

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F408263**

**JOHNNY HAMILTON,  
EMPLOYEE**

**CLAIMANT**

**QUAPAW HEALTHCARE, INC.,  
EMPLOYER**

**RESPONDENT**

**PACIFIC EMPLOYERS INS. CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED JUNE 2, 2005.**

Pursuant to a hearing conducted March 9, 2005, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Keith McPherson, Attorney at Law, Little Rock, Arkansas, appearing for the respondents; and

Mr. Philip M. Wilson, Attorney at Law, Little Rock, Arkansas, representing the claimant, failing to appear.

**STATEMENT OF THE CASE**

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

The respondents contended that the claim should be dismissed based on the claimant's failure to respond to respondent's discovery requests and his failure to prosecute the claim. They concede that the claimant suffered a compensable injury on or about June 17, 2002, and a Form C was filed August 6, 2004, indicating an injury to the claimant's hip and back. Respondents contend that the claimant was released by his treating physicians and returned to work on or about June 21, 2002. They contended that the claimant's current claim is barred by the statute of limitations for additional compensation set forth in Ark. Code Ann. §11-9-702(b).

Respondents further contended that on or about September 7, 2004, they answered discovery filed on behalf of the claimant August 23, 2004, and, thereafter, submitted discovery to the claimant

on or about September 17, 2004. No response to the discovery was received and, on or about December 6, 2004, respondents requested that the claimant advise whether he intended to pursue the claim and, if so, that he provide answers to respondent's discovery requests. No response was filed on behalf of the claimant and the claimant's counsel advised respondent's counsel that he had not heard from the claimant regarding his intent to pursue or to abandon the claim.

Notice of the hearing and notice of the motion to dismiss have been duly given to the claimant and claimant's counsel, but the claimant has failed to respond or to appear at the hearing.

Accordingly, due to the claimant's failure to appear at the hearing, failure to respond discovery requests, failure to cooperate with claimant's counsel, and his failure generally to prosecute the claim, the motion should be, and it is, hereby, granted and this claim is dismissed.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge