

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H208441

MARK ALLEN STILL, EMPLOYEE

CLAIMANT

**LUTHER FAMILY HOLDINGS, LTD.,
D/B/A/ LANDERS AUTO GROUP, EMPLOYER**

RESPONDENT

LM INSURANCE CORPORATION/ CARRIER

RESPONDENT

OPINION FILED DECEMBER 13, 2024

Hearing before Administrative Law Judge James D. Kennedy in Little Rock, Arkansas on December 3, 2024.

Claimant is pro se and failed to appear.

Respondents are represented by their attorney, David C. Jones, of Little Rock Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled matter on December 3, 2024, in Little Rock, Arkansas, on respondent's Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Ann. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was pro se and failed to appear for the hearing. The Claimant suffered an accidental injury to his left shoulder, as well as residual injuries, from the incident, that arose out of and in the course of his employment on November 25, 2002, while at work for Respondents. A Form AR-1 was filed on December 2, 2022, with the Arkansas Workers' Compensation Commission. A Form AR-2 was then filed with the Commission on December 9, 2022, confirming that the claim had been accepted and temporary total benefits had been initiated. The claimant eventually underwent treatment at the direction of Dr. Jeffrey Johnson, which included surgery in February of 2023. The claimant

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underwent a functional capacity exam on June 8, 2023, where he put forth a perfect effort of 50 out of 50 and was assigned an 8% impairment rating to the body as a whole as a result of the above-mentioned injury and this was accepted by the Respondents. The Claimant returned to work with the Respondent/Employer. The claimant was previously represented by Laura Beth York, who was allowed to withdraw by an Order from the Full Commission filed on January 9, 2024.

The claimant has failed to take any action in more than six months to pursue this claim. A Motion to Dismiss was filed by the respondents in this matter on September 26, 2024. Appropriate notice was provided to the claimant notifying him that a hearing on the Motion to Dismiss was set for December 3, 2024, in Little Rock, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, David Jones appeared on behalf of the Respondents and asked that the matter be dismissed for lack of prosecution.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the Respondents, it is found that this matter should be dismissed without prejudice, for failure to prosecute pursuant to A.C.A. 11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE