BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H109984

SHAUNA D. TORRENCE,
EMPLOYEE   CLAIMANT

LAFAYETTE COUNTY SCHOOL DISTRICT,
EMPLOYER   RESPONDENT

ARKANSAS SCHOOL BOARDS ASS'N
WORKERS' COMPENSATION TRUST (WCT),
INSURANCE CARRIER/TPA   RESPONDENT

OPINION AND ORDER FILED FEBRUARY 13, 2024
TO DISMISS THE PARTIES' JOINT AND AGREED MOTION TO DISMISS
WITHOUT PREJUDICE FILED FEBRUARY 7, 2023

Hearing conducted on Thursday, February 9, 2023, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in El Dorado, Union County, Arkansas.

The claimant was represented by the Honorable Gregory R. Giles, Texarkana, Miller County, Arkansas.

The respondents were represented by the Honorable Melissa Wood, Worley, Wood & Parrish, P.A., Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Thursday, February 9, 2023, to determine whether this claim should be dismissed for lack of prosecution pursuant to ***Ark. Code Ann***. § 11-9-702(a)(4) (2022 Lexis Replacement) and Commission Rule 099.13 (2022 Lexis Repl.).

The claimant filed a letter motion to dismiss (MTD) without prejudice filed on or about February 7, 2023, requesting this claim be dismissed without prejudice for lack of prosecution. The respondents did not object to this MTD, and in fact joined into the claimant's motion (Respondents' Exhibit 1 at 7). The claimant's attorney explained on the record that the claimant was not ready to proceed with her claim at this time; that he had visited with her concerning the

subject MTD without prejudice and answered any all questions she may have had; and that the claimant understood and agreed the claim should be dismissed without prejudice at this time.

The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the Commission's entire file in this matter.

DISCUSSION

Consistent with ***Ark. Code Ann.*** § 11-9-702(a)(4) (2022 Lexis Repl.), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the parties' joint MTD. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively demonstrates the parties' joint MTD should be granted since the claimant, by her own admission, is not ready to proceed at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.

2. After having received due and legal notice of the claimant's letter MTD filed on or about February 7, 2023, the respondents did not object to the motion, and in fact agreed with and joined into it, thus making the motion a joint and agreed MTD without prejudice.

3. Therefore, for all the aforementioned reasons and based on the claimant's letter MTD without prejudice filed with the Commission on or about February 7, 2023, to which the respondents did not object but in fact agreed and joined, I find the parties' joint and agreed motion should be and hereby is GRANTED.

4. Consequently, this claim is dismissed without prejudice to its refiling pursuant to the deadlines prescribed by ***Ark. Code Ann.*** § 11-9-702(a) and (b), and Commission Rule 099.13.

This opinion and order shall not be construed to prohibit the claimant, her attorney, any attorney she may retain in the future, or anyone acting legally and on her behalf from refiling this claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

The respondents shall pay the court reporter's invoice within ten (10) days of their receipt thereof.

IT IS SO ORDERED.

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Mike Pickens
Administrative Law Judge

MP/mp