

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARY THOMPSON,

Claimant,

v.

STATE OF IDAHO, INDUSTRIAL SPECIAL
INDEMNITY FUND,

Defendant.

IC 2011-028403

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

Filed August 30, 2016

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Alan Taylor, who conducted a hearing in Twin Falls on August 19, 2015. Claimant, Mary Thompson, was present in person and represented by Keith E. Hutchinson, of Twin Falls. Defendant State of Idaho, Industrial Special Indemnity Fund (ISIF), was represented by Anthony Valdez, of Twin Falls. The parties presented oral and documentary evidence. Post-hearing depositions were taken and briefs were later submitted. The matter came under advisement on May 3, 2016. The Commission has reviewed the Referee's proposed decision and disagrees with the treatment given by the Referee to the pre-existing condition, but not in the ultimate outcome. Therefore, the Commission substitutes this opinion for that of the Referee.

ISSUES

The issues to be decided presently are:¹

¹ The issue of whether Claimant is permanently and totally disabled pursuant to the odd-lot doctrine or otherwise was noticed for hearing. However, ISIF's briefing effectively acknowledges that Claimant is totally and permanently disabled.

1. Whether the Industrial Special Indemnity Fund is liable under Idaho Code § 72-332.
2. Apportionment under the Carey formula.

CONTENTIONS OF THE PARTIES

Claimant asserts she is totally and permanently disabled pursuant to the odd-lot doctrine due to the combined effects of her pre-existing non-industrial left shoulder injury and her 2011 industrial right shoulder injury. She requests apportionment of liability to ISIF under the Carey formula. ISIF denies liability arguing that Claimant's pre-existing non-industrial left shoulder injury was not a pre-existing permanent impairment because her left shoulder injury had not reached maximum medical improvement at the time of her 2011 industrial right shoulder injury. ISIF also asserts that Claimant's industrial right shoulder injury and ensuing complex regional pain syndrome (CRPS) produced total permanent disability. Thus, her pre-existing left shoulder condition did not combine with her industrial accident to render her totally and permanently disabled.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The Industrial Commission legal file;
2. The testimony of Claimant taken at hearing;
3. Claimant's Exhibits 1 through 12 admitted at hearing;
4. Defendant's Exhibits AA through CC and EE, admitted at hearing;
5. The post-hearing deposition testimony of C. Scott Humphrey, M.D., taken by Claimant on September 18, 2015;

6. The post-hearing deposition testimony of Jonathan D. Myers, M.D., taken by Claimant on October 27, 2015;
7. The post-hearing deposition testimony of Nancy Collins, Ph.D., taken by Claimant on December 16, 2015; and
8. The post-hearing deposition testimony of Douglas N. Crum, CDMS, taken by ISIF on December 16, 2015.

All objections posed during the depositions are overruled.

FINDINGS OF FACT

1. Claimant was 57 years old and resided in Jerome at the time of the hearing. She was born in California and lived in England until moving to Jerome when she was 12 years old. She is right handed. Claimant attended high school but quit during the 10th grade. She has never obtained a GED. After leaving high school she worked as a waitress. By 1982, she was working at Idaho Frozen Foods where she worked for at least 10 years. Her duties included inspecting potatoes, loading boxes, and driving a forklift.

2. Upon encouragement from a friend, Claimant applied for and was hired at First Interstate Bank as a teller, where she worked for five years. Thereafter she worked at various banking and financial service institutions as a teller, loan processor, and eventually as a branch manager at Home Federal Bank. She became computer literate in various programs performing word processing and spreadsheets. She gained extensive customer service skills and also experience managing loans, savings accounts, checking accounts, money market accounts and IRAs. She also became an experienced manager, hiring, firing, and supervising employees. She later became a licensed loan officer and also worked as a bookkeeper for a milk transportation

company. With changes in the economy and financial institution ownership, Claimant began teaching cake decorating classes at a craft store.

3. Prior to 2011, Claimant had a number of health issues resulting in various treatments including surgeries. However, she does not allege and the record does not establish that any of these health issues hindered her ability to perform her usual work.

4. For exercise during cold weather, Claimant walked four miles per day, five days per week in the mall. On February 4, 2011, Claimant tripped on a curb as she approached the mall and fell, breaking her left proximal humerus near the shoulder. Conservative care did not produce satisfactory healing and on April 18, 2011, Frederick Surbaugh, M.D., performed left shoulder hemiarthroplasty. Thereafter Claimant was not able to regain full range of motion and in August 2011, Dr. Surbaugh performed left shoulder manipulation under anesthesia.

5. Claimant applied on-line for work at Pioneer Federal Credit Union (Pioneer). She presented for an interview with her left arm still in a sling. She was hired, but requested two weeks before starting to allow her left shoulder additional time to heal. Pioneer obliged.

6. On September 12, 2011, Dr. Surbaugh released Claimant to work at Pioneer without restrictions at her request. She was not in a sling when she started working at Pioneer; however, she noted intermittent and unpredictable left shoulder spasms when working. She continued to perform home exercises for her left shoulder.

7. On November 15, 2011, Claimant was working for Pioneer when she pulled her cash drawer from its storage shelf with both hands. Her left hand slipped and the cash drawer fell to the floor, yanking her right shoulder. She noted immediate difficulty raising her right arm and within a short time was unable to move her right arm. She reported the incident and sought

medical treatment from Dr. Surbaugh. He diagnosed rotator cuff tears, which were subsequently confirmed by MRI. Prompt right shoulder surgery was recommended.

8. On December 21, 2011, Dr. Surbaugh performed right shoulder surgery. Claimant's recovery following surgery was slow. Dr. Surbaugh retired and his partner, John Howar, M.D., assumed care. On May 29, 2012, Dr. Howar noted that Claimant was developing CRPS type II in her right shoulder.² Claimant's right shoulder has been chronically afflicted with CRPS since that time and has required ongoing pain medications.

9. Claimant's left shoulder continued to be symptomatic with very limited range of motion. Dr. Howar referred Claimant to Scott Humphrey, M.D., for further left shoulder treatment. Dr. Humphrey examined Claimant and noted left shoulder capsular contracture. When Dr. Humphrey examined Claimant, she was unable to elevate her left arm beyond 30 degrees.³ Claimant was unable to reach forward or do any overhead lifting.

10. In December 2013, Claimant began receiving Social Security Disability Benefits.

11. In 2014, Dr. Humphrey performed a reverse total left shoulder arthroplasty with a pectoralis major muscle transfer and capsular contracture release. He later described this as a salvage procedure to make the best of a bad situation. The surgery improved Claimant's left shoulder pain and range of motion. Dr. Humphrey examined her in March 2015 and recorded her left shoulder forward elevation of 150 degrees. He later restricted her to lifting 25 pounds occasionally and five pounds repetitively to avoid premature wear of her prosthetic left shoulder.

² CRPS (complex regional pain syndrome) is characterized by intense burning pain much more than would be expected for the type of injury sustained. The pain worsens, rather than improves over time and is aggravated by the slightest touch. It may begin at the point of injury but often spreads to affect the entire limb and even the arm or leg on the opposite side of the body. CRPS results in changes in skin temperature and nail and hair growth. Over time CRPS produces blotchy skin coloration, skin swelling, cracked nails, stiff painful joints, and muscle weakness and wasting. Claimant's Exhibit 9, pp. 466-467.

³ Normal forward elevation is approximately 160 degrees; forward elevation of 90 degrees is approximately shoulder level. Humphrey Deposition, p. 13.

12. Claimant looked for work after her shoulder injuries; however, she concluded that she could not perform half of the physical requirements of the prospective jobs she located.

13. Claimant's right shoulder CRPS has persisted and worsened, extending to the right elbow. She believes if she just had one good arm she could do some kind of work and if she only had one symptomatic arm she could take less or perhaps no pain medication. There is some suggestion her CRPS may be starting to spread to her left shoulder; however, no physician has so determined. Claimant sees Dr. Myers as needed to manage pain medications, including prescription narcotics, for her CRPS.

14. Claimant has not returned to work since her right shoulder injury. She is totally and permanently disabled.

15. **Credibility.** Having observed Claimant at hearing, and compared her testimony with other evidence in the record, the Referee finds that Claimant is a credible witness. The Commission finds no reason to disturb the Referee's findings and observations on Claimant's presentation or credibility.

DISCUSSION AND FURTHER FINDINGS

16. The provisions of the Idaho Worker's Compensation Law are to be liberally construed in favor of the employee. Haldiman v. American Fine Foods, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. Ogden v. Thompson, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. Aldrich v. Lamb-Weston, Inc., 122 Idaho 361, 363, 834 P.2d 878, 880 (1992).

17. **ISIF liability.** Claimant asserts that ISIF is liable pursuant to Idaho Code § 72-332 which provides that if an employee who has a permanent physical impairment

from any cause or origin, incurs a subsequent disability by injury arising out of and in the course of his employment, and by reason of the combined effects of both the pre-existing impairment and the subsequent injury suffers total and permanent disability, the employer and its surety will be liable for payment of compensation benefits only for the disability caused by the injury, and the injured employee shall be compensated for the remainder of his income benefits out of the ISIF account. Idaho Code § 72-332(2) further provides that “permanent physical impairment” is as defined in Idaho Code § 72-422, provided, however, as used in this section such impairment must be a permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining re-employment if the claimant should become unemployed. This shall be interpreted subjectively as to the particular employee involved; however, the mere fact that a claimant is employed at the time of the subsequent injury shall not create a presumption that the pre-existing physical impairment was not of such seriousness as to constitute such hindrance or obstacle to obtaining employment.

18. In Dumaw v. J. L. Norton Logging, 118 Idaho 150, 795 P.2d 312 (1990), the Idaho Supreme Court summarized the four requirements a claimant must meet to establish ISIF liability under Idaho Code § 72-332. These include: (1) whether there was indeed a pre-existing impairment; (2) whether that impairment was manifest; (3) whether the impairment was a subjective hindrance to employment; and (4) whether the impairment in any way combined with the subsequent injury to cause total disability. Dumaw, 118 Idaho at 155, 795 P.2d at 317. In the present case, the parties focus their dispute on the first and last elements of the Dumaw test. These elements are addressed below.

19. Pre-existing impairment. The pre-existing permanent impairment at issue herein

is Claimant's left shoulder condition prior to her 2011 industrial accident. Claimant has presented no permanent impairment rating for her left shoulder condition, but nevertheless asserts that it constituted a permanent impairment at the time of her right shoulder injury at Pioneer. Defendant responds that Claimant's left shoulder condition was not medically stable at the time of her right shoulder industrial accident.

20. Claimant's initial left shoulder injury occurred when she fell near the mall in February 2011. Dr. Surbaugh performed her first left shoulder surgery in April 2011. When Dr. Surbaugh released Claimant to work as a teller on September 12, 2011, he did so "knowing that her dominant arm was in good working order and she should be able to fulfill the job as a teller as long as she had that dominant hand. At that time her left shoulder was still quite dysfunctional." Humphrey Deposition, Exhibit 1.

21. Claimant required left shoulder manipulation under anesthesia in August 2011, a second left shoulder manipulation under anesthesia in December 2011, and a third left shoulder manipulation under anesthesia in April 2013. Claimant required three manipulations under anesthesia because her left shoulder had become stiff, painful, and "frozen." At the time of her right shoulder surgery, her left shoulder was manipulated again because it had become frozen yet again. At her pre-hearing deposition on February 20, 2014, she testified her left shoulder was worse than her right shoulder. She had extremely limited range of motion (30 degrees of forward elevation), could not lie on her left shoulder, and described it as swollen, enlarged, and painful all the time.

22. Claimant first saw Dr. Humphrey in June 2013. He performed her second left shoulder surgery in July 2014. Dr. Humphrey testified that when he first saw Claimant in June 2013, her left shoulder condition was about the same and not improving even after three

manipulations under anesthesia. He testified that after Claimant's first left shoulder surgery she was losing cartilage on the glenoid and the metal head of the prosthetic implant would have continued to erode the bone. Her left shoulder condition improved substantially with the second surgery in July 2014. Dr. Humphrey opined that Claimant was medically stable at the time of his deposition on September 18, 2015.

23. The surgery Dr. Humphrey performed in 2014 greatly improved Claimant's left shoulder condition. It was not until after her second left shoulder surgery that she improved significantly and achieved maximum medical rehabilitation.

24. From the foregoing, we conclude that at the time of the November 15, 2011 industrial accident, Claimant suffered from a progressively worsening left shoulder condition. In the recent case Ritchie v. ISIF, (IIC, Filed August 15, 2016), the Commission had occasion to consider how a progressive pre-existing condition should be treated for purposes of evaluating ISIF liability. Relying on Colpaert v. Larsen's, Inc., 115 Idaho 852, 771 P.2d 46 (1989), the Commission concluded that for a progressive pre-existing condition, elements of ISIF liability must be assessed as of a date immediately preceding the work accident. In this regard, the Commission stated:

From *Colpaert*, it is clear that in determining whether the elements of ISIF liability are satisfied, a pre-existing condition must be assessed as of the date immediately preceding the work injury. A snapshot of Claimant's pre-existing condition must be taken as of that date, and from that snapshot Claimant's impairment must be determined, as well as whether Claimant's condition was manifest and constituted a subjective hindrance to Claimant. Finally, it must be determined whether Claimant's pre-existing condition, as it existed immediately before the work accident, combines with the effects of the work accident to cause total and permanent disability. *Colpaert* lends no support to the proposition that in evaluating ISIF liability for a pre-existing but progressive condition, that condition should be assessed as of the date of hearing, i.e. at a time when Claimant's condition is much worse.

In order to determine whether a pre-existing condition constituted a subjective hindrance as of a point in time immediately preceding a work accident, one must assess, as the Commission did in *Colpaert*, the nature of the limitations/restrictions extant as of that date. It follows that in determining whether the pre-existing condition combines with the effects of the work accident to cause total and permanent disability, that assessment, too, must be performed in view of the limitations/restrictions arising from the pre-existing impairment as of a point in time immediately preceding the work accident, not the limitations/restrictions relating to the condition as it may have progressed as of the date of a subsequent hearing. To do otherwise would be to hold the ISIF responsible for something other than a “pre-existing” condition. In what sense can an impairment and related limitations be said to pre-date the work accident when some portion of the impairment and limitations arose after the work accident? The only solution that comports with the statutory design upon holding the ISIF responsible only for pre-existing impairments is to measure all elements of ISIF liability as of a point in time immediately preceding the work accident. *Colpaert* makes it clear that the ISIF cannot be held for the progression of impairment or limitations/restrictions which arise subsequent to the date of injury.

25. While Claimant put on no proof concerning the extent and degree of her left shoulder impairment immediately prior to the work accident, the record makes it clear that Claimant would have been entitled to an impairment rating of some type at that time. Similarly, it seems clear that Claimant’s left shoulder impairment was manifest immediately prior to the subject accident and that it constituted a subjective hindrance to Claimant at that time as well, notwithstanding that Dr. Surbaugh honored Claimant’s request to release her without restrictions at the time she started for Pioneer. Finally, the Commission must determine whether Claimant’s left shoulder condition, as it existed prior to the subject accident can be said to combine with Claimant’s right shoulder condition to cause total and permanent disability. To conduct this assessment, the Commission must consider Claimant’s left shoulder limitations/restrictions as of a date immediately preceding the work accident in light of the right shoulder limitations/restrictions with which she was afflicted as of her date of medical stability following

the right shoulder injury. As explained *infra*, we conclude, as did the Referee, that Claimant's right shoulder condition, standing alone, is sufficient to cause total and permanent disability.

26. Combination. Even assuming that other elements of ISIF liability are met for the Claimant's left shoulder, to establish ISIF liability Claimant must also prove that her pre-existing permanent impairment combined with the subsequent industrial injury to cause total permanent disability. This test "encompasses both the combination scenario where each element contributes to the total disability, and the case where the subsequent injury accelerates and aggravates the pre-existing impairment." Bybee v. State, Industrial Special Indemnity Fund, 129 Idaho 76, 81, 921 P.2d 1200, 1205 (1996). "[T]he 'but for' standard ... is the controlling test for the 'combining effects' requirement. The 'but for' test requires a showing by the party invoking liability that the claimant would not have been totally and permanently disabled but for the pre-existing impairment." Corgatelli v. Steel W., Inc., 157 Idaho 287, 293, 335 P.3d 1150, 1156 (2014), rehearing denied (Oct. 29, 2014).

