

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BONITA MILLER,

Appellant,

v.

U.S. AIRWAYS GROUP, INC.,

Respondent.

DOCKET NUMBER WD70840

Date: May 11, 2010

Appeal from:

LABOR AND INDUSTRIAL RELATIONS COMMISSION

Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr. and
Alok Ahuja, Judges

Attorneys:

Kristi L. Pittman, Esq., Liberty, MO, for appellant.

Eric T. Lanham, Esq., and Douglas M. Greenwald, Esq., Kansas City, KS, for
respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS -- WESTERN DISTRICT

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Appellant,

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U.S. AIRWAYS GROUP, INC.,

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WD70840

Labor and Industrial Relations Commission

Before Division One Judges: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr. and Alok Ahuja, Judges

Bonita Miller appeals from a final award denying her 2007 workers' compensation claim for repetitive trauma injuries from carpal tunnel syndrome. She contends the Labor and Industrial Relations Commission erred in determining that the repetitive trauma was not a "new and distinct injury."

AFFIRMED.

Division One holds: The Commission's decision is supported by substantial and competent evidence showing that Miller was diagnosed with carpal tunnel syndrome in 2002 and treated for related repetitive trauma in 2004. Miller also had a 2004 claim pending with the Commission for the same type of injuries alleged in the 2007 claim. In light of this evidence, the Commission did not err in determining that Miller's 2007 claim for repetitive trauma was not a new and distinct injury. The final award is affirmed.

Opinion by: Lisa White Hardwick, Judge

May 11, 2010

Concurring opinion by Judge James M. Smart, Jr.: The author writes separately to comment on the confusing aspects of the procedure for filing a claim of injury by occupational disease. In obiter dictum, Judge Smart also offers the view that the administrative law judge in this case erred in her determination that the claimant's claim for medical treatment was barred as a result of the 2005 amendments to section 287.063 RSMo.

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.