

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE № H301282**

DUANE R. THOMAS, EMPLOYEE

CLAIMANT

SARACEN CASINO RESORT, EMPLOYER

RESPONDENT

**LUBA CASUALTY INSURANCE CO./
LUBA WORKERS' COMPENSATION, CARRIER**

RESPONDENT

OPINION FILED 15 DECEMBER 2025

Heard before Arkansas Workers' Compensation Commission ("the Commission")
Administrative Law Judge JayO. Howe on 6 November 2025 in Pine Bluff, Arkansas.

The claimant appeared *pro se*.

Worley, Wood & Parrish, P.A., Mr. Jarrod Parrish, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Pine Bluff, Arkansas, on 6 November 2025. This case relates to an alleged workplace injury Respondents' Exhibit № 1, which consisted of one index page and eight pages of documents; and Commission's Exhibit № 1, which consisted of two pages of Postal Service delivery receipts from Commission correspondence with the claimant. Also, I have blue-backed to this opinion two requests from the claimant (one file-marked on 25 February 2025; the other file-marked on 5 March 2025) indicating his wish to proceed in litigating his case. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents are being served on the parties in conjunction with this opinion.

On 25 February 2025, the claimant filed a letter asking to "start a claim." Then, on 5 March 2025, he specifically requested a hearing. After conducting a telephone conference, a Prehearing Order was entered on 24 June 2025. The respondents later requested that this

claim be dismissed under 11 C.A.R. § 25-110(d) for the claimant's failure to cooperate in discovery.

Notice of the respondents' motion was sent to the claimant, consistent with Commission practices, via First Class Mail and Certified Mail. Notice of the hearing on the respondents was sent in the same manner. The claimant appeared at the hearing to argue against the dismissal of his claim.

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 parties were provided with reasonable notice of the Motion to Dismiss and the hearing on the motion.
3. The evidence does not preponderate in favor of finding at this time that the claimant has failed to prosecute his claim under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby denied without prejudice.

DISCUSSION

Both parties appeared at the hearing. As cited by the respondents in their motion, 11 C.A.R. § 25-110(d) provides for a dismissal for failure to prosecute an action upon application by either party and reasonable notice.

The claimant did not dispute that he had failed to cooperate in the scheduling of his deposition in this claim. He offered several excuses for his noncooperation. I reminded him of my admonition during the prehearing conference that he was expected to participate in the discovery process, which included making himself available at a convenient time for the scheduling of his deposition. The claimant stated that he understood that any further failures to comply with discovery or other directives from the Commission could result in the dismissal of his case.

Since the hearing, the claimant has coordinated with the respondents in scheduling his deposition. Another prehearing conference will be set after the deposition is completed so that this matter may be set for a hearing.

ORDER

The Motion to Dismiss is denied without prejudice.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE