

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JEREMIAH JOHNSTON,

Claimant,

v.

K SQUARED CONSTRUCTION, LLC,

Uninsured Employer,

Defendant.

IC 2024-028171

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

**FILED
JANUARY 22, 2026
IDAHO INDUSTRIAL COMMISSION**

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee John Hummel, who entered an Order of Default against the Uninsured Employer K Squared Construction, LLC, and in favor of Claimant Jeremiah Johnston, on February 19, 2025. On December 31, 2025, Claimant's attorney, Andrew A. Adams, of Curtis, Porter, and Adams, P.A., filed documents supporting Default. The matter came under advisement on December 31, 2025.

ISSUES

The issues to be resolved as a result of the Default are as follows:

1. Whether Claimant sustained an injury arising out an accident in the course and scope of Uninsured Employer's employment.
2. Whether the Claimant's lower back and right ankle injuries are related to the industrial accident.

3. Whether Uninsured Employer is liable to Claimant for the following workers' compensation benefits:
 - a. Medical costs;
 - b. Permanent partial impairment; and
 - c. Permanent partial disability.
4. Whether Uninsured Employer is liable to Claimant for reasonable future medical expenses related to his industrial injuries.
5. Whether Uninsured Employer is liable to Claimant for statutory attorney fees, costs, and penalty pursuant to I.C. § 72-210.

CONTENTIONS OF CLAIMANT

Claimant contends that he suffered an industrial accident while in the course and scope of his employment while in the employment of Uninsured Employer on August 31, 2021. Claimant alleges that his lower back and right ankle injuries are related to the industrial accident. Claimant seeks recovery of incurred medical costs, reasonable and necessary future medical expenses, permanent partial impairment benefits, permanent partial disability benefits, and statutory attorney fees, costs, and penalty from Uninsured Employer.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The Industrial Commission legal file;
2. The Affidavit of Jeremiah Johnston, dated December, 19, 2025;
3. The Affidavit of Andrew A. Adams in Support of Claimant's Prima Facie Case, dated December 31, 2025; and
4. The Default Exhibits submitted to the Record on December 31, 2025.

After having considered the above evidence and the argument of Claimants, the Referee submits the following default findings of fact and conclusion of law for review by the Commission.

FINDINGS OF FACT

1. **Claimant's Employment.** Claimant was employed by the Uninsured Employer on the date of the industrial accident. *See*, Affidavit of Jeremiah Johnston.

2. **Industrial Accident.** Claimant was employed as a roofer for Uninsured Employer. On or about August 31, 2021, Claimant, while engaged in the course and scope of employment with Uninsured Employer, fell thirteen feet off a roof he was assigned to work on by Uninsured Employer in Custer County, Idaho, landing on his feet. Claimant suffered immediate pain in his lower back and right ankle. Bates Ex. No. 00001.

3. **Medical Care Following the Industrial Accident.** Following the industrial accident, Claimant received transport by emergency medical services to Lost Rivers Medical Center (LRMC), where he was diagnosed with chief complaints of lower back and right ankle pain. Bates Ex. No. 00001.

4. At LRMC, on August 31, 2021, Claimant underwent a series of X-Rays. Bates Ex. No.s 000025-027. Based upon the X-Rays, Claimant was diagnosed with a compression fracture at L2 of his lumbar spine and a right ankle fracture. Bates Ex. No. 000044. Claimant then received transport to Eastern Idaho Regional Medical Center (EIRMC) for further treatment and evaluation. *Id.*

5. Upon arrival at EIRMC, Claimant was reevaluated and his lower back injury was diagnosed as an L2-L4 compression fracture of approximately 10-15%. Bates Ex. No. 000056.

Claimant then received discharge from the hospital with instructions to follow up with Dr. Olaveson, DO, and Dr. Nathan Rencher, DO. Bates Ex. No. 000058.

6. On September 1, 2021, Dr. Rencher evaluated Claimant at Summit Orthopedics (Summit). Dr. Rencher diagnosed Claimant with a fibular fracture of the right ankle and a compression fracture of L2 and a likely compression fracture of L3 and L4. Bates Ex. No. 000070. A CT scan of Claimant's lumbar spine was taken, confirming Dr. Rencher's diagnosis of Claimant's lumbar fractures. Dr. Rencher prescribed a TLSO back brace for Claimant. Bates Ex. No. 000077, 000193. Dr. Rencher then released Claimant to return to work with the following work restrictions: no climbing, squatting, kneeling, overhead lifting, and no lifting in excess of ten pounds. Bates Ex. No. 000073.

7. Claimant began treatment at Lost Rivers Arco Clinic for physical therapy three times weekly for six weeks. Bates Ex. No. 000094, 000098.

8. On November 10, 2021, Dr. Rencher noted, after reviewing fresh X-Rays, that both of Claimant's injuries were healing well, although his lumbar injuries had consolidated. Bates Ex. No. 000151.

9. Claimant returned to Summit on December 17, 2021. He stated that he had returned to work, although his lower back was still bothering him extensively. Dr. Rencher reviewed X-Rays and opined that Claimant's lumbar injuries had not changed. Bates Ex. No. 000078-000079.

10. On January 17, 2022, Dr. Rencher determined that Claimant had reached maximum medical improvement (MMI) with regard to his industrial injuries. Dr. Rencher prescribed strengthening exercises for Claimant's lower back and lower extremities. Bates Ex. No. 000081.

11. Claimant returned to Summit on February 11, 2022. He stated that he was in too much pain to complete a full day's work. Bates Ex. No. 000082. Based upon his physical examination of Claimant, Dr. Rencher recommended consultation with a spine surgeon. Bates Ex. No. 000083.

12. Claimant underwent follow-up CT scans at LRMC on June 17, 2022. The scans showed stable chronic anterior wedge compression fractures of L2 and L4, and mild lateral sacroiliac joint space narrowing sclerosis. Bates Ex. No. 000034.

13. On August 9, 2022, Claimant returned to Summit with complaints of low back pain radiating down into his left leg as far as the ankle with sporadic numbness and tingling. Bates Ex. No. 000085. James Cook, PA, diagnosed Claimant with chronic lower back pain, lumbar disc degeneration, lumbar spondylosis, and left lumbar radiculopathy. PA Cook ordered a lumbar MRI. Bates Ex. No. 000085-000086.

14. Claimant underwent the lumbar MRI at LRMC on September 1, 2022. It showed mild anterior wedge compression fractures of L2 and L4, and mild disc space narrowing at L3-L4, L4-L5, and L5-S1. Bates Ex. No. 000035.

15. Claimant returned to Summit on September 15, 2022 to review his MRI results with Dr. Johnson. Bates Ex. No. 000085. Dr. Johnson discussed potential treatments as nerve ablations and potential disc replacement or fusion in the future. Bates Ex. No. 000085.

16. On December 12, 2023, emergency medical services transported Claimant to Challis Area Health Center after complaining that he could not get out of bed. Bates Ex. No. 000194.

17. On May 23, 2023, Claimant underwent another lumbar CT scan which revealed unchanged chronic compression at L3 and L4. Bates Ex. No. 000040.

18. On August 5, 2024, Claimant returned to Summit with complaints of axial back pain, and inability to bend, twist or lift. Bates Ex. No. 000091. Dr. Johnson discussed nerve ablations, medial branch blocks, disc replacement, or lumbar fusion as potential treatments. Bates Ex. No. 000092. Dr. Johnson recommended disc replacement over lumbar fusion. Bates Ex. No. 000092.

19. To date, Claimant has not undergone any further treatment, including surgical intervention. Bates Ex. No. 000240.

20. **Medical Bills.** To date, Claimant has incurred medical bills related to his industrial injuries in the total amount of \$56,049.43, with an outstanding balance owed of \$1,081.18. Bates Ex. No.s 000207-000223.

21. **Impairment.** At his counsel's request, Claimant underwent an independent medical examination with Precision Evaluations and Research. The IME showed that Claimant suffered from persistent continued lower back pain, exacerbated by prolonged standing, bending, twisting, and lifting. Bates Ex. No. 000240. According to the IME report, Claimant continued to struggle with significant functional limitations in positional tolerance as a result of the lumbar fractures at L3 and L4. Bates Ex. No. 000241. Additionally, it was noted that Claimant struggles with persistent non-restorative sleep as a result of his lower back pain, as well as occasional daytime drowsiness. Bates Ex. No. 000243. The IME also noted decreased right ankle range of motion. Bates Ex. No. 000246.

22. The IME examiners determined that Claimant's lower back and right ankle injuries were related to the industrial accident, that Claimant had reached MMI with respect to his industrial injuries, and that Claimant had sustained a whole person impairment of 32%,

according to the *Guides*, 6th Edition. Bates Ex. No. 000249. This calculates to \$74,096.00 in PPI benefits. *See*, Adams Affid.

23. **Future Medical Expenses.** The IME further concluded that Claimant will likely incur future medical costs related to his industrial injuries. Bates Ex. Nos. 000252-000253.

24. **Disability.** The IME further concluded that Claimant, as a result of his industrial injuries, is limited to LIGHT-SEDENTARY work only, with the following permanent work restrictions: no lifting in excess of ten pounds; no repetitive bending, twisting, or climbing; alternating between sitting and standing every 30 minutes; and limited driving or static postures beyond 30 minutes. Bates Ex. No. 000251. Based upon these restrictions, Claimant estimates his permanent partial disability at 75%. Bates Ex. No. 000242. This equates to \$144,718.75 in PPD benefits. *See*, Adama Affid.

25. **Total Workers' Compensation Benefits From All Categories.** Claimant estimates the total workers' compensation benefits for medical and indemnity benefits as \$275,864.18. *See*, Adams Affid.

26. **Attorney Fees and Costs.** Uninsured Employer failed to secure workers' compensation insurance coverage as of the date of the industrial accident. Bates Ex. No.s 00023-000235. Claimant therefore seeks statutory attorney fees and costs in the amount of \$70,284.15 (25% of \$275,864.18 plus \$1,568.10 in costs). *See*, Adams Affid. Furthermore, Claimant calculates the 10% statutory penalty for non-insurance as \$27,486.42. *See*, Adams Affid.

DISCUSSION AND FURTHER FINDINGS

27. The provisions of the Idaho 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).

28. **Injuries in the Course and Scope of Employment and Causation.** The Default Record shows that Claimant sustained an accident while in the course and scope of Uninsured Employer's employment. The Default Record further shows that Claimant's lower back and right ankle injuries are related to the industrial accident.

29. **Medical Care.** Medical care is governed by statute in Idaho Code § 72-432 which provides in pertinent part 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 apparatuses, as may be reasonably required by the employee's physician or needed immediately after an injury or manifestation of an occupational disease, and for a reasonable time thereafter. If the employer fails to do the same, the injured employee may do so at the expense of the employer." Idaho Code § 72-432(1).

30. Uninsured Employer is liable to Claimant for medical expenses in the total amount of \$56,049.43.

31. **Future Medical Care.** Claimant is entitled to such future medical care related to his industrial injuries, including possible ablations, fusions, or disc replacements, and such other medical procedures and services as are reasonable and necessary.

32. **Permanent Partial Impairment.** "Permanent impairment" is any anatomic or functional abnormality or loss after maximum rehabilitation has been achieved and which abnormality, or loss, medically is considered stable or nonprogressive at the time of evaluation. Idaho Code § 72-422. "Evaluation (rating) of permanent impairment" is a medical appraisal of

the nature and extent of the injury or disease as it affects an injured worker's personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, traveling, and nonspecialized activities of bodily members. Idaho Code § 72-424.

33. A "permanent disability rating need not be greater than the impairment rating if, after consideration of the non-medical factors in Idaho Code § 72-425, Claimant's "probable future ability to engage in gainful activity" is accurately reflected by the impairment rating. *Graybill v. Swift & Co.*, 115 Idaho 293, 295, 766 P.2d 763, 765 (1988). In *Graybill, Id.*, the claimant's treating physician diagnosed him with a 10% whole person impairment based primarily upon his subjective complaints of pain. *Id.*, 115 Idaho at 293, 766 P.2d at 764. "The primary purpose of an award of permanent disability is to compensate the claimant for a reduction in the claimant's capacity for gainful activity. I.C. § 72-425." 115 Idaho at 294, 766 P.2d at 764.

34. Claimant is entitled to a permanent partial impairment of 32%, which calculates to \$74,096.00 in PPI benefits.

35. **Disability.** "Permanent disability" or "under a permanent disability" results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected. Idaho Code § 72-423. "Evaluation (rating) of permanent disability" is an appraisal of the injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of permanent impairment and by pertinent nonmedical factors provided in Idaho Code § 72-430. Idaho Code § 72-425.

36. The test for determining whether Claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction

with nonmedical factors, has reduced Claimant's capacity for gainful employment." *Graybill v. Swift & Company*, 115 Idaho 293, 294, 766 P.2d 763, 764 (1988). In sum, the focus of a determination of permanent disability is on Claimant's ability to engage in gainful activity. *Sund v. Gambrel*, 127 Idaho 3, 7, 896 P.2d 329, 333 (1995).

37. Permanent disability is a question of fact, in which the Commission considers all relevant medical and non-medical factors and evaluates the advisory opinions of vocational experts. *See Eacret v. Clearwater Forest Industries*, 136 Idaho 733, 40 P.3d 91 (2002); and *Boley v. State of Idaho, Industrial Special Indemnity Fund*, 130 Idaho 278, 939 P.2d 854 (1997). The burden of establishing permanent disability is upon Claimant. *Seese v. Ideal of Idaho, Inc.*, 110 Idaho 32, 714 P.2d 1 (1986).

38. The first requirement for determining whether Claimant has sustained disability in excess of impairment is to establish that Claimant has a permanent partial impairment. *See Urry*, 115 Idaho 750, 769 P.2d 1122. Claimant has met the *Urry* bar. As shown above, Claimant has incurred a permanent partial disability in the amount of 32%.

39. The Default Record establishes that Claimant has suffered a 75% permanent partial disability, equating to \$144,718.75 in PPD benefits.

40. **Attorney Fees, Costs, and Statutory Penalty.** I.C. § 72-210 provides that if an employer fails to secure payment of workers' compensation benefits as required under the Idaho Workers Compensation Law, said employer shall be liable to the injured worker for reasonable attorney fees and costs and a 10% of total workers compensation benefits owed as a penalty.

41. The Default Record establishes that the Uninsured Employer failed to secure payment of workers' compensation benefits as required by law,

42. Uninsured Employer is liable to Claimant for statutory attorney fees and costs in

the amount of \$70,284.15 (25% of \$275,864.18 plus \$1,568.10 in costs). Furthermore, the 10% statutory penalty for non-insurance that Uninsured Employer is liable to Claimant is \$27,486.42.

CONCLUSIONS OF LAW

1. Claimant sustained an injury arising out of an accident in the course and scope of Uninsured Employer's employment.

2. Claimant's lower back and right ankle injuries are related to the industrial accident.

3. Claimant incurred medical expenses in the total amount of \$56,049.43 for which Uninsured Employer is liable.

4. Uninsured Employer shall be liable for such reasonable and necessary future medical expenses of Claimant related to his lower back and right ankle injuries.

5. Uninsured Employer is liable to Claimant for a 32% permanent partial impairment of 32%, which calculates to \$74,096.00 in PPI benefits.

6. Uninsured Employer is liable to Claimant for a 75% whole person disability, which equates to \$144,718.75 in PPD benefits.

7. Uninsured Employer is liable to Claimant for statutory attorney fees and costs in the amount of \$70,284.15.

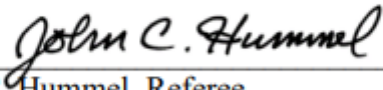
8. Uninsured Employer is liable to Claimant for the statutory penalty for non-insurance in the amount of \$27,486.42.

RECOMMENDATION

Based upon the foregoing Default 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 2nd day of January, 2026.

INDUSTRIAL COMMISSION



John C. Hummel, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of January, 2026, a true and correct copy of the foregoing **DEFAULT FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail and email transmittal upon each of the following:

ANDREW ADAMS
office@curtisandporter.com

K Squared Construction, LLC
1010 College Street
Mackay, ID 83521

PO Box 601
Mackay, ID 83251

ka

Kate Armon

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JEREMIAH JOHNSTON,
Claimant,

v.

K SQUARED CONSTRUCTION, LLC.,
Uninsured Employer,
Defendant.

IC 2024-028171

ORDER

**FILED
JANUARY 22, 2026
IDAHO INDUSTRIAL COMMISSION**

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

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

1. Claimant sustained an injury arising out of an accident in the course and scope of Uninsured Employer's employment.
2. Claimant's lower back and right ankle injuries are related to the industrial accident.
3. Claimant incurred medical expenses in the total amount of \$56,049.43 for which Uninsured Employer is liable.
4. Uninsured Employer shall be liable for such reasonable and necessary future medical expenses of Claimant related to his lower back and right ankle injuries.
5. Uninsured Employer is liable to Claimant for a 32% permanent partial impairment

of 32%, which calculates to \$74,096.00 in PPI benefits.

6. Uninsured Employer is liable to Claimant for a 75% whole person disability, which equates to \$144,718.75 in PPD benefits.

7. Uninsured Employer is liable to Claimant for statutory attorney fees and costs in the amount of \$70,284.15.

8. Uninsured Employer is liable to Claimant for the statutory penalty for non-insurance in the amount of \$27,486.42.

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

DATED this 22nd day of January, 2026.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White

Aaron White, Commissioner

ATTEST:

Mary McMenomey

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of January, 2026, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail and electronic mail upon each of the following:

ANDREW ADAMS
office@curtisandporter.com

K SQUARED CONSTRUCTION, LLC.

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

ka

Kate Armon