

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**LARRY NANCE, DECEASED;
SHERRY NANCE, PERSONAL
REPRESENTATIVE**

**v.
MAXON ELECTRIC, INC.**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD74942

DATE: November 6, 2012

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt,
Judge

Attorneys:

R. Edward Murphy, St. Louis, MO, for appellant.

Lisa A. Reynolds and Robert Kerr, St. Louis, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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SHERRY NANCE, PERSONAL
REPRESENTATIVE,**

APPELLANT,

v.

MAXON ELECTRIC, INC.,

RESPONDENT.

No. WD74942

Labor and Industrial Relations Commission

Before Division One: Thomas H. Newton, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

Larry Nance was awarded permanent and total disability benefits in 1993 following a work-related injury while employed at Maxon Electric. Maxon and its insurer approached Larry about commuting his future lifetime disability payments into a lump-sum payment, and an agreement was reached between them in 2011. A joint request for approval of the settlement was filed with the Labor and Industrial Relations Commission. The day before it was filed, however, Larry Nance passed away from an unrelated health condition. Sherry Nance, surviving spouse of Larry Nance, appealed a judgment by the Labor and Industrial Relations Commission in which it denied the joint request to approve a lump-sum settlement. The Commission had determined that it lacked legal authority to approve the settlement under 287.390 due to Larry's death, a fact the Commission alleged brought the present value of his future permanent total disability benefits to zero. The Commission further found that it could not approve a settlement for less than the present value of the future payments under 287.530.

REVERSED AND REMANDED.

Division One holds: The Commission erred in finding (1) that it lacked legal authority to approve the parties' joint request to approve a lump-sum settlement, in that section 287.390 mandates the approval of a non-contested settlement of a claim, provided that the statutory requirements are met; and (2) that under 287.530, it lacked legal authority to approve a settlement of a claim for any amount more or less than the present value of the future payments, because that section establishes the parameters for the Commission's consideration in a contested case, not an approval of a settlement. Cause is remanded for approval of the settlement agreement.

Opinion by Gary D. Witt, Judge

November 6, 2012

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