

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE № 304392**

**KENNETH MARTIN, EMPLOYEE**

**CLAIMANT**

**AMAZON.COM, INC., EMPLOYER**

**RESPONDENT**

**AMERICAN ZURICH INS. CO./**

**SEDGEWICK CLAIMS MNGMNT., CARRIER/TPA**

**RESPONDENT**

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**OPINION FILED 16 SEPTEMBER 2024**

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Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 11 September 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Newkirk & Jones, Mr. Rick Behring, appeared for the respondents.

**STATEMENT OF THE CASE**

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 11 September 2024. This case relates to an alleged workplace injury, sustained on or about 14 December 2024. A First Report of Injury was filed on 12 July 2023, noting pain the claimant's right wrist, and a Form AR-2 accepting the claim was filed the same day. A Form AR-C was then filed by claimant's counsel on 5 October 2023, listing injuries to the claimant's right arm and shoulder, neck, and other whole body. In an Order dated 25 June 2024, the Full Commission relieved the claimant's counsel of his representation before the Commission. See Exhibit № 1.

On 8 July 2024, the respondents requested a dismissal of this matter for failure to prosecute the claim. Letters providing notice of that motion and notice of the hearing were sent to the claimant, consistent with the Commission's practice. I noted at the hearing that mailings from the Commission to claimants are sent via both First Class and Certified Mail

with return receipts requested. Returned mail is regularly appended to the Commission's file. The Commission's file includes only the return of one Certified Mailing, which notes it as unclaimed.

The respondents appeared on 11 September 2024, presented their motion, and offered supporting evidence into the record. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of their motion. And the claimant did not appear at the hearing to resist the dismissal of this claim.

Ark. Code Ann. § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six months without a bona fide request for a hearing. Our Rule 99.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

**ORDER**

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

**SO ORDERED.**

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JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE