

WORKER'S COMPENSATION EXAM
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FALL, 2013

This is a closed book exam. There are 40 questions. You will be given 2 HOURS to complete the exam. The test consist of five (5) pages. Please be sure you have all five pages and answer 40 questions.

1. 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.
2. Accidents occurring during travel to and from work are generally not compensable. There are several exceptions. Please list three (3).
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 in 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. Justice Calagero is an employee of the Louisiana Supreme Court. While sitting at his desk during normal working hours and writing an opinion for the Court on separation of church and state, a freak accident occurs and lightning travels through his window and strikes Justice Calagero, causing severe injury. Is he covered by Worker's Compensation? Why or why not?
5. Employee of ABC Trucking is driving an ABC truck on an employment mission. The employee is sending a text about a personal matter to his girlfriend. Because of his distracted driving he loses control of the truck. The truck runs into the ditch and he is injured. Did his accident occur in the course and scope of his employment with ABC?
6. Discuss the difference between accident, degenerative condition and occupational disease.
7. Define eggshell employee.
8. Define presumption of causation.
9. 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.

10. Sam works as a supervisor in a lumber yard. His job typically consists of working on the computer and telling other employees what work needs to be done. Because of a labor shortage, he is forced to perform heavy manual labor during the Christmas holidays. Sam cannot identify a single traumatic event but seeks worker's compensation benefits. Is he entitled to worker's compensation? Why or why not?
11. 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?
12. 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?
13. 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?
14. There is only one situation where an employee can sue his direct employer in Tort. Please describe.
15. When only one contract exists, there are two requirements for a statutory employment relationship to exist. What are they?
16. 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 injure 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 123 Roofing?
 - c. What legal remedy does the employee of ABC Plumbing have against the general contractor?

17. 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 from 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?
18. Under Louisiana worker's compensation, there are four categories of disability benefits. Please name and define three.
19. Once an employee is returned to work by his physician, but the injured worker has carried his burden of proving an inability to earn 90% of his pre-accident average weekly wage, he is entitled to what type of disability benefits?
20. Through what means may an employer limit their exposure for these wage loss benefits?
21. 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?
22. 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?
23. 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?
24. 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?
25. Please explain what is meant by Section 1208 fraud. What are the rights and remedies of the employer and employee?

26. 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 defense should be raised by Pat O'Brien's, and will they be successful?
27. If an employer arbitrarily and capriciously refuses to pay Tommy weekly and medical benefits, Tommy would be entitled to penalties and attorneys fee for the denial of the claim. If during litigation the employer proves Tommy violated section 1208, would Tommy still get the penalties and attorney's fees?
28. 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.
29. 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?
30. 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?
31. By definition, what is a "third-party"?
32. 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.
33. 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?

34. 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?
35. Please discuss the “last causative employer rule”.
36. When determining the average weekly wage, there are five classes of wages. Please describe three.
37. Please describe the formula used to calculate a full time employee’s average weekly wage.
38. Are “fringe benefits” such as vacation time and sick leave included in the calculation of the average weekly wage?
39. To what type of worker does the “40 hour presumption” apply? For extra credit define the “40 hour presumption”.
40. The Superbowl is being played in New York City in February of 2014, will be Saints win the Superbowl?