

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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JILL DROEGMILLER,

Claimant,

File No. 21010521.01

vs.

DIXON FAMILY CHIROPRACTIC, P.C.,

Employer,

ARBITRATION DECISION

and

OWNERS INSURANCE COMPANY,

Insurance Carrier,  
Defendants.

Headnotes: 1108.10; 1402.30; 2204

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**STATEMENT OF THE CASE**

Claimant, Jill Droegmiller, filed a petition in arbitration seeking worker's compensation benefits against Dixon Family Chiropractic, employer, and Owners Insurance Company, insurer, for an alleged work injury date of July 10, 2020. The case came before the undersigned for an arbitration hearing on January 24, 2023. Pursuant to an order of the Iowa Workers' Compensation Commissioner, this case proceeded to a live video hearing via Zoom, with all parties and the court reporter appearing remotely. The hearing proceeded without significant difficulties.

The parties filed a hearing report prior to the commencement of the hearing. On the hearing report, the parties entered into numerous stipulations. Those stipulations were accepted and no factual or legal issues relative to the parties' stipulations will be made or discussed. The parties are now bound by their stipulations.

The evidentiary record includes Joint Exhibits 1 through 6, Claimant's Exhibits 1 through 7, and Defendants' Exhibits A through J.

Claimant testified on her own behalf. Rachel Wassenaar also testified on behalf of claimant. Hannah Buffington, Kyleigh Robinson, and Adelee Dixon testified on behalf of the employer. The evidentiary record closed at the conclusion of the evidentiary hearing on January 24, 2023. The parties submitted post-hearing briefs on April 10, 2023, and the case was considered fully submitted on that date.

### **ISSUES**

1. Whether claimant sustained an injury arising out of and in the course of her employment on July 10, 2020;
2. If so, whether claimant is entitled to temporary disability benefits;
3. If so, whether claimant is entitled to permanent disability benefits and the commencement date for same;
4. Payment of medical expenses;
5. Reimbursement of claimant's independent medical examination under Iowa Code section 85.39; and
6. Taxation of costs.

### **FINDINGS OF FACT**

The undersigned, having considered all of the evidence and testimony in the record, finds:

At the time of hearing, claimant was a 54-year-old person. (Hearing Transcript, p. 10) She is married with two children. (Tr., p. 9) Claimant is a high school graduate, and received a business secretarial degree from Spencer School of Business. (Tr., pp. 9-10) Her work history includes secretarial work and office management. (Tr., p. 10)

In approximately 1991, claimant started working for Larry Dixon, D.C., at his chiropractic office. (Tr., p. 11) She initially worked the front desk and took patients back for their appointments. (Tr., p. 12) In approximately 1999 she left for a different chiropractic office, where she was employed as the office manager. (Defendants' Exhibit A, p. 4) She left that job and was employed at the front desk of another chiropractic office for a short time, while also doing some part time work for Dr. Larry again. (Def. Ex. A, p. 4; Tr., p. 12)<sup>1</sup> In approximately 2004, she returned to Dr. Larry's office full time, doing insurance billing, collections, and other bookkeeping work. (Tr., p. 12)

In 2012, Dr. Larry sold his business, Dixon Family Chiropractic, to his son and daughter-in-law, Wade Dixon, D.C., and Adelee Dixon, D.C. He stayed on as an employee, and claimant became the office manager. (Tr., pp. 12-13) Around that time the office also changed locations, and claimant testified that the office grew and became busier with the move. (Tr., p. 14)

Claimant testified that when she became office manager, her responsibilities changed and increased with respect to production and collections. She was also

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<sup>1</sup> As this case involves three separate chiropractors with the last name Dixon, each doctor will be referred to by their first name, as they were at hearing.

responsible for dealing with the staff, which she said was difficult between pleasing the doctors and trying to work with and help the staff with issues. She said there was also more staff turnover, which was something she had to handle as she helped with hiring. She testified that she took calls and text messages at night and on weekends.

This case involves a claim for a mental-mental injury, meaning claimant has alleged she sustained a mental injury without an accompanying physical injury caused by her work at Dixon Family Chiropractic. Claimant and her mental health therapist both testified, and Dr. Adelee Dixon and two former employees of Dixon Family Chiropractic also testified. Claimant provided several specific examples of instances she believes contributed to her alleged mental injury, both in testimony and her supplemental answer to Interrogatory No. 12. (See Claimant's Exhibit 3) Defendants' witnesses provided testimony regarding their recollections of many, if not all, of the instances claimant provided. In this decision, for clarity, the undersigned will attempt to summarize each of claimant's allegations, using the general categories as claimant outlined in her brief. I will include in each section the testimony from defendants' witnesses related to the same allegations.

In her post-hearing brief, claimant provided two general categories of "stressors": those related to treatment of staff, and those specific to claimant. Staff-related stressors include issues related to gratitude, belittling, Dr. Adelee's mood on Thursdays, the use of profanity and yelling in the office, micromanagement, office turnover, and heavy workload. (Claimant's Brief, pp. 5-10) Stressors related to claimant personally include personal affronts/insults and COVID-19, as well as additional stressors noted in claimant's exhibit 3 such as exclusion and unfair compensation. (Cl. Brief, pp. 10-15; Cl. Ex. 3) Overall, claimant stated that she experienced "daily chaos, humiliation, control, character assassination, micromanagement, erratic and hostile behaviors, intimidation, coercion, aggressive domination with power and control." (Cl. Ex. 3, p. 24)

With respect to staff issues, claimant first provided an example of an employee not thanking Dr. Adelee soon enough for a gift. (Tr., p. 15) According to claimant, Dr. Adelee approached the employee, Diane Duis, about thank-yous, and later that day Diane was crying. (Tr., pp. 15-16; 41-42) Diane resigned from Dixon not long after. Claimant said after that she felt that she had to text staff to remind them to say "thank you" to Dr. Adelee. (Tr., p. 16) She said things like that made it "difficult to navigate the push and pull between Dr. Adelee and the staff." (Tr., p. 15)

Claimant also testified that before she resigned, Diane asked for fewer hours, because she felt that "Adelee was judgmental" and she "saw the way that she abuses and - - me and others." (Tr., p. 42) Claimant said that she asked Diane to testify at hearing, but Diane recently started a new business "and she said that Adelee could destroy her business." (Tr., p. 43) There are also some text messages between Diane and claimant in evidence, containing references to a Bible story. (Cl. Ex. 4, pp. 28-29) Diane expresses feeling "sadness of heart" regarding Adelee's treatment toward claimant but does not go into detail. (Tr., p. 29) The text is dated Tuesday, September 24, with no year provided. The last time September 24 fell on a Tuesday was 2019, so that is assumed to be the

year the text was sent. Diane sent another text the next day, Wednesday September 25, indicating that Adelee had given her a “huge compliment” that day. (Tr., p. 30)

Adelee Dixon also testified at hearing. With respect to Diane Duis, she said that Diane opened a coffee shop right across the street from Dixon’s office. (Tr., p. 142) She said she and the other doctors had recently had coffee there, and Diane sat down with them and they enjoyed their cup of coffee together. (Tr., p. 143) She testified that Diane is also still a patient at Dixon Chiropractic, and there is no hostility or other issues between them. (Tr., pp. 142-143)

Claimant gave an example of Dr. Adelee “belittling” staff. She testified in her deposition that one employee contracted COVID, and Dr. Adelee “called her a dingbat,” and said “she probably got it from her boyfriend. I heard he likes the bars.” (Cl. Ex. 5, p. 42; Deposition Transcript, p. 36) There is a text message in evidence from Dr. Adelee to claimant that does not include the word “dingbat,” but does say “Get it from her boyfriend? Heard he likes the bars.” (Def. Ex. F, p. 60) The employee being referenced was Kyleigh Robinson, who also testified at hearing. (Tr., p. 107) Ms. Robinson was a full-time employee of Dixon from the spring of 2019 or 2020 until May of 2022. (Tr., p. 108) She worked the front test and helped with insurance and did physical therapy when needed. She testified that she did catch COVID during the pandemic and was not aware of the text about her boyfriend that Dr. Adelee sent to claimant. (Tr., pp. 117; 119) However, when asked if she found the text offensive, she laughed, and said “No. He sucked.” (Tr., pp. 119-120)

Another alleged stressor was Dr. Adelee’s mood in the office on Thursday afternoons. On Thursdays, the office was open until 6:00 p.m., and Dr. Wade worked in the morning, while Dr. Adelee worked the latter half of the day. (Tr., pp. 21-22) Claimant testified that in the afternoon, before Dr. Adelee came in, the staff would typically gather and discuss how Dr. Adelee would be when she arrived – “whether she’d be - - you know, what she would be doing, her mood, whether she’d be slamming doors.” (Tr., p. 22) Claimant stated that the staff was always anxious about that, and she would have to move one particular employee, Judy, around on the schedule so she would not work Thursday afternoons. (Tr., pp. 22-23) She testified that Dr. Adelee would come in on Thursday afternoons late, and slam doors and “kick the door thing.” (Tr., p. 23) She said this increased the anxiety level among the staff, and she would have to help them through it.

Dr. Adelee did not testify regarding Thursdays, but Ms. Robinson was asked for her recollection. (Tr., p. 113) Ms. Robinson did not recall any instances of the staff congregating to discuss what Dr. Adelee’s mood was going to be any particular day, including Thursdays.

Claimant went on to provide more examples of Dr. Adelee’s alleged bad behavior as stressors, including using profanity and interfering with her duties as the office manager. She gave an example of a time during the COVID pandemic when she was working from home and Ms. Robinson called to report she might have a fever. (Tr., pp. 32-33) Claimant told Ms. Robinson to let the doctors know, and apparently Dr. Wade told Ms. Robinson to have another employee, Misty, take her temperature. (Tr., p. 33)

According to claimant, who again was working from home at the time and did not witness these alleged events, Dr. Adelee came out of her office and told Ms. Robinson: "you don't have a temperature. It's [fucking] hot in here. I need a patient." (Tr., p. 33) Another example claimant provided was a time Dr. Adelee's sister came to the office with flowers. (Tr., p. 34) According to claimant, Dr. Adelee did not want the flowers, and when Ms. Robinson put them in her office, she yelled that she did not want her sister there and said "this is my space and my shit." (Tr., p. 34; Cl. Ex. 3, p. 19) When Ms. Robinson asked if she did something wrong, Dr. Adelee told her to talk to Dr. Wade about it. (Tr., p. 34)

Dr. Adelee testified about both of these alleged incidents. With respect to the first incident regarding Ms. Robinson's temperature, she testified that she never told any staff member not to take their temperature, and even bought a forehead thermometer for the office specifically for taking temperatures during COVID. (Tr., p. 143) Ms. Robinson also testified about the incident. (Tr., pp. 118-119) She remembered claimant advising her to have someone take her temperature and said that Dr. Adelee only said to be quick about it because there were patients waiting. (Tr., p. 118) She denied that Dr. Adelee said "you don't have a temperature. It's fucking hot in here and I need a patient," and she denied telling claimant that Dr. Adelee said that. (Tr., pp. 118-119)

Regarding the incident with her sister, Dr. Adelee testified that she and her sister do not have a relationship, and she was shocked when she showed up at the office. (Tr., p. 135) She said he had a personal reaction when she found out, but later spoke to Ms. Robinson and explained the situation. (Tr., pp. 135-136) She apologized, and there were no issues between Dr. Adelee and Ms. Robinson involving that issue. (Tr., p. 136) Ms. Robinson also testified about the incident. (Tr., p. 110) She said that after she told Dr. Adelee she had put the flowers in her office, she was "very visibly upset," so she returned to her desk in the lobby. (Tr., p. 111) Later, she asked Dr. Adelee if she had done something wrong, and Dr. Adelee said "No. It's not you. I'm sorry." Ms. Robinson said that was the end of it, and she was not offended by the interaction and had no issues with Dr. Adelee. (Tr., pp. 111-112)

Claimant provided examples of what she described as micromanaging. She testified that one time Dr. Adelee called her on a Thursday night and told her a coworker, Judy, had a rough day. (Tr., p. 47) Claimant called Judy the next day, and said that Judy told her Dr. Adelee had come to the waiting room complaining about being hot because of Judy's heater. (Tr., pp. 47-48) She said Dr. Adelee threw her arms up and slammed the door, making Judy feel uncomfortable. (Tr., p. 48) Again, claimant was not present during the alleged interaction, but said that she had to "clean it up" and it would have been better if she could just do her job and not be micromanaged. She also testified that Dr. Adelee would text her and say that employees were on Facebook or that they left early, and it "got to be a lot."

Dr. Adelee testified that she did not consider staff discipline to be a constant issue at the office, because they have a "wonderful staff." (Tr., p. 129) She did recall that one employee, Misty, had trouble coming in late but reporting that she was on time on her timecard, so she told claimant it was something they needed to address. She testified the only time she talked to claimant about staff issues had to do with "business-related office

manager situations.” Dr. Adelee also testified that both Misty and Judy still work at Dixon, and neither has expressed any concerns about the work environment. (Tr., pp. 143-144) In fact, Dixon has since hired Misty’s daughter. (Tr., p. 143)

Another alleged source of workplace stress involved “excessive turnover” and “unreasonably heavy work demands.” (Cl. Ex. 3, pp. 21-22) Claimant testified that under Dr. Larry, there was less employee turnover. (Tr., pp. 16-17) She estimated that after the sale of the business, they went through “probably 26 people” in seven years. (Tr., p. 17) She also said that in 2019 there were 16 employees on the payroll, which included the three doctors and part-time staff. She compared that to 2018, when there were only eight employees. She also claims she had to ask for help due to her heavier workload, especially in the summer. (Cl. Ex. 3, p. 21) She stated that she worked her full days and also took phone calls and text messages at night and on weekends. (Cl. Ex. 3, p. 22)

Dr. Adelee testified that when Dr. Larry owned the business, there were three chiropractors and five or six staff. (Tr., p. 122) At the time of hearing, there were four chiropractors, with the most recent starting just prior to hearing, and still five or six staff. (Tr., p. 123) She agreed that claimant’s job duties changed around the time of the sale in 2012, because Dr. Adelee had been the office manager before that time. (Tr., pp. 123-124) Dr. Adelee described claimant’s job duties as including scheduling, payroll, insurance, collections, getting tax documents ready, and dealing with staff issues such as lateness, etc. (Tr., p. 124) She described claimant as a great employee who was really good at her job.

Claimant’s work schedule was to work in the office in the morning Monday through Friday, and work from home every afternoon except Wednesday, which she had off. (Tr., pp. 124-125) As a result of her hours working from home, it was necessary to communicate via telephone and text message often. (Tr., pp. 125-126) With respect to her workload, Dr. Adelee testified that claimant’s workload was not excessive for an office manager in a similarly sized chiropractic clinic. (Tr., p.136) In fact, she said they always felt they were overstaffed, as they have a “one-to-one” ratio of staff to doctors. She testified that many other offices only have one employee who handles answering phones, scheduling, insurance, and everything, whereas they have one person who handles the front desk and scheduling, and claimant’s job just involved the back office. They also have another person as an assistant, who helps where needed. (Tr., pp. 136-137)

Ms. Robinson also testified about the workload at Dixon. (Tr., pp. 114-115) While she recognized the clinic was busy at times, she said it was not unusually busy or unexpected for a chiropractic clinic of that size. (Tr., p. 114) She further stated that nothing about the work environment was abnormal or more demanding or stressful than she would expect. (Tr., pp. 114-115) Additionally, Hannah Buffington, a massage therapist at the clinic, testified that the work at Dixon was “pretty much the same” as other chiropractic clinics where she had worked. (Tr., p. 95) Again, while agreeing the clinic was busy, she would not characterize it as “chaotic”, or more demanding or stressful than she would expect. (Tr., pp. 94-95)

Claimant also provided examples of alleged stressors directed to her personally. She claims that Dr. Adelee has criticized her appearance over the years. She testified that Dr. Adelee has commented on the size of her breasts and weight gain and has told her that her red sweater did not match her hair and that she needed to shave her face. (Tr., p. 30) She also claims that once during a trip to a seminar, Dr. Adelee told her she could not wear white pants and had her change into an extra pair of black pants she had brought along. (Cl. Ex. 3, p. 20) She also claims that Dr. Adelee told her to get her adrenals checked on a regular basis.

Dr. Adelee started working for Dr. Larry in 2000 and testified that she has known claimant for many years. (Tr., p. 126) She said that they have shopped and traveled together, and that she loved claimant "like a sister." (Tr., pp. 126; 128) She denied making offensive comments about claimant's appearance. (Tr., pp. 130-131) She testified that she had gone shopping for bras with claimant in the past, and thought perhaps claimant had expressed frustration, but she denied making any comments about claimant's breasts. (Tr., p. 131) With respect to the white pants, Dr. Adelee recalled that claimant was stressed because she had polka-dot underwear that showed through the pants. In response, Dr. Adelee gave her an extra pair of black pants she had along and told her to keep them because they looked great on her. (Tr., pp. 131-132) She denied ever putting claimant down personally or putting down her family. (Tr., p. 132) With respect to her adrenals, Dr. Adelee did not recall telling her to get her adrenals checked but indicated claimant had come to them asking for help. (Tr., p. 134) She remembered putting claimant on an herbal supplement for anxiety called Destress Formula, and that claimant was getting tested at different places. She also recalled claimant trying CBD, and that it helped with her shakiness somewhere between 2014 and 2016.

Another example claimant provided involved her son Bradenn. Claimant testified that her son got "best in the class" his senior year, instead of congratulating her, Dr. Adelee said she would "never hire somebody that got straight A's" but would rather hire someone with a personality. (Tr., p. 30) To the contrary, Dr. Adelee testified that she was at Bradenn's graduation and celebrated with claimant's family. (Tr., p. 128) She said she was very proud of Bradenn and would never say something like that related to his achievements. (Tr., pp. 132-133) She did not recall ever saying the exact words claimant attributed to her but said that it is possible that during the hiring process she may have said she would take someone with Bs and a great personality any day. However, if she did make such a comment, it was meant in a general sense and in no way directed toward claimant or her son.

Claimant provided another example involving an incident in which the staff were going to attend Dr. Larry's band concert in August 2019. (Cl. Ex. 3, p. 18) She was supposed to buy tickets for everyone and said Dr. Adelee came in her office several times that week with numbers, which kept changing. Ultimately, she did not get the number of tickets correct, but was able to get more at the door. However, she claims Dr. Adelee was "very upset" with her and was complaining and whispering with the massage therapist about it during the concert.

Hannah Buffington was the massage therapist at that time. (Tr., p. 87) Ms. Buffington testified that in February of 2016, she started renting a room from Dixon part-time to do massage therapy, and also worked part-time for the business as an employee. (Tr., p. 88) When working as an employee, she did therapy and office work, such as ordering supplements, some scheduling, and other “odds and ends” around the office. In the summers she would also help claimant with her work. (Tr., pp. 88-89) After having her child in 2018, she returned doing full-time massage therapy in her rented space. (Tr., p. 89) During COVID, when she was prohibited from doing massage therapy, she again worked on a limited basis as an employee, helping claimant with her work. At the time of hearing, Ms. Buffington still rented space from Dixon to do massage therapy but was not an employee of the business.

With respect to the concert, Ms. Buffington recalled the event, but did not recall any conflict or drama surrounding the event. (Tr., p. 92) Dr. Adelee also testified that she remembered the concert but did not recall any incident or issues developing as a result. (Tr., p. 135) She remembered it as a great time and a “fun outing for everybody.”

Claimant has also alleged stressors involving unfair compensation. (Cl. Ex. 3, p. 22-23) She claims that she was not given raises at the same time as others and was told she had to pay a summer employee personally if she needed extra help. She also claims she was given a less valuable birthday gift than other full-time staff. (Cl. Ex. 3, p. 20) She testified that Dr. Adelee told her they could hire two people for what they paid her, and that she would not get a raise if they had to hire someone to help her when the office grew. (Tr., p. 31)

Claimant testified that in 2020 she was making \$25.29 per hour at Dixon, plus bonuses based on collections. (Tr., p. 39) Dr. Adelee testified that claimant was their highest paid employee “by far” and the only one on a bonus system. (Tr., p. 130) For Christmas bonuses, claimant received double or triple that of the other staff. Dr. Adelee also denied that claimant had to personally pay any summer helper, and said the business paid the summer help and Ms. Buffington during the time she was helping claimant. (Tr., p. 137) Dr. Adelee testified that there was never a time she was unable to reach an agreement with claimant about a raise, and never any contentious dialogue regarding raises. (Tr., p. 138) She stated that when claimant asked for a raise, she got one. She also denied ever telling claimant they could pay for two people for what they paid her. With respect to the birthday gift, Dr. Adelee said that she chooses gifts based on the person receiving them, not a specific dollar amount. (Tr., p. 129-130) She denied ever intentionally giving claimant a birthday gift that was less than customary for other employees.

With respect to COVID-19, claimant testified that when the pandemic hit, it affected her work. (Tr., p. 18) She said she did not know if Dr. Wade and Dr. Adelee took the employees’ concerns seriously in March and April of 2020. She testified that one employee who was “fearful” was told to stay home so she would not scare away patients. Claimant said she asked to work from home, and after agreeing to take less pay and work fewer hours, Dr. Wade agreed. (Tr., pp. 18-19) However, on May 1, 2020, she was asked to come back into the office. (Tr., p. 19) She testified she asked to wear a mask and be



6-feet apart, and he said yes. She also asked a coworker named Misty to make her a poster for her office door indicating she was social distancing and asking people to call before entering. (Tr., pp. 19; 46) She testified the sign was similar to, but not the exact same, as the picture of the sign found in Defendants' Exhibit E. (Tr., p. 46)

Claimant testified that Dr. Adelee wanted her to "change my mind and my thinking" about COVID and would text her saying things were "so dumb." (Tr., p. 19) She said Dr. Adelee told her to get over her fears and pray about it or do yoga. (Tr., pp. 19-20) She said she was told her mask did not fit right, and that Dr. Adelee did not like masks or Clorox wipes, all of which made claimant more anxious. (Tr., p. 20) She recalled one incident in which the Iowa Chiropractic Society (ICS) had suggested that chiropractic offices move waiting room chairs 6-feet apart. (Tr., pp. 20-21) She asked Dr. Wade and Dr. Larry, who agreed, and she and the staff moved the chairs. (Tr., p. 21) However, when she texted Dr. Adelee to let her know, Dr. Adelee was "very, very upset," and called her to tell her to put them back because she did not want them moved.

With respect to COVID precautions, Dr. Adelee testified that one employee, Judy, asked to work from home right away. (Tr., p. 139) She said Judy is a cancer survivor and her daughter also had cancer at the time, so it was not a problem. She agreed that claimant also worked from home until early May. With respect to precautions, Dr. Adelee testified that everything in the office was sanitized frequently; employees wore masks; they purchased a forehead thermometer to take temperatures; and followed the CDC guidelines. They also followed the ICS guidelines, and installed sneeze guards. With respect to the waiting area, she testified that the reason she did not want the chairs 6-feet apart was because if a couple or a parent and child came in, she did not want to make them sit 6-feet apart. (Tr., pp. 139-140) As such, they left the chairs to allow people to "self-regulate" that spacing. (Tr., p. 140) However, she denied it was a "huge issue" as claimant perceived it. (Tr., pp. 139-140)

Regarding claimant specifically, Dr. Adelee testified that when claimant returned to the office, they made her a poster that said "please respect my social distancing" to hang on her door. She also had a piece of tape on the floor of her office marking 6 feet from her desk. When claimant worked from home, they made necessary deliveries to and from the office. When she returned, she wore a mask, and no one entered her office unless necessary. She had no patient contact, and no direct or close staff contact. Dr. Adelee testified that she never spoke to claimant in a demeaning manner about COVID or how she should view it, as they were trying to "keep peace and encourage and support." (Tr., p. 141) Ms. Buffington also testified about COVID. She said that she thought Dixon handled the pandemic as best they could at the time, and she did not feel uncomfortable there. (Tr., p. 97)

Each of defendants' witnesses testified that claimant had been an anxious person as long as they had known her. Ms. Buffington described claimant as an anxious person for the entire time she worked with her, from February 2016 until July of 2020. (Tr., p. 90) Ms. Robinson also described claimant as an anxious person during the entire time she has known her. (Tr., p. 109) She said claimant is very easily "worked up," very easily triggered by things, easily offended, and that small things "set her off." (Tr., pp. 109-110)

Finally, Dr. Adelee also testified that claimant had always been an anxious person, and she recalled claimant telling her the anxiety started when she worked at Chiropractic Concepts and was grabbed on the shoulder by the doctor there. (Tr., pp. 126-127) Dr. Adelee indicated that she has “only known” claimant with anxiety. She also testified that is why they put claimant on the herbal supplement called Destress Formula, because anxiety had been an issue for her “as long as we can remember.” (Tr., p. 134)

Additionally, Dr. Adelee testified that she noticed claimant’s anxiety got worse with the COVID-19 pandemic. (Tr., pp. 140-141) She said that she always tried to keep peace and encourage support, because she knew claimant already had anxiety and the pandemic made her more anxious. (Tr., p. 141) She noted that when claimant came back to the office, she wore a mask, and was never told not to wear a mask. (Tr., p. 140) She also had no patient contact, and no close staff contact due to her sign regarding social distancing and her 6-foot marker on the floor of her office. Dr. Adelee testified that the office followed the Governor’s recommendations, and everything recommended by the ICS regarding COVID protocols. (Tr., p. 145)

Claimant testified that shortly after she returned to the office during COVID, she began to experience chest pain and was feeling dizzy and lightheaded. (Tr., pp. 24-25) She saw Jamie Hicks, NP-C, on May 12, 2020. (Joint Exhibit 1, p. 3) NP Hicks’ note states that claimant was there due to “a recurrence of panic attacks.” (Jt. Ex. 1, p. 4) The record states she had dealt with this in the past but felt since she was called back to work that the panic attacks and symptoms of anxiety had returned. The record also states that claimant was scared because there were no precautions being taken at work for COVID, and NP Hicks noted she could “hear fear in her voice, she is tearful.” The record also states that claimant reported feeling like her boss was harassing her about things, that she received texts after hours, and she was homeschooling her daughter and worried about her mom in a long-term care facility. (Jt. Ex. 1, p. 6) She reported her heart racing and several episodes of her throat closing. On physical exam she was noted to be in moderate distress and was tearful and shaky. NP Hicks recommended counseling and increased the dose on her prescription for citalopram.

At hearing, claimant denied that she had ever had a panic attack previously. (Tr., pp. 64-65) While that may be true, claimant’s medications on October 16, 2019 included Celexa (citalopram) 40 mg and Xanax, 0.5 mg. (Jt. Ex. 2, p. 7) At that time it was noted that she had anxiety and difficulty focusing that was better with Celexa, and that work created a lot of anxiety and stress. (Jt. Ex. 2, p. 8) Her diagnoses on that date included generalized anxiety disorder and major depressive disorder. (Jt. Ex. 2, p. 10) The questionnaires she completed indicated mild symptoms of depression and moderate symptoms of anxiety, and her Celexa was increased to twice a day at that time. (Jt. Ex. 2, p. 11)

Claimant started attending counseling with Rachel Wassenaar, LISW, On May 19, 2020. (Jt. Ex. 3, p. 62) On her intake questionnaire, she noted “several years” of trouble with her boss, Adelee Dixon. She also noted that with COVID she was having trouble feeling safe there. She then started having panic attacks, and NP Hicks advised her to seek counseling. At her session on June 22, 2020, claimant and Ms. Wassenaar

discussed that claimant would likely put in her notice at work. (Jt. Ex. 3, p. 70) Claimant testified that she had been working on a plan to set boundaries and learning to speak her voice and navigate the office better in therapy. (Tr., p. 28) However, after discussion with her husband, she ultimately decided to give notice. Claimant's letter of resignation is dated June 27, 2020, and makes no mention of mental health issues or problems with her work environment. (Def. Ex. B, p. 15) Rather, the letter indicates she decided it was time to move on, and that she had "loved everything about my job and the challenges of keeping up with so many things." Claimant testified that she decided to take the "high road" and write a nice letter and wanted to leave on a good note. (Tr., p. 28)

Claimant thought she would be able to discontinue therapy after leaving her job, but shortly after leaving, Ms. Wassenaar testified that she was struggling with more symptoms. (Tr., p. 78) As such, claimant continued with counseling, and was still seeing Ms. Wassenaar at the time of hearing. Ms. Wassenaar testified that she will likely continue to need treatment monthly for at least the next year, if not more frequently depending on triggers or circumstances. Ms. Wassenaar also provided an undated letter outlining claimant's symptoms and therapy. (Jt. Ex. 3, p. 111) She noted that at the time of the letter, claimant was being seen when triggers occur related to legal issues from her previous place of work.

Claimant had a neuropsychological assessment on February 24, 2021, with Daniel Tranel, PhD. (Cl. Ex. 1, p. 1) His report is dated March 6, 2021. Dr. Tranel reviewed relevant medical records and interviewed and evaluated claimant. (Cl. Ex. 1, pp. 1-6) He concluded that claimant met the criteria for posttraumatic stress disorder (PTSD), and that the condition was "caused by the type and level of mistreatment, threats, and stressful experiences endured while working for her employer." (Cl. Ex. 1, p. 7) Dr. Tranel also indicated that claimant would continue to benefit from ongoing treatment.

On April 12, 2022, Kunal Patra, M.D., provided a peer review impairment rating report. (Cl. Ex. 2, p. 13) His rating was based solely on his review of Dr. Tranel's neuropsychological assessment. (Cl. Ex. 2, p. 14) Using the Fifth Edition of the AMA Guides to the Evaluation of Permanent Impairment, Dr. Patra assigned claimant to Class 2 (mild impairment) for activities of daily living, and Class 3 (moderate impairment) for social functioning; concentration, persistence, pace; and adaptation to a competitive and dynamic work environment. Overall, he felt claimant's PTSD placed her at a moderate level of impairment and assigned her 30 percent permanent impairment of the whole person.

Ms. Wassenaar provided another undated letter indicating she had reviewed both Dr. Tranel's assessment and Dr. Patra's impairment rating. (Jt. Ex. 3, p. 112) after review, she indicated that she supported the findings in both reports.

In this case, as discussed in detail below, claimant must prove both medical and legal causation. The medical records tend to support medical causation but are solely based on claimant's reports of her working conditions and alleged mistreatment. Additionally, the records contain little to no specifics, and instead contain generalities, again from claimant, that she has had years of "trouble" with her boss, including

mistreatment, emotional abuse, personal attacks, threats of job termination, and frequent bullying. (Cl. Ex. 1, pp. 6-7) Additionally, at hearing, Ms. Wassenaar could not recall any specific examples of the alleged misconduct, stating: “. . . gosh, I can’t even think of really great specifics other than it was just a very kind of unhealthy environment.” (Tr., p. 77)

I have no doubt that claimant perceived her work environment as unhealthy and abusive. She testified credibly and she sincerely believes she was mistreated. However, the evidence, when viewed as a whole, does not support claimant’s perception. This is especially true given the testimony of all three of the defendants’ witnesses. Each witness was credible and gave the undersigned no reason to doubt her veracity. Neither Ms. Robinson nor Ms. Buffington are current employees of Dixon Chiropractic, and had no reason to falsify testimony or “protect” Dr. Adelee or Dixon Chiropractic. Ms. Robinson testified that while Dr. Adelee has a direct and blunt style of communication, she would not characterize it as demeaning, unprofessional, or unexpected in the workplace. (Tr., p. 110) She testified that claimant had shared with her that she felt Dr. Adelee was bullying her or being harsh with her, but Ms. Robinson did not see any interactions that supported claimant’s perception. (Tr., p. 112) She never saw Dr. Adelee bully, intimidate, or threaten claimant. She never saw Dr. Adelee being verbally aggressive toward claimant or heard her talk bad about claimant’s character or about her family. (Tr., p. 113) Instead, she felt that claimant tried to direct a negative perception of Dr. Adelee among the staff. (Tr., p. 115) She testified that one of the first things claimant told her when she started working there was that Dr. Adelee was “very harsh” and that she could be mean. (Tr., pp. 115-116) However, after claimant left, Ms. Robinson felt the work environment improved, because Dr. Adelee took over as office manager. (Tr., p. 116) She testified that Dr. Adelee is direct and blunt, and wants things done in a timely manner and correctly, “which isn’t really abnormal for the workplace.” However, with claimant gone, the staff “didn’t have anybody else in our ear telling us that she’s just being mean.” (Tr., pp. 116-117) Again, Ms. Robinson has not worked for Dixon Chiropractic since May of 2022, and has no reason to present false testimony. (Tr., p. 108)

Likewise, Ms. Buffington described Dr. Adelee as having a direct and matter-of-fact communication style, but would not characterize it as offensive, unprofessional, or unexpected for the workplace. (Tr., p. 91) She testified that she personally has a great relationship with Dr. Adelee with great communication. (Tr., p. 90) She said the two have a professional friendship and a very respectful one. (Tr., p. 91) She never witnessed Dr. Adelee bullying, intimidating, or threatening claimant, and never saw her acting verbally aggressive toward her or talking bad about her or her family. (Tr., p. 92) She described the work environment at Dixon as very accommodating and disagreed with claimant’s characterization of the environment. (Tr., p. 93) She also testified to her belief that claimant tended to “drive and steer a negative perception” of Dr. Adelee, and that she thought there was some “pot-stirring.” (Tr., pp. 95-96) She said that anytime something would happen, claimant would tell her that she should be upset, and that she later felt claimant was trying to manipulate the situation. (Tr., p. 96) Like Ms. Robinson, Ms. Buffington also felt the work environment improved after claimant left, as there were “no more eggshells” after she left, and the “nervous energy” was gone. She said everyone gets along well, and Dr. Adelee is now managing the staff and is very accommodating and wants to fix anything that is wrong. (Tr., pp. 96-97) She said they are “a big family

there, and we want to stay a family. And it's just a really good, happy environment now." (Tr., p. 97) Again, while she rents space from Dixon for her massage therapy business, she is no longer an employee of the clinic. (Tr., p. 89)

To the contrary, claimant did not provide any testimony from other coworkers to support her perception of the work environment. The medical evidence is based solely on claimant's reports of her working conditions and alleged mistreatment. The weight of evidence does not support claimant's perception of the work environment at Dixon Chiropractic or Dr. Adelee's alleged behavior toward her. Claimant has not met her burden to prove, objectively, that she experienced workplace stresses of a greater magnitude than the day-to-day stresses experienced by other workers employed in the same or similar jobs, regardless of their employer. As such, claimant has not proven that she sustained a mental injury arising out of and in the course of her employment.

### CONCLUSIONS OF LAW

The first issue to be determined is whether claimant sustained an injury that arose out of and in the course of employment. Claimant alleges she sustained a mental/mental injury caused by her work environment.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3). The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Non-traumatically caused mental injuries are compensable under Iowa Code section 85.3(1). Dunlavey, 526 N.W.2d at 855. Mental injury cases that do not include a physical injury are referred to as "mental/mental" injuries. These injuries require a higher

standard to show causation than physical injury or a “physical/mental” injury. The Iowa Supreme Court has held this difference does not violate equal protection. Asmus v. Waterloo Community School Dist., 722 N.W.2d 653 (Iowa 2006).

To establish legal causation for a nontraumatic mental injury in the absence of a physical injury, an employee must establish “the mental injury ‘was caused by workplace stress of greater magnitude than the day-to-day mental stresses experienced by other workers employed in the same or similar jobs,’ regardless of their employer.” Dunlavey, 526 N.W.2d at 855. “When a claim is based on a manifest happening of a sudden traumatic strain, the legal-causation test is met irrespective of the absence of similar stress on other employees.” Brown v. Quik Trip Corp., 641 N.W.2d 725, 729 (Iowa 2002). Claimant specifically testified that she believes the mental injury arose in a gradual, cumulative manner, and was not caused by a sudden traumatic event. (Tr., pp. 26-27; 56-57) Therefore, claimant must establish the alleged mental injury was caused by workplace stress of greater magnitude than the day-to-day mental stresses experienced by other employees in the same or similar jobs. Dunlavey, 526 N.W.2d at 857.

Both medical and legal causation must be resolved in claimant’s favor before an injury arising out of and in the course of the employment can be established. To establish medical causation, the employee must show that the stresses and tensions arising from the work environment are a proximate cause of the employee’s mental difficulties. If the medical causation issue is resolved in favor of the employee, legal causation is examined. Legal causation involves a determination of whether the work stresses and tensions the employee experienced, **when viewed objectively and not as the employee perceived them**, were of greater magnitude than the day-to-day mental stresses workers employed in the same or similar jobs experience routinely regardless of their employer. (emphasis added) Id.; See also Dubinovic v. Des Moines Public Schools, File Nos. 5042677; 5047783 (App., Aug. 3, 2017). The court in Dunlavey specifically rejected tests that consider the subjective perception of the injured worker. See id. at 856. The court instead adopted “an objective standard of legal causation.” Id. at 858.

The employee has the burden to establish the requisite legal causation. Evidence of stresses experienced by workers with similar jobs employed by a different employer is relevant; evidence of the stresses of other workers employed by the same employer in the same or similar jobs will usually be most persuasive and determinative on the issue. Id. at 858.

In this case, claimant may have perceived the work environment at Dixon as toxic, but her perception is irrelevant to the determination of legal causation. The record, when viewed objectively, clearly establishes that most, if not all, of claimant’s perceived slights existed only in her own mind. There is no unusual workplace stress in this record. Even if Dr. Adelee occasionally expressed irritation or frustration, that does not rise to the level of stress in the Dunlavey standard. Claimant did not provide testimony from any coworker or other “similarly situated workers” to establish the work stress at Dixon was of a greater magnitude than elsewhere. However, the employer presented evidence showing that the stress and demands of the job at Dixon were reasonable and common among office managers and chiropractic offices. Evidence from other workers employed by the same

employer will usually be the most persuasive on the issue of legal causation. Id. In this case, the only former coworkers to testify contradicted claimant's allegations regarding the work environment at Dixon and her alleged mistreatment. When viewed as a whole, the evidence does not support legal causation.

In addition, there is no evidence that claimant's job requirements were unusual or unreasonable. Again, the only testimony from coworkers indicates the workload at Dixon was normal and expected for a chiropractic office of that size. Claimant has not met her burden to prove the second prong of the Dunlavy test, that her alleged mental injury was caused by workplace stress of a greater magnitude than the day-to-day mental stresses experienced by other workers employed in the same or similar jobs, regardless of their employer. Thus, claimant has failed to carry her burden to prove she has suffered a work-related mental/mental injury. Based on this finding, all remaining issues in this case are moot.

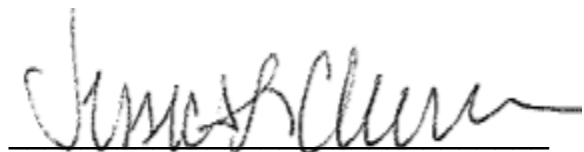
### ORDER

THEREFORE, IT IS ORDERED:

Claimant shall take nothing.

The parties shall bear their own costs.

Signed and filed this 15th day of September, 2023.



JESSICA L. CLEEREMAN  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

David A. Scott (via WCES)

Matthew R. Phillips (via WCES)

**Right to Appeal:** This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 10A) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.