Annual Seminar on Workers' Compensation

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Tyler v Masterpiece Floors, Docket No. 51520(Sup. Ct. September 4, 2025).

Jurisdiction to determine Section 72-209(3) exclusive remedy issue.

Background

On September 13, 2019, Claimant was operating a table saw without a safety guard at work. The saw "kicked back" amputating his right index finger and lacerated or fractured the remaining fingers. The Surety accepted the claim and paid benefits.

Claimant filed a workers' compensation claim July 8, 2020. On April 5, 2021, he filed a tort complaint in civil court. The Employer in the tort claim failed to Answer the Complaint. Default was entered against the Employer for $380,159.

The Employer moved to set aside the default 6 months later claiming the jurisdiction to determine this rests with the Commission. The Court did not void the default judgment, but because the claim was filed with the Commission first, stayed the default pending a decision from the Commission regarding whether the Employer's actions (Willful or unprovoked physical aggression) triggered an exception to the exclusive remedy rule as outlined in Section 72-209(3).

The Commission held a hearing regarding the Employer's conduct, and the Commission found Employer's conduct did not rise to the level of willful physical aggression. On reconsideration, the Commission rejected it should have assessed the issue using a summary judgment standard and said that it was the trier of fact.

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What the Supreme Court Said

The fundamental issue appealed by the Claimant was whether the Court erred by staying the default judgment pending a determination by the Commission regarding Section 72-209(3). The Supreme Court reversed and overruled the District Court largely by distinguishing and overturning existing Supreme Court precedent.

Anderson v. Gailey, 97 Idaho 813 (1976). In *Anderson*, the issue was whether the trial court had jurisdiction over the tort claim as there was a dispute regarding Claimant's status as an employee versus whether he was an independent contractor or engaged in casual employment. The Court in that case said the Commission and district court have concurrent jurisdiction to make the underlying conclusion of law regarding its jurisdiction over the matter. The Court adopted the **first to file** rule and because Claimant filed a notice of injury with the Commission first, the "Commission has the first right to determine the jurisdictional issue, and its determination is *res judicata* upon the question of jurisdiction and the factual questions upon which the determination of jurisdiction must necessarily turn."

Although the decision in *Anderson* rested on the issue of jurisdiction of the district court versus Commission, the Court here limited the *Anderson* decision to only the issue of employee/employer relationship.

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What the Supreme Court Said cont'd

Dominguez v. Evergreen Res., Inc., 142 Idaho 7 (2005). In *Dominguez*, Claimant was seriously injured based upon poisonous exposure while washing out a steel tank. A fellow employee directed Claimant to wash out the tank allegedly knowing it had the harmful material. That employee went to prison regarding the incident. Claimant reported the incident and was paid workers' compensation benefits. Thereafter, Claimant filed a civil action that resulted in settlements and ultimately a default against the other employee. The appeal was based upon the jurisdiction of the district court in light of the Commission's decision regarding entitlement to benefits. Citing the *Anderson* decision, the Court held: "Either a court of the Industrial Commission may determine whether a worker is eligible for worker's compensation, and either tribunal may determine whether willful or unprovoked physical aggression actually took place." However, because the Industrial Commission did not issue any opinion regarding Section 72-209(3), there was no *res judicata* effect preventing the district court from making a determination on that issue.

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What the Supreme Court Said cont'd

Although the *Anderson* case held that the Commission and courts held concurrent jurisdiction over jurisdictional issues and applied the first to file rule, the Court here limited that holding to only be applicable to threshold issues the Commission generally decides like employee/employer relationship. In my view, this case overrules *Anderson* given its analysis was based upon either the Commission or courts the authority to make decisions regarding its jurisdiction and not who is better equipped or more often makes the decision.

The Court held that the *Dominguez* decision did not rest on the first to file rule as to applicability of Section 72-209(3) so therefore that statute is not subject to the rule. The Court noted that the Commission would not generally need to rule on the application of Section 72-209(3) when adjudicating a worker's compensation claim, stating in addition that "whether the employer is at fault for the injury is not part of the legal calculus for liability." The Court went on to overrule the decision in *Dominiguez,* which expressly held the Commission did have jurisdiction, although not exclusive, to determine the Section 72-209(3) issue. The Court held that authority to decide that issue rests exclusively with the district courts and not with the Commission.

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Takeaways

1. The Commission no longer has jurisdiction to address the application of Section 72-209(3).

2. The Supreme Court has repeatedly demonstrated its willingness to overrule precedent when it comes to workers' compensation cases.

3. The decision does not appear to apply a good framework to the Commission regarding anything out of the ordinary that it would give jurisdiction to the Commission to decide. The Court seemed to suggest the Commission should not be given jurisdiction to decide issues involving tort concepts like fault.

    - Jurisdiction to decide employer's fault in a 72-223 situation?
    - Jurisdiction to decide what portion of a tort settlement is subject to an employer's subrogation right?

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Yates v. Encoder Products Co and Traveler's, IC 2022-004939 (IIC July21, 2025)

Order denying Defendants' Motion for Reconsideration.

Background

The Defendants seek reconsideration from the Commission's March 3, 2025 decision. In that decision, the Commission found Claimant provided timely notice of an occupational disease, that Claimant incurred a compensable occupational disease for chemical exposure, and awarded attorney fees in favor of Claimant.

Defendants sought reconsideration on the following bases:

- The Commission improperly weighed medical evidence, relying on speculative causation, and in so doing effectively shifted the burden of proof to Employer.
- The Commission had no basis to award time loss benefits because no medical causation had been established.
- The facts of the case did not warrant the Commission's award of attorney fees.

What the Commission said

The medical experts supporting Claimant's position used a process of elimination of non-work toxins in the course of issuing their opinions the chemicals causing the lung disease were work related. The Commission held that a workup of the etiology of the lung disease by eliminating alternate causes is permissible. The Commission held that doing so was a function of the medical process of diagnosis and did not burden shift. Claimant's experts also explained how the exposure to the identified types of work toxins could cause the condition.

The Commission characterized many of Defendants contentions regarding interpretation of medical evidence as inviting the Commission to re-weigh the evidence, which it will not do.

What the Commission said cont'd

The Defendant challenged the attorney fee award. Defendants point out that the only evidence initially in favor of compensability is by Dr. Shupert whose opinion the Commission found not persuasive. Based upon the information known at the time of denial and complexity of medical opinions do not warrant an award of attorney fees.

The Commission held that when Claimant submitted her claim, Dr. Shumpert had provided a definitive opinion regarding causation. The fact that Dr. Shumpert's opinion was ultimately provided the least amount of weight does not change the fact that it was he was a medical expert competent to provide an opinion and that there was no basis to deny the claim at the time it was denied. The Employer also stated as a basis for denial that Claimant had symptoms as far back as 2019. The Commission stated the Surety was inaccurately treating this like and injury claim and, given her employment started in 2004 without prior manifestation, did not provide a basis to deny the occupational disease.

What the Commission said cont'd

The Commission found that the decision did not set reasonable parameters around the attorney fee award. The Commission state that because the decision implicates an award for benefits at the *Neel* rate and for future medical benefits, it deserves further clarification of the award in a decision that will follow.

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Potential Takeaways

1. While the burden is generally upon a Claimant to demonstrate entitlement to benefits, in this and other decisions, the Commission has been critical when a Surety sits on its hands when faced with a claim.

2. The Commission on reconsideration is not going to entertain the invitation to reweigh medical evidence.

3. If Claimant has put forth a viable opinion of medical causation, the Surety had better have an alternate opinion or other legitimate basis to deny the claim at the outset.

4. It will be interesting to review the Commission's attorney fee award clarifying decision. At last check, not clarifying opinion has been issued.

Stevens v. Onyx Bldg. and ICW Group, IC 2022-026397 (IIC August 8, 2025)

Occupational disease claim implicating *Nelson* and the total incapacity requirement.

Background

Since 2000, the 65-year-old Claimant worked in construction. She has had arm and hand pain since 2012. When the pain started it was not severe, and she did not know her job was the cause. Claimant used braces at night to help and push through the pain – she needed the money. Started with Employer in 2021 and the pain worsened to the point she could not sleep and had a hard time holding tools without dropping them.

Claimant saw Dr. Liljenquist on June 10, 2022, saying her hands have gotten worse over the course of the last 20 years doing construction and feels her work is contributing to the symptoms given the repetitive nature of her job. This was the first time Claimant ever treated for her hand and arm pain. The doctor suspected carpal and cubital tunnel syndromes. After an EMG, she saw PA Coon on July 22, 2022, who diagnosed bilateral carpal tunnel syndrome, recommended conservative treatment, restrictions as tolerated, and was told her work caused the condition.

Background cont'd

Claimant called her Employer on July 27, 2022 to ask about workers' compensation. She continued doing carpentry work until she was laid off August 11 due to a normal reduction in workforce.

Claimant continued to have bilateral pain and after unemployment benefits ran out had releases done bilaterally (November and December 2022). Claimant did PT following surgeries and was discharged from care in March 2023 and had a good recovery from the surgeries. Claimant's expert issued a detailed report stating the condition was work related and advised against returning to construction work.

What the Commission said

The Defendants admitted the first four elements of the occupational disease, but disputed the total incapacitation. The Defendant pointed to the fact that Claimant continued to work construction up until the lay of and then drew unemployment until it ran out and she went forward with surgery in November 2022. The Commission held that being totally incapacitated does not mean the inability to perform any work, but rather being unable to perform the task that induced such incapacitation.

Citing *Blang v. Liberty Northwest,* 125 Idaho 275 (1994), the Commission held that "manifestation" and "incapacitation" do no have to occur simultaneously. The Commission rejected the contention that by getting unemployment this demonstrated Claimant was not incapacitated even though getting unemployment requires a representation regarding ability to work. The Commission found that Claimant was unfamiliar with how unemployment in Idaho works and she did not intentionally misrepresent that she was able to work.

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What the Commission said cont'd

The Defendants argued under the *Nelson* doctrine, a preexisting condition aggravated by work exposures is not compensable in the absence of an accident. While this is accurate, an occupational disease does not "exist" until it first "manifests." A required element of manifestation is the Claimant must "know" they have an occupational disease. The Commission's required three part criteria to "know" this is: (1) believes it is true; (2) justified in believing it is true; and (3) must in fact be true.

The Commission stated Claimant used wrist braces, and later an arm brace, for pain relief not to treat work-related CTS even though she suspected it was work-related. There was also no evidence her daughter, a surgical nurse, told her she had CTS, which would provide a "justified" belief. Because the condition did not previously "manifest," *Nelson* did not apply. The Commission pointed out that *Dahlke* "is an extremely demanding standard."

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Potential Takeaways

1. It is extremely difficult to trigger the *Nelson* doctrine under the *Dahlke* test and Claimant's testimony can generally defeat it in the absence of a "smoking gun" medical record.

2. The Commission is not going to use another statute's requirements – unlawful to apply for and receive unemployment benefits if unable to work – to demonstrate a Claimant is capable of working. Ignorance of the law is acceptable.

3. Although incapacity from working in the TOI type of work is a requirement of an occupational disease, an occupational disease can "manifest" and a Claimant can be entitled to benefits, even if the incapacity element has not yet been met.

Crawford v. Arlo Lott Trucking and Triumphe Casualty, IC 2024-009495 (August 28, 2025)

Order denying Motion for Reconsideration allowing an employer to file a Complaint against an employee.

Background

Claimant had an accident at work when he rear-ended a school bus on March 11, 2024. The claim was initially accepted and benefits paid until July 31, 2024 when Dr. Ludwig issued an IME stating that Claimant's left shoulder injury predated the accident. Claimant had shoulder surgery April 2, 2025. Claimant refused to sign a medical release such that the Surety would be privy to ongoing medical treatment and records for care Claimant was claiming the Surety owed. Claimant also declined to make Surety aware of ongoing care and medical providers involved. The Surety filed a Complaint May 12, 2025.

What the Commission said

The Commission found that Claimant's pleading was not a proper motion for reconsideration, but a motion for interlocutory review. The Commission held that the Referee's refusal to stay the proceeding pending a Supreme Court decision on this issue was not an abuse of discretion and does not warrant interlocutory review.

The employee contested the Caption of the Complaint as it listed the employee as the Claimant. The Commission held that it does not require parties to adjust captions as the Surety just used the form provided although Surety did not oppose adjusting the caption. The Commission stated this issue did not warrant interlocutory review.

The Commission pointed to its jurisdiction and found that Idaho law does not restrict an employer from filing a Complaint. It also pointed to multiple Commission decisions as precedent that the Referee reasonably relied upon in support of the holding that an employer can file a Complaint.

The Commission stated the Referee did not show bias by saying that it was proper for discovery to move forward and by suggesting the employee should sign a release.

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Potential Takeaways

1. There are a growing number of situations where a claimant is incentivized to delay the filing of a Complaint and a decision by the Commission. (a) to maximize windfall for incurred medicals based upon the *Neel* decision where there is ongoing care being paid for by a third party; (b) to delay a decision on disability to a time more advantageous for claimant; (c) to allow the ability to continue to not disclose ongoing medical care through discovery or refusing to sign a medical release, which can delay and limit the opinion of an IME – also impacted and incentivized by *Neel*.

2. The *Coronado* case is awaiting a decision from the Supreme Court regarding whether an employer can file a Complaint.

3. If employers can file complaints, there are some changes to the JRPs that would make the process much clearer or even required. JRP 3(1-2), 6(C).

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Madison v. New Albertson's and Ace American, IC 2023-016137 (IIC September 15, 2025)

Background

On February 13, 2023, the *pro se* Claimant said she tripped on a box, catching herself. She alleges this accident caused lower back pain to get progressively worse. The March 13 medical record (the first medical record available) states she had progressive low back pain and left leg pain to twisting at work several months before that visit. She was later also diagnosed with bilateral carpal tunnel syndrome. There was no indication from any of her medical providers that her medical condition was related to work or an accident at work.

Although no medical records were submitted, Claimant testified that she saw a Dr. Jacob who she asked to provide a causation letter, but that Dr. Jacob declined to do so. Claimant testified that her this incident aggravated her back pain.

What the Commission said

The Commission held that a Claimant bears the burden of demonstrating medical causality and that her testimony alone is insufficient to meet this burden. The Commission held there was no medical records indicating any medical provider stated anything regarding Claimant's low back pain being caused by work. The Claimant was repeatedly advised that it was up to her to provide a medical opinion that her condition was work related.

What the Commission said

The Commission held that a Claimant bears the burden of demonstrating medical causality and that her testimony alone is insufficient to meet this burden. The Commission held there were no medical records indicating any medical provider stated anything regarding Claimant's low back pain being caused by work. The Claimant was repeatedly advised that it was up to her to provide a medical opinion that her condition was work related.

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Potential Takeaways

1. While no "magic words" are required, even a *pro se* Claimant must still provide a medical opinion stating that the medical condition is related to work on a more probable than not basis.

2. Sheldon Eilers won the first case he tried before the Industrial Commission!

Questions?

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