

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEREMY L. BAINBRIDGE,

Claimant,

vs.

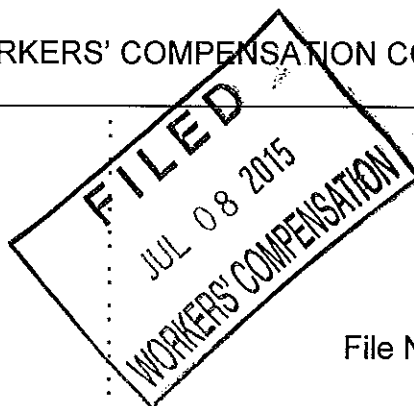
OMG MIDWEST, INC. D/B/A
AMERICAN CONCRETE PRODUCTS,

Employer,

and

LIBERTY MUTUAL INSURANCE
GROUP BOSTON,

Insurance Carrier,
Defendants.



File No. 5044392

ARBITRATION
DECISION

Head Note Nos.: 1108.20, 1402.30

STATEMENT OF THE CASE

Claimant, Jeremy Bainbridge, filed a petition in arbitration seeking workers' compensation benefits from OMG Midwest, Inc. d/b/a American Concrete Products, employer, and Liberty Mutual Insurance Group Boston, insurance carrier, both as defendants, as a result of an alleged injury sustained on April 10, 2012. This matter came on for hearing before Deputy Workers' Compensation Commissioner, Erica J. Fitch on June 3, 2014, in Des Moines, Iowa. The record in this case consists of claimant's exhibits 1 through 4, 6, 8, 13, 14, 17, 18, and 20, defendants' exhibits A through AA, and the testimony of the claimant, Jennifer Bainbridge, and Michael Taylor, M.D. The parties submitted post-hearing briefs, the matter being fully submitted on July 18, 2014.

ISSUES

The parties submitted the following issues for determination:

1. Whether claimant sustained an injury on April 10, 2012 which arose out of and in the course of his employment;
2. Whether claimant's claim is barred under Iowa Code section 85.16;

3. Whether the alleged injury is a cause of temporary disability;
4. Whether claimant is entitled to temporary disability benefits from April 10, 2012 through June 1, 2012;
5. Whether the alleged injury is a cause of permanent disability;
6. The extent of claimant's industrial disability;
7. The commencement date for permanent disability benefits;
8. Whether claimant is entitled to payment of various medical expenses; and
9. Whether claimant is entitled to reimbursement of an independent medical evaluation (IME) pursuant to Iowa Code section 85.39.

The stipulations of the parties in the hearing report are incorporated by reference in this decision.

FINDINGS OF FACT

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

Claimant's testimony at evidentiary hearing was consistent as compared to his deposition testimony. However, there are inconsistencies presented in the record with respect to claimant's perception of certain events as compared to medical records and the testimony of others. Claimant's demeanor at the time of evidentiary hearing gave the undersigned no reason to doubt claimant's veracity, as he demonstrated no outwardly visible signs of lying or deceit. Claimant is found credible.

Claimant was 42 years of age at the time of hearing. Claimant graduated high school in 1992. Claimant's postsecondary education consists of a three-day course at GOMACO University, which resulted in a certificate for operation of trimmer and coursework at Des Moines Area Community College, which resulted in a certification for testing concrete in 2008. (Claimant's testimony; Exhibit A, page 3; Ex. Q, p. 330)

Claimant's work history includes work as a road construction laborer, paver operator, concrete plant operator, warehouse laborer, and ground personnel at an asphalt plant. In the years prior to joining defendant-employer, claimant's annual earnings typically averaged \$40,000.00 to \$45,000.00. Claimant was fired by a former employer when he served as a warehouse laborer. Claimant testified he was unable to get along with his then-manager. (Claimant's testimony; Ex. A, pp. 3-4; Ex. Q, pp. 331-332)

Claimant's medical history is positive for mental health treatment. Medical records from Mercy Medical Center – Sioux City (Mercy – Sioux City) dated

July 17, 1999 reveal claimant presented to the emergency room. Glen Harden, M.D. noted claimant presented with feelings of confusion and an inability to work, sleep, or eat. Dr. Harden noted significant depressive symptoms related to a girlfriend moving in and out. Dr. Harden noted claimant had a history of depressive symptoms a couple months prior and the presence of "hesitation marks on his forearm." He noted claimant appeared overtly depressed and admitted to suicidal thoughts, but lacked a plan. (Ex. 2, p. 65; Ex. K, p. 99) Dr. Harden assessed depression with suicidal ideation and admitted claimant to James Duggan, D.O. for further evaluation. (Ex. 2, p. 66; Ex. K, p. 100)

Dr. Duggan's notes reflect deterioration in claimant's relationship, with claimant feeling very badly because of it. Dr. Duggan noted claimant admitted to suicidal thoughts, but denied a plan. (Ex. 2, pp. 61, 63; Ex. K, p. 95) Dr. Duggan assessed adjustment disorder with depressed mood and admitted claimant to the "emotional care unit" for additional evaluation to determine if claimant suffered with sustained depression/underlying major depression. (Ex. 2, pp. 61, 63-64; Ex. K, pp. 95, 97-98) Claimant was discharged from the hospital on July 19, 1999. Dr. Duggan ordered a medication regimen and an intensive outpatient program. (Ex. 2, p. 62; Ex. K, p. 96)

Claimant returned to the Mercy – Sioux City Emergency Department on October 3, 2005. Scott Murray, M.D. noted claimant had been transferred to Mercy – Sioux City from the hospital in Oakland, Nebraska. Dr. Murray's history notes claimant was reportedly suffering from increased stress at work and that morning, "while at [his] job, he curled up in a ball and was brought home by co-workers." (Ex. 2, p. 45; Ex. K, p. 108) Dr. Murray's records further note claimant's wife reported claimant had been experiencing suicidal thoughts, stating he "wants everything done with." (Ex. 2, p. 45; Ex. K, p. 108) She indicated claimant's condition had reportedly worsened over the preceding several weeks. (Ex. 2, p. 45; Ex. K, p. 108) Dr. Murray diagnosed acute suicidal ideation. Claimant was admitted to the psychiatric unit under the care of Rodney Dean, M.D. (Ex. 2, p. 46; Ex. K, p. 109)

The Mercy – Sioux City Psychiatry Unit admission profile dated October 3, 2005 indicates claimant's wife had driven claimant from Oakland Hospital. She is noted to have reported claimant had been very emotional, stressed, and depressed, with frequent bouts of crying. (Ex. 2, p. 47) The profile indicates:

As far as wife knows, [claimant] has been stressed out about his job. He is the foreman and everyone takes things out on him and he feels bad about this. Having lots of anxiety over his job, feels that when things go wrong it is all his fault & feels as if he is no good to anyone and that no-one wants him around.

(Ex. 2, p. 47)

Claimant's wife further reported earlier in the day, a friend brought claimant home from work and claimant "was all huddled up on passenger's side of the friend's truck

very upset and crying." At that time, claimant reportedly told his wife he "needed help and that he wanted things to be over with." She then drove claimant to Oakland Hospital, where claimant was provided Valium and his wife was directed to drive claimant to Mercy – Sioux City. (Ex. 2, p. 48)

At the time of admission, claimant was employed as a foreman for Irving F. Jensen and Brauer Construction. (Ex. 2, p. 50) Claimant's wife relayed significant job stress, with claimant feeling blamed by everyone when things went wrong. (Ex. 2, p. 50) Claimant reported inability to focus or concentrate at work and "because of this he feels when things go wrong it is all his fault and he should've been able to prevent it." (Ex. 2, p. 51) The profile notes claimant related experiencing suicidal thoughts, but had no specific plans. A history of overdose six years prior is also noted, with claimant having been found by his mother unconscious on his bathroom floor and transported to the hospital. (Ex. 2, pp. 48, 52-53) Claimant was noted to be wearing sunglasses due to an occupational exposure to lime a couple days prior, which caused a corneal abrasion. (Ex. 2, pp. 49, 52)

Dr. Dean admitted claimant to the psychiatric unit. Dr. Dean's notes indicate claimant reported feeling a lot of pressure at work approximately six months prior, namely that he was asked to do much more than he was capable of and being held responsible for tasks he was unable to accomplish. Claimant reported he became overwhelmed, began having difficulty thinking, and cried uncontrollably. Dr. Dean noted claimant had been found at work that day, lying on the floor and balled up in the fetal position. (Ex. K, pp. 104, 106)

Dr. Dean observed claimant lying in his hospital bed, wearing sunglasses. He described claimant's eyes as swollen, noting it appeared claimant had been crying for extensive periods of time. Claimant reported feelings of helplessness, hopelessness, despair, low self-esteem, and poor self-identity. Claimant indicated he felt as if his brain "shut down." Dr. Dean assessed major depressive disorder (MDD), recurrent without psychosis, and panic disorder without agoraphobia. (Ex. K, p. 106) Over the days that followed, claimant was followed in the psychiatric unit and prescribed medications. (Ex. 2, pp. 57-58; Ex. K, pp. 110-111) On October 6, 2005, Daniel Dees, M.D. discharged claimant from the psychiatric unit. Dr. Dees noted a discharge diagnosis of MDD, recurrent, and adjustment disorder with anxiety and depressed mood. Dr. Dees prescribed a medication regimen and indicated claimant would follow up with Dr. Duggan and with Janis Edwards, LISW. (Ex. 2, p. 59; Ex. K, p. 107)

Claimant testified as a result of an occupational exposure, he got hydrated lime in his eyes, which left him unable to see for three or four days. Claimant testified this resulted in him becoming depressed and fearful he would be unable to see again. Claimant testified his wife drove him to the emergency room because of the physical effects of having lime in his eyes and for depression related to his fears of losing his vision. Claimant denied any suicidal ideation. Claimant testified he was hospitalized for the eye condition, not because of his depression. (Ex. A, pp. 21-22)

In October 2006, claimant began work for Bedrock Concrete Products (Bedrock). Claimant was employed in the position of plant manager, tasked with taking orders and overseeing drivers. Claimant earned \$39,000.00 per year in this role. In June 2008, defendant-employer purchased the plant at which claimant worked. At the commencement of his employment with defendant-employer, claimant worked as a plant operator; he ran a portable plant located in Walnut, Iowa. (Claimant's testimony; Ex. A, pp. 3-5; Ex. Q, pp. 331-332)

After approximately six months to one year, claimant was promoted to customer service manager/dispatch manager (dispatch manager). Claimant initially worked from an office in Carroll, Iowa. After two years, the dispatch office was moved to Storm Lake, Iowa. Claimant earned a salary of \$54,000.00 as dispatch manager. (Claimant's testimony; Ex. A, p. 5) When the dispatch office was moved to Storm Lake, defendant-employer added a dispatcher whom claimant supervised; this position was filled by Denete Hoffman. The Storm Lake dispatch office handled an estimated 150 to 200 calls per day in the busy season and 30 to 40 calls per day during the winter months. (Ex. A, p. 6)

During the first year of operation from Storm Lake, claimant was supervised by Raymond Imming. Claimant testified he had an "excellent" working relationship with Mr. Imming. Claimant acknowledged there were instances Mr. Imming discussed work problems or issues with claimant. (Ex. A, p. 7) Claimant testified during this period, he did not believe he suffered from unusual stress. (Claimant's testimony)

In January 2011, after approximately one year of supervision by Mr. Imming, a new regional manager took over supervision of the Storm Lake office. Claimant testified a period of unusual stress began after this new regional manager, Kyle Huffman, began to supervise claimant's work. Claimant described Mr. Huffman as "controlling." (Claimant's testimony) Claimant indicated the two men did not have a good working relationship. (Ex. A, p. 8) At his deposition, claimant testified to the following work environment after Mr. Huffman took over as regional manager:

When he took over, he come in demanding changes on how we do things and tried to explain things how we were doing, and he wants us to do them a certain way, and we were used to doing them the way we've been doing them for years, and he wanted to change them all the time. And then he was always going to plant managers and talking to them about you don't need to listen to [claimant] or [Ms. Hoffman], you listen to me only, I'm your boss, not them, and things started falling apart when he'd come in to be the regional manager. Things started falling apart. And he pulled me into his office one day [reportedly in March 2011] and told me he had no respect for me or what I do for the company, and after that I just kind of lost interest in working with him.

(Ex. A, p. 8)

Claimant conceded Mr. Huffman had the authority to make the changes he implemented and which claimant resisted. Claimant testified he believed Mr. Huffman was implementing changes that put too much responsibility on the two people in dispatch. Claimant felt the changes were overwhelming, too much to handle at once. He acknowledged other dispatch centers handled the duties Mr. Huffman was trying to implement, but claimant indicated those centers had more staff and could dedicate an employee to these tasks. (Ex. A, p. 8)

Claimant's journal entry dated January 19, 2011 indicates Mr. Huffman confronted claimant for answering the phone "hello," as opposed to identifying the company. Claimant wrote he informed Mr. Huffman he answered the phone "American Concrete this is Jeremy." Claimant indicated he became "upset and went off on" Mr. Huffman, stating "everyone is trying to find shit to hang me with." Claimant wrote he informed Mr. Huffman, "[i]f they want me to go I will go," but Mr. Huffman replied "no one wants that to happen." (Ex. 17, p. 6) At evidentiary hearing, claimant testified he felt Mr. Huffman overreacted to the issue. (Claimant's testimony)

In a journal entry dated February 10, 2011, claimant wrote the "attitude" he perceived from Mr. Huffman was that "people are to do what he says and not to question it." Claimant wrote the environment in the region was "falling apart fast," but he was attempting to "keep spirits up and look on." (Ex. 17, p. 10) Claimant testified he felt Mr. Huffman ran the region with an "iron fist," whereas Mr. Imming had run the region as a team effort. (Claimant's testimony)

Claimant's journal entry of February 17, 2011 indicates Mr. Huffman became upset after claimant hung an American Concrete flag in an office window. Claimant wrote Mr. Huffman was in "one of his power moods" and told claimant to "stay out of his office." (Ex. 17, p. 3) At evidentiary hearing, claimant testified Mr. Huffman had asked claimant to put away some books in Mr. Huffman's office. Claimant testified while he was doing so, he found and hung an American Concrete flag in an office window. When Mr. Huffman saw what claimant had done, he became upset and told claimant to stay out of his office and personal items. (Claimant's testimony)

Generally speaking, claimant testified Mr. Huffman did not listen to him if he expressed questions or concerns. Due to this, claimant testified his stress level began to build. (Claimant's testimony)

On February 18, 2011, claimant carpooled to Fort Dodge, Iowa with a few coworkers. Claimant wrote in his journal on February 24, 2011, indicating he learned Mr. Huffman had called the coworkers who rode with claimant "wanting to know what was said in the van." (Ex. 17, p. 14) Claimant testified learning of Mr. Huffman's contact with other employees made claimant feel unwanted and insecure in his job. (Claimant's testimony) Claimant wrote of Mr. Huffman:

One day he seems too [sic] want to work with me then its [sic] trying to find shit to hang me. The man needs to grow up and do his job in hand and not worry about what might be said.

(Ex. 17, p. 14)

In late April and May 2011, claimant testified work began to pick up. Claimant testified Mr. Huffman advised dispatch not to turn down jobs, but if a job then did not run smoothly, Mr. Huffman would ask claimant why he accepted work without the manpower to fulfill it. Claimant testified Mr. Huffman reminded claimant at least twice per week that western Iowa was Mr. Huffman's region; this left claimant feeling unwanted. Claimant testified he also believed Ms. Hoffman was incapable of handling her position, leaving claimant to pick up the slack, especially with angry customers. (Claimant's testimony)

Due to concerns over feeling as if Mr. Huffman did not want to work with claimant, claimant began to apply for other jobs within defendant-employer. Claimant testified Mr. Huffman informed claimant he did not qualify for these positions. (Claimant's testimony)

On June 13, 2011, claimant received word Joseph Passow had been offered the logistics manager position claimant applied for. Claimant's journal entry of that date indicated Mr. Huffman advised claimant "not to have a bad attitude," to offer support, and "not to try and cause trouble." Claimant wrote he was unsure why Mr. Huffman would believe claimant would cause problems, as claimant had not had any troubles in his past workings with Mr. Passow. Claimant referred to filling out his application for the position as a "waste of time." (Ex. 17, p. 26)

Claimant and Mr. Huffman had a disagreement on July 11, 2011, which claimant detailed in his journal entry of that date. Claimant wrote Mr. Huffman telephoned claimant asking why Sac City trucks were at the plant in Carroll. Claimant indicated he attempted to explain, but Mr. Huffman "started to bitch about how I don't do what he asks and I told him I do to a point." (Ex. 17, p. 30) The conversation escalated; claimant wrote:

My stress level was at the top and I come unglued and yelled at [Mr. Huffman] and told him to go to hell and I quit.

(Ex. 17, p. 30)

Claimant left the office and telephoned Mr. Passow and supervisor, Chris West. Mr. Passow arranged a meeting between Mr. Passow, Mr. West, Mr. Huffman, and claimant. Mr. Passow advised claimant not to "worry about it" and that claimant still had a job. Claimant wrote in his journal that "my mind is not right." (Ex. 17, p. 30)

Claimant elaborated on this disagreement by his deposition testimony. Claimant testified he suffered a nervous breakdown at work after a telephone call with

Mr. Huffman. Claimant said Mr. Huffman stated he was "tired of the stupid stuff" being done and told claimant he should start following the rules and get his "shit together" if he wanted to stay with defendant-employer. Claimant indicated Mr. Huffman did not yell at him on this date, but claimant became very upset and overwhelmed. (Ex. A, p. 14) Claimant admitted he yelled at Mr. Huffman and stated he had enough of Mr. Huffman calling to complain. Claimant stated he was done working, went home, and proceeded to have a "nervous breakdown." Claimant admitted, however, it was Mr. Huffman's job to discuss work issues with him. (Ex. A, p. 15)

Mr. Huffman provided deposition testimony in this matter. By his testimony, Mr. Huffman testified he, claimant, and Mr. Passow had a meeting where claimant was told not to dead head trucks except for "go" orders. The purpose of the policy was to limit the amount of time a driver would be driving without a load unnecessarily. A short time later, Mr. Huffman testified he walked into the Carroll plant and saw six drivers sitting around on a rainy day. The drivers informed Mr. Huffman dispatch had sent them. Mr. Huffman testified he called claimant and claimant reported he had sent the trucks. Mr. Huffman informed claimant the order had cancelled and reminded him of the meeting a few weeks prior where claimant was told not to dead head trucks unless it was a confirmed order. Mr. Huffman testified he told claimant to get his "shit together" and this was "ridiculous" because they had just had a meeting about these situations. (Ex. J, p. 89)

Mr. Huffman testified claimant cursed at him and "proceeded to blow up and quit." (Ex. J, p. 89) Mr. Huffman testified claimant screamed vulgarities, said he would never work for Mr. Huffman again, and hung up. Mr. Huffman testified he called Ms. Hoffman, who stated claimant had thrown down his phone and left the office. (Ex. J, p. 90)

Following his interaction with claimant on July 11, 2011, Mr. Huffman testified he subsequently learned from Mr. West that claimant reported Mr. Huffman was out of control, screamed, yelled, and threatened claimant's job. In response, Mr. Huffman played the recording of the telephone call for his supervisors. (Ex. J, p. 90)

Mr. Huffman's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Huffman's veracity. Mr. Huffman is found credible.

On July 12, 2011, claimant presented to Michael Luft, D.O., of Ida Grove Family Health Center/Denison Family Health Center. Claimant reported feeling depressed, but denied suicidal ideation. Dr. Luft noted symptoms positive for depression, with claimant expressing difficulty with motivation, feeling down and abnormal. Dr. Luft assessed depression and anxiety disorder; he prescribed citalopram and lorazepam. Claimant was advised to follow up in one month. (Ex. 1, pp. 5-6; Ex. 8, pp. 1-2; Ex. M, pp. 274-275)

Claimant presented to work on July 13, 2011. Claimant's journal entry of that date indicates he and Mr. Huffman were "not really talking" and claimant felt "shaky" in Mr. Huffman's presence. Claimant indicated the meeting with his supervisors was set for the following day and he was "worried." (Ex. 17, p. 31)

Mr. West, Mr. Passow, Mr. Huffman, and claimant had a meeting on July 14, 2011. Mr. Huffman testified Mr. West confronted claimant and stated Mr. Huffman never threatened claimant's job on the recorded phone call. According to Mr. Huffman, claimant replied by stating he was on medication, and he did not recall what had been said. Mr. Huffman testified claimant did not state the nature of his medications. (Ex. J, p. 90)

During the meeting, claimant testified he felt as if Mr. Huffman, Mr. West, and Mr. Passow were "ganging up" on him. Claimant testified the phone recording was not played for him to review, but indicated Mr. Huffman, Mr. West, and Mr. Passow had a private meeting prior to their meeting with claimant. (Claimant's testimony) Claimant testified he informed the men he was not in the proper state of mind for the meeting because he was adjusting to medications. Claimant testified he indicated he was on medication for depression, anxiety, and suicidal thoughts, but received no reaction. Claimant testified he also related his mental health condition to pressure Mr. Huffman placed upon him. (Ex. A, p. 24) Specifically, claimant testified he felt Mr. Huffman was controlling, rude, and unjust, as claimant believed he possessed some control over the work that was being done. Claimant testified the level of control Mr. Huffman exerted made claimant's work very difficult, as claimant would make a decision and Mr. Huffman would tell claimant he was incorrect or second-guess the decision. (Claimant's testimony)

Claimant's journal entry of July 14, 2011 indicates claimant became upset in the meeting and felt as if the supervisors were "against" him. Claimant indicated he became so upset he was unable to speak and properly explain himself. (Ex. 17, p. 32)

On September 19, 2011, claimant returned to Dr. Luft for recheck of his depression. Claimant reported improvement in his symptoms, but some continued bad days, with periods of agitation, depression, and overall abnormal feeling. Dr. Luft again assessed anxiety disorder and depression. He continued claimant's prescriptions for citalopram and lorazepam; claimant was advised to return in six months' time. (Ex. 1, pp. 7-8; Ex. 8, pp. 3-4; Ex. M, pp. 276-277)

Claimant's journal entry of October 4, 2011 indicates Mr. Huffman called and "yelled" at claimant for spreading a rumor about Mr. Huffman transferring to Des Moines. Another entry, presumably later that date, indicates Mr. Huffman was in fact transferring to the Des Moines office to be a regional manager. Claimant wrote: "Wow he yelled at me for something that was true[,] what the hell." (Ex. 17, p. 36)

Due to reorganization of defendant-employer, claimant thereafter became concerned the Storm Lake office would close. (Ex. 17, p. 37)

On November 29, 2011, Mr. Passow engaged in an in-person discussion with claimant. Claimant testified Mr. Passow had been sent by Mr. West to terminate him, as people believed claimant was the problem with the western region. Mr. Passow reportedly informed claimant he dissuaded Mr. West from terminating claimant. (Claimant's testimony; Ex. 17, p. 39) Claimant's journal entry of that date indicates Mr. Passow confronted claimant over customer complaints that claimant had been short and rude to them over the phone. Mr. Passow reportedly told claimant "to get it together and start acting as a professional on the phones." (Ex. 17, p. 39)

Claimant's journal entry dated December 5, 2011 denotes claimant's fear that supervisors were attempting to "find a reason to fire me." (Ex. 17, p. 40) Claimant continued:

My thoughts are not right. I just want to end everything. It seems no matter what I do its [sic] wrong.

(Ex. 17, p. 40)

Claimant testified at that time he felt as if any decision he made at work was incorrect. (Claimant's testimony) Claimant indicated he believed Mr. Huffman wanted to fire claimant, but Mr. Passow would not allow it. He further testified Mr. Huffman informed claimant directly that he wanted to terminate claimant. (Ex. A, p. 23) Claimant testified his fear for his position led to more frequent suicidal thoughts. (Claimant's testimony)

Claimant's journal entry dated December 13, 2011 indicates Mr. Passow reportedly informed claimant not to interact with Mr. Huffman other than by email or over office telephone lines. (Ex. 17, p. 44) Claimant explained each of these methods of communication is recorded by defendant-employer. (Claimant's testimony) Claimant further wrote: "[Mr. Huffman] has blamed me for a lot of things going on. And [Mr. Passow] has had it." (Ex. 17, p. 44)

The following day, December 14, 2011, claimant's journal entry indicates:

I emailed [Mr. Passow] wanting to know what [Mr. Huffman's] problem is with me on everything I do. Im [sic] sick of the childish games I have gone and talked to [Mr. Huffman] and said I was sorry. Not sure what more I can do.

(Ex. 17, p. 45)

In December 2011, claimant took his family to Minnesota to visit extended family. On December 16, 2011, during this vacation, claimant received an email from Mr. Passow. The email reportedly stated Mr. Passow would be reprimanding claimant for misusing company funds, specifically, for allowing Ms. Hoffman to take 30 minutes of overtime. Claimant indicated before he left for vacation, he directed Ms. Hoffman not to take any overtime. Claimant testified he felt Mr. Passow was essentially accusing him

of stealing from defendant-employer. According to claimant, receipt of this email ruined his vacation and prompted him to call the employee assistance program. (Claimant's testimony; Ex. 17, p. 45; Ex. A, p. 15)

Jennifer Bainbridge, claimant's wife of 14 years, testified at evidentiary hearing. Mrs. Bainbridge testified she was on vacation with claimant in Minnesota at the time Mr. Passow emailed claimant regarding Ms. Hoffman's overtime. Mrs. Bainbridge testified claimant became so upset he started shaking and crying; he refused to leave the hotel the rest of the vacation and did not visit her family. (Mrs. Bainbridge's testimony)

Ms. Bainbridge's testimony was clear and, with respect to the subjects of her testimony, consistent with that of claimant. Her physical presentation gave the undersigned no reason to doubt her veracity. Mrs. Bainbridge is found credible.

Claimant's performance review for the year 2011 and completed by Mr. Huffman provided claimant an overall rating of 3 on a 5-point scale. (Ex. X, p. 398) Mr. Huffman testified this rating was "very good." He denied ever disciplining claimant in writing for performance issues. (Ex. J, p. 91)

Claimant presented to Dr. Luft on January 3, 2012 for treatment of acute pharyngitis and acute bacterial sinusitis. The medical records of that date denote no reference to mental health complaints. (Ex. 1, pp. 9-10; Ex. 8, pp. 5-6)

On March 15, 2012, Mr. Hansen and Mr. Passow were present in the Storm Lake office. Claimant stated Mr. Hansen and Mr. Passow informed claimant that coworkers were tired of dealing with him on problems in the dispatch area. (Ex. A, p. 15) Claimant authored the following journal entry:

Wow. I got my ass chewed about things said in [Des Moines] and what is going on out here. I guess Im [sic] not talk to anyone. [Mr. Passow] said everyone in the company wants me gone. Him [sic] and [Mr. Hansen] are the only ones willing to fight for me to stay. [Mr. Passow] informed me that everyone talks about me behind my back and its [sic] not good.

(Ex. 17, p. 56)

In March 2012, claimant testified he felt as if Mr. Hansen and Mr. Passow were on his side. However, the situation changed in April 2012, and he began to feel as if those men were "against him." (Ex. A, p. 23)

Claimant's journal entry of April 4, 2012 indicates claimant was "yelled at" because Ms. Hoffman "had job in wrong plant." Mr. Passow requested an email explaining how the error had occurred and what steps claimant would take to fix the problem. Mr. Hansen also reportedly called and yelled at claimant about use of the "last load option." Claimant wrote: "I'm sick of this shit already. I just want it to end." The

following day, April 5, 2012, claimant again wrote in his journal: "I just want to end this shit." (Ex. 17, p. 60)

On April 10, 2012, claimant testified he received a telephone call from the Manning plant and was informed a truck had broken down. Claimant testified he telephoned Derek Frederickson, supervisor for that area. Mr. Frederickson reportedly told claimant to have the driver report to the Carroll plant and pick up a truck that needed to go back to Fort Dodge. Subsequently, Mr. Hansen telephoned claimant. According to claimant, Mr. Hansen became upset, began yelling, and stated he was "tired of the stupid shit" that had been going on and he was "fed up" with claimant handling things incorrectly. Claimant testified Mr. Hansen did not seem to be the same person and talked to claimant in a very different fashion than he had in the past. Claimant testified his mind went blank, and the next thing he knew, he woke up in the hospital. (Ex. A, p. 16)

Mrs. Bainbridge testified she was with claimant on April 10, 2012 when he spoke to Mr. Hansen. Claimant took the call outside, and when he returned, he was shaking. Mrs. Bainbridge testified claimant stated he felt as if everyone was against him and everything he did was wrong. Mrs. Bainbridge testified claimant told her he loved her and went into the bathroom. A short time later, she went to check on claimant and found him trying to swallow a mouthful of pills. She attempted to remove the pills from his mouth, but only got a small number out before claimant fell to the ground. Mrs. Bainbridge testified she called for her daughter to dial 911. An ambulance came and transported claimant to the hospital. (Mrs. Bainbridge's testimony)

Edward Elsberry, dispatch manager for defendant-employer's Fort Dodge plant provided deposition testimony in this matter. Mr. Elsberry testified on April 10, 2012, one of his drivers out of Fort Dodge had been sent to the Manning location late one night. The driver was reportedly not "thrilled" about the late hour and long drive. (Ex. B, p. 31) Mr. Elsberry believed assigning this driver to this route was a dispatch mistake, as there were drivers based closer to that location who could have covered the trip. He telephoned Mr. Hansen and advised him one of their drivers would not be returning home until close to midnight. Mr. Elsberry indicated he wanted to keep Mr. Hansen "in the loop" in case Mr. Hansen received any other calls on the situation. Mr. Elsberry testified informing Mr. Hansen of such issues was standard operating procedure. (Ex. B, p. 32)

Mr. Elsberry's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Elsberry's veracity. Mr. Elsberry is found credible.

Mr. Passow provided deposition testimony in this matter. Mr. Passow testified on April 10, 2012, he received a telephone call from a coworker stating a driver was complaining about being out late on a job. This complaint led Mr. Passow to call claimant's cell phone; when he did so, claimant's wife answered. According to Mr. Passow, she was very upset and kept repeating that Mr. Hansen yelled at claimant

and claimant had tried to commit suicide. Mr. Passow called Mr. Hansen, who seemed "quite surprised" and insisted he had not yelled at claimant. Mr. Passow also telephoned Mr. West with the news. (Ex. D, p. 42) Mr. Passow testified if there was an issue regarding dispatch of a driver, it would not be unusual for a supervisor to contact the dispatch manager to discuss the issue. (Ex. D, p. 48)

Mr. Passow's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Passow's veracity. Mr. Passow is found credible.

Medical records reveal an ambulance transported claimant from his residence to the emergency room at Horn Memorial Hospital in Ida Grove, Iowa. Claimant was evaluated by Dr. Luft, who noted claimant had been experiencing a lot of situational anxiety and depression related to work. Dr. Luft indicated claimant had overdosed on lorazepam, with a family member reporting claimant took approximately 60 pills. Dr. Luft intubated and ordered claimant airlifted to Mercy – Sioux City. (Ex. 2, pp. 39-43; Ex. 6, pp. 1-2; Ex. K, pp. 130-134; Ex. L, pp. 271, 273)

When claimant arrived at Mercy – Sioux City, he was evaluated by an emergency department physician, Joseph Liewer, M.D. Dr. Liewer assessed acute respiratory failure secondary to lorazepam overdose. Dr. Liewer ordered sedation of claimant with a propofol drip. (Ex. 2, pp. 37-38; Ex. K, pp. 128-129) Victor Idahosa, M.D. was called to evaluate claimant. Dr. Idahosa assessed encephalopathy secondary to drug overdose, Ativan; overdose on Ativan; suicide attempt; and severe depression. Dr. Idahosa admitted claimant to the intensive care unit (ICU) for further evaluation and treatment, with claimant to remain intubated and sedated on a mechanical ventilator. (Ex. 2, pp. 25-28; Ex. K, p. 114-116)

The following day, April 11, 2012, Robert Stewart, M.D. evaluated claimant in regards to management of the mechanical ventilation. Following evaluation, Dr. Stewart diagnosed respiratory failure secondary to sedative hypnotic overdose. Dr. Stewart recommended the nursing staff wean claimant from the propofol drip. (Ex. 2, pp. 28-29; Ex. K, pp. 117-118) Later that date, Jitendrakuma Gupta, M.D. evaluated claimant in the ICU and extubated. (Ex. 2, p. 32; Ex. K, p. 123)

On April 12, 2012, Dr. Gupta recommended discharge of claimant from the hospital, with a transfer to the psychiatric unit. (Ex. 2, p. 34; Ex. K, p. 125) Shahid Ahmed, M.D. discharged claimant from the hospital to the inpatient psychiatry unit for further psychiatric management by Philip Muller, D.O. (Ex. 1, p. 13; Ex. 2, p. 23; Ex. K, p. 112)

The psychiatric unit admission profile of April 12, 2012 notes claimant reported being depressed and anxious for the last two years due to work problems; specifically, claimant felt he was not respected and was degraded by supervisors. Claimant reported a month prior, two supervisors told him he was hated and people did not want him around. Claimant expressed belief these problems with his supervisors

represented bullying and harassment. The profile notes claimant expressed feelings of worthlessness, hopelessness and anxiety, with thoughts of suicide for about 1 ½ years. Claimant reported a supervisor called on April 10, 2012 and blamed claimant for making stupid mistakes and causing problems, which resulted in claimant taking an overdose of medication. (Ex. K, p. 156)

Claimant was then evaluated in the psychiatric unit by Collette McCullough, ARNP. Claimant reported significant work stress, with a feeling of being constantly degraded. Ms. McCullough diagnosed MDD, recurrent and severe, and panic disorder without agoraphobia. Claimant expressed willingness to be admitted to the psychiatric unit. (Ex. 2, pp. 30-31; Ex. K, pp. 119-120)

Dr. Muller evaluated claimant on April 13 and April 14, 2012. Dr. Muller diagnosed MDD, recurrent without psychosis, and panic disorder without agoraphobia. (Ex. 2, pp. 21-22; Ex. K, pp. 163-164) Dr. Muller discharged claimant from the psychiatric unit on April 16, 2012. His discharge notes reflect a history of suicidal thoughts over the past year, with claimant reporting he had been degraded in his work environment. Dr. Muller restated diagnoses of MDD, recurrent and severe, and panic disorder without agoraphobia. He discharged claimant with prescriptions for citalopram and Norvasc and directed claimant attend therapy and follow up with Dr. Muller. (Ex. 2, p. 19; Ex. K, p. 142)

Claimant returned to Dr. Luft on April 23, 2012 in followup of his hospitalization. Dr. Luft's review of symptoms notes abnormal mental status and depression with recent suicide attempt. Dr. Luft diagnosed claimant with an anxiety disorder and depression. He recommended continuance of claimant's current medications, followup with counseling, and an evaluation by a psychiatrist. (Ex. 1, pp. 11-12; Ex. 8, pp. 7-8; Ex. M, pp. 278-279)

On April 26, 2012, claimant followed up with Dr. Muller. Dr. Muller diagnosed agoraphobia with panic disorder and depressive disorder "RCR", moderate. Dr. Muller prescribed clonazepam and citalopram and directed claimant to follow up in four weeks. (Ex. 4, p. 6; Ex. N, pp. 300-301)

Claimant returned to Dr. Muller on May 10, 2012. Dr. Muller opined claimant's disorder could be classified as major depression. Dr. Muller maintained the same diagnoses as prior and recommended continued medication management, with a return in one month. (Ex. 4, pp. 7-8; Ex. N, pp. 302-303) Dr. Muller opined claimant was unable to work from April 10, 2012 until May 14, 2012, due to his inability to handle any stress. (Ex. 4, p. 17; Ex. N, p. 297) Dr. Muller released claimant to return to full duty on May 14, 2012. (Ex. 4, p. 15; Ex. N, p. 295)

Employees of defendant-employer, including Mr. Passow, remained in contact with claimant or his wife on several occasions in April 2012. The general sentiment was inquiring into claimant's well-being and wishing him a healthy recovery. (Ex. W; Ex. Y)

On May 15, 2012, claimant authored an email to his supervisors and certain coworkers at defendant-employer. By this email, claimant resigned his employment "due to health issues." (Ex. U, p. 386) Claimant testified he voluntarily resigned his employment due to severe depression and anxiety with suicidal thoughts. Claimant testified his therapist advised him to leave his current work environment. (Claimant's testimony; Ex. A, p. 10)

Following his resignation from defendant-employer, claimant testified he was unemployed for approximately one month. He then procured his CDL license and began work as a truck driver for Bedrock in June 2012. Claimant testified he earned \$12.00 per hour, with estimated annual earnings of \$31,000.00. (Claimant's testimony; Ex. Q, pp. 331-332) The payroll summaries from Bedrock revealed in the period of January to December 2013, claimant grossed nearly \$45,000.00 and netted nearly \$35,000.00 from Bedrock. (Ex. R, pp. 354-358)

Claimant returned to Dr. Muller on July 19, 2012. Dr. Muller recommended continued medication management, with claimant to follow up in three months. Dr. Muller also directed a change in claimant's therapist to Joann Martin. (Ex. 4, pp. 9-10; Ex. N, pp. 304-305)

Claimant filed a workers' compensation claim arising from the events of April 10, 2012. On July 31, 2012, defendant-insurance carrier issued a denial of liability based upon lack of medical and legal causation. (Ex. AA, p. 403)

Claimant continued to follow up with Dr. Muller for care of his mental health conditions. On October 24, 2012, Dr. Muller recommended continued medication management, with claimant to return in three months. (Ex. 4, pp. 11-12; Ex. N, pp. 306-307)

In May 2013, claimant presented to Denison Family Health Center and was evaluated by Ivy Elsbernd, PA. Claimant complained of headaches, mood swings, irritability, and lashing out at coworkers and family, but denied suicidal ideation. Notes indicate claimant's wife wanted him to seek treatment before the symptoms worsened. PA Elsbernd assessed anxiety disorder, depression, mood disorder, and high blood pressure. She prescribed Abilify. (Ex. 8, pp. 9-10; Ex. M, pp. 280-281) Following evaluation, Dr. Muller agreed with the addition of Abilify to claimant's medication regimen. (Ex. 4, pp. 13-14; Ex. N, pp. 308-309)

In June 2013, claimant received renewed Department of Transportation clearance to drive utilizing his CDL. (Ex. S, pp. 365-368)

On November 5, 2013, claimant presented to Denison Family Health Center. Claimant complained of feeling numb and fuzzy, with a history of depression. Claimant also reported thoughts of self-harm. Sara Pauley, ARNP assessed headaches, chronic depression, and suicidal thoughts. Claimant indicated he desired help and wanted to go to Mercy – Sioux City, as he received assistance there in the past. Ms. Pauley noted

claimant's family agreed to transport claimant to Mercy – Sioux City. (Ex. 8, pp. 13-14; Ex. M, pp. 282-283)

Later on November 5, 2013, claimant presented to the emergency department at Mercy – Sioux City. Thomas Benzoni, D.O. evaluated claimant. Records reveal claimant's wife reported claimant was feeling badly, depressed, and suicidal with a desire to take an overdose of his medication. Dr. Benzoni assessed emotional problems and admitted claimant for further evaluation in the behavioral medicine department (psychiatric unit). (Ex. 2, pp. 17-18; Ex. K, pp. 193, 196-197)

Psychiatric unit records dated November 5, 2013 note claimant informed his wife he suffered from suicidal ideation with a plan for overdose. Claimant related the suicidal ideation to becoming upset over a workers' compensation claim. (Ex. 2, p. 8; Ex. K, p. 224)

On November 6, 2013, claimant was evaluated by Dr. Muller and Jeannie Franklin, ARNP. Claimant reported working on workers' compensation paperwork brought back memories of his suicide attempt. He subsequently developed suicidal ideation with a plan for overdose. Claimant informed his wife of his plans, and she transported him to Mercy – Sioux City. (Ex. 2, p. 3; Ex. K, p. 200) Dr. Muller diagnosed MDD, recurrent and severe, and panic disorder without agoraphobia. Claimant was prescribed citalopram and an increased dosage of Abilify. (Ex. 2, pp. 4-5; Ex. K, pp. 201-202)

Claimant was discharged from the psychiatric unit on November 8, 2013. Claimant's discharge diagnoses are noted as MDD, recurrent and severe, and panic disorder without agoraphobia. Claimant was directed to continue on medications of Abilify, citalopram, and clonazepam. He was also directed to follow with psychiatry, specifically Dr. Muller and with Beth Harms, LISW, for therapy. (Ex. 2, pp. 1-2; Ex. K, pp. 198-199) Claimant participated in therapy sessions with Ms. Harms during November 2013. (Ex. 4, pp. 3-4; Ex. N, p. 312)

Claimant followed up with Dr. Muller on November 11, 2013. Dr. Muller assessed MDD, recurrent and severe, and agoraphobia with panic disorder. Dr. Muller prescribed Abilify, clonazepam, and citalopram, with claimant to follow up in four weeks. (Ex. 4, pp. 1-2; Ex. N, pp. 310-311)

Due to complaints of a significant headache with blurred vision, Dr. Luft ordered a head CT. Claimant underwent such testing on November 13, 2013. The radiologist opined the study revealed no acute intracranial changes. (Ex. 3, p. 2)

In January 2014, claimant received certification to drive with a CDL for another year. (Ex. S, p. 369)

At the arranging of claimant's attorney, on January 27, 2014 claimant presented to licensed clinical psychologist, Craig Rypma, Ph.D. Dr. Rypma performed a

psychological evaluation and issued a report of his opinions dated April 11, 2014. In completing the evaluation, Dr. Rypma completed a nearly three-hour interview of claimant, reviewed provided documents, and performed a battery of psychological tests, including the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and Millon Clinical Multiaxial Inventory-III (MCMI-III). (Ex. 14, pp. 1-2)

Dr. Rypma summarized claimant's work history, including his employment at defendant-employer. Claimant reported at defendant-employer, his supervisor bullied, physically threatened, and threatened to fire claimant over what claimant believed were minor issues. (Ex. 14, p. 4) Dr. Rypma stated:

[Claimant] admits he became depressed in 2011. His depression over time continued to exacerbate. He overdosed on Ativan (Lorazepam), a medication used to treat anxiety disorders, and was in a coma for 3 days. [Claimant] reports that he does not recall events after the phone call [with Mr. Hansen on April 10, 2012], but woke up in the hospital. [Claimant's] only prior hospital care occurred at age 17 when he had a problem with one of his kidneys. He has had no prior treatment for depression.

(Ex. 14, p. 4)

Dr. Rypma opined claimant presented mildly anxious with depressed affect. He assessed claimant as demonstrating mildly challenged cognitive function, impaired memory, varied concentration, and a guarded attitude. (Ex. 14, p. 3) Dr. Rypma noted his review of claimant's medical records referenced a significant history of depression prior to beginning employment at defendant-employer. Dr. Rypma noted treatment as early as July 1999 and hospitalization in October 2005. (Ex. 14, p. 4)

Dr. Rypma stated claimant attempted to commit suicide on April 10, 2012 by overdosing on Ativan. Claimant was hospitalized, released on April 16, 2012, and participated in outpatient care. Dr. Rypma noted claimant continued in depression treatment at the time of his evaluation, including a medication regimen of Abilify, clonazepam, and citalopram, as well as therapy with Ms. Harms. (Ex. 14, pp. 4-5)

Dr. Rypma opined claimant's MMPI-2 results were consistent with an individual with damaged self-esteem and who is tense, anxious and depressed. According to Dr. Rypma, such individuals generally ruminate excessively, are filled with self-doubt, and feel tremendous guilt when they fail to meet their unreasonably high expectations. Dr. Rypma indicated similar individuals reported suicidal thoughts and attempts, as well as psychiatric hospitalizations. (Ex. 14, pp. 5-6)

Dr. Rypma opined claimant's MCMI-III results demonstrated a tendency to endorse more psychological symptoms than objectively existed. He further indicated individuals with similar results failed to develop adequate coping strategies and demonstrated deficient interpersonal interaction. According to Dr. Rypma, similar individuals demonstrated periods of impulsive and/or angry outbursts, and are

particularly vulnerable to pressure and demands. Dr. Rypma opined this protocol indicated a pattern of problematic depression. (Ex. 14, p. 6)

Dr. Rypma opined posttraumatic diagnostic scale (PDS) testing revealed claimant met "DSM-IV-TR criteria for 'exposure to a traumatic event,'" but did not meet diagnostic criteria for posttraumatic stress disorder. (Ex. 14, p. 6)

Following evaluation, Dr. Rypma assessed major depressive disorder and anxiety disorder, NOS. He explained the essential feature of MDD was one or more major depressive episodes. He indicated a generalized anxiety disorder was characterized by excessive worry occurring more days than not for at least six months. (Ex. 14, p. 6) Dr. Rypma opined psychometric testing revealed claimant as experiencing severe psychopathology, particularly tension, anxiety and chronic depression. (Ex. 14, p. 7)

On the question of causal connection between claimant's mental conditions and his former work environment at defendant-employer, Dr. Rypma opined:

It is without question that this individual has suffered a severe emotional challenge in his life following his most recent experiences at [defendant-employer]. He has suffered throughout his life with depression, the earliest documentation of which is 1999. From a psychological standpoint, [claimant] is clearly prone to depression, especially as the result of his long history of setting high expectations for himself in the work place and thereby setting himself up for being overly critical of himself when those expectations are not met. This long established behavior pattern left him vulnerable to the kind of criticism he received from his employer and directly led to his most recent suicide attempt.

....

In conclusion, it is the opinion of this office that [claimant] experienced a temporary total disability due to an aggravation of his pre-existing mental condition of Major Depression. This aggravation appears to have been caused directly by his having been managed in his workplace in a manner that was insensitive to his long standing problem with depression and the antecedents of his prior suicide efforts; i.e. having expectations placed on him that caused him to feel inadequate/incapable of meeting. This period of temporary total disability occurred toward April 10, 2012, and lasted through the beginning of June 2012.

[Claimant's] psychological condition has not fully resolved, and has yet to moderate to the previous level where he was able to function without treatment. [Claimant] has therefore suffered a partial permanent disability as the result of his experiences while employed at [defendant-employer].

His disability would be rated as moderate to severe, according to the AMA Guide for the Evaluation of Permanent Impairment, 5th Edition.

(Ex. 14, pp. 7-8)

Dr. Rypma opined claimant was capable of continued employment, but expressed belief claimant's condition required continuous treatment over the next several years, particularly throughout his remaining work years. Specifically, Dr. Rypma opined claimant required weekly psychological treatment. Assuming 50 weekly sessions over the next 25 years at a cost of \$250.00 per session, Dr. Rypma estimated the cost of such therapy at \$312,500.00. (Ex. 14, p. 7)

Following submission of a job application, claimant began work at GCC Ready Mix Concrete (GCC) in February 2014. GCC hired claimant as a ready mix driver at a starting hourly wage of \$14.42. In addition to working as a driver, claimant subsequently took on an additional role as assistant plant operator. Claimant testified he drives a truck, except when he needs to fill in for the plant manager. In April 2014, claimant's hourly rate of pay increased to \$14.85. Claimant testified he is satisfied in his employment at GCC and is not looking for work elsewhere. (Claimant's testimony; Ex. T, pp. 370-381)

During his deposition on April 15, 2014, Mr. Passow testified over the two years immediately preceding deposition, he has held the position of defendant-employer's regional manager for central and northern Iowa, as well as Minnesota. In this position, Mr. Passow oversees day-to-day operations for 22 plants, supervising the driving force and plant managers. Prior to becoming regional manager, Mr. Passow acted as logistics manager for nine months, tasked with overseeing the day-to-day operations of dispatch facilities located in Des Moines, Creston, Storm Lake, and Fort Dodge. In this role, he supervised 13 dispatchers, including claimant. Immediately prior, Mr. Passow spent three years as the dispatch manager for the Fort Dodge office. Prior to dispatch manager, Mr. Passow was employed as the Fort Dodge plant manager for eight years. (Ex. D, pp. 44-45, 49)

Prior to joining defendant-employer, Mr. Passow worked as a plant manager for another company in the concrete industry. (Ex. D, p. 44) Mr. Passow testified his entire career, with the exception of the most recent two years as a regional manager, has involved dispatch activities. In total, he estimated 18 years of experience in dispatch. (Ex. D, pp. 44-45)

During the nine months Mr. Passow served as logistics manager, one of Mr. Passow's job duties required him to discuss errors with dispatchers and dispatch managers. Mr. Passow testified he never reprimanded claimant. He considered reprimanding claimant for his handling of a situation on one occasion, but after hearing claimant's explanation, Mr. Passow declined to do so. He did not specifically recall instances of discussing other work issues with claimant, yet acknowledged he was certain there were instances where orders or trucks were mishandled. However, he

testified these were the same issues which occurred with other dispatchers and dispatch managers. While logistics manager, Mr. Passow supervised three dispatch managers; he testified he did not speak to claimant any more frequently than he spoke to other dispatch managers. Depending on workload, Mr. Passow indicated he could speak with dispatch managers anywhere from 2 to 20 times per day. (Ex. D, pp. 46-47)

Mr. Passow testified he got along well with claimant. He did not recall any instance where claimant complained to him about how Mr. Passow personally had treated claimant. Mr. Passow was never told by any of his supervisors that claimant complained about how he treated claimant. (Ex. D, pp. 46-47)

Mr. Passow testified he never personally witnessed a supervisor or customer treating claimant poorly. However, he admitted claimant informed him of issues claimant had with coworkers and supervisors. Mr. Passow testified claimant complained of Mr. Hansen, Mr. Huffman, and Mr. Imming yelling at him on different occasions. When received, Mr. Passow reported claimant's complaints to his own supervisor, Mr. West. (Ex. D, pp. 47, 50) Mr. Passow did not recall other dispatch managers complaining about supervisors yelling at them. Similarly, Mr. Passow heard reports of customers treating claimant poorly. He indicated these types of calls varied based on how smoothly work was going. (Ex. D, pp. 49-50)

When Mr. Passow was employed as a dispatch manager, he was supervised by Mr. Hansen. Mr. Passow indicated the two men had a few disagreements over work, but nothing of a different nature than disagreements with any other supervisor. Mr. Passow estimated he and Mr. Hansen disagreed an average of once per week. Mr. Passow denied receiving any inappropriate comments from Mr. Hansen and further expressed belief Mr. Hansen was a fair supervisor. (Ex. D, p. 45)

Mr. Passow further testified it was nothing unusual for a dispatcher to disagree with a supervisor. He testified over his years with defendant-employer, he had disagreements with other supervisors as well. Mr. Passow explained it was not uncommon to have disagreements with supervisors over customer and scheduling issues, with the goal of avoiding issues in the future. (Ex. D, p. 45)

Mr. Passow acknowledged certain days of dispatch could be stressful, with some days worse than others. (Ex. D, pp. 45, 48) Mr. Passow stated his position as regional manager is stressful, as was his position as logistics manager. In fact, Mr. Passow testified the logistics position was the most stressful position he held over the course of his employment at defendant-employer. (Ex. D, pp. 45-46)

Ms. Hoffman also provided deposition testimony on April 15, 2014. At the time of her deposition, Ms. Hoffman had been an employee of defendant-employer for three years. She began her employment as a dispatcher, but took over claimant's job as dispatch manager when he resigned. (Ex. E, pp. 53-54, 56) Ms. Hoffman works out of the Storm Lake office and handles plants in Storm Lake, Carroll, Denison, Dunlap, and

Manning. Ms. Hoffman handles all the dispatch work for the Storm Lake office; there are no other dispatchers to assist her. (Ex. E, p. 55)

Ms. Hoffman testified the Storm Lake office receives between 50 and 200-plus calls per day, depending on the season and weather. She indicated she expects this range based on the nature of a dispatching job. Ms. Hoffman acknowledged calls are not all pleasant, as dispatchers are required to deal with unhappy customers. Some calls are stressful, but Ms. Hoffman testified that was the nature of dispatch. Ms. Hoffman testified her job duties involve conflict, but indicated that was simply the nature of the job and testified she feels no more stress at defendant-employer than she had at past employers. (Ex. E, pp. 55, 57-58) Ms. Hoffman expressed belief other dispatch offices are busier than her location in Storm Lake and therefore, would have higher stress levels. (Ex. E, p. 59)

Rene Ruvalcaba acted as Ms. Hoffman's supervisor at the time of her deposition. Previously, for a short period, Mr. Hansen served as her supervisor. Ms. Hoffman described Mr. Hansen as a "nice" and a fair supervisor. (Ex. E, p. 54) Ms. Hoffman testified she never had any disagreements with Mr. Hansen over work; she acknowledged she rarely spoke with Mr. Hansen, and claimant spoke with him more frequently. (Ex. E, pp. 54, 61) Mr. Passow also served as Ms. Hoffman's supervisor for a time. During this period, Ms. Hoffman testified she had disagreements with Mr. Passow; in these interactions, she did not feel as if she was treated negatively. Ms. Hoffman testified she never observed Mr. Passow treat someone inappropriately, but she heard two employees, including claimant, complain about how Mr. Passow had treated them in phone conversations. (Ex. E, pp. 59-60)

Ms. Hoffman testified she got along with claimant, but his treatment of her during work varied day-to-day. On a "laid back" day, he was very nice. On a busy day, he could be short with her. Ms. Hoffman testified there were instances when claimant said things to her which she considered derogatory. (Ex. E, p. 57)

Ms. Hoffman testified during the period she worked with claimant, she witnessed him being treated poorly by a customer. She defined poorly as being yelled at over the phone, name calling, and/or swearing. She estimated such calls occurred an average of twice per day during the busy season. (Ex. E, p. 62) Ms. Hoffman also testified she observed claimant be reprimanded by supervisors over work situations. (Ex. E, pp. 56-57) She estimated claimant was treated poorly in perhaps 25 percent of conversations. (Ex. E, pp. 61-62)

Although supervisors may have spoken poorly to claimant, Ms. Hoffman testified she too has suffered with the same type of treatment. She testified claimant's interactions with supervisors were no different than the types of interactions she has had with supervisors since taking over as dispatch manager. Ms. Hoffman testified she, like claimant before her, engages in daily conversations with supervisors over issues. Ms. Hoffman testified she does not consider these conversations to be reprimands, and she never overheard a supervisor say anything unfair to claimant. (Ex. E, pp. 56-57,

61-63) When approached by a supervisor over an issue, Ms. Hoffman testified she does not view the conversations as unusual, and she does not take the content of the conversations personally because the goal is to handle jobs properly. (Ex. E, pp. 55-56) Ms. Hoffman testified it is not uncommon for a dispatcher to be confronted by a supervisor over issues; it is also not uncommon for a dispatcher to be treated poorly by a customer. (Ex. E, pp. 62-63)

Ms. Hoffman's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Ms. Hoffman's veracity. Ms. Hoffman is found credible.

During his deposition on April 15, 2014, Mr. Elsberry testified he was currently employed as a dispatch manager for defendant-employer. He works out of the Fort Dodge office, handling the northern Iowa region. Mr. Elsberry has held this role for nearly four years and supervises two other dispatchers. Prior to working as dispatch manager, Mr. Elsberry worked as a loader operator, plant maintenance employee, and plant manager. (Ex. B, pp. 28-29) Mr. Elsberry described his stress level as a dispatch manager as perhaps "a little more," than in prior jobs. However, he indicated all jobs bear a level of stress and "[i]t's all in how you deal with it, how you perceive it." (Ex. B, p. 31)

Mr. Elsberry testified Fort Dodge is the busiest location in the company, taking over 400 calls per day. (Ex. B, p. 30) He testified on 90 percent of days, his workload as a dispatch manager was greater than claimant's, due to the volume of calls. (Ex. B, p. 32) In dispatch, he testified to receiving negative calls from customers on a daily basis. He described dispatch as the "front line," taking the "brunt for the company." Mr. Elsberry testified this reality was standard for dispatchers working throughout defendant-employer. (Ex. B, p. 30)

Mr. Elsberry is currently supervised by Mr. Ruvalcaba. Prior to Mr. Ruvalcaba, Mr. Passow supervised Mr. Elsberry. Mr. Elsberry testified he had a good working relationship with Mr. Passow, where each man was able to bring issues to the other's attention. He admitted to having had disagreements with Mr. Passow, yet indicated the disagreements were "like in any work environment." Mr. Elsberry explained he never felt as if Mr. Passow treated him unfairly, said anything improper, or called Mr. Elsberry names. Prior to Mr. Passow, Mr. Hansen acted as Mr. Elsberry's supervisor. Mr. Elsberry testified he had a good working relationship with Mr. Hansen. Although the men did have disagreements over work, Mr. Elsberry testified he never felt as if Mr. Hansen treated him unfairly or inappropriately. (Ex. B, p. 29)

Mr. Elsberry testified he felt as if Mr. Hansen and Mr. Passow treated all four dispatch managers equally: he, claimant, Shawna Barnett and Shawn Prather. He testified Mr. Passow was based out of the same office as Mr. Elsberry, and he personally heard Mr. Passow interact with all four dispatch managers on a regular basis. He described those interactions as "pretty much all level, legit." (Ex. B, p. 29) Mr. Elsberry testified he believed Mr. Hansen also treated all the dispatch managers

equally because Mr. Elsberry worked in the same office as Mr. Hansen and overheard Mr. Hansen address issues with the dispatch managers. Mr. Elsberry testified Mr. Hansen engaged in the same form of conversations with each of the others as he did with Mr. Elsberry. (Ex. B, p. 32) Mr. Elsberry acknowledged Mr. Hansen and Mr. Passow each possessed company cell phones and worked from other locations, as well. Therefore, he admitted he was not privy to all phone calls which could have been placed to claimant. (Ex. B, p. 33)

Mr. Elsberry testified he and claimant spoke once or twice per day, and the two men "got along." Claimant never informed Mr. Elsberry he was having any difficulty with coworkers or supervisors. Mr. Elsberry testified he never heard any reference to claimant being bullied or yelled at. (Ex. B, p. 31)

On April 15, 2014, Karen Buenting provided deposition testimony. Ms. Buenting is a 17-year employee of defendant-employer, based at the Fort Dodge location. Prior to defendant-employer, Ms. Buenting worked for predecessor companies. In total, Ms. Buenting has worked in the concrete industry for 44 years, with the entirety of that time spent in dispatch. (Ex. C, p. 36)

Ms. Buenting is supervised by Mr. Elsberry. Prior to Mr. Elsberry, Mr. Passow served as Ms. Buenting's direct supervisor for four or five years. She described Mr. Passow's management style as "hands-on." Ms. Buenting testified she and Mr. Passow got along very well. Although the two had disagreements, Ms. Buenting testified Mr. Passow never treated her improperly, inappropriately, or unfairly. Mr. Hansen had also served in a supervisory capacity, although Ms. Buenting did not report to him directly. Ms. Buenting testified Mr. Hansen would inform dispatchers, including her, if he believed a situation could have been handled better. She admitted to having disagreements with Mr. Hansen, generally when she believed her idea was better than his. Ms. Buenting testified she always viewed Mr. Hansen as fair, and he never treated her inappropriately or poorly. (Ex. C, p. 37)

In her 44 years of experience doing dispatch in the concrete industry, Ms. Buenting indicated she believed it was usual for dispatchers to have disagreements with supervisors. She further indicated it was not out of the ordinary to discuss work issues with one's supervisor. Ms. Buenting also testified to daily disagreements with customers and indicated a dispatcher talking to an unhappy customer is not unusual. (Ex. C, pp. 38-39)

Ms. Buenting described her daily stress level as a three or four on a ten-point scale. However, in the busy months, her stress level rises because the customer's stress level rises and that is passed on to the dispatcher. Ms. Buenting testified she believes this is standard for dispatchers at defendant-employer and throughout the concrete industry. (Ex. C, p. 39) Ms. Buenting also testified she did not appreciate a dramatic difference in the stress levels of a dispatcher and a dispatch manager. She explained in her location, the dispatchers and dispatch manager generally perform the same job. The difference is the dispatch manager's responsibility for larger decisions

and accountability for the actions of the dispatchers. Ms. Buenting testified throughout her 44 years in the concrete industry, dispatchers and dispatch managers have performed generally the same tasks. (Ex. C, p. 40)

When asked regarding the scenario of claimant's movement of trucks on April 10, 2012, Ms. Buenting testified her impression was that the supervisors did not handle the situation unusually. She explained in dispatching, sometimes decisions must be made quickly, and perhaps the proper decision is not made. Ms. Buenting testified she has been approached by supervisors in the past when she made a "bad decision" on truck movement. She testified her supervisor was disappointed, but showed her a better way to handle the scenario, and she apologized. Ms. Buenting indicated when issues arise it is typical for supervisors to confront the dispatcher in order to prevent the mistake from being made again. (Ex. C, p. 41) Ms. Buenting also testified claimant never complained to her of bullying, being yelled at by supervisors, problems with coworkers, or a high stress level. (Ex. C, p. 40)

Ms. Buenting's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Ms. Buenting's veracity. Ms. Buenting is found credible.

Shawn Prather provided deposition testimony on April 16, 2015. At the time of his deposition, Mr. Prather was employed as plant manager for defendant-employer's Atlantic plant. Prior to this placement, Mr. Prather was dispatch manager for the Creston office for approximately two years and a dispatcher for the two years prior. When he served as dispatch manager, Mr. Prather supervised two dispatchers. (Ex. H, p. 76) On busy days, Mr. Prather estimated the Creston office received 400 calls. Mr. Prather testified there was nothing unusual about customers calling dispatch with complaints and indicated such complaints could occur daily. Mr. Prather testified his stress level as a dispatch manager was similar to that he experienced in other jobs. While there were very busy days, he testified he approached such days by handling one issue before moving on to the next. (Ex. H, pp. 77-78)

While a dispatch manager, Mr. Passow acted as Mr. Prather's supervisor for approximately one year. Mr. Prather testified the two men had a pretty good working relationship. He expressed belief the two probably had disagreements, likely over why a particular task was handled a certain way, but Mr. Prather denied Mr. Passow ever treated him improperly or poorly. (Ex. H, p. 77)

Mr. Huffman also supervised Mr. Prather for approximately one year. Mr. Prather testified the two men had a good working relationship. Mr. Prather expressed belief he had the same types of disagreements with Mr. Huffman as he had with Mr. Passow. For instance, if something was handled improperly or overlooked, Mr. Huffman would "call you on it," but Mr. Prather testified he never felt Mr. Huffman treated him poorly or improperly. (Ex. H, p. 77)

Mr. Prather testified he viewed disagreements with his supervisors more as a means of communication as to what had occurred or needed to be done. While there may be true disagreements from time to time, he accepted the role of his supervisors and testified he learned to be prepared for the next time a situation arose. Mr. Prather testified he never felt mistreated or disrespected by his supervisors. Mr. Prather also testified he never overheard Mr. Huffman, Mr. Passow, or Mr. Hansen say anything negative about claimant. (Ex. H, p. 78)

Mr. Prather's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Prather's veracity. Mr. Prather is found credible.

Shawna Barnette also provided deposition testimony on April 16, 2015. Ms. Barnette is a nine-year employee of defendant-employer. She currently serves as dispatch manager for the central and southern Iowa regions. Ms. Barnette and two dispatchers are tasked with handling 16 plants, including the Des Moines area. (Ex. G, p. 70)

The three individuals in dispatch can receive 450 calls on a busy day. Ms. Barnette testified the dispatch office often receives calls when customers are displeased. She testified she has been treated poorly by a customer on numerous occasions, including frequently being yelled at and cursed at on a daily basis. Ms. Barnette testified her stress level varies day-to-day, with some busy days causing high stress levels. (Ex. G, pp. 71-72) She further testified it was pretty standard to have busy days during the busy season. (Ex. G, p. 73)

Mr. Ruvalcaba currently supervises Ms. Barnette. (Ex. G, p. 70) Prior to Mr. Ruvalcaba, Mr. Passow served as Ms. Barnette's supervisor. Ms. Barnette testified she had a good working relationship with Mr. Passow. She admitted to disagreements with Mr. Passow over how work had been handled, but testified Mr. Passow often suggested better ways to handle such scenarios. Ms. Barnette further testified it was not uncommon to have issues arise throughout a work day, for which supervisors needed to become involved in daily operations. (Ex. G, p. 71)

In conversations between Ms. Barnette and claimant, claimant never informed Ms. Barnette of any issues he had with Mr. Hansen, Mr. Passow, or any other supervisor. She also testified she never overheard any coworkers discuss any conflicts involving claimant. (Ex. G, p. 72)

Ms. Barnette's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Ms. Barnette's veracity. Ms. Barnette is found credible.

Bobby Thaden provided deposition testimony on April 16, 2014. Mr. Thaden is a 20-year employee of defendant-employer, currently serving as a driver manager. In his role as a driver manager, Mr. Thaden works together with all the dispatch managers on

issues related to drivers. He engages in conversation with at least one of the dispatch managers on a daily basis, and the subject of the conversation is often to resolve an issue which has arisen. (Ex. F, pp. 65-66) Mr. Thaden further testified it is not unusual for him to be yelled at by angry customers. (Ex. F, p. 67)

Mr. Thaden testified he had a good working relationship with claimant. Although the two had differences of opinion, Mr. Thaden denied any arguments. Mr. Thaden testified he never heard discussion about claimant being bullied or disrespected by supervisors or coworkers. He testified he possesses good working relationships with Mr. Hansen and Mr. Passow. (Ex. F, p. 66)

Mr. Thaden's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Thaden's veracity. Mr. Thaden is found credible.

Claimant provided deposition testimony on April 16, 2014. Claimant testified when Mr. Passow worked as a dispatch manager, he and claimant had a good relationship. However, when Mr. Passow got promoted to logistics manager in 2011, claimant testified the relationship changed and the men did not get along as well. (Ex. A, p. 11) Claimant testified he and Mr. Passow began to have conflict in January 2012, when the men had disagreements over customer complaints and how claimant was handling certain dispatch duties. (Ex. A, pp. 11-12)

According to claimant, Mr. Passow told claimant he needed to straighten up, pay more attention, and stop being so "ignorant." Claimant testified Mr. Passow stated claimant was being ignorant because claimant did not agree with some of Mr. Passow's directions for handling dispatch. Claimant acknowledged Mr. Passow had the right to tell claimant how things needed to be done in dispatch, however. (Ex. A, p. 12)

Mr. Passow would also approach claimant regarding customer complaints. Claimant testified Mr. Passow's focus was on pleasing the customer. In their discussions, Mr. Passow used an authoritative voice. Claimant felt it was inappropriate for Mr. Passow to approach him in some instances because Ms. Hoffman had handled the particular customer. However, claimant admitted he was Ms. Hoffman's supervisor and was responsible for her actions. (Ex. A, p. 12)

Claimant testified Mr. Passow never engaged in yelling or name-calling with claimant. (Ex. A, p. 12) He admitted Mr. Passow also discussed issues with Ms. Hoffman and when he did so, Mr. Passow did not speak to Ms. Hoffman in a different fashion than he spoke to claimant. (Ex. A, p. 14)

Claimant testified his relationship with Mr. Hansen began well and then deteriorated:

It started out really good and then towards the end it got really to the point where I was not going to put up with it because he – there was at

one time he threatened to kick my ass for an e-mail that I sent to the managers.

(Ex. A, p. 13)

Claimant explained he sent an email in April 2012 by which he instructed the plant managers not to direct drivers to contact dispatch over truck problems, but to handle the issues themselves. Claimant expressed belief the plant manager should deal with truck problems and then contact dispatch to advise. Mr. Hansen was upset with claimant for sending this email and said "if he was a plant manager, he would probably come and kick my ass for sending that email out." (Ex. A, p. 13)

Claimant testified he and Mr. Huffman had numerous disagreements. Claimant testified Mr. Huffman informed other employees they did not need to listen to claimant and would check up on claimant's activities by asking coworkers what claimant was doing or saying. Claimant testified Mr. Huffman would yell at claimant over his cell phone line about how certain jobs were handled and would then call on the recorded office phone to address the issue again. Claimant complained he got in trouble for yelling at Mr. Huffman over the phone, but no one knew about the cell phone conversation which had occurred prior to the office call. (Ex. A, p. 9) Claimant testified he felt harassed and bullied by Mr. Huffman. (Ex. A, p. 18)

Claimant testified he would have disagreements with Mr. Huffman approximately once per week, with Mr. Passow approximately once per month, and only on a couple occasions with Mr. Hansen. (Ex. A, p. 19) In his answer to interrogatory number 21, however, claimant represented Mr. Hansen, Mr. Passow and Mr. Huffman were always yelling, degrading, and calling claimant names. Additionally, if something went wrong, claimant indicated he bore the brunt of the problem. (Ex. A, p. 14) When asked what claimant meant by his statements, claimant testified:

They would call and say, you got to understand why are you doing it this way when you should be doing it this way and it wouldn't happen, or if [Ms. Hoffman] did something wrong, I was responsible for her problems too, and they would not discuss it with her, they would discuss it with me, and then I would try to explain it to her, and it was just like she didn't really care. So I felt that I was getting the brunt of being blamed for problems she was doing and not fixing them before they happened.

