

WORKER'S COMPENSATION EXAM
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1. Discuss the difference between accident, degenerative condition and occupational disease.
2. An unwitnessed accident can be proven if:
3. Hillary is a maid at the Days Inn. At the end of her shift, she punches out. There are numerous ways to exit the building. She chooses to go to the front of the hotel where people checking and unloading luggage are protected from the rain by a covered driveway. Her sister arrives in a car to give Hillary a ride home. After Hillary gets into the car, a section of the overhang (covered drive) falls onto the car, injuring Hillary and her sister. Are Hillary's injuries covered by Worker's Compensation?
4. An employee left work premises after dark and headed to co-employee's vehicle which was parked in the lot across the street at the employer's request. The lot was up about fifteen steps because it had formerly been the foundation of an old high school. The steps had no handrails and many steps were broken and uneven. The employee falls on the steps leading to the parking lot. Will the injuries be held to be compensable and, if so, under what doctrine?
5. A worker volunteered to drive his boss home after work. He made a slight detour on the way to his boss's house to make a night deposit. After delivering the boss, he had an automobile accident on the way to the employee's home. Will the injuries sustained by the employee be compensable?
6. After a meeting with his boss, an employee was fired and told to gather his personal affects and leave the premises. The employee did so, but after gathering his box of personal affects, tripped down the stairs and was injured. Is he in the course and scope of his employment?
7. Matt is a longtime employee of a construction company. He is fifty-six years old and reports the onset of low back pain at work. He states that he cannot recall an activity which caused the onset of his pain. He is diagnosed with arthritis and degenerative disc disease. Does he a valid worker's compensation claim?

8. An employee is fired for insubordination. Two days later, he files a worker's compensation claim. He claims that one week prior to his firing, he was injured in an unwitnessed accident while lifting boxes in a warehouse. The employer investigates the claim by taking recorded statements of co-workers who worked with the plaintiff prior to his firing. All witnesses state that they observed no injury or inability perform services. Additionally, the initial medical report states that the employee was injured while lifting boxes at his home. Can the employee carry his burden of proving an unwitnessed accident?
9. 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, Joe 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?
10. An employee is injured on the job. The employer accepts the claim as compensable. The employee's choice of physician states that he has a minor strain and should recover within six weeks. The employer sends the employee for a second medical opinion and the physician states that he has no disability and can return to work without restrictions. Six months go by, and the employee's choice of treating physician states that the employee has failed to improve with physical therapy and recommends an MRI. The employer refuses authorization for the MRI. What are the employee's rights and remedies? Has the employer violated a fundamental rule of worker's compensation?
11. Mary Ann's boss is extremely unreasonable. He routinely berates her for poor performance. Additionally, Mary Ann's boss makes degrading comments about her clothing and the way she wears her hair. Mary Ann's boss often calls Mary Ann at home to complain about deficiencies in her work performance over which she has no control. After two years of employment, Mary Ann refuses to return to work and goes to a psychiatrist. She is diagnosed with depression. Is Mary Ann's injury compensable under the Louisiana Worker's Compensation Act?
12. Michael has pre-existing diabetes and is obese. He has a family history of cardiac disease. While at work, he is told by his supervisor that a project he is working on is going so poorly that the company may close his department. Two days later, while in a corporate meeting, Michael has a massive heart attack and dies. Does he or his family have a valid worker's compensation claim?
13. Beth has worked for a bank for a number of years. She has had a very difficult time with her supervisor. Beth has been reprimanded several times. On September 1, 2008, her supervisor fires her for unsatisfactory work. Beth has a nervous breakdown two days later. Is her mental injury compensable under the Worker's Compensation Act and what is the burden of proving mental injury caused by mental stress?

14. Ben is an attorney. His law firm requires him to bill a high number of hours. While sitting at his desk typing, Ben has a massive heart attack and is unable to continue working. Is his heart attack compensable under the Worker's Compensation Act? Why or why not?
15. Ray worked as a sandblaster for twenty years at Avondale. In the year 2000, he retired. In 2010, he was diagnosed with silicosis. Has his claim for an occupational disease prescribed? Why or why not?
16. Dave is a lawyer and is making \$1,000.00 per week. He is injured during the course and scope of his employment. At the time of his accident, the maximum compensation rate is \$546.00 per week. During the time that Dave is temporarily totally disabled, what will be his rate of compensation?
17. Dave is out of work for 100 weeks, during which time he is paid temporary total disability. He then returns to work with a wage loss. What is the maximum number of weeks of supplemental earnings benefits he can recover?
18. 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?

Instruction: Questions 19 through 24 are based on the same fact pattern.

