

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM E905202 & E811977**

**JOHN OSBORNE,  
EMPLOYEE**

**CLAIMANT**

**DELUXE VIDEO SERVICES,  
EMPLOYER**

**RESPONDENT**

**LIBERTY 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. David C. Jones, Attorney at Law, Little Rock, Arkansas, appearing for the respondents; and

The claimant, pro se, failing to appear.

**STATEMENT OF THE CASE**

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

The record shows that the claimant suffered admittedly compensable injuries on August 11, 1998, and August 7, 1999, for which respondents paid temporary total disability benefits in the amount of \$14,028.73, the expenses of various medical treatment, and disability benefits for permanent impairment.

In March, 1999, the claimant returned to his treating physician, Dr. Gordon Newburn, who recommended exercises, an open knee sleeve, and that he return in two months. By April 26, 1999, Dr. Newburn was indicating that the claimant had re-injured his knee and required additional treatment. The claimant was also seen by Dr. James S. Mulhollan. On or about May 17, 1999, the claimant's attorney filed a request for additional benefits. However, on June 28, 1999, the

Administrative Law Judge returned the file to general files, based upon a letter from claimant's counsel indicating that a hearing was not necessary at that time.

On March 16, 2001, claimant's counsel filed a Motion to be relieved as attorney of record. An Order granting that Motion was entered March 21, 2001.

In October, 2002, claimant's counsel again requested a hearing and an additional telephone prehearing conference was scheduled. The claimant's response to the prehearing questionnaire indicated that he was then seeking additional surgery, as well as an attorney's fee for controversion. Respondents contended that the claimant was not entitled to additional benefits. The file was again returned to general files at the request of claimant's counsel. Benefits were last paid by respondents on March 8, 2004.

Claimant's counsel filed a Motion to withdraw in May, 2005, which was granted by the Commission's Order of June 7, 2005.

No hearing has since been requested by the claimant and the Motion to Dismiss was filed June 14, 2005. The claimant failed to respond to the Motion to Dismiss and failed to appear at the hearing on the Motion. At that hearing, Respondents also stated their contention that the statute of limitations bars additional benefits. Accordingly, premises considered, it is hereby found and determined that the motion should be, and it is hereby, granted and these claims are hereby dismissed without prejudice.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge