

QUESTION 15 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK V

Following his high school graduation, Jason procured a job at the major company in his hometown, MCA Manufacturing Company (MCA). Jason's first job for MCA was in the shipping and receiving department loading and unloading trucks that delivered materials to MCA. After a few years, Jason impressed his supervisors and soon became a "working supervisor" in the shipping and receiving department earning an annual salary of \$50,000.00. A "working supervisor" helps at some manual aspects of the job in addition to overseeing the operation.

While MCA's headquarters are in Jason's Michigan hometown, MCA also maintains a satellite shipping and receiving site in Ohio. At MCA's request, Jason was dispatched for three days to the Ohio site to oversee an incoming shipment there of fiberglass material. MCA had previously received such fiberglass shipments and many of its employees had experienced medical problems, such as breathing difficulties and skin irritations, after unloading the material. Despite this, MCA did not warn or take any special precautions to protect Jason and its other employees regarding the Ohio shipment.

Jason oversaw the delivery of the material in Ohio, and during the process began to experience breathing difficulties after inhaling fiberglass residue. Upon his return to Michigan, Jason found that his breathing difficulties did not subside and he no longer had the stamina to continue performing his working supervisor job for MCA. Jason informed MCA of his problem. Although Jason was capable of doing non-strenuous supervisory work, MCA had no such work and Jason has not returned to work.

Jason is not inclined to search elsewhere for a job, particularly for any job paying less than he had earned at MCA. Instead, Jason wants you -- his attorney -- to determine what legal remedies he has, if any, against MCA.

Answer the three following questions exclusively on the basis of Michigan's workers' compensation statute:

(1) Can Jason sue MCA for an intentional tort under Michigan law? Why or why not?

(2) Given the occurrence of Jason's injury in Ohio, can Jason bring a workers' compensation action in Michigan? Why or why not?

(3) What effect, if any, will Jason's reluctance to seek work elsewhere have on a Michigan claim for weekly workers' compensation disability benefits?

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