ELECTRONICALLY FILED 2020-Jan-02 08:42:28 DIVISION OF WORKERS' COMPENSATION

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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| STEPHANIE NELSON,<br><br>Claimant,<br><br>vs.<br><br>KRAFT HEINZ CO.,<br><br>Employer,<br><br>and<br><br>INDEMNITY INSURANCE COMPANY OF NORTH AMERICA,<br><br>Insurance Carrier,<br>Defendants. | File Nos. 5061747, 5061748, 5067335<br><br>A R B I T R A T I O N<br><br>D E C I S I O N<br><br>Head Notes.: 1402.30, 2502, 1801, 1803 |

## STATEMENT OF THE CASE

Claimant, Stephanie Nelson, filed petitions in arbitration seeking workers' compensation benefits from Kraft Heinz Co. (Kraft), employer, and Indemnity Insurance Company of North America, insurer, both as defendants. This matter was heard in Davenport, Iowa on April 17, 2019 by Deputy Workers' Compensation Commissioner Michelle McGovern, with a final submission date of June 9, 2019.

The record in this case consists of Joint Exhibits 1-10, Claimant's Exhibit 1, Defendants' Exhibits A through D, and the testimony of claimant and Brian Kendall.

By order of delegation of authority, Deputy Workers' Compensation Commissioner Jim Christensen was appointed to prepare a finding of facts and proposed decision in this case.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

ISSUES

**For File Number 5061747 (date of injury June 20, 2017):**

1. Whether claimant sustained an injury that arose out of and in the course of employment.
2. Whether claimant's claim for benefits is barred by application of Iowa Code section 85.23.
3. Whether the injury is a cause of temporary disability.
4. Whether the injury is a cause of a permanent disability; and if so
5. The extent of claimant's entitlement to permanent partial disability benefits.
6. Whether there is a causal connection between the injury and the claimed medical expenses.
7. Whether claimant is due reimbursement for an independent medical evaluation (IME) under Iowa Code section 85.27.
8. Whether Iowa Code section 85.34(7) is applicable.

**For File Number 5061748 (date of injury September 22, 2017):**

1. Whether claimant sustained an injury that arose out of and in the course of employment.
2. Whether the injury is a cause of temporary disability.
3. Whether the injury is a cause of a permanent disability; and if so
4. The extent of claimant's entitlement to permanent partial disability benefits.
5. Whether there is a causal connection between the injury and the claimed medical expenses.
6. Whether claimant is due reimbursement for an independent medical evaluation (IME) under Iowa Code section 85.27.
7. Whether Iowa Code section 85.34(7) is applicable.

**For File Number 5067335 (date of injury January 26, 2017):**

1. Whether claimant sustained an injury that arose out of and in the course of employment.
2. Whether the injury is a cause of temporary disability.
3. Whether the injury is a cause of a permanent disability; and if so
4. The extent of claimant's entitlement to permanent partial disability benefits.
5. Whether there is a causal connection between the injury and the claimed medical expenses.
6. Whether claimant is due reimbursement for an independent medical evaluation (IME) under Iowa Code section 85.27.
7. Whether Iowa Code section 85.34(7) is applicable.

## FINDINGS OF FACT

Claimant was 47 years old at the time of hearing. Claimant graduated from high school. (Transcript pages 10-11)

Claimant has worked at restaurants. Claimant worked at a phone company doing customer service. Claimant worked at a cable company as a telemarketer. (Transcript pages 11-13) Claimant worked in the catering department for Augustana College. Claimant has also worked at Kohl's. (Tr. pp. 13-16)

Claimant began at Kraft in 2016. She testified at hearing she began work at Kraft as a Slicer. (Tr. pp. 16-17) Claimant testified her job as a Slicer required pulling sticks of meat and putting them on a table to peel. (Tr. p. 17)

Claimant later became a Lead Slicer. Claimant began work as a Line Tech approximately four years prior to hearing. At the time of hearing claimant was still working as a Line Tech. (Tr. pp. 18-20)

A job safety analysis of claimant's job as a Line Tech indicates claimant lifts up to 5 pounds frequently and 6-25 pounds occasionally. Claimant also lifts 26-50 pounds rarely. (Joint Ex. 10, p. 5; See also Exhibit D) Claimant testified the job safety analysis found at Joint Exhibit 10 and Exhibit D were both pretty close to accurate. (Tr. p. 52)

Claimant testified her job as a Line Tech worker required her to stand, walk, and put labels and film on the production line. (Tr. p. 20) Claimant said she would lift 20-35 pounds during the day. Claimant's job required her to lift and carry boxes full of labels. The job required claimant to push or pull rolls of film on a cart. Claimant said the rolls weighed approximately 1,200 pounds. (Tr. pp. 24-26)

Claimant's prior medical history is relevant. In December of 2011 claimant was evaluated for numbness and tingling radiating down her right arm. X-rays taken at the time showed right shoulder AC arthritic changes and sclerosis of the greater tuberosity. (Ex. C10) Claimant was assessed as having right shoulder impingement pain and symptoms of AC arthritis. Claimant was given a cortisone injection in the AC joint and subacromial joint space. (Ex. C)

Kraft records suggest claimant had a right shoulder injury in 2014. (Jt. Ex. 1, p. 3)

On January 26, 2017 claimant was seen by a nurse at Kraft for right shoulder pain caused by pushing, pulling and tugging a film cart with a broken wheel. (Jt. Ex. 1) Claimant was treated with ice on the shoulder. (Jt. Ex. 3, p. 12; Tr. pp. 32-33)

Claimant testified after reporting the injury she was put on light duty from approximately January 26, 2017 through February 2, 2017. Claimant said she only saw the plant nurse regarding this injury. She said she was returned to work at her regular job after February 2, 2017. (Tr. pp. 32-33; Jt. Ex. 2, pp. 10-11)

Claimant testified after she returned to work she had achiness. (Tr. p. 33)

Claimant alleged a June 20, 2017 date of injury. Claimant testified this is the date she was sent to a new plant in downtown Davenport, Iowa. She said when she transferred to the new plant, she worked as a Secondary Packing Line Tech. Claimant testified in the old plant she performed as a Primary Packaging Line Tech, in the front of the production line. As a Secondary Packing Line Tech claimant worked at the back of the production line. She said when she was transferred to the new plant, she worked as a Secondary Tech. (Tr. pp. 34-36)

Claimant testified the job as a Secondary Packaging Line Tech was less physically demanding, as she was not required to lift as much. (Tr. p. 36)

Claimant did not report any physical problems to anyone at Kraft regarding a June of 2017 injury. She did not report a June 20, 2017 date of injury to Kraft. She did not receive medical attention for a June 20, 2017 injury. (Tr. pp. 60-61, 83) Claimant testified she had no injury on June of 2017. She said she had no treatment for a June of 2017 injury. (Tr. p. 60-61)

Claimant testified that, on September 22, 2017, she woke up with numbness and tingling in the right arm. She said she noticed, at the time, she had swelling in the hands, lower arm and forearm. Claimant said she did not contact Kraft or report an injury, as she was always achy. (Tr. pp. 37-38, 61-62)

On September 26, 2017 claimant was seen by Daniel Nichols, PA-C at ORA Orthopedics for a right shoulder and arm pain going on since September 21, 2017. Claimant reported numbness, tingling and swelling. Claimant denied a specific accident but had ongoing shoulder pain. Claimant was assessed as having possible shoulder impingement or rotator cuff tear. She was also assessed as having a potential labral problem. Claimant was given a subacromial injection. (Jt. Ex. 4, pp. 14-16)

Claimant testified she was off work from September 27, 2017 until approximately January 2, 2018. (Tr. pp. 39, 41, 43-44)

Claimant returned to ORA on October 2, 2017 reporting improvement with her symptoms. Claimant was prescribed physical therapy. (Jt. Ex. 4, p. 17)

Claimant testified at hearing she received no relief from the symptoms following the injection. (Tr. pp. 38-39)

Claimant was evaluated by John Wright, M.D. on November 17, 2017 after an abnormal MRI of the brain showing a small lesion. Dr. Wright indicated the lesion was benign and not related to claimant's shoulder pain. (Jt. Ex. 6, p. 34)

On November 30, 2017 claimant had an MRI of the cervical spine. It showed stenosis at the C5-C7 levels. (Jt. Ex. 4, p. 19; Jt. Ex. 5, p. 32)

Claimant was evaluated by Waqas Hussain, M.D. for right shoulder pain beginning on September 21, 2017. An MRI was recommended for the right shoulder. (Jt. Ex. 4, p. 19)

Claimant was evaluated by Michael Dolphin, D.O. on December 8, 2017 with complaints of dull neck pain. Claimant indicated her symptoms had occurred gradually without injury for the past three years. Given her history and testing, Dr. Dolphin believed it was unlikely the cervical spine was a source of her pain. (Jt. Ex. 7, pp. 41-48)

Claimant had an MRI of the right shoulder on December 18, 2017. It showed a full-thickness tear of the anterior distal supraspinatus tendon and a posterior labral tear. (Jt. Ex. 4, p. 22)

Claimant testified when she had her December of 2017 MRI, she knew she had a serious injury. (Tr. p. 67)

Claimant underwent EMG/nerve conduction velocity testing on December 20, 2017. Testing was normal without evidence of neuropathy or radiculopathy. (Jt. Ex. 6, p. 38)

On January 3, 2018 claimant was seen by Heather Jacobs, NP. Claimant had right shoulder and neck pain. Claimant believed all her symptoms were related to lifting and pushing heavy things at work. (Jt. Ex. 3, p. 13)

Claimant returned in follow up with Dr. Hussain on January 8, 2018. Surgery was discussed as a treatment option. (Jt. Ex. 4, pp. 23-25)

Claimant returned to Dr. Wright on January 29, 2018. Claimant complained of right-sided arm movements. Dr. Wright reviewed claimant's cervical MRI and EMG studies. Dr. Wright indicated the etiology of claimant's symptoms were unclear. (Jt. Ex. 6, p. 39)

On February 15, 2018 Koel Brooks, PT, DPT, observed claimant's work during her shift. Claimant was on light duty at the time. Mr. Brooks also observed other co-workers working as Line Techs. Mr. Brooks' report indicated Line Techs changed label rolls every two to four hours. These rolls weighed approximately 35 pounds. Techs had to occasionally to rarely lift rolls to put in dispensers. Physical Therapist Brooks also saw Techs pushing and pulling film rolls, weighing approximately 1,200 pounds, in a wheeled cart. (Jt. Ex. 9, pp. 48-50)

Mr. Brooks indicated the force to push the carts was approximately 40 pounds. Mr. Brooks reported occasionally a coworker helped claimant push the film cart. (Jt. Ex. 9, pp. 48-50)

Based on his evaluation of claimant's job, and his experience as a physical therapist, he opined there were no risk factors at claimant's job as a Line Tech that would cause a rotator or labral tear. (Jt. Ex. 9, p. 50)

Brian Kendall testified he is claimant's production supervisor at Kraft. His job duties include, but are not limited to, checking production schedules, resolving production problems and employee issues. Mr. Kendall is claimant's supervisor. (Tr. pp. 79-81) Mr. Kendall testified he reviewed Mr. Brooks' functional job analysis of the Line Tech job and found the analysis very accurate. (Tr. p. 81)

On February 21, 2018 claimant was evaluated by Camilla Frederick, M.D. Claimant said she woke up on September 22, 2017 with hand and finger pain. Claimant had no symptoms the day before. Claimant indicated no exact incident caused her pain but felt the repetitive nature of her work caught up with her. (Ex. A, pp. 1-2)

Claimant was assessed as having a rotator cuff tear, a superior glenoid labrum lesion of the right shoulder and degenerative disc disease of the cervical spine. Dr. Frederick did not believe there were any risk factors at claimant's job for a rotator cuff tear. She opined claimant's rotator cuff tear was not related to her work at Kraft. (Ex. A, p. 6)

Dr. Frederick opined claimant's SLAP tear was not related to her job at Kraft. She opined claimant's cervical disc disease was degenerative by nature and not related to claimant's work at Kraft. (Ex. A, p. 6)

Claimant testified she was off work from Kraft from February 27, 2018 through August 31, 2018. (Tr. p. 48)

On March 5, 2018 claimant underwent surgery consisting of a rotator cuff repair, biceps tenolysis, labral debridement, and a subacromial bursectomy. Surgery was performed by Dr. Hussain. (Jt. Ex. 4, p. 27; Jt. Ex. 8)

Claimant returned to Dr. Hussain for a follow up exam after surgery on June 26, 2018. Claimant reported improvement in her symptoms. She was told to continue physical therapy. (Jt. Ex. 4, p. 30) Claimant saw Dr. Hussain on August 28, 2018. Claimant reported continued improvement of her right shoulder. Claimant was returned to work with no restrictions as of August 31, 2018. (Jt. Ex. 4, p. 31)

Claimant testified when she returned to work at Kraft in September of 2018, she began doing quality control work. She said after she did quality control work for several months, she returned to her Line Tech job. (Tr. pp. 49-50, 75-76)

In a January 7, 2019 report, Sunil Bansal, M.D., gave his opinions of claimant's condition following an independent medical evaluation (IME). Dr. Bansal assessed claimant as having aggravation of a C3-C7 spondylosis and a postsurgical repair of the rotator cuff and labral tears on the right shoulder. He opined claimant's job at Kraft caused an aggravation of a cervical condition. He also opined claimant's job caused

her rotator cuff and labral tears. He believed claimant sustained a cumulative injury to both her cervical spine and shoulder while working at Kraft. (Ex. 1, pp. 1-12)

Dr. Bansal found claimant had a 5 percent permanent impairment to the body as a whole for the cervical spine. He opined claimant had a 4 percent permanent impairment to the body as a whole for her shoulder. He found claimant was at maximum medical improvement (MMI) for her neck on January 29, 2018. He found claimant at MMI for her shoulder on August 28, 2018. He restricted claimant to no lifting more than 25 pounds and claimant should avoid lifting more than 10 pounds overhead. (Ex. 1, pp. 13-14)

Claimant testified she had improvement in her symptoms after surgery. (Tr. p. 49) At the time of hearing claimant was not taking medications for her injury. (Tr. p. 56) Claimant testified since her surgery she had loss of range of motion in her right shoulder and upper extremity. She said she still occasionally has neck pain. (Tr. p. 57)

Claimant testified she did not file reports of injury for her June of 2017 or September of 2017 date of injury. She said she only filled out an accident report for her January of 2017 date of injury. (Tr. p. 60)

Mr. Kendall testified the job safety analysis found at Exhibit 10 and Exhibit D are accurate descriptions of the job duties of the Secondary Line position. (Tr. pp. 81-82)

Mr. Kendall testified claimant does not need help performing her job duties at Kraft. (Tr. p. 82)

Mr. Kendall testified he was aware claimant was off work in August of 2017 for a medical condition. He testified claimant never reported injury of June of 2017 or September of 2017. (Tr. p. 83)

## CONCLUSIONS OF LAW

The first issue to be determined is whether claimant sustained an injury that arose out of and in the course of employment.

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.

Claimant has pled three dates of injury. Regarding the January 26, 2017 date of injury, claimant did report an injury to Kraft, which she thought was caused by pushing and pulling a cart with a bad wheel at work. (Jt. Ex. 1) The record indicates Kraft treated this incident as a work injury. (Jt. Ex. 1, p. 8) Claimant was put on restricted duty from approximately January 26, 2017 through February 2, 2017. (Jt. Ex. 2; Tr. pp. 32-33) There is no evidence that indicates this incident was not work related. Given this record, claimant has carried her burden of proof she sustained a work-related injury on January 26, 2017.

Regarding the June 20, 2017 date of injury, there is no evidence claimant had a work injury on that date. Claimant testified June 20, 2017 was the date she was transferred to the new plant in Davenport, Iowa. Claimant testified that, other than the transfer to the new plant, the date of June 20, 2017 has no significance for her. (Tr. p. 60) Claimant did not report a June 20, 2017 date of injury to anyone at Kraft. She did not receive any medical treatment for a June 20, 2017 date of injury. (Tr. pp. 60-61, 83) There are no medical records to indicate claimant had a June 20, 2017 date of injury. Given this record, claimant has failed to carry her burden of proof she sustained an injury that arose out of and in the course of employment on June 20, 2017.

As claimant has failed to carry her burden of proof her June 20, 2017 injury arose out of and in the course of employment all other issues, other than the issue of the IME, are found to be moot.

Regarding the September 22, 2017 date of injury, claimant testified she woke up on September 22, 2017 with numbness and tingling in her right arm. (Tr. pp. 37-38) Claimant did not initially report a shoulder injury of the right arm and shoulder to Kraft. (Tr. p. 61)

Three experts have opined regarding the causal connection between claimant's job at Kraft and her work injury. On February 15, 2018, Physical Therapist Brooks watched claimant, and her coworkers, perform claimant's job during a normal shift. The report notes claimant was working light duty at the time of the review. Physical Therapist Brooks opined claimant's job at Kraft did not show risk factors that would lead to rotator cuff or labral injuries. (Jt. Ex. 9)

Claimant was evaluated by Dr. Frederick on February 21, 2018. Dr. Frederick also reviewed Physical Therapist Brooks' job evaluation. Dr. Frederick opined claimant's shoulder and neck problems were not causally connected to her work at Kraft. (Ex. A)

Dr. Bansal evaluated claimant once for an IME. Dr. Bansal opined claimant's shoulder and cervical problems were causally connected to her repetitive work at Kraft. (Ex. 1)

There are several problems with Dr. Bansal's report. As noted, Physical Therapist Brooks found claimant's job at Kraft lacked the risk factors that would cause a rotator cuff or labral tear. Dr. Bansal does reference this report in his report. (Ex. 1, p. 5) However, Dr. Bansal offers no analysis, and no rationale why that report is incorrect. Physical Therapist Brooks watched claimant's job for a shift. Based on his observations of claimant's job, and using OSHA and the AMA Guides, he opined claimant's job was not causally related to her shoulder problems. Dr. Bansal, who never observed claimant's job, obviously disagrees with this opinion. However, Dr. Bansal offers no rationale why Physical Therapist Brooks' evaluation and opinions regarding the causal connection between claimant's job and injury are incorrect.

Second, Dr. Bansal opines claimant's shoulder injury was caused in part by claimant doing up to two hours per day of overhead work. (Ex. 1, p. 13) It is true claimant occasionally performed overhead work during the course of a shift. There is no evidence in the record claimant was lifting overhead up to two hours per day.

Third, Dr. Bansal opined claimant has a work injury to her cervical spine. The record indicates claimant did not report a cervical spine injury until after January of 2018, when claimant had an MRI in November of 2017 showing degenerative issues in the cervical spine. (Jt. Ex. 3, p. 13) Dr. Frederick opined claimant's degenerative issues in her neck are problems that developed over time and are not work related. (Ex. A, p. 6) Dr. Dolphin opined claimant's cervical condition was not the cause of her cervical complaints. (Jt. Ex. 7, p. 43)

Dr. Bansal's opinion regarding causation failed to respond or offer a rationale why Physical Therapist Brooks' job analysis is inaccurate. Dr. Bansal's opinion regarding claimant's shoulder injury is based on an opinion claimant did overhead work up to two hours per day. There is little evidence in the record to support this. His opinions regarding a cervical injury are contrary to the opinions of Dr. Frederick and Dr. Dolphin. Based upon this record, the opinions of Dr. Bansal regarding causation of claimant's shoulder and neck injuries for an alleged September of 2017 injury, are found not convincing.

