INS. CO.,
CARRIER **RESPONDENT**

AMTRUST NORTH AMERICA,
TPA **RESPONDENT**

OPINION FILED AUGUST 11, 2026

Hearing conducted on Friday, July 10, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Forest City, St. Francis County, Arkansas.

The Claimant was *Pro Se*.

The Respondents were represented by Mr. Jacob Denson, Attorney at Law, North Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on April 1, 2026. A hearing on the motion was conducted on July 10, 2026, in Forrest City, Arkansas. Claimant did not attend the hearing.

The Claimant worked for the Respondent/Employer as a childcare worker. The date for Claimant's alleged injury was on June 6, 2023. This incident was reported to the Respondent/Employer on the same day. The Respondents did not submit any evidence to the Commission. Admitted into evidence was Commission Ex. 1, pleadings, return receipts, and correspondence, consisting of 22 pages, *as discussed infra*.

The record reflects on June 27, 2023, a Form AR-1 was filed purporting that Claimant was head butted by a child causing injury to her nose. On June 27, 2023, a Form AR-2 was filed noting that this was a medical-only claim. On July 10, 2023, an amended Form AR-2 was filed stating that that the claim was neither medical-only or a Permanent Partial Disability claim. On August 14, 2025, a Form AR-C was filed by Claimant's then-attorney, Laura Beth York, purporting that Claimant injured her head, face, nose, eyes, brain, right arm, left ankle.

Claimant's counsel filed a Motion to Compel on October 27, 2025, alleging that Respondents have failed to respond to discovery. On October 28, 2025, Chief ALJ Judge wrote a letter to Wesco Insurance Company, care of Ms. Desiree Barlow, to respond to Claimant's discovery request by November 17, 2025. Respondents' newly hired counsel, Mr. William Frye, informed Claimant's counsel to send him the discovery request on October 28, 2025, and discovery was answered on November 7, 2025. However, Claimant's counsel filed a Motion to Withdraw as Counsel on February 19, 2026, due to Claimant's lack of contact. This motion was granted on March 25, 2026.

Respondents filed a motion to dismiss on April 1, 2026, for failure to prosecute her claim. The Claimant was sent, on April 3, 2026, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to her last known address. The certified motion notice was not claimed by Claimant, per return receipt. This notice was also sent regular U.S. Mail and did return to the Commission. Nevertheless, reasonable notice was extended to Claimant's last known address of record. Thus, in accordance with applicable Arkansas law, the Claimant was sent notice of Respondents' Motion to Dismiss hearing date on April 29, 2026. The Claimant did not claim the certified hearing notice. The hearing notice sent regular First-Class Mail did return to the Commission. The hearing took place on July 10, 2026.

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 July 10, 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. Claimant did not claim the certified hearing date notice. The hearing date notice sent regular First-Class mail also returned to the Commission. These notices were sent to Claimant's last known address on record. This is

reasonable. 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. Claimant has failed to request a bona fide hearing since the filing of her Form AR-C. 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.

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STEVEN PORCH
Administrative Law Judge