

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

FRANKLIN ECKROTE,

Claimant,

v.

PRECISION FEED SYSTEMS aka Floyd Ag,

Un-insured Employer,

Defendant.

**IC 2016-006833**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

Filed December 2, 2016

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**INTRODUCTION**

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper, who conducted a hearing in Twin Falls, Idaho, on October 17, 2016. Claimant represented himself *pro se*. No one was present on behalf of Employer. Oral and documentary evidence was admitted. The Claimant waived post-hearing briefs, and instead made oral arguments at the hearing. The matter came under advisement on October 19, 2016.

**ISSUES**

The issues to be decided are:

1. Whether Claimant is entitled to medical care benefits pursuant to Idaho Code § 72-432; and
2. Whether Employer is liable to Claimant for the penalties set forth in Idaho Code § 72-210 for failing to insure liability.<sup>1</sup>

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<sup>1</sup> On the record at hearing, Claimant waived his right to seek benefits other than those listed herein.

## **CLAIMANT'S CONTENTIONS**

Claimant was injured while in the course and scope of his employment with Employer. The injury required medical intervention, with related expenses. Employer failed to secure worker's compensation insurance, and further failed to pay any medical expenses associated with Claimant's industrial accident. Claimant is entitled to reimbursement for his medical expenses. Employer is subject to the penalties prescribed by Idaho Code § 72-210 for failing to maintain worker's compensation insurance to cover this accident. Defendant waived its right to defend this action by its failure to respond to the complaint and/or make any effort to defend itself.

## **EVIDENCE CONSIDERED**

The record in this matter consists of the following:

1. Claimant's testimony, taken at hearing;
2. Claimant's Exhibits (CE) 1 through 6, admitted at hearing.<sup>2</sup>

## **FINDINGS OF FACT**

1. Claimant was an employee of Defendant on February 2, 2015. On that date, Claimant was helping to install a conveyor/auger for a client of Employer when his hand slipped into an unprotected chain and sprocket assembly. Claimant's left little finger caught on the chain and went through the sprocket.

2. Claimant was seen on the day of the accident at St. Luke's Magic Valley Clinic (St. Luke's) for treatment of his injured finger. Claimant was concerned that the hospital could not find an account for either Precision Feed or Floyd Agriculture.

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<sup>2</sup> At hearing, Claimant waived his right to brief the issues; furthermore he waived closing oral argument.

Nevertheless, the medical staff (Nick Perius, PA-C) provided Claimant's needed medical care that day.

3. Claimant next treated with Tyler Wayment, M.D., a Twin Falls hand surgeon. Dr. Wayment diagnosed a mallet finger deformity of the left small finger with collateral ligament tear. Claimant's finger was surgically repaired. Claimant continued to treat with Dr. Wayment through the post-surgical recovery process.

4. As the result of this injury, Claimant incurred medical expenses, discussed further below.

5. Claimant was unsuccessful in obtaining worker's compensation coverage for this accident. He researched the matter through the Idaho Industrial Commission and discovered Employer had not obtained worker's compensation insurance since 2009.

6. Due to Employer's failure to maintain worker's compensation insurance, Claimant became personally liable for payment of accrued medical expenses related to the accident in question.

## **DISCUSSION AND FURTHER FINDINGS**

### ***Causation***

7. Claimant must prove not only that he was injured, but also that the injury was the result of an accident arising out of and in the course of employment. *Seamans v. Maaco Auto Painting*, 128 Idaho 747, 751, 918 P.2d 1192, 1196 (1996). Claimant must provide medical testimony of causation to a reasonable degree of medical probability. *Langley v. State, Industrial Special Indemnity Fund*, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995). However, magic words are not necessary to show a doctor's opinion is held to a reasonable degree of medical probability; only their plain and unequivocal testimony conveying a conviction that events are causally related. *Jensen v. City of Pocatello*, 135 Idaho 406, 412-13, 18 P.3d 211, 217-18 (2001).

8. The medical records establish that Claimant's treatment was causally related to an undisputed industrial accident. Although none of the records specifically state the phrase "to a reasonable degree of medical probability," a review of the records as a whole clearly establishes that Claimant's treatment was wholly and directly for a traumatic finger injury and all medical efforts were directed at its repair. Claimant's sworn testimony established the mechanism of injury, and the fact that it occurred in the course of and arising out of Claimant's employment with Employer. Finally, there is no allegation or evidence of any alternate, or intervening, causes of Claimant's injury.

9. Claimant has proven causation.

### ***Medical Benefits***

10. The next issue is Claimant's entitlement to medical care. Idaho Code § 72-432(1) mandates that an employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches, and apparatus, as may be reasonably required by the employee's physician or needed immediately after an injury or manifestation of an occupational disease, and for a reasonable time thereafter. If the employer fails to provide the same, the injured employee may do so at the expense of the employer.

11. Claimant's exhibits and sworn testimony establish the fact that Claimant incurred medical bills directly related to his industrial accident in the sum of \$12,362. None of these charges have been paid by Employer or any entity on Employer's behalf.

12. Claimant has proven his right to medical benefits in the sum of \$12,362.



**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of December, 2016, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

FRANKLIN ECKROTE  
3101 LAURELWOOD DR  
TWIN FALLS ID 83301

PRECISION FEED SYSTEMS/FLOYD AG  
PO BOX 487  
GOODING ID 83330

\_\_\_\_\_/s/\_\_\_\_\_

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FRANKLIN ECKROTE,

Claimant,

v.

PRECISION FEED SYSTEMS, aka Floyd Ag,

Un-insured Employer,

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**ORDER**

Filed December 2, 2016

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Pursuant to Idaho Code § 72-717, Referee Brian Harper submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has proven he is entitled to reasonable medical benefits for his February 2, 2013 industrial injury in the amount of \$12,362.00.
2. Claimant has proven he is entitled to a 10% penalty pursuant to Idaho Code § 72-210 in the amount of \$1,236.20.
3. The total amount of workers' compensation benefits and penalties due and owing to Claimant from Employer is \$13,598.20.

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

DATED this 2<sup>nd</sup> day of December, 2016.

INDUSTRIAL COMMISSION

\_\_\_\_\_/s/\_\_\_\_\_  
R.D. Maynard, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas E. Limbaugh, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas P. Baskin, Commissioner

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of December, 2016, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

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3101 LAURELWOOD DR  
TWIN FALLS ID 83301

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PO BOX 487  
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