

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

Injury No.: 06-129200

Employee: Bill Lewry  
Employer: City of Kansas City  
Insurer: City of Kansas City

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 April 23, 2009. The award and decision of Administrative Law Judge Mark S. Siedlik, issued April 23, 2009, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 1<sup>st</sup> day of September 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

\_\_\_\_\_  
Secretary

## FINAL AWARD

Employee: Bill Lewry

Injury No. 06-129200

Employers: City of Kansas City

Insurers: City of Kansas City

Additional Party: N/A

Hearing Date: January 27, 2009

Checked by: MSS/cg

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: 10/27/06
5. State location where accident occurred or occupational disease was contracted: Kansas City, Jackson 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? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? N/A
11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
Exposure to toxic chemicals while disposing of hazardous waste.
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: Body as a whole
14. Nature and extent of any permanent disability: Permanent total disability beginning 12/9/07
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? \$5,430.29

17. Value necessary medical aid not furnished by employer/insurer? N/A
18. Employee's average weekly wages: \$1,380.46
19. Weekly compensation rate: \$718.87/\$376.55
20. Method wages computation: By agreement
21. Amount of compensation payable: Undetermined

Permanent Total Disability

Beginning December 9, 2007 and weekly PERMANENT TOTAL DISABILITY benefits of \$718.87 thereafter for life.

23. Future requirements awarded: Future medical treatment shall be provided as detailed in this Award.

Said payments to begin as of date of this award and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a twenty-five percent (25%) lien from all future payments of PTD in favor of Steven C. Effertz, Attorney, for reasonable and necessary attorney's fees pursuant to MO.REV.STAT. §287.260.1.

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

Employee: Bill Lewry

Injury No. 06-129200

Employers: City of Kansas City

Insurers: City of Kansas City

Additional Party: N/A

Hearing Date: January 27, 2009

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On January 27, 2009, the Employee and Employer appeared for a final hearing. The Division had jurisdiction to hear this case pursuant to §287.110. The Employee, Bill Lewry, (hereinafter "Lewry") appeared in person and with counsel, Steve Effertz. The Employer appeared through its attorney, Anthony Bush. The Second Injury Fund was not a party to this case. The primary issues the Division has been asked to determine in this case are whether Lewry's exposure to chemicals at work has caused injury, and whether Lewry is permanently and totally disabled.

For the reasons noted below, I find that Lewry sustained a series of accidents by reason of his exposure to toxic chemicals which resulted in injury to his body as a whole. I also find that Lewry is permanently and totally disabled, and that the beginning date of his permanent total disability is December 9, 2007, the last date that he worked for Employer. I further find that Employee is entitled to future medical treatment as necessary to cure and relieve him of the conditions caused by his work injury.

### **STIPULATIONS**

The parties stipulated that:

1. On October 27, 2006 ("the injury date"), the City of Kansas City ("Kansas City") was an employer operating subject to the Missouri Workers' Compensation Law, and was self insured;
2. Lewry was its employee working subject to the law in Kansas City, Jackson County, Missouri;
3. Lewry provided notice of his alleged injury and filed his workers' compensation claim within the time allowed by law; and,
4. Kansas City provided Lewry with medical care costing \$5,430.29.

At the hearing the parties jointly offered the following Exhibits:

- a) Deposition of Mary Lappin;
- b) Deposition of Tipu Sultan, M.D.;
- c) Deposition of Kay H. Kilburn, M.D.;
- d) Deposition of Michael J. Dreiling;

- e) Deposition of Allen Parmet, M.D.;
- f) Deposition of Irene Bettinger, M.D.;
- g) Deposition of William Lewry;
- h) Leadership Performance Appraisal;
- i) Report of Accident;
- j) Incident Investigation;
- k) Emergency Response Report;
- l) 2003 Chemical Exposure;
- m) 2004 Alleged Chemical Exposure;
- n) Medical Records.

### **ISSUES**

The parties asked the Division to determine the following issues in this case:

1. Did Lewry sustain a compensable accident, series of accidents, or occupational disease for which he is entitled to workers' compensation benefits?
2. Were the injuries claimed by Lewry caused by the conditions of his employment?
3. What is the nature and extent of Lewry's disability, or is Lewry permanently and totally disabled?
4. Should Lewry be entitled to future medical treatment?

### **FINDINGS**

Along with Lewry, the following individuals testified at the hearing on Lewry's behalf:

Elizabeth Fort;  
Rob Fort;  
Cory Jorgenson; and,  
Hazel Lewry.

The City of Kansas City called Dr. Allen Parmet and Mary Lappin as witnesses.

Based upon the above exhibits and testimony of the witnesses, I make the following findings:

Bill Lewry is 47 years old and was employed by the City of Kansas in the Household Hazardous Waste Department as a Division Manager. He last worked for the City on

December 9, 2007, and then took a medical leave of absence because of the problems that he developed from his work injury. Lewry grew up and attended school in Scotland. He received a degree from the Scottish Technical Education Counsel as an electronic engineer. Lewry came to the United States in 1988 and took course work at Kansas University where he studied environmental and safety issues. Lewry began work for the City of Kansas City in the Household Hazardous Waste Department in 1997, and the series of exposures to chemicals occurred in the years that followed.

Elizabeth Fort, an employee of Heritage Environmental Service, gave testimony concerning her knowledge of Lewry's exposure to toxic chemicals. Heritage contracts with the City of Kansas City to provide services for removal of hazardous wastes and to supplement the services provided by the Kansas City Household Hazardous Waste Unit. Ms. Fort was acquainted with Lewry and had worked side by side with Lewry on previous occasions. She explained that Lewry's job involved disposal of hazardous materials, and that in doing his job, Lewry would be exposed to toxic materials. As an employee of Heritage, Ms. Fort would on occasion be called in to perform the same type of work as Lewry, which included the removal and disposal of toxic materials.

Ms. Fort described a specific incident that occurred in 2006 where she and Lewry were working together at a disposal site in Sugar Creek, Missouri. Residents had been invited to bring their household hazardous waste materials to the site for disposal. At the Sugar Creek location Lewry handled some unmarked bottles of material that let off a gas and odor that caused Lewry to become sick. Ms. Fort was aware from this incident that Lewry had become exposed to toxic fumes and had experienced a reaction to that exposure. Ms. Fort testified that she had become ill as well from exposure to the toxic fumes. Ms. Fort believed the chemicals that she and Lewry had been exposed to were pesticides, because she was familiar with the smell.

Ms. Fort testified that she had known Lewry for many years before the incident in 2006 and knew him to be a very healthy individual. She had occasion to observe his change in appearance and state of health after 2006 and noted that he had developed a problem with hand tremors, fluctuations in his weight and the general appearance of poor health.

The Court heard testimony from Rob Fort, who worked in the Hazardous Household Waste Department under the supervision of Lewry. Fort had known Lewry since 1992. Fort described the functions of the Hazardous Household Waste Department to include closing down meth labs and taking in and disposing of hazardous and toxic materials. The Hazardous Household Waste Department is compensated by other municipalities and other departments, and earns money for the City of Kansas City.

Fort described Lewry as a working supervisor who would typically be involved in the collection and disposal of hazardous chemicals. Although some special equipment was provided by the City for protection from exposure to hazardous chemicals, the protective equipment was not utilized in many cases and respirators were not always used or required when taking in and collecting the disposable material.

Fort testified that Lewry had experienced multiple chemical exposures on the job. One such incident occurred on June 21, 2003 at the hazardous household waste site, 4704 Deramus in Kansas City, Missouri. Lewry was categorizing approximately 68/12 oz. bottles of unknown chemicals in the bay area of the Hazardous Waste Facility. The bottles that Lewry was working with began to emit gases. Fort, while working at a different location in the facility, smelled the chemicals and believed that the chemicals were toxic. Co-workers told Lewry to move the bottles of chemicals outside because of the noxious fumes. Lewry became ill from his exposure to the chemicals vapors and was seen at the North Kansas City Hospital Emergency Room following the incident. The North Kansas City Hospital records indicate that Lewry had experienced a toxic chemical exposure.

Fort testified about another incident involving Lewry and a chemical exposure that occurred after the 2003 occurrence. A customer had driven to the Hazardous Waste Facility and appeared to be impaired from fumes inside their vehicle. There was a child in the backseat of the vehicle, and Fort observed Lewry enter the vehicle to retrieve the child. Fort suggested that Lewry should have obtained a respirator before entering the vehicle, but believed that Lewry chose not to take the time to equip himself with the respirator for fear that the child in the vehicle was at risk. Lewry experienced a chemical exposure upon entering the vehicle and became ill. Fort observed that the customer had brought unknown chemicals to the site for disposal and that fumes were found in the vehicle, which ultimately led to Fort removing the rear carpeting from the vehicle where the chemicals had spilled.

Fort observed deterioration in Lewry's physical condition and health following the multiple chemical exposures that Lewry encountered on the job. Fort knew Lewry to be a very healthy, active individual, but noticed the development of tremors, fluctuation in weight and general deterioration of his health and physical condition. According to Fort, many of the chemicals that Lewry would have been exposed to at work, such as chlordane, mercaptous, and cyanide, are considered to be very dangerous chemicals and are known to cause physical injury.

The Court heard testimony from Cory Jorgensen with the Missouri Department of Natural Resources Hazardous Waste Department (MDNR) in Jefferson City, Missouri. MDNR worked with the Kansas City Hazardous Waste Department on occasion, and Jorgensen had come to know Lewry as an environmental manager in the Kansas City Hazardous Waste Department. Lewry contacted MDNR following the June 2003 incident and shipped the bottles of chemicals to MDNR for testing. An emergency response report was prepared concerning the "KC mystery bottles" forwarded by Lewry. MDNR was asked to do an analysis of the contents of the bottles to determine what types of chemicals the bottles contained. The "mystery bottles" were analyzed by Jorgensen and other MDNR personnel using full protective gear inside a vented fume hood. Jorgensen reported the contents of the bottles and identified the photographs taken of MDNR performing the screening and analysis of the bottles. Jorgensen testified that many toxic chemicals were found in the bottles, the most significant being cyanide, which Jorgensen noted to be extremely dangerous and potentially lethal. The bottles were also found to contain acids, acetones and organo-cyanide, which was widely used as a pesticide.

Jorgensen testified that cyanide can cause damage to the central nervous system and was considered extremely dangerous. Jorgensen did not believe that cyanide would necessarily be

detected from testing an individual following exposure and that a respirator would not be effective in preventing exposure. In Jorgason's opinion, if Lewry had been exposed to cyanide without respirator protection, the chemical exposure could have been lethal.

The Court heard testimony from Hazel Lewry, Bill Lewry's wife. Hazel had been married to Lewry since 2005, but had known him years before their marriage. Hazel observed the deterioration in her husband's physical condition and state of health following the multiple chemical exposures through his employment. Because her husband did not feel he was being adequately treated or evaluated for his medical problems by the City's doctors, Hazel looked for a doctor that was familiar with environmental illnesses. By researching medical doctors online that specialized in chemical exposure, Hazel learned of Dr. Sultan, a specialist in St. Louis, Missouri. Hazel accompanied her husband to his appointments with Dr. Sultan, who diagnosed "chemical sensitivity" and cerebral injury causing tremors and other multiple neurological symptoms.

Hazel described her husband's medical condition due to his injury. She observed that Lewry has problems with maintaining his balance, experiences tremors that prevent him from writing or performing tasks that involve fine motor skills and is chemically sensitive. Hazel explained that Lewry is extremely sensitive to odors, scented perfume, gasoline, cleaning solvents and other forms of everyday chemicals. Lewry has moved from Kansas City to live on a boat off the coast of Florida so that he will not encounter chemicals that cause an aggravation of his symptoms. According to Hazel, Lewry is extremely fatigued during the day and has problems with concentration and maintaining his attention span. Lewry has a constant right hand tremor. Hazel testified how debilitating her husband's injury is and the disruption it has caused in their life.

The Court heard testimony from Bill Lewry and considered his deposition, which was admitted into evidence. Lewry described in detail multiple chemical exposures that he experienced while working for the City. In addition to the 2003 incidents previously described, Lewry also told of an incident that occurred a year later in Raymore, Missouri at a household hazardous waste event. When Lewry opened up the back of a customer's truck that had been covered with a tarp, he was exposed to chlordane. At the time, he didn't consider the exposure significant, but recalled feeling dizzy and nauseated and ill following the exposure.

Lewry gave additional details concerning the incident that occurred in Sugar Creek when he was exposed to pesticide and became ill. Lewry was told that the chemicals mixed with the pesticide included chlordane, lindane, malathion, gas and oil. Following the Sugar Creek incident, in the fall of 2006, Lewry attended the North American Hazardous Materials Management (NAHMMA) conference in Minneapolis, Minnesota. Lewry and his department were being recognized by NAHMMA and received an award at the meeting. His trip to Minneapolis and attendance at the conference were work related. A natural gas leak occurred at his hotel and Lewry became sick following his exposure. Lewry described his condition following the natural gas exposure as "non-functional" and he was unable to drive back to Kansas City from Minneapolis after the event.

After the incident in Minneapolis, Lewry realized that even minor chemical exposures were causing disproportionate reactions. While at a gas station pouring a cup of coffee, Lewry encountered an individual who had gas on his shoes or pants and from the smell Lewry developed tremors in his hands and was unable to hold his coffee cup. Lewry also described an incident that occurred in January or February of 2007 after he had been moved to a new location at work where a solvent-type cleaner was being used at his workplace. As a result of that exposure, his tremors intensified to the point that he was no longer able to write his name legibly.

As his condition continued to deteriorate, Lewry sought treatment with Dr. Sultan in St. Louis. Lewry understood Dr. Sultan to be a specialist in environmental medicine. Lewry was instructed by Dr. Sultan to avoid exposure to chemicals. Dr. Sultan told Lewry that continued employment with the City could be fatal. Dr. Sultan referred Lewry to Dr. Kilburn, who specialized in neurology and toxic encephalopathy. Lewry traveled to California to see Dr. Kilburn in the summer of 2007 and underwent extensive testing. Dr. Kilburn diagnosed chemical encephalopathy due to cyanide, intolerance to many chemicals, tremor of hands and arms due to chemical exposure and balance disorder due to chemical exposure. Dr. Kilburn advised Lewry to live and work in a place where he could avoid all potential chemical exposures.

Lewry described his present complaints to include continuous tremor of the right arm, which virtually eliminates all ability to use his hands for fine motor work. The tremor moves from the right arm and hand to the left side and has increased in frequency since 2006. Lewry is unable to tolerate exposure to perfumes, deodorant, gasoline, or any type of chemical that the average person would be consider innocuous. He has difficulty with concentration, memory, balance and fatigue. He can only tolerate being in an area where there are odors or irritants for a short period of time. When Lewry goes to the store, he can only tolerate about 10 or 15 minutes before he must leave because of the smells that he experiences in the store. Fatigue is very debilitating for Lewry. As his day progresses, he finds that he must lie down and rest frequently due to fatigue. Lewry has problems with concentration, which has affected his ability to read and use a computer. Lewry avoids driving and relies upon his wife, Hazel, who drove the trip from Florida to Kansas City for his hearing. Lewry is receiving social security disability and long-term disability from the City. He has not been employed or attempted to find employment since his last day on the job at the City on December 9, 2007.

The Court considered the deposition testimony of Mike Dreiling, vocational expert, who performed a vocational assessment and authored a report dated July 9, 2008. Mr. Dreiling reviewed the medical reports of Dr. Bettinger, Dr. Sultan, and Dr. Kilburn and noted Lewry's medical issues and restrictions. From Mr. Dreiling's experience as a vocational expert, Lewry was not employable when taking into consideration the impact of his medical condition. Dreiling did not believe that it would be realistic to expect Lewry to be capable of performing any type of work. In Dreiling's opinion, Lewry was permanently and totally disabled. The Court agrees with the conclusions reached by Dreiling and finds that no employer would hire Lewry given his medical issues.

The Court considered the deposition testimony of Dr. Tipu Sultan, who authored a medical report concerning Lewry on March 26, 2008. Dr. Sultan is a specialist in environmental

health and allergy and is a member of the American Academy of Environmental Medicine. Lewry was first seen by Dr. Sultan on January 13, 2007. Dr. Sultan noted the history of multiple chemical exposures and recorded the symptoms described by Lewry, which included difficulty with memory, balance problems, decreased coordination, fatigue, tremors, and chemical sensitivity. In Dr. Sultan's expert opinion, Lewry's medical problems were caused by repeated chemical exposures at work, and specifically the acute exposure to cyanide that occurred in June, 2003, and the acute exposure to chlordane, malathion, paint thinner and gasoline in September, 2006, followed by the exposure to the natural gas leak that occurred in 2006. The combination of these exposures caused the severe tremors. In Dr. Sultan's opinion, Lewry would not be able to return to any type of employment.

Dr. Sultan has had extensive experience in evaluating and treating patients who have experienced chemical exposure and developed chemical sensitivity. Dr. Sultan believes that toxic exposure causing chemical sensitivity is a physical injury and not psychological.

Dr. Kaye Kilburn testified by deposition given on May 16, 2008 from his office in Pasadena, California. Lewry was referred by Dr. Sultan to Dr. Kilburn for a evaluation of his condition. Dr. Kilburn was a professor at the University of Southern California, Keck School of Medicine for 26 years and ran the environmental medicine program for the school. His credentials are quite extensive and include publication of 250 research papers and 3 books on the issues of chemical brain injury and the effects of chemicals on causing brain damage. The focus of Dr. Kilburn's medical practice is on environmental problems as they relate to medical issues and how toxic chemicals can cause brain injury or neurological problems. Dr. Kilburn saw Lewry on July 10, 2007 and performed a medical examination which included extensive neuropsychological testing. Dr. Kilburn determined that Lewry's exposure to chemicals, including cyanide, organo-chlorines and solvents, had caused chemical encephalopathy or brain injury. Dr. Kilburn also diagnosed chemical sensitivity, which he described as a recognized medical diagnosis. Dr. Kilburn described "chemical sensitivity" as a hyper responsiveness to chemicals that exceeds what you would consider normal to cause an effect. From Dr. Kilburn's experience, chemical sensitivity is usually caused by exposure to toxic chemicals, which is what he believed had occurred in Lewry's case.

Dr. Kilburn distinguished Lewry's situation from the typical "chemical sensitivity" case in that Lewry was also experiencing other neurological problems, including tremors. Dr. Kilburn believed that the tremor was also the result of exposure to toxic chemicals, as was Lewry's problems with balance. Dr. Kilburn believed that the particular chemicals that would cause the type of injury suffered by Lewry were cyanide, chlorine, solvents, organo-chlorides and chlordane in pesticides. Dr. Kilburn does not believe that the type of chemical brain damage he found in Lewry would necessarily appear in anatomic testing such as MRI or CAT scan. Nevertheless, he believes the neuropsychological testing he performed verifies the brain injury caused by Lewry's exposure to toxic chemicals.

As with Dr. Sultan, Dr. Kilburn recommended that Lewry avoid coming into contact with chemicals and that he should live in a place free of all adverse influences and exposures to chemicals. Dr. Kilburn also suggested two therapies to help Lewry with his condition: intranasal

glutathione and intranasal luminal. Dr. Kilburn suggested follow up with Dr. Sultan for ongoing treatment.

The Court also heard testimony at trial from Dr. Allen Parmet and reviewed his deposition. Dr. Parmet performed an independent medical evaluation of Lewry on January 11, 2007 for the City. His report included a history of Lewry's exposures to chemicals at work and the problems for Lewry that followed. Dr. Parmet observed and noted Lewry's tremors and abnormal gait, as well as his instability in performing balance tests such as retrograde tandem walking. Dr. Parmet's initial assessment was "toxic tremor v. secondary dystonia, which was suspected to be due to toxic environmental insult". A neurological evaluation was recommended to rule out other possible causes of Lewry's tremors, and Lewry was then referred to Dr. Bettinger, neurologist.

Dr. Parmet opined that Lewry's claim of increased sensitivity to odors was a psychological problem. He felt that "multiple chemical sensitivity" was not an organic disease and was generally recognized as a psychiatric illness, which would be better treated by psychiatrists or psychologists. However, in the case of Mr. Lewry, he noted that there was no history that would suggest predisposition to a psychological problem and that Lewry had never been treated for any type of mental illness or depression. Dr. Parmet did not believe Lewry was malingering. Dr. Parmet acknowledged that toxic chemical exposure could cause brain injury; and the type of brain injury that could be caused by chemicals would not necessarily appear on an MRI.

Lewry was referred to Dr. Bettinger, a neurologist, for an assessment of his tremors. Dr. Bettinger authored a report dated February 23, 2007, which included her opinion that Lewry's tremors were functional, or psychological in origin. Dr. Bettinger concluded that Lewry was a malingerer and that he had not experienced a toxic chemical injury to cause his numerous symptoms.

I find Dr. Parmet's opinion that Lewry does not have chemical sensitivity is not credible. To begin with, I note that Dr. Parmet approached his independent medical evaluation in Lewry's case with the preconceived view that multiple chemical sensitivity does not exist as a medical condition. According to Dr. Parmet, chemical sensitivity is not considered a verifiable physical illness. However, Dr. Parmet acknowledges that he has never researched the issue of whether chemical sensitivity is an organic problem or only psychological. I do find the opinions of Dr. Sultan and Dr. Kilburn credible on the issue of whether Lewry's exposure to toxic chemicals has caused him to be chemically sensitive. In particular, I find that Dr. Kilburn, who has researched issues of chemical injury to the brain, has a more authoritative opinion on this issue than either Dr. Parmet or Dr. Bettinger.

I also find that Dr. Bettinger's opinion regarding causation is not credible because Dr. Bettinger does not have the background or experience regarding toxic chemical exposure to provide an expert opinion in this case. Dr. Bettinger admitted that she was unfamiliar with the term "multiple chemical sensitivity". In fact, until her deposition when she was presented with medical literature published by the EPA, she had never seen a discussion of multiple chemical sensitivity syndrome. Dr. Bettinger also acknowledged that she had never treated anyone who

had claimed multiple chemical sensitivity or diagnosed the condition. In assessing Lewry's tremors, Dr. Bettinger determined that since she was unable to verify an organic cause by MRI or otherwise, the tremors must be "functional" or psychological. From my observation of Lewry, the testimony of other witnesses and review of all of the medical records, reports, and testimony of other doctors, I find that Dr. Bettinger's opinion that Lewry was malingering is not supported by the evidence in this case.

Since I accept the opinions of Dr. Sultan and Dr. Kilburn on the issue of causation, and do not accept the opinion of Dr. Parmet regarding Lewry's chemical sensitivity or the opinion of Dr. Bettinger that Lewry is malingering, I must find that the medical evidence in this case establishes that Lewry's chemical sensitivity and neurological problems were work related. I find that his injury and resultant condition were caused by a series of multiple chemical exposures encountered in the course of his employment with the City.

The City offered the testimony of Mary Lappin and her deposition was admitted into evidence. Ms. Lappin is the assistant director for waste water for the Water Services Department, which oversees the Household Hazardous Waste Division. Ms. Lappin was Lewry's supervisor up until the time Lewry left the City in December, 2007. Ms. Lappin testified that Lewry was a good employee and received favorable performance appraisals for his work. Ms. Lappin acknowledged that the City was aware of Lewry's multiple chemical exposures and attempted to accommodate his chemical sensitivity by moving Lewry to a remote location away from other workers. However, Lewry was unable to continue with the job due to his various medical issues.

In reaching my decision in this case, I have reviewed all of the exhibits offered by the parties and the extensive medical records. Lewry's medical records give details of the assessment and treatment he received following his multiple toxic chemical exposures. I find that the medical records support the conclusion that I have reached in this case.

### **RULINGS**

Based upon the findings I have detailed above, I conclude that Lewry sustained a series of toxic chemical exposures at work which caused him neurological injury and chemical sensitivity. I find that Lewry is permanently and totally disabled effective December 9, 2007. Therefore, the Employer is ordered to pay accrued permanent total disability benefits from December 9, 2007 per week thereafter for Lewry's life.

The total award due Lewry for accrued permanent total disability and all future payments of permanent total disability shall be subject to a lien in favor of Steve Effertz, his attorney, equal to 25% of all amounts awarded. I find his fee request to be fair and reasonable and order a lien attached to the amounts awarded until paid in full.

Finally, I find that Lewry is in need of ongoing medical care. I direct that the Employer provide medical treatment from a doctor who specializes in treatment of patients with toxic chemical injury and that the costs of medical visits and prescription medications be paid by the Employer. The court notes that Lewry has received treatment from Dr. Sultan in St. Louis, and

Employer may authorize Dr. Sultan for continued treatment. However, the Court recognizes that Lewry is now living in Florida and that it may be more practical for Lewry to treat with a doctor closer to where he now lives. Since the Court finds that neither Dr. Parmet or Dr. Bettinger are appropriate to provide opinions in this case, the Court directs that neither of these doctors be authorized by the City to treat Lewry.

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

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

Mark S. Siedlik  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

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