

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARBARA A. HAIGH,

Claimant,

v.

EDGEWOOD VISTA,

Employer,

and

TRAVELERS PROPERTY CASUALTY CO.
OF AMERICA,

Surety,

Defendants.

IC 2015-012643

2015-016017

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

Filed February 16, 2018

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Michael E. Powers, who conducted a hearing in Pocatello on April 18, 2017. Claimant was present with her attorney Dennis R. Petersen of Idaho Falls. W. Scott Wigle of Boise represented Employer/Surety (Defendants). Oral and documentary evidence was presented and the record remained open for the taking of three post-hearing depositions. The parties submitted post-hearing briefs and this matter is now ready for decision.

ISSUES

The issues to be decided as a result of the hearing are:

1. Whether Claimant suffered an accident causing injury arising out of and in the course of her employment with Employer;

2. Whether Claimant is entitled to medical care pursuant to Idaho Code § 72-432;
3. Whether Claimant is entitled to total temporary disability (TTD) benefits and the extent thereof;
4. Whether Claimant is entitled to permanent partial impairment (PPI) benefits and the extent thereof;¹
5. Whether Claimant is entitled to permanent partial disability (PPD) benefits and the extent thereof;
6. Whether apportionment for a pre-existing condition under Idaho Code § 72-406 is appropriate;
7. Whether Claimant is entitled to attorney fees under Idaho Code § 72-804; and
8. Whether the Commission should retain jurisdiction beyond the statute of limitations.

Claimant has withdrawn the issues of attorney fees and retention of jurisdiction. See Claimant's Post-Hearing Memorandum, p. 28.

CONTENTIONS OF THE PARTIES

Claimant contends that she injured her low back in two accidents a few days apart. She seeks reimbursement for a back surgery as well as TTD, PPI, and PPD benefits.

Defendants assert that even if Claimant proves that she suffered two accidents, she cannot prove that she was injured in either one. She has a long history of low back problems and contemporaneous medical records from her first medical treatment post-accidents do not corroborate her version of events. Regardless of the cause, Claimant's low back flare-up of symptoms had subsided by the time of her surgery and was not the cause therefor.

¹ There is but one PPI rating of record and Defendants do not disagree with that rating.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant, Claimant's co-worker Kimberly Boswell, and Employer's executive director Joyce Marlar, presented at the hearing.
2. Claimant's Exhibits (CE) A-BB admitted at the hearing.
3. Defendants' Exhibits (DE) 1-13 admitted at the hearing.
4. The post-hearing depositions of: Kristine Babb, NP, taken by Defendants on June 9, 2017, Delyn Porter taken by Claimant on August 8, 2017, and that of Benjamin Blair, M.D., taken by Claimant on August 15, 2017.

After having considered all the above evidence and briefs of the parties, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

FINDINGS OF FACT

Background:

Claimant's hearing testimony.

1. Claimant was 72 years of age and a 70-year resident of American Falls at the time of the hearing. She quit school in the 10th grade to get married. Claimant's Social Security earnings and employment history may be found at CE, AA. Claimant worked for Lamb Weston from 1978, first on the trim line then to sanitation, then to forklift driver, then as a package line operator until she retired in 2011 at age 66. Claimant testified that she retired because the work was "extremely physical." She also began receiving Social Security retirement benefits at that time.

2. Claimant obtained various part-time jobs to supplement her income including driving a truck during potato harvests. She also found employment as an in-home health care

provider. Because of the long commute, Claimant quit that job and went to work for Employer in American Falls. In January 2015, Claimant began her employment with Employer herein as a part-time caregiver. She worked the “midnight shift” from 11:00 p.m. to 4:00 a.m. Claimant generally worked with either Brenda Robinson or Selena Nieto.