19. Shell Oil Company enters into a maintenance contract with KBR to perform work in their refinery. Shell also enters into a contract with Pure Water to filter and clarify the water used in the refining process. If Shell Oil Company wants to avoid worker's compensation liability with regard to the employees of KBR and Pure Water, how can they achieve this?
20. Assuming Shell Oil Company obtains tort immunity with regard to the employees of KBR and Pure Water, what remedies would a Shell employee have if he is negligently injured by a KBR employee?
21. What remedy would the injured Shell employee have against Shell Oil Company?
22. Skip.

23. If an employee of Shell Oil Company negligently injures an employee of KBR, what remedies does the KBR employee have against his direct employer?
24. What remedies does the employee of KBR have against Shell Oil Company if he is negligently injured by a Shell employee?

25. Barto is a shift manager at Burger King. Barto determined that \$36.00 was missing from the cash register. Barto had seen a co-employee, Fletcher, leaving the office at night before the money was noticed missing. Barto asked Fletcher to empty his pockets. Fletcher pulled out a knife and began stabbing and beating Barto.
 - a. If Barto sues Burger King in compensation, will he be successful?
 - b. Barto also sues Fletcher for intentional tort. Is Burger King vicariously liable for the actions of Fletcher? Why or why not?
26. There are four types of disability benefits under Louisiana Worker's Compensation law. Please name three and define each.
27. Victor was injured on the job in the course and scope of his employment while working as a heavy manual laborer. After having back surgery, he is released to light duty employment and the doctor states that he is at maximum medical improvement.
 - a. Is he entitled to any weekly indemnity benefits? If so, what kind?
 - b. What can the employer do to limit its liability for future weekly (indemnity) benefits?
28. Please state the choice of physician rule.
29. Once both the employee and employer have selected their choice of physician, is there an additional procedure to resolve medical disputes?
30. Keith is working in a sawmill. Keith is acting extremely carelessly while running the saw. When he hears the door open, he turns and negligently puts his hand into the saw blade, injuring his hand. Is Keith entitled to worker's compensation benefits? Why or why not?

31. If Tom submits ten claims for travel reimbursement, all of which the insurer refuses to pay, what is the maximum penalty he can receive under the Worker's Compensation Act?
32. Sara is involved in a car accident at work. The accident is Sara's fault. She injures her low back in the accident. While treating for her injuries, Sara continues to work for eighteen months following the accident. At that point, her injury develops to a point where she can no longer perform her employment. Has Sara's claim for indemnity benefits prescribed?
33. Derek is injured on the job. The employer voluntarily pays medical expenses and indemnity benefits. After some time, the employee discontinues his medical treatment. The last bill for medical expenses is paid on June 15, 2003. In April of 2009, while still receiving weekly compensation benefits, the employee incurs a new medical expense. Does the employee have a viable claim for this medical expense?
34. Tom is injured on the job. He chooses Dr. Lackey as his physician. Dr. Lackey performs surgery on his back. Dr. Lackey commits malpractice when he leaves a surgical instrument inside of Tom prior to sewing him up. Weeks later, Tom develops a serious infection due to the malpractice of Dr. Lackey.
 - a. Is the treatment of the infection compensable under the Louisiana Worker's Compensation Act?
 - b. Can Tom sue Dr. Lackey for malpractice?
 - c. If so, does Tom's employer have any legal remedy?
35. Two days prior to beginning his job with Pat O'Brien's, Micky received treatment with a chiropractor for low back and right leg pain. He told the chiropractor that his symptoms began several weeks before when he fell down a flight of stairs at home. Six weeks after beginning his employment with Pat O'Brien's, Micky alleges an injury to his low back resulting in right leg pain. Micky denies the previous symptoms, accident and treatment in his recorded statement, his interrogatories, his deposition and medical histories to four doctors. What defenses should be raised by Pat O'Brien's, and will they be successful?
36. Is it possible to have civil and criminal penalties against an employer, if the employer is found to have violated Section 1208?
37. Sammy is working in a shipyard. He is welding. Unbeknownst to Sam, a crane is moving a heavy load of material in his area. The crane is improperly loaded and the materials fall, killing Sam. Sam tests positive for cocaine. Does Sam have a worker's compensation claim against his employer? Why or why not?

38. Larry claims that he was injured in an unwitnessed accident. His employer denies his worker's compensation claim. While litigating the worker's compensation claim, Larry receives unemployment benefits for 26 weeks. His unemployment benefits were paid at \$75.00 per week. One year after leaving his employment, Larry is successful in proving a compensable worker's compensation accident. The judge awards him worker's compensation benefits at \$400 per week. How much worker's compensation does the employer owe for the 26 weeks that Larry received unemployment benefits?
39. Dennis has a compensable accident in the course and scope of his employment. For two years (104 weeks), he receives temporary total disability benefits. At the end of two years, he returns to work with wage loss. How many weeks will Dennis be eligible for supplemental earnings benefits?