

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

JOHN K. EDMISTON,

Claimant,

v.

INTERMOUNTAIN GAS CO.,

Employer,

and

LIBERTY NORTHWEST INSURANCE  
CORP.,

Surety,  
Defendants.

**IC 2022-028985**

**IC 2022-025001**

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

**FILED JULY 21, 2025  
IDAHO INDUSTRIAL COMMISSION**

---

**INTRODUCTION**

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Sonnet Robinson, who conducted a hearing on July 8, 2024. Claimant, John Edmiston, was present in person and represented by Darin Monroe of Boise. Matt Pappas of Boise represented Defendants. Post-hearing depositions were taken. The matter came under advisement on May 13, 2025 and is ready for decision.

**ISSUES**

The issues<sup>1</sup> to be decided are:

1. Causation;
2. Notice;

---

<sup>1</sup> Permanent partial disability was reserved for future resolution at hearing by agreement of the parties. HT 5:25-6:21.

3. Whether Claimant is entitled to:
  - a. Medical care;
  - b. Temporary partial or temporary total disability benefits (TPD/TTD);
  - c. Permanent partial impairment (PPI)
  - d. Attorney's fees;
4. The extent, if any, that Claimant's condition(s) pre-existed his alleged injury on September 12, 2022;
5. The extent, if any, that Claimant's condition(s) pre-existed his alleged injury on July 26, 2022;
6. The extent, if any, that Claimant's condition is due to a subsequent intervening event.

### **CONTENTIONS OF THE PARTIES**

Claimant contends that he suffered a compensable industrial accident on or about July 26, 2022 and a second compensable industrial accident on September 12, 2022, both of which impacted the same L2-3 segment of his spine. Defendants had timely notice of the first accident. Defendants had actual knowledge of it on September 13, 2022, through Dr. Montalbano's notes and his conversations with the adjuster. Furthermore, Defendants were not prejudiced by the lack of notice. Claimant is entitled to medical care, temporary disability benefits, and permanent partial impairment related to his lumbar condition. Claimant is also entitled to attorney's fees for Defendants' failure to adequately investigate the first claimed accident.

Defendants respond that there was no timely notice of the first accident. There was no “accident” mentioned within Dr. Montalbano’s notes or communications, nor any other report of injury, until September 27, 2022, more than 60 days after the alleged injury. Claimant’s back condition is wholly pre-existing in nature and was not exacerbated or aggravated by either of Claimant’s alleged accidents.

Claimant replies that the objective evidence in the MRI’s of June 15, 2022 and September 7, 2022, shows that Claimant suffered an L2-3 disc herniation and that he reported it as work-related to his treating doctor, though the exact date recorded by his doctor was slightly off. Defendants mischaracterize the evidence and the expert medical opinions which both support that Claimant suffered compensable accidents/injuries. Defendants were not deprived of their opportunity to investigate, and Claimant should be awarded attorney’s fees for their failure to properly investigate.

### **EVIDENCE CONSIDERED**

The record in this matter consists of the following:

1. The Industrial Commission legal file;
2. Joint Exhibits 1-26 (JE);
3. The testimony of Claimant, John Edmiston, and Teresa Nolen taken at hearing;
4. The post-hearing depositions of:
  - a. Richard Radnovich, DO, taken by Claimant;
  - b. Paul Montalbano, MD, taken by Defendant/Employer;

All outstanding objections are overruled.

The parties submitted stipulated facts regarding Claimant’s medical history and treatment, which appear at ¶ 1 through ¶ 69.

### **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 3**

After having considered the above evidence and the arguments of the parties, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

### **STIPULATED FACTS**

1. On January 14, 1975, Claimant was born in Fountain Valley, California. (JE 22 at 7:2).

2. In December, 1998, Claimant was involved in an automobile accident, although no injuries were reported. (JE 25 at 840, 936, 1002).

3. In 1999, Claimant experienced an industrial injury while working in HVAC, carrying a compressor on a roof, and treated it conservatively. (JE 22 at 14:4–15:6; JE 10 at 181). That same year, Claimant worked at MDC Service Corporation in Fullerton, California. (JE 22 at 14:4). The injury occurred on September 17, 1999, when Claimant injured his lower back while employed as a Heating & A/C Installer/Service. (JE 3 at 3–8; JE 25 at 536, 546, 567, 588, 645, 661–663, 693, 800, 822, 839, 998, 1001). Claimant felt a popping in his lower lumbar region while stepping off his truck down three to four feet to the ground. (*Id.*) Claimant felt excruciating pain that prevented him from standing up straight. (*Id.*) Reportedly, Claimant also felt dizziness and lightheaded combined with feeling “hot.” (*Id.*) Claimant was diagnosed with a low back sprain, and advised to remain off work for several days. (*Id.*)

4. The next day Claimant was seen at Chapman Global Medical Center and was treated for low back pain. (JE 3 at 9). It was noted that Claimant exhibited mild scoliosis in the lumbar spine and had issues regarding forward flexion. (*Id.*) On September 22, 1999,

Claimant underwent an x-ray of the lumbar area and received myofascial treatment. (JE 25 at 760). In a December 22, 1999 report, Dr. Dmitri Sirakoff noted prior chiropractic treatment, x-rays, and how Claimant was temporary totally disabled. (*Id.* at 838–846). Dr. Sirakoff also noted decreased lordotic curve, as well as tenderness in the lumbar spine and some limitation in flexion of the legs. (*Id.*)

5. The record also noted another injury that occurred sometime in 1999 or 2000, where Claimant experienced a low back strain while hoisting a compressor onto a roof with a rope. (JE 22 at 16:11–17:14). Claimant stated that [he] nearly blacked out from the strain and has since experienced chronic low back pain. (JE 10 at 181). Claimant was also reportedly off work for a number of months due to this incident. (JE 17 at 336).

6. On January 19, 2000, Claimant experienced a flare up of his lower back. (JE 25 at 613). Two days later, Claimant’s attorney informed Zurich Insurance that Claimant had begun working again. (*Id.* at 536). Shortly after, on January 28, 2000, Claimant resigned from the position due to ongoing complaints in his back (*Id.* at 827). On February 14, 2000, Dr. Sirakoff conducted a medical evaluation finding complaints of numbness and pain in the spine and issued work restrictions. (*Id.* at 614). During this time, Claimant received myofascial treatment and spine adjustments (See, e.g., JE 25 at 796). On March 9, 2000, Dr. Michael Berry performed an updated evaluation of Claimant and continued the myofascial releases and spinal adjustments. (JE 25 at 613). On March 27, 2000, Claimant reported a flare up of his back condition again and Dr. Berry recommend further lumbar treatment in his evaluation on April 1, 2000. (*Id.* at 894).

7. On April 24, 2000, Dr. Sirakoff found Claimant still in recovery from his workplace incident. (*Id.* at 865). On September 25, 2000, Dr. Berry saw Claimant and

continued the recommended treatment of spine manipulation. (*Id.* at 607). On December 21, 2000, Claimant experienced a flare up with moderate lumbar back pain. (JE 25 at 945). Dr. Berry examined Claimant on January 15, 2001, and continued Claimant's recommended treatment of physical therapy as well as continuing work restrictions. (*Id.*)

8. On April 14, 2002, Claimant had another flare-up of moderate low back pain radiating down his right leg. (*Id.* at 603, 947). However, Dr. Berry also issued an approval to return to full duty work from that examination on April 17, 2002. (*Id.*) On June 18, 2002, Claimant experienced another flare up but was still able to work full duty. (*Id.* at 602). These flare ups continued occurring on July 24, 2002, as well. (*Id.* at 598). On October 21, 2002, Claimant experienced another flare up while sitting at his desk for a prolonged period of time. (*Id.* at 596). By November, 2002, Claimant had moved and changed chiropractic physicians to Dr. Thomas Demose. (*Id.* at 594).

9. Sometime in 2005, Claimant had injured his eye when bailing wire struck his eye. (JE 22 at 40:14).

10. In December, 2009, Claimant commenced employment with Able Engineering as a Property Manager, earning \$26 to \$30 per hour. (JE 22 at 29:20–30:21). He worked there until September, 2011, at which point he briefly worked for Liberty Mechanical. (*Id.* at 34:9–35:7). During his time at Liberty Mechanical in 2011, Claimant experienced a slip-and-fall on a ladder—falling about eight to ten feet—and fractured his right foot. (*Id.* at 31:16–32:24).

11. Claimant moved to Idaho in April, 2012. (JE 22 at 34:9–35:7). He began working for Jim's Heating & Cooling as an HVAC Technician and later joined Colliers in December, 2012, as a building maintenance worker. (JE 22 at 35:5–37:12).

12. On January 14, 2013, Claimant experienced an ankle injury while working through Gem State Staffing. (JE 22 at 38:19; JE 24 at 489).

13. On February 6, 2014, Claimant dealt with a melanoma diagnosis necessitating extensive treatment, including wide excision surgery, sentinel lymph node biopsy, and removal of a basal cell carcinoma on the clavicle with Dr. Jon Getz performing much of the procedure. (JE 9 at 168; JE 13 at 247). Claimant also began noticing anemia, fatigue, and intermittent hemorrhoidal bleeding. (JE 4 at 30; JE 15 at 271, 308).

14. On August 7, 2014, Claimant had a medical appointment at Pioneer Family Medicine for a headache lasting four days and was assessed with acute sinusitis, unspecified. (JE 4 at 12–13).

15. On October 13, 2014, Claimant reported eye issues to Dr. Jason Ludwig and received a referral to an optometrist. (JE 4 at 14).

16. On February 16, 2015, Claimant had fasting labs for a routine examination. (JE 4 at 16–29). Claimant continued medical appointments for anemia and fatigue, underwent colonoscopy (February 27, 2015), examination (March 16, 2015), upper GI endoscopy (April 2, 2015) to find the source of his anemia, and was monitored closely by his physician for iron deficiency anemia and myalgia including being excused from work (April 9, 2015). (JE 4 at 30).

17. On April 14, 2015, he underwent upper endoscopy and colonoscopy with no detected source of bleeding, remained iron deficient, and arranged a hematology appointment. (JE 4 at 34–36).

18. During May 12, 2015, Claimant visited with Dr. Ludwig for an examination and X-ray of his chest from reported tightness and shortness of breath. (*Id.* at 37, 39). Dr. Ludwig also identified an old left rib fracture from the X-ray. (*Id.*)

19. On July 6, 2015, he was preparing for colon surgery and expected to miss work in August, 2015, for recovery. (*Id.* at 40–43). He continued follow-ups at Pioneer Family Medicine for sore nose, iron deficiency anemia, open wounds, and general health conditions, on August 3, 2015, and August 27, 2015. (*Id.* at 44–45).

20. On October 12, 2015, Claimant saw Dr. Ludwig for removal of a scalp lesion diagnosed as basal cell carcinoma. (*Id.* at 47–51).

21. On February 8, 2016, Claimant continued medical follow-ups, including at the colon and rectal surgery clinic, and lab reviews showing slightly low iron but no anemia. (JE 4 at 52–54; JE 6 at 108).

22. On April 29, 2016, he was involved in a personal automobile accident where the other driver rear-ended Claimant. (JE 24 at 487, 496).

23. May 23, 2016, Claimant underwent evaluations for digestive issues, (JE 4 at 52–54).

24. On July 18, 2016, Claimant had lesions biopsied (one worrisome for lymphoma), and required referral to hematology/oncology. (*Id.* at 54–62).

25. By September 7, 2016, Claimant underwent CT scans of the chest, abdomen, and pelvis with contrast. (*Id.* at 63–66).

26. On December 8, 2016, Claimant reported a cold and saw Dr. Ludwig. (*Id.* at 68–69).

27. On February 13, 2017, Claimant saw Dr. Ludwig for a general physical exam and was diagnosed with hypercholesterolemia. (*Id.* at 70–72). Claimant then continued follow-ups at Pioneer Family Medicine for sinusitis (April 13, 2017), upper respiratory infections (May 18, 2017), and other conditions. (JE 4 at 73–79).

28. On January 26, 2018, Claimant continued general examinations for hypercholesterolemia and abnormal findings in the blood. (*Id.* at 80–82). In July 17, 2018, Claimant reported sleep issues and insomnia as well as GERD. (*Id.* at 83–84).

29. By October 5, 2017, he presented to the Nampa Emergency Department with chest and epigastric pain diagnosed as superficial gastritis without hemorrhage. (JE 5 at 99–107). He was discharged stable. (*Id.*)

30. In January, 2018, he continued lab checks at Pioneer Family Medicine. (JE 4 at 81–82).

31. On February 6 and 27, 2018, Claimant followed up at St. Luke’s Clinic - Colon & Rectal Surgery for an anal fissure, showing improvement with topical treatments. (JE 6 at 108–116).

32. On April 1, 2018, Claimant tripped and fell on a concrete pad on the roof while working for St. Luke’s Nampa. (JE 7 at 117; JE 22 at 42:15–43:16). Claimant did go to a St. Luke’s clinic to see a Dr. Heiner for right arm pain, but evidently recovered without permanent injury. (*Id.*)

33. By July 17, 2018, Claimant continued experiencing GERD and insomnia and was seen by Dr. Ludwig. (JE 4 at 83).

34. On January 4, 2019, Claimant had a yearly physical with Dr. Ludwig without abnormal findings. (JE 4 at 86–87).

35. Claimant tried but could not finish a sleep study test (due to inability to continue sleeping) conducted at St. Luke's Pulmonary on February 12, 2019. (JE 9 at 172). By February 27, 2019, Claimant was evaluated for left elbow and right shoulder pain at St. Luke's Clinic - Sports Medicine, where imaging showed no fracture or malalignment, and Meloxicam was ordered. (JE 10 at 173–180).

36. In June, 2019, he had a follow-up with Dr. Robert Ennis for general evaluation and fatigue. (JE 8 at 126–128).

37. By November 13, 2019, labs showed elevated hematocrit and testosterone levels. (JE 8 at 142). On December 12, 2019, he continued endocrine evaluations at Ennis Endocrinology Clinic. (*Id.* at 129–131).

38. During January 6, 2020, he continued follow-ups at Pioneer Family Medicine. (JE 4 at 90–95).

39. He underwent ambulatory polysomnography testing on March 3, 2020, diagnosed with moderate obstructive sleep apnea, and initiated telehealth consultation for sleep health management. (JE 11 at 215–220).

40. By June, 2020, Claimant started working at Intermountain Gas. (JE 22 at 48:6).

41. In December, 2020, he continued endocrine follow-ups for ongoing evaluation of fatigue and testosterone levels. (JE 8 at 135). On May 28, 2021, Claimant was evaluated at Ennis Endocrinology Clinic by Dr. Robert Ennis for fatigue and other concerns. (*Id.* at 138).

42. On June 16, 2021, Claimant visited Dr. Jared Tadge for bilateral shoulder and elbow pain; X-rays indicated mild to moderate glenohumeral osteoarthritis and mild AC joint arthritis, with normal elbow radiographs. (JE 12 at 221–222). Subacromial cortisone

injections were planned to rule out cervical vs. impingement pathology, and bursal injections were administered bilaterally with Triamcinolone and bupivacaine. (*Id.* at 222–223).

43. On July 16, 2021, Claimant received intra-articular steroid injections from Dr. Tadge, experiencing about one month of relief. (JE 12 at 224; JE 10 at 181).

44. On August 19, 2021, Claimant filed a report-only claim after a strain/sprain from walking on uneven ground but did not seek treatment; the file was closed on August 19, 2021. (JE 24 at 453, 458, 461). On August 24, 2021, he visited St. Luke’s Clinic – Sports Medicine in Boise for a flare-up of low-back pain. (JE 10 at 181). Radiographs were taken, and an MRI with DESS was recommended due to severity and chronicity of symptoms. (JE 10 at 183, 189–190). He was referred for physical therapy to begin isometric core exercises, provided diazepam for MRI sedation, and was advised on possible epidural injections or surgical intervention. (*Id.* at 183, 185–187, 207).

45. On September 4, 2021, Claimant presented to the Elmore Emergency Department with a 10-day history of cough and shortness of breath, ultimately testing positive for COVID-19. (JE 13 at 247, 250–251).

46. By October 4, 2021, an MRI of the lumbar spine was performed, revealing certain findings that later led to a consult on October 18, 2021, at St. Luke’s Clinic – Sports Medicine. (JE 10 at 191–192, 194). Dr. Alejandro Homaechevarria spent over 30 minutes reviewing diagnoses and discussing treatment options, scheduling a left L3-4/L5-S1 transforaminal epidural injection for pain management. (*Id.* at 193–197). On October 25, 2021, Claimant underwent a left L3-L4 and L5-S1 transforaminal epidural steroid injection with fluoroscopic guidance at Meridian Endoscopy, and Meloxicam was prescribed. (*Id.* at 194, 203–208, 211).

47. On November 15, 2021, Claimant had a telehealth visit with St. Luke's Clinic – Sports Medicine. (*Id.* at 210–213). Three days later, on November 18, 2021, he returned to Dr. Ennis for evaluation of fatigue. (JE 8 at 141).

48. On December 8, 2021, a CT Cardiac Calcium Scoring scan was performed on Claimant, scoring 0. (*Id.* at 145, 160).

49. On December 21, 2021, an exam form was created at Total Health Chiropractic. (JE 14 at 260). Subsequently, Claimant was seen for chiropractic treatment on December 27, 2021. (*Id.* at 262). Claimant also received chiropractic treatment for his spine on January 11, 2022. (*Id.* at 263).

50. By February 1, 2022, Claimant reported returning shoulder pain and received bilateral shoulder injections. (JE 12 at 224–225). Then, on February 8, 2022, Claimant received further chiropractic treatment. (JE 14 at 264). On March 29, 2022, Claimant received chiropractic treatment on his spine again. (*Id.* at 265). Claimant then also received chiropractic treatment on April 19, 2022. (*Id.* at 266).

51. On May 24, 2022, Claimant was evaluated [by Dr. Montalbano] for lumbar pain radiating to both feet, with chiropractic care and physical therapy noted to exacerbate these symptoms. (JE 15 at 271). On May 31, 2022, Claimant underwent an MRI of the left shoulder which revealed a partial thickness rotator cuff tear and mild subscapularis tendinopathy. (JE 12 at 237). Claimant then received further chiropractic treatment on June 19, 2022, as well as the following week on June 26, 2022, (JE 14 at 267–268). Claimant underwent another MRI on June 15, 2022. By June 29, 2022, following the MRI of the lumbar spine, Dr. Montalbano identified degenerative changes as well as anterolisthesis; some improvement was noted, and a back brace was recommended. (JE 15 at 278).

52. **Claimant's First Workplace Injury.** On July 26, 2022, Claimant alleges he experienced a work-related injury while lifting a pipe tray out of his work vehicle and feeling a pain in the back and left leg as well as weakness in the left leg—exacerbating his pre-existing lumbar spondylosis and causing significant leg pain and weakness. (JE 1 at 1; JE 24 at 455; JE 15 at 300–301). Also, Claimant was treated again at Total Health Chiropractic, with no changes to treatment or diagnosis of the lumbar spine, on August 15, 2022. (JE 14 at 269).

53. On August 23, 2022, Dr. Montalbano noted that the current symptoms were not consistent with the June 15, 2022, MRI findings and recommended another MRI. (JE 15 at 284). On September 7, 2022, a new MRI showed a left-sided disc herniation at L2-3 causing mass effect on the L3 nerve root, with chronic left-sided protrusion at L5-S1. (JE 15 at 281–282).

54. **Claimant's Second Workplace Injury.** Shortly thereafter, on September 12, 2022, Claimant alleges he experienced another acute back injury while digging through hardpan to repair a gas leak; he felt a pinch, was transported to the emergency room, and discharged later that day. (JE 2 at 2; JE 13 at 253–254).

55. On September 13, 2022, Claimant was seen emergently by Dr. Montalbano for severe back pain and leg weakness, following the work-related injury the day prior. (JE 15 at 283; JE 24 at 447). An urgent MRI again confirmed a left-sided disc herniation at L2-3 affecting the L3 nerve root, and Dr. Montalbano recommended an immediate left L2-3 microdiscectomy. (JE 15 at 281–283; JE 24 at 451). The insurance adjuster was first made aware of a workplace injury relating to a back condition on this date, September 13, 2022. (JE 24 at 447). On September 14, 2022, the adjuster contacted Dr. Montalbano and discussed

the findings between the MRI of September 7, 2022, and September 13, 2022, which according to Dr. Montalbano showed no appreciable difference and did not exhibit evidence of an injury causing further damage. (JE 24 at 453–454; JE 15 at 295; but see JE 15 at 287).

56. On September 19, 2022, Claimant underwent the recommended microdiscectomy at Treasure Valley Hospital, with an overnight stay. (JE 19 at 343; JE 15 at 289). He continued to experience pain and weakness, beginning physical therapy on October 13, 2022, at Mountain Home Physical Therapy. (JE 21 at 374).

57. Throughout October and November, 2022, Claimant attended regular physical therapy sessions. Progress notes reflected some leg discomfort but indicated gradual improvements. (*Id.* at 372–373). On November 9, 2022—six weeks postoperative—Dr. Montalbano advised him to continue therapy and cleared him to return to work without restrictions. (JE 15 at 298). Claimant resumed full-duty work on November 10, 2022. (JE 21 at 372).

58. On December 7, 2022, he returned to Dr. Montalbano, who recommended another MRI of the lumbar spine without contrast. (JE 15 at 300). That imaging revealed a recurrent disc herniation at L2-3. (*Id.* at 304).

59. On January 2, 2023, Claimant presented to the emergency department with extreme left leg pain, weakness, and numbness; an MRI confirmed a large recurrent left paracentral L2-3 disc herniation. (JE 20 at 365–366).

60. Shortly thereafter, on January 3, 2023, Dr. Montalbano recommended a second surgical intervention. Claimant consented after being advised of the associated risks and benefits. (JE 15 at 301).

61. On January 10, 2023, Claimant underwent a second left L2-3 microdiscectomy performed by Dr. Montalbano at Treasure Valley Hospital. (JE 19 at 353; JE 21 at 378). Despite the surgery, Claimant's symptoms persisted, prompting him to resume physical therapy on February 1, 2023; however, he continued to report ongoing pain and limited improvement. (JE 21 at 379–381).

62. By April 5, 2023, after reviewing updated MRI scans showing a recurrent disc at L2-3, Dr. Montalbano recommended L2-3 decompression, fusion, and instrumentation. Claimant consented to proceed with the surgery. (JE 15 at 309). On July 10, 2023, he underwent the recommended fusion procedure at the L2-3 level, along with decompression and instrumentation. (JE 19 at 355; JE 21 at 382). Claimant remained hospitalized overnight and was discharged on July 12, 2023. (JE 19 at 355).

63. Following the lumbar fusion, Claimant initiated another course of physical therapy on July 31, 2023, focusing on regaining mobility and reducing pain. (JE 21 at 383). Throughout August and September, 2023, therapy progress notes reflected gradual improvements in pain levels and muscle strength. (*Id.* at 384–385). On October 11, 2023, during a three-month postoperative visit, Dr. Montalbano found Claimant neurologically intact, with X-rays demonstrating a solid fusion at L2-3. (JE 15 at 319–320). Claimant was advised to continue physical therapy exercises and authorized to return to work full-time without restrictions. (*Id.*)

64. Despite successfully returning to work, Claimant maintained physical therapy sessions to solidify his recovery. (JE 21 at 387–388). As of December 7, 2023, he was discharged from physical therapy after meeting his rehabilitation goals. (*Id.*)

65. Throughout this period, Claimant addressed additional health issues. He received bilateral shoulder cortisone injections for pain management at Tadge Orthopedics on February 7, May 15, August 22, and November 27, 2023, among other visits, given his history of shoulder impingement and limited relief from conservative measures. (JE 12 at 231–233, 236–238, 243). Furthermore, Claimant consulted specialists regarding elevated liver transaminase levels and hormonal concerns, including multiple endocrinology visits and related laboratory tests. (JE 8 at 124–126, 138, 149, 154).

66. By March 4, 2024, Claimant again received bilateral shoulder cortisone injections under Dr. Tadge’s conservative care plan. (JE 12 at 243). Additional medical evaluations addressed elevated liver enzymes and potential autoimmune considerations, leading to further specialist consultations. (JE 4 at 96–98).

67. On April 2, 2024, Richard Radnovich, D.O., conducted an IME of Claimant, focusing on his July 26, 2022, and September 12, 2022, injuries, which culminated in multiple lumbar surgeries at L2–L3. (JE 17 at 335–336). Claimant reported persistent low-back pain radiating into the left leg, and physical examination revealed left thigh muscle atrophy, diminished patellar reflex, and positive straight leg raising on the left. (*Id.* at 336–338). Under the AMA Guides, 6th Edition, Dr. Radnovich assigned an 11% whole person impairment rating, finding no basis for apportionment from earlier incidents. (*Id.* at 338–339).

68. Dr. Radnovich recommended ongoing treatment and imposed permanent work restrictions, including limits on repetitive bending, lifting, and exposure to low-frequency vibrations, to mitigate further risk of reinjury. (*Id.* at 339).

69. The following day, Ennis Endocrinology monitored Claimant's hormonal and metabolic status, recommending return appointments and medication adjustments as needed. (JE 8 at 155, 161–163).

### **FURTHER FINDINGS OF FACT**

70. It does not appear Claimant ever received an impairment rating or was declared at maximum medical improvement for his 1999 neck and low back injury.<sup>2</sup> See JE 25. The last record is a December 15, 2002 medical record from Dr. Demose noting Claimant still had low back pain and leg pain and still required restrictions including “no excessive bending of waist or lifting objects over 25 pounds.” JE 25:592. At deposition, Claimant testified that he never received an impairment rating for this injury, but that after this injury he “quit” doing “a lot of heavy lifting.” JE 22, 21:5-15. Similarly, at hearing, Claimant testified he was “forced to” transition to lighter duty after this injury. HT 39:24-40:1.

71. Claimant testified that after this injury he continued to have low back pain, see a chiropractor regularly for maintenance (“tune-ups”), and discuss his low back issues with his primary care physician. HT 43:12-44:13.

72. On August 4, 2021, Claimant was injured stepping on uneven ground; it was a “sprain/strain.” JE 24:453, 458; See ¶ 44, *supra*. The claim was closed August 19, 2021 because Claimant didn't pursue treatment. However, “He ...Was seeing his chiro that he

---

<sup>2</sup> There are two injuries from 1999 and the records and testimony regarding them are difficult to reconcile. Claimant testified he was injured lowering a compressor from a roof in 1999 at deposition, at hearing, to Dr. Homaechavarria, and to Dr. Radnovich. JE 17:336; 22, 15:15-19; 10:181. However, Claimant was also injured on September 17, 1999 while stepping down from a truck for which he received extensive treatment as noted in the stipulated facts. Interestingly, in those records, Claimant denied any prior low back injury. JE 3:3; 25:635. Claimant also did not testify about the September 17th injury at deposition or hearing. What is clear from the records and testimony is that there were at least two injuries and Claimant's back pain began in 1999.

normally treats with.” *Id.* Claimant explained at hearing that he reported the injury and this his supervisors filled out a report for him, but “it was not a work comp injury.” HT 48:16-23.

73. On August 24, 2021, Claimant relayed to Dr. Homaechevarria his 1999 HVAC compressor injury and reported that he had experienced chronic low back pain since this injury, but it had recently been aggravated by a work incident while walking over uneven ground. JE 10:181. He also reported a prior disc herniation at L3/L4 and prior leg pain and weakness. *Id.* This appointment’s notes are internally inconsistent. The chief complaint is “left low back pain” but the notes read “denies any low back pain or leg weakness at today’s visit” and then “[r]eports re-aggravation of his symptoms after jolting his left leg while walking at a work site.” *Id.* Dr. Homaechevarria noted the x-rays showed evidence of spondylolisthesis and assessed pain of the lumbar spine secondary to significant degenerative changes. *Id.* at 182.

74. At deposition, Claimant testified as follows:

Q: [Mr. Pappas] Do you remember why you went to [Dr. Homaechevarria]?

A: Lower back pain, yeah.

Q: And what had caused the flare-up?

A: I think that was the previous -- was that done previous to Intermountain Gas? What's the date on that?

Q: August 24th of '21; so if you –

A: Oh, you're right. My apologies. Yeah.

Q: You'd had some back pain that started?

A: A little bit, yeah.

Q: Okay. And he noted in there: "Alleges aggravation at work site." When you

did work, your back hurt?

A: Occasionally.

Q: Okay. Well, I'm just trying to –

A: Not constantly, but occasionally, yeah.

Q: Just so we're clear, we're not talking about a work comp injury or anything –

A: No.

Q: -- that happened on the job?

A: No, not at all.

Q: Gotcha.

A: That was my own doing.

JE 22:403, 55:1-22. Claimant has not alleged his condition is related to this accident.

75. Claimant requested a referral to Dr. Montalbano for a surgical consult on April 27, 2022. JE 10:214. Claimant saw Dr. Montalbano on May 24, 2022 and reported his symptoms started 22 years ago with a workplace injury and that he had just dealt with the pain since that time. JE 15:271. On June 29, Claimant was “much improved with diclofenac” and Dr. Montalbano’s goal was to treat him with “nonoperative management.” *Id.* at 278.

76. At deposition, Claimant testified he reported the July 26th injury to Jim Stattner within a few days of its occurrence. JE 22:405, 62:17-25. At hearing, Claimant testified he did not report the accident “right away” because he figured “it was something that would work itself out,” but that he reported it sometime in September after his second injury. HT 24:14-19; 64:20-65:9. Claimant also explained as follows:

Q: [Mr. Monroe] When did you first find out -- when did you first realize that you had your July -- that July 26th, 2022, was an industrial accident?

A: When did I realize it?

Q: Yeah.

A: I think you and I spoke, and I had mentioned when I first felt the initial pain.

Q: And what made you -- what made you decide that it was July 26th, 2022, that you had this accident?

A: I went back through my records and looked at each jobsite I was at and figured it was the one on July 26th.

Q: Was that the day you were at that place where you had the accident?

A: Correct. Where I felt the initial pain, yes.

Q: And in your mind - - was that an accident to you, in your mind?

A: Initially, no. It was just pain.

HT 30:9-31:1.

77. On August 23, 2022, Claimant reported to Dr. Montalbano: “his symptomology worsened on 8/1/2022 while working” and he ordered another MRI. JE 15:279.

78. On September 13, 2022, Claimant, along with his wife, presented to Dr. Montalbano after collapsing at work due to leg weakness and going to the emergency room the day prior. *Id.* at 283. Dr. Montalbano reviewed the September 7 MRI and wrote:

He previously underwent an MRI scan on 09/07/2022 that demonstrates a left L2-3 disk extrusion. I have compared this to his MRI scan of 06/15/2022, which predates his work related injury, and that MRI scan in June is normal at the level of L2-3. This is a new disk herniation after his work related injury on 08/01/2022. In other words, Mr. Edmiston had an MRI that was normal prior to his injury, he was injured, and now his new MRI scan demonstrates a new finding. I, therefore, attribute his left 2-3 disk herniation, which is quite large and obliterating his left L2 and L3 nerve root, to be related to such injury.

JE 15:283. Dr. Montalbano ordered another MRI at Surety's request, which showed no significant changes from the September 7 MRI. *Id.*

79. On September 27, 2022, Employer contacted Surety to let them know that Claimant was asserting a date of injury of July 26, 2022. JE 24:455. On October 7, 2022, Defendants denied Claimant's September 12 claim. *Id.* at 465.

80. Dr. Radnovich was deposed by Claimant on August 7, 2024. Dr. Radnovich testified consistently with his report that the September 12 injury is what caused Claimant's need for surgery. Radnovich Depo. 15:19-23. Dr. Radnovich testified he did not apportion Claimant's 11% low back impairment rating because there was nothing "measurable" regarding symptoms or prior injuries. *Id.* at 18:5-17.

81. On cross-examination, Dr. Radnovich confirmed he had not reviewed any pre-existing medical records in producing his report or since his report was completed. Radnovich Depo. 25:9-20. He also testified he had not reviewed Claimant's deposition or the hearing transcript. *Id.* at 25:23-26:2. Dr. Radnovich was not aware that Claimant had treated for two years for his 1999 injury, nor did he know why Claimant underwent a lumbar MRI in June, just prior to the first injury. *Id.* at 28:17-29:7. Regarding Claimant's low back treatment just prior to the September 12 injury, Dr. Radnovich testified that if there was evidence of lower extremity weakness and patches of numbness, that would be persuasive evidence to him regarding a pre-existing condition that impacted his need for treatment. *Id.* at 32:21-34:18. Similarly, if there were ongoing objective findings prior to the injury, that might have indicated apportionment for a prior injury was appropriate. *Id.* at 39:2-13. Dr. Radnovich concluded with his opinion that the July 26 injury "set the stage," but that the September 12 injury is what caused the need for surgery. *Id.* at 41:17-42:2.

82. Dr. Montalbano was deposed by Defendants on October 30, 2024. Dr. Montalbano confirmed his opinion that the June 15 MRI showed degenerative changes. Montalbano Depo. 9:5-22. Dr. Montalbano was questioned regarding the August 23 notation that Claimant's symptoms worsened "while working." See Montalbano Depo. 12:5-13:14. Dr. Montalbano did not recall being told any other details and that if Claimant had described an accident, he would have put that in his notes. *Id.* However, Dr. Montalbano also stated "I'm pretty certain he'd brought up the injury in August, but I don't remember specifics." *Id.* at 16:20-23 And, "I think John has always stated there was an accident in August. My opinion was that there was no accident on September 13." *Id.* at 24:20-24. Lastly, "I don't know of any events, what happened on [August 1, 2022]." *Id.* at 25:14-21. Dr. Montalbano testified Claimant never told him about an incident on July 26. *Id.* at 28:3-5.

83. Dr. Montalbano does look at all the imaging in his cases, and it was his opinion the findings on the September 7<sup>th</sup> and September 13<sup>th</sup> MRI were the same. *Id.* at 20:5-23. Dr. Montalbano explained that although Claimant did suffer an incident on September 12, there were no anatomical changes and therefore no "true injury." *Id.* at 21:11-22. Dr. Montalbano confirmed he had no pre-existing records from Claimant's 1999 injury, nor Claimant's chiropractic records from the timeframe around the injury, nor Dr. Homaechevarria's notes. *Id.* at 26:23-27:15, 6:13-15. When asked whether the disc bulge at L2-L3 was acute or chronic, Dr. Montalbano opined that the disc herniation on September 7<sup>th</sup> plus the new onset of left leg pain meant that it was acute. *Id.* at 29:16-30:1. However, he could not opine to a reasonable degree of medical probability when the herniation occurred or that it was caused by an accident vs. just activities of daily living. *Id.* at 32:4-33:4.

84. On cross-examination, Dr. Montalbano opined that the July 26<sup>th</sup> accident as described by Claimant was sufficient to cause the L2-L3 disc herniation. Montalbano Depo. 33:12-34:8.

85. **Credibility.** Claimant testified credibly, however, his recollections of certain events are contradicted by medical records and his other testimony. When Claimant's testimony contradicts the medical record, the medical record will be relied upon.

86. Ms. Nolen testified credibly.

### **DISCUSSION AND FURTHER FINDINGS**

87. The provisions of the Workers' 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). A worker's compensation claimant has the burden of proving, by a preponderance of the evidence, all the facts essential to recovery. *Evans v. Hara's, Inc.*, 123 Idaho 473, 479, 849 P.2d 934 (1993). Uncontradicted testimony of a credible witness must be accepted as true, unless that testimony is inherently improbable, or rendered so by facts and circumstances, or is impeached. *Pierstorff v. Gray's Auto Shop*, 58 Idaho 438, 447-48, 74 P.2d 171, 175 (1937).

88. **Notice.** Under Idaho's worker's compensation law, an employee injured on the job must give his employer written notice of his injuries "as soon as practicable but not later than sixty (60) days" following the accident, otherwise the employee will be barred from

pursuing a claim for worker's compensation. Idaho Code §§ 72-701-702.

89. An injured employee who does not give written notice or who gives written notice after expiration of the sixty-day time period may still be able to pursue a claim for worker's compensation if the employee can prove that “the employer, his agent or representative had knowledge of the injury ... or that the employer has not been prejudiced by such delay or want of notice.” Idaho Code § 72–704. “The burden of proof is on a claimant who has not given notice of the accident to show that no prejudice resulted to the employer on account of such want of giving notice.” *Murray–Donahue v. National Car Rental License Assn*, 127 Idaho 337, 340, 900 P.2d 1348, 1351 (1995).

90. There is no dispute that Claimant promptly reported his September 12, 2022 injury. However, Defendants argue Claimant’s notice for his alleged July 26, 2022 claim is legally insufficient. Claimant argues that Dr. Montalbano’s August 23, 2022, note that “his symptomology worsened on 8/1/2022 while working,” which Ms. Nolen had on September 14, 2022, makes the claim timely.

91. Defendants respond this record does not describe an accident which is necessary for legally sufficient notice.

92. In *Murray-Donahue, supra*, the claimant alleged she hurt her back while traveling for work. The claimant soon told her supervisor “we had difficulty in Boston and that I was having problems with my back.” *Id.* at 340, 1351. The Court found the phrase ambiguous, noting it could mean “mere discomfort unconnected to a workplace injury” particularly in light of the fact Claimant had prior back problems and her supervisor knew it. *Id.* Employer was informed something happened during work (Boston trip) and that there was an injury (back problems) but the Court held there was no notice of an accident. The

Court held, under the circumstances, there was not enough detail provided by the Claimant to put the employer on notice that an accident had occurred.

93. In *Chadwick v. Multi-State Elec*, 159 Idaho 451, 362 P.3d 526, (2015), the claimant told his supervisor that his back hurt. He asserted that it was his supervisor's responsibility to investigate and see if his back pain was related to work. The Court rejected this argument and wrote as follows:

Knowledge of the injury requires notice that the physical condition was caused by an accident arising out of and in the course of the claimant's employment. Thus, a claimant who complained of pain was not entitled to benefits where there was no evidence that the employer had actual knowledge of a work-related injury within the statutory time for giving notice. Similarly, in *Page v. McCain Foods, Inc.*, 141 Idaho 342, 109 P.3d 1084 (2005), we held that the oral notice given by a claimant to her employer was sufficient where it "provided the supervisor with knowledge of the injury *and* the source of the injury."

*Id.* at 455, 530 (internal citations omitted).

94. This case is similar to *Murray and Chadwick*. Dr. Montalbano's August 23, 2022, note saying "Claimant's symptomatology worsened while working" is legally insufficient to provide notice of an accident. There are no details which indicate a work accident was "the source of the injury" as the *Chadwick* Court reiterated when referring to the *Page* decision, *supra*. The phrase "while working" communicates Claimant's location when the pain occurred but is inadequate to provide notice of an accident, similar to the "ambiguous" phrase in *Murray*. Moreover, the wording of Dr. Montalbano's medical records, along with the context of the September 13 and 14 interactions between the Employer, Surety, Dr. Montalbano, Claimant and his wife are even more ambiguous than the phrases communicated by Claimant to her supervisor in *Murray*. In *Murray*, the claimant used the word "difficulty" which at least nods to a discrete describable incident, although not a legal

accident or injury per the Court. *Id.* at 340. Dr. Montalbano's note is insufficient notice or knowledge under Idaho Code § 72-704 of an accident.

95. Claimant also argues that Defendants were not prejudiced by the lack of notice. Claimant seems to argue that the September 12 accident and investigation cures the lack of investigation for the first alleged injury and/or because the July 26 investigation was inadequate, Defendants were not prejudiced. Neither argument is persuasive.

96. The policy reason behind the 60 days notice is explicitly to allow Defendants to investigate the accident claimed, i.e., the July 26, 2022 accident. ("The requirement that notice of an accident be given to an employer 'is to give the employer or someone on his behalf timely opportunity to make an investigation of the accident and surrounding circumstances to avoid payment of an unjust claim.'" *Taylor v. Soran Rest., Inc.*, 131 Idaho 525, 528, 960 P.2d 1254, 1257 (1998)). Defendants were not able to investigate the first accident in a timely fashion. The difficulty the adjustor had in investigating these accidents was caused by the Claimant not reporting the first accident before the second accident occurred and cannot be a basis to show lack of prejudice as argued by Claimant.

97. This case illustrates the other policy reasons behind timely notice and how lack of it can prejudice a defendant. In *Murray*, similar to here, the claimant had a history of back problems. The Court wrote that a prompt investigation is particularly useful when there is a history of prior injuries and quoted the Referee's underlying decision: "the respondents had no opportunity to investigate the alleged accident and injury, to have Claimant examined by a medical provider, or to ensure that Claimant did nothing to further aggravate the alleged injury." *Murray*, 127 Idaho 337, 340, 900 P.2d 1348, 1351. Here, Defendants were not able to timely investigate the accident, Defendants did not get a clear medical opinion on how

Claimant's prior injuries may have impacted his July 26, 2022 injury prior to his second injury, or have the opportunity to ensure that Claimant did not further aggravate his injury.

98. Claimant did not provide timely notice of his July 26, 2022 injury and did not carry his burden of proof to show a lack of prejudice to Defendants. Claimant's July 26, 2022 claim is time barred by Idaho Code § 72-701.

99. **Causation.** A worker's compensation claimant has the burden of proving, by a preponderance of the evidence, all the facts essential to recovery. *Evans v. Hara's, Inc.*, 123 Idaho 473, 849 P.2d 934 (1993). Claimant must adduce medical proof in support of his claim, and he must prove his claim to a reasonable degree of medical probability. *Dean v. Dravo Corporation*, 95 Idaho 558, 511 P.2d 1334 (1973). The permanent aggravation of a pre-existing condition is compensable. *Bowman v. Twin Falls Construction Company, Inc.*, 99 Idaho 312, 581 P.2d 770 (1978). The Industrial Commission, as the fact finder, is free to determine the weight to be given to the testimony of a medical expert. *Rivas v. K.C. Logging*, 134 Idaho 603, 608, 7 P.3d 212, 217 (2000). "When deciding the weight to be given an expert opinion, the Commission can certainly consider whether the expert's reasoning and methodology has been sufficiently disclosed and whether or not the opinion takes into consideration all relevant facts." *Eacret v. Clearwater Forest Industries*, 136 Idaho 733, 737, 40 P.3d 91, 95 (2002).

100. Claimant gave appropriate notice for his September 12, 2022 injury. Therefore, if Claimant can prove on a more probable than not basis that the September 12, 2022 injury permanently aggravated his pre-existing condition, causing the need for surgery, he can still prevail.

101. Claimant relies on both Drs. Radnovich and Montalbano to prove medical causation. Dr. Radnovich opined that while the July injury contributed to Claimant's need for surgery, the September injury was the tipping point. Essentially, although there was a new herniation which appeared after the July 26 injury, the September 12 injury is when Claimant became markedly symptomatic and required surgery. Prior to this injury, Claimant was working and after this injury, he was in excruciating pain. Dr. Montalbano's opinion is the opposite. Dr. Montalbano believes that Claimant's herniation and leg pain was acutely caused by the July 26 accident, and the September 12 accident caused no objective injury, only a symptomatic increase.

102. Unfortunately, neither physician had Claimant's records from his 1999 injury or Dr. Homaechevarria's notes or Claimant's chiropractic records. Both physicians believed Claimant injured himself in 1999 carrying an air compressor on a roof and were not made aware of the second documented injury, jumping down from a truck. Neither physician was aware Claimant treated for approximately two years in 1999 until their depositions. Neither physician was informed Claimant testified he "quit" heavy lifting and was "forced" into a lighter duty job after that injury. Both physicians knew Claimant had some prior treatment for his low back, but were unaware that Claimant reported an acute aggravation of his back condition on August 4, 2021. This injury led Claimant to request a surgical consult with Dr. Montalbano in May of 2022. The entire history of Claimant's condition prior to May 2022 was not considered by the physicians offering opinions. The lack of historical foundation greatly weakens both their opinions regarding whether and when Claimant's low back condition was permanently aggravated, leading to surgery.

103. Regarding their causation opinions generally, both physicians had flaws in their reasoning, most of which flowed from their lack of records. Both physicians place much significance on Claimant developing left leg pain after July 26. However, Claimant presented to Dr. Montalbano on May 24, 2022, with pain in both legs radiating down his thighs and into his feet. Furthermore, he reported to Dr. Homaechevarria that he had prior leg pain when he presented in August of 2021. Dr. Radnovich relied on Claimant's report that he had no issues recovering from his 1999 injury 22 years ago. Yet, Claimant testified that injury forced him into lighter duty work, and that he reported to Drs. Homaechevarria and Montalbano that he had had pain for 22 years and just dealt with it. Dr. Radnovich testified that if there was evidence of lower extremity weakness and patches of numbness, that would be persuasive evidence regarding a pre-existing condition that impacted his need for treatment. Dr. Radnovich was not aware of Claimant's reports to Dr. Homaechevarria of leg weakness and did not seem to consider Claimant's reports to Dr. Montalbano of a numb patch on his right thigh. In other words, both physicians' opinions are incongruent with the medical records they were provided.

104. Claimant has failed to prove by way of competent medical evidence on a more probable than not basis that his L2-3 back condition was permanently aggravated by the September 12 injury. Dr. Radnovich did not consider all relevant facts in forming his opinion that the September 12 injury caused the need for surgery. His theory of the case is unsupported or contradicted by the other evidence of record. Dr. Radnovich's opinion is rejected. Dr. Montalbano's opinion that the July 26, 2022, incident caused the L2-3 herniated disc is not an opinion capable of meeting the reasonable degree of medical probability standard because it lacks a proper foundation. Claimant has failed to meet his burden to show

his September 12 accident permanently aggravated his pre-existing condition on a more probable than not basis.

105. **Medical Care.** Idaho Code § 72-432 provides that the employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital services, 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. What constitutes reasonable medical care is to be determined by a totality of the circumstances approach. *Chavez v. Stokes*, 158 Idaho 793, 353 P.3d 414 (2015). Claimant has failed to prove he is entitled to medical care on either claim, past or future.

106. **Temporary Disability Benefits.** Once a claimant establishes by medical evidence that he is within the period of recovery from the original industrial accident, she is entitled to total temporary disability benefits under Idaho Code § 72-408. Claimant has failed to prove either claim. Claimant is not entitled to temporary disability benefits.

107. **Permanent Partial Impairment.** Permanent impairment is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved and a claimant's position is considered medically stable. *See* Idaho Code § 72-422; *Henderson v. McCain Foods*, 142 Idaho 559, 567, 130 P.3d 1097, 1105 (2006). Claimant has failed to prove either claim. Claimant is not entitled to permanent partial impairment.

108. **Attorney's Fees.** Attorney's fees are not granted as a matter of right under the Idaho Workers Compensation Law, but may be recovered only under the circumstances set forth in Idaho Code § 72-804 which provides:

72-804. ATTORNEY'S FEES — PUNITIVE COSTS IN CERTAIN CASES.  
If the commission or any court before whom any proceedings are brought

under this law determines that the employer or his surety contested a claim for compensation made by an injured employee or dependent of a deceased employee without reasonable ground, or that an employer or his surety neglected or refused within a reasonable time after receipt of a written claim for compensation to pay to the injured employee or his dependents the compensation provided by law, or without reasonable grounds discontinued payment of compensation as provided by law justly due and owing to the employee or his dependents, the employer shall pay reasonable attorney fees in addition to the compensation provided by this law. In all such cases the fees of attorneys employed by injured employees or their dependents shall be fixed by the commission.

The decision that grounds exist for awarding attorney's fees is a factual determination which rests with the Commission. *Troutner v. Traffic Control Company*, 97 Idaho 525, 528, 547 P.2d 1130, 1133(1976). It is axiomatic that a surety has a duty to investigate a claim in order to make a well-founded decision regarding accepting or denying the same. *Akers v. Circle A Construction, Inc.*, IIC 1998-007887 (Issued May 26, 1999). Defendants' grounds for denying a claim must be reasonable both at the time of the denial and in hindsight. *Bostock v. GBR Restaurants*, IIC 2018-008125 (Issued November 9, 2020). Claimant has not shown Defendants have unreasonably denied, delayed, or refused his claim. Claimant is not entitled to attorney's fees.

### **CONCLUSIONS OF LAW**

1. Claimant's July 26, 2022, claim is time barred by Idaho Code §§ 72-701 and 704 notice provisions;
2. Claimant has failed to prove his September 12, 2022, injury permanently aggravated his pre-existing condition;
3. Claimant has failed to prove entitlement to medical care, temporary disability benefits, permanent partial impairment, or attorney's fees;
4. All other issues are moot.

## RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 11<sup>th</sup> day of June, 2025.

INDUSTRIAL COMMISSION

Sonnet Robinson

Sonnet Robinson, Referee

## CERTIFICATE OF SERVICE

I hereby certify that on the 21<sup>st</sup> day of July 2025, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by *E-mail transmission* and by regular United States Mail upon each of the following:

DARIN MONROE  
PO BOX 50313  
BOISE ID 83705  
[dmonroe@monroelawoffice.com](mailto:dmonroe@monroelawoffice.com)

MATTHEW PAPPAS  
PO BOX 7426  
BOISE ID 83707-7426  
[mpappas@ajhlaw.com](mailto:mpappas@ajhlaw.com)

ge

Gina Espinosa

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

JOHN K. EDMISTON,

Claimant,

v.

INTERMOUNTAIN GAS CO.,

Employer,

and

LIBERTY NORTHWEST INSURANCE  
CORP.,

Surety,

Defendants.

**IC 2022-028985**

**IC 2022-025001**

**ORDER**

**FILED JULY 21, 2025  
IDAHO INDUSTRIAL COMMISSION**

Pursuant to Idaho Code § 72-717, Referee Sonnet Robinson submitted the record in the above-entitled matter, together with her 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 recommendation 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's July 26, 2022, claim is time barred by Idaho Code §§ 72-701 and 704 notice provisions;
2. Claimant has failed to prove his September 12, 2022 injury permanently aggravated his pre-existing condition;
3. Claimant has failed to prove entitlement to medical care, temporary disability

benefits, permanent partial impairment, or attorney's fees;

4. All other issues are moot.
5. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 21st day of July, 2025.



INDUSTRIAL COMMISSION

Claire Sharp  
Claire Sharp, Chair

Aaron White  
Aaron White, Commissioner

Thomas E. Limbaugh  
Thomas E. Limbaugh, Commissioner

ATTEST:

Kamerron Slay  
Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of July 2025, a true and correct copy of the foregoing **ORDER** was served by *E-mail transmission* and by regular United States Mail upon each of the following:

DARIN MONROE  
PO BOX 50313  
BOISE ID 83705  
[dmonroe@monroelawoffice.com](mailto:dmonroe@monroelawoffice.com)

MATTHEW PAPPAS  
PO BOX 7426  
BOISE ID 83707-7426  
[mpappas@ajhlaw.com](mailto:mpappas@ajhlaw.com)

ge

Gina Espinosa