3. Claimant alleges that she suffered two separate and distinct accidents at Employer’s in early May 2015. In the first, Claimant testified that although unsure of the time, on May 1, 2016, while working with Ms. Nieto, a resident’s call light came on and Ms. Nieto answered the call. Because the resident was known to Claimant as sometimes being difficult to handle, she went to help Ms. Nieto. The resident had fallen directly in front of the commode and needed assistance in getting on to the commode. Claimant and Ms. Nieto were successful in that regard and Claimant went to get a wheelchair as the resident was too weak to walk back to his bed on his own. Claimant fell during the wheelchair-to-bed transfer. The resident was “...a big man . . . he was very heavy.” HT, p. 61. Because they could not get the resident in his bed, Claimant suggested that she and Ms. Nieto call for assistance; Ms. Nieto “absolutely refused” and continued trying to get the resident up on his bed. Claimant then grabbed Claimant’s legs and Ms. Nieto wrapped her arms around the resident’s chest and they were eventually successful in getting him in to his bed.

4. Claimant testified regarding how she felt after the transfer:

Yes. I had a - - I didn’t have any sharp pain or anything, but I had a feeling something was pulled or - - you know, something wasn’t right.

Q. (By Mr. Petersen): Where?

A. In my lower back In my lower back at that point. It was - - I didn’t locate it from right to left at that point, but it was in my lower back.

HT, p. 63.

5. Claimant does not remember if she told Ms. Nieto about her back injury at the time, but believes she finished her shift. Claimant testified that her back injury worsened by the next afternoon, Saturday, May 2, 2015. Claimant attributed her back pain to a pulled muscle. Later that afternoon, Claimant played pinochle with friends for nine or ten hours.

6. On her Sunday/Monday May 3rd and 4th 11:00 p.m. to 4:00 a.m. shift, Claimant worked with Brenda Robinson. They were helping a non-ambulatory resident with bowel control issues get into his wheelchair for transport to the rest room in order to clean him up. The resident was not cooperating and felt like “dead weight” and maneuvering him was “very strenuous.”

7. Claimant felt pain in her back in the same area that she had injured a couple of days before, but this time, the pain felt different and Claimant concluded that it was something more than a pulled muscle and she needed to get it checked out. She does not remember if she told Brenda or if she finished her shift.

8. Claimant testified that she called her supervisor, Ms. Marlar, on Sunday evening, May 3rd, and left a message that she would not be in to work because she was in too much pain. Because she was unable to reach Ms. Marlar, Claimant left another message saying that she would go to work and see how things went from there. It was during this shift that Claimant had the incident with the resident described above.

9. Claimant first sought medical attention for her back on Monday, May 4, 2015. She testified that she called Ms. Marlar on that date and left a message that she was going to see a doctor. Claimant saw Kristine Babb, NP, at Power County Family Clinic (PCFC). Regarding her visit with NP Babb, Claimant testified:

Q. (By Mr. Petersen): In my opening statement, I read her [NP Babb's] notes and I'm going to read it again and talk to you about it. It says: Lower back pain in low back for a week-and-a-half.

Did you tell her that?

A. No.

Q. Pain has moved to the right side intruding up the back.

A. No.

Q. Did you tell her that?

A. No.

Q. This has been an ongoing problem for Barbara.

Did you tell her that?

A. No.

Q. She has been working in the yard and is now having severe pain with some referral to butt cheek, and also have hip pain in the right side.

Did you tell her that?

A. No.

Q. Do you have any idea where she got this information?

A. Absolutely no.

HT, pp. 76-77.

10. Claimant believes that she told Ms. Marlar about her accident by Wednesday, May 6th because Ms. Marlar called her on that date and said she, Claimant, needed to come in and fill out an accident report. Claimant went to Employer's on May 8th, and talked to Ms. Marlar in person regarding her accidents and filled out an accident report. The next time Claimant remembers talking with Ms. Marlar was when, a couple of weeks later, she called Claimant and she offered her a job which Claimant turned down because part of the job requirements was that she be able to lift 50 pounds which she could not do. Ms. Marlar requested that Claimant get a doctor's note regarding lifting restrictions by June 3, 2015. Claimant does not remember if she complied with that request. Claimant also does not recall

telling Ms. Marlar that she could return to work if her lifting restrictions were lowered to 15 pounds and Ms. Marlar responding that she would check with human resources.

11. Claimant was terminated effective June 23, 2015 due to her failure to maintain contact and abandoning her position; Employer characterized Claimant's actions as a voluntary termination. Claimant denied failing to maintain contact with Employer and was advised to keep in contact by a representative of Surety.

12. Claimant was referred to Benjamin Blair, M.D., an orthopedic surgeon, who she first saw on June 15, 2015. He examined Claimant, prescribed pain medication and ordered an MRI that revealed scoliosis. Dr. Blair gave Claimant the choice of surgery, shots, or pain medication; Claimant chose pain medication. She testified that in June, July, and August 2015, her back was "Not too bad. I had ongoing low back pain, but it didn't seem to restrict me too much. I was very, very careful about my lifting, as he [Dr. Blair] recommended." HT, p. 96.

13. Claimant received unemployment benefits after her termination in June until she began working for Home Helpers in July. That part-time work lasted until Claimant began driving a truck in September during the fall harvest season. She drove 11-12 hours a day six days per week until the harvest ended in late October. She then went back on unemployment until she began working for Survey Sampling in November 2015.

14. Claimant underwent back surgery on February 2, 2016 because "After harvest, I was way behind on my gardening and stuff and I decided to plant some more tulip bulbs and things and I couldn't do it. I got down - - you know, on your hands and knees, digging around, planting bulbs and stuff and something happened then. The pain was just great and I actually went to bed for three days on pain pills. And after that, I called Dr. Blair's office and made an appointment." HT, pp. 102-103.

15. After about six weeks post-surgery, Claimant returned to her job at Survey Sampling until she was granted another leave of absence (the first was for her surgery) so that she could once again drive truck during the harvest. Unfortunately, Claimant was laid off when she attempted to return to work as the elections were over and Survey Sampling had a lack of work.

16. In February 2017, Claimant went to work for Amy's Kitchen, a meal-to-go preparation service.

17. Claimant testified that the results of her surgery were "Fantastic." *Id.*, p. 110. She is able to do her gardening and even shovel snow. She has no follow-up appointments with Dr. Blair.

Cross examination

18. Claimant acknowledged that she had undergone four MRI scans done on her back before her employment with Employer and that she had seen Drs. Blair and Honeycutt for her back problems. She testified that every two years or so her back pain would flare up, she would seek medical treatment and, with medication, her pain would resolve and the cycle would be repeated.

19. Claimant acknowledged that she has had experience with workers' compensation claims and knew that she was to report an accident immediately. Because each shift Claimant worked involved two days, she was somewhat confused at hearing regarding the exact dates of her two accidents, especially when confronted with the work schedules of Ms. Nieto and Ms. Marljar that indicated they were not scheduled to work on the days Claimant said she worked with them.²

² Counsel for both parties are to be commended for attempting to sort out the discrepancies in dates; suffice it to say that Claimant's alleged accidents and injuries occurred in the first part of May 2015.

20. Claimant does not remember why she told Surety's adjuster that she had no previous back problems "Well, I hadn't had any recently before the accident." HT, p. 127.

21. Claimant recalled seeing Ms. Nieto at the Commission field office before the hearing began (she was subpoenaed by Claimant's counsel) and understood that she was sent home because she did not remember any of the events described by Claimant.

22. Claimant missed no work due to her back at any of the jobs she held after leaving Employer herein.

Kimberly Boswell

23. Kimberly Boswell was at one time employed by Employer as a medical technician and floor aide, although she no longer works there. She is a friend of Claimant's and knew her from working with Employer. Coincidentally, Claimant's counsel herein also represents Ms. Boswell in a workers' compensation claim against Employer for not offering suitable work restriction-wise during her light-duty work release.

24. Ms. Boswell testified that she first became aware of Claimant's injury from Ms. Nieto who told her of the lifting incident with the resident. She believed the conversation with Ms. Nieto occurred "Just after the incident when I was relieving Selena." HT, p. 145.

25. The Referee gives no weight to Ms. Boswell's testimony as it was timely objected to as hearsay by Defendants' counsel and hearsay it is.

Joyce Marlar

26. Ms. Marlar has been the executive director of Employer's senior assisted living facility, Edgewood/Spring Creek (Edgewood) since October 2013. Edgewood is licensed to accommodate 36 residents and employs an average of 18 people.

27. Claimant was hired by Edgewood in early 2015 part-time for the 11:00 p.m. to 4:00 a.m. shift. Ms. Marlar was asked to examine and explain some work schedules for Claimant and other employees for the month of May 2015. The gist of Ms. Marlar's testimony was that perhaps Claimant got the dates of her accidents wrong by a day or so and the same with whom she was working. Claimant's time cards do not reflect that she left work early on any of the dates relevant to this action.

28. When asked when she first learned that Claimant was claiming that she hurt her back at work, Ms. Marlar testified it was on Monday, May 4th,³ when Claimant called her and left a message on her answering machine that her back hurt and she would not make it in to work. However, she later testified that Claimant did not mention that she had hurt her back at work in that message and Ms. Marlar did not make that assumption.

29. Ms. Marlar was again asked when she first learned that Claimant was contending that she was injured at work was Wednesday when "I started to call her and tell her that I needed an incident report filled out." HT, p. 167. When asked why an incident report needed to be filled out when Claimant was not contending she was injured at work, Ms. Marlar responded, "Because it's protocol that, whether or not she had injured herself at work or whatever, if an incident happened at work, then she needed to fill it out." *Id.*

30. Claimant's last day of working for Employer was Tuesday, May 5th. Claimant met with Ms. Marlar on May 8th. At that time, Ms. Marlar contacted Surety and was informed that Claimant had indicated to her doctor that she was injured while gardening. Surety's adjuster told Ms. Marlar to give Claimant three days to produce a "doctor's note." *Id.*, p. 169. When

³ Ms. Marlar testified on cross-examination that she was told on May 6th by someone (she does not remember who) that Claimant had an incident on May 1st or May 3rd but she was unaware of the particulars until May 8th when Claimant prepared an incident report.

Claimant failed to comply, she was considered a voluntary termination due to a lack of communication.

31. Claimant was offered re-employment as a housekeeper with Employer but she refused to sign a job description indicating that she would have to lift up to 50 pounds even though Ms. Marlar understood that she would not have to lift that much weight.

Deposition testimony

Kristine Babb, N.P.

32. Ms. Babb has been a nurse practitioner since 1995 and has practiced in American Falls at the Power County Family Clinic for the past 15 years. PCFC has treated workers' compensation patients for at least as long as Ms. Babb's employment there. She testified that there is much more paperwork involved with workers' compensation patients than with other patients. The first step is to assign a claim number showing the exact date and time of the injury. Then the visit is charted as a workers' compensation claim giving the date, exactly what happened, the symptoms and the treatment rendered. A patient must notify PCFC of a work injury to set the workers' compensation paperwork in motion.

33. When a patient informs PCFC of a work injury, he or she first encounters a secretary who enters the visit as a workers' compensation claim. Then a nurse becomes involved who should know the visit is workers' compensation related if so informed by the secretary.

34. Ms. Babb is familiar with Claimant who has long been treated by PCFC. She was treated for back complaints since at least 2007 when she was diagnosed with degenerative disk disease and referred to a specialist.

35. Ms. Babb first saw Claimant for the accidents at issue here on May 4, 2015. Ms. Babb's notes for that visit in its entirety:

Chief Complaint

Lower back pain in low back for a week and [a] half, pain has moved to the right side and shooting up back.

History of Present Illness

[t]his has been an ongoing problem for Barbara, she has been working in the yard and is now having severe pain with some referral to butt cheek, and also has pain in the right side. She takes IBP and gets some relief. This seems to flair when she is working. She works at a local assisted living but works nights so doesn't get the heavy lifting. The IBP is not holding her now. She is also complaining of Post Herpetic Neuralgia over her shoulder and up her neck. She has shingles but didn't get to a provider until it was 6 days into the outbreak. She was given Acyclovir but it wasn't fast enough. She has been on Elavil 25 at hs (at night) and it has helped, she is out of her medication.

CE K, p. 1.

36. Ms. Babb was asked about whether she made up the "working in the yard" entry and answered, "No, absolutely not." Babb Dep., p. 22. Even though Claimant told Ms. Babb about her work, she failed to tell Ms. Babb that she injured her back at work.⁴ Had Claimant told the receptionist or secretary that she hurt her back at work, the chart note would have contained much information regarding Claimant's alleged accidents. In reviewing Claimant's charts, Ms. Babb understood that Claimant had been to the clinic before for back problems. "So I - - I would look at this as, kind of, an ongoing exacerbating illness that comes and goes and come and goes." *Id.*, p. 25.

37. Ms. Babb was aware that Claimant told the on-staff physician at a later visit to the clinic that her back injury was work-related; however, Claimant never approached her about changing her chart note to reflect a work injury. Even had Claimant done so, Ms. Babb would not have changed her chart note "No. Are you kidding?" *Id.*, p. 26. Ms. Babb was unaware that there was a dispute over her chart note "Until these lawyers started pestering me." *Id.*, p. 30.

⁴ Ms. Babb testified that she had no independent recollection of her May 4, 2015 meeting with Claimant but is relying on her chart note for that visit.

Brenda Robinson

38. Ms. Robinson worked for Employer as a CNA and medical assistant during the time of Claimant's employment there. She has known Claimant "Probably a long time." Robinson Dep., p. 8. Ms. Robinson recalls working the midnight shift with Claimant but does not remember when Claimant went to work for Employer or when she started working with her on the midnight shift. She also has no recollection of working with Claimant on the Friday May 1st or Sunday May 3rd, 2015 shifts.

39. Ms. Robinson testified that maybe a week after May 4th Claimant told her that she had injured her back transferring a patient with Selena Nieto. Ms. Robinson remembers telling Ms. Marlar that Claimant told her, Ms. Robinson, that she hurt her back, but she does not remember when she told her. Ms. Robinson does not remember the incident as described by Claimant of lifting an incontinent patient with her on May 3rd or 4th, 2015 or that she hurt her back in doing so. Ms. Robinson also does not recall any occasion where Claimant complained to her about hurting her back due to the work they had done together at any time.

Medical deposition testimony

Benjamin Blair, M.D.

40. Dr. Blair is a board certified orthopedic surgeon practicing in Pocatello who first saw Claimant in April 2003 for a neck injury. He next saw her in June 2007 following a fall on her buttocks at work. He then saw Claimant in October 2007 for a fractured sternum. Claimant returned to Dr. Blair in December 2009 for pelvic pain.

41. Dr. Blair saw Claimant on June 15, 2015 on a referral from PCFC for low back problems allegedly arising from the subject May 2015 accidents. She gave Dr. Blair this history, "Yes. She states she had injured herself on 5-1-2015 with a work injury lifting a resident off the

floor, resident as in a patient in a nursing facility.” Dr. Blair Dep., p. 10. Dr. Blair’s physical examination was basically normal, but, nonetheless, he ordered a lumbar MRI.

42. Claimant returned to see Dr. Blair on June 24, 2015 post-MRI that revealed stenosis or pinched nerves in her back. Dr. Blair gave her lifting restrictions and recommended epidural steroid injections.

43. Claimant next saw Dr. Blair on July 15, 2015; her symptoms were unchanged from her last visit. Dr. Blair again offered ESIs or surgery, or, as Claimant chose, “living with it.”

44. Dr. Blair again saw Claimant on November 12, 2015 with worsening symptoms. Surgery was again discussed and he referred Claimant to a “hospitalist” to determine her medical status and the safety of any surgery.

45. On February 2, 2016, Dr. Blair performed a laminectomy from L2-S1 and fused L3-4, a “pretty significant operation.” *Id.*, p. 13. Regarding the need for the surgery, Dr. Blair testified:

Q. (By Mr. Petersen): Okay. Based upon the history Miss Haigh gave you, based upon what she testified to, do you have an opinion based upon a reasonable degree of medical probability as to the cause or the need - - what caused the need for the surgery?

A. Well, partially her underlying degenerative changes, partially, or more partially the accident of those two dates.⁵

Dr. Blair Dep., p. 14.

46. Dr. Blair testified that Claimant’s back condition as he observed it pre-surgery was not the result of any trauma but was the result of degeneration over time.

⁵ Dr. Blair testified that he would apportion one-third of the need for Claimant’s surgery to her pre-existing degenerative scoliosis stenosis and two-thirds to the subject accidents.

DISCUSSION AND FURTHER FINDINGS

An accident is defined as an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury. Idaho Code § 72-102(18)(b). An injury is defined as a personal injury caused by an accident arising out of and in the course of employment. An injury is construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. Idaho Code § 72-102(18)(a). A claimant must prove not only that he or she was injured, but also that the injury was the result of an accident arising out of and in the course of employment. *Seamans v. Maaco Auto Painting*, 128 Idaho 747, 751, 918 P.2d 1192, 1196 (1996). Proof of a possible link is not sufficient to satisfy this burden. *Beardsley v. Idaho Forest Industries*, 127 Idaho 404, 406, 901 P.2d 511, 513 (1995). A claimant 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). “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).

47. The Referee is not persuaded that Claimant suffered an accident or accidents in early May 2015 based primarily on her failing to tell NP Babb of her accident(s). Claimant’s attempt to discredit Ms. Babb by insisting that she did not tell her that she hurt her back while gardening is unavailing. Ms. Babb credibly testified that had Claimant told either herself or the intake person that she had suffered a work injury, a whole different set of procedures would have been instituted to conform to workers’ compensation requirements. Ms. Babb was adamant in

her testimony that Claimant told her what is reflected in her May 4, 2015 chart note and that she would not change her entry to reflect a work injury had she been asked by Claimant to do so.

48. It is also troubling that Claimant told Ms. Babb about her working the night shift so as to avoid heavy lifting. It would seem that by discussing her work situation with Ms. Babb, a golden opportunity existed for Claimant to mention that she was hurt at work while lifting a resident, yet she did not do so.

49. Another obstacle facing Claimant is the fact that neither of her corroborating witnesses corroborated any lifting incident. Ms. Nieto apparently had no memory of anything so she was dismissed as a witness at hearing. Ms. Robinson's testimony was vague and failed to establish a time when Claimant may have mentioned any incidents where Claimant contemporaneously mentioned hurting her back.

50. It is also relevant that Claimant worked for other employers after her alleged accidents without missing any work due to back issues. It is clear from the record that Claimant had suffered back problems throughout the years that would wax and wane. After she worked the 2015 harvest season, her back apparently was causing her enough problems for her to seek treatment specifically for her that condition.

51. Finally, Dr. Blair's causation opinion is based entirely upon what Claimant told him and her hearing testimony. It follows that if what Claimant told him was not true, his causation opinion would be fatally flawed as is the case here.

52. The Referee finds that Claimant has failed to prove she suffered an accident causing injury.

53. All remaining issues are moot.

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

BARBARA A. HAIGH,

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EDGEWOOD VISTA,

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TRAVELERS PROPERTY CASUALTY CO.
OF AMERICA,

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IC 2015-012643

2015-016017

ORDER

Filed February 16, 2018

Pursuant to Idaho Code § 72-717, Referee Michael E. Powers 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 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 has failed to prove she suffered an accident causing injury.
2. All remaining issues are moot.

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

DATED this __16th__ day of February 2017.

INDUSTRIAL COMMISSION

/s/
Thomas E. Limbaugh, Chairman

/s/
Thomas P. Baskin, Commissioner

/s/
Aaron White, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the __16th__ day of February, 2018, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

DENNIS R PETERSEN
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W SCOTT WIGLE
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g e

Gina Espinosa