

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H400710

WALTER L. TERRY, EMPLOYEE

CLAIMANT

**AUTO CREDIT EXPRESS, LLC,
EMPLOYER**

RESPONDENT

**NORGUARD INSURANCE COMPANY/
GUARD INSURANCE COMPANIES,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED AUGUST 26, 2025

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, on August 19, 2025.

Claimant is represented by Daniel Wren, of Little Rock, Arkansas, who was present in the courtroom, but who announced that the claimant has failed to stay in contact him.

Respondents are represented by Karen H. McKinney, of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on August 19, 2025, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 099.13, now referred to as 11 C.A.R. 25 -110 (d) of the Arkansas Workers' Compensation Commission. Pleadings were filed by the attorney for the claimant in response to the Motion to Dismiss, stating that he had lost touch with the claimant. A previous Motion to Dismiss hearing was held on the 15th day of October, 2024, and the claimant appeared pro se at the time of the first hearing, after his original attorney had been allowed to withdraw only a few weeks prior to the hearing by an Order of the Full Commission, dated August 22, 2024. At the time of the initial

Motion to Dismiss hearing, the claimant stated that he intended to pursue his claim and the Motion to Dismiss was then denied by an Order and Opinion dated October 25, 2024.

The claimant contended that he injured his neck and back due to an automobile accident on August 22, 2024. The respondents filed a second Motion to Dismiss on June 6, 2025, contending that the claimant had failed to prosecute the claim, that no bona fide request for a hearing had been made within six months of filing the claim, and that the claim should be dismissed with prejudice pursuant to A.C.A. 11-9-702 and what is now named C.A.R. 25-110(d) of the Arkansas Workers' Compensation Commission.

A hearing was set for August 19, 2025, in regard to the Motion to Dismiss. The claimant failed to appear at the hearing after proper notice, but the claimant's attorney, Dan Wren, did appear after responding to the Motion to Dismiss, where he stated that he had lost contact with the Claimant. At the time of the hearing, Karen McKinney 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 and the claimant'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

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pursuant to A.C.A. 11-9-702 and C.A.R. 25 -110(d) of the Arkansas Workers' Compensation Commission at this time.

IT IS SO ORDERED:

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE