

**FINAL AWARD DENYING COMPENSATION**  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 00-173045

Employee: Roy Mussett  
Employer: Construction & Aggregate Products  
Insurer: Maryland Casualty Company

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated October 7, 2010, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Emily S. Fowler, issued October 7, 2010, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 18<sup>th</sup> day of January 2011.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

\_\_\_\_\_  
William F. Ringer, Chairman

\_\_\_\_\_  
Alice A. Bartlett, Member

\_\_\_\_\_  
John J. Hickey, Member

Attest:

\_\_\_\_\_  
Secretary

## AWARD

Employee: Roy Mussett

Injury No. 00-173045

Employer: Construction & Aggregate Products

Insurer: Maryland Casualty Company

Additional Party: N/A

Hearing Date: September 24, 2010

Checked by: ESF/lh

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No.
2. Was the injury or occupational disease compensable under Chapter 287? No.
3. Was there an accident or incident of occupational disease under the Law? No.
4. Date of accident or onset of occupational disease: Allegedly May 22, 2000.
5. State location where accident occurred or occupational disease was contracted: Unknown.
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? No.
7. Did employer receive proper notice? No.
8. Did accident or occupational disease arise out of and in the course of the employment? No.
9. Was Claim for Compensation filed within time required by Law? Yes.
10. Was employer insured by above insurer? Yes.
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Unknown.
12. Did accident or occupational disease cause death? No. Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: Unknown.
14. Nature and extent of any permanent disability: None.
15. Compensation paid to-date for temporary disability: Unknown.
16. Value necessary medical aid paid to date by employer/insurer? Unknown.
17. Value necessary medical aid not furnished by employer/insurer? None.

18. Employee's average weekly wages: Unknown.
19. Weekly compensation rate: Unknown.
20. Method wages computation: None.

**COMPENSATION PAYABLE**

21. Amount of compensation payable: None.
22. Second Injury Fund liability: None.
23. Future requirements awarded: None.

## **FINDINGS OF FACT and RULINGS OF LAW:**

Employee: Roy Mussett

Injury No. 00-173045

Employer: Construction & Aggregate Products

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Additional Party: N/A

Hearing Date: September 24, 2010

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### **FINDINGS OF FACT AND RULINGS OF LAW**

On September 24, 2010, the Employee and the Employer appeared for a final hearing. The Division had jurisdiction to hear this case pursuant to §287.110 RSMo. The Employer and Insurer appeared through Counsel Tom Walsh. The Employee appeared initially pro se but left prior to the conduction of the hearing. This Court finds that Employee is in default and finds for the Employer in this matter.

The parties appeared initially and participated in a pretrial settlement conference with Judge Siedlik. After a period of time of discussions between the parties and Judge Siedlik, offer was made from the Employer. The Employee refused such offer. The Employee then left the building prior to the commencement of the hearing. At hearing Tom Walsh presented a letter from the Court to Employee stating that due to the numerous continuances on this case that the hearing set for September 24, 2010 would be a final hearing and would be held and no more continuances would be allowed. Judge Mark Siedlik was put under oath and testified to the contents of the settlement discussions between the parties; that offers were made by the Employer to the Employee. The Employee refused the settlement amounts and then left Judge Siedlik's courtroom. Judge Siedlik stated that upon leaving the courtroom, Judge Siedlik reminded Employee that a hearing was set on his case for that morning. Employee made no comment but left the courthouse area and left the court building. Thereafter the hearing was commenced and the above-evidence taken. Mr. Walsh then requested on behalf of the Employer and Insurer that a default judgment be given. This Court therefore finds Employee failed to carry his burden of proof with regard to the requisite evidence and is in default and finds in favor of the Employer and Insurer. Wherefore, this Court finds for the Employer and Insurer and no benefits shall be awarded to the Employee herein.

Date: \_\_\_\_\_

Made by: \_\_\_\_\_

Emily S. Fowler  
*Administrative Law Judge*  
*Division of Workers' Compensation*

This award is dated, attested to and transmitted to the parties this \_\_\_\_ day of \_\_\_\_\_, 2010, by:

\_\_\_\_\_  
Naomi Pearson  
*Division of Workers' Compensation*