

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

MITCHELL MILLER,)	No. ED91671
)	
Appellant,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
MISSOURI HIGHWAY AND)	
TRANSPORTATION COMMISSION,)	FILED:
)	February 17, 2009
Respondent.)	

Mitchell Miller ("Claimant") appeals from the final award of the Labor and Industrial Relations Commission ("the Commission") denying Claimant workers' compensation benefits. Claimant argues the Commission erred in finding the injury did not arise out of and in the course of Claimant's employment. This case is a case of first impression involving the interpretation of the amendments to the workers' compensation statutes regarding the definitions of "arising out of" and "in the course of" employment.

TRANSFERRED.

Division Three holds: Under the amendments to the workers' compensation statutes regarding the definitions of "arising out of" and "in the course of" employment, we believe the Commission's denial of Claimant's claim was not error where the evidence showed Claimant was equally exposed to the risk of injury from walking briskly at home as he was at work. However, in light of the general interest and importance of the issues involved, we transfer the case to the Missouri Supreme Court, pursuant to Rule 83.02.

Opinion by: Robert G. Dowd, Jr., P.J. Clifford H. Ahrens and Sherri B. Sullivan, JJ., concur.

Attorney for Appellant: Joseph A. Brannon

Attorneys for Respondent: Robert E. Bidstrup, Sarah K. Fehrenbacher

**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.**