BAYLOR EVNEN WOLFE & TANNEHILL, LLP

Appellate Case Law Update

Micah C. Hawker-Boehnke

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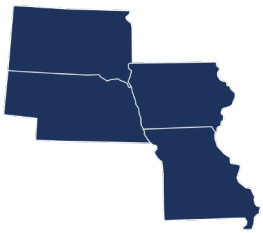
Workers' Compensation Team

- At Baylor Evnen, we've built a reputation as a leader in workers' compensation defense throughout Nebraska and the Midwest.
- With decades of focused experience, we help our clients reduce exposure, manage costs, and resolve disputes effectively.
- Backed by more than 125 years of trusted legal service, we deliver smart, practical solutions so our clients can stay focused on what they do best.



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BAYLOR EVNEN WOLFE & TANNEHILL, LLP

Back By Popular Demand

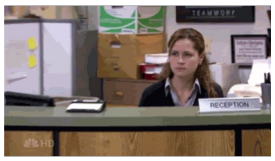
- Workers' Compensation Defense
- University of Iowa College of Law Graduate
- The Office Enthusiast

IOWA LAW

3

Collins v. Des Moines Area Regional Transit Authority, 19 N.W.3d 318 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **Employee worked as a customer service attendant at Des Moines Area Regional Transit Company (DART) during the COVID-19 pandemic.**
  - He was an essential worker at the height of the pandemic.
  - He worked the front desk.
- **Employee contracted COVID-19 in November of 2020.**
- **He later asserted a claim for alleged Long COVID symptoms.**



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Collins v. Des Moines Area Regional Transit Authority, 19 N.W.3d 318 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **No one knows from where employee contracted COVID-19:**
  - DART required all employees to wear a mask, stay six feet apart, and maintain social distancing.
  - DART also had robust contact tracing.
  - Neither employee nor DART was aware of any specific exposure to COVID-19 at work.
  - However, employee tested positive in November of 2020 after being instructed to test by DART after there was an uptick in positive cases among DART staff overall.
- **Outside of work, employee was largely isolated:**
  - However, shortly before becoming symptomatic employee traveled out of state to Mayo Clinic with his partner.
  - Employee stayed in a hotel, and interacted with staff and hospital personnel.
- **Dr. Kuhnlien opined that employee 'more likely than not' contracted COVID-19 from work.**
  - Note, the explanation of his causation opinion was not offered into evidence.
- **Dr. Mooney found that employee 'more likely than not' contracted outside of work.**

5

Collins v. Des Moines Area Regional Transit Authority, 19 N.W.3d 318 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **Both the Deputy and the Commissioner found that employee failed to prove that his contraction "arose out of" his employment.**
  - Did not matter if it was under a traditional 'accident' theory of recovery or 'occupational disease' theory of recovery.
- **In order to meet his burden of proof, employee needed to show that he was exposed to COVID-19 at work.**
  - No evidence that others in employee's department contracted COVID-19.
  - No evidence to suggest that employee interacted with COVID-19 positive customer.

6

Collins v. Des Moines Area Regional Transit Authority, 19 N.W.3d 318 (Iowa Ct. App. Dec. 18, 2024) (Table)

- The Court of Appeals affirmed.
- Substantial evidence supported the conclusion that employee failed to meet his burden of proof.
  - Result might have been different if there was a specific case of workplace exposure.
  - Result might have also been different if, but for his employment, there was no other plausible exposure to the virus.

7

XPO Logistics v. Ivester, 12 N.W.3d 373 (Iowa Ct. App. Aug. 21, 2024) (Table)

- Employee had a herniated disk, causing left-side nerve symptoms, which resolved after surgery.
- After surgery, employee developed right-side symptoms which got progressively worse over time.
- Employer argued right-side nerve symptoms were unrelated to the work injury.
  - However, employer had no expert medical causation opinions to support this position.
  - Employee had two expert medical causation opinions which found that the right-side symptoms were related to the initial surgery.
- The Deputy found that the right-side symptoms were compensable and found that employee was permanently and totally disabled.

8

XPO Logistics v. Ivester, 12 N.W.3d 373 (Iowa Ct. App. Aug. 21, 2024) (Table)

- Employer appealed, arguing substantial evidence did not support compensability and that PTD benefits should not have been awarded because employee was not at MMI.
  - Employer pointed to potential future medical care: injections, fusion surgery, and Spinal Cord Stimulator.
- The Court of Appeals affirmed, finding that the expert medical causation opinions were uncontested.
  - MMI does not mean no further care, but is the point in time when no significant improvement in symptoms is anticipated.
  - The injections were to manage pain.
  - No one had recommended fusion surgery or Spinal Cord Stimulator.

9

H.J. Heinz Co. v. Tilton, 19 N.W.3d 315 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **Employee alleged a back injury from repetitive workplace activities.**
  - Employee started working for employer in 1999.
  - Employee had a long history of back pain and degenerative changes in her spine starting in 2000.
- **On 4/13/2013, employee determined that she could no longer work her job because of the pain, and quit.**
- **Employer did not know of alleged injury until May of 2013.**
- **Employee did not file petition until 2015.**
- **Case had a long procedural history to get here:**
  - Originally, the Division found that the claim was barred by 85.23 and 85.26.
  - This was overturned on appeal and remanded.
  - On remand, the Division determined that EE knew or should have known of injury by 2/4/2010.
  - This was overturned on appeal and remanded for further review.
- **On remand, the Division found that 85.23 and 85.26 tolled until 4/13/2023, under the old discovery rule.**

10

H.J. Heinz Co. v. Tilton, 19 N.W.3d 315 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **Employer appealed on several issues:**
  1) The Division did not make a formal credibility finding of employee in writing.
  2) The discovery rules should have applied back in 2011.
  3) PTD benefits were not warranted
  4) Penalty of $20,000.00 should not have been awarded.
- **Court of Appeals found:**
  1) The Division did not need to make explicit credibility finding in *writing*.
  2) Substantial evidence supported 4/13/2013 discovery date.
  3) Substantial evidence supported PTD.
     - Employer argued that the medical opinions and other evidence to support PTD was contingent on employee being found credible.
     - COA deduced that the Division found employee to be credible, and rejected these arguments.

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H.J. Heinz Co. v. Tilton, 19 N.W.3d 315 (Iowa Ct. App. Dec. 18, 2024) (Table)

- **The Court of Appeals also affirmed the $20,000.00 penalty.**
- **Employer argued that the prior appeals denying compensability proved that reasonable minds could differ about the compensability of this claim.**
  - However, ER did not convey those reasons to EE at the time.
- **On 10/17/2013, employer told opposing counsel that it had "nothing to show an injury at work occurred" and that no such injury was reported.**
  - EE was found to have provided notice in May of 2013.
  - On 9/10/2013, ER received a medical causation opinion linking EE's back injury to her workplace activities.
  - It took ER over a year to obtain a causation opinion on which to base a denial.
  - Formal denial was not made until 8/28/2014.

12

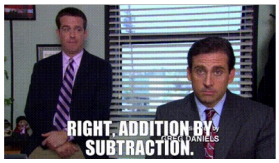
Hermanstorfer v. Lennox Industries, Inc., 19 N.W.3d 125 (Iowa Ct. App. Dec. 4, 2024) (Table)

- Employee suffered a compensable fall accident and sought benefits.
- Prior to the accident, employee had been using FMLA leave for a personal health condition.
- The Deputy granted benefits but included weeks in the average weekly wage calculation where employee had taken FMLA leave.
  - Any week in which employee worked over 32 hours was included in the calculation, even though employee typically worked 50 to 60 hours a week.
  - Deputy found that the employee's frequent taking of FMLA leave "established a pattern" of reduced hours.
- Employee appealed, arguing that the included weeks were not representative and should be replaced.

13

Hermanstorfer v. Lennox Industries, Inc., 19 N.W.3d 125 (Iowa Ct. App. Dec. 4, 2024) (Table)

- The Commissioner affirmed the Deputy's original calculations, so employee appealed to the District Court.
- The District Court reversed the Agency decision, finding that the 32 hour a week cutoff was illogical, irrational, and wholly unjustifiable.
- The Court of Appeals agreed that the distinctions the Commissioner made penalized employee for having to take FMLA leave, which is contrary to the purpose of the statute.



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Hermanstorfer v. Lennox Industries, Inc., 19 N.W.3d 125 (Iowa Ct. App. Dec. 4, 2024) (Table)

- Weeks in grey were excluded by the Division. The bolded rows are those that the District Court found should have also been excluded.

Date	Total Hours	Total with FMLA	Regular Pay	Vacation Pay	FMLA Taken
3/10/2019	0	40	0	0	40
3/17/2019	0	48	0	0	48
3/24/2019	0	48	0	0	48
3/31/2019	44	54	40	4	10
4/7/2019	46.08	61.05	38.08	8	14.97
4/14/2019	59	76	33	26	17
4/21/2019	18	34	18	0	16
4/28/2019	**33**	**41**	**17**	**16**	**8**
5/5/2019	51.02	71	23.02	28	19.98
5/12/2019	41	55	41	0	14
5/19/2019	**31**	**42**	**22**	**12**	**8**
5/26/2019	0	0	0	0	0
6/2/2019	**34**	**42**	**18**	**16**	**8**
6/9/2019	**32**	**32**	**24**	**8**	**8**
6/16/2019	**32**	**40**	**16**	**16**	**8**
6/23/2019	37	45	29	8	8
6/30/2019	27	43	27	0	16
7/7/2019	10	26	10	0	16
7/14/2019	48	58	40	8	10
7/21/2019	47	50	47	0	3
7/28/2019	42.02	52	42.02	0	9.98
8/4/2019	25	43	25	0	18
8/11/2019	22.5	35	22.5	0	12.5
8/18/2019	40	40	40	0	0

15

85.34(2)(v) – Limitation Provision

- "If an employee who is eligible for compensation under this paragraph returns to work or is offered work for which the employee receives or would receive the same or greater salary, wages, or earnings than the employee received at the time of the injury, the employee shall be compensated based only upon the employee's functional impairment resulting from the injury, and not in relation to the employee's earning capacity."
- "Notwithstanding section 85.26, subsection 2, if an employee who is eligible for compensation under this paragraph returns to work with the **same employer** and is compensated based only upon the employee's functional impairment resulting from the injury as provided in this paragraph **and is terminated from employment by that employer**, the award or agreement for settlement for benefits under this chapter shall be reviewed upon commencement of reopening proceedings by the employee for a determination of any reduction in the employee's earning capacity caused by the employee's permanent partial disability."

16

Den Hartog Indus. v. Dungan, 19 N.W.3d 711 (Iowa Ct. App., Jan. 9, 2025) (Table)

- **Employee sustained a compensable back injury.**
- **Employee returned to work with employer for the next 11 months.**
- **Employee then quit to take a new job, to move closer to his family. Employee had a few different jobs but, by the time of hearing, he was working as a welder, earning more than he was before the injury.**
- **The Division found that the limitation provision did not apply to this set of facts.**
  - *Martinez v. Paulich, Inc.*, File No.: 5063900 (App. Jul. 30, 2020)

17

Den Hartog Indus. v. Dungan, 19 N.W.3d 711 (Iowa Ct. App., Jan. 9, 2025) (Table)

- **The Court of Appeals found that the statutory language recognizes two categories:**
  1) Employees who return to work for the same or greater wages, who are compensated for functional loss alone; and
  2) Employees who do not return to work for the same or greater wages, who are compensated industrially.
- **The only way under the statute to move from the first category to the second is if employer terminates employee.**
- **The statute does not address when employees voluntarily leave.**

18

Den Hartog Indus. v. Dungan, 19 N.W.3d 711 (Iowa Ct. App., Jan. 9, 2025) (Table)

- The Court held that the statutory language of 85.34(2)(v) is ambiguous as to how it applies to employees who voluntarily leave their employment after returning to work at the same or greater pay.
  - Reasonable minds could differ on how to interpret the statute; therefore, it was ambiguous.
- The Iowa WC statute is to be applied broadly and liberally to benefit the worker.
  - *Xenia Rural Water Dist. v. Vegors*, 786 N.W.2d 250, 257 (Iowa 2010)
- Therefore, the Court of Appeals reasoned that any ambiguity should also be interpreted in the Employee's favor.

19

Den Hartog Indus. v. Dungan, 19 N.W.3d 711 (Iowa Ct. App., Jan. 9, 2025) (Table)

- Dissent (Judge Langholz)
  - Extremely rare.
- The statute is not ambiguous. It is clear and straightforward.
  - If you return to work for the same or greater wages, then you are compensated for function loss alone.
  - The only exception is if employee returns to work with the same employer, and then is terminated.
- The is no requirement that an employee return to work for the same employer for the limitation provision to apply.
- The only time that an employee is required to return to work with the same employer is for the exception to apply.
- Case is being appealed to Iowa Supreme Court again.

20

Iowa Supreme Court Attorney Disciplinary Board v. Fenton, 12 N.W.3d 352 (Iowa 2024)

- The Iowa Supreme Court Disciplinary Board charged the attorney with violating rules of professional conduct while the attorney was under a deferral agreement.
- The attorney in question primarily worked in the Federal system.
- Took Federal workers' compensation matters, among other cases.

21

Iowa Supreme Court Attorney Disciplinary Board v. Fenton, 12 N.W.3d 352 (Iowa 2024)

- **In 2017, the attorney was privately admonished for failing to communicate with clients, missing court hearings, and failing to ensure his clients' would appear.**
- **In 2020, the attorney was suspended for 60 days after he failed to communicate with his clients and missed several deadlines which, in two cases, resulted in the dismissal of the clients' claims.**
- **In 2021, after continued violations, the attorney entered into a deferral agreement:**
  - The attorney admitted to wrongdoing.
  - The attorney agreed to meet certain conditions set out in the agreement.
  - The Disciplinary Board deferred judgement for one year, at which time it could file a complaint and use the attorney's admissions against him if he failed to comply with the conditions of the agreement.

22

Iowa Supreme Court Attorney Disciplinary Board v. Fenton, 12 N.W.3d 352 (Iowa 2024)

- **After the deferral agreement, the attorney continued to neglect his cases and was charged with violating:**
  - 32:1.3 – Neglect
  - 32:1.4 – Communication
  - 32:8.4(d) – Conduct Prejudicial to the Administration of Justice
    - Failure to comply with deadlines which resulted in additional court proceedings or delays.
  - 32:3.2 – Expedite Litigation
    - "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."

- **For these violations, the Disciplinary Board recommended a 90-day suspension.**

23

Iowa Supreme Court Attorney Disciplinary Board v. Fenton, 12 N.W.3d 352 (Iowa 2024)

When weighing the appropriate sanction, the Supreme Court concluded that a 90-day suspension was appropriate.

Aggravating factors included:
- **The 17 years of practice,**
- **The multiple previous disciplinary issues,**
- **The multiple rule violations,**
- **Increased rules violations after entering into the deferral agreement, which were significant.**

Mitigating factors included:
- **Psychiatric care and a temporary period of voluntary withdrawal,**
- **Representation of clients in underserved and marginalized communities,**
- **Pro bono and reduced fee casework,**
- **History of issues with depression and anxiety,**
- **The death of his mother, and**
- **Cooperation with the Board and accepting responsibility.**

24

Linnhaven Inc. v. Blasdell, 15 N.W.3d 103 (Iowa Ct. App. Oct. 30, 2024) (Table)

- **Employee was injured in 2012, where employee was awarded permanent total disability benefits.**
- **Employee developed major depressive disorder and sought counseling after the injury.**
  - Employee had reported suicidal thoughts but had no plans to act on them.
- **Both conditions were found to be compensable by the Division and PTD benefits were awarded.**
- **Employee passed away from overdose of depression and insomnia medications.**
  - Quetiapine and Zolpidem
- **Surviving spouse sought death benefits.**
- **Employer argued that employee's death was not caused by the work injury, and that overdose was a willful injury.**

25

Linnhaven Inc. v. Blasdell, 15 N.W.3d 103 (Iowa Ct. App. Oct. 30, 2024) (Table)

- **In Iowa, an employee who intentionally hurts himself/herself, or another, cannot receive compensation for the injury.**
  - IOWA CODE § 85.16(1)
- **Employers bear the burden of proof to establish that employee intentionally caused the accident; this is known as a willfulness affirmative defense.**
  - *Nolan v. Cities Service Oil Co.*, 259 Iowa 1209, 1214 (1966)
- **The Division found that employee's overdose was an accident and not a suicide, and awarded benefits.**
  - Employer failed to preserve argument that the overdose did not arise out of and in the course of employment.
- **The Appellate Court ruled that substantial evidence supported the Commissioner's award for three key reasons:**
1. **Neither the police nor the medical examiner ruled the death a suicide.**
2. **Testimony of employee's son and a friend to decedent's mental state.**
3. **The note was not conclusively a suicide note.**
   - The note was found under a stack of other papers by the bed.
   - The note was undated and unfinished.

26

Second Injury Fund

- **A Second Injury Fund claim requires that employee prove three things:**
  - (1) That employee had previously lost, or lost the use of, a hand, arm, foot, leg, or eye (regardless of compensability);
  - (2) That employee had sustained a second *compensable* injury, which resulted in the loss or loss of use to one of the listed body parts; and
  - (3) There must be permanent disability resulting both from the initial loss and from the second loss.

  Iowa Code section 85.65; *Anderson v. Second Injury Fund*, 262 N.W.2d 789 (Iowa 1978)
- **"It is the *cumulative* effect of scheduled injuries resulting in industrial disability to the body as a whole—rather than the injuries considered in isolation—that triggers the Fund's proportional liability."**
  - *Second Injury Fund v. Braden*, 459 N.W.2d 437, 470 (Iowa 1990)

27

Second Injury Fund v. Strable, 14 N.W.3d 742 (Iowa 2024)

- Employee suffered an injury to her ankle that had sequela injuries to her hip, lower back, and mental health.
- Employee also had a preexisting carpal tunnel injury to both wrists.
- After settling the ankle injury with her employer, she sought second injury fund benefits.

28

Second Injury Fund v. Strable, 14 N.W.3d 742 (Iowa 2024)

- The Second Injury Fund argued on appeal that the second qualifying injury (the work-related injury) must be limited to a scheduled member injury.
  - And that no liability existed against the Fund if the second injury caused sequela injuries that were compensated as unscheduled injuries.
- While on appeal from the Division, the Supreme Court of Iowa came out with *Delaney*.
  - *Delaney v. Second Inj. Fund of Iowa*, 6 N.W.3d 714 (Iowa 2024), *as amended* (July 19, 2024)

29

Second Injury Fund v. Strable, 14 N.W.3d 742 (Iowa 2024)

- In *Delaney*, the Supreme Court of Iowa held that:
  - Entitlement to benefits under Section 85.64 is triggered if employee has a qualifying injury.
  - It does not mater if the qualifying injury causes an injury to the body as a whole.
- The Supreme Court affirmed *Delaney* but remanded because of how the Commissioner calculated the Fund's liability.

30

Second Injury Fund v. Strable, 14 N.W.3d 742 (Iowa 2024)

- **To calculate the Fund's liability, the Commissioner must:**
  1) Assess the industrial disability considering both qualifying injuries, *including sequela injuries.* Then,
  2) Subtract the BAW disability associated with the first compensable injury. Then,
  3) Also subtract the discrete industrial disability associated with the second injury and sequela *without* considering the effect of the first injury.
  4) The remaining industrial disability is the Fund's responsibility.

31

Alternative Medical Care

- **Iowa Code Section 85.27 gives employers the right to direct medical care.**
  - "The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee."
- **Iowa Code Section 85.27 also gives employees the right to request alternate care.**
  - If the parties cannot agree on care, the Commissioner can order the care.
- **To establish a claim, employee must show by a preponderance of the evidence that the care being offered by employer is unreasonable.**
- **The burden is met when employee proves that the care being offered has been ineffective and that such care is 'inferior or less extensive' than other available care.**
  - *Pirelli-Armstrong Tire Co. v. Reynolds*, 562 N.W.2d 433, 437 (Iowa 1997)

32

Archer Daniels Midland v. Donald Tuttle, No. 24-0711 (Iowa Ct. App. May 7, 2025) (Pending Publication)

- **Parties agreed that employee had compensable head and knee injuries.**
- **Alternative care was sought for both.**

33

Archer Daniels Midland v. Donald Tuttle, No. 24-0711 (Iowa Ct. App. May 7, 2025) (Pending Publication)

- **Medical treatment for knee.**
  - UIHC (authorized) recommended knee replacement.
  - Mayo (unauthorized) recommended conservative treatment but thought knee replacement would eventually be needed.
  - Surgery was a risk given prior complications.
- **The Deputy awarded care at Mayo.**
- **COA affirmed.**
  - UIHC's offer of "no care" to postpone the need for surgery was found to be unreasonable.
  - Mayo was offering care to which the employee was responding and that would postpone the need for surgery.

34

Archer Daniels Midland v. Donald Tuttle, No. 24-0711 (Iowa Ct. App. May 7, 2025) (Pending Publication)

- **Medical treatment for head injury.**
  - After initial injury, EE sent to PCP who, after some time, referred EE to a specialist in Detroit, Michigan.
  - ER sent EE to Workwell, but EE never attended the appointments made for him there.
  - Michigan specialist recommended human growth hormone (HGH) injections for the rest of his life.
  - ER obtain an IME from Dr. Fields, who diagnosed a TBI and recommended followup treatment with Mayo Clinic.
  - Regarding the specific request for HGH injections, Dr. Fields suggested a second opinion from an endocrinologist at Mayo or UIHC.
  - Mayo declined to offer an opinion on HGH.
  - UIHC was willing, but the earliest appointment was six months out.

35

Archer Daniels Midland v. Donald Tuttle, No. 24-0711 (Iowa Ct. App. May 7, 2025) (Pending Publication)

- **Head Injury Deputy Decision:**
  - The PCP was, "the initial authorized treating physician, and there is no evidence her authorization has been revoked."
  - PCP referred employee to the specialist in Detroit, who recommended HGH injections.
  - The Detroit specialist was within the chain of referral from the authorized treating provider.
  - Therefore, the HGH injections should have been authorized.
- **Head Injury District Court Decision:**
  - There was evidence that the PCP's authorization as the treating provider had been revoked.
  - However, the six-month delay for a second opinion on the HGH injections is not offering care "promptly."
  - Therefore, alternative medical care for HGH injections was warranted.

36

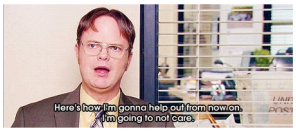
Archer Daniels Midland v. Donald Tuttle, No. 24-0711 (Iowa Ct. App. May 7, 2025) (Pending Publication)

- **Court of Appeals Held:**
  1) There was evidence that the PCP's authorization had been revoked before the referral to the specialist in Detroit.
     - Referral to Workwell and notice further PCP appointments would not be authorized.
  2) Because the specialist in Detroit was not an authorized provider, there is no requirement that "treatment must be offered promptly" for the HGH injections.
- **There was no evidence in the record that the care being offered for the head injury at Mayo Clinic was unreasonable, unduly inconvenient, or not offered promptly.**
- **As such, alternative medical care was not warranted.**

37

Michelle Tuttle v. Archer Daniels Midland Co., 19 N.W.3d 720 (Iowa Ct. App. Jan 9, 2025) (Table)

- **Discovery dispute. Employee requested any records on herself held by her employer.**
- **Employer denied having any records, but then provided its medical expert with documents that seemingly matched those requested.**
- **Employee's attorney served a subpoena for those documents on the employer's medical expert at the expert's personal residence after business hours. The medical expert withdrew shortly thereafter.**



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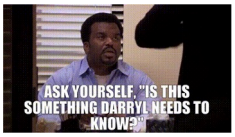
Michelle Tuttle v. Archer Daniels Midland Co., 19 N.W.3d 720 (Iowa Ct. App. Jan 9, 2025) (Table)

- **Employer sought sanctions against employee over employee's method of serving the subpoena.**
  - The Deputy granted this without hearing.
  - Ordered employee to pay expert fees of $3,900.00.
- **After employee's motion to reconsider was denied, she sought interlocutory review from the Commissioner, which was denied.**
- **Employee then sought judicial review from the District Court.**
- **Employee argued that agencies have the power to issue subpoenas but that enforcing them, and issuing sanctions, was reserved to the District Court.**
  - IOWA CODE § 17A.13(1)
- **The Court of Appeals has already held that the Division does not have "the power to deem a party in contempt for failure to comply with a subpoena."**
  - *Dunlap v. Action Warehouse*, 824 N.W.2d 545, 558-59 (Iowa Ct. App. 2012)

39

Michelle Tuttle v. Archer Daniels Midland Co., 19 N.W.3d 720 (Iowa Ct. App. Jan 9, 2025) (Table)

- **District Court held that a final agency decision had not been reached and that employee had to exhaust her administrative remedies first.**
  - Specifically, employee needed a final agency determination on the merits of her workers' compensation claim.



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Michelle Tuttle v. Archer Daniels Midland Co., 19 N.W.3d 720 (Iowa Ct. App. Jan 9, 2025) (Table)

- **The Court of Appeals Affirmed:**
  - Section 17A.13 does not give nonagency parties the right to immediate appeal to settle discovery disputes.
  - The District Court cannot weigh in on every discovery dispute that might arise.
  - A final agency decision on the statutory authority to sanction the employee for how the subpoena was served is needed.
  - The Deputy ruled that the Division did have the statutory authority to issue sanctions.
  - The Commissioner refused to take up the matter until a final determination on employee's underlying workers' compensation claim was reached.
  - Employee must fully litigate her workers' compensation claim with the Deputy, then appeal the issues to the Commissioner for a final agency determination before appealing to the District Court.

41

H.D. Supply Management, Inc. v. Smith, 13 N.W.3d 284 (Iowa Ct. App. Sept. 18, 2024) (Table)

- **Employee was awarded PTD benefits in March of 2023 after the Division found that his arm and shoulder injuries fell under the catch-all provision.**
- **Employer petitioned for judicial review at the District Court.**
- **But Employer failed to post a bond on appeal.**
- **To stay enforcement of a judgement on appeal, a bond must be posted within 30 days of the decision.**
  - Iowa Code § 17A.19(5); 10A.322(2)
- **Employee filed a petition to enforced the WC decision at the District Court.**
  - Iowa Code § 10A.330

42

H.D. Supply Management, Inc. v. Smith, 13 N.W.3d 284 (Iowa Ct. App. Sept. 18, 2024) (Table)

- The District Court stayed the enforcement of the award, which employee appealed.
- The Appellate Court was tasked with handling that interlocutory appeal on the stay of benefits.
- However, rather than pausing the case at the District Court level, which is typically the case, the Supreme Court instructed the District Court to continue hearing the case on the merits.

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H.D. Supply Management, Inc. v. Smith, 13 N.W.3d 284 (Iowa Ct. App. Sept. 18, 2024) (Table)

- The District Court heard the case and ruled that the Commissioner had incorrectly classified two scheduled injuries as an unscheduled injury and remanded to rule in line with *Bridgestone*.
- The Appellate Court held that since the District Court had reversed the award and remanded, its decision on interlocutory appeal was moot because the benefits were no longer awarded.

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Turner v. NCI Building Systems, 19 N.W.3d 710 (Iowa Ct. App. Jan 9, 2025) (Table)

- Employee sustained injuries from a fall at work in 2018.
- In addition to the physical injuries, employee began suffering from mental health issues after being furloughed and eventually let go.

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Turner v. NCI Building Systems, 19 N.W.3d 710 (Iowa Ct. App. Jan 9, 2025) (Table)

- At hearing, employee asked the Deputy to leave the record open to allow for the admission of a pain psychologist's evaluation, who was not scheduled to see employee until several days after the hearing.
  - The Deputy refused to accept the report but agreed to hold it open to accept a different report.
- The Commissioner reversed and accepted the report, finding that employer was partially responsible for the delay in getting the report.
  - Even so, the Commissioner found that the mental injury was only temporary in nature.
- The Court of Appeals affirmed the Commissioner's decision. The decision did not violate the administrative rules against evidence being taken after hearing because the record was held open, to which employer did not object at the hearing.

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Questions?

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