

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

MICHAEL HUTSON,)	No. ED97321
)	
Claimant/Appellant,)	Appeal from the Labor and
)	Industrial Relations Commission
vs.)	
)	
TREASURER OF MISSOURI AS)	
CUSTODIAN OF SECOND INJURY)	
FUND,)	
)	
Respondent/Respondent.)	Filed: April 17, 2012

Michael Hutson (Claimant) appeals a decision by the Labor and Industrial Relations Commission (Commission) denying Claimant compensation from the Second Injury Fund (SIF) for permanent partial disability benefits. Claimant argues the Commission wrongly failed to find that a stipulation by the parties constituted evidence of the synergistic combination of his preexisting and current disabilities. The SIF agrees this case should be remanded for a finding regarding the percentage of permanent partial disability for any preexisting disability.

REVERSED AND REMANDED.

Division Three Holds: The parties stipulated synergistic combination was an uncontested fact in light of 8 CSR 50.2010(14). The Commission was without power to require Claimant to show independent evidence of synergistic combination of his disabilities. Because the Commission did not render a finding as to the degree of Claimant's preexisting shoulder disability, we remand to the Commission to make such a finding in order to determine the liability of the SIF in light of the parties' stipulation.

Opinion by: Sherri B. Sullivan, J. Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concur.

Attorney for Appellant: Evan J. Beatty
Attorneys for Respondent: Rodney J. Campbell

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.
