

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H303635**

**PAUL ULLRICH,
EMPLOYEE**

CLAIMANT

**DIAMOND STATE TRUCKING, INC.,
EMPLOYER**

RESPONDENT

**ARKANSAS TRUCKING ASS'N SELF-INSURED FUND/
CCMSI
CARRIER/TPA**

RESPONDENT

**OPINION TO DISMISS WITHOUT PREJUDICE
FILED APRIL 30, 2024**

Hearing conducted on Thursday, April 25, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Texarkana, Miller County, Arkansas.

The claimant was represented by the Honorable Gregory R. Giles, Moore, Giles & Matteson, L.L.P., Texarkana, Miller County, Arkansas.

The respondents were represented by the Honorable Guy Alton Wade, Friday, Eldredge & Clark, Little Rock, Pulaski County, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on Thursday, April 25, 2024, pursuant to the respondents' motion to dismiss without prejudice pursuant to *Ark. Code Ann.* § 11-9-702(a)(4) (2024 Lexis Replacement) and Commission Rule 099.13 (2024 Lexis Repl.), with which the claimant, through his attorney of record, voluntarily concurs.

During the course of the parties' prehearing teleconference conducted in this matter on Wednesday, April 9, 2024, both the claimant's and respondents' attorneys agreed this claim should be dismissed at this time for the aforementioned reasons. Consequently, at that time the respondents' made a motion to dismiss, and the claimant, through his attorney, concurred in the respondents' motion. Pursuant to the applicable law, the Commission mailed a hearing notice to

the parties, and both the claimant's and respondents' attorneys appeared in person at the scheduled hearing. The record herein consists of the hearing transcript and any and all exhibits contained therein and attached thereto.

DISCUSSION

Consistent with *Ark. Code Ann.* § 11-9-702(a)(4), as well as our court of appeals' ruling in *Dillard vs. Benton County Sheriff's Office*, 87 Ark. App. 379, 192 S.W.3d 287 (Ark. App. 2004), the Commission scheduled and conducted a hearing on the respondents' motion to dismiss. Rather than recite a detailed analysis of the record, suffice it to say the preponderance of the evidence introduced at the hearing and contained in the record conclusively reveals the claimant does not wish to proceed with the prosecution of his claim at this time and, therefore, he voluntarily concurs with the respondents' motion to dismiss the claim at this time, so long as the dismissal is without prejudice to its refiling if and when the claim becomes ripe for hearing.

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. The claimant herein voluntarily concurs with the respondents' motion to dismiss this claim made during the course of the parties' Tuesday, April 9, 2024, prehearing teleconference.
3. Therefore, the respondents' motion to dismiss without prejudice with which the claimant voluntarily concurs should be and hereby is GRANTED; and this claim is dismissed *without prejudice* to its refiling pursuant to the deadlines prescribed by *Ark. Code Ann.* Section 11-9-702(a) and (b), and Commission Rule 099.13.

This Order shall *not* be construed to prohibit the claimant, his attorney, any attorney he may retain in the future, or anyone acting legally and on his behalf from refiling this claim *if* it is refiled within the applicable time periods prescribed by *Ark. Code Ann.* § 11-9-702(a) and (b).

If they have not already done so, the respondents hereby are ordered to pay the court reporter's invoice within twenty (20) days of their receipt thereof.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp