

## SUMMARY STATEMENT

*Coray v. Idaho Regional Hand & Upper Extremity Center* Docket No. 50570

This was an appeal from a declaratory ruling issued by the Idaho Industrial Commission (“the Commission”) relating to the scheduling of an independent medical examination (“IME”) in a worker’s compensation case. The declaratory ruling concerned an interpretation of Idaho Code section 72-433, which grants an employer the right to schedule an IME for an employee who has filed a claim for worker’s compensation benefits. After her physician recommended back surgery, Christine Coray submitted to an IME as requested by her employer and its surety. The employer and its surety denied liability for the surgery and ongoing benefits, contending that she had recovered from the workplace injury and that surgery was necessitated by preexisting conditions. After she underwent back surgery outside of the worker’s compensation system, her employer requested she submit to a second IME, to be performed by a different physician. Coray refused to attend the second IME, and the employer filed a motion with the Commission to compel her attendance. Coray submitted a petition for declaratory ruling from the Commission on whether Idaho Code section 72-433 requires an employer to utilize the same physician to conduct multiple examinations of a single injury.

The Commission held that Idaho Code section 72-433 does not require an employer or surety to use only one physician to evaluate a discrete injury. However, the Commission also held that each request for an IME is subject to a reasonableness standard, and the burden of proof for establishing reasonableness falls on the employer. Coray appealed the Commission’s interpretation of section 72-433, arguing the Commission’s conclusion is contrary to the plain language of the statute. The employer and surety cross-appealed the Commission’s conclusion that the employer or surety bears the burden of establishing the reasonableness of a second IME scheduled with a different physician.

The Idaho Supreme Court affirmed the Commission’s declaratory ruling and interpretation of Idaho Code section 72-433. The Court held that the plain language of section 72-432(1) does not limit an employer to using only one specific physician to conduct all examinations of an injured worker. The Court further held that section 72-433, when read together with section 72-434, imposes a burden on an employer to prove the reasonableness of an IME as scheduled, including the employer’s choice of physician, if the issue is raised by an employee.

***\*\*\*This summary constitutes no part of the opinion of the Court but has been prepared by court staff for the convenience of the public.\*\*\****