

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H007009**

**CARL L. HOLDEN,
EMPLOYEE**

CLAIMANT

**BLOOM MG'T, INC.,
EMPLOYER**

RESPONDENT

**TRAVELERS CASUALTY INS. CO. OF AMERICA/
TRAVELERS CAS. INS. CO.
CARRIER/TPA**

RESPONDENT

**OPINION FILED MARCH 26, 2025, DENYING THE RESPONDENTS' MOTION TO
DISMISS WITHOUT PREJUDICE**

Hearing conducted on Tuesday, March 25, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant, Mr. Carl L. Holden, pro se, of Little Rock, Pulaski County, Arkansas, appeared in person at the hearing.

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 Tuesday, March 25, 2025, to determine whether this claim should be dismissed for lack of prosecution pursuant to Commission Rule 099.13 (2025 Lexis Replacement).

The respondents filed a motion to dismiss this claim without prejudice for lack of prosecution and failure and/or refusal to comply with discovery via a letter dated January 23, 2025 (MTD), which the Commission received and file-marked on January 28, 2025. The Commission's file contained an incorrect address for the claimant, but eventually the Commission provided due and legal notice of both the respondents' letter MTD as well as timely notice of the subject hearing

which is evidenced by, among other things, the fact the claimant appeared in person at the subject hearing. (Commission Exhibits 1 and 2; Respondents' Exhibit 1; and Hearing Transcript). The claimant testified he never received a copy of the respondents' discovery requests which it appears were sent to the incorrect address reflected in the Commission's file, which incorrect address now has been corrected.

The claimant testified he had sustained an injury to his right ankle in October of 2019 for which he had undergone four (4) surgeries which resulted in him having plates and screws inserted in his right ankle. The respondents accepted this injury as compensable and paid both medical and indemnity benefits. The claimant testified he last saw his treating physician sometime in late 2023 or early 2024, and last received indemnity benefits sometime in the summer of 2024. He said he was supposed to have a follow-up appointment with his treating physician, Dr. Robert Martin, sometime in 2024, and that Dr. Martin had never released him from his care. (Hearing Transcript).

The claimant further testified that before he had a chance to see Dr. Martin for the follow-up visit he had sustained another fall, which he alleged had occurred while he was still under Dr. Martin's care, and for which he apparently presented himself to an emergency room (ER) for evaluation. He apparently never saw Dr. Martin for the follow up either before or after this fall. He said he experienced "pain and popping" after this fall, and he wanted to see a doctor to ensure he had not reinjured his right ankle. He alleged he had asked Travelers to allow him to return to see a doctor for evaluation of his right ankle, but that Travelers told him they would not pay for the visit. Finally, the claimant testified he had filed for and was now drawing social security disability (SSD) benefits based solely on his right ankle condition, and that he had applied for Medicaid. In summary, the claimant objected to the respondents' MTD on the grounds he wanted to see a doctor for a current evaluation of his right ankle condition at the respondents' expense,

and because he alleged he never received the respondents' discovery requests. (Hearing Transcript).

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) (2024 Lexis Repl.), 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 has timely and appropriately objected to the dismissal of his claim at this time.

Therefore, after a thorough consideration of the facts, issues, the applicable law, the representations of the claimant, 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. After having received due and legal notice of the respondents' letter MTD filed with the Commission on January 28, 2025, as well as notice of the date, time, and place of the subject hearing, the claimant appeared in person at the hearing and objected to the dismissal of his claim.
3. Therefore, the respondents' letter MTD without prejudice filed January 28, 2025, should be and hereby is respectfully DENIED at this time.
4. The ALJ's office shall mail the parties the prehearing information documents and start the process concerning the issue of the claimant's entitlement, if any, to additional medical treatment, as well as any and all other issues the parties deem ripe for litigation.
5. The respondents shall propound their discovery requests to the claimant, and the claimant and/or his attorney, should he choose to retain one, shall respond to them in the manner

and time period prescribed by law. Failure to do so may result in the dismissal of this claim for failure to cooperate in the discovery process.

THE CLAIMANT IS STRONGLY ENCOURAGED TO RETAIN THE SERVICES OF AN ATTORNEY TO REPRESENT HIM IN THIS MATTER. THE CLAIMANT ALSO IS STRONGLY ENCOURAGED TO CALL THE COMMISSION'S LEGAL ADVISORS' DIVISION AT 1-800-250-2511 IF HE HAS ANY QUESTIONS CONCERNING HIS CLAIM AND/OR THE HEARING PROCESS.

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

