

MISSOURI COURT OF APPEALS EASTERN DIVISION
OPINION SUMMARY

LAWRENCE MILLER,)	No. ED100308
)	
Respondent,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
TREASURER, STATE OF MISSOURI,)	
AS CUSTODIAN OF THE)	
SECOND INJURY FUND)	FILED: March 25, 2014
)	
Appellant.)	

The Missouri State Treasurer, as Custodian of the Second Injury Fund, appeals the award of the Labor and Industrial Relations Commission in favor of Lawrence Miller. The Treasurer asserts that Miller’s pre-existing injury should not have been factored into the calculation of Fund liability because it had not reached maximum medical improvement at the time of the primary injury.

REVERSED AND VACATED.

DIVISION ONE HOLDS: Missouri precedent requires that a pre-existing injury reach MMI in order to be considered a pre-existing permanent partial disability for purposes of calculating Fund liability. The record establishes that Mr. Miller did not reach MMI for his 2006 neck injury until after his surgery in 2008, months after his primary knee injury in 2007. As such, his neck injury could not be factored into the calculation of Fund liability. Pursuant to Rule 84.14, a modified award is entered in the amount of \$6,769.30.

Opinion by: Clifford H. Ahrens, J Roy L. Richter, P.J., and Glenn A. Norton,
J., concur.

Attorney for Appellant: Michael Finneran

Attorney for Respondent: Andrew Mandel

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.
--