

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F407212**

**HARRELL LYNN COX,  
EMPLOYEE**

**CLAIMANT**

**REYNOLDS METALS COMPANY,  
EMPLOYER**

**RESPONDENT**

**LIBERTY MUTUAL INS. CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED JUNE 7, 2005.**

Pursuant to a hearing conducted March 31, 2005, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Mr. Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas, appearing for the respondents; and

Mr. Harrell Lynn Cox, the claimant, proceeding pro se.

**STATEMENT OF THE CASE**

This is a hearing to consider the motion to dismiss filed on behalf of the respondents.

The respondents have requested that this claim be dismissed primarily for three reasons. First, they contend that the claimant has failed to prosecute his claim and has elected not to pursue benefits. Specifically, they contended that the claimant last worked for the employer in 1985; that his claim was filed with the Commission and denied by the respondents; and that the claimant has not requested a hearing. Next, they contended that the claim is barred by the statute of limitations since the AR-C was filed on or about July 15, 2004, several years after the claimant last worked for the employer in 1985. Finally, Liberty Mutual has also asked to be dismissed as a party respondent because its coverage ran from 1973 until 1979 and the claimant's last injurious exposure was allegedly in 1985, which was beyond its coverage period.

A review of the file shows that the claimant contends that he has sustained bladder cancer as a result of his employer with Reynolds Metals from 1973 through 1985. He stated that he was diagnosed with bladder cancer approximately two years ago and started receiving treatment. Thereafter, he received a letter from Alcoa stating that carbon and pitch in an area where he had worked might cause bladder cancer. Because of the letter, he filed a claim which was received on or about July 15, 2004. At the hearing, he indicated an interest in pursuing his claim and in obtaining an attorney to represent him. Following the hearing, Ms. Shannon Muse Carroll, Attorney at Law, Hot Springs, Arkansas, entered an appearance as Attorney of Record for the claimant, pursuant to a letter dated April 14 and received April 18, 2005. A second AR-C was filed on behalf of the claimant at that time.

The claimant indicated that some of his cancer treatment took place with physicians who may be associated with those treating the present Administrative Law Judge. Accordingly, because of the possibility of the conflict of interest or the appearance of a conflict of interest, this Law Judge will recuse from further consideration of this matter. Furthermore, the respondent employer and claimant's counsel are advised that Liberty Mutual continues to maintain that a different insurance carrier is responsible for coverage during 1985, at the time of the last allegedly injurious exposure at work.

At this time, the motion to dismiss should be, and it is hereby, respectfully denied and dismissed.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge