

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

Injury No.: 08-037338

Employee: Jeffrey Geitz  
Employer: L & M Steam Cleaning, LLC  
Insurer: Starnet Insurance Company  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having read the briefs, reviewed the evidence and considered the whole record, we find that the award of the administrative law judge denying compensation is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, we affirm the award and decision of the administrative law judge by this supplemental opinion.

We offer this supplemental opinion to explain in some detail our agreement with the conclusion of the administrative law judge that there is no medical causal relationship between the alleged lifting incident and employee's rectal condition.

The opinion of Dr. Mutch is significantly more persuasive and credible than the opinion of Dr. Poetz. Dr. Mutch is a board-certified colorectal surgeon who has treated hundreds of prolapsed hemorrhoids during his career. Dr. Mutch has a fuller appreciation of employee's extensive problematic hemorrhoid history and the manner in which that history predisposed employee to further hemorrhoid problems, such as the symptoms employee claims began with the lifting incident. Dr. Mutch is certain that even if the alleged lifting incident occurred as described by employee, the incident was not the prevailing factor in causing employee's prolapsed hemorrhoids or thrombosed hemorrhoids. We agree.

The August 23, 2011, award and decision of Administrative Law Judge Carl Strange is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 15<sup>th</sup> day of March 2012.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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James Avery, Member

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Curtis E. Chick, Jr., Member

Attest:

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Secretary

ISSUED BY DIVISION OF WORKERS' COMPENSATION

**AWARD**

Employee: Jeffrey Geitz

Injury No. 08-037338

Dependents: N/A

Employer: L & M Steam Cleaning, LLC.

Additional Party: Second Injury Fund

Insurer: Starnet Insurance Company

Hearing Date: July 19, 2011

Checked by: CS/rf

**SUMMARY OF FINDINGS**

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? Denied (see Findings).
4. Date of accident or onset of occupational disease? Alleged April 4, 2008.
5. State location where accident occurred or occupational disease contracted: St. Louis County, Missouri.
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes.
7. Did employer receive proper notice? See Findings.
8. Did accident or occupational disease arise out of and in the course of the employment? Denied (see Findings).
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 happened or occupational disease contracted: Employee alleged he was lifting a trashcan containing water and cleaning residue when he suffered injury to his rectal cavity.

12. Did accident or occupational disease cause death? N/A
13. Parts of body injured by accident or occupational disease: Alleged body as a whole.
14. Nature and extent of any permanent disability: See Findings.
15. Compensation paid to date for temporary total disability: \$0.00
16. Value necessary medical aid paid to date by employer-insurer: \$0.00
17. Value necessary medical aid not furnished by employer-insurer: Denied (see Findings).
18. Employee's average weekly wage: Not calculated.
19. Weekly compensation rate: \$175.00 for temporary total and permanent partial disability.
20. Method wages computation: By Agreement.
21. Amount of compensation payable: Denied (see Findings).
22. Second Injury Fund liability: Denied (see Findings).
23. Future requirements awarded: N/A

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

On July 19, 2011, the employee, Jeffrey Geitz, appeared in person and by his attorney, Victor Strauss, for a hearing for a final award. The employer-insurer was represented at the hearing by its attorney, Amanda Richert. The Second Injury Fund was represented at the hearing by their attorney, Assistant Attorney General Eileen Krispin. At the time of the hearing, the parties agreed on certain undisputed facts and identified the issues that were in dispute. These undisputed facts and issues, together with the findings of fact and rulings of law, are set forth below as follows.

### **UNDISPUTED FACTS:**

1. On or about April 4, 2008, L & M Steam Cleaning, LLC was operating under and subject to the provisions of the Missouri Workers' Compensation Act and its liability was insured by Sarnet Insurance Company.
2. On or about April 4, 2008, the employee was an employee of L & M Steam Cleaning, LLC and was working under and subject to the provisions of the Missouri Workers' Compensation Act.
3. The employee's claim was filed within the time allowed by law.
4. The employee's rate for temporary total disability and permanent partial disability is \$175.00.
5. The employer has furnished no medical aid to employee.
6. The employer has paid no temporary total disability benefits to employee.
7. If the primary injury meets threshold for Second Injury Fund purposes, the parties then agree that employee had a pre-existing permanent partial disability to his right shoulder of 21.5% and a pre-existing permanent partial disability to his left shoulder of 20%. Further, the parties agree that a 10% loading factor is appropriate for Second Injury Fund purposes.

### **ISSUES:**

1. Accident.
2. Notice.
3. Medical Causation.
4. Previously Incurred Medical Aid.
5. Additional Temporary Total Disability.
6. Nature and Extent of Disability.
7. Liability of the Fund.

### **EXHIBITS:**

The following exhibits were offered and admitted into evidence:

Employee's Exhibits

- A. Deposition of Dr. Poetz and exhibits;
- B. Employee's costs for deposition of Dr. Poetz;
- C. Employee's costs for IME with Dr. Poetz;
- D. Deposition of Employee;
- E. Medical bill from Des Peres Hospital;
- F. Medical bills; and
- G. Letter from Progressive Medical.

## Employer-Insurer's Exhibits

1. Medical records of St. Anthony's Medical Center;
2. Medical records of Colon & Rectal Surgery/ Dr. David Schuval;
3. Medical records of Des Peres Hospital;
4. Medical records of Surgical Specialists, Dr. Darryl Pitt;
5. Medical records of Dr. Sanjay Sharma; and
6. Deposition, Report and CV of Dr. Matthew Mutch.

The following Employer-Insurer's Exhibits were offered but not admitted into evidence:

7. Employer Business Record/Statement of Christian Kimmel

**FINDINGS OF FACT & RULINGS OF LAW:*****Issue 1. Accident.***

Jeffrey Geitz (hereinafter "Employee") in this case has alleged that he had an accident at work on April 4, 2008. On that day, Employee was working for L & M Steam Cleaning, LLC (hereinafter "Employer") cleaning the roof portion of the grease hood at the South County Kentucky Fried Chicken. According to Employee, he sprayed down the chute with the cleaning solution and filled the trashcan to the top rather than just half way up. When he went to dump the trashcan by himself around 5:00 a.m., Employee alleged that he caused injury to his rectum (Employee's Exhibit D, Deposition Page 23). Employee left the Kentucky Fried Chicken around 6:00 a.m. since the restaurant's employees came in at that time. At 10:13 a.m. on April 4, 2008, Employee went to St. Anthony's Medical Center's Emergency Room with rectal pain. According to the Emergency Room records, Employee's onset of symptoms was rectal pain for one month that increased at 6:30 a.m. and he saw hemorrhoids "hanging out" this morning. However, he also reported that he lifted a 50 pound trashcan last night and felt it all night. Employee was then referred directly to Dr. Schuval's office (Employer-Insurer's Exhibit 1). On August 4, 2008, Dr. Schuval's records indicate that Employee was "a 40 yo male who was lifting heavy boxes. Later he moved his bowels and felt his hemorrhoids pop out." As a result, Dr. Schuval applied Lidocaine with Marcaine as a field block which reduced the hemorrhoids (Employer-Insurer's Exhibit 2). On April 5, 2008, Employee went to Des Peres Hospital Emergency Room. According to Des Peres' records, Employee had been having rectal pain since

3 to 7 days ago and had been off and on since Christmas. Further, the records indicate that Employee was lifting a heavy bucket on Thursday (April 3, 2008) and then felt a need to have a bowel movement when his insides came out. On April 7, 2008, Employee underwent a complicated hemorrhoidectomy as well as anal proctoplasty for anal stenosis (Employer-Insurer's Exhibit 3). According to the testimony of Employer's Operations manager, Natalie Pott, Employee informed her that he had been in an automobile accident on April 3, 2008.

In addition to the records containing a long history of prior medical treatment for Employee's hemorrhoids, there are numerous inconsistencies in the records concerning Employee's alleged April 4, 2008 injury. As a result, I find that Employee failed to meet his burden of proof regarding accident of his alleged April 4, 2008 work related injury. Employee's claim against Employer is therefore denied. As a result of the denial of Employee's primary claim, Employee's Second Injury Fund claim is also denied. Assuming in this case that I would have found that a work related accident occurred on April 4, 2008, I would have also found that Employee failed to meet his burden of proof regarding medical causation due to the evidence and his pre-existing hemorrhoid condition. Given the denial of Employee's claim based on accident in accordance with my above findings, any remaining issues are moot and shall not be ruled upon.

Made by:

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Carl Strange  
*Administrative Law Judge*  
*Division of Workers' Compensation*