BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DOUGLAS R. CAMERON, Claimant, v. TLK FARMS, INC, Employer, and IDAHO STATE INSURANCE FUND, Surety, Defendants.	**IC 2021-031073** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** Filed November 19, 2026 Idaho Industrial Commission

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 May 4, 2026. Randall Schmitz represented Claimant. Paul Augustine represented Defendants. The parties submitted oral and documentary evidence at hearing and prepared post-hearing briefs. Post-hearing depositions were taken. The matter came under advisement on August 18, 2026.

ISSUES

The parties agreed to the following issues for this adjudication:

1. Whether Claimant suffered an injury from an accident arising out of and in the course of employment;

2. Whether the condition for which Claimant seeks benefits was caused by the industrial accident;

3. Whether Claimant's condition is due to a Covid vaccine, or from some other cause for which Defendants are not liable; and

4. Whether and to what extent Claimant is entitled to the following benefits:

a. Medical care;

b. Temporary disability, total or partial;

c. Disability based on medical factors, commonly known as permanent partial disability; and

d. Permanent partial disability attributable to all factors, up to and including total permanent disability pursuant to the odd lot doctrine or otherwise.

CONTENTIONS OF THE PARTIES

Claimant asserts he became paralyzed from the chest down as the result of transverse myelitis (TM) due to a COVID-19 vaccine he received at work several days previously. The vaccine constituted a compensable accident. Claimant is entitled to past and ongoing medical care, and benefits for his temporary disability, permanent partial impairment, and significant, if not total, permanent disability.

Defendants acknowledge Claimant suffered paralysis as the result of TM, but allege the condition resulted from Claimant's naturally occurring COVID-19, not the vaccine. Furthermore, Claimant's vaccine, while administered on Employer's premises, was not an accident arising out of and in the course and scope of his employment.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant, and witnesses Carla Cameron, Sherry Colyer, Linda Ketterling, and Tony Ketterling, taken at hearing;

2. Joint exhibits (JE) 1 through 34 and 36 through 61,[1] admitted at hearing; and

3. The post-hearing deposition transcripts of Janci Lindsay, Ph.D., Nicolas Hulscher, MPH, Diane Counce, M.D., Anthony Montanaro, M.D., and Lindsay Wooliscroft, M.D.

All objections sustained through the depositions are OVERRULED.

FINDINGS OF FACT

1. Employer is a large farm/dairy operation near Mountain Home in which the farm supplies the feed for the dairy cows. Approximately 9,000 acres of crops such as corn, alfalfa, and kale feed approximately 10,700 milk cows and over 11,000 beef cattle. Employer has about 150 employees. While the farming and dairy businesses are technically separate entities, they operate as an integrated, family operation, run by Terry and Linda Ketterling, and after Terry's death in 2023, his son Tony. Some employees, including Claimant, provide services to both entities.

2. Claimant began working for Employer in 2006 and by the time of the events in question herein was a salaried manager, and "jack of all trades," sporting the job title of Farm Operations Coordination Manager. In his role, he oversaw various functions of the farming and dairy operations.

[1] The parties and the Referee agreed prehearing to use the final exhibit as a "catchall" for medical records which exist but are not necessary to resolving the issues in play. In this case, those "catchall" documents number in the tens of thousands of pages. This final exhibit was submitted solely in electronic form on a thumb drive. It was understood that unless cited to by either party, these documents would not be reviewed by the Commission. Counsel is commended for utilizing this procedure, thus making the hard copy exhibits a bit more manageable. Hopefully this is a trend which will catch on with other attorneys appearing before the Commission.

3. The COVID-19 (Covid) pandemic began in 2020. Vaccines became available to the adult US population under an Emergency Use Authorization (EUA) in late 2020 and into early 2021. One such vaccine was the Johnson & Johnson (J&J) vaccine.

4. While many businesses were shut down, curtailed, or structured to continue on a "work from home" basis, often by government mandate, certain industries were designated as essential and allowed to remain operational. Agricultural entities were so designated, and thus Employer's operations continued through the pandemic. Employer instituted various rules concerning distancing and attendance designed to help prevent the spread of Covid among its employees.

5. In early 2021, Desert Sage Health Centers of Mountain Home approached Employer with a proposal to conduct a Covid vaccine clinic at Employer's facilities. Employer agreed to this arrangement and the two entities worked together to bring the concept to fruition.

6. Once a date for the clinic was selected (April 5, 2021), a sign-up sheet was circulated to the employees at the time they received their paychecks. Claimant, as the individual who distributed paychecks, was provided with the sign-up sheet and asked to present it to the employees. Claimant did as instructed.[2]

7. Signing up for the vaccine was strictly voluntary and was not mandated by Employer, nor were there any repercussions for those who chose not to be vaccinated. Only eight employees who received paychecks from Claimant initially signed up for the vaccine when presented the sign-up sheet, although more employees than eight were vaccinated at the on-site

[2] There was conflicting testimony as to whether, or to what degree, Claimant was encouraged to sign up for the vaccine. Claimant's testimony that he was encouraged to get the shot by office staff is not a material fact utilized when deciding this issue.

clinic, including some employees from a neighboring dairy and third-party contractors working at the site on the day of the clinic.

8. The vaccine clinic went forward on April 5, 2021. Claimant received the J&J vaccine at the on-site clinic that morning.

9. The following evening, April 6, 2021, Claimant experienced a sudden and unexpected episode of urinary incontinence. He also experienced erectile dysfunction, which was also new to him. Additionally, he began experiencing progressive feelings of discomfort and restlessness in his hips and thighs, which eventually led him to St. Luke's emergency room in Mountain Home on April 11, 2021. While there he tested positive for Covid. He was at that time experiencing no typical Covid-related symptoms, such as coughing, trouble breathing, malaise, etc. Claimant's wife had recently tested positive as well.[3]

10. Claimant's differential diagnosis at the emergency room included possible reaction to the J&J Covid vaccine, which could present as Guillain-Barre syndrome, or myelitis, which was a known, although rare, complication from the vaccine.

11. Because there was no functioning MRI machine available at the emergency room, Claimant was transported by ambulance to Boise for an MRI scan. The test showed no abnormalities and he was discharged.

12. Claimant's symptoms escalated on the night of April 14 – 15, when he lost all sensation in his legs. ER findings included abnormal cerebrospinal and blood tests. A chest

[3] There was conflicting testimony as to when Claimant's wife first contracted Covid, and its implications on Claimant's heath status at the time he received his Covid vaccine. She testified she first felt the effects of Covid at around the time of Claimant's vaccination; medical records indicate she told medical staff she had been feeling symptoms for about a week and half before Claimant first presented at the ER, which would have put her symptoms dating from around April 1.

CT scan was interpreted as showing ground-glass opacities, typical of Covid related pneumonia, even though Claimant had no cough or other lung issues.

13. Claimant was transported to Boise, where he was diagnosed with transverse myelitis (TM).

14. Claimant underwent extensive medical, hospital, and rehabilitation treatment, spanning a time frame in excess of 100 days. He is permanently paralyzed from his chest down, with associated loss of bodily functions.

DISCUSSION AND FURTHER FINDINGS

15. There are two points of contention; whether Claimant's vaccination constitutes an accident arising out of and in the course of his employment, and whether Claimant's paralysis and the associated costs and damages which flow therefrom were due to the vaccine or from an actual Covid infection independent from and unrelated to his vaccine.

Was Claimant's vaccine an "accident" arising out of and in the course of his employment

16. Idaho Code § 72-102(17)(b) defines accident 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." Claimant bears the burden of showing an "accident" caused an "injury" as well as an "injury" caused by an "accident." *See* Idaho Code § 72-102(17).

17. By all accounts, Claimant's paralysis was an unexpected, undesigned, and unlooked for mishap, and/or an untoward event, which caused an injury. Its origin can be located to a time and place, although that time and place is in dispute. Claimant argues the time was when Claimant received the Covid vaccine, and the place was at Employer's office. Defendants argue

the time and place was when Claimant contracted Covid, and the location was at some place other than work, perhaps at home, where he had contact with his Covid-infected wife.

18. Claimant argues he received the vaccine in the course and scope of his employment. Defendants argue it was a Covid infection, not the vaccine, which caused Claimant's injury and therefore the accident was not associated with the industry in which it occurred, as Claimant is not arguing his (alleged) Covid infection was contracted at work.

Arising Out of and in the Course of Employment

19. The first issue is whether Claimant's injury arose out of and in the course of his employment. Claimant carries the burden of proving it was. *Hamilton v. Alpha Services, LLC.,* 158 Idaho 683, 351 P.3d 611 (2015).

20. Where the accident occurs on the employer's premises, a presumption that the injury arose out of and in the course of employment arises. *Foust v. Birds Eye Div.,* 91 Idaho 418, 419, 422 P.2d 616, 617 (1967). Of course, for the presumption to apply, Claimant must prove the accident occurred on Employer's premises. To do that, he must prove it was the vaccine, not Covid, which caused his injury. That fact notwithstanding, Defendants argue that, even assuming *arguendo* the vaccine caused the injury, Claimant's vaccination did not arise out of and in the course of his employment, but rather his decision to receive the vaccination was a voluntary event not associated with his job duties.

21. In the present case, the vaccination clinic occurred on Employer's premises, and was given to Claimant during his regular work hours. As such, a rebuttable presumption arises that Claimant's vaccination arose out of and in the course of his employment.

22. Additionally, Claimant argues that the vaccination was reasonably incidental to his employment and served Employer's direct business interest. Claimant notes Employer had taken

several steps to prevent the spread of Covid, including closing the office to non-employees, increased cleaning procedures, requiring employees to eat lunch in their vehicles, and mandating any employee testing positive for Covid had to quarantine and could not return to work without first testing negative for Covid. Other CDC suggested restrictions were also promulgated, such as maintaining a six-foot distance from others and refraining from touching one's eyes, nose and mouth. Notices were posted which made clear that it was imperative to Employer's business to take these steps to prevent excessive absentees from Covid. One such notice put the risk in simple terms when it stated, "It is essential that the workforce is healthy and able to perform its duties." Otherwise, "if the cows are not milked they will get sick and will need to be slaughtered." Milking cows was "the lifeblood" of Employer's business. JE 40, p. 683.

23. Claimant argues these precautions, including facilitating the vaccine clinic, were more than a vague "general health" benefit common to all employers. It was a very real concern which could have had catastrophic results for Employer if a Covid outbreak resulted in significant sick workers, as made clear in the notice posted by Employer and referenced above.

24. Claimant also testified he would not have received the vaccine if it had not been for the on-site vaccine clinic. His motivation was due to the fact his employer, Terry Ketterling, was battling cancer and Claimant did not want to run the risk of giving him Covid, which directly benefited his employer.

25. Citing *Smith v. University of Idaho,* 67 Idaho 22, 28, 170 P.2d 404, 409 (1946), "[i]f the act is one for the benefit of the employer or for the mutual benefit of both, an injury arising out of it will usually be compensable[,]" Claimant argues that the vaccination was for the benefit of his employer and therefore his damages flowing from the vaccine are compensable. As such, receiving the vaccination was an act arising out of and in the course of Claimant's employment.

26. Defendants argue voluntary events, even if sponsored by an employer, do not arise out of employment unless there is a nexus benefit to Employer's business. As support for this proposition, they point to the Industrial Commission's decision in *Hernandez v. Skyline Corp.,* 1985 IIC 0316 (July 30, 1985).

27. In *Hernandez*, Claimant injured his knee playing softball at a company picnic. Attendance at the picnic was voluntary for employees, who could bring their families for a day of food, games, and gifts for the children. Employer paid the park fees where the event was held, and took a business deduction for the cost of the event. The Commission found the employer received no direct benefit from the event other than the value of "improvement of employee health and morale that is common to all kinds of social and recreational activities." *Hernandez FOF,* p.2.

28. The Commission in *Hernandez* referred to *Larson's Workmen's Compensation Law*, section 22, on recreational activities, which concluded as a general rule that such events are covered only when 1) they occurred on employer's premises as a regular incident of employment, or 2) the employer expressly or impliedly required participation at the event. Defendants assert the vaccination clinic was not a regular incident of employment, and participation by Claimant was not required, encouraged, pressured, nor was he incentivized to get the vaccine. He made a personal and voluntary choice which was in no way incidental to his employment.

29. Defendants argue the vaccination clinic did not serve Employer's direct business interest; at most it was an accommodation for its employees to allow them to conveniently obtain the vaccine if they wanted it without having to drive into town or fill out lengthy forms online (which many workers would find difficult to do for various reasons). Employer had weathered the pandemic for more than one year to that point in time with only minimal absenteeism due to Covid and with no impact on its production. The notion that employers want healthy workers

is a general truism and insufficient to create a nexus particular to Claimant's employment. Employer following CDC guidelines applicable to all industries operating during Covid does not create the necessary nexus to Employer's particular business.

30. Defendants next cite to *Weeks v. Oneida County,* 176 Idaho 522, 579 P.2d 489 (2025), another Covid case, where the claimant died from Covid complications and his estate brought suit against his employer, claiming he contracted the disease from required work meetings. On appeal, the Idaho Supreme Court affirmed that the standard for proving one's injury arose out of and in the course of employment has not changed due to Covid. Claimant still must prove his injury arose out of and in the course of his employment and that duty is not waived when dealing with Covid cases.

31. Finally, Defendants cite to other jurisdictions (Oregon and Iowa) which have found that voluntary vaccination clinics do not arise out of employment. The Iowa case involved collaboration between an off-site clinic and the employer. Employees were strongly encouraged to get vaccinated, and appointment times were exclusively set for employees to go to the clinic for vaccination. Claimant felt pressured to get the vaccine, which caused him life altering side effects. However, the Iowa Worker's Compensation Commission ruled the injury did not arise out of or in the course of employment.

32. The Oregon case involved an on-site flu clinic. Claimant obtained the flu vaccine and suffered damages therefrom. The shot was deemed to have occurred in the course of employment but not arising out of claimant's employment, because the risk from the shot was not a risk arising from claimant's work environment. The claimant's risk of an adverse reaction was not an employment-related risk, and therefore not compensable.

33. Similar to the cases cited above, Defendants assert Claimant's work did not expose him to the risk of a bad reaction to the vaccine; his risk did not arise out of his work environment. This conclusion is supported by the Oregon and Iowa cases, as well as a case from Ohio where a Walgreen's manager suffered an adverse reaction to a pneumonia vaccine which he obtained while working at the pharmacy. The Ohio appeals court ruled the vaccination was voluntary and personal, and therefore not compensable. So too, Defendants argue, Claimant's vaccination was a personal, voluntary action he undertook outside of his employment and for which Employer is not responsible.

34. Analysis of the issue comes down to whether Claimant's actions in receiving the vaccine were totally personal, or whether it was, at least in part, for the benefit of Employer. As noted by Claimant, when the activity leading to the injury was purely personal, no compensation is warranted. When the activity is "neutral," that is an activity where the risk cannot be assigned directly to one's employment, or assigned to a purely personal motivation, a rebuttable presumption arises that the injury arose out of the employment. *See, Mayo v. Safeway Stores, Inc.,* 93 Idaho 161, 457 P.2d 400 (1969). In such cases, the burden falls to employers to prove that the injury was caused by a factor personal to the employee. *Id.* Under such circumstances, all that is needed to tip the scales in favor of compensability "is that the employment brought the employee to the place of injury." *Id.*

35. As noted by Claimant, actions by a claimant which are for the benefit of both the employer and the employee (mutual benefit), and result in an injury arising out of such actions are generally compensable. *Smith, supra.* Put another way, an act done for partly personal reasons and partly to serve the employer are considered to be within the scope of employment. *Id. See also, Mortimer v. Riviera Apartments,* 122 Idaho 839, 845, 840 P.2d 383, 389 (1992).

36. The cases cited by Defendants are not dispositive. *Hernandez* dealt with off-site recreational activities. Furthermore, there is evidence in the instant case that Employer gained more than a vague general benefit. Rather, it was a direct benefit to Employer to have workers not contract Covid, as made clear by the posted notice with not only CDC guided restrictions, but also a very concrete rationale for the restrictions. Employer had much to lose if a wave of Covid spread through its milking barns.

37. *Weeks* dealt with a widow who could not prove her late husband contracted Covid at work. Here, there is no dispute that Claimant's paralysis resulted either from the J&J shot or from a natural Covid infection. Although there are two possibilities as to how Claimant became paralyzed, this case does not involve a question of where the inciting event occurred. If the vaccine led to the paralysis, the precipitating act took place at Claimant's place of employment. If natural Covid was the culprit for Claimant's paralysis, Claimant was infected at a place other than his work.

38. Defendants' reliance on cases from other jurisdictions is not persuasive, and not necessary. Idaho law is sufficiently clear to supply the needed authority to decide the issue of whether Claimant's vaccination arose out of and in the course of his employment. While Claimant argues for distinctions, discussion is not warranted as those foreign jurisdiction cases add no weight in deciding the issue in question.

39. As discussed above, there was a distinct business interest served by Employer's employees obtaining the Covid vaccine. While admittedly Claimant had personal reasons for

getting the vaccine (he did not want to spread Covid to his employer and friend Terry Ketterling), that fact does not negate Employer's specific benefit in having a vaccinated workforce.[4]

40. Here, where the vaccine could at least be classified as a "neutral" risk, the fact that Claimant's employment brought him to the place of the risk creates the rebuttable presumption that his activity in seeking the vaccine was done in the course of and arising out of his employment. Defendants did not successfully rebut that presumption.

41. As noted by our Supreme Court, "[i]f there is doubt surrounding whether the accident … arose out of and in the course of employment, the matter will be resolved in favor of the employee. *Spivey v. Novartis Seed Inc.,* 137 Idaho 29, 33, 43 P.3d 788, 792 (2002). This is just such a case. The issue is as close a question as one can conceive and well presented by both parties. The scale tips in Claimant's favor due to the workings of Idaho law and the presumptions which flow therefrom, as have been cited throughout this decision.

42. When the totality of the record is considered, Claimant has proven by a preponderance of the evidence that his actions in receiving the J&J vaccine was an activity arising out of and in the course of his employment with Employer.

Was Claimant's TM-caused paralysis the result of his Covid vaccination

43. The medical causation issue for Claimant's TM-caused paralysis involves two competing explanations – vaccine induced TM or natural Covid infection induced TM. Claimant argues it was the vaccine, acting alone or in combination with a naturally occurring Covid infection, which caused his TM. Defendants argue it was Claimant's Covid infection alone

[4] While, as Tony Ketterling pointed out in his testimony, in hindsight the benefit of the vaccine is debatable, at the time it was administered it was highly promoted as an effective deterrent to the disease (or at least its severity), with governmental promotion at levels seldom seen in recent times.

which caused his TM. Both parties hired experts to present reports and/or testimony supporting their respective positions.

44. Claimant relies on the opinions of three expert witnesses, Diane Counce, M.D., a board certified neurologist and neuroradiologist, Nicolas Hulscher, an epidemiologist with a Master of Public Health: Epidemiology degree, and Janci Lindsay, Ph.D., a toxicologist with a Doctorate degree in Molecular Biology & Biochemistry. Each of them rendered opinions supporting the position that Claimant's TM was the result of his J&J vaccine.

45. Defendants rely on the opinions of Lindsay Woolsicroft, M.D., a board certified neurologist and assistant professor of neurology at Oregon Health & Science University, and Anthony Montanaro, M.D., board certified in internal medicine, allergy immunology, and rheumatology, semi-retired but retaining the title of full professor at Oregon Health & Science University.

46. All of the above-mentioned experts provided written reports, and all were deposed post hearing. Their reports will be discussed in the order in which they were brought into this case.

Dr. Counce

47. Dr. Counce prepared a report dated January 2, 2023, wherein she noted that since the pandemic, she has focused on treating long Covid patients and those with neurological injuries from Covid vaccines. Dr. Counce interviewed Claimant by phone, reviewed the history of events relevant to his condition, and reviewed medical records. She reached the conclusion that more likely than not Claimant's TM was the result of the J&J vaccine. She supported her opinion with 1) timing of symptoms, 2) spinal fluid testing results, 3) the known side effects of the vaccine, including TM, 4) a cluster of other findings,

such as Claimant's deep vein thrombosis (DVT) diagnosed during his first hospital stay, which was a known complication from the J&J vaccine, as well as autoimmune problems from the vaccine, and 5) epidemiological evidence as documented in multiple peer reviewed articles.

48. Dr. Counce testified case reports in literature related to Covid infections causing TM had a latency period of from eight days to six weeks after the onset of obvious Covid symptoms involving respiratory symptoms. The latency period from vaccine induced TM were reported to be as early as 17 hours after the vaccine, with a median latency period of six to seven days.

49. Spinal testing revealed a pattern of neutrophils in the spinal fluid which have been associated with the vaccine, and an absence of other explanations for the findings, such as bacterial DNA, and a negative PCR (polymerase chain reaction) meningitis/encephalitis panel.

50. Dr. Counce noted the European Medicines Agency listed TM as a side effect to the J&J vaccine in late 2021.

51. Claimant's DVT was, in Dr. Counce's opinion, indicative of a "rogue immune reaction" to the vaccine, and a well-known side effect associated with the J&J vaccine, which also had an ability to induce other systemic or autoimmune problems via an immune reaction; Claimant demonstrated an autoimmunity response on MRI findings on April 17, 2021.

52. Finally, Dr. Counce pointed to studies and findings from peer reviewed articles which discussed the theory that adenoviral vector-based Covid vaccines, such as the J&J vaccine, were more frequently associated with causing TM. This theory was supported by incidents reported to the Vaccine Adverse Event Reporting System (VAERS), which showed

a significant increase in neurological injuries since the introduction of the Covid vaccines, which "far exceeds the total of all such reported events for all other vaccines in the 30-year history of VAERS." JE 36, p. 562. Dr. Counce also referenced the US military medical record database, which showed over a 1000% increase in neurological diseases and injuries in the first year of the vaccine compared to the prior five years.

53. Based on the totality of the evidence considered by Dr. Counce, and the failure of a convincing alternate diagnosis, coupled with the timing of the onset of symptoms, she opined the only reasonable conclusion was that the vaccine caused Claimant's disability.

54. In a supplemental report prepared by Dr. Counce on February 23, 2025, she noted there had been numerous other articles produced concerning TM and Covid or the Covid vaccine. Of note, one such article concluded the time interval between the first neurological symptoms of TM and its maximum disability was lower in cases of infection, two days, compared to vaccine time frame of symptoms of seven days for the vaccine-associated TM. She pointed out that Claimant was asymptomatic when vaccinated, began having symptoms within a day thereafter, and was paralyzed a week after his first neurological symptoms. Had the TM been due to a Covid infection, statistically he should have reached paralysis much sooner after his first neurological symptoms showed up. She also discussed a South Korean study which found a 233% increased risk of developing TM after the J&J vaccine compared to individuals who did not get vaccinated.

Dr. Wooliscroft

55. Defendants asked Dr. Wooliscroft to review and opine on causation for Claimant's paralysis and to critique Dr. Counce's reports. Dr. Wooliscroft's report was dated October 6, 2025.

56. Dr. Wooliscroft went through her background qualifications, Claimant's neurologic history, and a discussion of ATM (acute transverse myelitis). She noted the disease typically affects individuals in two age groups – 10 to 19 and 30 to 39 years old. She also pointed out that as of 2012 (before the advent of Covid vaccines), post-vaccination ATM was extremely rare and most common in children. At that time (2012), the only established causal relationship between a vaccine and ATM was the oral polio vaccine. ATM can be caused by infection, including Covid, or a secondary autoimmunity which can cause the disease.

57. Dr. Wooliscroft felt the timing of Claimant's symptoms supported a finding that Covid caused his ATM. Partly in rebuttal of Dr. Counce, Dr. Wooliscroft noted that 44% of Covid infected individuals were asymptomatic through their infection. Additionally, those who were in close contact with an infected person were 3.6 times more likely to contract Covid than those who were not in close contact, and those who had a household member with Covid were 2.8% more likely.

58. Claimant had a CT chest scan on April 15, 2021, which showed findings consistent with Covid. Dr. Wooliscroft's conclusion was that Claimant was at great risk of contracting Covid due to his wife's infection and his chest CT scan on April 15 supported the notion that he was suffering from Covid on that date. Patients who contracted ATM from a Covid infection began having symptoms on average ten days after the Covid infection first became symptomatic, however, ATM can develop even the same day as Covid symptom onset, or even without symptoms in at least one recorded case.

59. Dr. Wooliscroft disagreed with many of Dr. Counce's opinions. Among them, Dr. Wooliscroft felt Claimant's diagnostic studies were consistent with a Covid infection.

As support, Dr. Wooliscroft noted that even though Dr. Counce argued the lack of Covid PCR findings in testing and the predominance of neutrophils were inconsistent with a Covid infection, Dr. Wooliscroft noted there is a low probability the Covid PCR test will come back positive in those with infection caused ATM. Further, there is overlap between viral and bacterial infection related ATM, such that it is possible a viral infection can have a similar test profile to the profile typically associated with a bacterial infection. Therefore, a predominance of neutrophils does not definitively prove the ATM was not due to a Covid infection.

60. Next, Dr. Wooliscroft argued Claimant's DVT was due to his IVIG treatment and prolonged hospitalization and not the J&J vaccine. Bedrest can cause DVT, and so can IVIG therapy. People who have Covid symptoms requiring treatment in intensive care are also at higher risk of developing DVT.[5] Also, there is less of a chance to get DVT from a Covid infection if the individual also had the vaccine, so Claimant's DVT could have been from his IVIG therapy.

61. Dr. Wooliscroft noted the J&J vaccine was not more likely to produce ATM than other Covid vaccines. Also, VAERS dataset includes input from individuals and is subject to inaccurate or inflated data, as well as false associations between vaccines and subsequent symptoms.

62. Dr. Wooliscroft also noted the US military health record database was reportedly underreporting medical conditions between 2016-2020, so the 1048% increase in neurological conditions after the vaccine rollout was inflated.

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[5] It must be noted Claimant was not in intensive care due to severe Covid symptoms, and the statement contained in Dr. Wooliscroft's report is misleading on this point.

63. Dr. Wooliscroft concluded by opining Claimant's ATM was consistent with infectious ATM and Dr. Counce's analysis was flawed.

Dr. Montanaro

64. Defendants next hired Anthony Montarano, M.D., to critique Dr. Counce's reports. He rendered his opinions without any supporting authority.

65. Dr. Montanaro noted many individuals had asymptomatic Covid, so Claimant's lack of symptoms did not rule out the notion he was infected at the time he was vaccinated. Also, Claimant's constellation of diagnoses during his hospitalization points to naturally occurring Covid. The fact that Claimant had no cerebral spinal fluid findings does not rule out naturally acquired Covid, as findings may be similar for individuals with Covid and those who got the Covid vaccine. Dr. Montanaro also noted the fact that even though the European medical agency listed TM as a side effect of the J&J vaccine, US agencies did not list TM as side effect. Finally, Dr. Montanaro pointed out that while Dr. Counce found and cited to studies from other countries such as Iran, South Korea, Mexico and France which support her position, she cited to no US studies supporting the notion that the J&J vaccine can cause TM. US studies, according to Dr. Montanaro, establish that there have been "rare cases of transverse myelitis associated with Covid vaccination," but the cause and effect has not been proven, nor is the mechanism of action understood. JE 51, p. 1102.

Mr. Hulscher

66. Claimant then hired Nicolas Hulscher to rebut Defendants' expert Dr. Montanaro. He authored a report highly critical of Dr. Montanaro's conclusions. Mr. Hulscher argued that attributing causation of Claimant's TM to a Covid infection without

proof of the antecedent illness represents what he called "exposure misclassification" and provides a weak basis for a causal inference. JE 53, p. 1110.

67. Mr. Hulscher found it highly unlikely asymptomatic Covid led to Claimant's TM, as most of the Covid-caused TM cases occurred in individuals with clinically apparent infection. In contrast, most vaccine related TM occurred in otherwise healthy individuals.[6]

68. Mr. Hulscher found strong biological reasons for connecting the vaccine to Claimant's TM, based on the J&J vaccine's operational properties, which, in short, were capable of causing inflammation in the central nervous system and demyelinating injury.

69. The remainder of Mr. Hulscher's report was spent disputing particular statements in Dr. Montanaro's report, which in sum led Mr. Hulscher to conclude that "Dr. Montanaro's conclusions rely on speculative reassignment of exposure timing and selective interpretation of epidemiologic and biological evidence," when, from an epidemiologic standpoint, Claimant's TM was more likely caused by the vaccine than a theoretical asymptomatic Covid infection present at the time of his vaccination." JE 53, p. 1111.

Dr. Lindsay

70. Claimant's final expert witness, Janci Lindsay, authored a report dated March 26, 2026, wherein she was asked to review and evaluate the opinions of Drs. Wooliscroft and Montanaro.

71. Dr. Lindsay first noted an established link between adenoviral vector vaccines, such as the J&J vaccine, and neurological diseases such as TM and AIDP (Guillain-Barre

[6] This would make sense as people exhibiting Covid symptoms were not supposed to receive the vaccination.

syndrome). She then concluded the vaccine was the most likely cause of Claimant's TM and based her opinion on several factors. Those factors included a clear temporal connection, immunopathologic findings inconsistent with Covid-caused TM, lack of Covid symptoms, lack of Covid virus in Claimant's spinal fluid, compared to a less reliable nasal swab test which could produce false positive results, and the known ability of the vaccine to cause TM. Dr. Lindsay supported these points with a discussion of Claimant's timeline of relevant events.

72. As noted previously, all the above listed experts were deposed post hearing. The chronology of the depositions is as follows: Dr. Lindsay, May 14; Mr. Hulscher, May 18; Dr. Counce, June 12; Dr. Montanaro, June 23; and, Dr. Wooliscroft, June 24. Relevant testimony not previously discussed above will be addressed in the order the depositions were taken.

Dr. Lindsay Deposition

73. Dr. Lindsay's deposition testimony focused on explaining or bolstering her conclusions from her report with references to articles and findings tending to establish a causal link between Covid vaccines and TM. She testified as to why swab (NAAT) testing can produce false positive findings and is not reliable "proof" that Claimant was actively infected with Covid when tested. Her opinion was that Claimant's viral load was not sufficient to produce infection related symptoms such as compromised oxygen saturation and pulmonary function. When those symptoms emerged, it was due to his TM, not Covid. Dr. Lindsay also found Claimant's cerebral spinal fluid testing results showed a different pattern of cell count and cell type (predominance of neutrophils) than that often seen in Covid-caused MT, but similar to that seen post vaccine. *See* Lindsay Depo. pp. 48-50.

Mr. Hulscher Deposition

74. Next deposed was Mr. Hulscher. He elaborated on his critique of Dr. Montanaro's opinions, most notably the opinion that Covid caused Claimant's TM. Mr. Hulscher noted it was a certainty that Claimant received the J&J vaccine, but it was not a certainty that he ever contracted Covid, and Dr. Montanaro's opinion was based on one fallible test.[7] As he testified, "[a]ssuming that the [Covid] infection was the primary cause [of Claimant's TM] would be substituting a documented exposure to a hypothesis." Hulscher Depo. p. 12.

75. Mr. Hulscher was not able to locate any instances where an asymptomatic Covid infection led to TM.[8] He was able to find a "statistically significant signal" or increased risk for TM resulting from the J&J vaccine. *Id* at 14. He likewise, in cross examination, was unable to cite to cases where a person who received the vaccine while infected with Covid who then developed TM was counted as vaccine-induced TM victim. He questioned the viability of such a study.[9]

Dr. Counce Deposition

76. Dr. Counce was the last expert deposed by Claimant. She reiterated her opinion on causation, relying in part on Claimant's timing of symptoms, which included no Covid symptoms at the time of his vaccine, TM symptoms starting shortly thereafter, and then a positive Covid swab test days later. Her testimony supported her belief that if Claimant's TM was due to

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[7] The accuracy of that assertion is debatable, as arguably additional evidence was offered by Drs. Montanaro and Wooliscroft in their depositions.

[8] There is a reference in the record to an assertion that there exists one documented case of such a thing happening, but if that is true, it is, as stated by Mr. Hulscher, "extraordinarily rare."

[9] The question posed in cross examination begs the question of whether Claimant was infected with Covid at the time of his vaccination, which is open to debate. Also, since individuals with Covid were prohibited from receiving the vaccine, it would be difficult to conduct such a study, as noted by Mr. Hulscher.

a Covid infection, he should have been showing Covid symptoms prior to his first TM symptoms, which he was not.

77. Dr. Counce also testified that on testing after the vaccine, Claimant's neutrophils, a type of white blood cell commonly found in elevated numbers in conjunction with bacterial infections, and with an immune response to the vaccine, was high without evidence of bacterial infection. This supported her belief that Claimant was experiencing vaccination complications as opposed to a Covid infection, which is a virus. If Claimant had a Covid infection at the time of testing, Dr. Counce opined he should have had an elevated lymphocyte profile, which he did not.

78. There was discussion on findings involving Claimant's white matter and grey matter in his MRI scan. It was read as showing elevated T2 signal throughout the central spinal cord, which is indicative of grey matter involvement, but not white matter involvement. Dr. Counce testified that viruses, like Covid, attack both the white and grey matter, whereas, early on, autoimmune myelitis only affects the grey matter. The bottom line of that discussion was that in Dr. Counce's opinion, the findings supported the lack of a viral infection in Claimant's spine, and supported her opinion that Claimant had an autoimmune reaction to the vaccine.

79. Regarding the "ground glass opacities" noted in Claimant's lungs and assumed to show a Covid infection, Dr. Counce testified the MRI findings could have instead been showing microclotting of blood due to the vaccine, which was known to cause blood clotting. She acknowledged though, that Covid also can cause clotting. However, where Claimant had no respiratory symptoms, it would have been highly unusual for him to have Covid pneumonia at the time of his ground glass opacity findings.

80. On cross examination, Dr. Counce confirmed her opinion that Claimant did not have Covid on April 11, 2021, when seen at the ER, or on April 15, when hospitalized.

Dr. Montanaro Deposition

81. Defendants deposed Dr. Montanaro, who affirmed his belief that Claimant's TM was caused, at least in part, by his active Covid infection, which he already had by the time he was vaccinated. He based his opinion on the swab test results, inflammation in his lungs, infection-related myositis (muscle inflammation), and Claimant's wife's infection.

82. Dr. Montanaro testified the major fault with the swab test was primarily false negative results, not false positives, especially in cases where the patient was having active symptoms for days preceding the test, a high viral load, and in an environment of actively spreading Covid virus.[10]

83. Dr. Montanaro testified Claimant's immune response to the vaccine could have started "within hours" of the vaccine, but it would have been days before seeing "full blown" inflammatory changes, such as losing bladder control.

84. Dr. Montanaro attributed Claimant's deep vein thrombosis to his treatment with intravenous immunoglobulin in the hospital but did acknowledge "some vaccines" have been implicated as well.[11]

85. While Dr. Montanaro believed Claimant's immune response was already activated by Covid at the time of his vaccination, he, like many medical specialists, had legitimate concerns that receiving the vaccine while actively infected with the Covid virus could negatively change the course of Claimant's immune response.

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[10] It is certainly debatable whether that profile fit Claimant.

[11] In fact, the J&J vaccine was "paused" in April 2021, and pulled from the market entirely in May, 2021, due to its common thrombotic side effects, including DVTs.

86. Dr. Montanaro felt the predominance of neutrophils in Claimant's cerebral spinal fluid could be explained by his lung infection and muscle inflammation.

87. In cross examination, Dr. Montanaro conceded he provided no support for his testimony other than his experience; he supplied no references to journals, treatises, or peer-reviewed articles. Also, his opinions rest on the assumption Claimant was infected with Covid by the time he was vaccinated. That assumption relies, in turn, on Claimant's wife having a Covid infection with a viral load sufficient to be contagious for at least a week before April 11, 2021, and communicating the virus to Claimant sufficiently ahead of his vaccine to render him actively infected on the day of his vaccination, April 5, 2021. Dr. Montanaro's opinions were based on medical records which state Claimant's wife told the ER personnel she had been having Covid symptoms since around the first of April, and also a notation that Claimant's wife indicated that at the time Claimant was vaccinated he was having chills and arthralgias (joint pain). Dr. Montanaro held fast to these assumptions, grounded in medical records, in the face of contrary deposition testimony by Claimant's wife, who indicated her first symptoms manifested on April 6, 2021.

88. Two important concessions made by Dr. Montanaro included his testimony that if Claimant had not tested positive for Covid infection in April 2021, the doctor's opinion would have been that Claimant's TM was caused by the vaccine. Also, Dr. Montanaro testified he could not rule out the vaccine as a contributing factor in Claimant's TM, even with the positive swab test.

Dr. Wooliscroft Deposition

89. Dr. Wooliscroft was the final expert deposed. Therein, she explained how a Covid infection can result in TM. While she acknowledged the J&J vaccine can result in TM, it is, to her

understanding, very rare. She only found one case in the medical literature she reviewed where the J&J vaccine was associated with TM.

90. Dr. Wooliscroft testified that Claimant's chest CT scan showed Covid pneumonia, he tested positive with a swab test, he had achy joints on the day of his vaccine, and had indications of inflammation of the covering of his brain, all of which support her position that Claimant had Covid when he was vaccinated. She supported her opinions with testimony that Claimant's TM symptoms began too soon after his vaccine to have been caused by it. Also, the scope of the affected area in Claimant's spine was greater than she would have expected to see if the vaccine had caused his TM. She concluded such damage could only be due to infection.

91. Dr. Wooliscroft testified that Claimant's high neutrophilic count was consistent with about 25% of virus caused cases, whereas, according to her testimony, the vaccine-mediated responses tend to show an abundance of lymphocytes.

92. According to Dr. Wooliscroft, Dr. Counce's testimony on white matter versus grey matter damage was wrong and Dr. Counce got it backwards; Dr. Wooliscroft asserted that grey matter damage is indicative of infection and white matter damage is consistent with vaccine-associated TM.

93. Dr. Wooliscroft speculated that in her opinion, Claimant receiving the vaccine while infected with Covid might actually have helped mitigate the severity of his infection, although she acknowledged there is no way to know what impact (good or bad) the vaccine had on Claimant's course of injury.

94. In cross examination, Dr. Wooliscroft acknowledged that typically (but not exclusively), a viral infection produces a predominance of lymphocytes on cerebrospinal fluid testing.

Causation Analysis

95. Claimant carries the burden of proving, to a reasonable degree of medical probability, that the injury for which benefits are claimed is causally related to an accident arising out of and in the course of employment, *Wichterman v. J.H. Kelley, Inc.,* 144 Idaho 138, 158 P.3d 301 (2007). He is required to establish a probable, not merely a possible, connection between cause and effect to support his contention. *Dean v. Dravo Corporation*, 95 Idaho 558, 511 P.2d 1334 (1973).

96. When determining causation, it is the role of the Commission to determine the weight and credibility of testimony and to resolve conflicting interpretations of testimony. *Henderson v. McCain Foods, Inc.,* 142 Idaho 559, 130 P.3d 1097 (2006). When deciding the weight to be given an expert opinion, the Commission can consider whether the expert's reasoning and methodology has been sufficiently disclosed and whether the opinion takes into consideration all relevant facts. *Eacret v. Clearwater Forest Industries,* 136 Idaho 733, 40 P.3d 91 (2002).

97. Each expert witness sported impressive credentials, and this is not a case where one discipline naturally carried more weight than any other specialty. Each expert raised at least some interesting points worthy of consideration. At times, the testimony was at direct odds (such as whether the grey matter/white matter findings of the MRI supported a Covid infection or an autoimmune reaction to the vaccine) and those contradictions were not conclusively resolved on the record as presented. Also, at times it was apparent that an opinion failed to include all relevant facts, or interpretation of the record was strained, but a point-by-point analysis of the myriad of opinions is not necessary to resolve the causation issue. Instead, several factors tip the scale in this case, as discussed below.

98. First, it is beyond debate that the J&J vaccine is on rare occasions associated with the development of TM; furthermore, it is beyond debate that Claimant received the vaccine on April 5, 2021. Whether at that time he was actively infected with Covid is debatable. While there is evidence he was asymptomatically infected on April 11, the evidence is not strong that he was so infected on the morning of April 5, 2021, when he received his vaccine.

99. Defendants' position requires Claimant to have been actively infected with Covid on April 5, 2021. If he was not, then, as noted by Dr. Montanaro, Defendants' position fails. While it is quite likely Claimant had been exposed to Covid by such date, not every exposure resulted in an active Covid infection. So, as noted by Mr. Hulscher, Defendants ground their position on a hypothesis, albeit one with some (disputed) evidence of truth that Claimant was actively infected on the morning of April 5, 2021. Claimant grounds his position on a known fact – that he received the J&J vaccine on April 5, 2021 and that vaccine was capable of causing his TM.

100. Next, the timeframes involved support Claimant's position. Dr. Counce testified the time interval between the first neurological symptoms of TM and its maximum disability is lower in cases of infection, two days, compared to vaccine time frame of symptoms of seven days for the vaccine-associated TM. Claimant's first symptoms were a bit over 24 hours after his vaccine, and his maximum disability (paralysis) occurred eight to nine days after his vaccine. One would expect paralysis from infection induced TM to have occurred by approximately April 8 or 9 based on the typical timeframe for first symptoms to nadir.

101. Next, the severity of the infection is a factor according to Claimant's experts, although that point is disputed by Defendants' experts. The majority of the statistics (recognizing there are exceptions to the norm), support the notion that individuals with active symptoms

of Covid, such as upper respiratory issues, are more likely to develop TM from the Covid virus than those with mild to non-existent symptoms, such as in Claimant's case. On this disputed issue, Claimant's experts' testimony that noticeable Covid symptoms increase the chance of Covid caused TM carries more weight, and cuts against Defendants' position that either Claimant had noticeable Covid symptoms, or his lack of symptoms is not a factor weighing against him contracting TM from the infection.

102. Dr. Wooliscroft's speculation that maybe the vaccine could have helped mitigate Claimant's injury is rejected. It is difficult to imagine a more severe reaction than inflammation of the majority of Claimant's spine to the point of permanent paralysis from the chest down. Furthermore, it was universally accepted that individuals with a Covid infection should *not* get the vaccine, which flies in the face of Dr. Wooliscroft's suggestion that maybe the vaccine administered to a person infected with Covid could help mitigate Covid symptoms.

103. Dr. Montanaro's testimony that perhaps the vaccine combined with the Covid virus to exacerbate Claimant's injury is more likely. However, that is also speculative but certainly is more plausible than Dr. Wooliscroft's suggestion. Least likely is that the vaccine played no part in Claimant's course of deterioration from healthy individual to paralyzed from the chest down within two weeks from receiving the J&J vaccine.

104. When the totality of the record is examined, including the persuasive testimony of Claimant's experts on this highly contested issue, Claimant has proven by a preponderance of the evidence that his TM was caused, in whole or in part, by the J&J vaccine, administered to him on April 5, 2021.

Is Claimant entitled to medical and disability (both temporary and permanent) benefits

105. Claimant seeks benefits for his medical care, past and ongoing, related to his paralysis. He also seeks temporary disability benefits during the time he could not work before he reached maximum medical improvement and permanent disability benefits, including disability based on medical factors, commonly known as permanent partial impairment (PPI), and permanent disability benefits attributable to all factors, up to and including total permanent disability.

106. Defendants made no argument as to why, if Claimant's paralysis was found to be causally related to a work accident, he nevertheless is not entitled to medical, time loss, and disability benefits.

Medical Benefits

107. Idaho Code § 72-432(1) mandates that an employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches, and apparatus, 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 provide the same, the injured employee may do so at the expense of the employer. Reasonable medical treatment can include maintenance and palliative care. *See, e.g. Rish v. Home Depot*,161 Idaho 702, 390 P.3d 428 (2017). It also includes certain travel expenses. I.C. § 72-432(13).

108. Defendants paid none of Claimant's medical bills for his extensive treatment and rehabilitation, as well as his ongoing medical maintenance. He has treated at various St. Luke's facilities in Idaho, St. Alphonsus hospital, and University of Utah for rehabilitation.

109. Under the provisions Idaho Code § 72-432(1) Defendants are liable for all of Claimant's medical care and treatment reasonably related to his TM and subsequent paralysis.

110. Since Claimant's past medical care was denied in its entirety, Defendants are responsible for payment of his past medical care at the *Neel* rate. *Neel v. Western Construction, Inc.,* 161 Idaho 194, 206 P.3d 852 (2009). *See also, Millard v. ABCO Construction, Inc.,* 161 Idaho 194, 384 P.3d 958 (2016); *Thompson v. Burley Inn, Inc.,* 173 Idaho 637, 546 P.3d 649 (2024).

111. When the totality of the record is examined, Claimant has proven a right to past and ongoing medical treatment reasonably related to his TM and resultant paralysis, with past medical treatment payable at the *Neel* rate.

Temporary Disability Benefits

112. Idaho Code §§ 72-408 and 409 provide time loss benefits to an injured worker who is temporarily disabled. The burden is on Claimant to present medical evidence of the extent and duration of the disability in order to recover income benefits for such disability. *Sykes v. C.P. Clare and Company*, 100 Idaho 761, 605 P.2d 939 (1980).

113. Claimant's last day of employment with Employer was April 9, 2021. Employer continued to pay Claimant through the end of September at his regular wage. Claimant was determined to be at MMI on March 24, 2023.

114. Claimant is entitled to total temporary disability benefits while in a period of recovery when no wages are paid to him. In this case, Claimant received no wages after September 30, 2021, through the time he reached medical stability on March 24, 2023.

115. When the totality of the record is examined, Claimant has proven a right to temporary total disability benefits from October 1, 2021, until March 24, 2023.

