

SELF ASSESSMENT TEST

1. Reconsideration may be had only of a final order, decision or award. An order that does not dispose of the substantive rights and liabilities of those involved in a case is not a final order?

True False

2. There is no provision in Labor Code §5814 as amended by SB 899 that provides for multiple penalties for the unreasonable delay in the payment of an award, even if separate species of benefits are involved?

True False

3. The Labor Code §3600(a)(10) post termination claim defense applies when an employee voluntarily resigns from his or her job. See *CJS Co. v. Workers' Comp. Appeals Bd. (Fong)* (1999) 74 Cal.App.4th 294.)

True False

4. When a party fails to object to a formal rating or request cross examination of the rater, that party waives that issue for purposes of seeking reconsideration?

True False

5. An employee's willful, malicious and even criminal torts may fall within the scope of his or her employment for purposes of respondeat superior, even though the employer has not authorized the employee to commit crimes or intentional torts?

True False

6. Award of costs and attorney fees against applicant for services rendered by employer in answering a meritless petition for writ of review is proper?

True False

7. A physician may make a determination of the approximate percentage of permanent disability caused by other factors based on his medical expertise. An apportionment determination may be based on review of medical records, diagnostic tests, and applicant's history?

True False

8. The Appeals Board is the ultimate finder of fact and on reconsideration it is empowered to re-evaluate the record, to reject the findings of the WCJ and enter its own findings, provided that its findings are supported by substantial evidence?

True False

9. An order denying a request to schedule expedited hearing concerning medical treatment is not a final order subject to reconsideration. Such an order and an order taking the matter off calendar does not determine the rights or liabilities of any person?

True False

10. A petition for removal is discretionary and is generally employed only as an extraordinary remedy when the petitioner has established significant prejudice or irreparable harm will result if removal is not granted?

True False

11. An injured worker is entitled to receive 104 compensable weeks of temporary disability indemnity within a period of two years beginning on the date on which temporary disability indemnity is first paid?

True False

12. To be substantial medical evidence on the issue of apportionment percentages of permanent disability due to the direct results of the industrial injury and the approximate percentages due to other factors, a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusion?

True False

13. Apportionment of disability to non-industrial factors may include pre-existing pathology such as asymptomatic degenerative disease?

True False

14. In a case in which the applicant suffered two back injuries that straddled the effective date of SB899, the first injury occurring March 16, 2004 and the second occurring June 9, 2004. The WCJ correctly awarded temporary disability indemnity for the first injury without the limitations imposed by Labor Code §4656(c)(1)?

True False

15. In a case in which gastric bypass surgery was determined to be the most effective therapy to deal with applicant's obesity in order to treat applicant's industrial orthopedic injury, the medical expenses incurred for the gastric bypass were compensable?

True False

16. If a third party's assault causing death or injury occurs in the course of employment and is committed for unknown reasons or no motive at all, i.e., for non-personal motives, the injury or death is not compensable?

True False

17. Good cause to sufficient to invoke Labor Code §5803 may consist of newly discovered evidence that was previously unavailable, a change in the law, or any factor or circumstance unknown at the time the original award or order was made that renders the previous findings and award inequitable?

True False

CERTIFICATION

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