BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H104323

JULIO CASANOVA OTERO, EMPLOYEE	**CLAIMANT**
VS.	
GEORGE'S INC., EMPLOYER	**RESPONDENT**
CORVEL ENTERPRISE CLAIMS, INC., CARRIER	**RESPONDENT**

OPINION AND ORDER FILED JULY 22, 2026

A Hearing before Administrative Law Judge James D. Kennedy was held in Springdale, Arkansas, on June 17, 2026.

Claimant was represented by Evelyn E. Brooks of Fayetteville Arkansas, but the claimant failed to appear.

Respondents were represented by R. Scott Zuerker, of Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on the 17th day of June 2026, in Springdale Arkansas, on Respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702(a)(4), and 11 C.A.R. 25-110(d) previously named Rule 099.13 of the Arkansas Workers' Compensation Commission. The claimant failed to appear, but his attorney Evelyn E. Brooks did appear on his behalf. The Respondents were represented by R. Scott Zuerker of Fort Smith, Arkansas.

A Motion to Dismiss contended that an AR-C was initially filed with the Commission on or about May 18, 2021, by his attorney Evelyn Brooks, a hearing was requested by the claimant, and a Pre-Hearing Order filed on June 8, 2022, and a hearing was scheduled for August 10, 2022. Discovery issues developed and the hearing was then continued. The respondents contend that the claimant has not taken any action to

prosecute his claim and it has been more than six months since the Claimant has filed his AR-C with no hearing requested.

After proper and reasonable notice, a hearing was held on June 17, 2026, in regard to the Motion to Dismiss, and although the Claimant failed to appear, his representative, Evelyn Brooks, did in fact appear and objected to the Motion to Dismiss, stating her client had a compensable back injury which had been accepted and some benefits had been paid. She went on to provide that the claimant developed cancer after the filing of his workers' compensation claim and was in treatment for a period of time, due to the cancer. There had been an attempt to obtain medical records from Puerto Rico where the claimant had received some treatment for something, not necessarily his back, and then after receiving the records, the medical records were required to be translated. Ms. Brooks affirmed she had been diligently attempting to get in touch with her client who had been back and forth to his place of birth, Puerto Rico.

The Respondents were represented by Mr. Scott Zuerker who requested that the matter be dismissed pursuant to 11 C.A.R. §110(d) of the Arkansas Workers' Compensation Commission and also the provisions of Arkansas Code Ann. §11-9-702. Mr. Zuerker stated he felt that the claimant would not be voluntarily setting foot in Arkansas in the foreseeable future due to a pending felony warrant out for his arrest due to trafficking charges regarding fentanyl. A Court Information Sheet was entered into the record which provided that the claimant was charged with possession of fentanyl, a class U Felony (A.C.A.§ 5-64-440), trafficking a controlled substance (A.C.A.§ 5-64-440), and also possession of drug paraphernalia, first offense, a class A misdemeanor (A.C.A. §5-64-443) on August 27, 2024, in Benton County Arkansas. A Bench warrant was issued

by the Circuit Court of Benton County, on October 29th, 2024, for claimant's failure to appear in Circuit Court for a mandatory court appearance. The AR-C provided that it had been filed on September 13, 2021, and the claimant contended that he had injured his back on July 3, 2019.

ORDER

Pursuant to the above statement of the case, documents entered into the record, and statements by the attorneys for the respondents and for the claimant, there is no alternative but to grant the Motion to Dismiss without prejudice pursuant to 11 C.A.R. §110(d) of the Arkansas Workers' Compensation Commission and also A.C.A. §11-9-702, based upon the claimant failing to prosecute his claim within the last six months and after a meritorious application to the Commission by the respondents requesting that the claim be dismissed after reasonable notice to all parties. If not already paid, the respondents are ordered to pay the applicable fee to the court reporter.

IT IS SO ORDERED.

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JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE