

WORKER'S COMPENSATION FINAL EXAM
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1. Employee of ABC Trucking is driving an ABC truck on an employment mission. Employee is driving the truck and eating a sausage poor boy. He apparently pulls over to the side of the road because he begins choking on a piece of the sandwich. He cannot dislodge the food and chokes to death. Is his family entitled to workers' compensation?
2. Bobby goes to a crawfish boil. When the keg of beer is empty, Bobby volunteers to remove the empty keg and insert a full keg so the party can continue. When he picks up the full keg, Bobby injures his back. Are his injuries compensable? Why or why not?
3. Kathleen drinks a great deal at the company crawfish boil. After the party's over, she gets onto her bicycle and while traveling to her home, swerves off the road and falls into a ditch, injuring her hip. Are Kathleen's injuries compensable? Why or why not?
4. A worker volunteered to drive his boss home after work. He makes a slight detour on the way to his boss's home to make a night deposit for the company. After delivering the boss, he has an automobile accident on the way to his home. Will the injuries sustained by the employee be compensable?
5. Accidents occurring during travel to and from work are generally not compensable. There are several exceptions. Please list three (3).
6. 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 have a valid worker's compensation claim against his employer?
7. Ray worked as a sandblaster for twenty (20) years at Avondale. In the year 2000, he retired. On May 2, 2011 he was diagnosed with silicosis. Has his claim or an occupational disease prescribed? Why or why not?
8. 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?
9. 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 15, 2011, her supervisor fires her for unsatisfactory work. Beth has a nervous

breakdown two (2) 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?

10. Barto is mm shift manager at Burger King. Barto determines that \$36.00 was missing from the cash register. Barto had seen a co-employee, Fletcher leaving die office the night before the money was missing. Bark) asked Fletcher to empty his pockets. Fletcher pulled out 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 Kinn vicariously liable for the actions of Fletcher? Why or why not?
11. Peyton and Eli worked for Shell Chemical. There is a leak at the Shell Chemical plant. It is unknown what substance is leaking. Shell sends Peyton to shut off a valve to stop the leak. Peyton becomes overcome by the fumes, begins to bleed front the nose and passes out. Peyton is dragged to safety. A few minutes later, Shell Chemical then instructs Eli to attempt to close the valve by the same means used by Peyton. Eli is also overcome by fumes, passes out and begins bleeding from the nose. Eli is dragged to safety. What remedies does Peyton have against Exxon? Does Eli have a greater number of remedies against Exxon? If so, what are they?
12. Susan lifts a box of documents off the floor and has an immediate onset of low back pain. The employer accepts the compensability of the claim. Her physician lists her as unable to perform any employment pending a low back surgery and a course of physical therapy. What type of weekly benefits is Susan entitled to?
13. It has been a year and a half since Susan's accident and her physician has released her to light duty. She is able to return to her same employer with a light duty position that pays \$400.00 per week. Her pre-accident average weekly wage was \$700.00 per week. What type of benefits is Susan entitled to?

Extra Credit

- 13a. What is the weekly rate of her compensation benefits after returning to work?
14. There are Four (4) types of worker's compensation indemnity or disability benefits. Please name three (3) and define each. For extra credit name and define the fourth.
15. Derrick 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, 2004. In April of 2009, while still receiving weekly benefits, the employee incurs a new medical expense. Does the employee have a viable claim for medical expenses?

16. Sally is injured on the job and immediately 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 or worker's compensation insurer's consent to see the neurosurgeon?
17. The employee's choice of physician states that surgery is necessary. The employer's second medical opinion states that surgery will not benefit the patient. Do the employer or employee have any additional remedy to resolve the dispute between two healthcare providers?
18. Judy is an employee who is injured on the job. The employer accepts the claim as compensable. The employee's choice of physician states that she has a minor strain and should recover in six (6) weeks. The employer sends the employee for a second medical opinion and the physician states that she has no disability and can return to work without restrictions. Six (6) 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 to authorize the MRI. What are the employee's rights and remedies? Has the employer violated a fundamental rule of worker's compensation?
19. XYZ employer paid the wrong compensation rate due to a math error. When the attorney for the employee pointed out the error to XYZ Company, they refused to change the worker's compensation rate. What remedies are available to the employee?
20. Tom submits ten (10) 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?
21. Susan fills out a post-employment medical questionnaire and states that she has never had a back injury, Susan works for six (6) months and claims an unwitnessed accident that injured her back when she tripped down the stairs. Susan answers interrogatories and states that she has not had any prior back injury or back treatment. Susan also gives a deposition stating that she has no prior back injury or back treatment. The employer discovers that eighteen (18) months prior to her employment she had a back injury in an automobile accident. She underwent an MRI. She settled the lawsuit for \$28,000.00. What are the employer's options regarding the payment of workers' compensation benefits and the defense of this matter?
22. Kim had a very serious worker's compensation accident. She has been on worker's compensation for a number of years. During the handling of the claim the insurance company realizes that she is submitted mileage reimbursement in excess of 7,000 miles. In actuality the amount of travel is under 700 miles. If Kim is found to have violated §1208 how does it affect her right to worker's compensation benefits.

Extra credit: Define §1208 fraud.

23. Tom was injured on the job. Tom 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 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?
24. A property owner enters into a contract with a general contractor to build a law office. The general contractor enters into subcontracts with ABC Plumbing and 123 Roofing. While building the law office, an employee of 123 Roofing drops a large stack of shingles which fall from the roof and severely injures an employee of ABC Plumbing.
- a. What legal remedy does the employee of ABC Plumbing have against ABC Plumbing?
 - b. What legal remedy does the employee of ABC Plumbing have against 1 Roofing?
 - c. What legal remedy does the employee of ABC Plumbing have against the general contractor.
25. Poulan Weedeaters has a plant to manufacture weedeaters in Shreveport, Louisiana. Fred is an employee of Poulan Weedeaters. While manufacturing a weedeater for sale, weedeater catches fire and Fred is severely burned. The accident was caused by a defective design in the weedeater and a clear violation of Louisiana's Products Liability Act. Please explain Fred's remedies against Poulan Weedeaters.
26. Sidney is an employee of Voodoo Limo. Sidney is driving for the Voodoo Music Fest. She is scheduled to pick up musicians from the airport and transport them to City Park. She picks Snoop Dogg and on the way to the concert loses control of the limo and crashes into a ditch. She is transported to a hospital where she tests positive for alcohol intoxication at a level of .17. Is Sidney entitled to worker's compensation benefits from her employer? Why or why not?
27. Can Snoop Dogg sue anyone for tort or worker's compensation for his injuries sustained in the accident?
28. Bobby is recovering from back surgery at the L5-S I level. His doctor releases him to return to employment with a restriction of no lifting over 50 pounds. Bobby applies for a job at ABC Construction and informs his employer of the prior back surgery at L5-S I. Shortly after beginning his employment Bobby knowingly attempts to lift a

package with the weight of the package clearly displayed on the side at 150 pounds. When he attempts to lift the package he re-injures his back and is diagnosed with a recurrent disc injury at L5-S I. Are his injuries compensable?

29. Tom routinely submits travel expenses to his worker's compensation insurer. The insurer pays medical bills and indemnity benefits but for some reason, refuses to pay travel reimbursement. What remedies does Tom have against his worker's compensation insurer?
30. Bob is working for Pepsi. Bob is driving a company van when he rear-ends a Coca-Cola truck. Bob is at fault in causing the accident and severely injures his low back. Is Bob entitled to worker's compensation benefits? Does he have any remedy against Coca-Cola?
31. As you are aware Kim Kardashian recently married NBA basketball player Chris Humphries. The newlyweds are undergoing a very bitter divorce. Kim is destitute and broke, and therefore, Kim goes to work in a convenience store. Humphries is distraught at the termination of their marriage and crazed with anger and jealousy.

Kim goes to work at the convenience store at her normal time and place. Chris sets up in the woods several hundred meters away with a high powered hunting rifle. In a fit of rage, Chris shoots and kills Kim. Does Kim's family have any cause of action in worker's compensation against the convenience store?

32. For an employer to recover against a Second Injury Board, the employer must prove what three (3) elements?
33. Dennis has a compensable accident in the course and scope of his employment. For two (2) years (104 weeks), he receives temporary total disability benefits. At the end of two (2) years, he returns to work with a wage loss. How many weeks will Dennis be eligible for supplemental earnings benefits?
34. Larry claims that he was injured in an unwitnessed accident. The employer denies his worker's compensation claim. While litigating the worker's compensation claim, Larry receives unemployment benefits for twenty-six (26) weeks. The unemployment benefits are 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 his worker's compensation at \$400.00 per week. How much worker's compensation does the employer owe for the twenty-six (26) weeks that Larry received unemployment benefits?
35. Tom was working as a greeter at Wal-Mart. At the time of his injury he was sixty-one (61) years old. After receiving worker's compensation benefits for four (4) years, Tom began to receive old-age retirement social security benefits. Is Wal-Mart entitled to a credit against the payment of social security old-age retirement benefits?

36. Please state the, prescriptive period for a developmental injury and define developmental injury.
37. The average weekly wage for an hourly employee is calculated based on the _____ full week prior to the _____.
38. The prescriptive period when no indemnity benefits have been paid and the disability begins on the date of the accident is _____ years.
39. If an employer makes a payment of medical expenses. The prescriptive for additional medical expenses is _____ years.

I HOPE YOU ENJOYED THE CLASS. ENJOY YOUR HOLIDAYS AND HOPEFULLY LSU WILL WIN THE NATIONAL CHAMPIONSHIPS AND THE SAINTS WILL WIN THE SUPERBOWL AGAIN!!