

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. G907231**

**MARILYN COMPTON,  
EMPLOYEE**

**CLAIMANT**

**ST. VINCENT MEDICAL CENTER NORTH,  
EMPLOYER**

**RESPONDENT**

**INDEMNITY INS. CO. OF NORTH AMERICA/  
SEDGWICK MANAGEMENT CLAIMS SERVICES, INC.,  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

**FILED JULY 19, 2023**

Hearing before the Arkansas Workers' Compensation Commission (AWCC), Administrative Law Judge (ALJ) Mike Pickens, on Tuesday, July 18, 2023, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by the Honorable William C. "Bill" Frye, The Frye Law Firm, North Little Rock, Pulaski County, Arkansas.

The respondents were represented by the Honorable Jason Ryburn, The Ryburn Law Firm, Little Rock, Pulaski County, Arkansas.

**STATEMENT OF THE CASE**

A hearing on the merits of the above-captioned claim was scheduled in this matter for Tuesday, July 18, 2023, to determine whether the claimant had sustained a compensable "mental injury" within the meaning of the Arkansas Workers' Compensation Act (the Act). In conferring with his client before the hearing, the claimant's attorney determined he did not wish to proceed with the scheduled hearing, and he made an oral motion on the record to voluntarily dismiss this claim without prejudice. He also agreed to pay the court reporter's invoice associated with her appearance at and work related to the hearing. The respondents' attorney objected to the claimant's voluntary motion to dismiss and stated his client would be prejudiced by the dismissal of this claim at this time. The respondents' attorney further requested that, should the ALJ grant the claimant's

motion to dismiss, his client be awarded their attorney's fees and costs incurred in preparing for and attending what was scheduled to be a full hearing on the merits of this claim.

While the claimant's attorney advised he did not wish to proceed to a hearing at this time and, therefore, requested this claim be dismissed without prejudice, he stated on the record that as of this time it was his and the claimant's intention to file another Form AR-C with the Commission and to refile the claim at some point in the future if and when it was appropriate to do so. Therefore, again, with his client's full and informed consent the claimant's attorney requested the ALJ grant the claimant's request to voluntarily dismiss her claim without prejudice at this time.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter by reference.

### **DISCUSSION**

While the subject July 18, 2023, hearing was scheduled to be a hearing on the merits of the claim, the parties did make a record during which the claimant's attorney made his motion to dismiss this claim without prejudice, and the respondents' attorney stated his objection thereto, a hearing was held which is consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004). After a thorough consideration of the facts, issues, as well as the applicable law and other relevant matters of record, I hereby make the following:

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

1. The Commission has jurisdiction of this claim.
2. I find the claimant's motion to dismiss without prejudice made on the record on July 18, 2023, should be and hereby is GRANTED for good cause shown; and this claim is dismissed without prejudice to its refiling pursuant the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b) (2023 Lexis Replacement).

3. The respondents' attorney's request for attorney's fees and costs incurred in preparation for and appearance at the hearing is denied, as I find the respondents have not been nor will they be prejudiced by the claimant's voluntary dismissal of the subject claim.

This opinion and order shall not be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

As agreed on the record at the hearing, the claimant's attorney shall pay the court reporter's invoice within twenty (10) days of the filing of this opinion and order.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp