BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

IDA PEREZ, Claimant, v. VIRGINIA TRANSFORMER CORPORATION, Employer, and THE PHOENIX INSURANCE COMPANY, Surety, Defendants.	**IC 2021-033756** **ORDER ON ATTORNEY FEES** **FILED AUGUST 4, 2026** **IDAHO INDUSTRIAL COMMISSION**

The Commission previously awarded attorney fees to Claimant Ida Perez. Order ¶ 6 (April 17, 2026). To determine the amount of reasonable attorney fees, the Commission requested that the parties either reach an agreement or submit responsive memoranda. *Id*. Claimant Ida Perez timely filed the requested Memorandum Supporting Attorney Fees on May 8, 2026. Surety The Pheonix Insurance Company timely responded on May 14, 2026. Claimant timely filed her reply on May 21, 2026. In the prior order, the Commission awarded Attorney Fees to Claimant under Idaho Code § 72-804 (2026). *Id*.

For the proceeding reasons, the Commission finds that an award of thirty percent of the total disputed benefits is reasonable, and awards Claimant accordingly.

BACKGROUND

Claimant began work for Employer Virginia Transformer Corporation in April of 2021. F.O.F. ¶ 2 (April 17, 2026). She worked in multiple positions that required repetitive hand activities. *Id*. By December 2021, she began to experience numbness, tingling, and discomfort in both hands. *Id.* ¶ 3. On December 6, 2021, Claimant was diagnosed with bilateral carpal tunnel syndrome. *Id.* ¶ 4. The prescribed treatments proved insufficient. *Id.* ¶ 5. In February of 2022, and EMG confirmed Claimant's bilateral medial wrist neuropathy and Surety accepted the claim. *Id*. During the Spring of 2022, Dr. Ryan Miller performed two operations to treat Claimant's injury. *Id.* ¶¶ 6-7. Surety closed the claim in reliance on Dr. Miller's notes following the procedure. *Id.* ¶ 11.

However, the treatment again proved insufficient, so Claimant sought treatment from Dr. Gail Fields. *Id.* at 12. Dr. Fields recommended that Claimant wear wrist splints full time. *Id*. If that was not possible, then Dr. Fields recommended four weeks off work. *Id*. Claimant's last day of work was August 18, 2022. *Id.* ¶ 13. Claimant was unemployed for "about a month" until finding work for another employer. *Id*. She received further surgeries to treat her carpal tunnel on November 28, 2022, and February 6, 2023. *Id.* at 15. Surety delayed paying benefits on these surgeries until immediately before the hearing on August 5, 2025, approximately thirty months, or two and a half years. *Id.* at 28-29.

On February 14, 2024, Claimant filed a complaint with the Commission seeking the yet unpaid medical benefits, as well as time loss benefits, PPI benefits, PPD benefits, and attorney fees. Compl. at 1 (February, 14 2024). The Commission issued an order on April 17, 2026, awarding Claimant time loss benefits, permanent impairment benefits corresponding to a 7% whole person rating, partial disability benefits corresponding to a 35% permanent disability rating inclusive of impairment, and attorney fees under § 72-804. Order ¶ 6. However, the Commission declined to award Claimant medical benefits at *Neel* rates. *Id.* ¶ 1. Claimant filed a Notice of Appeal with the Commission's decision on May 28, 2026, challenging the Commission's denial of *Neel* rates. Clmnt. Not. of Appeal at 1-3 (May 28, 2026). The Commission issued an automatic stay on the proceedings pursuant to Idaho Code § 72-731 (2026). However, on June 1, 2026, the parties submitted a jointly stipulated motion to lift the stay.

STANDARD OF REVIEW

Idaho Code § 72-731 automatically stays proceedings before the Commission when a party appeals the Commission's decision. However, it permits the Commission to lift such a stay by its own discretion. Idaho Code § 72-731.

Worker's Compensation Law "should be interpreted liberally in favor of employees to serve the humane purpose for which it was promulgated." *Miklos v. L&W Supply Corp.*, 176 Idaho 775, 785, 582 P.3d 60, 70 (2026) (quotations omitted). "The workmen's compensation law, like other laws of this state, is to be liberally construed with a view to effect its object and promote justice." *Haldiman v. Am. Fine Foods*, 117 Idaho 955, 957, 793 P.2d 187, 189 (1990). "[T]he humane purposes which these acts seek to serve leave no room for narrow technical construction." *Id*.

Where an employer or its surety neglects or refuses within a reasonable time to render unto a claimant such compensation as is lawfully due, the employer or surety shall pay reasonable attorney fees in addition to such compensation. Idaho Code § 72-804. Attorney fees are "like any other fee and [are] subject to the same standards of reasonableness as any other fee." *Hogaboom v. Econ. Mattress*, 107 Idaho 13, 15, 684 P.2d 990, 992 (1984). Such an award is both "remedial," *Miklos*, 176 Idaho at 793, 582 P.3d at 78, and "punitive." *Nelson v. Pocatello*, 170 Idaho 160, 175-

76, 508 P.3d 1234, 1249-50 (2022). "[T]he underlying rationale being that the claimant should not have his benefits lessened by legal expenses incurred as a result of the employer's and his surety's unwarranted conduct in refusing or delaying compensation of an otherwise compensable claim." *Hogaboom*, 107 Idaho at 17, 684 P.2d at 994. Furthermore, these awards allow workers to pursue claims that "have been unreasonably contested by the employer despite the fact that such claim may be worth only an amount which may well be exceeded by the attorney's fees of pursuing the claim." *Id*.

In a case involving a hearing and briefing, attorney fees of thirty percent are presumed reasonable. IDAPA 17.01.01.802.01(b). The proponent of fees in excess of the regulatory amount shall have the burden of showing the reasonableness such fees by a preponderance of the evidence. IDAPA 17.01.01.802.02(d).

DISCUSSION

These matters are currently under the automatic stay created by Claimant's appeal. Accordingly, before determining reasonable attorney fees, the Commission must address whether it may lift the automatic stay. The statute is silent on the proper grounds for lifting a stay. *See* Idaho Code § 72-731. However, the Commission has retained jurisdiction to decide on narrow issues with limited impact on the issues on appeal. *Lowery v. Galen Kuykendall Logging*, No. IC 2019-022568, 2023 WL 7433343, at 2 (Idaho Ind. Com. Oct. 20, 2023). Here, the only remaining issue is the amount of reasonable attorney fees. This will have no impact on the issue Claimant has raised on appeal. Furthermore, the parties have jointly stipulated, requesting a lift on the stay. Taken together, the Commission finds that there is sufficient cause to lift the stay on the proceedings to resolve the singular issue of reasonable attorney fees.

Claimant is entitled to attorney fees equal to thirty percent of awarded benefits. The amount presumed reasonable is set at thirty percent by IDAPA 17.01.01.802.01(b). The Claimant requests this amount in fees.[1] Clmnt. Memo. on Att'y Fees at 2 (May 8, 2026). This amount is presumed reasonable, unless shown otherwise. See IDAPA 17.01.01.802.02(d). Surety does not contest that this fee is reasonable. Surety Resp. on Att'y Fees at 5 (May 14, 2026). Surety instead contends that this Commission intended to limit the award to thirty percent of medical benefits. *Id.* at 3-5. However, to reduce the award of attorney fees in such a manner would be contrary to the "humane purpose" of the law. Idaho Code § 72-804 serves a dual purpose. *See Miklos*, 176 Idaho at 793, 582 P.3d at 78. The statute serves both as a remedy to a claimant that has suffered an unreasonable denial, and as a deterrent to prevent "the employer's and his surety's unwarranted conduct in refusing or delaying compensation of an otherwise compensable claim." *Hogaboom*, 107 Idaho at 17, 684 P.2d at 994.

The remedial goals of the statute require Claimant to receive an award proportional to the total recovery. Here, Surety's conduct was unwarranted. Order ¶ 6. Claimant was forced to bear the undue expense of hiring an attorney to recover the medical benefits that were unreasonably delayed. The statute remedies this situation by permitting Claimant to recover the cost of retaining the attorney. That Claimant was denied other benefits, reasonably or otherwise, only seeks to increase the cost of hiring an attorney. To reduce Claimant's award and require Claimant to bear the increased costs of hiring the attorney simply because the Surety engaged in additional

[1] In the initial Memorandum, Claimant also requests an award of $7,980.27 for the costs of the legal action as well. Clmnt. Memo. on Att'y Fees at 7. This increases the initially requested amount up to thirty-eight percent of Claimant's proposed benefits amount. *Id.* at 6. However, after Surety objected, Claimant withdrew such argument, admitting that it was frivolous. Clmnt. Reply at 6 (May 21, 2026). Accordingly, the Commission considers the argument withdrawn and does not evaluate it here.

misconduct would directly contravene the remedial purpose of the statute. Therefore, attorney fees under Idaho Code § 72-804 cannot be limited to only a portion of the recovery.

The deterrent goals of Idaho Code § 72-804 also require that Claimant's attorney fee award is proportional to the total recovery. Idaho Code § 72-804 seeks to deter the gamesmanship of employers and sureties by relieving claimants of the costs of hiring an attorney when faced with unreasonable objections. Employers and sureties benefit from denying lawful benefits to claimants who will often be unable to bear the expensive costs of hiring attorneys. When the cost of obtaining the benefits outweighs the potential recovery, this incentivizes these parties to deny all benefits. The statute seeks to disincentivize this conduct by, first, permitting claimants to recover the costs of obtaining unreasonably denied benefits and, second, by increasing the expense of unreasonably denying or delaying benefits. In such a way, the statute deters mischief and gamesmanship from employers and sureties. To allow benefits on the full recovery serves to protect this goal in two manners. First, it prevents employers and sureties from reducing the weight of deterrence. If a party can limit the increased expenses while still engaging in unwarranted conduct, the deterrence is reduced, if not destroyed. Second, it prevents parties from engaging in mischief and gamesmanship. Permitting attorney fees for only some denials and delays allows for the parties to engage in games of classification and technicality that only serve to both increase the burden on the Commission and Claimants and to contravene to "humane purpose" of Worker's Compensation Law. "The humane purposes which these acts seek to serve leave no room for narrow technical construction." *Haldiman*, 117 Idaho at 957, 793 P.2d at 189. Accordingly, the Commission will protect the goals and purposes contained within § 72-804, and award Claimant attorney fees proportionate to the total recovery.

Claimant is to receive attorney fees in an amount equal to thirty percent of the total recovery. It is unclear exactly how much Surety paid as compensation related to Dr. Fields' surgeries, as neither party has offered an exact amount. Clmnt. Memo. on Att'y Fees at 6; Surety Resp. on Att'y Fees at 5. However, other amounts are known. The sum of TTD benefits, $1,634.40, PPI benefits, $16,208.50, and PPD benefits exclusive of PPI, $64,834.00, is $82,676.90. Clmnt Memo on Att'y Fees at 6. 30% of that amount is $24,803.07. Additionally, if successful on appeal, Claimant's recovered medical benefits are likely to be increased. Accordingly, if successful Claimant is entitled to recover an additional thirty percent of further recovery as attorney fees.

CONCLUSION

Claimant is entitled to recover reasonable attorney fees of thirty percent of the total recovery, regardless of which denial or delay entitled Claimant to attorney fees under § 72-804. Claimant is awarded $24,803.07, 30% of the amounts Surety paid as a result of Dr. Fields' surgeries, and 30% of any additional amounts recovered on appeal, if so awarded. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 4th day of August, 2026.

INDUSTRIAL COMMISSION

Claire Sharp, Chair

Aaron White, Commissioner

ATTEST:

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 4th day of August, 2026, a true and correct copy of the foregoing **ORDER ON ATTORNEY FEES** was served upon the following:

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