

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. G901010**

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| <b>KELVIN MUNNERLYN, EMPLOYEE</b>                                     | <b>CLAIMANT</b>      |
| <b>MIDWAY TRACKER MARINE, LLC, EMPLOYER</b>                           | <b>RESPONDENT #1</b> |
| <b>SAFETY NATIONAL CASUALTY CO./CORVEL,<br/>INSURANCE CARRIER/TPA</b> | <b>RESPONDENT #1</b> |
| <b>DEATH AND PERMANENT TOTAL DISABILITY<br/>TRUST FUND</b>            | <b>RESPONDENT #2</b> |

**OPINION FILED MARCH 23, 2021**

Hearing before Administrative Law Judge James D. Kennedy on March 17, 2021, in Mountain Home, Baxter County, Arkansas.

Claimant is *pro se* and failed to appear.

Respondents #1 are represented by their attorney, David Jones.

Respondent #2 is represented by its attorney, Christy King.

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on March 17, 2021, in Mountain Home, Arkansas, on Respondents' #1 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 *pro se* and failed to appear. The claimant was originally represented by Laura Beth York, who was allowed to withdraw by an Order of the Full Commission dated August 5, 2021. The claimant contended that he was injured on January 30, 2019, and he filed a Form AR-C on February 15, 2019. The claim was accepted by Respondent #1, and the claimant underwent two (2) surgeries: one on February 8, 2019, and the second on July 3, 2019. On or about August 27, 2019, Respondent #1 suspended temporary total disability benefits based upon the claimant returning to work for the employer herein.

It has been over six (6) months since the claimant has taken any action in this manner, and the claimant has not sought any type of hearing before the Arkansas Workers' Compensation Commission and has not responded to the propounded discovery. This lack of action led to the filing of a Motion to Dismiss on or about December 22, 2020, by Respondents #1.

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 March 17, 2021, in regard to the Motion to Dismiss. The claimant failed to appear at the time of the hearing in Mountain Home, Arkansas. At the time of the hearing, David Jones appeared on behalf of the Respondents #1 and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondent, 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.**

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