

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO.: G902341**

SAMUEL UPTON, Employee	CLAIMANT
O' REILLY AUTOMOTIVE, INC., Employer	RESPONDENT
SAFETY NATIONAL CASUALTY CORP., Carrier	RESPONDENT
CORVEL CORP.; TPA	RESPONDENT

**OPINION AND ORDER FILED MAY 11, 2021**

Hearing conducted before ADMINISTRATIVE LAW JUDGE TERRY DON LUCY, in Pulaski County, Arkansas.

Counsel for the Claimant: *pro se*.

Counsel for the Respondents: Honorable Curtis L. Nebben; Attorney at Law, Fayetteville, Arkansas.

The above-captioned matter came on for a hearing on April 29, 2021, with respect to the Respondents' Motion to Dismiss filed with the Commission on February 22, 2021. When the hall was sounded approximately five minutes past the appointed time for the hearing, the Claimant was not present for such, nor did he appear during the ensuing proceedings. (TR 4)

During the hearing, the Commission's file was incorporated by reference into the record with no objection from the only appearing party, the Respondents herein. (TR 5) In addition, Respondents' Exhibit No. 1, consisting of three Forms AR-C with the most recent of such dated August 19, 2020, was introduced into the record with no objection. (TR 4; see also RX 1 at 1-3)

As noted during the hearing and as further reflected in the Commission's file, it is apparent that the Commission provided notice of the scheduled hearing to the Claimant dated April 9, 2021, via first-class and certified mail, which the Claimant or his representative apparently signed for on April 14, 2021. (TR 5; see also Commission file)

As also reflected in the Commission's file and as noted on the record, there has been no

hearing request made in the above-captioned matter since the Claimant's most recent AR-C filing of August 19, 2020. (TR 7-8; see also Commission File)

Given the Claimant's lack of any response or objection to the Respondents' Motion, corresponding failure to appear at the hearing held on April 29, 2021, and failure to request a hearing on the merits of his claim since his most recent AR-C filing of August 19, 2020, I specifically find that the Claimant has failed to prosecute his claim and that dismissal thereof without prejudice is warranted pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13 for lack of prosecution, and hereby grant the Respondents' Motion.

The above-captioned matter is respectfully dismissed without prejudice effective April 29, 2021, and the Respondents are ordered and directed to pay the court reporter's fee within thirty days of billing for such.

IT IS SO ORDERED.

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TERRY DON LUCY  
Administrative Law Judge