

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

Arkansas State Claims Commission

SEP 26 2018

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr. Mrs. Ms. Miss

Ken Berg

Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces. Claim No., Date Filed, Amount of Claim \$, Fund.

COMPLAINT

Ken Berg the above named Claimant, of P.O. Box 561 Booneville AR 72927 County of Logan represented by of State agency involved: Booneville HDC Amount sought: \$1,1690.65

Month, day, year and place of incident or service: August 01, 2018 on campus at BHDC Explanation: Fixing to go into Commons to eat lunch and a coworker told me my vehicle was backed into, so we went to look and sure enough it had been backed into. My vehicle was parked by the curb.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or office thereof? NO when? to whom? and that the following action was taken thereon:

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? and that the nature thereof is as follows: and was acquired on in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

Ken Berg (Print Claimant/Representative Name) Ken Berg (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Booneville AR on this 19th day of September 2018



Billie Jo Hix (Notary Public)

My Commission Expires: 04/01/2025

SF1-R7-09

ARKANSAS STATE CLAIMS COMMISSION  
MOTOR VEHICLE ACCIDENT REPORT FORM  
SEP 26 2018

SECTION I  
CLAIMANT Ken Berg ADDRESS P.O. Box 561  
CITY & STATE Booneville AR ZIP CODE 72927  
DATE OF ACCIDENT: 08/01/2018 19 TIME: 12:57  
MOTOR VEHICLE DAMAGED: TYPE Car MAKE Volvo YEAR 1995  
DRIVEN BY: ADDRESS

Give a brief description of accident, showing how accident happened, exact loss and extent of damage to car.  
Parked by the curb, was going to lunch and coworker saw that my car was backed into.

\*\*\*\*\*

SECTION II  
Has this vehicle been repaired? Yes ( ) No (✓) If repairs have been made, give the following information: Amount \$ \_\_\_\_\_ Have you paid for the repairs? Yes ( ) No (✓) NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and attach copies of each of them.

NAME	ADDRESS	AMOUNT
1 <u>Street Rod Specialties</u>	<u>3831 Powder Road Booneville</u>	<u>\$1690.65</u>
2 <u>Ed Williams Body Shop, Inc</u>	<u>201 Pennington Drive Paris, AR</u>	<u>1756.81</u>
3 <u>Certified Auto Repair</u>	<u>3087 E. State Hwy 10 Booneville</u>	<u>1997.83</u>

\*\*\*\*\*

SECTION III  
Was vehicle covered by Insurance? Yes ( ) No ( ) Liability Only (✓)  
Comprehensive: Yes ( ) No (✓) What is your deductible? \$ \_\_\_\_\_  
Collision: Yes ( ) No (✓) What is your deductible? \$ \_\_\_\_\_

NAME OF INSURANCE CARRIER ADDRESS  
State Farm Booneville

\*\*\*\*\*

SECTION IV  
Type of State Vehicle involved Food Service Van License No. 362 HK  
Driver: Jeff Cameron Property of which State Agency IDS / BHDC  
County Deputy  
If accident was investigated by the State Police, give name of investigating Deputy officer: Chappell If investigation was made by some other agency, give name and title of officer making the investigation: Logan County Sheriff's Office - Deputy Chappell

\*\*\*\*\*

SECTION V  
The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.



Ken Berg  
Signature of Claimant

(Notary Seal)

Sworn to and subscribed before me at Booneville AR City, State  
on this 19th day of September, 19 18 year

My Commission Expires 04/01/2025

Billie Jo Hix  
Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KEN BERG

CLAIMANT

V.

CLAIM NO. 190405

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by the Arkansas Department of Human Services (the “Respondent”) to dismiss the claim of Ken Berg (the “Claimant”). Claimant did not respond to the motion. Based upon a review of the motions, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed the instant claim on September 26, 2018, alleging \$1,690.65 in damages to Claimant’s vehicle. Claimant alleged that another vehicle backed into his vehicle while his vehicle was parked by the curb.

2. Respondent filed a motion to dismiss pursuant to Rule 12(b)(6), arguing, *inter alia*, that Claimant’s vehicle was damaged while he was parked in a no parking zone, such that the responsibility for any damage lies solely with Claimant.

