

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE N^os H207526 & H307464**

MICHAEL T. GILBERT, EMPLOYEE	CLAIMANT
EVERGREEN PACKAGING, LLC EMPLOYER	RESPONDENT
INDEMNITY INSURANCE CO. OF NORTH AMERICA/ SEDGWICK CLAIMS MANAGEMENT, CARRIER/TPA (H207526)	RESPONDENT
ACE AMERICAN/GALLAGHER BASSETT, CARRIER/TPA (H307464)	RESPONDENT

OPINION FILED 20 AUGUST 2025

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 5 June 2025 in Pine Bluff, Arkansas.

The *pro se* claimant failed to appear.

The Frye Law Firm, Mr. Bill Frye, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Pine Bluff, Arkansas, on 5 June 2025. This case relates to alleged workplace injuries occurring on 27 October 2021 (H307464) and 28 September 2022 (H207526). The hearing record consists of the transcript and two exhibits: Respondent's Exhibit N^o 1 is the Form AR-C filed in Claim N^o H307464 and Respondent's Exhibit N^o 2 is the Form AR-C filed in Claim N^o H207526. I am also blue-backing to this opinion the Full Commission Orders granting the request of the claimant's previous counsel to withdraw her representation from these claims, the respondents' requests for dismissal, the relevant mailings from my office, and accompanying delivery confirmation receipts for the same. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, those documents are being served on the parties in conjunction with this opinion.

On 10 November 2022, the claimant, though then-counsel, filed a Form AR-C in Claim No H307464. Then, on 18 November 2022, the claimant's counsel filed a Form AR-C in Claim H207526. On 14 August 2024, the Full Commission entered Orders granting Counsel's request to withdraw her representation from both claims.

The respondents eventually requested that these claims be dismissed under Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)). They note that the claimant had not taken action on his claims since the AR-C filings.

Notice of the respondents' motion was sent to the claimant, consistent with Commission practices, via First Class Mail and Certified Mail on 21 January 2025. Notice of the hearing on the respondents motion was sent in the same manner on 1 May 2025. Copies of those mailings and the accompanying proof of delivery receipts are blue-backed to this opinion.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing 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 Commission has jurisdiction over these claims.
2. The parties were provided with reasonable notice of the Motion to Dismiss and the hearing on the motion.
3. The evidence preponderates that the claimant has failed to prosecute his claims under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted; these claims are dismissed without prejudice under 11 C.A.R. § 25-110(d).

DISCUSSION

The respondents appeared on 5 June 2025 and presented their motion. As argued by the respondents at the hearing, Commission Rule 099.13 (now 11 C.A.R. § 25-110(d)) provides for a dismissal for failure to prosecute an action upon application by either party

and reasonable notice. The claimant did not file a response to the motion or appear at the hearing to argue against the dismissal of his claims. The record does not reflect a request for a hearing or any other action taken by the claimant in furtherance of the prosecution of either claim. A dismissal without prejudice is, therefore, appropriate.

ORDER

The Motion to Dismiss is GRANTED, and these claims are DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE