

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H503459**

**ANTHONY T. PHILLIPS
EMPLOYEE**

CLAIMANT

**PPG INDUSTRIES INC.,
EMPLOYER**

RESPONDENT

**SENTRY INSURANCE CO.,
CARRIER/TPA**

RESPONDENT

AMENDED OPINION FILED JUNE 23, 2026

Hearing conducted on Tuesday, June 2, 2026, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Anthony T. Phillips, *Pro Se*, of Little Rock, Arkansas.

The Respondents were represented by Mr. Jarrod S. Parrish, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents on December 11, 2025. A hearing on the motion was conducted on June 2, 2026, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, and he appeared at the hearing.

The Claimant worked for the Respondent/Employer as a driver. The date for Claimant's alleged injury was on May 22, 2025. He reported his injury to Respondent/Employer on June 6, 2025. Admitted into the record was Respondents' Exhibit 1, pleadings, and correspondence, consisting of 14 pages, Commission Ex. 1, pleadings, correspondence, and U.S. Mail return receipts, consisting of 5 pages, *as discussed infra*.

The record reflects on June 5, 2025, a Form AR-C was filed with the Commission by Claimant's then-attorney, Mark Peoples, purporting that a chemical spill occurred resulting in burns on Claimant's whole body. On June 27, 2025, a Form AR-1 was filed with the Commission stating that a chemical spill occurred resulting in burns on Claimant's whole body. On June 30, 2025, a Form AR-2 was filed by Respondents not accepting or denying compensability. Claimant's attorney filed a motion to withdraw on September 24, 2025. The Full Commission granted the petition on October 15, 2025.

On December 11, 2025, Respondents' counsel filed a Motion to Dismiss due to Claimant's failure to prosecute his claim. The Claimant was sent, on December 19, 2025, notice of the Motion to Dismiss, via certified and regular U.S. Mail, to his last known address. The certified motion notice was not claimed by Claimant, per return receipt. This notice was also sent regular U.S. Mail and did return to the Commission. The Claimant called my office and requested a hearing. The motion to dismiss was held in abeyance and prehearing questionnaires were sent out. The Claimant failed to submit the required questionnaires.

Therefore, notice of the Motion to Dismiss was reissued the same as before on April 9, 2026. The Claimant did not claim the certified notice. The notice sent regular First-Class mail did not return to the Commission. The Claimant failed to respond to the Motion, in writing, as required. Nevertheless, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of Respondents' Motion to Dismiss hearing date at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on May 1, 2026. The certified notice was claimed, per return receipt dated May 11, 2026. The hearing notice sent regular First-Class did not return to the Commission.

The hearing took place on June 2, 2026. And as mentioned before, the Claimant did show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, 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 Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the June 2, 2026, hearing.
3. Respondents have not proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under 11 CAR §25-110(d) [formerly AWCC Rule 099.13] and A.C.A. §11-9-701.
4. The Respondents' Motion to Dismiss should be denied.

III. DISCUSSION

11 CAR §25-110(d) provides:

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.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with 11 CAR §25-110(d), the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. The certified hearing notice was claimed by Claimant, per the return postal notice. The hearing notice sent regular First-Class mail was not returned to the Commission. The Claimant is responsible for updating his address with the

Commission. Thus, I find by the preponderance of the evidence that reasonable notice was given to the Claimant.

Also 11 CAR §25-110(d) allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed his Form AR-C on June 5, 2025. Since then, he has failed to request a bona fide hearing. Nevertheless, Claimant testified that he desires to prosecute his claim. Claimant has testified that he is actively seeking counsel. In this regard, he is actively seeking assistance towards the prosecution of his claim. Therefore, I do find by the preponderance of the evidence that Claimant has not failed to prosecute his claim. Thus, Respondents' Motion to Dismiss should be denied.

Moreover, Respondents also request dismissal under A.C.A. §11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012). Dismissal under this statute is not automatic, but discretionary. The statute, the same as 11 C.A.R. §25-110(d), uses the term "may" revealing its discretionary application. Based on the foregoing, I find the Respondents have failed to prove by the preponderance of the evidence that Claimant's claim should be dismissed pursuant to A.C.A. §11-9-702(a)(4) (Repl. 2012), and A.C.A. §11-9-702(d) (Repl. 2012). Thus again, Respondents' Motion to Dismiss should be denied.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby denied.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge