

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

GLORIA SUE STANDISH,)	
)	
Claimant,)	IC 2008-012664
v.)	
)	
AMERICAN AIRLINES,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Employer,)	AND RECOMMENDATION
and)	
)	
SPECIALTY RISK SERVICES,)	FILED OCT 3 2008
)	
Surety,)	
Defendants.)	
_____)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Commission assigned this matter to Referee Douglas A. Donohue. This matter was initiated by a Complaint. Richard S. Owen represented Claimant. Defendants did not answer Claimant’s Complaint. Default was entered August 8, 2008. On September 18, 2008, Defendants moved to set aside the default. Defendants were represented by R. Daniel Bowen. A hearing on the motion preceded the hearing on Claimant’s proof of entitlement to benefits. Defendants’ motion to set aside default was denied as untimely.

The hearing on default was held September 25, 2008. It is now ready for decision.

FINDINGS OF FACT

1. Before evidence was taken in this matter, Claimant acknowledged that Specialty Risk Services is a third-party administrator (“TPA”), not the surety for Employer.

RECOMMENDATION - 1

2. Upon correspondence between Claimant and a representative of TPA, all parties were aware that an Idaho action would be filed.

3. TPA was served by mail to its corporate office in Texas.

4. TPA maintains an office in Idaho.

Discussion and Further Findings

5. JRP 4(B)(1) requires service of process in Idaho.

6. Surety for Employer is an indispensable party in this matter.

7. Claimant's Complaint should be dismissed without prejudice and Claimant should be afforded a reasonable opportunity to file and properly serve a new Complaint which correctly identifies the indispensable parties.

CONCLUSIONS OF LAW

Claimant's Complaint should be dismissed without prejudice. Claimant is expected to promptly refile, identifying indispensable parties, and to properly serve the new Complaint.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing findings of fact and conclusions of law and issue an appropriate final order.

DATED this 25th day of September, 2008.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

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2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 3RD day of OCTOBER, 2008.

INDUSTRIAL COMMISSION

/S/ _____
James F. Kile, Chairman

/S/ _____
R. D. Maynard, Commissioner

/S/ _____
Thomas E. Limbaugh, Commissioner

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 3RD day of OCTOBER, 2008 a true and correct copy of **FINDINGS, CONCLUSIONS, AND ORDER** were served by regular United States Mail upon each of the following:

Richard S. Owen
P.O. Box 278
Nampa, ID 83653

R. Daniel Bowen
P.O. Box 1007
Boise, ID 83701

db

/S/ _____