MISSOURI COURT OF APPEALS
WESTERN DISTRICT

CLIFFORD AUSTIN

APPELLANT,

v.

AM MECHANICAL SERVICES, **RESPONDENT,**

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

RESPONDENT.

DOCKET NUMBER WD82778

DATE: March 10, 2020

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Two: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge and Gary D. Witt, Judge

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Attorneys:

Keith V. Yarwood, Kansas City, MO, for appellant.

Kimberly R. Fournier and Eric W. Lowe, Kansas City, MO, for respondent Missouri State Treasurer.

John B. Rathmel, Overland Park, KS, for respondent AM Mechanical Services.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRIC

CLIFFORD AUSTIN, APPELLANT,
v.
AM MECHANICAL SERVICES, RESPONDENT,

TREASURER OF THE STATE OF MISSOURI - CUSTODIAN OF THE SECOND INJURY FUND, RESPONDENT.

WD82778 Labor and Industrial Relations Commission

Before Division Two Judges: Cynthia L. Martin, Presiding Judge, Thomas H. Newton, Judge, and Gary D. Witt, Judge

Clifford Austin appeals from a final order entered by the Labor and Industrial Relations Commission denying his workers' compensation claim which sought temporary total and permanent partial disability benefits from AM Mechanical Services and permanent total disability benefits from the Second Injury Fund. The Commission concluded that Austin's workers' compensation claim was barred because it was filed outside of the three-year statute of limitations described in section 287.430, RSMo.

REVERSED AND REMANDED.

Division Two holds:

The Commission erred in denying Austin's claim because Austin filed his Missouri workers' compensation claim against Employer and the Fund within three years of the last payments made by a party having an obligation to him under Chapter 287, RSMo. Thus, Austin's claim was timely filed.

Opinion by: Cynthia L. Martin, Judge March 20, 2020

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