(Ex. A, p. 14)

Claimant testified his stress level at defendant-employer was a ten on a ten-point scale. He indicated the most stressful part of his work revolved around concern he would do his job incorrectly and supervisors would reprimand him. (Ex. A, p. 20)

At the time of his deposition, claimant testified he did not feel capable of performing supervisory work due to low self-esteem and a lack of comfort in managing

others. Claimant also testified he did not believe he could be a plant operator or paver operator because of the stress related to responsibility for making sure things are operating properly. However, claimant believed he was capable of performing warehouse labor work. (Ex. A, pp. 3-4, 20)

Defendants secured board-certified psychiatrist, Michael Taylor, M.D. to perform a records review. Dr. Taylor reviewed extensive medical records and claimant's deposition testimony; he issued reports of his opinions dated April 25, 2014 and April 29, 2014. (Ex. O, p. 313; Ex. P, p. 319) Following review, Dr. Taylor diagnosed MDD, recurrent, with the condition currently well-controlled by claimant's medication regimen. (Ex. O, p. 314)

Dr. Taylor noted claimant had treated episodically for similar symptoms in the past, including suicidal ideation. Dr. Taylor opined the episodic nature and suicidal ideation claimant suffered were typical of MDD. Also typical for individuals suffering with MDD, Dr. Taylor indicated claimant tended to blame his episodes upon some environmental factor. He noted claimant had been hospitalized for depression and/or suicidal ideation in 1999, 2005, and 2008, with claimant attributing the 2008 episode to work factors. (Ex. O, p. 314)

Dr. Taylor explained MDD is a neuro-chemical disorder of the central nervous system. He further indicated research demonstrated that, with the exception of post-partum depression and the major loss of a loved one, "episodes of depression which are characteristic of MDD are unrelated to life events." Dr. Taylor noted claimant suffered neither event in the winter of 2011 or spring of 2012 when he became depressed and subsequently attempted suicide in April 2012. Therefore, Dr. Taylor opined there was no causal relationship between claimant's work environment and any of his episodes of MDD, including the episode leading to claimant's suicide attempt in April 2012. (Ex. O, p. 314) Dr. Taylor elaborated to opine claimant's reaction to his work environment was a symptom of his MDD, as opposed to a cause of his MDD. Dr. Taylor explained a common symptom of MDD is hypersensitivity to life situations, i.e. a tendency to "make mountains out of mole hills." (Ex. O, p. 316)

At the arranging of claimant's attorney, on April 30, 2014, claimant participated in a telephone interview with vocational consultant, Carma Mitchell. Ms. Mitchell also reviewed a provided file and issued a vocational opinion on May 1, 2014. (Ex. 13, p. 1) Ms. Mitchell noted claimant earned \$54,000.00 per year at defendant-employer. Since leaving defendant-employer, Ms. Mitchell noted claimant was employed driving a cement truck for Bedrock from June 2012 until mid-January 2014 and thereafter, as a concrete truck driver for GCC. Claimant earned \$12.00 per hour, with estimated annual earnings of \$31,000.00 at Bedrock. Ms. Mitchell noted at the time of interview, claimant earned \$14.42 per hour at GCC. (Ex. 13, p. 2)

Ms. Mitchell noted Dr. Rypma opined claimant was capable of working but now required continuous treatment of his condition and would need such care throughout the remainder of his working years. Ms. Mitchell stated:

[Claimant] feels traumatized from the treatment he experienced from his supervisor at [defendant-employer] to the point that it still brings on anxiety even just thinking about the way he was yelled at, belittled and threatened. [Claimant] is no longer able to perform [sic] the higher skilled tasks requiring judgment and decision making involved in managerial positions.

(Ex. 13, p. 3)

Ms. Mitchell therefore concluded claimant was incapable of performing managerial or supervisory positions and accordingly, had lost earnings. In comparing claimant's earnings at defendant-employer to his subsequent earnings, Ms. Mitchell found a 43 percent loss of earnings at Bedrock and 31 percent at GCC. (Ex. 13, p. 3)

Subsequent to his initial review, defendants provided Dr. Taylor a copy of Dr. Rypma's April 11, 2014 report. Dr. Taylor indicated he strongly disagreed with Dr. Rypma's "conclusory opinions" which had "no scientific validity." Dr. Taylor opined Dr. Rypma lacked training regarding the neuro-chemical basis of "spontaneously-recurring" MDD and lacked understanding of the diagnosis. Dr. Taylor indicated Dr. Rypma's expressed opinion that claimant met the DSM-IV-TR criteria for exposure to a traumatic event was improper, as no such diagnosis existed in either the DSM-IV-TR or the DSM-V. Dr. Taylor also took issue with Dr. Rypma's failure to reconcile MCMI-III findings which demonstrated a tendency to endorse more psychological symptoms than objectively exist, with a lack of such findings on the MMPI-2 validity scales. (Ex. O, p. 317)

With respect to Dr. Rypma's opinion claimant would require continuous psychological treatment throughout the remainder of his working life, Dr. Taylor opined this assertion "preposterous." (Ex. O, p. 317) He explained that research demonstrated weekly psychotherapy/counseling provided no or minimal benefit in treatment of MDD. While counseling may be helpful in providing emotional support to a patient until antidepressant medications relieve symptoms, Dr. Taylor opined only antidepressant medications can relieve the symptoms of an episode of MDD, and only mood-stabilizing medication can reduce the risk of future episodes. (Ex. O, pp. 317-318)

Finally, with respect to Dr. Rypma's opinion claimant suffered an aggravation of a preexisting condition, Dr. Taylor disagreed and opined claimant's work environment did not aggravate his preexisting MDD. (Ex. O, p. 318)

In addition to authoring the reports offered into evidence, Dr. Taylor also testified at evidentiary hearing. Dr. Taylor assessed claimant's condition as MDD, recurrent. Dr. Taylor testified once an MDD diagnosis is made, that diagnosis never goes away; it simply becomes a matter of whether the condition is recurrent or in remission. Dr. Taylor opined he found no evidence claimant suffered with an anxiety disorder. He opined panic disorders noted in connection with MDD are typically symptoms of the

MDD, i.e. anxiety level increases when suffering an episode of MDD. (Dr. Taylor's testimony)

Dr. Taylor opined suicidal ideation is a very common symptom of MDD. The symptom is so common, in fact, it is not a matter of whether a patient had suicidal ideation, but of what kind of suicidal ideation was experienced. Dr. Taylor highlighted claimant's history of suicidal ideation, including hospitalizations in 1999, 2005, and 2012. In his experience, Dr. Taylor opined well over 75 percent of MDD patients experience some form of suicidal ideation. (Dr. Taylor's testimony)

Dr. Taylor opined there is no causal link between life events and MDD, with the exception of postpartum depression and major losses. However, Dr. Taylor acknowledged MDD can make it more difficult for a patient to deal with life events. He explained MDD patients are hypersensitive to life events, quicker to anger at trivial events, much more easily mentally hurt and much more easily saddened. (Dr. Taylor's testimony)

Accordingly, Dr. Taylor opined there was no causal connection between claimant's condition and his work at defendant-employer. Dr. Taylor opined claimant's description of coworkers and the events which transpired did not pose a sufficient stressor to trigger an MDD episode. Dr. Taylor opined it far more likely that claimant's reaction to the events and people at defendant-employer was a symptom of his MDD. Dr. Taylor explained the best evidence finds episodes of MDD come on spontaneously and for reasons mental health professionals do not understand. (Dr. Taylor's testimony)

Dr. Taylor opined claimant suffered with an episode of MDD in 2012, leading claimant to display symptoms of irritability and hypersensitivity. Claimant accordingly blamed his work environment for the depressive condition. Dr. Taylor opined it is highly typical for people with MDD to blame their environment for their condition, so typical it would be highly unusual for a patient not to blame life events. Dr. Taylor explained MDD patients view life with a "glass is half empty" mentality, causing a patient to spin the attitudes of others as negative towards him, if at all possible. Dr. Taylor indicated this approach is a symptom of MDD. Dr. Taylor opined claimant's April 2012 incident, specifically the symptoms and suicide attempt, is consistent with an MDD diagnosis. (Dr. Taylor's testimony)

Dr. Taylor explained MDD is an episodic disorder in the vast majority of patients. Dr. Taylor indicated once a patient suffers one episode of MDD, the risk of repeat episodes increases. Similarly, every time there is a repeat episode, the risk increases again for a further episode. Dr. Taylor explained a diagnosis of MDD, recurrent, is warranted when a patient suffers two or more episodes of MDD. Based upon these facts, Dr. Taylor opined claimant is at risk for another episode. He testified a psychiatrist cannot predict what may give rise to an episode, as the "brain marches to its own drummer." Dr. Taylor further opined claimant may never have another episode or may have them annually; there is no way to be certain. (Dr. Taylor's testimony)

In treating MDD, Dr. Taylor indicated he discusses the nature of the condition with the patient. A patient is told the condition is not the patient's fault and did not come on as a result of something patient or anyone else did. He explains MDD has a mind of its own and "when it's going to come on, it's going to come on." Once an episode begins, there is nothing the patient, spouse, or family member can personally do to resolve the condition. (Dr. Taylor's testimony)

Dr. Taylor opined the only treatment for MDD is medication. Dr. Taylor opined if a patient does not take medication during an episode of MDD, the patient will not improve. Dr. Taylor opined taking medications is of absolute importance in management of the condition, and a patient may have to try different medications or a combination of medications in order to identify dosages tolerated by claimant which sufficiently resolve symptoms. Once a successful medication regimen is identified, Dr. Taylor recommends leaving a patient on that dosage for one year and then seeks to slowly wean the patient. He described this as a trial and error process, as some can be weaned from medications while others need a small dosage in perpetuity. (Dr. Taylor's testimony)

Dr. Taylor testified he reviewed the reports of Dr. Rypma and "totally disagree[d]" with Dr. Rypma's opinion claimant suffered an aggravation of his preexisting MDD due to stress. Dr. Taylor testified Dr. Rypma had not been trained in the neuro-chemical basis of MDD. He further highlighted Dr. Rypma's incorrect reliance upon a diagnosis not present in the DSM-IV in regard to MDD and his failure to attempt to reconcile potentially contradictory validity findings. Further, Dr. Taylor described Dr. Rypma's recommendation for continuing weekly treatment "absolutely preposterous." He explained no scientific evidence found weekly counseling helped MDD. In Dr. Taylor's words, an MDD patient could participate in weekly counseling and it "wouldn't do squat" for the MDD. (Dr. Taylor's testimony)

On May 12, 2014, Mr. Huffman provided deposition testimony in this matter. Mr. Huffman testified he began work at defendant-employer in July 2008, following graduation from undergraduate school. He began as a manager-in-training. (Ex. J, p. 86) In 2010 or 2011, Mr. Huffman became regional manager, assigned to western Iowa with plants in Jefferson, Sac City, Carroll, Denison, Storm Lake, and Manning. As part of his duties, Mr. Huffman oversaw three dispatch managers – claimant, Ms. Barnette, and Mr. Prather. Mr. Huffman remained a regional manager until October 2013 when he was promoted to position of salesman, covering the Des Moines metro. (Ex. J, pp. 87, 93)

Mr. Huffman testified the dispatch manager position requires a large amount of customer service. He explained dispatchers received calls from angry customers at least on a daily basis, with this being true for all dispatch locations. Mr. Huffman testified the Storm Lake office received approximately 200 calls per day in the busy season, while the Des Moines office would receive at least 400 calls. (Ex. J, pp. 87-88) To handle this workload, Storm Lake employed two employees in dispatch at the time claimant was employed. Des Moines had four employees in dispatch. However, after

claimant left employment, Mr. Huffman testified only one employee, Ms. Hoffman, remained at the Storm Lake office and has continued to perform all dispatch duties previously covered by the two employees. (Ex. J, p. 93)

Mr. Huffman estimated he was claimant's supervisor for approximately eight months. He expressed belief the two men had a normal working relationship. Mr. Huffman acknowledged there were occasions he needed to discuss work issues with claimant, specifically the manner in which operations were handled. He testified he engaged in the same conversations with the other dispatchers he supervised, Ms. Barnette and Mr. Prather, perhaps even more frequently with Mr. Prather. Mr. Huffman estimated he engaged in such conversations with claimant every few weeks. (Ex. J, p. 88)

Mr. Huffman testified claimant never complained to him of feeling stressed at work, and none of claimant's other supervisors informed Mr. Huffman claimant had complained about work stress. Mr. Huffman testified he was told by a supervisor that claimant did not particularly care for him. (Ex. J, p. 88-89) When asked why claimant did not care for Mr. Huffman, Mr. Huffman replied:

[Claimant] has a problem with authority.

It don't matter who it was. I mean, it didn't matter if it was [Mr. Imming], if it was me, if it was whoever. I mean, you would sit down and say 'Look, as a company, we're going to do it this way. This is what's best for the company. Us and management, this is what we decided to do. This is what we're going to do.' And he just thought that everybody else was idiots and he knew best and he didn't need to listen.

And so you'd have a conversation. You would leave, and it would go right back to the way it was. And you would have to come back in a couple weeks and have another conversation: 'You know, we've talked about this. This is the way that it's going to be done. You need to do it this way.'

(Ex. J, p. 89)

Mr. Huffman also expressed difficulty with claimant involving himself in tasks which were not part of claimant's job. Mr. Huffman indicated claimant inserted himself in projects which did not pertain to tracking, scheduling, dispatch or customer service, leading Mr. Huffman to step in and inform claimant:

Look, these are my guys. They're doing something for me. Thanks for your concern. I'll take care of it. They're working for me.

(Ex. J, p. 92)

Mr. Huffman attributed this issue to claimant's problem with Mr. Huffman's authority and claimant's belief he should be in Mr. Huffman's position. Mr. Huffman testified claimant was very resistant to changes Mr. Huffman attempted to implement, even if these changes were designed to bring activities at the Storm Lake office into compliance with the procedures used by the rest of the company. (Ex. J, p. 92)

Mr. Huffman testified claimant never reported he was being bullied by anyone in the company and never indicated claimant believed Mr. Huffman had engaged in bullying. (Ex. J, p. 90) Mr. Huffman testified he was informed by nearly each one of his supervisors that claimant did not like him. Mr. Huffman testified he was informed that each time he was not present, claimant would "go on" about how he hated Mr. Huffman and how Mr. Huffman was "stupid" and did not know what he was doing. Mr. Huffman testified he was surprised when he heard these comments because he and claimant would behave cordially face-to-face and then claimant would berate Mr. Huffman once he left the room. (Ex. J, p. 91) Mr. Huffman further testified before he became claimant's supervisor, the two men had worked together on a project, and he believed they were "cool" with one another. (Ex. J, p. 92) Despite his surprise, Mr. Huffman testified he overheard claimant refer to coworkers in a similarly belittling fashion. (Ex. J, p. 91)

Mr. Imming also provided deposition testimony on May 12, 2014. Mr. Imming began at defendant-employer in 2005 and proceeded to act as regional manager for western Iowa for two to three years. He then became a salesperson for defendant-employer; he had held this position for three years at the time of his deposition. While employed as the regional manager for the western region, Mr. Imming supervised plant managers and one dispatch manager, claimant. Mr. Imming testified dispatchers and dispatch managers are tasked with handling customers, and not all calls with customers are pleasant. He indicated handling upset customers is a daily occurrence, an element of dispatch he believes is standard throughout the industry. (Ex. I, pp. 81-82)

During the period he supervised claimant, Mr. Imming testified he believes the men got along fairly well. He acknowledged the men had disagreements over work; he estimated these occurred about once per month. Mr. Imming testified these discussions generally revolved around how orders and customers were handled. He testified as claimant's supervisor, it was his job to discuss potential issues with claimant, and he would suggest ways to handle those issues. Mr. Imming testified he had to engage claimant in the same discussion on certain issues on multiple occasions. During these discussions, Mr. Imming testified claimant seemed to accept what was being said, but only "sometimes" took responsibility for the issues. (Ex. I, p. 82) Mr. Imming explained:

Sometimes he would try and -- sometimes [claimant] would take responsibility for it and other times he would make it seem as if he had no responsibility for it.

(Ex. I, pp. 82-83)

Mr. Imming expressed belief some coworkers were "frustrated" with claimant for "not telling the truth, seeming to push things over onto them that were probably his fault." (Ex. I, p. 83)

Mr. Imming denied claimant ever reporting to him he felt "stressed out" as a result of work. He similarly denied claimant ever reported he had been bullied by a supervisor. However, Mr. Imming testified claimant did report disagreements with Mr. Hansen, Mr. Passow, Mr. Frederickson, and Mr. Huffman. Mr. Imming indicated his understanding of these disagreements was that they occurred when something had been handled inappropriately or contrary to the supervisor's wishes. He testified he himself engaged in similar disagreements with claimant. (Ex. I, p. 83) Mr. Imming described Mr. Hansen's supervisory style as "arrogant" and "very sure of himself," but indicated while the two had business disagreements, they never truly clashed. (Ex. I, p. 82)

Mr. Imming's testimony was clear and consistent with that offered by other employees of defendant-employer. The undersigned is presented with no reason to doubt Mr. Imming's veracity. Mr. Imming is found credible.

Claimant testified his mental health condition is different following the April 10, 2012 suicide attempt. He complained of significant depression, low self-esteem, low motivation, suicidal thoughts, nervousness in crowds, being antisocial at work, and a desire to limit sharing of his feelings with family members. At least twice per week, claimant suffers from anxiety attacks, during which he cannot focus and begins sweating. (Claimant's testimony)

Mrs. Bainbridge testified claimant is now different than he was prior to the suicide attempt. Claimant no longer discusses his feelings with her and no longer engages with the family. She testified claimant sits in a corner and has crying spells. While she acknowledged claimant suffered from depression in the past, she indicated his current symptoms are far different. (Mrs. Bainbridge's testimony)

CONCLUSIONS OF LAW

The first issue for determination is whether claimant sustained an injury on April 10, 2012 which arose out of and in the course of his employment with defendant-employer.

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. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and

circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

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).

Nontraumatically caused mental injuries are compensable under Iowa Code section 85.3(1). Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995).

Under Dunlavey, mental injuries caused by work-related stress are compensable if, after demonstrating medical causation, the employee shows that the mental injury was caused by work place 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. Id. 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.

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.

As a threshold issue, claimant must prove medical causation, i.e. the work environment was a proximate cause of claimant's mental conditions. It is undisputed claimant has a longstanding history of mental health difficulties and treatment. It is also undisputed certain episodes occurred before claimant became an employee of defendant-employer. Claimant was hospitalized for depression with suicidal ideation in 1999; claimant attributed this episode to a breakup with a significant other. In October 2005, claimant's medical records indicate claimant was hospitalized for MDD and adjustment disorder with anxiety and depressed mood. Contemporaneous medical records reveal a very specific history provided by claimant's wife, of claimant being brought home by coworkers after claimant was found curled up in a ball at work. The history also notes claimant's wife reported significant stress and anxiety related to claimant's work. Claimant's wife transported claimant to the hospital after he expressed suicidal ideation; at that time, claimant was admitted to the psychiatric unit at Mercy – Sioux City. Despite the medical records establishing this history, at hearing claimant testified he was only hospitalized in 2005 for a work-related exposure to lime.

Given this factual background, it must be determined if claimant's current diagnosis of MDD, recurrent, and the episode of April 10, 2012 bear any causal relationship to the work environment claimant was exposed to at defendant-employer. The question of whether claimant's mental health condition arose out of his employment, i.e. a causal connection exists between his employment and the injury, requires careful analysis of the medical opinions offered into evidence. Only two mental health professionals have specifically opined on the question of whether a causal connection exists between claimant's work environment at defendant-employer and his mental health condition.

Claimant urges the undersigned to rely upon the opinion of psychologist, Dr. Rypma. Dr. Rypma opined claimant sustained an aggravation of his preexisting MDD as a direct result of "having been managed in his workplace in a manner that was insensitive to his long standing problem with depression and the antecedents of his prior suicide attempts." Claimant argues the opinion of Dr. Rypma is worthy of deference, as Dr. Rypma interviewed claimant and performed a battery of psychological tests. On this basis, claimant argues Dr. Rypma is better equipped to opine as to claimant's condition and is not speaking hypothetically of a general MDD diagnosis.

Defendants urge reliance upon the competing opinion of psychiatrist, Dr. Taylor. Dr. Taylor also diagnosed MDD, but found no evidence of an anxiety disorder, opining claimant's anxiety was a symptom of the MDD. Dr. Taylor opined claimant's episode of 2012, including the symptoms and suicide attempt, was unrelated to his work environment. Dr. Taylor based his opinion in large part upon scientific research which failed to support a causal relationship between life events and episodes of MDD, with the exception of postpartum depression and major losses. Furthermore, Dr. Taylor opined claimant's history of prior episodes, suicidal ideation, and attempts to blame episodes on life events, were typical for individuals suffering with MDD. Dr. Taylor ultimately concluded claimant's reaction to his work environment was a symptom of his MDD, rather than the work environment causing his symptoms. He explained a patient with MDD is hypersensitive to life situations, will perceive actions of others negatively against himself, and has a tendency to "make mountains out of mole hills."

Upon review of the medical opinions and qualifications of Dr. Rypma and Dr. Taylor, it is determined the opinions of Dr. Taylor are entitled to greater weight. As an initial matter, Dr. Taylor's qualification as a medical doctor provides him superior training in the basis of an MDD diagnosis, a neuro-chemical disorder of the nervous system. While Dr. Taylor did not interview claimant personally or perform psychological testing, Dr. Taylor performed a comprehensive review of claimant's medical records and deposition testimony. Based upon this review, Dr. Taylor was able to identify claimant's diagnosis.

Dr. Taylor testified in great detail regarding the interplay between claimant's symptoms, his environment, and the MDD condition. He explained claimant's symptoms were typical and expected for an individual suffering with MDD. He explained episodes of MDD occur spontaneously, generally without input of life events. Although Dr. Taylor often references a MDD diagnosis generally, as opposed to claimant's condition more specifically, the undersigned does not believe this warrants diminution of the value of Dr. Taylor's opinion. Dr. Taylor's general references are appropriate given study of the MDD diagnosis broadly supports the existence of certain symptomatology and a lack of causal connection to life events on a broader scale. Therefore, if a diagnosed condition has statistically been shown to be unrelated to life events, this fact is highly relevant to consideration of whether claimant's specific diagnosis related to life events. Furthermore, Dr. Taylor does not refer to MDD in a vacuum, but rather demonstrates how claimant's behaviors and symptoms are consistent with the diagnosis of MDD.

In addition to his superior qualifications in the neuro-chemical basis of MDD and the detailed explanation of the relationship between claimant's symptoms, life events, and the MDD, Dr. Taylor identified significant concerns on Dr. Rypma's methodology and treatment recommendations. These concerns were not addressed by any form of rebuttal evidence.

The undersigned provides deference to the opinions of Dr. Taylor. As Dr. Taylor convincingly opined no causal relationship existed between claimant's mental condition

and his work environment, it is accordingly found claimant failed to prove his mental health injury arose out of his employment with defendant-employer.

By this decision, the undersigned determined claimant failed to establish medical causation. In the event a contrary determination had been reached, i.e. medical causation established, the undersigned would have found claimant failed to meet his burden of establishing legal causation. In order to prevail on the question of legal causation, claimant would have been required to prove the objectively-viewed stresses and tensions he experienced at defendant-employer were of a greater magnitude than those routinely experienced by those in the same or similar jobs.

The objective evidence in the record fails to establish claimant was exposed to stresses and tensions of a greater magnitude than those experienced by similarly-situated employees. Each dispatcher and dispatch manager at defendant-employer was subject to the same type of stresses, from similar customers and supervisors. There is also no evidence the stresses experienced at defendant-employer were any more severe than at another employer within the concrete industry.

The variable in the scenario appears to be claimant and the manner in which claimant perceives the actions of others. Even Dr. Rypma's causation opinion indicates claimant's preexisting MDD was aggravated because defendant-employer failed to manage claimant in a manner sensitive to his preexisting mental health conditions. While this type of "egg shell" claimant argument may hold weight under a different factual scenario, the law is clear that in mental-mental cases, mental stresses are to be viewed objectively, rather than by how a particular claimant views or internalizes those stresses. Therefore, if claimant had successfully established medical causation, he would have nonetheless failed to meet the legal causation element required to prove he sustained an injury arising out of his employment.

As claimant failed to meet his burden of proving claimant sustained an injury arising out of and in the course of employment with defendant-employer, claimant is not entitled to indemnity or medical benefits related to his mental health condition, including the suicide attempt on April 10, 2012.

The final issue for determination is whether claimant is entitled to reimbursement of an independent medical evaluation pursuant to Iowa Code section 85.39.

Claimant seeks reimbursement for the Dr. Rypma's January 27, 2014 IME in the amount of \$3,995.00. At the time of Dr. Rypma's IME, no employer-retained physician had offered an opinion regarding the extent of claimant's permanent impairment, nor offered an opinion which would otherwise trigger claimant's right to a section 85.39 IME. Therefore, claimant has not met the prerequisite steps for reimbursement of an IME pursuant to section 85.39 and accordingly, is not entitled to reimbursement of Dr. Rypma's IME.

ORDER

THEREFORE, IT IS ORDERED:

Claimant shall take nothing from these proceedings.

Defendants shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

Costs are taxed to claimant pursuant to 876 IAC 4.33.

Signed and filed this 8th day of July, 2015.



ERICA J. FITCH
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COMPENSATION COMMISSIONER

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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, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office 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 a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.