Summary of SC99199, *Michael A. Lexow v. Boeing Co. and Treasurer of Missouri as Custodian of the Second Injury Fund*

Appeal from the labor and industrial relations commission
Argued and submitted December 14, 2021; opinion issued March 15, 2022

Attorneys: Lexow was represented by Thomas J. Gregory of Mogab & Hughes Attorneys PC in St. Louis, (314) 241-4477. The treasurer was represented by Madalyn J. Campbell of the attorney general's office in St. Louis, (573) 751-3321.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A workers' compensation claimant appeals the labor and industrial relations commission's decision reversing an award of permanent total disability benefits from the second injury fund. In a unanimous decision written by Judge Robin Ransom, the Supreme Court of Missouri dismisses the appeal. The claimant's brief failed to comply with the mandatory and straightforward rules governing the contents of an appellant's brief, particularly in his points relied on, such that nothing was preserved for this Court's review.

Facts: Michael Lexow developed carpal tunnel syndrome in his left arm and hand as a result of his work. He settled his workers' compensation claim against his employer for this primary injury but then sought permanent total disability benefits from the second injury fund. An administrative law judge determined Lexow was entitled to benefits, but the labor and industrial relations commission reversed the award. Lexow appeals.

APPEAL DISMISSED.

Court en banc holds: Lexow's brief violates this Court's rules pertaining to briefing. Rule 84.04 plainly sets forth the required contents of an appellate brief, including the requirements for and examples of a point relied on. Rule 84.04's requirements are mandatory, and this Court will not consider a brief so deficient that it fails to give notice to this Court and the other parties as to the issues presented on appeal. Lexow's points relied on do not comply with the format set out in Rule 84.04 and are multifarious. Furthermore, his points relied on erroneously identify actions by the court of appeals and not the commission. In sum, the brief so substantially fails to comply with the briefing requirements of Rule 84.04 that it preserves nothing for appellate review.