

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO.: H104822**

BILLY MCCAULEY, Employee	CLAIMANT
STAFFMARK, INC., Employer	RESPONDENT
INDEMNITY INSURANCE CO. OF NORTH AMERICA, Carrier	RESPONDENT
CANNON COCHRAN MANAGEMENT SERVICES, INC., TPA	RESPONDENT

OPINION AND ORDER FILED MARCH 18, 2022

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Little Rock, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: HONORABLE MELISSA M. WOOD, Attorney at Law, Little Rock, Arkansas.

The above-captioned matter came on for a hearing on March 8, 2022, upon the Respondents' Motion to Dismiss filed with the Commission on January 13, 2022. The *pro se* Claimant was advised of said Motion by the Commission by way of first-class and certified mail dated January 21, 2022, with a responsive pleading to such required on or before February 10, 2022. Although records provided by the United States' Postal Service reflect that such notice was received at the Claimant's last known address on January 24, 2022, no response¹ to the Motion has been filed by the Claimant. (TR 6)

Subsequently, by way of first-class and certified mail dated February 11, 2022, the Commission advised the parties of the hearing scheduled for March 8, 2022. Again, according to records provided by the United States Postal Service, said notice was received at the Claimant's last known address on February 12, 2022. (*Id.*)

Counsel for the Respondents appeared for the hearing at the duly appointed time of 12:00 P.M. When the hall was sounded by Counsel for the Respondents at 12:07 P.M., the Claimant

was not present nor did he appear during the ensuing proceedings. (TR 4)

During said proceedings, the Commission's file with respect to the above-captioned matter was deemed incorporated by reference into the record without objection. (TR 4-5) In addition, Respondent No. 1's documentary exhibit was accepted into evidence as Respondents' Exhibit No. 1 without objection. (TR 5)

It was noted on the record, and is also reflected in the Commission's file and Respondents' Exhibit No. 1, that the Claimant filed a Form AR-C on August 10, 2021, that his previous Counsel was permitted to withdraw from representation by way of a Full Commission Order dated November 12, 2021, and that no action has been taken by the Claimant or on his behalf in prosecution of his claim since that time. (TR 5-8; RX 1 at 6-8)

Consequently, based upon my review and consideration of the Commission's file, Respondents' Exhibit No. 1, statements made by Counsel for the Respondents during the hearing, the Claimant's failure to respond to the Respondents' Motion, the Claimant's failure to appear at the scheduled hearing, and the Claimant's failure to take any action in prosecution of his claim since at least November 12, 2021, I specifically find that the Claimant has failed to timely prosecute his claim within the meaning of Commission Rule 099.13 and that such should be dismissed without prejudice.

The above-captioned matter is respectfully dismissed without prejudice effective March 8, 2022, on which date the Respondents' Motion was granted from the bench. The above-captioned matter will be returned to the Commission's general files and no further action will be taken unless the Clerk of the Commission is advised, in writing, of an additional hearing request.

The Respondents ordered and directed to pay the court reporter's fee within thirty days of billing for such.

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IT IS SO ORDERED.

Hon. Terry Don Lucy
ADMINISTRATIVE LAW JUDGE