

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM E909488

**JEFFREY ALLEN PARKER,
EMPLOYEE**

CLAIMANT

**MARTIN MARIETTA
MATERIALS, INC.,
EMPLOYER**

RESPONDENT

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

RESPONDENT

**HOT SPRING COUNTY OFFICE
OF CHILD SUPPORT ENFORCEMENT**

INTERVENOR

OPINION FILED DECEMBER 9, 2005,

Pursuant to a hearing conducted November 3, 2005, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Ms. Shannon Muse Carroll, Attorney at Law, Hot Springs, 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 record shows that the claimant suffered an injury to his low back July 2, 1999, which was accepted as compensable by the respondents. Thereafter, the claimant suffered a new injury to his low back January 31, 2000, during an incident in the employer provided parking lot, which was controverted by the respondents. After a hearing, April 12, 2002, it was determined that the claimant suffered new compensable injuries and was entitled to benefits for the incident on January 31, 2000, according to opinions filed by the administrative law judge June 28, 2002, and the Commission, March 5, 2003.

On September 20, 2004, the Commission received a request from claimant's counsel for a hearing on the issues of unpaid temporary partial disability and medical benefits. A telephone prehearing conference was scheduled for November 2, 2004, but cancelled, pursuant to the advice of claimant's counsel that additional discovery should be undertaken.

On February 24, 2005, the Commission received the Motion to Dismiss filed on behalf of the respondents. A hearing on the Motion was scheduled for March 31, 2005, and later cancelled at the request of claimant's counsel. During a telephone prehearing conference on April 12, 2005, claimant's counsel advised that she was unable to communicate with the claimant and a second prehearing conference was scheduled for April 28, 2005. A hearing was scheduled on the Motion for November 3, 2005, and notice of the hearing was sent to the parties, including the claimant, at his last known address.

The claimant failed to appear at the hearing and claimant's counsel described her diligent, but unsuccessful, efforts to locate the claimant. The claimant's Motion for Voluntary Non-Suit was denied and the Motion to Dismiss was granted.

Accordingly, premises considered, it is hereby determined that the Motion to Dismiss should be granted and, therefore, this claim is hereby dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge