

ARKANSAS STATE CLAIMS COMMISSION

April 2022 Minutes

The Arkansas State Claims Commission (the “Claims Commission”) held hearings on April 13–14, 2022. These hearings were held via Zoom.

On April 13, 2022, the following claims were heard by Commissioners Courtney Baird, Dexter Booth, and Paul Morris (chair):

- ***Mitchell Wine v. Arkansas Alcohol Beverage Control***, Claim No. 200850. Claimant filed the instant claim against Respondent seeking damages following Claimant’s unsuccessful application for a medical marijuana dispensary license. At the hearing on Claimant’s motion for reconsideration of the Claims Commission’s February 10, 2022, order and Claimant’s motion for immediate disclosure of conflicts, neither party appeared. Based upon a review of the motions and the law of the State of Arkansas, the Claims Commission DENIED both motions.
- ***James Construction Group, LLC v. Arkansas Department of Transportation and Arkansas State Highway Commission***, Claim No. 220352. Claimant filed the instant claim against Respondents seeking damages for breach of contract. At the hearing on the motion to intervene filed by Forterra Pipe and Precast, LLC, David A. Grace appeared on behalf of Claimant, Michael N. Shannon and Jimmy A. Castex, Jr. appeared on behalf of Forterra, and Mark Umeda appeared on behalf of Respondent. Based upon a review of the motion and the law of the State of Arkansas, the Claims Commission GRANTED Forterra’s motion to intervene pursuant to Ark. R. Civ. Proc. 24(b).

On April 13, 2022, the following claims were heard by Commissioners Courtney Baird, Henry Kinslow, and Paul Morris (chair):

- ***Victor Williams v. Arkansas State Medical Board***, Claim No. 210530. Claimant filed the instant claim against Respondent related to Respondent’s alleged breach of a consent order between the parties as part of a Pulaski County Circuit Court lawsuit. At the hearing on Respondent’s motion for judgment on the pleadings, Andre K. Valley appeared on behalf of Claimant, and Vincent P. France appeared on behalf of Respondent. Based upon a review of the motion, the argument of the parties, and the law of the State of Arkansas, the Claims Commission DENIED Respondent’s motion as it related to interpretation of the consent order and placed the claim IN ABEYANCE to allow Claimant to exhaust his administrative remedies before Respondent and/or to seek relief from the circuit court related to Respondent’s noncompliance with the consent order.

On April 14, 2022, the following claims were heard by Commissioners Courtney Baird, Dexter Booth, and Paul Morris (chair):

- ***Arthur Joyce v. Arkansas Department of Human Services***, Claim No. 17-0038-CC. Claimant filed the instant claim against Respondent related to injuries inflicted on Claimant by a foster child. The Claims Commission previously dismissed the claim on March 10, 2021, based upon Claimant’s failure to respond to the Claims Commission’s October 12, 2020, letter regarding the claim’s lengthy abeyance status. At the hearing on Claimant’s motion to set aside the dismissal, Claimant did not appear. Skye Martin appeared on behalf of Respondent. Based upon a review of the motion and the law of the State of Arkansas, the Claims Commission DENIED Claimant’s motion, finding that Claimant’s motion did not provide any grounds upon which the Claims Commission could find that Claimant’s failure to respond to the October 12, 2020, letter was based on excusable neglect or other grounds that might merit the setting aside of the dismissal order. The Claims Commission also found that Claimant’s counsel failed to appear to provide such grounds and that Claimant’s motion was untimely under Ark. R. Civ. Proc. 60(a).

