

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRIAN AULWES,

Claimant,

vs.

JOHN DEERE DUBUQUE WORKS,

Employer,  
Self-Insured,  
Defendant.

File No. 5065781.02

NUNC PRO TUNC ORDER

A review-reopening decision was filed on April 17, 2023. The undersigned inadvertently neglected to address the issue of IME expenses under Section 85.39. The undersigned then filed a Rehearing Order, addressing the issue of IME expenses, as well as case expenses. The May 12, 2023, Order contained two typographical errors which were raised by the parties in subsequent motions. I find that these errors should be corrected.

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e. with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. Iowa District Court for Washington County, 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. November 13, 2008).

The total cost of the IME which was awarded should be \$6,930.00.

The total costs awarded to the claimant should be \$4,550.00.


## ORDER

## THEREFORE IT IS ORDERED

Defendant shall reimburse the cost of the IME set forth in Claimant's Exhibit 11, in the amount of six thousand nine hundred thirty and 00/100 dollars (\$6,930.00).

Costs are taxed to defendant in the amount of four thousand five hundred fifty and 00/100 dollars (\$4,550.00).

Signed and filed this 25<sup>th</sup> day of July, 2023.

  
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JOSEPH L. WALSH  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Mark Sullivan (via WCES)

Coreen Sweeney (via WCES)