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Nebraska Court of Appeals
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Debra Yost, appellant and cross-appellee, v. Davita, Inc., appellee and cross-appellant.

877 N.W.2d 271

Filed March 1, 2016. Nos. A-15-197, A-15-234, A-15-235.

Supplemental Opinion

Appeal from the Workers' Compensation Court: Daniel R. Fridrich, Judge. Former opinion modified. Motion for rehearing overruled.

Eric B. Brown, of Atwood, Holsten, Brown, Deaver & Spier Law Firm, P.C., L.L.O., for appellant.

Caroline M. Westerhold and Stephen J. Schultz, of Baylor, Evnen, Curtiss, Grimit & Witt, L.L.P., for appellee.

Pirtle, Riedmann, and Bishop, Judges.

Per Curiam.

This matter is before the court on the motion for rehearing filed by Davita, Inc., regarding our opinion reported in *Yost v. Davita, Inc.*, 23 Neb. App. 482, 873 N.W.2d 435 (2015). We overrule the motion, but for purposes of clarification, we modify the opinion as follows:

In the section of the opinion designated "*Increase in Incapacity*," we withdraw the eighth paragraph, *id.* at 495, 873 N.W.2d at 446, and substitute the following:

> We also note that the compensation court made a factual finding that the L2-3 level was not a pain generator

based on an opinion by Dr. Cornett. Although Davita argues there was evidence to the contrary, we cannot say the compensation court was clearly wrong in determining that all of the pain Yost experiences in her back is, in fact, related to the work accident. And it is her back pain and limitations from her work-related back injury that have exacerbated her depression symptoms to the point that she is unable to work.

The remainder of the opinion shall remain unmodified.

Former opinion modified.
Motion for rehearing overruled.