

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H404757

DAVID E. NETTLES, EMPLOYEE

CLAIMANT

**ATWOOD DISTRIBUTING, LP
EMPLOYER**

RESPONDENT

**ZURICH AMERICAN INSURANCE,
COMPANY OF ILLINOIS, Insurance Carrier**

RESPONDENT

**GALLAGHER BASSETT SERVICES INC.,
THIRD PARTY ADMINISTRATOR**

RESPONDENT

OPINION AND ORDER FILED SEPTEMBER 24, 2025

The Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, was held on September 16, 2025.

Claimant waived his appearance through his attorney Laura Beth York, of Little Rock, Arkansas.

Respondents were represented by Rick Behring, Jr., of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on the 16th day of September, 2025, in Little Rock, Arkansas, on Respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-702 and Rule 099.13 of the Arkansas Workers' Compensation Commission, which has recently been renamed 11 C.A.R. 25-110(d) and will be referred to by that name in the remainder of this opinion. The claimant was represented by Laura Beth York and waived his right of appearance as long as the matter was dismissed without prejudice. The respondents were represented by Rick Behring Jr. of Little Rock, Arkansas.

A Form AR-C was filed by the Claimant through his attorney on July 30, 2024, alleging injuries to his left hip, which occurred on or about July 9, 2024. As reflected on

the Form AR-2 filed with the Commission, the Respondents accepted the claim as compensable. The Claimant reached maximum medical improvement on January 23, 2025, and has returned to work for the Respondent.

As reflected in the Agreed Order that was entered with the Commission on August 19, 2025, the parties resolved a dispute concerning temporary partial disability benefits. With resolution of this dispute, the Respondents have provided all reasonable and necessary medical care to date and the appropriate indemnity benefits. There is no longer any issue in dispute and the claim was returned to general files.

A Motion to Dismiss And Incorporated Brief in Support was filed on September 5, 2025, requesting that the matter be dismissed without prejudice pursuant to 11 C.A.R. §25 -110(d) of the Arkansas Workers' Compensation Commission for failure to prosecute or in the alternative that the matter be dismissed without prejudice pursuant to A.C.A. 11-9-702 (a)(4) and (D) which provides for dismissal of a claim if no bona fide request for a hearing has been made within six (6) months of the filing of his claim. The Claimant through his attorney waived his right of appearance and did not object to the Respondent's Motion to Dismiss without prejudice.

After proper notice, a hearing was held on September 16, 2025, and the claimant through his attorney, waived his right to appear. The Respondents were represented by Rick Behring, Jr., who requested that the matter be dismissed pursuant to 11 C.A.R. §25-110(d) of the Arkansas Workers' Compensation Commission or A.C.A. 11-9-702 (a)(4) and (D).

ORDER

Pursuant to the above statement of the case, documents entered into the record, and statements by the Attorney for the Respondents, there is no alternative but to grant the Motion to Dismiss without prejudice pursuant to 11 C.A.R. §25-110(d) of the Arkansas Workers' Compensation Commission.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE