

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H007400**

<b>WHITNEY HEBENSTREIT, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>SAINT JEAN INDUSTRIES, INC., EMPLOYER</b>	<b>RESPONDENT</b>
<b>AMERISOURCE MUTUAL, INSURANCE CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED AUGUST 31, 2021**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas.**

**Claimant is *pro se* and failed to appear.**

**Respondents are represented by their attorney, Lauren Spencer, of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on August 3, 2021, in Little Rock, Arkansas, on the respondents' Motion to Dismiss for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was originally represented by William C. Frye, who was allowed to withdraw from the case by an Order dated June 18, 2021. The claimant was *pro se* at the time of the hearing and failed to appear. The claimant alleged she had developed planter fasciitis due to standing and walking on concrete for four (4) years and had also developed bilateral carpal tunnel syndrome, as provided in a Form AR-C filed on November 9, 2020. The respondents controverted the claim in its entirety and filed a Form AR-2 on October 6, stating their position. At no time has the claimant made a formal request for a hearing, and the respondents filed a Motion to Dismiss on May 5, 2021. No action to pursue the claim has been taken for over six (6) months, and the claimant has failed to respond to

the discovery that was propounded by the respondents. This lack of action led to a filing of a Motion to Dismiss.

An appropriate notice setting this matter for a hearing for a Motion to Dismiss was provided to the claimant by both certified and regular mail. A hearing was set for August 3, 2021, in regard to the Motion to Dismiss. The claimant did not file a response and failed to appear on the hearing date in Little Rock, Arkansas. At the time of the hearing, Lauren Spencer appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, which included all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents, there is no alternative but to find that this matter should be dismissed for failure to prosecute pursuant to Ark. Code Ann. § 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

**ORDER**

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

**IT IS SO ORDERED.**

---

**JAMES D. KENNEDY**  
**ADMINISTRATIVE LAW JUDGE**