BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H600292

REGIS L. EVANS, EMPLOYEE	CLAIMANT
HOLMAN DISTRIBUTION OF WASHINGTON, EMPLOYER	RESPONDENT
NEW HAMPSHIRE INSURANCE COMPANY, INSURANCE COMPANY	RESPONDENT
GALLAGHER BASSETT SERVICES, INC., INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED SEPTEMBER 24, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski, County, Arkansas.

Claimant, Pro Se, did not appear at the hearing.

Respondents represented by the Honorable Rick A. Behring, Jr., Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on September 23, 2026, in the above-captioned claim pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and previously Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110).

Appropriate notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the September 23, 2026, hearing and the documents contained therein. In that regard, Commission's Exhibit 1 consists of five pages, and Respondents' Exhibit 1 is a Respondents' Hearing Exhibit Index that has ten numbered pages, and a cover sheet.

No testimony was taken.

Procedural History

The Claimant was an employee of Holman Distribution on October 29, 2025. At that time, he alleged that he sustained compensable injuries to his back and left knee resulting from in the course and scope of his employment with the respondent-employer.

On or about January 18, 2026, the Claimant's then attorney filed a Form AR-C with the Commission wherein he asserted the Claimant's entitlement to both initial and additional benefits for alleged accidental injury. The Claimant checked all the boxes for every conceivable benefit under the law.

The respondent-insurance-carrier filed a Form AR-2 with the Commission on February 16, 2026, accepting this as a medical claim.

Subsequently, the Claimant did not request a hearing on his claim.

In May 2026, the Claimant's attorney filed a motion to withdraw from representing him in this matter. On June 17, 2026, the Full Commission granted the motion for the Claimant's attorney to withdraw from representing him Claimant in this proceeding.

Therefore, on July 9, 2026, the Respondents filed a Motion to Dismiss and an Incorporated Brief in Support with the Commission, along with a Certificate of Service to the Claimant. Per this document the Respondents served a copy of the foregoing pleading on Claimant by depositing a copy thereof, postage prepaid in the United States Mail to her last known address.

However, there was no response from the Claimant, nor has he made a request for a hearing.

In correspondence dated July 13, 2026, I sent the Claimant a letter letting him know of the Respondents' motion to dismiss his workers' compensation claim due to a lack of prosecution. He was given twenty days to file a written response to the motion with my office.

This letter was sent via the U.S. Postal Service both via certified mail and regular mail. The letter mailed to the Claimant via certified mail was delivered to the Claimant's home on July 16, 2026. Additionally, the correspondence sent to the Claimant via regular mail has not been returned to the Commission.

On August 3, 2026, my office sent a Notice of Hearing to the parties. At that time, the case was set for a dismissal hearing on the Respondents' motion for September 23, 2026, in Little Rock, Arkansas.

This Notice was sent to the Claimant via the United States Postal Service via both first-class and certified mail. The Notice of Hearing sent to the Claimant by certified mail was signed on August 10, 2026, and delivered to his home. The Notice sent first class mail has not been returned to the Commission. Under these circumstances, I find that the Claimant had actual notice of the dismissal proceedings and hearing.

A hearing was in fact held on the Respondents' motion for dismissal of this claim on September 23. The Claimant appeared at the hearing. Also, the Respondents appeared through their attorney. Respondents moved that the claim be dismissed for a lack of prosecution. Moreover, counsel noted that the Claimant has never made a request for a hearing since the filing of his claim in January 2026. Counsel also noted that the Claimant has not opposed the motion to dismiss by written correspondence to the hearing or by his personal appearance at the hearing. As

such, Counsel asked that the claim be dismissed *without prejudice* under the statutory provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and 11 C.A.R. § 25-110(d) of the Rules of the Commission.

DISCUSSION

The statutory provisions and Commission Rule applicable in this claim are outlined below.

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

> If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Additionally, Ark. Code Ann. §11-9-702(d) provides:

> If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Rule 099.13 (now codified at 11 C.A.R. § 25-110) reads:

> The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.
>
> In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.
>
> 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. (Effective March 1, 1982)

My review of the evidence in this matter shows that the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits, since the

filing of his claim in January 2026, which was done clearly more than six months ago. Hence, the evidence proves that the Claimant has made no other attempts whatsoever to resolve or pursue his claim since filing it. In fact, the Claimant did not appear at the hearing to object to the motion to dismiss. Additionally, the Claimant has failed to respond to any of the Notices of this Commission.

Considering all the foregoing evidence, I am compelled to conclude that the Claimant has failed to prosecute his claim. Furthermore, the evidence before me proves that the Claimant has abandoned his workers' compensation claim.

Therefore, based on all the aforementioned reasons, I find that the Respondents' motion to dismiss this claim due to a lack of prosecution is warranted pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702(d); and 11 C.A.R. §25-110 (formerly Commission Rule 099.13). Thus, this claim is hereby respectfully dismissed due to a lack of prosecution. Said dismissal is *without prejudice*, to the refiling of this claim within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record as a whole, 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The Claimant's former attorney filed a claim in this matter per a Form AR-C in January 2026, which is clearly more than six months ago. Since this time, the Claimant has failed to request a hearing on his claim.

3. Appropriate Notice of the dismissal hearing was tried on all parties to their last known address, in the manner prescribed by law.

4. The evidence proves that the Claimant has failed to prosecute his claim.

5. That the Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, per Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and

11 C.A.R. §25-110 (formerly Rule 099.13 of the Commission), *without prejudice*, to the refiling of it within the limitation period specified by law.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, I find that pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and 11 C.A.R. §25-110 (previously Rule 099.13 of the Commission), this claim is hereby respectfully dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge