

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. G901020**

<b>CHERYL RENTNER, Employee</b>	<b>CLAIMANT</b>
<b>UNITED PARCEL SERVICE, INC., Employer</b>	<b>RESPONDENT</b>
<b>LIBERTY MUTUAL GROUP, Carrier/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED DECEMBER 5, 2023**

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

Claimant represented by EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by DAVID C. JONES, 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 April 22, 2019, the claimant's attorney, Evelyn E. Brooks, filed an AR-C requesting various compensation benefits, alleging injuries to her right upper extremity and wrist on or about February 11, 2019. The claim was accepted as compensable, and the claimant began to receive treatment.

On or about April 20, 2021, the claimant underwent carpal tunnel surgery at the direction of Dr. James Kelly. The claimant was released to return to work by Dr. Kelly as of June 15, 2021, in a regular-duty capacity with no restrictions, and was assigned a 10% impairment rating, which was paid out as of January 13, 2022.

In June 2022, defense counsel and the claimant's counsel exchanged various correspondence concerning the claimant's work status and potential dismissal issues on the claim. In early August 2022, the parties reached settlement terms to try and amicably close out

the claim. A joint petition settlement was scheduled on this claim for August 30, 2022, but was cancelled based on the claimant not wishing to proceed with settlement because of collateral issues. Throughout the fall of 2022 and spring of 2023, defense counsel and the claimant's counsel continued to discuss the issues and options for potential litigation. However, the parties were unable to resolve the issues based on collateral factors unrelated to the current claim.

No hearing or further action has been taken in regard to this claim.

On August 18, 2023, the respondents filed a Motion to Dismiss requesting that this claim be dismissed for lack of prosecution. A hearing was scheduled for October 3, 2023. Notice of that hearing was sent to the claimant by certified mail, return receipt requested on August 30, 2023. United States Postal Department records indicate that claimant received the notice on September 21, 2023. Despite having received notice of the hearing, as well as engaging in an extensive conversation with Ms. Brooks urging her to attend the hearing, the claimant did not appear, nor did she contact the Commission in any manner.

After a review of the respondents' Motion to Dismiss, the claimant's lack of response thereto, and her failure to appear at the scheduled hearing, as well as all other matters properly before the Commission, I find that the respondents' Motion to Dismiss should 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