

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. H208659**

<b>YOLANDA CONSTANCIO, Employee</b>	<b>CLAIMANT</b>
<b>EXPRESS SERVICES, INC., Employer</b>	<b>RESPONDENT</b>
<b>AIU INS. CO., Carrier</b>	<b>RESPONDENT</b>

**OPINION/ORDER FILED AUGUST 20, 2024**

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS, in Fort Smith, Sebastian County, Arkansas.

Claimant represented by MARK ALAN PEOPLES, Attorney, Little Rock, Arkansas; although not present at hearing.

Respondent represented by MELISSA WOOD, Attorney, Little Rock, Arkansas.

**OPINION/ORDER**

This case comes on for review following a hearing on respondent's Motion to Dismiss.

On December 13, 2022, Laura Beth York, the claimant's previous attorney, filed a Form AR-C requesting various compensation benefits; however, no hearing was requested. In March 2023 Ms. York was allowed to withdraw as the claimant's attorney. On September 2, 2023, Mark Alan Peoples, the claimant's current attorney, filed a Form AR-C requesting various compensation benefits; however, no hearing was requested. No further action was taken in this claim.

On June 3, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for July 18, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on June 6, 2024. That notice was returned by the United States Postal Department with the notation, "Return to Sender. Unclaimed. Unable to Forward." Mr. Peoples indicated by email on June 6, 2024, that he would

waive his appearance at the hearing and further indicated that he had no objection to the Motion to Dismiss “WITHOUT prejudice.”

After my review of respondent’s Motion to Dismiss, Mr. Peoples’ response thereto that he had no objection to the motion to dismiss without prejudice, and the claimant’s failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that respondent’s Motion to Dismiss this claim should be and hereby is granted pursuant to A.C.A. §11-9-702(a)(4). This dismissal is without prejudice.

**IT IS SO ORDERED.**

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**HONORABLE ERIC PAUL WELLS**  
**ADMINISTRATIVE LAW JUDGE**