Physical Therapist Brooks' job analysis found claimant's job at Kraft did not cause a shoulder injury. Dr. Frederick opined claimant's job at Kraft did not result in a shoulder or neck injury. The opinions of Dr. Bansal regarding causation of a work injury are found not convincing. Based upon this, claimant has failed to carry her burden of proof she sustained a work-related injury on September 22, 2017.

As claimant has failed to carry her burden of proof her September 22, 2017 date of injury arose out of and in the course of employment, all other issues, except reimbursement of the IME, are moot.

The next issue to be determined is whether claimant is due temporary benefits for the January 26, 2017 date of injury.

When an injured worker has been unable to work during a period of recuperation from an injury that did not produce permanent disability, the worker is entitled to temporary total disability benefits during the time the worker is disabled by the injury. Those benefits are payable until the employee has returned to work, or is medically capable of returning to work substantially similar to the work performed at the time of injury. Section 85.33(1).

There is no evidence claimant's January 26, 2017 date of injury resulted in a permanent disability. There is no evidence in the record claimant was unable to work following the January 26, 2017 date of injury. Given this record, claimant has failed to carry her burden of proof she is entitled to temporary disability benefits or permanent partial disability benefits for the January 26, 2017 date of injury.

The final issue to be determined is whether claimant is due reimbursement for an IME under Iowa Code section 85.39.

Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendants are responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v. Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991). Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

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for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

Regarding the IME, the Iowa Supreme Court provided a literal interpretation of the plain-language of Iowa Code section 85.39, stating that section 85.39 only allows the employee to obtain an independent medical evaluation at the employer's expense if dissatisfied with the evaluation arranged by the employer. Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, 847 (Iowa 2015).

Under the Young decision, an employee can only obtain an IME at the employer's expense if an evaluation of permanent disability has been made by an employer-retained physician.

Iowa Code section 85.39 limits an injured worker to one IME. Larson Mfg. Co., Inc. v. Thorson, 763 N.W.2d 842 (Iowa 2009).

The Supreme Court, in Young noted that in cases where Iowa Code section 85.39 is not triggered to allow for reimbursement of an independent medical examination (IME), a claimant can still be reimbursed at hearing the costs associated with the preparation of the written report as a cost under rule 876 IAC 4.33. Young at 846-847.

Dr. Frederick, the defendant-retained physician gave her opinions of permanent impairment on February 21, 2018. Dr. Bansal, the employee-retained physician, gave his opinions of claimant's permanent impairment in a January 7, 2019 report. Given this chronology, claimant is due reimbursement for Dr. Bansal's IME.

ORDER

Therefore, it is ordered:

That regarding file number 5061747 (date of injury June 20, 2017), claimant shall take nothing from the proceedings in the way of benefits.

That regarding file number 5061748 (date of injury September 22, 2017), claimant shall take nothing in the way of benefits in this proceeding.

That regarding file number 5067335 (date of injury January 26, 2017), claimant shall take nothing in the way of benefits from this proceeding.

That regarding all files, defendants shall reimburse claimant for costs associated with Dr. Bansal's IME.

That regarding file number 5067335 (date of injury January 26, 2017), defendants shall file subsequent reports of injury as required by this agency under rule 876 IAC 3.1(2).

That both parties shall pay their own costs.

Signed and filed this 2nd day of January, 2020.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nick Avgerinos (via WCES)
Peter Thill (via WCES)

**Right to Appeal:** This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 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.