

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

THE ESTATE OF RONALD SHARRAH,

Claimant,

v.

CRASH CHAMPIONS, LLC,

Employer,

and

TECHNOLOGY INSURANCE COMPANY,

Surety,

Defendants.

IC 2023-012325

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

Filed
October 21, 2025
Idaho Industrial Commission

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper. Throughout the proceedings, Claimant was represented by Taylor Mossman-Fletcher and Defendants were represented by Rachael O'Bar. Upon the death of Claimant on March 28, 2024, from conditions unrelated to the underlying accident, the parties elected to present the case for decision upon the record with no hearing. Documentary evidence was submitted, along with post-hearing briefs. Two post-hearing physician depositions were taken. The matter came under advisement on September 5, 2025.

ISSUES

The parties agreed to the following issues for this adjudication:

1. Whether the condition for which Claimant seeks benefits was caused by an industrial accident or the compensable consequence of a prior industrial accident; and

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 1

2. Whether and to what extent Claimant is entitled to the following benefits:
 - a. Past medical benefits at the *Neel* rate;
 - b. Temporary partial and/or temporary total disability (TPD/TTD); and
 - c. Disability based on medical factors, commonly known as permanent partial impairment (PPI).

CONTENTIONS OF THE PARTIES

On April 27, 2023, Claimant, while working for Employer, injured his right ankle. As a result, he was fitted with and began temporarily wearing a CAM boot while at work. On May 12, 2023, while walking to the employer's office within the course and scope of his employment, and while wearing the CAM boot on his right ankle/foot, Claimant felt a "popping sensation" and pain in his left foot. Ultimately, Claimant was diagnosed with, among other injuries, a torn peroneus longus tendon in his left foot. Due to Claimant's significant preexisting conditions in his feet, extensive left foot reconstruction surgery was required to stabilize and repair the tendon. Defendants are responsible for medical expenses associated with Claimant's left foot care and surgery, either because the accident arose out of and in the course and scope of Claimant's employment or because his left foot injury was a compensable consequence of his accepted right ankle injury. Also, they are obligated to pay benefits for the time loss Claimant incurred during recovery and for his permanent partial impairment rating.

Defendants acknowledged and accepted Claimant's right ankle injury. They argue Claimant's left foot reconstruction surgery was not the end result of an accident, nor was it due to a compensable consequence of his right ankle injury, but rather it was necessitated by Claimant's long-standing cavovarus deformity and history of significant left foot issues and surgeries. The only injury Claimant suffered on May 12, 2023, was soft tissue, as noted in the MRI. Defendants claim no acute injury was noted in the MRI report. Claimant's reconstruction surgery addressed his prior deformities. Claimant failed to demonstrate his right to further benefits.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 2

EVIDENCE CONSIDERED

The record in this matter consists of Joint exhibits (JE) 1 through 28, which include the post-hearing deposition transcripts of Steven Roser, M.D., and Patrick Dawson, M.D., (JE 11 and 12, respectively).

All objections preserved through depositions are OVERRULED.

FINDINGS OF FACT

1. The following background information is relevant to determination of the issues involved herein. Claimant's preexisting conditions include the following:

- Claimant was 6'10" and weighed in excess of 300 pounds.
- Claimant suffered from bilateral lower extremity peripheral neuropathy and vascular disease.
- Claimant had a bilateral condition known as cavovarus deformity in his feet, which has been described a "high arches" but in reality is abnormally high arches¹, which led to various conditions and ailments in Claimant, such as hammertoes, requiring surgery, recurring fractures in his left foot metatarsal bone with resultant surgeries, (first to plate the bone, then to remove the hardware when the bone and plating broke), left ankle surgical reconstruction surgery, and chronic severe right Achilles tendonitis.
- Claimant had also undergone bilateral knee replacement surgeries.

2. Claimant suffered a fatal heart attack on March 28, 2024, unrelated to his industrial accident(s) discussed below.

3. Claimant was working for Employer on April 27, 2023, when, while stepping over a pallet, he heard or felt a "pop" in his right foot, followed by pain. The injury was diagnosed

¹ See, e.g. exhibit 1 to Depo. of Dr. Roser for illustration.

as a sprain of the anterior talofibular ligament of the right ankle. Claimant was given a CAM boot to wear during his period of recovery. He continued to work thereafter while wearing the boot.

4. As per Claimant's discovery responses, on May 12, 2023, Claimant was walking toward Employer's office when he felt a "popping" in his left foot, followed by pain.²

5. Claimant went to see Steven Roser, M.D., the orthopedic surgeon who had treated Claimant previously for a Jones fracture of his fifth left metatarsal bone. Dr. Roser initially noted swelling around the lateral ankle about the fibula and "significant tenderness to palpation of the posterior fibula region where the peroneal tendons lie", with corresponding swelling. Initial diagnosis was left ankle peroneal tendinitis resulting from "overuse," due to Claimant having to "stay off" his right ankle. JE 26, pp. 3916-3919. Dr. Roser believed the left ankle injury was work-related. He scheduled an MRI.

6. The MRI revealed a complete tear of the peroneus longus tendon. As noted by the radiologist the tendon "stump" was thickened, irregular, and edematous. JE 26, p. 3956. Additionally, there was a split tear in the peroneus brevis tendon. Also noted were chronically torn ligaments, including anterior talofibular, calcaneofibular, and deltoid. Claimant also had mild to moderate polyarticular osteoarthritis in his ankle and midfoot, and mild Achilles tendinopathy.

7. Dr. Roser recommended a complex reconstruction of Claimant's left foot, comprised of ten separate procedures in a single operation. He calculated the complex surgery was necessary to protect Claimant's peroneal tendons and lateral ligaments, which would "fail in short order" if the other reconstruction was not performed to support Claimant's foot.

² This exact rendition of facts is not duplicated in medical records from Claimant's initial physician visit with Dr. Roser. In those records, it is stated that while Claimant was "ambulating in that right boot he began to have significant left ankle discomfort." This implies a condition which did not develop in an instant, but over time. However, later records from Dr. Roser do mention the "popping" event. Cf. JE 26, p. 3916 and JE 26, p. 3921.

8. Dr. Roser sought authorization from Surety for the reconstruction surgery. Instead, Surety sent Claimant for an Independent Medical Examination with orthopedist Patrick Dawson, M.D., of Hermiston, Oregon.

9. Dr. Dawson examined Claimant, reviewed medical records, and prepared a report dated July 24, 2023. He noted therein Claimant suffered from bilateral lower extremity neuropathy, had suffered multiple sprained ankles in his youth (Claimant played basketball as far as college), and had more recent foot issues, including surgeries and injuries such as Claimant's recent right ankle sprain.

10. Dr. Dawson diagnosed Claimant with preexisting bilateral peripheral neuropathy, left cavovarus foot, post left ankle ligament reconstruction and hammertoe correction surgeries, previous left fifth metatarsal fracture with surgical fixation and hardware removal, and left peroneal tendon tears, which Dr. Dawson opined were unrelated to his April 27, 2023 right ankle injury.

11. Dr. Dawson did not ascribe to the theory that Claimant's overuse of his left foot while his right foot was in a CAM boot led to his left foot peroneal tear. Rather, he opined Claimant's left cavovarus deformity, which he called "significantly distorted anatomical architecture" was responsible for the torn tendon. As he noted, Claimant's left foot injury "could just as easily have occurred while walking at home as opposed to while at work." He concluded "this is not a consequential injury in relation to his original right foot injury requiring the use of a boot walker. His preexisting cavovarus foot is currently the major cause of need for any further treatment." JE 2, p. 10.

12. Dr. Dawson felt the proposed reconstruction surgery was "legitimate" but unrelated to Claimant's occupational injury.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 5

13. When asked to expand on his thinking, Dr. Dawson noted his opinion that “[t]here is no valid mechanism for injury ... [Claimant’s] preexisting left cavovarus foot is entirely the cause of any disability and need for further treatment.” JE 2, p. 10. He again stated the surgery was necessary but not related to a work injury.

14. Dr. Dawson found no impairment from the April 27, 2023 accident.

15. Claimant went forward with the complex left foot reconstruction surgery on August 7, 2023.

16. By October 10, 2023, Dr. Roser began physical therapy for Claimant with the goal of increasing his ability to weight bear and eventually return to work. By the end of January 2024, Dr. Roser opined Claimant was able to return to work full time. However, Claimant was not determined to be at MMI at that time, due to the complexity of his surgery. Dr. Roser discussed that topic in his deposition, detailed below.

DISCUSSION AND FURTHER FINDINGS

17. Claimant³ has the burden of proving the condition for which compensation is sought is causally related to an industrial accident. *Callantine v Blue Ribbon Supply*, 103 Idaho 734, 653 P.2d 455 (1982). There must be evidence of medical opinion—by way of physician’s testimony or written medical records—supporting the claim for compensation to a reasonable degree of medical probability. *Langley v. State, Industrial Special Indemnity Fund*, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995). No special formula is necessary when medical opinion evidence plainly and unequivocally conveys a doctor’s conviction that the events of an industrial

³ Since Claimant is deceased, technically it is his estate that is the potential beneficiary, but for the ease of reading, the term “Claimant” or “he” is used herein.

accident and injury are causally related. *See, e.g. Hart v. Kaman Bearing & Supply*, 130 Idaho 296, 939 P.2d 1375 (1997).

18. In this case, Claimant bears the burden of proving the need for his left foot surgery was caused, in whole or in part, by an industrial accident of May 12, 2023, or as a compensable consequence of his accepted April 27, 2023 work accident. If he can meet his burden of proof, he would be entitled to reasonable and necessary medical treatment for his left foot. *See, e.g., Williamson v. Whitman Corp./Pet, Inc.*, 130 Idaho 602, 944 P.2d 1365 (1997). (An employer is obligated to provide medical treatment necessitated by the industrial accident, but is not responsible for medical treatment not related to the industrial accident.)

19. Claimant also carries the burden of proving he is entitled to temporary disability benefits during his period of recovery after the surgery. I.C. §§ 72–408, 72–423; *Hernandez v. Phillips*, 141 Idaho 779, 781, 118 P.3d 111, 113 (2005). Likewise, he bears the burden of establishing the right to, and amount of, his medical disability (PPI) benefits.

Expert Deposition Testimony

20. Drs. Roser and Dawson were deposed, and Claimant and Defendants point to their respective opinions to support their positions. As such, analysis of their deposition testimony (together with their written records and reports) is mandated.

21. Dr. Roser is an orthopedic surgeon specializing in foot and ankle treatment and surgery. He first saw Claimant in 2022 for an irritated Achilles tendon, and later that year for a Jones fracture (a fracture of the fifth metatarsal, at the midpoint of the bone) of his left foot.

22. In 2023, Dr. Roser began treating Claimant on May 17. Claimant was complaining of a significant increase in left foot pain after feeling and/or hearing a loud pop. An MRI confirmed Claimant's torn peroneus longus tendon and stretched lateral ligament complex.

23. Dr. Roser testified that the CAM boot Claimant was wearing on his right ankle/foot had a height of about $\frac{3}{4}$ inch, which lifted Claimant's right side, causing him to preferentially rely on his left leg when he walked. His gait would put more force on his left leg because of that height differential. He noted a typical step exerts around three times one's body weight on one's foot with each step and when one has a limp or height discrepancy between legs, the exertional force is even greater. In Claimant's case, Dr. Roser testified the increased force transmission created swelling, pain and damage to Claimant's left foot as seen on the MRI.

24. When asked directly if the use of the CAM boot caused the injury to Claimant's left foot, Dr. Roser replied, "[c]ertainly it did." Roser Depo. p. 24.

25. Dr. Roser disagreed with the contrary opinion from Dr. Dawson, and in so doing made the curious comment that Claimant, although having cavovarus foot deformities all his life "had not had any issues before getting into that boot and increasing pressure on the left foot." *Id.* at 32.⁴

26. Dr. Roser testified that typical recovery time for a surgery such as Claimant underwent in August 2023 would be between 9 and 12 months. Dr. Roser saw Claimant for the last time on January 30, 2024, at which time Claimant was recovering well, back to work without restrictions, but not yet at maximum medical improvement. Dr. Roser felt Claimant should have reached MMI no earlier than the end of February, or as late as May of 2024.

27. Dr. Roser was asked to figure a range of PPI ratings Claimant would likely have once he reached MMI. The doctor figured the range would be between 3 and 5 percent

⁴ While certainly Claimant had previous issues with his left foot, including a Jones fracture, Dr. Roser clarified this broad and inaccurate statement in cross examination when he testified "[f]or the area of reconstruction" (the hindfoot as opposed to the midfoot, where the Jones fracture occurred) Claimant had no prior complaints or problems. Roser Depo. p. 46.

whole person, “would be my guess based on my last set of physical examinations and experience.”
Roser Depo. p. 40.

28. Dr. Dawson was deposed for Defendants on May 6, 2025. He is an orthopedic surgeon, practicing in Hermiston, Oregon. His specialty is sports medicine and he mostly does hip, knee, and shoulder reconstruction surgery. He also treats “garden variety” trauma like ankle, wrist, and hip fractures. In this case he was asked to conduct an independent medical examination, which took place on July 24, 2023.

29. At the time of the IME, Claimant was complaining of global left foot pain, with an emphasis on the outside of his foot. In reviewing x-rays from May 17, 2023, Dr. Dawson noted posttraumatic swelling from an acute injury, a peripheral chip fracture of the left fibula, and tendinopathy of the Achilles tendon, left side. The only acute finding Dr. Dawson noted was the soft tissue swelling.

30. Dr. Dawson testified he would not expect to see a torn peroneal tendon from overuse. As to the popping sensation, even if the peroneal tendon did tear with a sudden pop, it was “all in relation to his preexisting cavovarus foot deformity ... as opposed to an overuse injury and related to him being in a CAM boot walker.” Dawson Depo. p. 15.

31. When asked to review the MRI report from June 5, 2023, Dr. Dawson testified he did not “get any evidence ... that there were acute findings of a tendon tear.” He noted that when a tendon ruptures, “you’ll see fluid collections adjacent to the tendon where it ... pulled off of the bone, and really there was no mention of that.” *Id* at 16.

32. Dr. Dawson pointed out Claimant had a prior lateral ligament reconstruction surgery on the lateral aspect of his left ankle, with subsequent chronic tearing of several lateral ligaments, which highlighted to Dr. Dawson the “constellation of symptoms where he’s got

undue stress on the whole outside of the foot from this rolling,” which led to tendon tears and ruptures of the three lateral ligaments. Dawson Depo. pp. 16, 17. He found none of the MRI finding to be consistent with an overuse injury, or any acute injury.

33. Dr. Dawson felt Dr. Roser’s surgery plan for Claimant’s left foot was “spot on” but not related to any industrial accident. The goal of the surgery, as explained by Dr. Dawson, was to relieve Claimant’s left foot pain. As he noted, because Claimant walked with more pressure on the outside of his foot, eventually he could “sustain tendon ruptures, which I opined happened with [Claimant] in this condition to where his peroneal tendon may have ruptured. *** This is probably a chronically overloaded peroneal tendon that finally gave out as the result of this chronic deformity.” *Id* at 21.

34. Dr. Dawson testified that there was no relationship between Claimant walking in a CAM boot and the development of Claimant’s left foot injury which necessitated surgery. He also did not agree that the extensive surgery performed by Dr. Roser was necessary to protect Claimant’s peroneal tendon repair from retearing. Instead, the surgery was performed to correct Claimant’s cavovarus left foot deformity.

35. In cross examination, Dr. Dawson acknowledged that wearing a CAM boot will cause an imbalance, as the boots typically add between one-half to one inch of height to the lower extremity wearing the boot, which in turn creates an altered gait. He also agreed that a person of Claimant’s prodigious size, coupled with his cavovarus foot deformity, would be susceptible to tearing his peroneal tendon.

36. Dr. Dawson several times mentioned that he could not tell if the ruptured peroneal tendon was acute or chronic, and no findings on the MRI report would lead him to believe it was an acute injury.

Causation Analysis

37. When comparing the testimony of the two experts, greater weight is given to the opinions of Dr. Roser for several reasons. First, even though Dr. Dawson testified he saw no evidence on the MRI that Claimant's peroneal tendon rupture was acute, the report, when read in conjunction with Dr. Dawson's testimony, shows just the opposite. Dr. Dawson testified that when a tendon ruptures, there is often an accumulation of fluid near the site of the rupture. The MRI report states, under the heading FINDINGS: "Complete tear of the peroneus longus tendon ... [t]he proximal tendon stump is thickened, irregular, *and edematous*. (Emphasis added.) Anyone looking up that term will see the root of the word edematous is edema, which is "a condition characterized by an excess of watery fluid collecting in the cavities or tissues of the body" (Oxford Languages Dictionary), or, according to Mayo Clinic, "swelling caused by too much fluid trapped in the body's tissues."

38. Furthermore, when describing Claimant's torn ligaments as shown on the MRI, the report specifically mentions them as being "chronic." No such mention was made when discussing Claimant's torn peroneal tendon. It is logical to assume if the report writer (Dr. Brian McMahan, M.D.) believed the tear to Claimant's peroneus longus tendon was chronic, he would have been consistent and listed it as such.

39. The MRI report supports the finding by Dr. Roser that Claimant tore his peroneus longus tendon acutely, while at work, performing duties within the course and scope of his employment, on May 12, 2023.

40. Dr. Roser's theory that Claimant's use of the CAM boot on his right foot led to an altered gait which put more exertional force on Claimant's left foot, coupled with his cavovarus deformity which made him more susceptible to tearing his peroneal tendons, and given Claimant's

weight in excess of 300 pounds, all working together, led to the acute and traumatic tearing of peroneal tendons (rupture of the peroneus longus and split tear of the peroneus brevis) is persuasive.

41. Dr. Dawson's testimony even supports this theory to a degree. He testified that Claimant's deformity caused him to stress and overuse the outside of his foot while walking, which could lead to ruptured tendons, including the peroneal tendons, as occurred in this case. He thought chronically overloaded peroneal tendons finally gave out as Claimant was walking. *See*, Dawson Depo. p. 21, and his report of July 24, 2023, JE 2. Whatever chronic stressors were present when Claimant walked on his deformed feet were amplified when he was wearing the CAM boot which caused an even greater force on Claimant's other foot.

42. An employer takes an employee as it finds him or her; a preexisting infirmity does not eliminate the opportunity for a workers' compensation claim provided the employment aggravated or accelerated the injury for which compensation is sought." *Spivy v. Novartis Seed, Inc.*, 137 Idaho 29, 34, 43 P3d. 788, 793 (2002) (Claimant's preexisting arthritis was not a bar to recovery when she injured her shoulder removing defective seeds from a conveyor belt in employer's processing plant.)

43. Claimant's left foot injury is compensable because it was "an unexpected, undesigned, and unlooked for mishap, or untoward event. . . connected with the industry. . . and reasonably located as to time...and place...causing an injury." An injury is "...a personal injury caused by an accident arising out of and in the course of employment...." Idaho Code 72-102 (18a) and (b). Claimant was walking to the office as part of his work duties. Each step he took with his altered gait increased the forces on the outside of his left foot until the force overcame his body's ability to withstand such force and his left peroneal tendon snapped.

44. Additionally, to the extent the accident in question was the result of overuse due to Claimant's accepted right foot injury, the compensable consequences doctrine applies. The doctrine is recognized in Idaho. "The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury." *Castaneda v. Idaho Home Health, Inc.*, IIC 96-029370 (Issued July 27, 1999). The permanent aggravation of a preexisting condition or disease is likewise compensable. *Bowman v. Twin Falls Construction Company, Inc.*, 99 Idaho 312, 581 P.2d 770 (1978). "The consequences flowing from a compensable injury are also compensable unless they are they result from an employee's conduct that is undertaken with rash or deliberate disregard of a material risk the harm will occur." *Sharp v. Thomas Brothers Plumbing*, 170 Idaho 343, 353, 510 P.3d 1136, 1150 (2022). There is no argument by Defendants that Claimant's conduct in walking to the office was rash or in deliberate disregard of a material risk of harm.

45. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that his left foot injury was caused by an industrial accident or the compensable consequence of a prior industrial accident.

Medical Benefits

46. Claimant seeks reimbursement at the *Neel* rate for past medical treatment, including surgery on his left foot, and physical therapy incurred post surgery.

47. No one is disputing that if awarded, the *Neel* Doctrine will apply to the repayment of medical expenses. The only potential argument against payment of all of Claimant's past medical bills for treatment of his left foot is that the surgery was designed to fix his cavovarus left foot, which was far more extensive than simply repairing his torn tendons.

48. On this point, Dr. Roser's opinions stand virtually un rebutted. He testified that in order to effectuate a lasting repair to Claimant's peroneus longus tendon, he had to correct the underlying deficiencies and deformities, or the repair would not hold.

49. No physician testified persuasively the surgery to repair the peroneal tendons could be done in isolation, and the option to simply fix the tendons and not address the other conditions would have been reasonable. When asked if he agreed the surgery was designed to protect Claimant's peroneus longus tendon, Dr. Dawson did testify that he was "not seeing it." He elaborated that he "can't connect those dots." Dawson Depo. p. 25. However, he was not asked to explain whether simply repairing the tendon and not altering the surrounding structures (which by Dr. Dawson's admission placed undue stress on the peroneal tendons) would have been a reasonable alternative if the goal was simply to repair the tendons. Without a meaningful dissent, Dr. Roser's testimony carries the greater weight.

50. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to all past medical benefits related to treatment of his left foot stemming from his industrial accident of May 12, 2023, including surgery and subsequent physical therapy.

Temporary Disability Benefits

51. Idaho Code §§ 72-408 and 409 provide time loss benefits to an injured worker who is temporarily disabled. In this case, while Claimant was within a period of recovery from his covered surgery, he is entitled to TTD benefits until he was released to, and did, return to work on October 10, 2023.

52. Claimant acknowledges Defendants paid TTD benefits from May 30 through August 9, 2023. If Claimant was paid any wages after August 9 and before October 10, 2023, they would be entitled to a credit for such wages paid.

53. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to TTD benefits from August 10, 2023, through October 9, 2023, subject to a credit for any wages paid by Defendants during this time frame.⁵

Permanent Partial Impairment Benefits

54. 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. Henderson v. McCain Foods*, 142 Idaho 559, 567, 130 P.3d 1097, 1105 (2006) (Emphasis added). Idaho Code § 72-424 provides that the evaluation of permanent impairment is a medical appraisal of the nature and extent of the injury or disease as it affects an injured employee's personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, elevation, traveling, and other activities. The Commission can accept or reject the opinion of a physician regarding impairment. *Clark v. City of Lewiston*, 133 Idaho 723, 992 P.2d 172 (1999). "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, 40 P.3d 91 (2002). The Commission

⁵ In briefing, Defendants argued Claimant received "short term disability" benefits during his recovery. They do not cite to any exhibits to support this argument, nor do they cite to authority to support the notion that payment of short term disability payments of some sort obviates the need to pay temporary disability under Idaho's Worker's Compensation Act.

is the ultimate evaluator of impairment. *Urry v. Walker & Fox Masonry*, 115 Idaho 750, 769 P.2d 1122 (1989).

55. There are problems with Claimant's argument for medical disability or PPI benefits. The first is that Claimant had not been declared at MMI prior to his death, and assigning him a PPI rating while he was in a period of recovery would be speculative. Even Dr. Roser testified his rating range was a "guess."

56. While it is up to the Commission to evaluate PPI with input from experts, whose testimony is advisory only, and it is within the discretion of the Commission to consider the opinion of a physician who gave a rating to a claimant based on a yet-to-arrive MMI date,⁶ typically by the time the matter reaches the hearing date, all the parties and the Commission have the benefit of hindsight to determine if the anticipated MMI date, and corresponding PPI rating, were reasonable. That did not happen here and makes providing a PPI rating speculative.

57. Even more problematic is the fact the surgery did not leave Claimant with a deficit. Both physicians testified Claimant's left foot was in a much better condition than before the surgery. *See, e.g.*, Roser Depo. pp 42, 43; Dawson Depo. pp 21, 22. Claimant was more, not less, functional after the surgery than before it. Anatomically and functionally Claimant had no increased abnormality and no loss after the surgery. As such, he cannot claim an entitlement to PPI benefits. The same can be said for his personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, elevation,

⁶ Oftentimes a physician will anticipate a pending MMI date based on the trajectory of recovery, and provide not only the anticipated date of MMI, but also give an impairment rating based on that upcoming MMI date, which could be several days or even a few weeks out.

traveling, and other activities. There is no evidence in the record that removing Claimant's deformity and correcting his gait negatively impact him.

58. When the record as a whole is considered, Claimant has failed to prove by a preponderance of the evidence his entitlement to any medical disability or permanent partial impairment benefits.

CONCLUSIONS OF LAW

1. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to all past medical benefits related to treatment of his left foot stemming from his industrial accident of May 12, 2023, including surgery and subsequent physical therapy at the *Neel* rate.

2. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to TTD benefits from August 10, 2023 through October 9, 2023, subject to a credit for any wages paid by Defendants during this time frame.

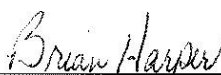
3. When the record as a whole is considered, Claimant has failed to prove by a preponderance of the evidence his entitlement to any medical disability or permanent partial impairment benefits.

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 22nd day of September, 2025.

INDUSTRIAL COMMISSION



Brian Harper, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2025, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION** was served by email transmission upon each of the following:

TAYLOR MOSSMAN-FLETCHER
taylor@mossmanlaw.us

RACHAEL O'BAR
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Jennifer S. Komperud

jsk

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

THE ESTATE OF RONALD SHARRAH,

Claimant,

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CRASH CHAMPIONS, LLC,

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TECHNOLOGY INSURANCE COMPANY,

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IC 2023-012325

ORDER

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

Pursuant to Idaho Code § 72-717, Referee Brian Harper submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation.

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,

IT IS HEREBY ORDERED that:

1. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to all past medical benefits related to treatment of his left foot stemming from his industrial accident of May 12, 2023, including surgery and subsequent physical therapy at the *Neel* rate.

ORDER - 1

2. When the record as a whole is considered, Claimant has proven by a preponderance of the evidence that he is entitled to TTD benefits from August 10, 2023 through October 9, 2023, subject to a credit for any wages paid by Defendants during this time frame.

3. When the record as a whole is considered, Claimant has failed to prove by a preponderance of the evidence his entitlement to any medical disability or permanent partial impairment benefits.

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

IT IS SO ORDERED.

DATED this the 20th day of October, 2025.

INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

[Signature]

Aaron White, Commissioner

ATTEST: *Um. memo*
Assistant Commission Secretary



CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2025, a true and correct copy of the foregoing **ORDER** was served by email transmission upon each of the following:

TAYLOR MOSSMAN-FLETCHER
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