

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NOS. H500916 & H501481**

CATHERINE VANCE, EMPLOYEE	CLAIMANT
TENNECO AUTOMOTIVE OPER. CO., EMPLOYER	RESPONDENT
INDEMN. INS. CO. OF NO. AMER., CARRIER	RESPONDENT

OPINION FILED MAY 26, 2026

Hearing before Administrative Law Judge O. Milton Fine II on May 22, 2026, in Jonesboro, Craighead County, Arkansas.

Claimant, represented by Mr. Jim R. Burton, Attorney at Law, Jonesboro, Arkansas, neither appearing.

Respondents represented by Mr. Michael C. Stiles, Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

These matters come before the Commission on the Motion to Dismiss by Respondents. A hearing on the motion was conducted on May 22, 2026, in Jonesboro, Arkansas. No testimony was taken. Neither Claimant¹ nor her counsel appeared at the hearing. Admitted into evidence was Respondents' Exhibit 1—forms, pleadings, and correspondence related to the claims—consisting of eleven numbered pages. Also, in order to address adequately this matter under Ark. Code Ann. § 11-9-705(a)(1) (Repl. 2012)(Commission must “conduct the hearing . . . in a manner which best ascertains the rights of the

¹At the hearing, Respondents represented to the Commission that Claimant has passed away. But I note that no one purporting to represent Claimant's estate appeared at the hearing, either.

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parties”), and without objection, I have blue-backed to the record documents—records from the United States Postal Service (“USPS”)—from the Commission’s file on the claim, consisting of two pages. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents have been served on the parties in conjunction with this opinion.

The record shows the following procedural history:

H500916. On February 11, 2025, through counsel, Claimant filed a Form AR-C. Therein, she requested the full range of initial benefits in connection with a right knee injury that she alleged that she sustained at work on September 9, 2024. In a Form AR-2 filed on February 11, 2025, Respondents represented to the Commission that they had accepted the claim as a medical-only one and that they were paying benefits pursuant thereto.

H501481. A Form AR-1 filed on March 7, 2025, reflects that Claimant purportedly injured her left knee at work on November 12, 2024. Per a Form AR-2 filed on March 14, 2025, Respondents controverted the alleged injury. No Form AR-C was ever filed in connection with this.

The record reflects that nothing further took place on these two matters until February 16, 2026. On that date, Respondents filed the instant motion under AWCC R. 099.13 (now codified as 11 C.A.R. § 25-110(d)) and Ark. Code Ann. § 11-9-702, asking for dismissal of these matters because Claimant never requested a hearing on either. The captioned files were assigned to

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Administrative Law Judge Steven Porch on February 19, 2026. On February 26, his office wrote Claimant and her counsel, asking for a response to the motion within 20 days. The letter was sent by first class and certified mail to the Kennett, Missouri address for Claimant that was listed in the files and on her Form AR-C. A “Kimberly Vance” signed for the certified letter on March 3, 2026. Neither the first-class letter to Claimant, nor the one to her counsel, were returned. Nonetheless, no response to the motion was forthcoming. These files were reassigned to me on March 5, 2026.

On March 31, 2026, a hearing on the Motion to Dismiss was scheduled for May 22, 2026, at 12:30 p.m. at the Craighead County Courthouse in Jonesboro. According to the USPS, someone at Claimant’s address claimed the certified mailing of the notice on April 3, 2026.

The hearing on the Motion to Dismiss proceeded as scheduled. Again, neither Claimant nor her attorney to appear at the hearing. But Respondents appeared through counsel and argued for dismissal under aforementioned authority.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include documents and other matters properly before the Commission, the following Findings of Fact and Conclusions of Law are hereby made in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

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1. The Arkansas Workers' Compensation Commission has jurisdiction over these matters.
2. The parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon.
3. The evidence preponderates that Claimant has failed to prosecute the claim in AWCC No. H500916 under 11 C.A.R. § 25-110(d).
4. The Motion to Dismiss is hereby granted with respect to the claim in AWCC No. H500916; this claim for additional benefits is hereby dismissed without prejudice under 11 C.A.R. § 25-110(d).
5. No Form AR-C has ever been filed in connection with respect to AWCC No. H501481.
6. No other document before the Commission in AWCC No. H501481 constitutes a claim for initial benefits under Ark. Code Ann. § 11-9-702(c) (Repl. 2012).
7. Respondents' Motion to Dismiss is denied with respect to AWCC No. H501481 because there is no claim therein that is subject to dismissal.

III. DISCUSSION

11 C.A.R. § 25-110(d) (formerly AWCC R. 099.13) reads:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon

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reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

As the moving party, Respondents under Ark. Code Ann. § 11-9-705(a)(3) (Repl. 2012) must prove their entitlement to the relief requested—dismissal of the claim—by a preponderance of the evidence. This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

H500916. As shown by the evidence recounted above, (1) the parties were provided reasonable notice of the Motion to Dismiss and of the hearing thereon; and (2) Claimant has failed to pursue Claim No. H500916 because no steps have been taken to pursue it (including an appearance by Claimant, someone representing her estate, and/or her counsel at the May 22, 2026, hearing to argue against its dismissal) since the filing of the Form AR-C on February 11, 2025. Thus, the evidence preponderates that dismissal of the claim is warranted under 11 C.A.R. § 25-110(d). Because of this finding, the applicability of § 11-9-702(d) is moot and will not be addressed.

That leaves the question of whether the dismissal of the claim should be with or without prejudice. The Commission possesses the authority to dismiss claims with prejudice. *Loosey v. Osmose Wood Preserving Co.*, 23 Ark. App.

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137, 744 S.W.2d 402 (1988). The Commission and the appellate courts have expressed a preference for dismissals without prejudice. See *Professional Adjustment Bureau v. Strong*, 75 Ark. 249, 629 S.W.2d 284 (1982)). Respondents at the hearing asked for a dismissal without prejudice. Based on the foregoing, I agree and find that the dismissal of this claim should be and hereby is entered *without prejudice*.

H501481. Again, no Form AR-C has been filed in this case. That is the means for filing a “formal claim.” While a Form AR-1 was filed in this case, that does not suffice to instigate a claim. I recognize, however, that other means exist to file a claim for initial benefits other than a Form AR-C. In *Cook v. Southwestern Bell Telephone Company*, 21 Ark. App. 29, 727 S.W.2d 862 (1987) the Arkansas Court of Appeals discussed the minimum requirements necessary for correspondence to the Commission to constitute a claim for additional compensation for the purpose of tolling the applicable statute of limitations. There, the court held that an attorney's correspondence notifying the Commission that he has been employed to assist a claimant in connection with unpaid benefits is sufficient to state a claim for additional compensation where the correspondence also lists the claimant's name, the employer's name and the Commission file number. See also *Garrett v. Sears Roebuck and Company*, 43 Ark. App. 37, 858 S.W.2d 146 (1993). My review of the Commission's file discloses no document sufficient to constitute a claim for initial benefits under

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Cook, supra. Because no claim has been filed, it follows that there is no claim subject to dismissal per Respondents' motion. The Motion to Dismiss thus must be, and hereby is, respectfully denied with respect to AWCC No. H501481.

IV. CONCLUSION

Judgment is hereby rendered in accordance with the Findings of Fact and Conclusions of Law set forth above.

IT IS SO ORDERED.

O. MILTON FINE II
Chief Administrative Law Judge