

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MACRINA HERNANDEZ,

Claimant,

vs.

OAK GROVE PORK, LTD.,

Employer,

and

WESTERN AGRIBULTURAL
INSURANCE COMPANY,Insurance Carrier,
Defendants.File Nos. 19006204.01
21009807.01

ARBITRATION DECISION

Head Note Nos.: 1108, 1803

STATEMENT OF THE CASE

The claimant, Macrina Hernandez, filed two petitions for arbitration seeking workers' compensation benefits from Oak Grove Pork, Ltd., employer, and Western Agricultural Insurance Company, insurance carrier. The claimant was represented by James Byrne. The defendants were represented by David Myers.

The matter came on for hearing on September 9, 2022, before Deputy Workers' Compensation Commissioner Joe Walsh in Des Moines, Iowa via Zoom videoconferencing system. The record in the case consists of Joint Exhibits 1 through 6; Claimant's Exhibits 1 through 11; and Defense Exhibits A through I. The claimant testified at hearing, in addition to Stacie Fuecht. Ernest Nino-Murcia served as the interpreter. Dina Dulaney served as the court reporter. The matter was fully submitted on November 7, 2022, after helpful briefing by the parties.

ISSUES AND STIPULATIONS

There are two file numbers involved in this claim:

File No. 19006204.01 September 12, 2019

File No. 21009807.01 December 4, 2020

The parties submitted the following stipulations and issues for determination for both files. The parties had an employment relationship during the relevant timeframe. The claimant sustained injuries which arose out of and in the course of her employment on September 12, 2019, and December 4, 2020. The defendants admit that both of these injuries were a cause of temporary disability during a period of recovery, although

temporary disability benefits are no longer in dispute. The claimant alleges that both injuries resulted in permanent disability. The defendants stipulate that the December 4, 2020, work injury is a cause of some disability in claimant's right shoulder. Claimant alleges she has sustained permanent neck disability. The defendants deny that any other body parts have sustained permanent damage. The nature and extent of any permanent disability is disputed although the parties stipulate the commencement date for any permanent partial disability on both files.

All elements of the rate of compensation have been stipulated for both files. Other than successive disability credit under Iowa Code section 85.34(7), defendants have waived affirmative defenses. The parties have stipulated to a credit on both files for short-term disability payments. The claimant has requested a specific taxation of costs.

FINDINGS OF FACT

Claimant Macrina Hernandez was 44 years old as of the date of hearing. She is married and had four children at the time of hearing. She resides in Marshalltown, Iowa. She communicates primarily in Spanish and is not proficient in English. She was educated in Mexico through the sixth grade. She has attempted to learn English. She testified she has difficulties learning. (Transcript, pages 11-12) She is right handed.

Ms. Hernandez testified live and under oath at the video hearing. I find her to be a credible witness. Her testimony generally matches other portions of the record. She was a relatively good historian. There was nothing about her demeanor which caused concern for her truthfulness.

Ms. Hernandez began working for Oak Grove Pork in June 2017. Prior to working at Oak Grove Pork, her work history was not extensive. When she lived in Mexico, she did not work for wages but did perform some agricultural work for her family. She came to the United States in 2001 and stayed at home with her children. (Claimant's Exhibit 3, page 44) Her first wage employment in the U.S., was with JBS, a pork plant in Marshalltown. She began working at JBS in approximately 2011. She worked on a packing line performing lifting and packing functions. (Tr., pp. 14-15) She sustained an injury at this job on June 12, 2015. She fell on stairs, injuring her lower back. (Tr., p. 16) This injury is well-documented and was settled on a closed file basis in February 2017. (Def. Ex. E) The evidence reflects that she claimed injuries to her back, lower extremities, neck head, mental and body as a whole. (Def. Ex. E, p. 27) The evidence from this timeframe indicates that she primarily sustained a low back injury. In the settlement she received a lump sum \$50,000.00 payment in exchange for releasing her claim against JBS. (Def. Ex. E, p. 31)

She did, however, have some treatment for neck symptoms in 2015 and 2016. The following is documented regarding upper back pain in November 2015: "Back pain (top of back by shoulder blades [sic] going down her back x1 week)" (Def. Ex. A, p. 1) While this is documented in the complaints, the subjective section of this note only discusses her lower back pain. (Def. Ex. A, p. 2) She had normal neck range of

motion. (Def. Ex. A, p. 3) In May 2016, her family clinic documented further upper back symptoms. (Def. Ex. A, p. 4) X-rays were taken of her entire back from the cervical spine to the lumbar spine. (Def. Ex. A, pp. 6-9) Her cervical spine x-rays were normal. (Def. Ex. A, p. 9) She was diagnosed with neck muscle spasm and provided medications for all of her back complaints. (Def. Ex. A, pp. 10-11)

Ms. Hernandez testified at hearing that she did have some temporary neck pain in this timeframe (May 2016). (Tr., p. 18) She testified that approximately one month after this evaluation, her neck pain resolved. (Tr., pp. 18-19) I believe her. There are no other treatment notes in this record related to her neck or upper back until after her work injuries which are the subject of this claim. She testified that she was essentially symptom free when she started working at Oak Grove in June 2017. (Tr., p. 21)

At Oak Grove, Ms. Hernandez worked in farrowing. Her job included taking care of sows and piglets. She described this work in some detail at hearing including the most physical aspects of the job. (Tr., pp. 21-24) Her testimony is generally consistent with the employer's job description. (Cl. Ex. 6, pp. 72-73) Ms. Hernandez testified credibly that she was able to perform all aspects of this work until she sustained her work injuries. (Tr., p. 25)

On September 12, 2019, Ms. Hernandez sustained an injury which arose out of and in the course of her employment. She testified she was helping a large sow deliver a litter of piglets. She was required to reach her entire arm inside the sow. While doing so, in an awkward position on the ground, the sow stood up suddenly, yanking and pulling Ms. Hernandez in the process. (Tr., pp. 26-28) She testified that she had immediate pain from the right side of her neck down her right shoulder into her arm and wrist. She reported the injury to her supervisor using a translator. Her supervisor filled out the injury report, but did not mention neck symptoms in his report. (Cl. Ex. 8, p. 84) Ms. Hernandez testified at hearing that she was not shown the report and did not sign the report which is filled out in English. (Tr., p. 29) She testified that she told her supervisor about her neck pain.

She was directed to a company physician, Robert Kruse, M.D., for treatment. The following was documented at her first visit on September 19, 2019:

41 year old female presents for evaluation of right upper extremity and upper back injury. ... She reports that 1 week ago on September 12, 2019 around 1:00 PM, she was working at Oak Grove Pork taking care to deliver baby pigs. She states that she was kneeling down and had her right upper extremity up to the shoulder inside of the pig to assist with a delivery. The pig was on it's [sic] side and began to move to attempt to stand-up. This caused her right arm to be pulled and twisted her right shoulder. She states that she felt immediate pain to the right side of her neck, upper back, right shoulder, and right wrist. She states that she reported it to her supervisor that day.

(Jt. Ex. 1, p. 4) A full evaluation was performed. She was diagnosed with strain/sprain

of her right shoulder and upper arm, as well as sprain in her cervical spine. (Jt. Ex. 1, p. 8) Physical therapy and medications were prescribed and she was placed on significant work restrictions, which placed Ms. Hernandez on light-duty. Ms. Hernandez continued to follow up with the authorized treating physician and physical therapy throughout September, October and November 2019. These records consistently confirm both right shoulder and neck or upper back symptoms. (Jt. Ex. 1, pp. 12-22, 27-31; Jt. Ex. 2, pp. 89, 91-92)

On November 15, 2019, an MRI was performed on claimant's right shoulder and her cervical spine. The cervical spine MRI showed a small C5-C6 central disc herniation. (Jt. Ex. 1, p. 23) Her shoulder MRI was positive as well. (Jt. Ex. 1, p. 25)

Ms. Hernandez was removed from work around this time. Oak Grove did not offer her work and she stayed home, receiving workers' compensation from mid-November 2019 through early February 2020. (Tr., p. 34) The employer testified this was to allow Ms. Hernandez to heal. Ms. Hernandez was finally evaluated by a shoulder specialist, Kyle Galles, M.D., on December 10, 2019. Dr. Galles documented the right shoulder and right-sided neck pain, documenting these conditions began when she was injured at work on September 12, 2019. (Jt. Ex. 3, pp. 129-132) Dr. Galles examined her and diagnosed a shoulder strain. He opined her condition was not surgical. She returned to Dr. Kruse who documented continued right neck pain and shoulder pain. (Jt. Ex. 1, pp. 32-34) Her wrist symptoms, however, had improved.

On December 27, 2019, she returned to physical therapy. Again, right-sided neck pain was documented in addition to the shoulder problems. (Jt. Ex. 2, pp. 94-95) She continued physical therapy. On January 30, 2020, Dr. Kruse documented Ms. Hernandez had made some improvement. He modified her restrictions, allowing her to lift up to 20-25 pounds. (Jt. Ex. 1, p. 47) He also characterized her neck condition as "resolved." (Jt. Ex. 1, p. 47) Ms. Hernandez testified that her employer returned her to work in early February 2020, performing light duty work with the intent of moving toward regular duty. On March 30, 2020, Ms. Hernandez was released to regular duty without restrictions. (Jt. Ex. 1, p. 65) She testified that she did continue to have significant symptoms following her release. She used significant amounts of ibuprofen to control the pain, as well as ice. She also used her left arm significantly more than she did prior to her work injury. (Tr., pp. 37-38) She was able to work full duty.

On December 4, 2020, she sustained a second workplace injury for Oak Grove. On that date a large sow sat down on her right arm while she was trying to move a piglet. (Tr., pp. 38-39) She testified that she felt a pull from her right neck down her right arm which was more intense than her first injury. She also reported this work injury to her supervisor, and again, the supervisor did not document neck complaints; only the right shoulder and right arm. I believe Ms. Hernandez that she did report neck complaints.

Ms. Hernandez was first seen for this injury by Dr. Kruse again. He documented that she felt immediate pain in her right shoulder and neck. (Jt. Ex. 1, p. 66) Dr. Kruse diagnosed a shoulder strain and recommended treatment of medications, physical

therapy and restrictions. Other than documenting the neck pain, he did not diagnose or treat any neck condition (as he had done for her first injury). She was again placed on light-duty at Oak Grove.

Physical therapy records from December 30, 2020, document neck pain, in addition to her other complaints, as well as limited range of motion. (Jt. Ex. 2, p. 111) Ms. Hernandez testified that physical therapy treated her for both her right shoulder and neck complaints. (Tr., p. 47) She continued to follow up with both Dr. Kruse and physical therapy through March 2021. On March 15, 2021, she had another MRI of the right shoulder which demonstrated a SLAP lesion. (Jt. Ex. 2, p. 123) Many of the physical therapy records continued to document neck pain. On March 31, 2021, the therapist noted that her goal of full cervical rotation was not met and she was unable to return to full duty work activities. (Jt. Ex. 2, p. 127) Dr. Kruse referred her to a shoulder specialist, Stephen Aviles, M.D., on April 13, 2021.

Dr. Aviles documented the following at his evaluation:

Macrina is a 42-year-old woman who had her hand caught on a large pig and pulled on it developing acute onset of pain. She works in the pig birthing center. She developed pain and she describes the pain as along the trapezial muscle bed up into the neck. She has return of this pain when she moves her shoulder. She denies any tingling or numbness despite writing on her history form that she has it down to her fingertips. She states that she does get some radiation of pain into her low back. She states this occurred on December 4, 2020.

(Jt. Ex. 3, p. 133) He noted that while her MRI showed a SLAP tear, her symptoms were unusual that she was having trapezial and neck pain associated with this. (Jt. Ex. 3, p. 135) He diagnosed cervicalgia and referred her to a spine specialist before proceeding with shoulder surgery.

On April 26, 2021, Ms. Hernandez was evaluated by Brett Rosenthal, M.D. He documented her neck pain and took an accurate history. After evaluation, he diagnosed cervical radiculopathy and cervicalgia. (Jt. Ex. 3, p. 141) He opined that while "she certainly has shoulder pathology, I think that there must be a cervical component as well." (Jt. Ex. 3, p. 141) He ordered a cervical MRI and prescribed gabapentin.

The second cervical MRI was performed on May 7, 2021, and showed small central disc herniation at C5-C6 not "significantly" changed compared to the earlier MRI. (Jt. Ex. 4, p. 176) Dr. Rosenthal reviewed the MRI and opined that while she had a neck strain, her primary issue was the shoulder pathology. (Jt. Ex. 3, p. 146) Dr. Rosenthal recommended further conservative medical care for her neck condition, however, recommended to wait until after the shoulder treatment was completed. (Jt. Ex. 3, p. 146) On May 24, 2021, she returned to Dr. Aviles who recommended right shoulder surgery to repair the SLAP tear. (Jt. Ex. 3, p. 150)

Ms. Hernandez testified that she was terminated on May 24, 2021. The evidence in the record reflects that Ms. Hernandez was not terminated for any disqualifying misconduct. (Cl. Ex. 10)

Dr. Aviles performed right shoulder surgery on July 26, 2021, described as right shoulder arthroscopy, bursectomy, open biceps tenodesis, extensor glenohumeral debridement. (Jt. Ex. 5, pp. 177-178) She had follow up care with Dr. Aviles and physical therapy through November 2021. On November 22, 2021, Dr. Aviles released Ms. Hernandez from care. He documented that she still had significant right shoulder pain. Dr. Aviles also noted trapezius pain radiating down her arm. He placed her at maximum medical improvement (MMI) for her right shoulder. While he did not place formal restrictions on her, he noted "activities as tolerated." (Jt. Ex. 3, pp. 171-173) A few days later he assigned a 2 percent right upper extremity impairment for the right shoulder injury. (Jt. Ex. 3, p. 175)

Since being released, Ms. Hernandez has attempted to become reemployed. (Cl. Ex. 3)

In addition to the foregoing evidence, two physicians were retained as experts to provide medical opinions. The claimant retained Sunil Bansal, M.D., and defendants retained Trevor Schmitz, M.D.

On April 20, 2022, Dr. Bansal issued his report. (Cl. Ex. 1) Dr. Bansal reviewed and summarized the appropriate medical file, took history through an interpreter and examined Ms. Hernandez. He thoroughly documented her current symptoms as of February 2022. (Cl. Ex. 1, p. 11) He diagnosed right shoulder bursitis and superior anterior posterior labral tear, in addition to an aggravation of C5-C6 disc herniation. (Cl. Ex. 1, pp. 13-14) He opined that these conditions were both substantially caused or materially aggravated both of her work injuries. (Cl. Ex. 1, p. 15) He assigned a 6 percent upper extremity impairment for the shoulder condition (which converts to 4 percent of the whole body) and a 5 percent whole body rating for her neck condition. (Cl. Ex. 1, p. 15) He recommended permanent restrictions of no lifting more than 25 pounds with both arms or 10 pounds with the right arm. He recommended against repetitive neck motions, or motions that place her neck in a flexed position for greater than 15 minutes at a time. (Cl. Ex. 1, p. 15)

Dr. Schmitz performed a similar evaluation on behalf of defendants. His report is dated July 1, 2022. Ms. Hernandez testified that, unlike Dr. Bansal, Dr. Schmitz only spent 5 minutes with her and he did not use any measuring devices to test her range of motion. (Tr., pp. 61-62) Dr. Schmitz reviewed the appropriate medical file and briefly examined Ms. Hernandez. He opined that her neck pain was "nonanatomic". "If anything, her exam may be consistent with some residual right-sided shoulder pain." (Def. Ex. B, p. 18) He opined that her "alleged neck injury was not caused, materially aggravated or lit up by any alleged work incidents that occurred on" either date of injury. (Def. Ex. B, p. 18) He opined that she had no permanent impairment in her neck. I do not find these opinions convincing.

In addition, claimant's counsel arranged a functional capacity evaluation through Short Physical Therapy which occurred in August 2022. This FCE documented her loss of range of motion and strength in her neck and placed her in the light work category while recommending some specific restrictions. (Cl. Ex. 2)

Dr. Bansal issued a rebuttal report on or about August 10, 2022, wherein he stood by his earlier opinions after reviewing the FCE and Dr. Schmitz's report. (Cl. Ex. 1, pp. 19-20)

CONCLUSIONS OF LAW

The primary question submitted is the nature of claimant's disability resulting from her work injuries. This is primarily a question of causal connection. The claimant alleges her disability extends into her whole body and should be evaluated under Iowa Code section 85.34(2)(v) (2021). The defendants contend that the claimant did not injure her neck at all, but she certainly has no permanent impairment in her neck which was caused by her work injuries. Therefore, the defendants contend her permanent disability must be evaluated under Iowa Code section 85.34(2)(n) (2021), as a scheduled shoulder claim where she is limited to functional impairment rating under Iowa Code section 85.34(2)(x) (2021).

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).

The greater weight of evidence supports a finding that the claimant's September 12, 2019, work injury did not result in any permanent disability. While it is possible that this injury may have contributed to her overall condition, the fact remains that she was released from care in March 2020, for this condition without restrictions. She worked

unrestricted from March 2020 until her second injury in December 2020. After her December 4, 2020, work injury she continued to work on light-duty until she was terminated May 24, 2021. While it is possible she had some permanency following her release to return to full duty, it is not well-documented or proven in any meaningful way. Simply stated, she had a zero impairment rating following conservative medical treatment and then worked full duty for approximately eight or nine months.

Following her December 4, 2020, work injury, her condition has significantly worsened. The greater weight of evidence supports a finding that she has sustained permanent functional impairments in both her right shoulder and her cervical spine. This is based upon her credible testimony, the expert medical opinion of Dr. Bansal, the contemporaneous treatment records of Dr. Kruse, the physical therapist, Dr. Aviles, and Dr. Rosenthal. The simple fact in this case is that Ms. Hernandez has continuously complained about right-sided neck symptoms since the onset of both her stipulated work injuries. This is well-documented in virtually every available record (other than the employer's own injury reports).

The next issue is the extent of permanent disability.

Since the claimant's disability extends into her whole body and is not merely limited to the "shoulder" her disability must be evaluated based upon her loss of earning capacity.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City Ry. Co. of Iowa, 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the Legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Iowa Code section 85.34.

Total disability does not mean a state of absolute helplessness. Permanent total disability occurs where the injury wholly disables the employee from performing work that the employee's experience, training, education, intelligence, and physical capacities

would otherwise permit the employee to perform. See McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Diederich v. Tri-City Ry. Co. of Iowa, 219 Iowa 587, 258 N.W. 899 (1935).

A finding that claimant could perform some work despite claimant's physical and educational limitations does not foreclose a finding of permanent total disability, however. See Chamberlin v. Ralston Purina, File No. 661698 (App. October 1987); Eastman v. Westway Trading Corp., II Iowa Industrial Commissioner Report 134 (App. May 1982).

It has long been the law of Iowa that Iowa employers take an employee subject to any active or dormant health problems and must exercise care to avoid injury to both the weak and infirm and the strong and healthy. Hanson v. Dickinson, 188 Iowa 728, 176 N.W. 823 (1920). A material aggravation, worsening, lighting up or acceleration of any prior condition has been viewed as a compensable event ever since initial enactment of our workers' compensation statutes. Ziegler v. United States Gypsum Co., 252 Iowa 613; 106 N.W.2d 591 (1961). While a claimant must show that the injury proximately caused the medical condition sought to be compensable, it is well established in Iowa that a cause is "proximate" when it is a substantial factor in bringing about that condition. It need not be the only causative factor, or even the primary or the most substantial cause to be compensable under the Iowa workers' compensation system. Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994); Blacksmith v. All-American, Inc., 290 N.W.2d 348 (Iowa 1980).

I find that Ms. Hernandez has sustained a significant loss of earning capacity. At the time of hearing, she was 44 years old with a sixth grade Mexican education. She had a limited work history since coming to the United States. She has challenges learning and has been unable to learn English despite making appropriate efforts. She has worked in meat packing and hog farrowing and is not suited to return to either. She did make a work search, although she did so while she was healing from her work injury. Her restrictions limit her to light work per a valid FCE, placing significant restrictions on her ability to lift. (Cl. Ex. 2, pp. 26-29) Dr. Bansal diagnosed both the shoulder condition (bursitis and labral tear), as well as the aggravation of the C5-C6 disc herniation. (Cl. Ex. 1, pp. 13-15) He assigned impairment ratings for both of these conditions. She is still highly symptomatic at the time of hearing.

The claimant argues that she is permanently and totally disabled. While she certainly is unable to perform much of her past employment, I cannot find permanent and total disability. I suspect she will be able to find gainful employment in the light work category now that her condition has stabilized. Considering all of the relevant factors of industrial disability, I find that claimant has sustained an 85 percent loss of earning capacity. I conclude therefore, that she is entitled to four hundred and twenty five weeks of compensation commencing on November 22, 2021.

Finally, the defendants seek a credit under Iowa Code section 85.34(4) for an overpayment. The record reflects that defendants overpaid weekly compensation payments from May 25, 2021, through November 22, 2021. (Def. Ex. F, p. 35) She

was overpaid benefits during this time due to a mistake by the defendants in calculating her rate. Defense counsel acted in good faith and provided notice to claimant as required by statute. (Def. Ex. F, p. 33) The total overpayment was \$9,698.99. Under section 85.34(4), I find defendants are entitled to a credit against the permanency in the amount of \$9,698.99.

ORDER

THEREFORE IT IS ORDERED

File No. 19006204.01:

Claimant shall take nothing further.

File No. 21009807.01:

Defendants shall pay the claimant four hundred and twenty-five (425) weeks of permanent partial disability benefits at the stipulated rate of four hundred fifty-three and 50/100 (\$453.50) per week commencing November 22, 2021, as stipulated by the parties.

Defendants shall pay accrued weekly benefits in a lump sum.

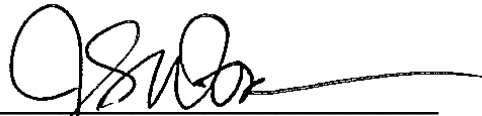
Defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendants shall be given credit in the amount of nine thousand six hundred ninety-eight and 99/100 dollars (\$9,698.99), as stipulated by the parties.

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

Costs are taxed to defendants in the amount of four thousand six hundred twenty-seven and 32/100 dollars (\$4,627.32), as set forth in Claimant's Exhibit 11, page 108.

Signed and filed this 27th day of February, 2023.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

James Byrne (via WCES)

David Meyers (via WCES)

James Russell (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 filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.