27. In the present case, Claimant's industrial right shoulder injury and ensuing CRPS have dramatically limited her right shoulder and arm function. She testified in her pre-hearing deposition that she did not know if—even assuming her left shoulder were completely whole and functional—she would be able to find work. She characterized herself as "very right-handed." Exhibit BB, p. 29. All of Claimant's jobs for the last 20 years required her to use her dominant right hand extensively. Through reports and post-hearing depositions, several experts have opined regarding her employability considering solely her right shoulder condition. Their conclusions are examined below.

28. *Dr. Myers*. Jonathan Myers, M.D., is a physical medicine and rehabilitation physician who treated Claimant after her industrial right shoulder injury. Dr. Myers testified that

CRPS is typically very disabling and usually limits use of an entire extremity. He opined with Claimant's CRPS on the right affecting her dominant hand it would be very challenging for her even to do desk work. In his post-hearing deposition, Dr. Myers initially speculated that Claimant could likely find employment if her left shoulder were fully functional. He proffered potential sales associate and department store greeter positions. However, when pressed during cross-examination, Dr. Myers testified as follows:

Q. Why aren't the limitations that are related to her right shoulder, why aren't those, by themselves, eliminating her from those jobs?

A. I think they're not—I mean, I think they're limited—I think the limitations are preventing her from doing those jobs because of the degree of pain she has.

Q. And that's all related to her right arm, correct?

A. Yes.

Myers Deposition, p. 34, l. 25 through p. 35, l. 9.

29. *Dr. Collins.* Vocational expert Nancy Collins, Ph.D., interviewed Claimant, reviewed her medical and work history and evaluated her employability. Dr. Collins comprehensively summarized Claimant's right arm condition and the limitations resulting therefrom thus:

Ms. Thompson described having intense pain around the scar on her right shoulder. She cannot wear her bra strap on the shoulder, but leaves the strap hanging down on the arm. Her arm and hand are cold and if she does anything repetitive with her right arm the hand becomes numb. She can only use a computer for ten minutes before her hand becomes cold and loses function. She is not able to lift over a gallon of milk and she cannot reach above chest level with her right arm. She keeps her arm in close to her body. She describes having spasms in her right shoulder that are painful and keep her from sleeping. She estimates getting two to three hours of sleep a night. Her shoulder and neck on the right are very stiff and she uses a combination of ice packs and heat throughout the day.

Sitting without support will cause the right arm to "go to sleep". Standing also causes the arm to become numb after about ten minutes without support. When

walking, Ms. Thompson hooks her finger on the right hand between buttons on her shirt so her arm is close to the body and not swinging. Ms. Thompson has been prescribed narcotic pain medication by her pain physician. This medication is to help her deal with her chronic pain condition. She is not able to drive while on this medication but she can drive short distances if she has not taken the medication.

Claimant's Exhibit 9, p. 467.

30. Dr. Collins noted that Claimant's "inability to use her right dominant arm and hand longer than 10 minutes will make any kind of work in an office very difficult. Claimant's Exhibit 9, p. 471. Dr. Collins' report concluded:

If Ms. Thompson's right dominant shoulder restrictions are considered alone, I do think her loss of access is close to 95%. It would be very difficult for her to return to any work where she is on a computer or she has to handle money. Her dominant arm and hand limitations eliminate all of her past work. Without her left upper extremity limitations, she might be able to perform some kind of customer service work or reception work if the job did not require keyboarding at a competitive pace.

....

Unfortunately, the combination of both shoulder conditions will realistically leave Ms. Thompson totally disabled. She is not able to reach out from her body with either arm and her dominant arm loses function after a short period of time. Her chronic pain and the need for narcotic pain medication also limit her employability. She has a very limited education which precludes many jobs where hand function is less important.

Claimant's Exhibit 9, p. 472.

