OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

MICHAEL A. LEXOW, Claimant/Appellant, vs. BOEING CO., Employer, and TREASURER OF MISSOURI AS CUSTODIAN OF THE SECOND INJURY FUND, Respondent.	)	No. ED108853 Appeal from the Labor and Industrial Relations Commission Filed: May 11, 2021

Michael A. Lexow ("Claimant") appeals the decision of the Labor and Industrial Relations Commission (the "Commission") reversing the award of the Administrative Law Judge (the "ALJ") and denying him permanent total disability ("PTD") benefits.

REVERSED AND REMANDED.

Division One Holds: The Commission misinterpreted § 287.220.3. As recently construed by the Supreme Court in *Treasurer of State v. Parker*, 2021 WL 1554726, at *3 (Mo. banc Apr. 20, 2021), PTD under § 287.220.3 is based on the primary injury when combined with all preexisting disabilities that qualify under one of the four eligibility criteria listed in § 287.220.3(2)(a)a. Therefore, we reverse the Commission's decision and remand with instructions to make factual findings as to which of Claimant's preexisting conditions qualify under § 287.220.3(2)(a)a and apply § 287.220.3(2)(a)b as construed in the Opinion to determine if Claimant is entitled to PTD benefits.

Opinion by: Colleen Dolan, Judge.

Mary K. Hoff, C. J., and Robert M. Clayton III, J. concur.

Attorney for Appellant: Thomas J. Gregory

Attorneys for Respondents: Madelyn J. Campbell

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.