

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**TREASURER OF THE STATE OF
MISSOURI - CUSTODIAN OF THE
SECOND INJURY FUND**

**v.
DONALD STECK**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD73110

DATE: May 31, 2011

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Two: James M. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and Cynthia L. Martin, Judge

Attorneys:

Charles L. Clark, Jr., Jefferson City, MO, for appellant.

Randall O. Barnes, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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SECOND INJURY FUND,**

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**v.
DONALD STECK,**

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No. WD73110

Labor and Industrial Relations Commission

Before Division Two: James M. Smart, Jr., Presiding Judge, Mark D. Pfeiffer, Judge and
Cynthia L. Martin, Judge

The Treasurer of the State of Missouri, Custodian of the Second Injury Fund, appeals from the Labor and Industrial Commission's workers' compensation award granting permanent total disability benefits to Donald Steck. The Second Injury Fund claims that the Commission's award was not supported by sufficient competent evidence in that Steck is permanently and totally disabled *solely* as a result of the injury, which occurred on November 16, 2007, and not due to a combination of that injury with a prior injury.

AFFIRMED

Division Two holds:

(1) Where a preexisting partial disability combines with a disability from a subsequent injury to render the claimant permanently and totally disabled, the Second Injury Fund is liable for benefits attributable to the preexisting injury.

(2) After review of the whole record, substantial and competent evidence supported the Commission's finding that the 2007 injury resulted only in a 28% permanent *partial* disability of Steck's body as a whole.

(3) After review of the whole record, substantial and competent evidence supported the Commission's finding that at the time of the 2007 injury, Steck suffered from preexisting disabilities that posed a hindrance or obstacle to his employment which combined with the 28% permanent partial disability resulting from the 2007 injury to render Steck permanently and totally disabled, triggering Second Injury Fund liability.

Opinion by Cynthia L. Martin, Judge

May 31, 2011

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