

WORKER'S COMPENSATION EXAM
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This is a closed book exam. There are 40 questions. You will be given 2 HOURS to complete the exam. The test consist of six (6) pages. Please be sure you have all six pages and answer 40 questions.

1. Please describe the worker's compensation compromise. What was given up by employees? What was given up by employers? What is the primary goal of the worker's compensation system?
2. Discuss the difference between accident, degenerative condition and occupational disease.
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? What other remedy might Hillary have?
4. George is a night watchman at a chemical plant. In violation of his employer's instructions, he leaves his post and walks to a Burger King three blocks from the chemical plant. When he enters the Burger King, a robbery is taking place, and George is shot. Is he entitled to Worker's Compensation? Why or why not?
5. Employee of ABC Trucking is driving an ABC truck on an employment mission. The employee is driving the truck and eating a 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?
6. Employee of XYZ Trucking is driving an XYZ truck on an employment mission across the country. The employee of XYZ stops at a truck stop to get gas. He also picks up a prostitute. As he drives away from the truck stop the prostitute starts to entertain the driver. Because of his distracted driving the XYX employee loses control of the truck. The truck runs into the ditch, and XYZ employee is injured. Did his accident occur in the course and scope of his employment with XYZ?
7. Joe's Oil Co. has an annual employee crawfish boil. Kathleen, an employee of Joe's Oil, drinks a great deal at the company crawfish boil. After the party is over, she gets onto her bicycle and while traveling to her home, swerves off the road and falls into a ditch, injuring her head. Are Kathleen's injuries compensable? Why or why not?
8. The owner of El Chico's has a camp in Reggio. Juan works for a El Chico's Mexican restaurant as a cook. A hurricane is in the gulf. The restaurant closes early due to bad weather. Before Jaun punches out, Jaun's boss (the owner) tells Juan to stay on the

clock, and drive to the owner's camp in Reggio and board up the windows. Jaun's boss explains that he will get his regular pay plus gas money from El Chico's. This is not Jaun's usual job duties of cooking, but his boss insist Juan do the work. Jaun drives his own car to Reggio. On the way he loses control of the car and hits a tree. Juan is injured. Is he covered for workers compensation?

9. An argument between two co-employees initially arose out of a dispute over who would move bags of concrete. One of the employees then defamed the mother of the other employee, and the fight escalated into a personal dispute. Are injuries from the fight covered by workers compensation?
10. 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 coworkers 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?
11. 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 up Snoop Dogg (currently known as Snoop Lion) to take him to the Festival and perform, and on the way to the concert Sidney 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?
12. Can Snoop Dogg (aka Snoop Lion) sue anyone for tort or worker's compensation for his injuries sustained in the accident?
13. Keith is recovering from back surgery at the L5-S1 level. His doctor releases him to return to employment with the restriction of no lifting over fifty pounds. Keith applies for a job with ABC Construction and informs the employer of his prior back surgery at L5-S1. Shortly after beginning his employment with ABC Corporation, Keith attempts to lift a heavy table and has the onset of low back pain at L5-S1. He returns to his doctor and is diagnosed with a recurrent disc injury at L5-S1. Does ABC owe Keith worker's compensation for his re-injury?
14. An employee breaks his ankle while in the course and scope of employment. He becomes disabled and receives voluntary payments of weekly worker's compensation benefits and medical benefits. During the course of his recovery, his ankle gives way while he is walking his dog. As a result, he falls and injures his low back. Is the disability and medical treatment necessary for the subsequent low back injury compensable?
15. Please define "exclusive remedy".

16. 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 Shell Chemical? Does Eli have a greater number of remedies against Shell Chemical? If so, what are they?
17. By definition, who is a "third party"?
18. Please state the choice of physician rule.
19. Mike is involved in a very serious accident on the job. Following the accident, he is unconscious, He is taken to the emergency room and his leg is amputated. The emergency room doctor, who performed the amputation, provides the employee with physical therapy and a prosthetic. After six weeks of treatment, the emergency room physician releases Tom to return to work with no restrictions. Is Tom entitled to a physician of his choosing?
20. 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?
21. 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. At this point in his recovery:
 - 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?
22. 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. (For subpart 22(c) assume ABC Plumbing has no workers' compensation insurance.)
23. When only one contract exists, there are two requirements for a statutory employment relationship to exist. What are they?
24. 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. Humphries sets up in the woods across the street from the convenience store and shoots Kim with a high powered rifle. Kim survives the attack but is badly injured. Is she entitled to workers' compensation?
25. 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?
26. Ray worked as a sandblaster for twenty years at Avondale. In the year 2000, he retired. In 2014, he was diagnosed with silicosis. Has his claim for an occupational disease prescribed? Why or why not?
27. 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?
28. What is the time limit for a worker's compensation insurer to pay travel reimbursement (to and from doctor, pharmacy, etc...) once it is submitted by the injured worker?
29. 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?

30. 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?
31. 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?
32. If an employer is not prejudiced by the violation of section 1208, do the sanctions still apply to the employee, and what are the likely sanctions?
33. A Court determines that an employer acted arbitrarily and capriciously in denying a claim for workers compensation. The Court also determines that after the claim was arbitrarily and capriciously denied, that the employee violated section 1208. Is an award of penalties and attorney's fees to the employee allowed? If the court determines the employee violated §1208 what about fees for the injured worker's attorney?
34. 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.
35. 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, 2009. In April of 2014, while still receiving weekly compensation benefits, the employee incurs a new medical expense. Does the employee have a viable claim for this medical expense?
36. John works for TnT Services. John claims an injury at work. TnT Services does not believe John was injured on the job and the claim is denied. No medical is paid, and no indemnity is paid. How long does John have to file a suit before his claim for indemnity prescribes?
37. With the facts of question 36, how long does John have to file a suit for medical before that claim prescribes?
38. Duey and Cheatem is a law firm. Bob, one of their best lawyers gets hurt on the job. The employer decides that they do not want to submit the claim to their workers compensation insured, but in lieu of indemnity benefits they continue to pay his very large salary of \$4,000 per week. After six months, it is apparent that Bob's disability is going to last long term.

Duey and Cheatem decides to submit the claim to the worker's compensation carrier. The workers compensation carrier owes weekly benefits at the maximum rate for the date of injury, \$630 per week. Is the insurance company entitled to a credit and is it week to week or dollar for dollar?

39. Is an injured worker entitled to any indemnity benefits in a week in which an injured worker also receives unemployment benefits? If not what is the theory behind the law? Is the credit week for week or dollar for dollar?

40. Are the Saints going to make the playoffs? There are no wrong answers. Hope you enjoyed the class. Thanks.