3. Claimant did not respond to the motion to dismiss.

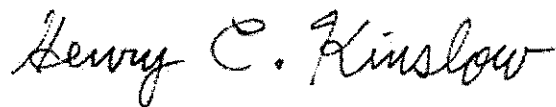
4. In reviewing this motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at \*6, 380 S.W.3d 377, 382. The facts alleged in the complaint will be treated as true, but not “a plaintiff’s

theories, speculation, or statutory interpretation.” *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).

5. Applying the *Hodges* standard to this claim, dismissal is appropriate. Claimant has not alleged sufficient facts to support a claim against Respondent.

6. Respondent’s motion to dismiss is GRANTED pursuant to Ark. R. Civ. Proc. 12(b), and Claimant’s claim is DISMISSED without prejudice.

IT IS SO ORDERED.



---

ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird  
Dexter Booth  
Henry Kinslow, Co-Chair  
Paul Morris, Co-Chair  
Sylvester Smith

DATE: March 15, 2019

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

Arkansas  
State Claims Commission

APR 5 2019

RECEIVED

To Whom it may concern

From Ken Berg

Date: 4/03/2019


Subject: Claim No. 190405

I am filing for a Notice of Appeal and or Reconsideration.

I never receive any paper work in the mail other than the first letter I received that had the claim number on it and to hold for reference and the second letter I received had the motion of to dismiss the claim stating I never responded to a previous letter that I never received.

I do not want to dismiss the claim and would like to receive the money for the damages to my car.

Ken Berg

  
4/3/2019

Work Phone 479-675-5009

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KEN BERG

CLAIMANT

V.

CLAIM NO. 190405

ARKANSAS DEPARTMENT OF  
HUMAN SERVICES

RESPONDENT

**ORDER ON CLAIMANT'S  
MOTION FOR RECONSIDERATION**

Now before the Arkansas State Claims Commission (the "Claims Commission") is a motion filed by Ken Berg (the "Claimant") for reconsideration of the Claims Commission's March 15, 2019, order denying and dismissing Claimant's claim against the Arkansas Department of Human Services (the "Respondent"). Based upon a review of the pleading, the arguments made therein, and the law of Arkansas, the Claims Commission hereby unanimously finds as follows:

1. Claimant filed his original claim on September 26, 2018, claim seeking \$1,690.65 in damages to his vehicle at the Booneville Human Development Center.

2. Respondent filed a motion to dismiss, arguing that Claimant's vehicle was damaged while he was parked in a no-parking zone, such that the responsibility for any damage lies solely with Claimant. The Claims Commission agreed and granted Respondent's motion on March 15, 2019.

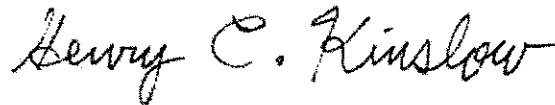
3. Claimant thereafter filed the instant motion for reconsideration, arguing that he did not receive the motion to dismiss, does not want to dismiss the claim, and would like to receive the money for the damage to his vehicle.

4. In analyzing a motion for reconsideration, Rule 7.1 of the Claims Commission Rules and Regulations states that motions for reconsideration "will only be entertained if they set forth new or additional evidence which was not [previously] available . . . ."

5. The Claims Commission finds that the motion does not set forth new or additional evidence not previously available. Claimant's motion does not provide any substantive response to Respondent's motion to dismiss. As such, Claimant's motion for reconsideration is DENIED, and the March 15, 2019, Claims Commission order remains in effect.

6. In light of the fact that Claimant's motion for reconsideration was alternatively identified as a Notice of Appeal, the Claims will enter this order and transmit the claim to the Arkansas General Assembly pursuant to Ark. Code Ann. § 19-10-211.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird  
Dexter Booth  
Henry Kinslow, Co-Chair  
Paul Morris, Co-Chair  
Sylvester Smith

DATE: April 25, 2019

**Notice(s) which may apply to your claim**

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(b)(3). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(b). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).