

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F003992**

**SHELLY HOYT,  
EMPLOYEE**

**CLAIMANT**

**JELLY BEAN JUNCTION, INC.,  
EMPLOYER**

**RESPONDENT**

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

**RESPONDENT**

**OPINION FILED OCTOBER 7, 2005.**

Pursuant to a hearing conducted July 12, 2005, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Terence C. Jensen, Attorney at Law, Benton, Arkansas, appearing for the claimant; and

Ms. Betty J. Demory, Attorney at Law, Little Rock, Arkansas, appearing for the respondents.

**STATEMENT OF THE CASE**

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

A review of the claim shows that the claimant suffered admittedly compensable torn ligaments in her right wrist on March 2, 2000, when she fell while attempting to assist a child. The respondents initiated payment of benefits for medical care and temporary total disability, as well as benefits for permanent partial disability to the upper extremities.

On September 10, 2002, the claimant filed a Form AR-C requesting additional medical and temporary total disability benefits. A Motion to Produce was filed on behalf of the claimant October 2, 2002, and a Motion to Dismiss was filed on April 21, 2003. An Order dated May 12, 2003, dismissed the claim without prejudice.

On April 30, 2004, an additional Form AR-C was filed on behalf of the claimant requesting additional benefits. On November 3, 2004, the respondents filed a renewed Motion to Dismiss,

alleging that the claimant had not responded to interrogatories propounded November 19, 2002, and that there had been no further activity on the file following the filing of the Form C in May, 2004. Claimant's counsel responded that the claimant intended to prosecute her claim and requested that the Motion be dismissed. An Order dated December 17, 2004, denied the Motion to Dismiss and ordered the claimant to respond to the interrogatories previously propounded and also ordered the respondents to furnish copies of medical records in response to the Motion to Produce filed by the claimant October 20, 2002.

On May 5, 2005, the current Motion to Dismiss was filed on behalf of the respondents and the hearing was scheduled for July 12, 2005. At the hearing, claimant's counsel again opposed the Motion to Dismiss and explained that after the claimant came into his office originally, he lost contact with her and she obtained a divorce and he had no idea where to find her. Subsequently, he recently located the claimant with the assistance of his process server and found that she was interested in continuing the claim and expects that she will cooperate in pursuing the claim for an injury to her hand or wrist. Respondents noted that there are two new dates of alleged injury March 24, 2001, and January 20, 2002, with her employers, after the claimant had resigned her employment with Jelly Bean Junction, Inc., on April 14, 2000. Respondents also requested that if the Motion is denied that a prehearing conference be scheduled.

Premises considered, it is hereby determined that the Motion should be denied, and a telephone prehearing conference will be conducted as follows: **9:30 a.m., Tuesday, November 15, 2005.**

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge