

WORKER'S COMPENSATION EXAM
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This is a closed book exam. There are 36 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 all 36 questions.

1. 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?
2. 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.
3. Accidents occurring during travel to and from work are generally not compensable. There are several exceptions. Please list three (3).
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. Discuss the difference between accident and degenerative condition.
6. An unwitnessed accident can be proven if:
7. Define presumption of causation.
8. 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.
9. 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?

10. 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?
11. 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?
12. Under Louisiana worker's compensation, there are four categories of disability benefits. Please name and define three.
13. 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 his 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?
14. Please state what is meant by "exclusive remedy", and what is the one exception to exclusive remedy?
15. Scott and Roger are hired to do construction work by KBR Construction. Neither has any experience in the construction field. Scott is injured when scaffolding collapses. It is proven that Roger was negligent in setting up the scaffolding.
 - a. Can Scott sue Roger in tort?
 - b. What are Scott's remedies against KBR Construction?
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. When only one contract exists, there are two requirements for a statutory employment relationship to exist. What are they?
18. If a dispute arises over the choice of physician, the employee has what remedy?
19. Is an employer entitled to have the employee examined by a doctor of their choosing? If so, when?
20. 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?
21. Please state the choice of physician rule.
22. 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?
23. Please explain what is meant by Section 1208 fraud. What are the rights and remedies of the employer and employee?
24. 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?
25. 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?
26. 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?
27. 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.

28. 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?
29. If an employer and/or its 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?
30. 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.
- What legal remedy does the employee of ABC Plumbing have against ABC Plumbing?
 - What legal remedy does the employee of ABC Plumbing have against 123 Roofing?
 - What legal remedy does the employee of ABC Plumbing have against the general contractor?
31. If 100 weeks of temporary total disability has been paid, what is the maximum remaining exposure for supplemental earnings benefits?
32. 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?
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, 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?
34. John works for TnT Services. John claims and 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?
35. Please describe the formula used to calculate a full time employee's average weekly wage.

36. To what type of worker does the “40 hour presumption” apply? For extra credit define the “40 hour presumption”.