

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE No H009640**

<b>JAMES WASHINGTON, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>EVERGREEN PACKAGING, EMPLOYER</b>	<b>RESPONDENT</b>
<b>ACE AMERICAN INSURANCE Co., CARRIER</b>	<b>RESPONDENT</b>
<b>ESIS, Inc., TPA</b>	<b>RESPONDENT</b>

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**OPINION FILED 22 DECEMBER 2023**

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On hearing before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 20 December 2023, in Little Rock, Pulaski County, Arkansas.

The claimant, represented by Mr. Steven R. McNeely, Attorney-at-Law of Jacksonville, Arkansas, did not appear.

Mr. William C. Frye, Attorney-at-Law of North Little Rock, Arkansas, appeared for the respondents.

**I. STATEMENT OF THE CASE**

The above-captioned case was heard on 20 December 2023 in Little Rock, Arkansas, after the respondents filed a Motion to Dismiss for the claimant's failure to prosecute any justiciable issues. A full hearing was conducted in this matter on 12 January 2023 in Pine Bluff, Arkansas. An Opinion and Order dated 4 April 2023 was entered, finding that the claimant failed to meet his burden on his claims and, accordingly, dismissing those claims. That Order was not appealed.

On 16 October 2023, the respondents moved for a dismissal without prejudice of any remaining claims based on the claimant's failure to take any action on the matter since the 12 January 2023 hearing. The Commission sent Notice of that motion and subsequent notice of the hearing set on that motion to the address maintained for the claimant in the

Commission's files, and no response or return on those mailings was received. The claimant did not appear to offer evidence or argument opposing the respondents' motion.

Arkansas Code Annotated § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) months without a *bona fide* request for a hearing. Our Rule 099.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

**II. ORDER**

Consistent with the above, this matter should be and hereby is **DISMISSED WITHOUT PREJUDICE.**

**SO ORDERED.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE