BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ROBERT CAMPBELL, Claimant, v. CS BEEF PACKERS LLC, Employer, and ZURICH AMERICAN INSURANCE COMPANY, Surety, Defendants.	**IC 2018-002288** **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** FILED MAR 25 2022 INDUSTRIAL COMMISSION

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Industrial Commission assigned this matter to Referee Douglas Donohue. He conducted a hearing on July 8, 2021. Bruce Skaug represented Claimant. David Gardner represented Employer and Surety. The parties offered testamentary and documentary evidence and later submitted briefs. The case came under advisement on November 17, 2021 and is ready for decision.

ISSUES

The issues to be decided are:

1. Whether the condition for which Claimant currently seeks benefits was caused by the industrial accident;
2. Whether Claimant's condition is due in whole or in part to a subsequent intervening cause;
3. Whether Claimant is medically stable and, if so, the date thereof;
4. Whether and to what extent Claimant is entitled to:
    a. Medical care,
    b. Temporary partial or temporary total disability,
    c. Permanent partial impairment,
    d. Permanent partial disability, and
    e. Retraining; and
5. Whether apportionment for a pre-existing condition is appropriate under Idaho

Code §72-406.

At hearing, the parties agreed that MMI, TTD, retraining, and total permanent disability were not in dispute.

CONTENTIONS OF THE PARTIES

Claimant contends he felt sharp back pain near his scapula (about T5-6) while lifting a box at work on October 24, 2017. He reported the pain immediately and was allowed to sit at the first-aid station for the rest of the day. He did not immediately report this as a workers' compensation accident to Employer, and when he sought medical care on October 26, 2017 he told the doctor he had aggravated an old injury. After further medical attention, on November 10, 2017 he reported this industrial injury to Employer. Treatment continued into March 2018 when he was released to return to work. At that point Employer terminated his employment. An automobile accident in September caused a cervical strain which was distinct from the industrially caused thoracic back pain he had been experiencing. Dr. Williams assigned a 4% PPI. Mr. Porter assigned a 34.4% PPD. Defendants have refused to pay medical benefits in the amount of $9,329.74. Claimant is entitled to benefits for future medical care. As symptoms and treatment for this injury are distinct from all prior and subsequent injuries, no apportionment is appropriate.

Defendants contend Claimant's initial reports were inconsistent about when and whether he hurt himself at work. Claimant began working for Employer in August 2017. Employer moved him from job to job to "accommodate" his "ailments." Medical records show a strong history of complaints of recurring back pain, including thoracic pain. Dr. Bauer reviewed records and opined Claimant reached MMI on March 13, 2018 with no restrictions and no PPI. He opined the symptoms were consistent with Claimant's preexisting degenerative condition. Mr. Porter's analysis of PPD is incomplete and inaccurate. As of the date of hearing Claimant had obtained

other employment which paid more than his time-of-injury job. Claimant has failed to meet his burden of proof to establish a compensable accident caused his condition. Even if compensable, Claimant failed to show it likely he suffered any PPI distinct from his preexisting conditions.

EVIDENCE CONSIDERED

The record in the instant case included the following:

a. Joint exhibits A – M.
b. Defendants' proposed exhibit N was not admitted.

Referee Donohue submits the following findings of fact and conclusions of law for the approval of the Commission and recommends it approve and adopt the same.

FINDINGS OF FACT

1. (Inconsistency of Claimant's statements has put his credibility at issue. Therefore, findings of fact about what he has alleged, reported, and testified do not represent findings about the truth of the reported statements unless expressly noted.)

2. Claimant began working for Employer August 23, 2017. He began in the packing department but moved from department to department according to Employer's need and as his physical "ailments" allowed. He suffered chronically from flare-ups of lower back pain and related symptoms as well as other aches and symptoms, including occasional numbness in his hands. This hand numbness was associated in Claimant's mind with working with his hands in the cold areas of the plant. Among other duties, he folded pre-cut cardboard into large boxes, called "combo boxes" or "Gaylords," to facilitate meat cutting and processing on the "trim" line. He also lifted smaller boxes. As a new employee, Claimant believed his health care benefits "would kick in" on November 1, 2017.

3. He testified that on October 23 or 24, 2017 he lifted a box and "felt a very sharp pain in a different area of my back that was nowhere near my lower back." Claimant has reported

inconsistently between deposition and hearing and among his physicians about which type and size of box he was lifting—whether the box was 18 inches to two feet in its dimensions versus a combo box which is four to five feet in each dimension. He reported inconsistently across such records whether the event involved sudden, sharp pain lifting a discrete box or whether it came on during the day after lifting boxes generally. Among these records, including a recorded statement given to a claims adjuster, he has reported inconsistently, adamantly claiming the event occurred on October 23 versus being unsure whether it occurred on the 23, the 24, or some other date in October versus being unsure when it occurred or whether it came on gradually. At hearing he testified that it occurred on October 23, but that Mr. Draney required him to aver it occurred on October 24.

4. He reported pain to his supervisor and was sent to a company first-aid station. Broc Draney, an EMT, assessed Claimant's condition. Claimant stayed at the first-aid station until time to leave for the day. When he returned to work the next day or shortly thereafter he was assigned to light-duty work in the tool cage.

5. Claimant intentionally did not immediately assert he had been hurt at work. He testified that his reluctance arose from observing his father who "fought a work comp case for over six years."

6. On November 10, 2017 Claimant wrote the following on Employer's "Statement/Summary Report" form:

> On Oct. 20th, I was asked to build combo boxes for trim line as I have done before. Three work days later on Oct 24th I experienced some severe back pain which I thought was some of the same pain from my pre-existing condition prior to my hiring. I was then allowed time off to rest and allow my insurance benefits to start and begin to rectify the problem. On Nov. 7 two weeks after the initial problem, I have had a consistent pain in the thoracic region of my back. Also saw my doctor Nov. 7 and my doctor has determined this is a new injury unrelated to

my pre-existing condition. (Exhibit J, p.248.)

7. Claimant testified that he notified Employer that he considered this to be a worker's compensation claim on November 11, 2017. On that date Claimant signed an Injury and Illnesses Incident Report completed by Mr. Draney. Mr. Draney entered the following notations:

> "Employee stated he was building combo boxes for the trim line."
> "Employee stated his back became sore four days later and became worse over time."
> "Mid to lower back pain."
> "No first aid, Employee thought it was related to his pre-existing back pain. Went to own provider."
> Under "Date of Injury" Mr. Draney merely entered this: "?". (Exhibit J, pp. 246-47.)

Claimant signed the document. At hearing, he offered remembered conversations as evidence to indicate this document was inaccurate. Mr. Draney admitted he did not recall specific comments verbatim but did generally recall the details discussed. He did not recall several specific comments which Claimant asserted were made at that time.

Medical Care: 2017

8. Claimant first sought medical care for this episode at St. Luke's Emergency Department on the morning of October 26, 2017. Kevin Timmel, M.D. stated that Claimant reported "recurrent back pain on the R side radiating to his hip." He acknowledged a "known L4-L5 herniation." Claimant denied "new trauma." Specifically, he reported pain from mid-thoracic area down to the lumbar spine. He considered this an "acute worsening of his chronic back pain." An examination revealed "lower thoracic tenderness to palpation in the bilateral lumbar paraspinal muscles." Dr. Trimmel noted that Claimant "thinks this may be due to his current job at a warehouse."

9. On this first visit, Claimant reported an old L4-5 injury to the doctor, but to the

nurse he reported an old L3-4 injury.

10. Claimant next visited Tara Brumpton, M.D. at Boise Family Medicine On October 30. Claimant reported a history of "lumbar spine arthritis." Dr. Brumpton noted, "He also experience[d] some mid to upper thoracic pain around 2010 and had further imaging, but was unable to make the follow up appointment to review those images and is unsure as to any diagnosis." Brumpton continued, "Pt reports that las[t] week he started developing some mid/upper back pain on Tuesday and went home early. Then he took Wednesday off work. Thursday he returned to work, but was 'sent home to rest'." Upon examination, Dr. Brumpton noted mild right thoracic paraspinal muscle tenderness. She suspected a muscle and tendon strain. She further noted, "Per pt request and sx I have recommended that pt not lift over 10 lbs and avoid prolonged periods of standing at work."

11. Claimant returned to Boise Family Medicine on November 7. He again did not identify an inciting event, stating that it "just started hurting". This time he denied any prior thoracic pain. Dr. Stephanie Potter, relying upon Claimant's denial of prior thoracic pain, stated, "I have no reason to think the thoracic pain is related to an old injury and appears related to heavy lifting at current job." [sic]

12. On December 22, Claimant visited Lucas Robinson, PA-C at Meridian Surgery Clinic of the Spine Institute of Idaho. Here, Claimant reported that about October 20-24 he "was doing heavy lifting at work and had back pain that never resolved." He reported he was continuing to work light duty. PA Robinson performed a thorough examination. He noted generally diminished reflexes throughout and tenderness of the paraspinal muscles about T8. His assessment included: thoracic spondylosis with radiculopathy. He noted the radiculopathy included pain radiating across Claimant's midback but not around to the sides or front. He recommended an

MRI.

13. On December 29 a thoracic MRI showed disc herniations at T5-6 and L1-2. These were termed "small" or "mild," but some flattening of the subarachnoid space was reported.

14. Medical treatment in 2017 consisted of medications and reduction of activity.

Medical Care: 2018

15. On January 4 Claimant again visited PA Lucas Robinson. These records appear to repeat all prior-visit notes as if occurring at this visit. He reviewed the recent MRI and identified the following: thoracic spondylosis, prolapsed thoracic disc, degenerative disc disease both thoracic and lumbar, thoracic musculoligamentous strain. Claimant declined all offered options for treatment except for analgesic medications. PA Robinson recommended a continuation of light-duty work.

16. On January 10 Claimant visited Stephanie Potter at Family Practice. She noted the MRI "showed mild spondylosis with no significant stenosis and no indication for surgery." She recommended physical therapy.

17. On January 15 PA Robinson made the referral to physical therapy.

18. On March 12 Claimant had attended 20 physical therapy visits. Claimant was reporting moderate tenderness of musculature in the C6 through L1 distribution in his back. The physical therapist found Claimant cooperative. He found Claimant had improved substantially. Claimant reported no difficulty with daily activities but was not working.

19. Claimant testified that after physical therapy he could lift 90 pounds.

20. On August 28 Claimant visited St. Als Medical Group Urgent Care for severe back pain identified as a herniated lumbar disc.

21. On September 14, after being rear-ended in an automobile, a cervical CT showed

C2-3 osteoarthropathy and some early emphysema in his lung but no traumatic changes.

Medical Opinions

22. On February 3, 2019 R. David Bauer, M.D. reviewed records at Defendants' request for forensic purposes. He clarified that despite the medical record of PA Robinson on January 4, 2018, the fact that Claimant's thoracic pain merely extended across the back but did not radiate around to the chest means, by definition, that it was not radicular pain. Dr. Bauer noted a 2011 thoracic spine MRI record following six months of pain did not reveal anything more than mild degenerative disease at L1-2. He noted that Claimant reported nontraumatic shoulder pain in 2015 which Claimant vaguely attributed to work. Medical records from 2015 do not distinguish this shoulder or scapula pain from the thoracic pain Claimant is currently asserting. He noted that Claimant sought medical treatment on July 10, 2017 for back pain and that lumbar X-rays were taken August 17, 2017 for employment screening purposes. The X-rays reportedly showed mild disk degeneration at T12-L1. Dr. Bauer opined Claimant condition was "not caused by the alleged incident of October 24, 2017 but is a preexisting condition." Dr. Bauer did not consider the current condition to be an aggravation arising from an acute injury "but rather a manifestation of his preexisting and chronic condition. He opined that regardless of cause, Claimant's current condition rated 0% permanent impairment.

23. On December 4, 2020 Mark Williams, D.O. reviewed records and examined Claimant for forensic purposes. Claimant reported moving "a bunch of boxes" at work and experienced mid-back pain rather than the low-back pain which he had previously experienced. Dr. Williams opined that Claimant was at MMI. A small disc injury at T5-6 was probably work related based upon Claimant's report. Lumbar issues at L1 and L4-5 were preexisting and not industrially related. Claimants T5-6 PPI was rated at 4% without apportionment based upon

history and a previous T-spine MRI. Dr. Williams recommended no lifting above shoulder level over 35 pounds, and floor-to-waist lifting of 70 pounds. No future medical care was foreseen.

Prior Medical Care

24. Claimant underwent two knee repairs in 1997 and 2001.

25. Claimant suffered an L4-5 disc herniation in 2004.

26. Claimant was treated for arthritis throughout his lumbar spine beginning 2008.

27. On August 7, 2015 Claimant visited Kenneth McKenzie, PA-C and Dale Mock, M.D. complaining of a "multiyear history of lumbar and thoracic back pain." Review of systems revealed "thoracic pain radiating to the sides bilaterally" among other complaints and findings. Examination produced no objective findings.

Vocational Factors

28. Born October 23, 1977 Claimant was 43 years old at hearing.

29. Claimant earned a high school diploma. He attended vocational school classes for two years involving 1600 or 2000 certification hours and obtained a certificate in blueprint reading and welding. At his deposition he claimed 2000 hours, but at hearing he reported 1600 hours.

30. He worked on farms and in a tire shop while in high school.

31. He enlisted in the U.S. Army but was discharged in 1998 with just under one year of service after a knee injury.

32. He has worked most of his adult life at short-term jobs obtained through temp agencies. His longest continuous employment lasted five years. That employment ended when he exceeded his FMLA allowance due to his low back condition.

33. He has worked as an ironworker, performed manufacturing work, HVAC, and worked at a forge operation as a press operator.

34. He worked as a property manager with his brother.

35. He has worked as a self-employed subcontractor, installing flooring.

36. His longest stint of unemployment was about six months in 2003.

37. He moved to Idaho in 2014. He worked at restaurants, in property maintenance, and has been employed in construction as a framer and installing commercial flooring. He worked for Boise State University as a custodian.

38. At most employments he earned under $20,000 annually. He earned just over $30,000 "a couple" of years. His maximum wage was $17.00 per hour working a 3-month stint installing toiletry systems in hospitals.

39. In deposition, Claimant described recurring flare-ups of symptoms in areas related to his low back condition and to his thoracic condition. He described these as occurring without a new traumatic trigger. He has not sought additional medical treatment for these flare-ups.

40. Asked at hearing if his thoracic spine interferes with anything that he does "day in and day out," Claimant responded, "Not really." He then described in general terms occasional flare-ups.

Vocational Experts

41. On April 13, 2021 Delyn Porter evaluated Claimant virtually at Claimant's request. Claimant reported no education beyond high school. At that time Claimant was earning $14.00 per hour as a supervisory janitor. Analyzing jobs in the local labor market available to Claimant before and after the accident, Mr. Porter calculated a 50.5% loss of market access. He calculated a loss of wage-earning capacity at 18.3%. These combined to a 34.4% permanent disability according to Mr. Porter.

42. Mr. Porter performed a thorough analysis of Claimant's local labor market access.

His wage analysis did not consider Claimant's tax returns of record. Moreover, Claimant was earning more at the time of hearing than at the time of injury.

DISCUSSION AND FURTHER FINDINGS OF FACT

43. The provisions of the Idaho Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996). Facts, however, need not be construed liberally in favor of the worker when evidence is conflicting. *Aldrich v. Lamb-Weston, Inc.*, 122 Idaho 361, 363, 834 P.2d 878, 880 (1992). Uncontradicted testimony of a credible witness must be accepted as true, unless that testimony is inherently improbable, or rendered so by facts and circumstances, or is impeached. *Pierstorff v. Gray's Auto Shop*, 58 Idaho 438, 447–48, 74 P.2d 171, 175 (1937). *See also Dinneen v. Finch*, 100 Idaho 620, 626–27, 603 P.2d 575, 581–82 (1979); *Wood v. Hoglund*, 131 Idaho 700, 703, 963 P.2d 383, 386 (1998).

44. Claimant makes a good first impression. He appears polite and articulate when testifying. He is pleasant and likeable.

45. Claimant was a little slippery on cross-examination. He was vague and ambiguous—regardless of who the examiner was—when describing the box-lifting event. He frequently attempted to redirect rather than answer questions asked on cross-examination.

46. Claimant was unable to testify whether he reported the pain to Employer the same day or the day following its onset. This ambiguity undercuts Claimant's allegedly clear recollection of the alleged accident and specific words and phrases supposedly used in conversations with his supervisor and Mr. Draney. Moreover, Claimant's initial medical visit on

October 26, 2017 shows he denied "new trauma" as a cause of his pain. Claimant disputes whether he informed medical personnel on October 30, 2017 about the box-lifting incident. That medical record is silent about a precipitating event but supports that Claimant "started developing some mid upper back pain on Tuesday." October 24, 2017 was a Tuesday.

47. Claimant testified that he chose not to immediately—"from the get-go"—allege an industrial accident because of his father's experience. Alternately he testified that he "didn't feel I had the grounds" to allege an industrial accident. He elaborated that he thought the pain was just a flare-up of his prior condition until the MRI several weeks later showed otherwise.

Causation

48. A claimant bears the burden of proving that the condition for which compensation is sought is causally related to an industrial accident. *Callantine v Blue Ribbon Supply*, 103 Idaho 734, 653 P.2d 455 (1982). Further, there must be evidence of medical opinion—by way of physician's testimony or written medical record—supporting the claim for compensation to a reasonable degree of medical probability. No special formula is necessary when medical opinion evidence plainly and unequivocally conveys a doctor's conviction that the events of an industrial accident and injury are causally related. *Paulson v. Idaho Forest Industries, Inc.*, 99 Idaho 896, 591 P.2d 143 (1979); *Roberts v. Kit Manufacturing Company, Inc.*, 124 Idaho 946, 866 P.2d 969 (1993). A claimant is required to establish a probable, not merely a possible, connection between cause and effect to support his or her contention. *Dean v. Dravo Corporation*, 95 Idaho 558, 560-61, 511 P.2d 1334, 1336-37 (1973).

49. Here, Claimant has provided inconsistent versions of whether an accident or event occurred. He has provided inconsistent versions how such accident or event occurred. He has provided inconsistent versions about when he first believed his pain was related to his preexisting

condition or whether it was new. He has provided inconsistent versions of when and whether he asserted an accident or event occurred. He has provided inconsistent versions of why he delayed telling Employer he related his pain to work.

50. These facts are distinct from the facts in *McAtee v Potlatch Corp.*, 145 Idaho 325, 179 P.3d 288 (2008). In *McAtee*, Claimant vaguely indicated he did not know why he had back pain, but with each visit to a doctor his recollection steered toward an industrial cause. The Idaho Supreme Court analyzed this evidence as ambiguous but not inherently inconsistent with truthfulness. Here, Claimant has repeatedly offered unambiguous, inherently inconsistent, irreconcilable stories to various physicians, Employer representatives, and this Commission.

51. By contrast, Mr. Draney's testimony is an example of a truthful individual who may not recall every detail, but does provide a consistent, credible account of those facts he does recall.

52. Claimant is not a credible witness.

53. Having established more than a decade of occasional low back pain as well as less frequent episodes of mid to upper back pain, together with degenerative disc disease at various parts of the spine, the significance of the mild bulge at T5-6 requires explanation. Instead, treating physicians have provided the reverse by looking for something to point at to explain Claimant's story of lifting a box and immediately feeling pain. The medical record does not unequivocally establish that this disc bulge is acute versus degenerative. Which it may be depends upon which version of Claimant's story a physician prefers to accept.

54. Dr. Brumpton expressly founds her opinion upon the story Claimant told her. Doing so, her opinion about causation is only as good as the accuracy of the facts Claimant provided her at the time. The "facts" he gave her are inconsistent with his medical history. He has contradicted his own story about the lifting event.

55. By contrast, Dr. Bauer's opinion is based upon the actual medical history shown in medical records. Dr. Bauer's opinion about causation carries more weight.

56. Claimant failed to show it more likely than not that he sustained an injury in a compensable accident at work or that he suffered an aggravation, exacerbation, or acceleration of a preexisting injury in a compensable accident at work.

Medical Care

57. A claimant is entitled to reasonable medical care for a reasonable period of time for an industrial injury. Idaho Code §72-432. Future medical benefits for merely palliative care may be awarded. *Rish v Home Depot*, 161 Idaho 702, 390 P.3d 428 (2017). A reasonable time includes the period of recovery, but may or may not extend to merely palliative care thereafter, depending upon the totality of facts and circumstances. *Harris v. Independent School District No. 1*, 154 Idaho 917, 303 P.3d 605 (2013); *Rish v Home Depot*, 161 Idaho 702, 390 P.3d 428 (2017). One factor among many in determining whether post-recovery palliative care is reasonable is based upon whether it is helpful, that is, whether a claimant's function improves with the palliative treatment. *Id.*; *see also*, *Sprague v. Caldwell Transp., Inc.*, 116 Idaho 720, 591 P.2d 143 (1979)(limited and overruled on other grounds by Chavez v. Stokes, 158 Idaho 793, 353 P.3d 414 (2015)).

58. Claimant's medical care appears reasonable, but unrelated to a compensable workers' compensation claim. The preponderance of evidence does not support a claim for future medical care.

Permanent Impairment and Disability

59. Permanent impairment is defined and evaluated by statute. Idaho Code §§ 72-422 and 72-424. When determining impairment, the opinions of physicians are advisory only.

The Commission is the ultimate evaluator of impairment. *Urry v. Walker & Fox Masonry*, 115 Idaho 750, 769 P.2d 1122 (1989); *Thom v. Callahan*, 97 Idaho 151, 540 P.2d 1330 (1975). Impairment is an inclusive factor of permanent disability. Idaho Code § 72-422.

60. Claimant failed to show by a preponderance of evidence that he has suffered any permanent impairment related to the October 2017 waxing of his preexisting condition, regardless of whether that occurrence were compensable.

61. "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 permanent impairment and by pertinent nonmedical factors as provided by Idaho Code § 72-430.

62. 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, 766 P.2d 763 (1988). In sum, the focus of a determination of permanent disability is on a claimant's ability to engage in gainful activity. *Sund v. Gambrel*, 127 Idaho 3, 896 P.2d 329 (1995).

63. Permanent disability is defined and evaluated by statute. Idaho Code §§ 72-423 and 72-425 *et. seq.* Permanent disability is a question of fact, in which the Commission considers all relevant medical and non-medical factors and evaluates the purely advisory opinions of vocational experts. *See*, *Eacret v. Clearwater Forest Indus.*, 136 Idaho 733, 40 P.3d 91 (2002); *Boley v. ISIF*, 130 Idaho 278, 939 P.2d 854 (1997). The burden of establishing permanent

disability is upon a claimant. *Seese v. Idaho of Idaho, Inc.*, 110 Idaho 32, 714 P.2d 1 (1986). Where preexisting impairments produce disability, all impairments and disability should be accounted for with a subtraction back for the compensable portions. *Page v. McCain Foods, Inc.*, 145 Idaho 302, 179 P.3d 265 (2008).

64. Without permanent impairment there can be no permanent disability in excess of impairment.

CONCLUSIONS

1. Claimant failed to show by a preponderance of evidence that his condition was related to an injury caused by an accident or by acceleration, aggravation or exacerbation of a preexisting condition as a result of a compensable accident;

2. All other issues are moot.

RECOMMENDATION

Based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 8th day of February, 2022.

INDUSTRIAL COMMISSION

Douglas A. Donohue, Referee

ATTEST:

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of March, 2022, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSTIONS OF LAW AND RECOMMENDATION** was served by regular United States Mail and Electronic Mail upon each of the following:

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ROBERT CAMPBELL, Claimant, v. CS BEEF PACKERS LLC, Employer, and ZURICH AMERICAN INSURANCE COMPANY, Surety, Defendants.	**IC 2018-002288** **ORDER** FILED MAR 25 2022 INDUSTRIAL COMMISSION

Pursuant to Idaho Code § 72-717, Referee Doug Donohue 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 recommendations 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 failed to show by a preponderance of evidence that his condition was related to an injury caused by an accident or by acceleration, aggravation or exacerbation of a preexisting condition as a result of a compensable accident;

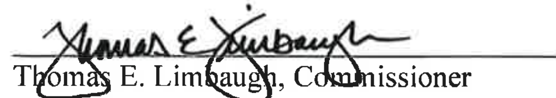
2. All other issues are moot.

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

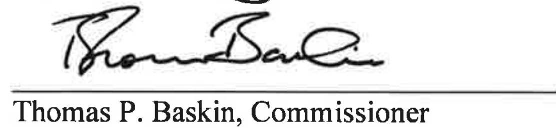
DATED this 25thday of March, 2022.

INDUSTRIAL COMMISSION

Aaron White, Chairman



Thomas E. Limbaugh, Commissioner



Thomas P. Baskin, Commissioner

ATTEST:

Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of March, 2022, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail and Electronic Mail upon each of the following:

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