

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F403944 & F408496**

**DEBBIE D. MARTIN,  
EMPLOYEE**

**CLAIMANT**

**SAMMONS ENTERPRISES,  
INC., D/B/A MOUNTAIN  
VALLEY SPRING CO., INC.,  
EMPLOYER**

**RESPONDENT**

**ACE AMERICAN INS. CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED AUGUST 5, 2005,**

Pursuant to a hearing conducted May 12, 2005, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Ms. E. Diane Graham, Attorney at Law, Fort Smith, Arkansas, appearing for the respondents and

The claimant, proceeding pro se, failing to appear.

**STATEMENT OF THE CASE**

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

The respondents requested that these claims be dismissed for failure to prosecute. A review of the record shows that in claim F403944, the claimant reported an injury on January 22, 2004, which was accepted by the respondents who provided medical expenses and treated the claim as a no lost time injury. The last medical expense paid by the respondents was for treatment July 14, 2004, after which further treatment was denied and controverted by the respondent.

An AR-C dated April 2, 2004, requesting additional benefits was filed on behalf of the claimant and respondent's counsel wrote the claimant July 28, 2004, requesting a medical authorization, an authorization to obtain prior workers' compensation files, and a request that she sit for a deposition. After a prehearing conference, an order was entered indicating that the claimant

would sit for her deposition and provide a medical authorization and the file was returned to general files.

On September 15, 2004, respondents gave the claimant notice by certified and regular mail that her deposition was to be taken in Hot Springs on September 27, 2004. However, the claimant did not appear for the deposition. A Motion to Dismiss was filed on behalf of the respondents April 11, 2005.

In Claim F408496, the claimant reported an alleged incident at work involving her left leg on March 2, 2004, by an AR-C Form received by the Commission August 3, 2004. In its correspondence dated September 2, 2004, the respondents indicated that the claim was controverted and no benefits would be paid. The claimant has made no request for a hearing and no other activity has occurred in that file.

After notice of the hearing on the motions to dismiss was sent by regular and certified mail to the claimant's last known address, the claimant failed to appear at the hearing.

Accordingly, the motions to dismiss should be, and they are hereby, granted, and the claims in F403944 & F408496 are dismissed without prejudice.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge