

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SCOTT NICHOLS,

Claimant/Respondent,

v.

VANGUARD PEST CONTROL, INC.,

Employer,

and

IDAHO STATE INSURANCE FUND,

Petitioners/Surety.

IC 2024-000292

**ORDER DENYING PETITION FOR
DECLARATORY RULING**

**FILED JANUARY 23, 2026
IDAHO INDUSTRIAL COMMISSION**

INTRODUCTION

Vanguard Pest Control, Inc., and Idaho State Insurance Fund (“Petitioners”) request a declaratory ruling on Idaho Code § 72-223 (hereinafter “Petition”). Petitioners are represented by Paul Augustine. The request and supporting memorandum were filed on November 26, 2025, under Rule 15 of the Idaho Industrial Commission *Judicial Rules of Practice and Procedure under the Idaho Workers’ Compensation Law*, effective July 9, 2025 (“JRP”). No response has been filed by Respondent. The Idaho Industrial Commission (“Commission”) denies the Petition.

FACTS

1. On December 15, 2023, while working as a service technician for Vanguard Pest Control Inc., Scott Nichols (“Claimant”) was injured when a German Shepherd chased him in a client’s backyard, causing him to jump a fence and fracture his femur. Ex. 1.

2. Petitioners paid approximately \$35,725.81 in worker’s compensation benefits to Claimant. Ex. 2.

3. Claimant pursued a third-party claim against the dog owner and received a settlement, the amount of which is not provided to the Commission.

ORDER DENYING PETITION FOR DECLARATORY RULING -1

4. On July 22, 2025, Claimant's attorney requested that Petitioners waive their subrogation interest, arguing that the Employer was negligent and therefore barred from recovering reimbursement. Ex. 3. Petitioners dispute this allegation of negligence and deny their conduct was a proximate cause of the accident. On September 22, 2025, Petitioners communicated this to Claimant and advised the settlement proceeds to be held in trust pending the outcome of this Petition. Ex. 4.

ISSUES

1. Whether Petitioners may exercise their statutory subrogation rights under Idaho Code 72-223, including:
 - a. The scope of the subrogation rights available to Petitioners;
 - b. Whether any statutory bar to subrogation rights recovery applies, including the effect of *Maravilla v. J.R. Simplot Co.*, 161 Idaho 455, 387 P.3d 123 (2016).
2. Whether Claimant's attorney is entitled to a proportionate share of attorney fees for collecting any subrogation recovery under Idaho Code § 72-223(4)(b).

RULE

Under JRP 15(C), a party may request a declaratory judgment to resolve a dispute with a written petition when there is "an actual controversy over the construction, validity or applicability of a statute, rule, or order."

1. The petitioner must expressly seek a declaratory ruling and must identify the statute, rule, or order on which a ruling is requested and state the issue or issues to be decided;
2. The petitioner must allege that an actual controversy exists over the construction, validity or applicability of the statute, rule, or order and must state with specificity the nature of the controversy;
3. The petitioner must have an interest which is directly affected by the statute, rule, or order in which a ruling is requested and must plainly state that interest in the petition; and
4. The petition shall be accompanied by a memorandum setting forth all relevant facts and law in support thereof.

ORDER DENYING PETITION FOR DECLARATORY RULING -2

JRP 15 (C). The controversy is whether the Employer’s alleged negligence—once determined by the district court—would bar Petitioners’ right to reimbursement from the Claimant’s third-party settlement.

DISCUSSION

The Commission finds this case does not warrant a declaratory ruling, and that good cause exists to deny the Petition. JRP 15(F)(4)(F). Under JRP 15, declaratory rulings are discretionary and may be denied where the petition does not present a purely legal question, where material facts are undeveloped or disputed, or where declaratory relief would not terminate the controversy. Declaratory relief is not intended to replace contested case proceedings or to resolve fact-intensive issues that require evidentiary development. *See* JRP 15(A), and (C).

The issues presented are fact-intensive and cannot be resolved without an evidentiary record. Petitioners themselves request discovery and a hearing, confirming that the Petition does not present a purely legal question suitable for declaratory ruling.

In *Maravilla v. J.R. Simplot Co.*, 161 Idaho 455, 387 P.3d 123 (2016), the Idaho Supreme Court held that an employer’s negligence, if it contributes to the worker’s injury, bars subrogation under Idaho Code § 72-223. The Court emphasized that initial determinations must be made regarding: (1) “Whether the employer was negligent;” and (2) “Whether that negligence was a proximate cause of the injury.” These determinations require evidence, testimony, and fact-finding. *Maravilla* does not require the Commission to issue a declaratory ruling on subrogation before the issue of negligence is adjudicated.

Idaho Case law recognizes that while the Commission and the district court technically share concurrent jurisdiction over certain negligence-related questions arising under the Workers’ Compensation Law, fault-based determinations are, as a practical matter, resolved in the district

court because the Commission operates within a no-fault system. *See Tyler v. Masterpiece Floors*, 575 P.3d 903 (2025). Consistent with *Maravilla*, negligence must be adjudicated before the Commission can apply Idaho Code 72-223 and issue an order that specifies the amount of an Employer/Surety's subrogation lien. Once liability is determined in district court or by settlement of the parties, the Commission's role is limited to applying the statutory subrogation framework, including the principles articulated in *Izaguirre v. R & L Carriers*, 155 Idaho 229, 307 P.3d 592 (2013), and *Runcorn v. Shearer Lumber Prods.*, 107 Idaho 389, 690 P.2d 324 (1984), which confirms that Idaho Code § 72-223 creates a statutory right of reimbursement that attaches to the entire third-party recovery unless a statutory bar applies.

Additionally, the Petition mirrors *Bill Durfee*'s, in that, both petitioners dispute Claimant's allegations of employer negligence and request discovery and a hearing. *Bill Durfee, Respondent/claimant*, No. IC No. 2021-019789, 2024 WL 5400996 (Idaho Ind. Com. Dec. 23, 2024). Under *Durfee*, declaratory relief was denied under JRP(F)(4)(f) where petitioners required resolution of material factual disputes, issues were not purely questions of law, and the Commission would have been required to conduct a hearing to answer the questions presented. As in *Durfee*, these issues in this case are best resolved by a Referee as part of a full worker's compensation case. Furthermore, in this case the question of Employer's alleged negligence appears to be a matter only the Commission has jurisdiction to decide now because the case against the third-party already settled and there is no cause of action to bring forth in district court.

ORDER

IT IS HEREBY ORDERED:

1. Petitioners Petition for Declaratory Ruling is DENIED under JRP 15(F)(4)(f) for failure to establish good cause.

2. Petitioners are directed to file an “application for hearing” pursuant to JRP 3(A).
3. Pursuant to Idaho Code § 72-718, this Order is final and conclusive as to all matters adjudicated.

DATED this 23rd day of January, 2026



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White
Aaron White, Commissioner

ATTEST:

Mary McMenomy

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 23rd day of January, 2026 a true and correct copy of the foregoing **ORDER ON PETITION FOR DECLARATORY RULING** was served by regular United States mail or email upon each of the following:

Paul J. Augustine
Augustine Law Offices, PLLC
1004 W. Fort Street
Post Office Box 1521
Boise, ID 83701

Attorneys for Petitioners/Defendants

Justin Volle
Clear River Legal, LLC
3100 N. Lake Habor Ln., Suite 160
Boise, Idaho

Attorneys for Claimant

Mary McMenomy

ORDER DENYING PETITION FOR DECLARATORY RULING -5