

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H400898

WAYLON L. OSBORN, EMPLOYEE

CLAIMANT

**PENMACK STAFFING SERVICES, INC.
EMPLOYER**

RESPONDENT

**AIU INSURANCE COMPANY/
GALLAGHER BASSETT SERVICES, INC.,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION AND ORDER FILED OCTOBER 10, 2025

The Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas, was held on September 30, 2025.

Claimant failed to appear.

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 30th 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 pro se and failed to appear. The Respondents were represented by Rick Behring, Jr. of Little Rock, Arkansas. A previous Motion to Dismiss Hearing had been held on the 15th day of October 2024, and at that time, the Claimant appeared pro se. An opinion in regard to the hearing of October 15, 2024, found that the matter should not be dismissed at that time due to the objection of the Claimant and he was ordered to respond to the propounded

discovery within thirty (30) days of the date of the receipt of the discovery. The opinion was filed on October 23, 2024.

The second Motion to Dismiss was filed on July 30, 2025, and provided that the Claimant had alleged he had sustained a compensable injury to his left lower extremity as a result of a specific incident on or about November 1, 2023, while working for the respondent employer. The Respondents filed a Form AR-2 and controverted the claim in its entirety. The Claimant through his former attorney, Mark Peoples, filed a Form AR-C on or about February 19, 2024, requesting initial and additional benefits. Ultimately, the Claimant's attorney moved to withdraw as counsel of record on May 19, 2024, and this request was granted by the Full Commission in June 2024.

The second Motion to Dismiss Without Prejudice along with a Brief in Support of the Motion, was filed on July 30, 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 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. No response was filed by the Claimant in regard to the motion. The Motion to Dismiss alleged that the Claimant, with the exception of providing some discovery responses/authorizations, had taken no steps to prosecute his claims within six months.

After proper notice, a hearing was held on September 30, 2025, and the Claimant failed to appear. The Respondents were represented by Rick Behring, Jr., who requested that the matter be dismissed pursuant to 11 C.A.R. 110(d) of the Arkansas Workers' Compensation Commission and A.C.A. 11-9-702.

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. 110(d) of the Arkansas Workers' Compensation Commission and A.C.A. 11-9-702.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE