

ARKANSAS STATE CLAIMS COMMISSION

May 2023 Minutes

The Arkansas State Claims Commission (the “Commission”) held hearings on May 18-19, 2023. The May 18 hearings were held via Zoom. The May 19 hearings were held via Zoom, with one hearing held in-person at the Commission offices.

Hearings scheduled for May 18, 2023

The following members of the Commission were present:

Henry Kinslow
Paul Morris, chair
Sylvester Smith

1. ***Anthony Church v. Arkansas Division of Correction***, Claim No. 211055. Claimant filed his claim seeking damages related to lost property. At the hearing on Respondent’s motion for summary judgment, Thomas Burns appeared on behalf of Respondent, and Claimant failed to appear. The Commission dismissed Claimant’s claim without prejudice for failure to prosecute.
2. ***Darrell Williams v. Arkansas Division of Correction***, Claim No. 220838. Claimant filed his claim seeking damages related to injuries he suffered as the result of the alleged failure of Respondent to follow policy. At the hearing on the claim, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the witness testimony and evidence presented, and the law of the State of Arkansas, the Commission awarded Claimant \$12,500.00 in compensatory damages.
3. ***Walter Walton v. Arkansas Division of Correction***, Claim No. 190181. Claimant filed his claim seeking damages related to Respondent’s denial of his 48-hour relief period, Respondent’s refusal to allow him a phone call during a 48-hour relief period, and Respondent’s failure to provide more than one exercise period within a one-month period. At the hearing on Claimant’s “Motion Requesting Commission Revisit Its March 10[,] 2023[,] Order[,]” Thomas Burns appeared on behalf of Respondent, and Claimant failed to appear. Commission staff notified the Commission that, although notice of the hearing was mailed to Claimant, no arrangements for his appearance were made with his out-of-state unit. The Commission unanimously voted to reschedule the motion hearing.
4. ***Mark Bolton v. Arkansas Division of Correction***, Claim No. 210805. Claimant filed his claim seeking damages related to his hobby craft materials. At the hearing on Respondent’s motion seeking to deem admitted its requests for admission propounded to Claimant and Respondent’s motion to strike and for protective order, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motions and responses, the argument of the parties and the law of the State of Arkansas, the Commission denied Respondent’s motion to deem admitted as moot but allowed Respondent leave to file another motion to deem admitted based on the content of Claimant’s responses. The Commission denied Respondent’s motion to strike and for protective order as moot, ordered that the Claimant’s discovery requests labeled as interrogatories to be deemed requests for admission, and directed Respondent to respond to the requests within 30 days of the order.
5. ***Roderick Wilbert v. Arkansas Division of Correction***, Claim No. 211116. Claimant filed his claim seeking damages related to lost property and an assault on him by other inmates. At the hearing on Respondent’s motion for protective order, Claimant’s motion for summary judgment and Respondent’s motion seeking to deem admitted its requests for admission propounded to Claimant, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motions and responses, the argument of the parties and the law of the State of Arkansas, the Commission granted Respondent’s motion for protective order and instructed that counsel for Respondent did not have to personally respond to Claimant’s requests for admission, denied Claimant’s motion for summary judgment, and denied Respondent’s motion to deem admitted as moot. The Commission allowed Respondent leave to file another motion to deem admitted based on the

content of Claimant's responses and directed Respondent to respond to Claimant's requests for admission, interrogatories and requests for production within 30 days of the order.

6. ***Melvin Washington v. Arkansas Division of Correction***, Claim No. 200464. [This claim was removed from the docket by the Commission prior to hearing.]
7. ***Drew Robinson v. Arkansas Division of Correction***, Claim No. 210522. [This claim was removed from the docket by the Commission prior to hearing.]
8. ***Thomas Dinger v. Arkansas Division of Correction***, Claim No. 220275. Claimant filed his claim seeking damages related to a check issued from his account. At the hearing on Respondent's motion seeking to deem admitted its requests for admission propounded to Claimant, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Claimant made a request to voluntarily dismiss his claim against Respondent. Based upon a Claimant's request and the law of the State of Arkansas, the Commission dismissed Claimant's claim without prejudice.
9. ***Steven Hayes v. Arkansas Division of Correction***, Claim No. 220383. Claimant filed his claim seeking damages related to Respondent's alleged seizure of his stimulus payment from the federal government. At the hearing on Respondent's motion for summary judgment, John Tull appeared on behalf of Claimant, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motion and response, the argument of the parties and the law of the State of Arkansas, the Commission found that there was no longer a live controversy for the Commission to resolve and dismissed the claim as moot. The Commission further found that awarding pre-judgment interest would be inequitable under the circumstances.
10. ***Bart Woodard v. Arkansas Division of Correction***, Claim No. 221169. Claimant filed his claim seeking damages related to Respondent's alleged omissions that resulted in another inmate raping Claimant. At the hearing on Claimant's request for documents submitted by ADC, Thomas Burns appeared on behalf of Respondent and advised the Commission that an incident had occurred in Claimant's unit such that Claimant was unable to attend the hearing. The Commission unanimously voted to reschedule the hearing.
11. ***Deverick Scott v. Arkansas Division of Correction***, Claim No. 201168. Claimant filed his claim seeking damages related to the denial of his religious food tray and related to the failure to ship books to his home. At the hearing on Respondent's motion seeking to deem admitted its requests for admission and motion to reconsider the Commission's April 20, 2023, order and on Claimant's motion for request for production of documents, motion for extension, motion to deem admitted, motion to compel and motions for default judgment, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motions and responses, the argument of the parties and the law of the State of Arkansas, the Commission denied Respondent's motion to deem admitted and Claimant's motion to compel, motion to deem admitted and motions for default judgment. The Commission instructed the parties to resubmit their discovery requests and instructed that any future filings must relate to only one claim. The Commission also denied Claimant's motion for production of documents and motion for extension as moot and denied Respondent's motion for reconsideration.
12. ***Deverick Scott v. Arkansas Division of Correction***, Claim No. 201169. Claimant filed his claim seeking damages related to a broken toilet and loss of property. At the hearing on Respondent's motion seeking to deem admitted its requests for admission and motion to reconsider the Commission's April 20, 2023, order and on Claimant's motion for request for production of documents, motion for extension, motion to deem admitted, motion to compel and motions for default judgment, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motions and responses, the argument of the parties and the law of the State of Arkansas, the Commission denied Respondent's motion to deem admitted and Claimant's motion to compel, motion to deem admitted and motions for default judgment. The Commission instructed the parties to resubmit their discovery requests and instructed that any future filing must relate to only one claim. The Commission also denied Claimant's motion for production of documents and motion for extension as moot and denied Respondent's motion for reconsideration.

13. ***Deverick Scott v. Arkansas Division of Correction***, Claim No. 230226. Claimant filed his claim seeking damages related to issues with Respondent's law library and his legal work. At the hearing on Respondent's motion to reconsider the Commission's April 20, 2023, order, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motion and response, the argument of the parties and the law of the State of Arkansas, the Commission denied Respondent's motion for reconsideration. The Commission instructed that any future filings must relate to only one claim.
14. ***Steven Pinder v. Arkansas Division of Correction***, Claim No. 220456. Claimant filed his claim seeking damages related to Respondent's publication committee holding his books for 156 days before accepting or rejecting them. At the hearing on Respondent's motion to dismiss, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motion and response, the argument of the parties and the law of the State of Arkansas, the Commission granted the motion to dismiss and dismissed the claim without prejudice.
15. ***Steven Pinder v. Arkansas Division of Correction***, Claim No. 220691. Claimant filed his claim seeking damages Respondent's mailroom supervisor knowingly and intentionally refused to forward Claimant's appeal of the publication review committee's denial of books. At the hearing on Respondent's motion to dismiss, Claimant appeared *pro se*, and Thomas Burns appeared on behalf of Respondent. Based upon a review of the claim file, the motion and response, the argument of the parties and the law of the State of Arkansas, the Commission granted the motion to dismiss and dismissed the claim without prejudice.
16. (Other Agency Business) The Commission reviewed and approved the entry of proposed orders numbered ADC1-6 and ADC8-14 on Exhibit A to these minutes without discussion.

Hearings scheduled for May 19, 2023

The following members of the Commission were present:

Henry Kinslow
Paul Morris, chair
Solomon Graves

1. ***Teresa Lutz v. Arkansas Tech University***, Claim No. 221514. Claimant filed her claim seeking vehicular property damages. At the hearing on the claim, Claimant failed to appear. Charles Lyford appeared on behalf of Respondent. Based on Claimant's failure to appear, the Commission unanimously voted to dismiss Claimant's claim without prejudice for failure to prosecute.
2. ***Davey Rhyne d/b/a Davey's Auto Body and Sales v. Prosecuting Attorney for the Fourteenth Judicial District***, Claim No. 220317. Claimant filed this claim seeking towing and storage charges associated with four vehicles that Claimant was directed to tow to his storage facility by the Newton County Sheriff's Office. At the hearing on the claim and Respondent's motion for summary judgment, Aaron Martin appeared on Claimant's behalf, and Jay Gerard appeared on behalf of Respondent. At the conclusion of the hearing, the Commission unanimously voted to delay issuance of its decision by 30 days to allow the parties time to discuss resolution. Following the hearing, Respondent filed a motion to dismiss and a motion to extend the status report deadline, both of which were opposed by Claimant. Based on a review of the claim file, including the pending motions, the testimony and evidence presented by the parties, the argument of the parties, and the law of the State of Arkansas, the Commission unanimously denied Respondent's motion for summary judgment and post-hearing motion to dismiss and found Respondent's motion for extension to be moot. The Commission also unanimously found that Respondent was negligent in failing to collect the 2009 truck following the circuit court's January 2019 forfeiture order and awarded \$7,000, as the reasonable value of the 2009 truck, to Claimant. Alternatively, the Commission unanimously found that Respondent was unjustly enriched in the amount of \$7,000 by Claimant's storage of the 2009 truck from entry of the January 2019 forfeiture order until Respondent transferred to 2009 truck to Newton County in September 2021.

3. ***Catherine Canu and Matthew Canu, individually and as next friends, parents, and guardians of A.C., a minor v. Arkansas School for the Deaf***, Claim No. 181020. Claimants filed this claim seeking damages for the injuries suffered by A.C. while a student at the Arkansas School for the Deaf. At the status conference, Jessica Mallett appeared on Claimants' behalf, and Trey Cooper appeared on behalf of Respondent. The parties discussed the witnesses to be called at the claim hearing and which witnesses would be testifying via deposition. Respondent confirmed that it does not object to the Commission's scheduling of an interpreter from the list of interpreters maintained by the Administrative Office of the Courts for A.C.'s use in testifying at the claim hearing. Upon Claimants' confirmation that Claimants are only pursuing the negligence claim, the Commission dismissed all other claims referenced in Claimants' complaint without prejudice.
4. ***B&H Auto Sales v. Arkansas Department of Finance and Administration***, Claim No. 221071. [resolved by the parties prior to hearing, claim not heard by Commission]
5. ***Kimberly Shibley v. State of Arkansas***, Claim No. 230318. Claimant filed this claim for death benefits related to the Covid death of Sgt. William Joseph Shibley of the Sebastian County Sheriff's Office. At the claim hearing, Claimant appeared *pro se*, and Andres Rhodes appeared on Respondent's behalf. Based on a review of the claim file, the testimony of the witness, and the law of the State of Arkansas, the Commission unanimously awarded Claimant \$200,000 in death benefits pursuant to Ark. Code Ann. §§ 21-5-704(a)(1)(A) and 21-5-705(a)(1)(B)(i). Given the evidence that Sgt. Shibley's children are over the age of 23 years, the Commission awarded scholarship benefits to Claimant only.
6. ***Tammy Guynes v. State of Arkansas***, Claim No. 231230. Claimant filed this claim for death benefits related to the Covid death of Lt. Danny James Guynes of the Monroe County Sheriff's Office. At the claim hearing, Claimant failed to appear. Rosalyn Middleton appeared on Respondent's behalf. Based on a review of the claim file and the law of the State of Arkansas, the Commission unanimously awarded Claimant \$50,000 in death benefits pursuant to Ark. Code Ann. § 21-5-704(a)(1)(A), given Respondent's recommendation that such benefits be paid. As to the additional benefits sought by Claimant, as to which Respondent did not make a recommendation, the Commission unanimously voted to dismiss Claimant's claim for these benefits without prejudice in light of Claimant's failure to appear. The Commission also found that Lt. Guynes' child is over the age of 23 years, such that she could not be awarded scholarship benefits pursuant to Ark. Code Ann. § 6-82-505(a).
7. ***Gary Cummins and Leann Cummins v. State of Arkansas***, Claim No. 231304. Claimants filed this claim for death benefits related to the Covid death of Officer Christopher William Cummins of the Bella Vista Police Department. At the claim hearing, Claimants appeared *pro se*, and Rosalyn Middleton appeared on Respondent's behalf. Based on a review of the claim file, the testimony of the witness, and the law of the State of Arkansas, the Commission unanimously awarded Claimant \$200,000 in death benefits pursuant to Ark. Code Ann. §§ 21-5-704(a)(1)(A) and 21-5-705(a)(1)(B)(i). Given the evidence that Officer Cummins was unmarried and childless, the Commission found that scholarship benefits could not be awarded pursuant to Ark. Code Ann. § 6-82-501 *et seq.*
8. ***Justin Meyl v. Arkansas Department of Transportation***, Claim No. 201035. Claimant filed this claim after his vehicle was damaged by a storm drain. The Commission sent notice to the parties pursuant to Ark. R. Civ. Proc. 41(b) directing Claimant to file a statement establishing good cause as to why the claim should remain on the Commission's docket. At the status conference set regarding Claimant's responses to the 41(b) notice, Claimant appeared *pro se*, and Amanda Andrews appeared on Respondent's behalf. The Commission unanimously voted to dismiss Claimant's claim without prejudice for failure to prosecute. The Commission further found that Claimant's responses to the 41(b) notice were insufficient and did not establish good cause why the claim should remain on the Commission's docket.
9. ***Cory Wiley v. Arkansas Department of Transportation***, Claim No. 230964. Claimant filed this claim for property damage. At the hearing on the pending motions, Claimant failed to appear. J.D. Wilkins appeared on Respondent's behalf. Following confirmation by Commission staff that the hearing notice was emailed to Claimant at the email address

provided by Claimant on the claim form, the Commission dismissed Claimant's claim without prejudice for Claimant's failure to prosecute.

- 10. *Alison Hall v. Arkansas Department of Transportation***, Claim No. 221312. Claimant filed this claim seeking reimbursement of the legal fees she expended related to a counterclaim involving the Arkansas State Highway Commission in Cleburne County Circuit Court. Following entry of an order dismissing Claimant's claim without prejudice based on Claimant's failure to appear at a January 20, 2023, hearing, Claimant filed a motion for reconsideration. At the hearing on Claimant's motion, Claimant appeared *pro se*, and Respondent's counsel was present. The Commission unanimously granted Claimant's motion for reconsideration and heard argument on the underlying motion to dismiss filed by Respondent. The Commission unanimously voted to grant Respondent's motion to dismiss and to dismiss Claimant's claim.
- 11. *Gwenever Wayne v. State of Arkansas***, Claim No. 190479. Claimant filed this claim for death benefits related to the death of firefighter Allen Wayne Sr. from cancer. This claim hearing was held in person at the Commission's office, with Crystal Okoro appearing on Claimant's behalf, and Charles Lyford appearing on behalf of Respondent. Based on a review of the claim file, including the pending motions, the testimony and evidence presented by the parties, the argument of the parties, and the law of the State of Arkansas, the Commission unanimously denied Claimant's claim, although the commissioners relied on different reasons for denial.
- 12. (Other Agency Business)** The Commission reviewed and approved the entry of proposed orders numbered 1–35 on Exhibit A to these minutes without discussion.

This completed all of the business on the May 2023 Commission docket.



Kathryn Irby, Director

Date: March 12, 2024

May 2023

<u>Dropbox No.</u>	<u>Claim No.</u>	<u>Claimant</u>	<u>Agency</u>
1	190817	East	UAMS
2	231017	Billings	ASP
3	231077	Pettit	ASP
4	201111	Sorrells	ASP
5	231014	Parks	ASP
6	190497	Braun & Perry	ASP
7	230867	Land	ADOT
8	230929	Kornuta	ADOT
9	230875	Rose	ADOT
10	231356	Hill	SOA
11	230762	Shockley	ADOT
12	191129	Burriss	ATU
13	221071	BH Auto Sales	DFA
14	220961	Noble	DHS
15	231000	Edwards	ADOT
16	231029	Dailey	ADOT
17	231048	Newman	ADOT
18	230829	Moreland	ADOT
19	230646	ADT Commercial LLC	ADPHT
20	231410	ADT Commercial LLC	ADPHT
21	230437	Pierce	ATU
22	231204	Rogers	DFA
23	231202	Mazurek & Mazurek	DFA
24	230706	Mettel, Inc	DFA
25	231218	Otto & Otto	DFA
26	231140	Williams	DFA
27	221519	Harris	DHS
28	230939	Wilkerson	DHS
29	231260	Feng	DOH
30	230916	Anderson	UAMS
31	231122	Collins	UAMS
32	231130	Das	UAMS
33	231268	Williams	UAMS
34	231175	Lambertus	UAMS
35	231426	Stephens	UAMS
ADC Dropbox			
1	231323	Bowen	ADC
2	221205	Thompson	ADC
3	221092 & 221447	James	ADC
4	230865	Hoover	ADC
5	231350	McMullin	ADC
6	211186	McArthur	ADC
7	221041	Hupp	ADC
8	210746	McClure	ADC

9	230780	Cornelison	ADC
10	220563	Metcalfe	ADC
11	210522	Robinson	ADC
12	200464	Washington	ADC
13	230752	Chism	ADC
14	230735	Hutchinson	ADC