

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM Nos. G902659 & G903849**

<b>CLARENCE GUTHRIE, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>WHITTEN CONCRETE CO., EMPLOYER</b>	<b>RESPONDENT</b>
<b>MIDWEST INSURANCE CO. CARRIER/TPA</b>	<b>RESPONDENT</b>
<b>DEATH &amp; PERMANENT TOTAL DISABILITY TRUST FUND</b>	<b>RESPONDENT</b>

**OPINION FILED 6 JULY 2023**

**Hearing before Administrative Law Judge JayO. Howe in Little Rock, Pulaski County, Arkansas, on 3 May 2023.**

**Clarence Guthrie, deceased, failed to appear. No person appeared on behalf the estate of Mr. Guthrie.**

**Mr. Michael C. Stiles, Attorney-at-Law, appeared on behalf of the respondent employer and carrier.**

**The Trust Fund waived its appearance.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on 3 May 2023, in Little Rock, Arkansas, on respondents' Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. § 11-9-702 and/or Rule 099.13 of the Arkansas Workers' Compensation Act. The claim involves workplace injuries occurring on or about 19 April 2019 and 12 June 2019, in claims G902659 and G903849, respectively. An employer/employee relationship existed at the time of the accidents, and both claims were accepted as compensable, with benefits paid on each of those claims.

The claimant passed away, from causes apparently unrelated to either injury, on 3 October 2021. Around the time of the claimant's passing, discussions were held around possible settlement on both open claims. Those efforts were frustrated by the difficulty around finding an appropriate administrator or administratrix for the claimant's estate, and

the claimant's attorney ultimately withdrew representation, with leave of the Commission, on 23 February 2022.

The claims sat undisturbed until the respondents filed their Motion to Dismiss for want of prosecution on 24 February 2023. Since that time, again, no party has come forward to act on behalf of the claimant's estate. Given the passage of time, the respondents' Motion is appropriate.

Based on the record, counsel's representations, and evidence before me, I am compelled to find that the Motion to Dismiss should be granted due to the claimant's lack of prosecution and the matter should be dismissed without prejudice.

**ORDER**

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice at this time.

SO ORDERED.

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE