

TEMPORARY OR PARTIAL AWARD  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 06-119130

Employee: Greg Rufer  
Employer: Monett Metals, Inc.  
Insurer: Wausau Insurance Companies  
Date of Accident: August 12, 2006  
Place and County of Accident: Monett, Missouri

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, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms and adopts the award and decision of the administrative law judge dated August 6, 2008.

This award is only temporary or partial, is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of section 287.510 RSMo.

The award and decision of Associate Administrative Law Judge Karen Fisher, issued August 6, 2008, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 31st day of October 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

## TEMPORARY OR PARTIAL AWARD

Employee: Greg Rufer

Injury No. 06-119130

Before the  
**DIVISION OF WORKERS'  
COMPENSATION**

Department of Labor and Industrial Relations of Missouri  
Jefferson City, Missouri

Dependents: N/A

Employer: Monett Metals, Inc.

Additional Party: N/A

Insurer: Wausau Insurance Companies

Hearing Date: March 28, 2008

Record Closed: April 27, 2008

Checked by:

### 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 occupational disease
4. Date of accident or onset of occupational disease: AUGUST 12, 2006
5. State location where accident occurred or occupational disease contracted: MONETT, MO
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? YES
11. Describe work employee was doing and how accident happened or occupational disease contracted:  
EMPLOYEE WAS EXPOSED TO SAND AND SILICON IN THE WORK PLACE AND DEVELOPED AUTOIMMUNE DISEASES  
LABELED AS WEGENER'S GRANULOMATOSIS
12. Did accident or occupational disease cause death? NO

13. Parts of body injured by accident or occupational disease: BODY AS A WHOLE
14. Compensation paid to-date for temporary disability: NONE
15. Value necessary medical aid paid to date by employer/insurer? NONE
16. Value necessary medical aid not furnished by employer/insurer? \$265,133.18
  
17. Employee's average weekly wages: \$769.23
18. Weekly compensation rate: \$513.08
19. Method wages computation: AGREED

#### **COMPENSATION PAYABLE**

20. Amount of compensation payable:

Unpaid medical expenses: \$265,133.18

85 weeks of temporary total disability (or temporary partial disability) TO DATE OF HEARING

Future Medical:

Total:

Each of said payments to begin IMMEDIATELY and be subject to modification and review as provided by law. This award is only temporary or partial, is subject to further order, and the proceedings are hereby continued and the case kept open until a final award can be made.

**IF THIS AWARD IS NOT COMPLIED WITH, THE AMOUNT AWARDED HEREIN MAY BE DOUBLED IN THE FINAL AWARD, IF SUCH FINAL AWARD IS IN ACCORDANCE WITH THIS TEMPORARY AWARD.**

The compensation awarded to the claimant shall be subject to a lien in the amount of 25 PERCENT of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

Attorney : William W. Francis, Jr.

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

Employee: Greg Rufer

Injury No. 06-119130

Before the  
**DIVISION OF WORKERS'  
COMPENSATION**

Department of Labor and Industrial Relations of Missouri  
Jefferson City, Missouri

Dependents: N/A

Employer: Monett Metals, Inc.

Additional Party: N/A

Insurer: Wausau Insurance Companies

Hearing Date: March 28, 2008

Record Closed: April 27, 2008

Checked by:

### **TEMPORARY AWARD ON HEARING**

A hardship hearing was held before the undersigned Administrative Law Judge on March 28, 2008. The employee appeared in person and by attorney, William W. Francis, Jr. The employer/insurer was represented by attorney Lynn Curtis.

### **PARTIES' STIPULATIONS**

1. Employer was at all times an employer as defined in §287.030, RSMo., operating subject to the Missouri workers' compensation law.
2. Employer's liability was fully insured by Wausau Insurance Companies.
3. Employee's claim was filed within the time prescribed by §287.430, RSMo.
4. Employee's compensation rate for temporary total disability is \$513.08
5. No medical benefits have been paid.
6. No temporary total disability benefits have been paid.

### **ISSUES**

The following issues were presented for determination:

1. Whether Employee sustained an injurious exposure while in the course and scope of his employment with Employer;

2. Whether Employer is obligated for payment of past medical treatment;
3. Whether Employer should provide current medical treatment;
4. Whether Employee is entitled to temporary total disability benefits for the period of August 12, 2006, through the date of hearing and ongoing until medical treatment has been completed; and
5. Whether employee's attorney is entitled to a requested fee of 25 percent.

### **EVIDENCE PRESENTED**

Employee testified at the hearing in support of his claim. Employee also presented deposition testimony of Norbert Belz, M.D. Employee offered for admission the following exhibits:

- Exhibit A. TTD calculations with wage statement
- Exhibit B. Medical bills(Ex. 1; from 03/25/08 Belz deposition)
- Exhibit C. MSDS information (Ex. 1; Rufer deposition)
  
- Exhibit D. Belz deposition–08/17/07 (with exhibits)
  
- Exhibit E. Belz deposition-03/25/08 (with exhibits)
  
- Exhibit F. Rufer deposition -05/10/07 (with exhibits)
  
- Exhibit G. Cox Family Medical Associates records (certified; 34 pages)
  
- Exhibit H. Cox Family Medical Associates records (not certified; 5 pages)
  
- Exhibit I. Cox Medical records (certified 08/09/07; 212 pages)
  
- Exhibit J. Cox Medical records (certified 05/21/07; 737 pages)
  
- Exhibit K. Cox Medical records (certified 02/23/07; 207 pages)
  
- Exhibit L. Cox Medical records (certified 09/26/06; 342 pages)
  
- Exhibit M. Cox Medical records (certified 07/10/06; 2 pages)
  
- Exhibit N. Cox Medical records (certified 06/12/06; 374 pages)
  
- Exhibit O. Family Medical records (certified; 3 pages)
  
- Exhibit P. Ferrell-Duncan records (certified 07/25/07; 69 pages)
  
- Exhibit Q. Ferrell-Duncan records (certified 05/01/07; 154 pages)
  
- Exhibit R. Ferrell-Duncan records (certified 03/08/07; 164 pages)
  
- Exhibit S. Ferrell-Duncan records (certified 09/08/06; 90 pages)
  
- Exhibit T. Ferrell-Duncan records(certified 06/16/06; 46 pages)
  
- Exhibit U. Ferrell-Duncan records (certified 05/23/06; 197 pages)
  
- Exhibit V. Mayo Clinic records (certified; 36 pages)
  
- Exhibit W. Dr. Troy Major records (certified; 6 pages)
  
- Exhibit X. Ozark Dialysis Services records (certified; 121 pages)

Exhibit Y. Report of Injury filed by Employer

Exhibit Z. Claim for Compensation

Exhibit AA. Answer to Claim for Compensation

The exhibits were received and admitted into evidence.

Employer presented the deposition testimony of Allen Parmet, M.D. and offered the following exhibits:

Exhibit 1 Parmet deposition – 03/03/08 (with exhibits)

The exhibits were received and admitted into evidence.

### INTRODUCTION

The primary issue in this case is that of medical causation. The primary focus of the award will be on that issue alone as it is the determining issue for those that remain. I will limit my discussion of the facts in this case to those that are strictly relevant to the issue of medical causation.

### SUMMARY OF FACTS

1. Employee worked in the foundry business for approximately thirty years performing duties involving sand molds and the pouring of molten metal.
2. During that time he was exposed to sand and silicone on a continual basis.
3. Employee was hired by Monet Metals, Inc. on February 11, 2003 to perform foundry work.
4. Within a few weeks of employment he noticed a dry, hacking cough.
5. In September of 2005 employee noticed his urine began to have a foamy appearance and began experiencing headaches.
6. Employee had no problems with his lungs or kidneys until October 2005.
7. In December 2005 he was diagnosed with **ANCA associated glomerulonephritis**, an autoimmune disease affecting the kidneys, with acute renal failure.
8. In May 2006 employee began to develop lung problems. Mr. Rufer was noted by Dr. Wolfe (pulmonologist) to have had "extensive exposure to silica as he worked in a foundry for many years."
9. In June 2006 employee underwent a lung biopsy and was also diagnosed with **granulomatous lung disease** which when combined with the glomerulonephritis is known as **Wegener's granulomatosis**, an autoimmune disease and a type of vasculitis.
10. Employee continued to work off and on until August 12, 2006, during which time he continued to be exposed to sand and silicone.

### MEDICAL EXPERTS

Dr. Allen Parmet, employer's expert: Dr. Parmet, is board certified in occupational medicine and performs IME's for workers' compensation. He performs approximately 40 percent for employees and 60 percent for employers. He became expert in clinical toxicology in the U.S. Air Force and has completed the course work toward a Ph.D. in toxicology at the University of Kansas. He has conducted clinical research with toxic chemicals and has published numerous papers. His clinical practice includes evaluating and treating chemical exposure from lead, pesticides, and other workplace agents. He has published articles in the area of toxicology and was a member of the United States military as a physician in the area toxicology.

Dr. Norbet Belz, employee's expert: Dr. Belz is certified in preventative and occupational and environmental medicine. He noted that as a part of the board certification for occupational and environmental medicine over 50 percent of the questions were related to toxicology. Therefore, while he is not certified in toxicology, his certification and practice in the area of occupational and environmental medicine qualify him as an expert in this area.

### THE DOCTORS AGREE

1. That the employee was exposed to silica dust at Monett metals, Inc.
2. That the employee suffers from Pauci-immune glomerulonephritis (an autoimmune disease where antibodies attack the kidneys) and is in end-stage renal failure.
3. That the employee also suffers from vasculitis and granulomas in the lungs.
4. That this autoimmune disorder affecting the kidneys and lungs is known as Wegener's

granulomatosis.

5. That Wegener's granulomatosis is part of a group of vasculitis syndromes that all demonstrate an abnormal antibody called antineutrophilic cytoplasmic antibodies (ANCA) that create inflammation in small and medium sized blood vessels and can manifest as a vasculitis or inflammation of the upper and lower respiratory tract.

6. That the cause of Wegener's granulomatosis is connected to environmental and genetic factors.

7. That one of the environmental factors known to be connected to the onset of Wegener's granulomatosis is the exposure to silica and that there do exist medical studies that connect the development of Wegener's granulomatosis with exposure to silica.

8. While employee has a history of smoking and has been diagnosed with COPD these are unrelated to the Wegener's granulomatosis.

### **ALAN PARMET, M.D. TESTIMONY**

Alan Parmet, M.D., reviewed the medical records of Mr. Rufer and provided a report to Employer on November 20, 2007, but he did not examine Mr. Rufer or speak with him as claimant was unable to travel to Kansas City for that purpose. The only issue addressed by Dr. Parmet in his report was the causal connection between exposure to silica and the development of Wegener's granulomatosis. Employer also offered the testimony of Alan Parmet, M.D., through his deposition on March 3, 2008. Dr. Parmet's direct testimony revolved mainly around the contention that the medical studies which he obtained in one hour of research on the internet and the medical textbooks which he utilized from his personal library all indicate that the cause for Wegener's granulomatosis is unknown. He also found that there are no connections in any medical studies or in any generally accepted well established medical textbooks to connect the onset of Wegener's granulomatosis with silica exposure. Dr. Parmet further indicated that Dr. Belz misused the Bradford Hill criteria indicating that it is never to be used for the purpose of determining causation in an individual case. However, he provided no medical authority for this statement.

Interestingly, with regard to his own research articles, Dr. Parmet admitted to the following under cross-examination:

1. "Epidemiology of Wegener's granulomatosis: Lessons from descriptive studies and analyses of genetic and environmental risk determinants," Clinical & Experimental Rheumatology, 24 (2Suppl 41):S82-91, 2006, Mar-Apr.

Dr. Parmet's testimony: Agreed there are genetic determinants for Wegener's granulomatosis and there must be some environmental determinants because of the known geographic gradient, and he agreed with the statement from the article that there is a general consensus that Wegener's granulomatosis is a multifactorial disease resulting from the interaction of both genetic and environmental determinants (Parmet deposition at page 70, line 23, through page 71, line 14). Dr. Parmet further testified that silica exposure is a part of environmental exposure (Parmet deposition at page 73, lines 1-4).

2. "Epidemiology of systemic vasculitis," Current Rheumatology Reports, 7(4):270-5, 2005 Aug.

Dr. Parmet's testimony: This article suggests there is some sort of factor between Wegener's granulomatosis and silica exposure (Parmet deposition at page 76, lines 9-13).

3. "Silicon exposure and vasculitis," Current Opinion in Rheumatology, 10(1):12-7, 1998 Jan.

Dr. Parmet's testimony: It is a rational statement that "The ANCA-associated vasculitides are systemic autoimmune disease in which the interplay of autoimmunity with environmental and genetic factors determines their clinical expression," and environmental factors could include silica exposure (Parmet deposition at page 86, lines 9-17).

4. "The role of metals in autoimmune vasculitis: epidemiological and pathogenic study," The Science of the Total Environment, 270 (2001) 179-190.

Dr. Parmet's testimony: There is silica exposure related to the occurrence of vasculitis with renal involvement, and Wegener's granulomatosis includes renal involvement (Parmet deposition at page 92, line 13, through page 93, line 13). There is a link in this literature between silica exposure and autoimmune disease (Parmet deposition at page 93, lines 14-22).

## DR. NORBERT BELZ TESTIMONY

Dr. Belz performed an examination and interview of the claimant on January 17, 2007. He explained his diagnosis as follows:

Basically, this individual has Wegener's disease, wherein as a result of the silica exposure, the silica is taken into the lungs, various types of white cells try to digest the silica. The white cell cannot. There are various debris products that are produced as a result of this attempt to attack the silica. The silica's kind of like asbestos. You can't dissolve it, and then various by-products are made and released, and the body then makes antibodies to these by-products. The antibodies then attack the kidneys and kill the kidneys.

Also other white cells in the lungs, in trying to attack and to wall off and to corral and to kill this silica invader, these white cells form granulomas in the lung, and this also results in masses within the lung, and this then results in scarring and fibrosis within the lung as well as within the kidney.

By his own testimony he then performed medical research, spending 25 to 30 hours. The results of his research are as follows:

1. "Epidemiology of Wegener's granulomatosis: Lessons from descriptive studies and analyses of genetic and environmental risk determinants," Clinical & Experimental Rheumatology, 24(2Suppl 41):S82-91, 2006, Mar-Apr.

Dr. Belz' testimony: Individuals have susceptibilities, particularly white males, northern hemisphere, ages 50-60, and if someone with a susceptibility works in an environment with respirable silica, that individual will develop Wegener's faster than other individuals (first Belz deposition [08/17/07] at page 59, lines 16, through page 60, line 4).

2. "Epidemiology of systemic vasculitis," Current Rheumatology Reports, 7(4):270-5, 2005 Aug.

Dr. Belz' testimony: Genetic and environmental factors, including infection, drugs, and silica are all important in the etiology for systemic vasculitis (first Belz deposition [08/17/07] at page 61, lines 17-22).

3. "Wegener's disease and exposure to silica. Study of the physiopathological mechanisms," Presse Medicale, 33 (19 pt 1):1349-51, 2004 Nov 6.

Dr. Belz testimony: Silica particles may trigger immunopathological mechanisms because the silica is ingested by certain white cells which then create certain by-products or are destroyed, and the by-products or destroyed cells provoke an immune response consisting of antibodies that then attack the kidneys (first Belz deposition [08/17/07] at page 62, line 14, through page 53, line 5).

4. "Silicon exposure and vasculitis," Current Opinion in Rheumatology, 10(1):12-7, 1998 Jan.

Dr. Belz' testimony: When someone is susceptible to vasculitis and they are put in a dusty silica environment, they will get the disease (first Belz deposition [08/17/07] at page 68, line 23, through page 69, line 5).

5. "Subclinical Signs of Kidney Dysfunction following Short Exposure to Silica in the Absence of Silicosis," Nephron 1995; 70:438-442.

Dr. Belz' testimony: It is not necessary to have full-blown silicosis to have kidney damage from silica exposure (first Belz deposition [08/17/07] at page 70, lines 17-19).

6. "End-stage Renal Disease Among Silica-Exposed Gold Miners: A New Method for Assessing Incidence Among Epidemiologic Cohorts," JAMA, Volume 277(15), April 16, 1997, 1219-1223.

Dr. Belz' testimony: This article establishes a dose-response relationship (as the dose goes up, the incidence of disease goes up) and shows that the group studied developed glomerulonephritis as a result of exposure to silica (first Belz deposition [08/17/07] at page 71, line 25, through page 72, line 9).

As part of his analysis to determine causation in this case he then applied criteria from a set of criteria

presented by Sir Austin Bradford Hill for the purpose of determining cause and effect relationships in epidemiology (the study of disease in populations). However, these criteria are widely used in the medical field as a method of determining cause and effect in specific cases. Dr. Belz' application of these criteria in forming an opinion as to causation is as follows:

To summarize then, the strength of the association and the consistency of the associations are assured referencing silica exposure and the outcome of vasculitis affecting the pulmonary system as well as the renal system. Silica exposure is associated with glomerulonephritis as well as the immune mediated lung disease. Silica exposure is associated with Wegener's granulomatosis . To that end, I have included five case control studies and one retrospective cohort study demonstrating this association.

I have also included references discussing biologic plausibility exploring the mechanisms by which silica acts on a susceptible individual to induce and indeed promote vasculitis as well as inflammatory and indeed immune responses. Silica is known to produce such responses in other disease states as well.

The dose response relationship is qualitatively established through the history provided. As you know, I requested industrial hygiene data from the company. You informed me that the company had refused to provide that data. Regardless, dose response relationship is established referencing job description and detailed description of the functions performed by Mr. Rufer over time. See IME report of 1/17/07. I might add, the breathing zone exposures to Mr. Rufer were quite substantial.

Temporal correctness is assured. That is, the outcome of lung and renal disease followed the silica exposure. Specificity is likewise met. Silica is known to produce the exact responses found in the case of Mr. Rufer. Literature references to all are provided.

Employee offered the rebuttal testimony of Norbert Belz, M.D., through his deposition on March 25, 2008. After reviewing Dr. Parmet's report, Dr. Parmet's deposition transcript, and all references cited by Dr. Parmet, Dr. Belz testified that his opinion remained the same, i.e., the lung and kidney disorders (known as Wegener's) of Greg Rufer were caused or contributed to be caused by Mr. Rufer's exposure to sand and silica at Monett Metals.

Dr. Belz again testified that the prevailing factor for the Wegener's diagnosis and its sequela was the exposure to sand and silica at Monett metals.

Finally, Dr. Belz testified that Mr. Rufer was permanently and totally disabled since August 12, 2006, and that due to his fatigue and need to recline during any work shift at least twice for thirty minutes as well as the fact that he is now on dialysis it is not expected that an employer would hire him. He further indicated Mr. Rufer has a need for "very, very extensive future medical" treatment to relieve him of the symptoms of the disease as it cannot be cured. This treatment includes dialysis, medications, possible kidney transplant, and pulmonary status treatment. Employer offered no evidence to dispute these issues.

Contrary to Dr. Parmet's testimony, Dr. Belz testified that he located seven generally accepted, well-established textbooks that discuss the causal association between silica and Wegener's and vasculitis in general.

1. Oxford Textbook of Medicine.

Dr. Belz' testimony: Pages 8 and 9 say that "Case-control studies indicate that silica predisposes to ANCA-associated crescentic nephritis and Wegener's granulomatosis," which means that a person who has the genetic potential and is exposed to silica will develop Wegener's granulomatosis.

2. Hunter's Disease of Occupations.

Dr. Belz' testimony: Page 853 of the text says, "Case-control studies have recently suggested an association between exposure to silica and the development of Wegener's granulomatosis, a form of systemic vasculitis" (second Belz deposition [03/25/08] at page 25, lines 19-23). Page 854 states, "Furthermore, similar change in renal function have recently been described in workers exposed to silica but without medical evidence of silicosis. Thus, epidemiologic data suggests that silica exposure is associated with an increased risk for renal disease."

3. Textbook of Clinical and Occupational and Environmental Medicine.

Dr. Belz' testimony: This text makes the statement that two case-control studies of patients with either rapidly progressive glomerulonephritis and antineutrophil consistent with Wegener's found an increased incidence of silica exposure in patients compared to controls.

4. Principles and Practices of Environmental Medicine.

Dr. Belz' testimony: This text discusses the effect of silica on the kidneys and causing glomerular nephropathy and shows the specificity of silica causing kidney disease.

5. Occupational, Industrial, and Environmental Toxicology.

Dr. Belz' testimony: Workers exposed to sand or people who consume silica-containing water have an increased incidence of end-stage renal disease (second Belz deposition [03/25/08] at page 33, lines 10-16). This study further describes that silica is associated with various autoimmune disease and antinuclear antibodies which goes to the plausibility of how this disease produces vasculitis both in the lungs and the kidneys.

6. Disease of the Kidney and Urinary Tract.

Dr. Belz' testimony: This reference reports that silica-containing compounds may increase the risk of developing a number of different autoimmune diseases, of which Wegener's is one kind of autoimmune disease. This text also describes case-control studies showing an association between ANCA-associated disease and exposure to silica dust or other silica containing compounds with odds ratios ranging from 4.4 to 14.0, and Wegener's is an ANCA-associated disease. Dr. Belz noted that Dr. Parmet had testified that if odds ratios were 2 or above, then there would be a strong causal association, and therefore, by Dr. Parmet's standard, this study would indicate there is a strong causal association.

7. Current Occupational and Environmental Medicine.

Dr. Belz' testimony: This study indicates inhalation of silica may trigger an autoimmune response in sensitive individuals.

Dr. Belz also testified that he researched the websites referred to by Dr. Parmet in his report and found that they were not authoritative sources and did not contain scientific studies. Two of the websites included disclaimers saying the site was informational only. One website, the Vasculitis Foundation, is a support group concerned with advocacy and fundraising and does not include research studies or literature sources.

Dr. Belz further testified that he reviewed 16 literature sources and Dr. Parmet reviewed eight literature sources. Dr. Parmet's eight sources were abstracts, which are very brief discussions of findings which do not include the totality of the data or how the data was derived. Dr. Belz further noted that the articles referred to in the abstracts were not available online and had to be obtained through the library even though Dr. Parmet testified he had read the full articles online, but did not have copies of those articles available. Dr. Parmet never quoted anything in his report that was present in the total article but only that which was present in the abstract.

Dr. Belz testified that the medical bills of Mr. Rufer were reasonable and necessary and the treatment Mr. Rufer received and continues to receive is reasonable and necessary.

## FINDINGS

1. Whether claimant suffered an injurious exposure while in the course and scope of his employment. Section 287.063(1) states that an employee shall be conclusively deemed to have been exposed to the hazards of an occupational disease when for any length of time, however short, he is employed in an occupation or process in which the hazard of the disease exists. Both Dr. Belz and Dr. Parmet agree that Mr. Rufer was exposed to silica during his job at Monett Metals. Additionally, Dr. Wolfe reported Mr. Rufer has had extensive exposure to silica as he worked in a foundry for many years. Employee testified that there was obvious sand dust in the air on an almost continual basis while he was on the job. Therefore, I find that employee was exposed to silica dust at the work place. Section 287.067(1) defines "occupational disease" as an identifiable disease arising with or without human fault out of

and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence. Dr. Belz clearly finds the connection between employee's exposure to silica and sand in the workplace and he development of his Wegener's granulomatosis.

Both Dr. Belz and Dr. Parmet agreed that Wegener's granulomatosis is an autoimmune disease known as vasculitis which can affect the lungs and kidneys. There also exists testimony from Dr. Belz and Dr. Parmet that there are medical studies indicating the connection between silica exposure and Wegener's granulomatosis. Dr. Belz' research included both scientific articles and textbook citations showing a causal relationship between exposure to silicone and Wegener's granulomatosis, particularly if an individual has a susceptibility to this autoimmune disease.

After a convincing cross-examination by claimant's attorney and the rebuttal testimony of Dr. Norbert Belz it is apparent that Dr. Parmet's limited medical research from websites and abstracts was the only basis for his opinion that there are no medical studies or texts indicating a connection between silica exposure and Wegener's granulomatosis. Also, his interpretation of that research is questionable when considering those articles as a whole. Dr. Belz utilized not only extensive medical research, but also the personal exam and interview of the claimant and the process of an application of causation criteria in order to come to a medical conclusion. He concluded that exposure to silica can cause Wegener's granulomatosis and, therefore, Mr. Rufer's exposure to silica at Monett Metals caused him to develop Wegener's granulomatosis. Dr. Parmet does not provide adequate authoritative basis on which to dispute the findings of Dr. Belz. I find the opinion of Dr. Belz to be most credible and find that it is more likely to be true than not that exposure to silica dust caused Mr. Rufer's condition of Wegener's granulomatosis.

Section 287.067(2) states that an injury by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive degeneration of the body caused by aging or by the normal activities of day-to-day living shall not be compensable. Dr. Belz clearly testified that the exposure at Monett Metals was the prevailing factor in causing both the resulting medical condition and the disability. He testified in fact that the disease was a direct result of that specific occupational exposure.

2. Whether Employer is obligated for payment of past medical treatment.

I find Employer is obligated to pay for past medical expenses submitted by Employee in the amount of \$265,133.18. I find these bills to be reasonable and necessary to provide claimant relief from the work-related disease from which he suffers. I order employer to pay employee \$265,133.18 for past medical expenses.

3. Whether Employer should provide current medical treatment.

Due to the need for such extensive ongoing treatment I find that Employee has not reached maximum medical improvement and continues to be in need of treatment including, but not limited to, medications, dialysis, possible kidney transplantation, and pulmonary treatment. Employer is ordered to provide such medical treatment as recommended by Dr. Norbert Belz.

4. Whether Employee is entitled to temporary total disability benefits for the period of August 12, 2006, through the date of hearing and ongoing until medical treatment has been completed.

I find that Employee is entitled to temporary total disability from August 12, 2006, up to the present, and until he reaches maximum medical improvement. That figure equals \$43,611.80, as of March 28, 2008, and continues until the employee reaches maximum medical improvement.

Attorney's fees are awarded to William W. Francis, Jr. of 25 percent of all amounts awarded herein. This shall constitute a lien up this award.

Dated: August 6, 2008

Made by: /s/ Karen Fisher

Karen Fisher

*Associate Administrative Law Judge  
Division of Workers' Compensation*

A true copy:     Attest:

\_\_\_\_/s/ Jeffrey W. Buker\_\_\_\_\_

Jeffrey W. Buker

*Director*

Division of Workers' Compensation