

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H206410**

**STEPHEN P. MCDANIEL, EMPLOYEE**

**CLAIMANT**

**SONIC DRIVE-IN OF BALD KNOB, LLC, EMPLOYER**

**RESPONDENT**

**MILLFORD CASUALTY INSURANCE COMPANY/  
GALLAGHER BASSETT SERVICES INC.,  
CARRIER/TPA**

**RESPONDENT**

**OPINION FILED NOVEMBER 21, 2023**

**Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Pulaski County, Arkansas, on November 21<sup>st</sup>, 2023.**

**Claimant is *pro se* and did not appear.**

**Respondents are represented by Mr. Rick Behring, Jr. Attorney-at-Law of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on November 21, 2023, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant contended that he sustained injuries to his right shoulder and stomach while working for the Sonic in Bald Knob on August 21, 2022. A Form AR-2 was filed by the respondents and the claim was controverted in its entirety. On or about November 22, 2022, the claimant through his former attorney filed a Form AR-C requesting initial and additional benefits as a result of the alleged claim. The respondent's attorney propounded Interrogatories and Requests for the Production of Documents on or about October 17, 2022, and the claimant has failed or refused to respond to the discovery. On May 23, 2023, the claimant's former attorney, Laura Beth

York, obtained an Order from the Full Commission allowing her to withdraw from this matter. It is found that the claimant has not taken any action or made a *bonafide* request for a hearing in more than six (6) months. A Motion to Dismiss for failure to prosecute was filed on August 11, 2023, and the claimant failed to respond to the motion.

A hearing was set for November 21, 2023, in regard to the Motion to Dismiss. The claimant failed to appear at the hearing after proper notice. At the time of the hearing, Rick Behring appeared on behalf of the respondents 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 had an opportunity to hear the statements of the respondent's attorney, there is no alternative but to find that the Motion to Dismiss should be granted at this time, and the matter should be dismissed without prejudice.

**ORDER**

Pursuant to the above, there is no alternative but to find that the Motion to Dismiss should be granted and this matter should be dismissed without prejudice pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act at this time.

IT IS SO ORDERED:

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE