

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H304985**

**EDDIE M. JOHNSON,
EMPLOYEE**

CLAIMANT

**SCA PHARMACEUTICALS HOLDINGS, INC.,
EMPLOYER**

RESPONDENT

**TRAVELERS INDEMNITY CO./
THE TRAVELERS INDEM. CO.,
CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED DECEMBER 4, 2024**

Hearing conducted on Tuesday, December 3, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by the Honorable C. Michael White, The White Law Firm, of Little Rock, Pulaski County, Arkansas.

The respondents were represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Tuesday, December 3, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Replacement).

The respondents filed a letter motion dated September 30, 2024, with the Commission which for some reason was file-marked October 16, 2024 (MTD), requesting this claim be dismissed for lack of prosecution pursuant to the aforementioned statute and Commission rule. (Respondents' Exhibit 1 at 10). The claimant's attorney immediately responded via email advising the claimant

had no objection to the respondents' request for a dismissal of the claim without prejudice. (Claimant's Exhibit 1).

Thereafter, in compliance with the applicable law both the claimant and her attorney were provided due and legal notice of the respondents' MTD as well as the date, time, and location of the subject hearing. The claimant's attorney appeared in person at the hearing and explained in some detail on the record why the claimant did not object to the request for dismissal. In summary, the claimant's attorney explained the claimant's carpal tunnel problems were preexisting; that her health insurance had paid her medical bills; she had applied for and received short-term disability (STD) benefits while she was off work; and that she has now returned to work for the respondent-employer. (Hearing Transcript; CX1; RX1).

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant has not requested a hearing within the last six (6) months, and she has taken no steps to prosecute her claim for the reasons her attorney clearly articulated on the record at the subject hearing. Therefore, after a thorough consideration of the facts, issues, the applicable law, the representations of highly credible counsel, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. After having been advised of and mailed due and legal notice of the respondents' letter MTD without prejudice dated September 30, 2024 (which was file-marked as having been received by the Commission on or about October 16, 2024), as well as having received notice of the date, time, and place of the subject hearing, the claimant's attorney appeared in person on the claimant's behalf at the hearing, and reiterated and explained why the claimant had no objection to the respondents' MTD without prejudice.
3. The claimant has not requested a hearing within the last six (6) months, and she has not prosecuted her claim for the reasons her attorney explained in some detail on the record at the subject hearing.
4. Therefore, the respondents' letter MTD without prejudice filed October 16, 2024, should be and hereby is GRANTED; and this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling the claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp

Eddie M. Johnson, AWCC No. H304985