BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H402346

JOHN LAMBERT,
EMPLOYEE — CLAIMANT

SOUTHERN ALUMINUM MANUFACTURING
ACQUISITION, EMPLOYER — RESPONDENT

CHUBB INDEMINTY INS. CO./CHUBB GROUP
INSURANCE COMPANIES, CARRIER/TPA — RESPONDENT

OPINION FILED JULY 17, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in El Dorado, Union County, Arkansas.

Claimant, Pro Se, did not appear at the hearing.

Respondents represented by the Honorable Rick A. Behring, Jr., Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on July 1, 2026, in the above-captioned claim pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W. 3d 287 (2004), to determine whether the above-referenced matter should be dismissed for failure to prosecute under the provisions of Ark. Code Ann. §11-9-702 (Repl. 2012) and previously Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110).

Appropriate notice of this hearing was had on all parties to their last known address, in the manner prescribed by law.

The record consists of the transcript of the July 1, 2026, hearing and the documents contained therein. In that regard, Commission's Exhibit 1 consists of two pages, and Respondents' Exhibit 1 is a Respondents' Hearing Exhibit Index has fifteen numbered pages, and a cover sheet.

No testimony was taken.

Procedural History

The Claimant was an employee of Southern Aluminum on March 22, 2024. At that time, he sustained a specific incident injury to his right knee in the course and scope of his employment with the respondent-employer.

The respondent-insurance-carrier filed a Form AR-2 with the Commission accepting compensability for the Claimant's right knee injury. The insurance carrier paid both medical and indemnity benefits to and on behalf of the Claimant for his admittedly compensable right knee injury.

On or about November 20, 2024, the Claimant's former attorney filed a Form AR-C with the Commission wherein he asserted the Claimant's entitlement to both initial and additional benefits for his right knee injury. Counsel for the Claimant checked all the boxes for every conceivable benefit under the law.

Subsequently, the Claimant failed to request a hearing on his claim.

Therefore, in February 2026, the Respondents filed a Motion to Dismiss and Incorporated Brief in Support with the Commission, along with a Certificate of Service to the Claimant's attorney. Per this document the Respondents served a copy of the foregoing pleading on Claimant's attorney by e-mailing a copy thereof to him at the correct e-mail address.

The claim was assigned to my office for appropriate action. I sent a letter to the Claimant's attorney asking that he file a written response to the motion within twenty days. On March 3, 2026, the Claimant's attorney wrote a letter stating that the Claimant had abandoned his claim and that he had not been able to reach him by mail or phone since February 3, 2025. As a result, in his

correspondence the Claimant's attorney attached a motion to withdraw from representing the Claimant.

On April 1, 2026, the Full Commission entered an order granting the motion for the Claimant's attorney to withdraw from representing him in this matter.

I sent a second notice on April 23, 2026. This notice was addressed to the Claimant. In this correspondence, I asked the Claimant to provide a response to the motion to dismiss his claim within twenty days from the date of my letter. This notice was sent via the United States Postal Service by way of both regular and certified mail.

However, there was no response from the Claimant.

On May 12, 2026, my office sent a Notice of Hearing to the parties. At that time, the case was set for a hearing on July 1, 2026, at the Union County Courthouse, in El Dorado, Arkansas. This dismissal hearing notice was sent to the Claimant via the Postal Service in the manner prescribed by law.

Still, there was no response from the Claimant. However, the hearing notice sent via regular mail has not been returned to the Commission. Information received from the Postal Service shows that they delivered the Certified Mail to the Claimant on May 14. The scanned image of the recipient's information bears the Claimant's signature. These facts lead me to conclude that the Claimant received proper notice of the dismissal hearing.

A hearing was in fact held on the Respondents' motion to dismiss this claim. Despite having received proper notice of the hearing, the Claimant did not appear to contest the motion to dismiss his claim due to a lack of prosecution. However, the Respondents appeared through their attorney. The Respondents' attorney moved that the claim be dismissed for a lack of prosecution. Counsel noted among other things that the Claimant has never made a request for a bona fide

hearing since the filing of his claim via the Form AR-C, which occurred more than eighteen months ago. He also pointed out that the Claimant has not appeared at the hearing or responded to the Commission's notices. As a result, the Respondents' attorney asked that the claim be dismissed *without prejudice* under the statutory provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and 11 C.A.R. § 25-110 (formerly Commission Rule 099.13).

DISCUSSION

The statutory provisions and Commission Rule applicable in this claim are outlined below.

Specifically, Ark. Code Ann. §11-9-702(a)(4) provides:

> If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within the limitation periods specified in subdivisions (a)(1)-(3) of this section.

Additionally, Ark. Code Ann. §11-9-702(d) provides:

> If within six (6) months after the filing of a claim for additional compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, if necessary, be dismissed without prejudice to the refiling of the claim within the limitation period specified in subsection (b) of this section.

Rule 099.13 (now codified at 11 C.A.R. § 25-110) reads:

> The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.
>
> In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.
>
> 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. (Effective March 1, 1982)

My review of the evidence in this matter shows that the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits, which was filed in November 2024, which is clearly more than six months ago. Hence, the evidence proves that the Claimant has not made any attempt whatsoever to resolve or pursue his claim. In fact, the Claimant did not appear at the hearing to object to the motion to dismiss after having received proper notification of the dismissal hearing.

Considering all the foregoing evidence, I am compelled to conclude that the Claimant has failed to prosecute his claim. Moreover, the evidence before me proves that the Claimant has abandoned his workers' compensation claim.

Therefore, based on all the aforementioned reasons, I find that the Respondents' motion to dismiss this claim is warranted pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702(d); and 11 C.A.R. §25-110 (formerly Commission Rule 099.13). Thus, this claim is hereby respectfully dismissed due to a lack of prosecution. Said dismissal is *without prejudice*, to the refiling of this claim within the limitation period specified by law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the record as a whole, 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 Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The Claimant's former attorney filed a claim in this matter per a Form AR-C in November 2024, which is clearly more than six months ago. Since this time, the Claimant has failed to request a hearing on his claim.

3. Appropriate Notice of the dismissal hearing was had on all parties to their last known address, in the manner prescribed by law.

4. The evidence proves that the Claimant has failed to prosecute his claim.

5. That the Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, per Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and 11 C.A.R. §25-110 (formerly Rule 099.13 of the Commission), *without prejudice*, to the refiling of it within the limitation period specified by law.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, I find that pursuant to Ark. Code Ann. §11-9-702(a)(4); §11-9-702 (d); and 11 C.A.R. §25-110 (previously Rule 099.13 of the Commission), this claim is hereby respectfully dismissed, *without prejudice*, to the refiling of it within the limitation period specified by law.

IT IS SO ORDERED.

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CHANDRA L. BLACK
Administrative Law Judge