OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MARK LYNCH,	)	No. ED109502
Claimant/Appellant,	)	Appeal from the Labor and Industrial Relations Commission
vs.	)	Injury Nos. 09-101188 and 09-039485
TREASURER OF THE STATE OF MISSOURI, CUSTODIAN OF THE SECOND INJURY FUND,	)	Filed: October 19, 2021
Respondent.	)	

The claimant, Mark Lynch, appeals from the final award of the Labor and Industrial Relations Commission denying his claim against the Second Injury Fund for permanent total disability benefits.

REVERSED AND REMANDED.

DIVISION THREE HOLDS: The Commission arbitrarily ignored the substantial, uncontradicted, and unimpeached evidence, including the only qualified expert medical opinion in the record, without explanation or a reasonable basis for finding the witnesses not credible. The Commission then substituted its own theory of the medical cause of Claimant's permanent total disability. As a result, the Commission's decision contrary to the only expert medical opinion in the record is not supported by sufficient competent evidence and is against the overwhelming weight of the evidence.

Viewing the award objectively and examining the evidence in the whole record, we conclude Claimant met his burden of establishing, under section 287.220 RSMo. (2000), that he is permanently and totally disabled due to a combination of his preexisting permanent disabilities and his primary injury. We find the Fund is liable for the Claimant's permanent and total disability.

We reverse the Commission's decision that the Fund is not liable for Claimant's permanent and total disability, and we remand with instructions for the Commission to enter an award consistent with the findings in this opinion.

Opinion by: Angela Turner Quigless, J.

Philip M. Hess, P.J. and Colleen Dolan, J., concur.

Attorneys for Appellant: Phillip A. Tatlow and J. Thomas Mihalczo III, Bollwerk & Tatlow, LLC

Attorneys for Respondent: Madalyn J. Campbell & Mary Jennifer Sommers, Office of the Attorney General

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