

**WORKER'S COMPENSATION EXAM**  
**PROFESSOR FRANK WHITELEY**  
**FALL, 2007**

1. Discuss the difference between accident, degenerative condition and occupational disease. (3 pts.)
2. An unwitnessed accident can be proven if (2 pts.)
3. Define eggshell employee. (2 pts.)
4. Define presumption of causation. (2 pts.)
5. Joey Porter is injured in the course and scope of his employment and the employer voluntarily pays medical and indemnity expenses. As a result of his work related injury, Joey undergoes several unsuccessful surgeries. During the course of his treatment, he develops major depression due to pain. What is Joey's burden of proof for finding his mental disability compensable? (2 pts.)
6. Sally works at a bank. Over the course of several years, she is subjected to disciplinary actions by her employer. Every three months she has a performance review. Her employment ends when the bank fires her. She developed major depression following the firing. Is she entitled to worker's compensation benefits? Please discuss why or why not. (2 pts.)
7. Joe has a massive heart attack at work. Joe is a construction worker who routinely works 12 to 14 hour days. It is ordinary that his work be performed outside and sometimes the temperatures approach 100°. Joe is 55 years old, does not exercise, and smokes two packs of cigarettes per day. Joe has high cholesterol and his father died at a young age of heart disease. Joe also had symptoms of angina pain for one year prior to his heart attack. Joe's heart attack and medical treatment revealed that his coronary artery was completely blocked and another had significant blockage. Does Joe have a cause of action for worker's compensation benefits? Please state why or why not. (4 pts.)
8. Based on current Louisiana law, a watchman who worked at a zoo claimed that he contracted "parrot's fever" (Psittacosis). Is he entitled to recover worker's compensation benefits for an occupational disease? Please state why or why not. (2 pts.)
9. Please state the prescriptive period for an occupational disease claim. Also list the three conditions which must be met to begin the tolling of prescription. (4 pts.)
10. Please describe the last causative employer rule. (4 pts.)
11. Please describe the last causative insurer rule. (2 pts.)
12. Please define arising out of employer. (2 pts.)

13. Please define course and scope of employment. (2 pts.)
14. Ms. Robinson went to work during an ice storm and found a note on the door to the office indicating that the office would be closed for the day. After she left the building, she slipped on a patch of ice and injured her back while crossing a public street to get to the parking lot where her car was parked. Please analyze whether Ms. Robertson has a worker's compensation claim. (4 pts.)
15. Accidents occurring during travel to and from work are generally not compensable. There are several exceptions. Please list three (3). (3 pts.)
16. Tommy and Larry are both employees of a moving company. After moving furniture up and down a flight of stairs all day, Tommy thought it would be funny to pour cold water down Larry's back as he went down the stairs ahead of Tommy. As a result, Larry slipped and fell and injured his low back. Is Larry's injury compensable? Please discuss why or why not. (2 pts.)
17. In the example above, instead of Larry being injured, when Tommy attempted to throw the cold water on Larry, Tommy tripped down the stairs and was injured. Is Tommy's injury compensable? Please discuss why or why not. (2 pts.)
18. The supervisor tells an employee to move boxes. The employee complains that it is someone else's job duty. The supervisor insists that he move the boxes. The employee again refuses. During the course of their argument over moving the boxes, the supervisor makes a disparaging comment about the employee's mother. A fight ensues. The supervisor severely injures the employee. Is the employee entitled to worker's compensation? If so, why or why not. (2 pts.)
19. When determining the average weekly wage, there are five classes of wages. Please describe three. (3 pts.)
20. Please describe the formula used to calculate a full time employee's average weekly wage. (2 pts.)
21. Under Louisiana worker's compensation, there are four categories of disability benefits. Please name and define three. (3 pts.)
22. Supplemental earnings benefits are payable for a maximum of \_\_\_\_\_ weeks. (2 pts.)
23. Joe is driving a Coca-Cola delivery truck. Robert is working as a traveling salesman for ABC Copying and is using an ABC Copying vehicle in the course and scope of his employment. While driving the Coca-Cola truck, Joe runs a red light and crashes into the ABC Copying car being driven by Robert. What are Robert's remedies against his employer? What are Robert's remedies against the Coca-Cola Company? (4 pts.)

24. Keith is working in a saw mill. Keith is acting extremely carelessly while running the saw. When he hears a door open, he turns and negligently puts his hand into the saw blade injuring his hand. Is Keith entitled to worker's compensation benefits? If so, why or why not. (2 pts.)
25. There is only one situation where an employee can sue his direct employer in Tort. Please describe. (2 pts.)
26. Exxon is the owner/operator of a chemical plant. They enter into a contract with Brown & Root Industrial Services to provide maintenance and repair. While performing maintenance and repair, Jimmy is injured. You are Jimmy's attorney. What rights does Jimmy have against Brown & Root Industrial Services? (2 pts.)

What rights or remedies may Jimmy have against Exxon? (4 pts.)

27. If an employer of a worker's compensation carrier is forced to pay worker's compensation benefits due to the fault of a third party, the employer/carrier can recover the worker's compensation benefits paid by what procedural mechanism? (2 pts.)
28. Please describe how a worker's compensation insurer can benefit if the injured worker successfully sues a third party and receives a large judgment. (2 pts.)
29. Please discuss the effect of employee or employer fault on reimbursement of past worker's compensation benefits. (2 pts.)
30. ABC Insurance Company did not timely start Joey's weekly compensation. Additionally, nine different health care providers did not receive timely payments of medical expenses. Eventually ABC Insurance Company makes all payments of owed indemnity benefits and medical benefits. What are the rights and remedies of the employee? (4 pts.)
31. Sally is injured on the job and immediately is treated by an orthopedic surgeon. After treating with the orthopedic surgeon, she undergoes surgery. The surgery is unsuccessful. Sally's orthopedic surgeon recommends that she be seen by a neurosurgeon. Is Sally required to obtain her employer's consent? (2 pts.)
32. If a dispute arises over the choice of physician, the employee has what remedy? (2 pts.)
33. Is an employer entitled to have the employee examined by a doctor of their choosing? If so, when? (2 pts.)
34. If an employee refuses to be examined by the employer's choice of physician, what is the employer's procedural remedy? (2 pts.)
35. Joey was injured on the job with ABC Company. Joey's choice of orthopedic surgeon is recommending a three level fusion. ABC Company's choice of orthopedic surgeon

states that surgery is not reasonable and necessary. Is there any procedure for resolving this type of dispute under the Louisiana Worker's Compensation Act? (2 pts.)

36. Joey was injured and was paid indemnity benefits until he returned to work. Joey also received medical treatment paid for by his employer. Four years after returning to work, Joey returned to the doctor to seek medical care. What do you need to know to determine if Joey is entitled to continued medical care? (2 pts.)
37. Tommy was injured on the first day of his job. He did not immediately report the injury. He signed up and received unemployment benefits for six months. He later filed a worker's compensation suit. What is the effect of Joey receiving unemployment benefits on his right to weekly indemnity benefits? (2 pts.)
38. If 100 weeks of temporary total disability has been paid, what is the maximum remaining exposure for supplemental earnings benefits? (2 pts.)
39. Tom was working as a greeter at Wal-Mart. At the time of his injury he was 61 years old. After receiving worker's compensation benefits for four years, Tom began to receive old age retirement benefits. Is Wal-Mart entitled to a credit against the payment of Social Security old age benefits? (2 pts.)
40. Please explain what is meant by Section 1208 fraud. What are the rights and remedies of the employer and employee? (2 pts.)