Permanent Disability Benefits Based on Medical Factors (PPI)

116. Permanent impairment is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved and a claimant's position is considered medically stable. *Henderson v. McCain Foods,* 142 Idaho 559, 567, 130 P.3d 1097, 1105 (2006). Idaho Code § 72-424 provides that the evaluation of permanent impairment is a medical appraisal of the nature and extent of the injury as it affects an injured employee's personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, elevation, traveling, and other activities.

117. Claimant was given a 73% whole person impairment rating by a qualified physician. That figure is not disputed by Defendants. The undersigned can find no reason to reject that rating.

118. When the totality of the record is examined, Claimant has proven a right to PPI benefits corresponding to a 73% whole person rating.

Permanent Disability Benefits

119. 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 impairment and by pertinent nonmedical factors provided in Idaho Code § 72-430. Idaho Code § 72-425.

120. Idaho Code § 72-430(1) provides that in determining percentages of permanent disabilities, account should be taken of the nature of the physical disablement,

the disfigurement if of a kind likely to handicap the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his or her age at the time of the accident causing the injury, consideration being given to the diminished ability of the affected employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the Commission may deem relevant.

121. The test for determining whether a claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction with nonmedical factors, has reduced the claimant's capacity for gainful employment." *Graybill v. Swift & Company*, 115 Idaho 293, 294, 766 P.2d 763, 764 (1988). Claimant has the burden of establishing his claim for permanent disability benefits.

122. Claimant argues he is totally and permanently disabled, under the odd-lot doctrine or otherwise. An odd-lot worker is one "so injured that he can perform no services other than those which are so limited in quality, dependability or quantity that a reasonably stable market for them does not exist." *Bybee v. State, Industrial Special Indemnity Fund*, 129 Idaho 76, 81, 921 P.2d 1200, 1205 (1996). Such workers are not regularly employable "in any well-known branch of the labor market - absent a business boom, the sympathy of a particular employer or friends, temporary good luck, or a superhuman effort on their part." *Carey v. Clearwater County Road Department*, 107 Idaho 109, 112, 686 P.2d 54, 57 (1984). The burden of establishing odd-lot status rests upon the claimant. *Dumaw v. J. L. Norton Logging*, 118 Idaho 150, 153, 795 P.2d 312, 315 (1990).

123. Claimant hired Mary Barros-Bailey, Ph.D., who prepared a disability analysis report dated April 23, 2026. Therein, after following her standard procedure of interviewing

Claimant, reviewing relevant documents, and consulting authoritative references, Dr. Barros-Bailey determined Claimant suffered between an 85% and 100% permanent disability.

124. Claimant testified at hearing as to how he sought and obtained employment, first at Lowe's in Boise, a job he enjoyed, but had to quit due to the driving distances involved. He then saw people moving into a vacant building near his home, so he stopped and asked for a job, not knowing the individuals or what type of business was moving into the building. As it turned out, the new company was known as JK Armament. They hired Claimant full time as a quality control specialist.

125. Claimant testified that before Lowe's and JK Armament he had difficulty finding a job, but persevered until he found work.

126. The reality is Claimant will work as long as he wants to (he was nearly 70 years old at the time of hearing), because he is an individual who needs to work. His testimony from the hearing (he talked of his work ethic throughout the hearing, and his employment search from pages 86 through 90) demonstrates his desire to do something meaningful with his days. As he made clear at hearing, it was not about the money, it was about his sense of self worth that drives him to work, to do his best, and to push through adversity. Claimant will retire when he's ready, but will not ever be totally disabled, or an odd-lot worker.

127. Dr. Barros-Bailey's estimate of *at least* 85% permanently disabled is reasonable. Claimant was employed at the time of hearing, not due to super-human effort or employer sympathy, but because he will work because he can work. While there may be but a few jobs still available to him, he found them through persistence. The reality is for every ten jobs Claimant would have been able to perform in his job market area before his accident, only one is now available to him.

128. When the totality of the record is examined, Claimant has proven he is entitled to permanent disability benefits corresponding to a 90% permanent disability rating, inclusive of his 73% whole person impairment rating.

CONCLUSIONS OF LAW

1. When the totality of the record is considered, Claimant has proven by a preponderance of the evidence that his actions in receiving the J&J vaccine was an activity arising out of and in the course of his employment with Employer.

2. When the totality of the record is examined, including the persuasive testimony of Claimant's experts on this highly contested issue, Claimant has proven by a preponderance of the evidence that his TM was caused, in whole or in part, by the J&J vaccine, administered to him on April 5, 2021.

3. When the totality of the record is examined, Claimant has proven a right to past and ongoing medical treatment reasonably related to his TM and resultant paralysis, with past medical treatment payable at the *Neel* rate.

4. When the totality of the record is examined, Claimant has proven a right to temporary total disability benefits from October 1, 2021, until March 24, 2023.

5. When the totality of the record is examined, Claimant has proven a right to PPI benefits corresponding to a 73% whole person rating.

6. When the totality of the record is examined, Claimant has proven he is entitled to permanent disability benefits corresponding to a 90% permanent disability rating, inclusive of his 73% whole person impairment rating.

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 22nd day of October, 2026.

INDUSTRIAL COMMISSION

Brian Harper

Brian Harper, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 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:

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DOUGLAS R. CAMERON, Claimant, v. TLK FARMS, INC, Employer, and IDAHO STATE INSURANCE FUND, Surety, Defendants.	**IC 2021-031073** **ORDER** Filed November 19, 2026 Idaho Industrial Commission

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 considered, Claimant has proven by a preponderance of the evidence that his actions in receiving the J&J vaccine was an activity arising out of and in the course of his employment with Employer.

2. When the totality of the record is examined, including the persuasive testimony of Claimant's experts on this highly contested issue, Claimant has proven by a preponderance of

the evidence that his TM was caused, in whole or in part, by the J&J vaccine, administered to him on April 5, 2021.

3. When the totality of the record is examined, Claimant has proven a right to past and ongoing medical treatment reasonably related to his TM and resultant paralysis, with past medical treatment payable at the Neel rate.

4. When the totality of the record is examined, Claimant has proven a right to temporary total disability benefits from October 1, 2021, until March 24, 2023.

5. When the totality of the record is examined, Claimant has proven a right to PPI benefits corresponding to a 73% whole person rating.

6. When the totality of the record is examined, Claimant has proven he is entitled to permanent disability benefits corresponding to a 90% permanent disability rating, inclusive of his 73% whole person impairment rating.

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

IT IS SO ORDERED.

DATED this the 19th day of November, 2026.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White, Commissioner

George Gutierrez, Commissioner

ATTEST:

Mary McMenomey

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 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:

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