

SUMMARY STATEMENT

Lowery v. Kuykendall, Docket No. 50777

Appellants Galen Kuykendall Logging and its surety Associated Loggers Exchange (jointly “Kuykendall Logging”) appealed from an Idaho Industrial Commission decision awarding workers’ compensation benefits to Respondent Stephen Lowery. Kuykendall Logging argued that the Commission erroneously determined that Lowery met his burden of proving he had a “new” occupational disease at L3-4 that manifested while he was employed by Kuykendall Logging. On appeal, Kuykendall Logging argued that Lowery’s L3-4 injury was a continuation of a prior degenerative disease process that began in 1992 when he suffered from an L5-S1 disk herniation. The Idaho Supreme Court affirmed the Commission’s decision. In doing so, the Court first held that the Commission’s conclusion that Lowery suffered from a new occupational disease at L3-4 was supported by its findings of fact. The Court then concluded that the Commission did not err in determining that the date of manifestation occurred while Lowery was employed by Kuykendall Logging. Next, the Court rejected Kuykendall Logging’s claim that Lowery was precluded under the *Nelson* doctrine from seeking recovery. The Idaho Supreme Court also affirmed the Commission’s conclusion that Lowery complied with the notice and limitation requirements of Idaho Code sections 72-448 and 72-706. Finally, the Court held that the Commission did not err in retaining jurisdiction after it issued its decision.

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