

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE N^o G900234

RAMONA K. RUTH, EMPLOYEE	CLAIMANT
EVERGREEN PACKAGING, LLC, EMPLOYER	RESPONDENT
ACE AMERICAN INSURANCE CO./ GALLAGHER BASSETT SERVICES, INC., CARRIER/TPA	RESPONDENT

OPINION FILED 13 AUGUST 2025

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 6 August 2025 in Little Rock, Arkansas.

The Davis Law Firm, Mr. Gary Davis, appeared for the claimant.

The Frye Law Firm, Mr. William C. Frye, appeared for the respondents.

STATEMENT OF THE CASE

This case relates to a workplace injury occurring on 17 May 2018. A hearing on the respondents' recent Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 6 August 2025. The record from the hearing consists of the hearing transcript; Respondents' Exhibit N^o 1, which consists of one index page and a subsequent 32 pages of medical and billing records; and Commission's Exhibit N^o 1, a Prehearing Order dated 27 May 2025. I am also blue-backing to this opinion a letter to the parties dated 1 April 2025 that relates to the parties efforts discussed during a prehearing call on that date. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, that document is being served on the parties in conjunction with this opinion.

On 21 January 2025, the respondents moved for a dismissal under Commission Rule 099.13 (now codified at 11 C.A.R. § 25-110(d)). A hearing was then set and notices sent accordingly. The claimant indicated that she had experienced some difficulties in obtaining

ongoing medical treatment related to her compensable right shoulder injury. The parties discussed the matter briefly during a phone conference and requested a subsequent conference be set after being allowed some time to review the potential issues regarding ongoing treatment. After another prehearing conference on 27 May 2025, the matter was set for a hearing on the respondents' motion. A Prehearing Order was entered that day.

A hearing was previously held in this claim in front of ALJ Katie Anderson on 31 March 2022. An Opinion and Order was entered on 29 June 2022. Neither party appealed that ruling. The record of the previous hearing and the accompanying Order were acknowledged by the parties and discussed at the hearing.

FINDINDGS OF FACT AND CONCLUSIONS OF LAW

After reviewing 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 Commission has jurisdiction over this matter.
2. The Law of the Case Doctrine applies to the 29 June 2022 Opinion's findings.
3. The parties were provided with reasonable notice of the Motion to Dismiss and the hearing on that motion.
4. The evidence preponderates that the claimant has not failed to prosecute her claim under 11 C.A.R. § 25-110(d).
5. The Motion to Dismiss is denied without prejudice.

DISCUSSION

The parties appeared on 6 August 2025. The evidence and testimony showed that the claimant was continuing to seek and obtain treatment that purported to be related to her compensable injury. Her providers, however, have not provided notice of those treatments, nor have they billed the respondents for those treatments. The claimant continues to treat with some regularity, which includes receiving injections that she testified are related to her compensable right shoulder injury. She testified that she is also

RUTH- G900234

treated for other conditions with the same providers and that those conditions are not related to her compensable injury.

The claimant has shown that she has made efforts towards prosecuting her claim and that she intends to continue doing so. The respondents' motion to dismiss is denied without prejudice, accordingly.

ORDER

The Motion to Dismiss is DENIED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE