

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F409839**

**TIMOTHY ALLMAN,  
EMPLOYEE**

**CLAIMANT**

**ANDOVER TRANSPORTATION,  
EMPLOYER**

**RESPONDENT**

**GIBRALTAR NATIONAL  
INSURANCE CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED OCTOBER 11, 2005,**

Pursuant to a hearing conducted August 10, 2005, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Jonathan R. Streit, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

Mr. Timothy Allman, pro se, failing to appear.

**STATEMENT OF THE CASE**

This was a hearing to consider a Motion to Dismiss filed on behalf of the respondents.

A review of the record shows that the claimant filed an AR-C September 29, 2004, alleging that as a result of constant sitting on vinyl seats while driving, as well as sweating, he contracted an occupational disease which resulted in a perineal cyst which necessitated hospitalization, including surgery, so that he is entitled to temporary total disability benefits.

The respondents took the claimant's deposition October 28, 2004. Thereafter, the claimant received his last known medical treatment November 9, 2004.

A telephone prehearing conference was conducted January 4, 2005, with counsel for the respondents and Mrs. Timothy H. Allman. At that time, the claimant was not available due to a doctor's appointment and Mrs. Allman was asked to have him advise the parties if he wishes to

proceed with his claim and, further, that although he had the right to proceed without an attorney, it was wiser to proceed with counsel who was familiar with workers' compensation law. The claimant had failed to file a response to the prehearing questionnaire.

No additional activity has taken place in the file and the Motion to Dismiss was filed July 1, 2005. The claimant has not responded to the Motion and failed to appear at the hearing. At the hearing, respondent's counsel advised that he had received a letter from one of the treating physicians indicating that the claimant did not contract a cyst as the result of riding on vinyl seats. However, no such medical record was produced at the hearing.

Accordingly, premises considered, in light of the claimant's failure to respond to the prehearing questionnaire, his failure to respond to the Motion to Dismiss, and his failure to appear at the hearing or otherwise to prosecute his claim, it is hereby determined that the Motion should be, and it is hereby, granted, and the claim is hereby dismissed without prejudice.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge