

**MISSOURI COURT OF APPEALS EASTERN DISTRICT
OPINION SUMMARY**

LUKE ROTH (deceased) and)	No. ED96708
MARY ROTH, et al,)	
)	
Respondents,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
J.J. BROUK & COMPANY CORP. and)	
AMERISURE INSURANCE CO.,)	
)	
Appellants.)	FILED: November 15, 2011

J.J. Brouk & Company (Employer) and its insurer appeal the order of the Labor and Industrial Relations Commission denying their motion to approve a structured settlement with the family of deceased employee Luke Roth. The Commission found itself lacking authority to approve the settlement under section 287.241 and therefore dismissed the parties' request for lack of jurisdiction.

REVERSED AND REMANDED.

DIVISION ONE HOLDS: The Commission erred in that it failed to read section 287.241 in *pari materia* with section 287.390, stating that settlement agreements are only valid when approved by the Commission, and 8 C.S.R. 20-3.010(4) authorizing the Commission to modify death benefits upon a party's motion. "The law places a duty upon the Commission to either approve or disapprove any settlement attempted to be made. This duty cannot be avoided." McBride v. Leggett & Platt, 998 S.W.2d 198, 201 (Mo.App. S.D. 1999), quoting Myers v. Cap Sheaf Bread Co., 192 S.W.2d 503, 503 (Mo. banc 1945).

Opinion by: Clifford H. Ahrens, Presiding Judge Roy L. Richter, J., and Gary
M. Gaertner, Jr., J., concur.

Attorney for Appellant: Mary Anne Lindsey

Attorney for Respondent: Christina Jeanette Nielsen

<p>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.</p>
