

On May 18, 2020 the defendants A+ Lawn & Landscape, Inc. and Commerce and Industry Insurance (A+ and C & I) filed a request for an order nunc pro tunc. The claimant and defendants A+ Lawn & Landscape, Inc. and Amguard Insurance Company responded via email that they were not going to respond to the motion for a nunc pro tunc order.

“The function of a nunc pro tunc order is not to modify or correct a judgment but to make the record show truthfully what judgment was actually rendered—not to make an order now for then, but to enter now for then an order previously made.” Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969) (quoting General Mills, Inc. v. Prall, 56 N.W.2d 596, 600 (Iowa 1953)).

As the Supreme Court stated: “[n]unc pro tunc orders are not some Orwellian vehicle for revisionist history—creating ‘facts’ that never occurred in fact.” Rather, a “true” nunc pro tunc order is one that corrects the record to “reflect the reality of what has already occurred.” Roman Catholic Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano, 140 S. Ct. 696, 700-01 (2020).

The defendants A+ and C & I at the hearing agreed to pay certain medical bills. The April 30, 2020 arbitration decision stated:

Pursuant to an order during the arbitration hearing, A+ and C & I filed a supplement statement and exhibit concerning payment of certain medical expenses. The statement and exhibit was admitted into the record as Exhibit L.

(Arbitration Decision, page 2)

The request for order nunc pro tunc is granted.

The rehearing order that was issued on May 14, 2020 stated:

Defendants A+ Lawn & Landscaping and Commerce and Industry Insurance shall pay the medical expenses as set forth in this decision. Defendants A+ Lawn & Landscaping and Commerce and Industry Insurance shall pay claimant one hundred forty-four thousand one hundred seventy-one and 85/100 dollars (\$144,171.85) which was paid by claimant’s wife’s group plan, three thousand five hundred twenty-two and 11/100 dollars (\$3,522.11) paid directly by claimant and ten thousand nine hundred twenty-five and 28/100 dollars (\$10,925.28) for unpaid balances.


The undersigned inadvertently omitted the credit that defendants A+ and C & I are entitled to receive. The above paragraph from the rehearing order on May 14, 2020 is amended and replaced with the following paragraph:

Defendants A+ Lawn & Landscaping and Commerce and Industry Insurance shall pay the medical expenses as set forth in this decision.

Defendants A+ Lawn & Landscaping and Commerce and Industry Insurance shall pay claimant one hundred forty-four thousand one hundred seventy-one and 85/100 dollars (\$144,171.85) which was paid by claimant's wife's group plan, three thousand five hundred twenty-two and 11/100 dollars (\$3,522.11) paid directly by claimant and ten thousand nine hundred twenty-five and 28/100 dollars (\$10,925.28) for unpaid balances. The defendants shall receive credit for medical expenses previously paid.

SO ORDERED.

Signed and filed this 19th day of May, 2020.



JAMES F. ELLIOTT
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served as follows:

Kathryn Johnson (via WCES)
Jean Dickson (via WCES)
Eric Lanham (via WCES)
Dennis McElwain (via WCES)