

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. H108193**

**JERRY DAVID, Employee**

**CLAIMANT**

**NWMC BENTON CO., Employer**

**RESPONDENT**

**GALLAGHER BASSETT SEREVICES, INC., Carrier/TPA**

**RESPONDENT**

**OPINION FILED JULY 2, 2024**

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant not represented by counsel and not appearing at hearing.

Respondent represented by RICK BEHRING, JR., Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

This case comes on for review following a hearing on respondents' Motion to Dismiss.

On September 1, 2023, the claimant, through his attorney, Laura Beth York, filed an AR-C requesting various compensation benefits in which he alleged injuries to his bilateral knees on or about March 20, 2023. The claim was accepted as compensable and all appropriate benefits were paid, including payment of a permanent anatomical impairment rating.

On February 23, 2024, Ms. York entered a Motion to Withdraw as Counsel. The Commission granted the motion on March 20, 2024. No further action was taken in this claim.

On April 1, 2024, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for June 25, 2024. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on May 13, 2024. United States Postal Department records indicate that claimant received and signed for the notice

on May 18, 2024. Despite having received notice of the scheduled hearing, the claimant failed to appear at the hearing and has failed to respond to the motion in any form or manner.

After my review of the respondents' Motion to Dismiss, the claimant's lack of response thereto, and all other matters properly before the Commission, I find that respondents' Motion to Dismiss this claim should be and hereby is granted pursuant to Commission Rule 099.13. This dismissal is without prejudice.

**ORDER**

Pursuant to the above statement of the case and Commission Rule 099.13, I have no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

If respondents have not already done so, they are directed to pay the court reporter, Veronica Lane, her fees and expenses within thirty (30) days of receipt of her invoice.

**IT IS SO ORDERED.**

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HONORABLE ERIC PAUL WELLS  
ADMINISTRATIVE LAW JUDGE