BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H502918

MARIO GONZALES,
EMPLOYEE **CLAIMANT**

KINGS B N R LLC,
EMPLOYER **RESPONDENT**

SEQUOIA INSURANCE CO.,
INSURANCE CARRIER **RESPONDENT**

AM TRUST NORTH AMERICA,
TPA **RESPONDENT**

OPINION FILED AUGUST 11, 2026

Hearing conducted on Tuesday, July 7, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Mario Gonzales, *Pro Se*.

The Respondents were represented by Mr. William C. Frye, Attorney at Law, North Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on December 16, 2025. A hearing on the motion was conducted on July 7, 2026, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a driver. The date for Claimant's alleged injury was on April 3, 2025. He reported his injury to Respondent/Employer on the April 5, 2025. Admitted into the record was Respondents' Exhibit 1, correspondence, consisting of 9 pages, Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 33 pages, *as discussed infra*.

The record reflects that on May 9, 2025, a Form AR-1 was filed with the Commission purporting that Claimant suffered a head laceration on April 3, 2025. On May 12, 2025, a Form AR-2 was filed by Respondents neither granted nor denied compensability but noted that they are investigating the claim. On May 23, 2025, a Form AR-C was filed with the Commission by Claimant's then-attorney, Mark Peoples, purporting that Claimant injured his head, neck, eye, elbow, and hand in work accident. On October 16, 2025, Claimant's counsel filed a Motion to Withdraw as Claimant's Counsel which was granted on November 12, 2025.

On December 16, 2025, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on December 18, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was not claimed by Claimant, per return receipt. This notice sent regular U.S. Mail did not return to the Commission. The Claimant objected to the motion and requested a hearing on January 6, 2026, and the motion was held in abeyance. On January 20, 2026, a Preliminary Notice and Prehearing Questionnaire were sent to Claimant. The questionnaire was due February 9, 2026.

The Claimant turned in the questionnaire on February 23, 2026, fourteen days late and after granting an extension. A telephone conference was scheduled for March 25, 2026, at 11am. A Prehearing Order was filed March 30, 2026, with a full hearing date of June 24, 2026. The Order was sent to Claimant's address in Hawaii certified and Regular First-Class U.S. Mail. The Claimant did not accept the certified mail, and it was returned to the Commission. However, the notice sent out regular First-Class mail did not return to the Commission.

Respondents set up a zoom deposition with Claimant for March 25, 2026, at 1pm, which Claimant confirmed his attendance. Claimant on March 25, 2025, requested two weeks to obtain an attorney before the deposition. No attorney was ever obtained and the Claimant failed to make

himself available for a deposition, despite this office asking the Claimant, via email, to identify the attorney he has hired in this matter. Without response by Claimant, the Motion that was held in abeyance was reactivated and notice of the motion was again sent to the Claimant on May 7, 2026, certified and regular First-Class mail. The Certified notice was returned to the Commission on June 9, 2026. The notice sent regular First-Class Mail did not return to the Commission. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on June 4, 2026. On June 5, 2026, Claimant alleged, via email, that he has not received any mail and that his address is now in Wichita, Kansas. Claimant was confronted about his Hawaii address and his claim to the Commission that he could not stay on the mainland and that he had to move to Hawaii. The Claimant next stated that he was waiting for the full hearing originally scheduled for June 24, 2026. Claimant was instructed, via email, that he would need to show up in person for the Motion to Dismiss hearing on July 7, 2026, 10:00 a.m. The hearing took place on July 7, 2026. The Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 this claim.

2. The Claimant and Respondents both had reasonable notice of the July 2, 2026, hearing.

3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under 11 CAR §25-110(d) [formerly AWCC Rule 099.13].

4. The Respondents' Motion to Dismiss should be granted.

5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

11 CAR §25-110(d) provides:

> 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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 CAR §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was not claimed by Claimant, per the return postal notice. However, the hearing notice sent regular First-Class mail was not returned to the Commission. The Claimant was instructed on June 8, 2026, via email, when he contacted the Commission about his new Kansas address, that he must attend the Motion to Dismiss hearing scheduled for July 7, 2026. The documents sent to Claimant through U.S. Mail was also sent to Claimant through email, the very same email which Claimant stated he did not receive any documents and then gave the Commission his new Kansas address. Therefore, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Also 11 CAR §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on

May 23, 2025. Since then, Claimant has been given several extensions to turn in documents, multiple opportunities to submit for a deposition and comply with discovery, which he has failed to do, as well as ignored multiple emails from the Respondents and the Commission. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute his claim by failing to request a hearing. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

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STEVEN PORCH
Administrative Law Judge