

SELF ASSESSMENT TEST

1. A workers' compensation claimant's lawsuit against his employers' workers' compensation insurer for causes of action for invasion of privacy, intentional and negligent infliction of mental distress, disability/age discrimination on the basis that the Workers' Compensation Appeals Board had exclusive jurisdiction?

True False

2. An exception to the workers' compensation appeals board's exclusive jurisdiction and concluded that an insurer may be subject to civil action for its intentionally deceitful course of conduct in the course of investigating a claim?

True False

3. An employer may be held liable for discrimination under FEHA, but nonemployer individuals are not personally liable for that discrimination. The same is true for a claim of retaliation?

True False

4. Insurance coverage is both a factual and legal one, and it is necessary for the WCJ to create a record rather than relying on statements by attorneys in pleadings. Therefore, a hearing should be held on whether there is good cause to set aside the prior stipulation to insurance coverage as to applicant's injury?

True False

5. Child care may not be awarded as a component of medical treatment?

True False

6. At any time within one year after the Appeals Board had made an award for compensation benefits in connection with an occupational disease or cumulative injury, any employer held liable under the award may institute proceedings for the purpose of apportionment of liability or right of contribution?

True False

7. The en banc Appeals Board decisions are binding on all Appeals Board panels and WCJs?

True False

8. As long as a file remains open, the Appeals Board has continuing jurisdiction to award temporary disability indemnity for a period commencing more than five years from the date of injury, even though applicant was not continuously temporarily disabled from the date of injury?

True False

9. In situations where a general and special employment relationship exist, the injured employee may look to both employers for compensation benefits?

True False

10. A business liability agreement entered into by a general and special employer can alter, change or defeat a general and a special employee's right to obtain workers' compensation benefits of his employers because the employers have joint and several liability with regard to their common employees?

True False

11. Though an important test of an employment relationship, the "right to control" is not to be applied rigidly as the sole consideration, but rather to be considered in combination with a number of "secondary" factors?

True False

12. The date of injury in cases of occupational diseases or cumulative injuries is that date upon which the employee first suffered disability there from and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment?

True False

13. If an injured worker cannot return to their usual and customary occupation because of an industrial injury, there must exist residual disability preventing their return to work which disability would be an indication of permanent disability?

True False

14. The American Medical Association Guides to Evaluation of Permanent Impairment provide that spinal surgery in and of itself constitutes a ratable factor of permanent disability?

True False

15. Because the language of Labor Code §4663 does not limit the types of "other factors" that may be considered as a non-industrial cause of permanent disability, then the "other factors" may include disability that was apportionable prior to SB899, i.e., the natural progression of a non-industrial condition or disease, a preexisting disability, or a post injury disabling event?

True False

16. When exhibits are not disclosed at the Mandatory Settlement Conference, the party seeking to offer such evidence must demonstrate that the exhibit was either not available or could not have been discovered by due diligence prior to the settlement conference?

True False

17. The function of an appellate court is not to hold a trial de novo or to exercise independent judgment, but to review the entire record to determine whether the Appeals Board's conclusions are reasonable and are supported by substantial evidence?

True False

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