31. At her deposition, Dr. Collins testified:

Well, her right-dominant arm restrictions were pretty significant. Where you look at the nature of work, 95 percent of jobs in our labor market require bilateral upper-extremity use on a frequent to constant basis. So it's very significant when you really lose the ability to perform more than occasional work using your dominant arm, so it was a significant injury for her.

In addition to that, she has CRPS, which is a very painful condition, it's a nerve condition, it's exacerbated by activity, but they want you to use your limbs, so it's kind of a confusing injury. So she was dealing with chronic pain, narcotic pain medication.

Collins Deposition, p. 10, ll. 13-25.

32. Dr. Collins did not think that Claimant's right shoulder injury would, in and of itself, completely remove her from work activity. She opined that with a normal left shoulder Claimant could have learned to use a one-handed keyboard with her non-dominant hand, and could have performed some retail sales positions on a half or three-quarter time basis using her non-dominant arm. Collins Deposition, p. 11.

33. *Douglas Crum*. Vocational expert Douglas Crum, CDMS, interviewed Claimant, reviewed her medical and work history and evaluated her employability. Mr. Crum testified that not only were the orthopedic restrictions from Claimant's right shoulder injury significant, but also her subjective complaints, given her CRPS. Claimant reported that due to her right shoulder injury and CRPS she could not write much, use her fingers for very long, could only sleep two or three hours a night, would not be dependable in an office setting, and would not be able to dependably participate in training or retraining. These subjective limitations are similar to those recorded by Dr. Collins. Mr. Crum noted that Claimant's subjective complaints and self-reported limitations also correspond closely with Dr. Myers' observations and report. Mr. Crum opined that considering Claimant's CRPS and her right shoulder injuries, "she probably doesn't have any labor market access." Crum Deposition, p. 23, l. 13. He specifically addressed Dr. Collins' opinion about Claimant's remaining employment options if she had a normal left shoulder:

Q. Dr. Collins felt, earlier this morning when she testified, that Ms. Thompson could do something if her left shoulder was fully functioning. And a couple of those same things she cited were, one, a sales job or, two, clerical work if there was a left-handed-only keyboard. Do you think those—or that is realistic in your opinion?

A. No, it's not.

Q. Why not?

A. Again, she has difficulty being dependable, getting back to work. She has a pain syndrome that causes her to have good days and bad days. And that's, again, in terms of dependability. She has—in terms of typing and keyboarding, there are one-handed keyboards, she doesn't know how to use one, and this would be done with her left hand, which she says is clumsy anyway.

She had also indicated that she—even just the active sitting in a chair or standing or walking makes her right shoulder hurt to the point where she some—has to, you know, take breaks and go ice it and that kind of thing. I think all those things together lead me to the conclusion that the right shoulder, by itself, totally disables her.

Crum Deposition, p. 27, l. 11 through p. 28, l. 9. Mr. Crum's opinion is well explained, supported by the record as a whole and persuasive.

34. Claimant was 53 years old at the time of her industrial accident and 57 years old at the time of hearing. She did not graduate high school and never obtained a GED. Her industrial right shoulder injury and ensuing CRPS preclude her from all of her prior employment positions. The chronic debilitating symptoms from the CRPS in her dominant right upper extremity are well documented from various sources in the record. Dr. Myers' and Mr. Crum's conclusion that Claimant's right shoulder and CRPS totally disable her from employment is persuasive.

35. Even assuming that other elements of ISIF liability are met for the left shoulder, the weight of the evidence does not establish that but for Claimant's left shoulder condition, Claimant's industrial accident would not have rendered her totally and permanently disabled. The final prong of the Dumaw test has not been satisfied.

36. Claimant has not proven that ISIF bears any liability for her left shoulder condition pursuant to Idaho Code § 72-332.

37. **Carey apportionment.** Apportionment pursuant to the formula established in Carey v. Clearwater County Road Department, 107 Idaho 109, 686 P.2d 54 (1984), is moot.

CONCLUSIONS OF LAW

1. Claimant has not proven that ISIF bears any liability for her left shoulder condition pursuant to Idaho Code § 72-332.

2. Apportionment pursuant to the Carey formula is moot.

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

DATED this 30th day of August, 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 30th day of August, 2016, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** was served by regular United States Mail upon each of the following:

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_____/s/_____
