

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NOS. H303433**

**DARRELL JONES (DECEASED),  
EMPLOYEE**

**CLAIMANT**

**ARKANSAS CHILDRENS' HOSPITAL (ACH),  
EMPLOYER**

**RESPONDENT**

**ACH-SELF-INSURED/  
CENTRAL ADJUSTMENT CO., INC.,  
INSURANCE CARRIER/TPA**

**RESPONDENT**

**OPINION TO DISMISS WITHOUT PREJUDICE  
FILED APRIL 10, 2024**

Hearing conducted on Tuesday, April 9, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The deceased claimant's statutory beneficiary, Ms. Roberta Jones, pro se, of Little Rock, Pulaski County, Arkansas, failed and/or refused to appear at the hearing.

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, April 9, 2024, to determine whether this claim should be dismissed for lack of prosecution pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2023 Lexis Replacement) and Commission Rule 099.13 (2023 Lexis Replacement).

The respondents filed a letter motion to dismiss without prejudice (MTD) with the Commission on February 9, 2024, requesting this claim be dismissed without prejudice for lack of prosecution. (Respondents' Exhibit 1 at 11). Consistent with the applicable Arkansas law the Commission mailed a copy of both the respondents' MTD, and the subject hearing notice via the

United States Postal Service (USPS), Certified Mail, Return Receipt Requested, to the deceased claimant's representative's/statutory beneficiary's, Ms. Roberta Jones's (Ms. Jones), last known address of record with the Commission, which she received on February 15, 2024. (Commission Exhibit 1; RX1 at 13; 12). Thereafter, Ms. Jones failed and/or refused to respond in any way to either the Commission or to the respondents; and she failed and/or refused to appear at the subject hearing. Ms. Jones never responded or objected in any way to the respondents' letter MTD.

The claimant died of a heart attack, and the respondents' denied and controverted the claim in its entirety. (RX1 at 1-2; 6). It should be noted Ms. Jones initially was represented by counsel, Ms. Laura Beth York of the Rainwater, Holt & Sexton law firm in Little Rock at the time this claim was filed; however, Ms. York requested to withdraw as counsel, and the Commission granted her request. (RX1 at 1-10; Hearing Transcript).

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) (2022 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' letter MTD. 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 demonstrates Ms. Jones has failed and/or refused to request a hearing within the last six (6) months, or taken any other steps to prosecute this claim. By transmittal letter dated June 14, 2023, the respondents

propounded discovery to Ms. Jones's attorney of record at the time, Ms. York, but neither Ms. York or Ms. Jones ever responded to the discovery requests. (RX1 at 5; Tr.)

Therefore, after a thorough consideration of the facts, issues, the applicable law, as well as the representations of highly competent and 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 the Commission mailed due and legal notice of the respondents' letter MTD filed February 9, 2024, to Ms. Jones's last known address of record with the Commission, Ms. Jones failed and/or refused to respond to the motion in any way; failed and/or refused to object to the subject MTD; and failed and/or refused to request a hearing on the subject claim.
3. Ms. Jones failed and/or refused to appear at the subject MTD hearing and, therefore, is deemed to have waived her right to a hearing on the MTD.
4. Neither Ms. Jones or any attorney or other person acting legally and on her behalf has requested a hearing either on the merits, or on any issue related to the subject claim, within the last six (6) months.
5. Therefore, I find the respondents' letter MTD without prejudice filed with the Commission on February 9, 2024, should be and hereby is GRANTED.
6. The above-styled claim hereby is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b), and Commission Rule 099.13.

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

*Darrell Jones (Deceased), AWCC NO. H303433*

The respondents shall pay the court reporter's invoice within twenty (20) days of their receipt thereof.

**IT IS SO ORDERED.**

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Mike Pickens  
Administrative Law Judge

MP/mp