

QUESTION 9 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III OR IN EXAMPLIFY ANSWER SCREEN 9

Jack worked for Big Auto Company (Big Auto) in mid-Michigan as a production worker. He earned \$1,500 per week. He had previously worked for other employers as a waiter, a sales representative, and a computer technician, all of which paid him roughly one-half of what he earned at Big Auto.

Jack suffered a back injury arising out of, and in the course of, his Big Auto employment in January 2021. The injury left him with certain lifting restrictions precluding a return to work at Big Auto. Jack is now unemployed and claims weekly workers' compensation disability benefits from Big Auto.

Big Auto does not dispute Jack has suffered a compensable back disability, but tells Jack it will only pay him a partial disability rate because there are reasonably available lower-paying waiter, sales rep, and computer technician jobs within his lifting restrictions at other employers. Big Auto explains Jack's weekly rate of compensation will take into account what he could be earning at those lower paying jobs. Big Auto added that it wants Jack to submit to a medical examination by a local board certified physician of Big Auto's choosing, at Big Auto's expense.

Jack disagrees with Big Auto's positions on both points. While he concedes the lower paying jobs Big Auto identifies are within his lifting restrictions and reasonably available, Jack says because he is not actually earning wages after his injury, he is entitled to the full weekly rate of weekly compensation rather than a partial rate. Jack also says he should not be required to submit to a medical examination by a physician of Big Auto's choosing.

Answer the following two questions raised by this dispute in accord with Michigan workers' compensation law:

- 1. Given he has no actual post-injury earnings, is Jack entitled to a full rate of weekly compensation disability benefits or only a partial disability rate? Explain your answer.**
- 2. Is Jack obliged to submit to the medical examination Big Auto requests in order to receive weekly compensation? Why or why not?**