- ***Rebekah Dancy-Harper v. State of Arkansas***, Claim No. 220437. Claimant filed the instant claim against Respondent seeking death benefits related to the death of Claimant's father, James L. Dancy. At the hearing, Claimant proceeded *pro se*, and Rosalyn Middleton appeared on behalf of Respondent. Based upon a review of the pleadings and witness testimony and the law of the State of Arkansas, the Claims Commission AWARDED Claimant \$200,000.00 in death benefits pursuant to Ark. Code Ann. §§ 21-5-704(a)(1)(A) and 21-5-705(a)(1)(B)(i). Because the Ark. Code Ann. § 6-82-501, *et seq.* only provides for scholarship benefits for surviving spouses and surviving children, the Claims Commission did not award Claimant scholarship benefits.
- ***Lindsey Collins v. State of Arkansas***, Claim No. 220274. Claimant filed the instant claim against Respondent seeking death benefits related to the death of Claimant's spouse, Cory Collins. At the hearing, Claimant proceeded *pro se*, and Rosalyn Middleton appeared on behalf of Respondent. Based upon a review of the pleadings and witness testimony and the law of the State of Arkansas, the Claims Commission AWARDED Claimant \$200,000.00 in death benefits pursuant to Ark. Code Ann. §§ 21-5-704(a)(1)(A) and 21-5-705(a)(1)(B)(i). As the surviving spouse, the Claims Commission also found that Claimant was entitled to scholarship benefits pursuant to Ark. Code Ann. § 6-82-501, *et seq.*
- ***Shiela Lynch, as Guardian of the Estate of Lakyn N. Johnson v. State of Arkansas***, Claim No. 17-0025-CC. Claimant filed the instant claim against Respondent seeking death benefits related to the death of Lakyn N. Johnson's father, Daniel Johnson. At the hearing, Beau Britton appeared on behalf of Claimant, and Patricia VanAusdall Bell appeared on behalf of Respondent. Based upon a review of the pleadings and witness testimony and the law of the State of Arkansas, the Claims Commission DENIED Claimant's claim for death benefits and scholarship benefits, finding that there was no testimony or evidence to link Mr. Johnson's heart attack with the firefighter training he attended the day before his heart attack.
- ***Van Gray v. Arkansas Department of Transportation***, Claim No. 220156. Claimant filed the instant claim against Respondent related to damage to Claimant's vehicle caused by a pothole. At the hearing on Respondent's motion to dismiss, Claimant proceeded *pro se*, and Monty V. Baugh appeared on behalf of Respondent. Based upon a review of the motion, the argument of the parties, and the law of the State of Arkansas, the Claims Commission DENIED Respondent's motion as premature and instructed the parties to begin discovery.
- ***Erika Tucker v. Arkansas Department of Transportation***, Claim No. 220246. Claimant filed the instant claim against Respondent related to damage to Claimant's vehicle caused by a pothole. At the hearing on Respondent's motion to dismiss, Claimant proceeded *pro se*, and Monty V. Baugh appeared on behalf of Respondent. Based upon a review of the motion, the argument of the parties, and the law of the State of Arkansas, the Claims Commission gave Claimant twenty days to amend her complaint to include the specific location of the alley and any other pertinent information. The Claims Commission stated that if Claimant does not amend her complaint within the time specified, the Claims Commission will enter an order dismissing her claim.
- ***Lauren Nwanonyiri v. Arkansas Department of Transportation***, Claim No. 220326. Claimant filed the instant claim against Respondent related to damage to Claimant's vehicle caused by a pothole. At the hearing on Respondent's motion to dismiss, Claimant proceeded *pro se*, and Monty V. Baugh appeared on behalf of Respondent. Based upon a review of the motion, the argument of the parties, and the law of the State of Arkansas, the Claims Commission GRANTED Respondent's motion IN PART as to any claimed damages over \$500.00 and scheduled the claim for hearing.
- ***James Broyles v. Arkansas Department of Transportation***, Claim No. 220553. Claimant filed the instant claim against Respondent related to damage to Claimant's property. At the hearing on Respondent's motion to dismiss, Claimant proceeded *pro se*, and Monty V. Baugh appeared on behalf of Respondent. Based upon a review of

the motion, the argument of the parties, and the law of the State of Arkansas, the Claims Commission GRANTED Respondent's motion and DISMISSED Claimant's claim without prejudice.

- ***Benjamin Pitts v. Arkansas Division of Correction***, Claim No. 210334. Claimant filed the instant claim against Respondent related to a missing legal transcript. At the hearing on the claim, Claimant proceeded *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the pleadings, the testimony and evidence presented by the parties, and the law of the State of Arkansas, the Claims Commission DENIED and DISMISSED Claimant's claim.
- ***Debbie Brown, as Administratrix of the Estate of Chris Brown, and Joe Brown v. Arkansas Department of Transportation***, Claim No. 200809. Claimants filed the instant claim against Respondent seeking damages related to the death of Claimants' son in a vehicular accident. At the hearing on Respondent's motion to continue and Claimants' motion to exclude expert testimony, Brandon Lacy appeared on behalf of Claimant, and Trella A. Sparks appeared on behalf of Respondent. Based upon a review of the motions, the argument of the parties, and the law of the State of Arkansas, the Claims Commission GRANTED Respondent's motion to continue, DENIED Claimants' motion to exclude expert testimony, and established a scheduling order.

On April 14, 2022, the following claims were heard by Commissioners Courtney Baird, Henry Kinslow, and Paul Morris (chair):

- ***Laiya Payne El-Amin v. State of Arkansas***, Claim No. 220580. Claimant filed the instant claim against Respondent seeking death benefits related to the death of Claimant's spouse, Hasain El-Amin. At the hearing, Claimant proceeded *pro se*, and Rosalyn Middleton appeared on behalf of Respondent. Based upon a review of the pleadings and witness testimony and the law of the State of Arkansas, the Claims Commission AWARDED Claimant \$200,000.00 in death benefits pursuant to Ark. Code Ann. §§ 21-5-704(a)(1)(A) and 21-5-705(a)(1)(B)(i). The Claims Commission also found that Claimant is entitled to scholarship benefits pursuant to Ark. Code Ann. § 6-82-501, *et seq.*, as is Amber El-Amin.

Four other matters were initially set for hearing in April (*Chad Morrow v. Arkansas Department of Parks & Tourism*, Claim No. 211300; *Michelle Williams v. University of Arkansas for Medical Sciences*, Claim No. 211385; *Marsha Frazier, as Administratrix of the Estate of Marshall Frazier v. University of Arkansas for Medical Sciences*, Claim No. 191008; and *Craighead Electric Cooperative Corporation v. Arkansas Department of Transportation*, Claim No. 220792). However, prior to the hearing date, these claims were rescheduled or otherwise removed from the docket.

This completed all of the business on the April 2022 Claims Commission docket.



Kathryn Irby, Director

Date: May 25, 2022