

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

JOSE H. ESCOBEDO,

Claimant,

v.

HIDDEN VALLEY DAIRY, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants.

**IC 2022-003635**

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

Filed  
May 14, 2026  
Idaho Industrial Commission

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**INTRODUCTION**

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper, who conducted a hearing in Boise, Idaho, on December 15, 2025. Claimant represented himself, *pro se*. Paul Augustine represented Defendants. The parties produced oral and documentary evidence at hearing and submitted post-hearing briefs. No post-hearing depositions were taken. The matter came under advisement on March 24, 2026.

**ISSUES**

The parties agreed to the following bifurcated issues for this adjudication:

1. Whether Claimant has complied with the notice limitations set forth in Idaho Code § 72-701 through Idaho Code § 72-704, and whether these limitations are tolled pursuant to Idaho Code § 72-604;

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

2. Whether Claimant has complied with the filing requirements of Idaho Code § 72-706;
3. Whether Claimant suffered an injury from an accident arising out of and in the course of employment;
4. Whether the condition for which Claimant seeks benefits was caused by the industrial accident; and;
5. Whether and to what extent Claimant is entitled to the following benefits:
  - a. Medical care;
  - b. Temporary partial and/or temporary total disability benefits (TPD/TTD);
  - c. Disability based on medical factors (PPI); and
  - d. Permanent partial disability attributable to all factors (PPD).

### **CONTENTIONS OF THE PARTIES**

Claimant asserts that he injured his right shoulder on March 14, 2020, when a loader he was operating rolled over. At the time, Claimant was operating the equipment within the course and scope of his employment with Employer. Claimant incurred medical expenses and lost his ability to work during his period of recovery. He also suffered permanent disability from his injury and subsequent surgeries. He was not paid any benefits by the Defendants. Claimant seeks payment for his medical bills and for his time lost from work, in addition to benefits for his permanent disability.

Defendants acknowledge Claimant tipped over a loader while performing his job duties for Employer in March of 2020. However, Claimant made no mention of any injury when discussing the accident with Employer, or at any other time until he filed suit approximately 22 months after the accident, which was well after the statute of limitations for filing a complaint in this case. Claimant's suit is barred due to lack of timely notice of injury and his failure to file suit within one year of the accident. While he was treated for several ailments after the work

accident, he never mentioned his shoulder hurting until May of 2022, more than two years after his accident. Even then, there is no medical opinion in the record which links Claimant's shoulder condition to the accident in question. Claimant's lack of notice to Employer, untimely filing of his complaint, and failure to prove causation in this case are all fatal to his claim.

### **EVIDENCE CONSIDERED**

The record in this matter consists of the following:

1. The testimony of Claimant taken at hearing;
2. Claimant's exhibit (CE) A, B, and C, admitted at hearing, and
3. Defendant's exhibits (DE) 1 through 10 admitted at hearing<sup>1</sup>.

### **FINDINGS OF FACT**

1. Claimant began working for Employer in approximately 2018, doing various jobs associated with dairy operations.

2. On March 14, 2020, while working within the scope of his duties for Employer, Claimant was in the process of moving a disabled utility vehicle used at the dairy with a front-end loader when the loader tipped onto its side with Claimant in the cab.

3. Immediately after the accident Claimant called the dairy manager, John Mourton, who lived across the road from the dairy. Mr. Mourton arrived shortly thereafter, angry at Claimant.

4. Claimant testified that when Mr. Mourton arrived at the scene Claimant told him "that my body was hurting and I was shaking because I was frightened when that happened."

Tr. p. 17. Claimant admitted he did not mention any specific injuries to Mr. Mourton at that time

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<sup>1</sup> Defendants were given a reasonable time post hearing to take deposition testimony of Employer's representative in lieu of granting their motion to vacate the hearing. No such post-hearing deposition was taken.

or at any other time prior to filing his complaint. In fact, Claimant, prior to filing his complaint, told no one in a supervisory position at the dairy that he had injured his shoulder in the work accident in question. Claimant did tell one co-worker about his shoulder at some unidentified point after the accident but prior to filing his complaint.

5. Claimant testified his right shoulder did not begin hurting until two weeks after the accident. However, as noted by Defendants, Claimant did not seek medical care for his right shoulder for two years after his work accident. Defendants document 13 visits to physicians made by Claimant from April 2, 2020 (which, from medical records obtained through discovery, appears to be the first time Claimant sought any medical care after the accident) until May 10, 2022, which was the first time Claimant specifically mentioned his right shoulder. In the May 10, 2022 records, the history provided by Claimant indicated his right shoulder pain had begun the preceding night while he was sleeping.<sup>2</sup>

6. Ultimately, Claimant underwent four surgeries to address medical issues with his right shoulder. There are no records in which a physician correlates Claimant's right shoulder condition to his work accident. The only mention of a relationship between Claimant's shoulder and his work accident comes from Claimant in his medical history he gave to his doctor. Claimant's belief of a connection, told to his doctor is not synonymous with a physician rendering an opinion on causation. *See, e.g., Meikle v. Alpine Flagging, LLC*, 2001 WL 470656

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<sup>2</sup> There is a record from January 26, 2022, involving Claimant's right elbow. Claimant testified at hearing that visit was not actually about his elbow, it was due to his shoulder pain that hurt down to his elbow. If that is the case, then Claimant's first medical visit for his shoulder would have been nearly two years after his work accident. However, there is no mention in that January 2022 visit of the work accident causing his right upper extremity pain. The first time Claimant tied any pain complaints to the March 14, 2020 work accident was in late May of 2022.

(Idaho Ind. Com. Apr. 27, 2001) (A physician does not render a medical opinion by merely recording the assertion of a patient.)

### **DISCUSSION AND FURTHER FINDINGS**

7. Claimant bears the burden of proving his entitlement to the benefits at issue, *Duncan v. Navajo Trucking*, 134 Idaho 202, 203, 998 P.2d 1115, 1116 (2000). In this case, Claimant faces hurdles including a lack of timely notice to Employer of his purported shoulder injury, failure to file his complaint within the statutory time limit for doing so, thereby violating the statute of limitations, and his failure to prove to a reasonable degree of medical probability that his right shoulder condition was caused or aggravated by his work accident.

#### **Idaho Code § 72-701**

8. Idaho Code § 72-701 provides, in pertinent part that “[n]o proceedings under this law shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable but not later than sixty days after the happening thereof...”

9. The mandate of Idaho Code § 72-701 is tempered by Idaho Code § 72-704, which excuses late reporting “if it is shown that the employer, his agent or representative had knowledge of the injury or occupational disease or that the employer has not been prejudiced by such delay or want of notice.”

10. While Employer in this case knew of the accident almost immediately after it happened, and Claimant testified he told his supervisor his body hurt after the accident, the record is clear that Claimant did not notify Employer of his purported shoulder injury within sixty days after the accident. Other than a vague “my body hurts” admission Claimant made soon after the accident, the subject of any specific injury Claimant suffered in the accident

never came up between Claimant and Employer until the complaint was filed nearly two years after the date of the accident.

11. Defendants point out Claimant could not have informed Employer of his right shoulder complaints on the day of the accident, because his shoulder was not painful for the first two weeks after the accident. By that time, Claimant no longer worked for Employer and Claimant testified he never discussed his right shoulder with any supervisor at any time. While Claimant testified that at some point he told a co-worker who was visiting Claimant at his house about his shoulder, there is no evidence that such conversation took place within sixty days of the accident. Furthermore, the evidence produced at hearing established that the co-worker was not a representative of the Employer with authority to accept and act upon Claimant's notice.

12. When the totality of the record is examined, Claimant has failed to prove he gave timely notice to Employer of his right shoulder injury for which he seeks benefits.

**Idaho Code § 72-706**

13. Idaho Code § 72-706 provides for time limits on filing a complaint against an employer. Therein, with regard to those claims for which the employer/surety has paid no compensation to the claimant (as in this case), the statute states;

When a claim for compensation has been made and no compensation has been paid thereon, the claimant, unless misled to his prejudice by the employer or surety, shall have one (1) year from the date of making claim within which to make and file with the commission an application requesting a hearing and an award under such claim.

14. Claimant made no argument that he was misled by Employer into not filing his complaint within one year of his right shoulder injury. While he suggested COVID played a part in the delay, upon further questioning at hearing it became apparent that the COVID delay

with filing had to do with his unemployment claim, not his worker's compensation complaint. Instead, he testified he was able to file his worker's compensation complaint on his first attempt. This was not a case where he attempted to hand file his complaint but the Commission was shut down due to COVID. When he was ready to file, he came to the Commission office and filed the complaint with no delay, as per his testimony.

15. Idaho Code § 72-604 tolls the deadline for filing the complaint *if* the employer has knowledge of an injury and willfully fails to file the report of injury required by Idaho Code § 72-602(1). Claimant did not argue for the applicability of this provision, and even if he had, the record does not support the claim. Nothing in the record suggests Employer knew of Claimant's injury prior to him filing a complaint.

16. When the totality of the record is examined, Claimant has failed to prove he filed his complaint within the one-year deadline provided for in Idaho Code § 72-706.

### **Injury**

17. An accident is an unexpected, undesigned, and unlooked for mishap, or untoward event *which causes an injury*. See, Idaho Code 72-102 (17)(b). While Claimant admittedly had a mishap on March 14, 2020, when he tipped the loader, an issue exists whether that mishap caused an injury to his right shoulder, as he claims.

18. Claimant did not have right shoulder pain immediately after the accident. In fact, he testified he did not have right shoulder pain for two weeks after the accident. Even then, if he was having right shoulder pain, he failed to mention it to his doctors over the course of the next two years, even though he visited doctors more than a dozen times during that time frame. He produced no medical evidence that he had suffered a right shoulder injury as a result of his

work accident. There is no substantive evidence in the record to support Claimant's assertion that he injured his right shoulder in the work accident in question.

19. When the totality of the record is examined, Claimant has failed to prove he suffered an injury to his right shoulder as a result of his industrial accident of March 14, 2020.

### **Causation**

20. Finally, Claimant must prove a causal link between the accident in question and his right shoulder condition as diagnosed in May 2022 in order to obtain benefits for his medical expenses under Idaho Code § 72-432(1) related to treatment for his right shoulder. He must provide *medical testimony* that supports a 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). (Emphasis added.) "Probable" is defined as "having more evidence for than against." *Fisher v. Bunker Hill Company*, 96 Idaho 341, 344, 528 P.2d 903, 906 (1974). Proof of a possible causal link is not sufficient to satisfy this burden. *Beardsley v. Idaho Forest Industries*, 127 Idaho 404, 406, 901 P.2d 511, 513 (1995). Claimant must establish this proof by way of a physician's testimony or written medical record supporting the claim for compensation to a reasonable degree of medical probability. See, e.g. *Hart v. Kaman Bearing & Supply*, 130 Idaho 296, 939 P.2d 1375 (1997).

21. Claimant did not seek treatment for his right shoulder for approximately two years after his work accident. He did not complain of right shoulder pain when seeking treatment for other ailments. As noted previously, he was seen by physicians approximately 13 times for various medical ailments after his industrial accident, but made no mention of pain in his right shoulder.

22. Even when Claimant finally did complain of right shoulder pain on May 10, 2022, he did not associate that pain with his work accident. Instead, he told his physician the pain began

the night before while he was sleeping. Notably, during that same visit, Claimant denied any injury or history of similar issues. DE 2, p. 69. It was not until Claimant returned in a follow-up appointment on May 25, 2022, that he related his shoulder to a work injury. Importantly, no physician related Claimant's right shoulder's tendinopathy and/or Hills-Sachs deformity to his March 14, 2020 work accident.

23. While it is uncontested Claimant had issues with his right shoulder in 2022, and underwent multiple surgeries to address those issues, the mere fact that Claimant was diagnosed with shoulder conditions two years after he was involved in an accident at work does not mean his shoulder condition was due to the accident. Without a medical opinion linking the accident to Claimant's shoulder condition, he has failed to meet his burden of proof on causation.

24. When the totality of the record is examined, Claimant has failed to prove his work accident of March 14, 2020, caused or contributed to his right shoulder condition as diagnosed in May 2022.

### **CONCLUSIONS OF LAW**

1. When the totality of the record is examined, Claimant has failed to prove he gave timely notice to Employer of his right shoulder injury for which he seeks benefits.

2. When the totality of the record is examined, Claimant has failed to prove he filed his complaint within the one-year deadline provided for in Idaho Code § 72-706.

3. When the totality of the record is examined, Claimant has failed to prove he suffered an injury to his right shoulder as a result of his industrial accident of March 14, 2020.

4. When the totality of the record is examined, Claimant has failed to prove his work accident of March 14, 2020, caused or contributed to his right shoulder condition as diagnosed in May 2022.

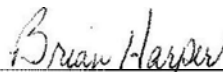
5. Because Claimant failed to prove he gave Employer timely notice of his injury as required by Idaho Code § 72-701, failed to file his complaint within the one-year statute of limitations required by Idaho Code § 72-706, and failed to prove by a preponderance of the evidence that he suffered an injury as a result of his industrial accident in question, and failed to prove a causal connection between the industrial accident in question and his right shoulder condition, Claimant's claims for temporary disability benefits, disability based on medical factors, known as permanent partial impairment, and/or permanent partial disability attributable to all factors are denied as being 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 8<sup>th</sup> day of April, 2026.

INDUSTRIAL COMMISSION



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Brian Harper, Referee

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14th day of May, 2026, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by email transmission and regular United States Mail upon each of the following:

JOSE H. ESCOBEDO

[REDACTED]  
[REDACTED]  
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PAUL AUGUSTINE  
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*Jennifer S. Komperud*

jsk

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

JOSE H. ESCOBEDO,

Claimant,

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HIDDEN VALLEY DAIRY, LLC,

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IDAHO STATE INSURANCE FUND,

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**ORDER**

Filed  
May 14, 2026  
Idaho Industrial Commission

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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 totality of the record is examined, Claimant has failed to prove he gave timely notice to Employer of his right shoulder injury for which he seeks benefits.
2. When the totality of the record is examined, Claimant has failed to prove he filed his complaint within the one-year deadline provided for in Idaho Code § 72-706.

3. When the totality of the record is examined, Claimant has failed to prove he suffered an injury to his right shoulder as a result of his industrial accident of March 14, 2020.

4. When the totality of the record is examined, Claimant has failed to prove his work accident of March 14, 2020, caused or contributed to his right shoulder condition as diagnosed in May 2022.

5. Because Claimant failed to prove he gave Employer timely notice of his injury as required by Idaho Code § 72-701, failed to file his complaint within the one-year statute of limitations required by Idaho Code § 72-706, and failed to prove by a preponderance of the evidence that he suffered an injury as a result of his industrial accident in question, and failed to prove a causal connection between the industrial accident in question and his right shoulder condition, Claimant's claims for temporary disability benefits, disability based on medical factors, known as permanent partial impairment, and/or permanent partial disability attributable to all factors are denied as being moot.

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

IT IS SO ORDERED.

DATED this the 14<sup>th</sup> day of May, 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 14<sup>th</sup> day of May, 2026, a true and correct copy of the foregoing **ORDER** was served by email transmission and regular United States Mail upon each of the following:

JOSE H. ESCOBEDO

[REDACTED]  
[REDACTED]  
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