BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.: H507679

LARRY PICKELL, EMPLOYEE	CLAIMANT
NEWTON WELL SERVICE, LLC, EMPLOYER	RESPONDENT
AUI INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT
GALLAGHER BASSETT SERVICES, INC., THIRD PARTY ADMINISTRATOR	RESPONDENT

OPINION FILED NOVEMBER 9, 2026

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

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

Respondents represented by the Honorable Guy Alton Wade, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on November 4, 2026, in the present matter 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 Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110).

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

The record consists of the transcript of the November 4, 2026, hearing and the documents contained therein. In that regard, Commission's Exhibit 1 consisting of eleven pages; and

Respondents' Exhibit 1 is a Hearing Exhibit encompassing twenty-seven numbered pages, and a cover sheet.

No testimony was taken.

BACKGROUND

The Claimant alleged that he sustained compensable injuries to his abdominal area and ribs as a result of specific incident injury during and within the course and scope of his employment with respondent-employer on November 25, 2025. His former attorney filed a Form AR-C on December 4, 2025, requesting both initial and additional workers' compensation benefits.

Also on December 4, 2025, the respondent-insurance-carrier filed a Form AR-2 with the Commission, wherein they controverted the claim in its entirety. Specifically, the Respondents wrote: "The Claimant did not sustain a compensable injury within the course and scope of his employment."

The Claimant's former attorney filed a request for a hearing. As a result, on April 15, 2026, the matter was set for a full hearing. Subsequently, the Claimant's former attorney withdrew the request for a hearing on April 28, 2026, and asked that the case be returned to the Commission's general files, which was done.

There was no action taken by the Claimant to prosecute his claim nor has he requested a bona fide hearing since at least April of 2026.

The Claimant's former attorney moved to withdraw as counsel of record in this matter. The Full Commission granted said motion for the Claimant's attorney to withdraw as counsel of record in this matter on May 26, 2026.

Therefore, on August 28, 2026, the Respondents filed a letter Motion to Dismiss for failure to prosecute. Hence, the Respondents served a copy of the foregoing pleading on the Claimant by depositing a copy thereof, postage prepaid, in the United States Mail to his last known address.

On September 9, 2026, the Commission wrote a letter notifying the Claimant of the Respondents' motion to dismiss claim and asked that he file a written response to the motion within twenty days. Said letter was sent to the Claimant by both first-class mail and certified mail to the address listed by the Claimant with the Commission via the United States Postal Service.

Per tracking information received from the Postal Service, the letter notices have not been returned to the Commission marked "undeliverable."

Still there has been no response from the Claimant.

The Commission sent a Notice of Hearing to the parties on October 2, 2026, scheduling the dismissal hearing for November 4, 2026, at the courthouse, in El Dorado, Arkansas. Said hearing notice was sent to the Claimant by both first-class and certified mail to the same address as before.

Per tracking information received by the Commission from the United States Postal Service, both hearing notices were "undeliverable." Said notices have been returned to the Commission.

Still, there was no response from the Claimant.

A hearing was in fact held on the Respondents' motion for dismissal of this claim. The Claimant did not appear at the hearing. However, the Respondents appeared through their attorney. Respondents moved that the claim be dismissed for a lack of prosecution. Counsel noted that the Claimant has not made a bona fide request for a hearing within the last six months. As such, Counsel asked that the claim be dismissed *without prejudice* under the statutory

provisions of Ark. Code Ann. §11-9-702 (Repl. 2012), and/or Arkansas Workers' Compensation Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110).

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.

Ark. Code Ann. §11-9-702(d) reads:

> 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.

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

> 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)

A review of the evidence in this matter shows the Claimant has failed to make a bona fide request for a hearing with respect to his claim for workers' compensation benefits since April

2026. Hence, no probative action whatsoever has been put forth by the Claimant to resolve or otherwise pursue his claim. The Claimant did not appear at the hearing to object to his case being dismissed.

Accordingly, based on my review of the documentary evidence, and all other matters properly before the Commission, I find that the Respondents' motion to dismiss this claim is well founded under the provisions of Ark. Code Ann. §11-9-702 and Rule 099.13 (now codified at 11 C.A.R. § 25-110), of this Commission. 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. A Form AR-C was filed in this matter in December 2025. The Claimant has failed to request a hearing in the last six months.

3. The Respondents filed with the Commission a motion to dismiss this claim for failure to prosecute on August 28, 2026, for which a dismissal hearing was held.

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

5. No request for a hearing has been made by the Claimant within the last six months. Thus, the evidence preponderates that the Claimant has failed to prosecute his claim for workers' compensation benefits.

6. The Respondents' motion to dismiss this claim for a lack of prosecution is hereby granted, pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13, (now codified at 11 C.A.R. § 25-110), without *prejudice,* to the refiling of the claim within the specified limitation period.

ORDER

In accordance with the foregoing findings of fact and conclusions of law, this claim is hereby respectfully dismissed *without prejudice,* pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110), to the refiling of it within the specified limitation period.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge