

Napholtz Construction

Napholtz Construction (NC) is a large family owned firm, which subcontracts out various aspects of its projects. All employees of the company and its subcontractor are subject to the company's drug testing program. Ted Napholtz, the president, owner and major stockholder of the company and his brother, Milt, the Vice-President co-owner and minority shareholder, work on-site with the other employees. On this particular project, E-Z Electric, a subcontractor, failed to obtain workers' compensation insurance for its employees.

While walking through the site, Ted leaned over to yell down to Milt and fell striking several beams before he landed. It is unclear why he fell, but he was very seriously injured. At the hospital, his blood tested positive for cannabis. Cordell Walker was a hauler who hauled scrap and trash from NC's sites. Milt would call him and Cordell would load up his truck, according to Milt's directions and haul the contents away. Cordell's face, arm and neck were injured by debris set in motion by Ted's fall. Several E-Z Electric employees were also injured, one of whom did not return to work because of the trauma of seeing Ted fall.

In the meantime, Deanna had gone to pick up some supplies and sandwiches for herself and several coworkers in the NC truck. As she was pulling out of the lumber store, headed towards Sonic, she was hit by a drunk driver. She was taken to the hospital where her physician incompetently performed back surgery. A few days later, while still in the hospital, she was advised she would require a second surgery. She refused because of the pain from the first surgery and the fear of further harm. She also requested a different physician. Because of her back injury it was difficult for Deanna to work. She had to alternate between sitting and standing, but could not sit for very long. She would like to find work suitable to her condition.

Ted was left paralyzed in both legs as a result of his fall and asks that his house and vehicle be modified to accommodate his wheel chair. He has also asked for nursing care until he becomes accustomed to his condition.

Discuss all issues raised by the fact pattern. What types of benefits, if any, are the claimants entitled to? What likely defenses will likely be raised? For this question you do not need to address procedural matters.

Delta Catfish Farm

Because of the increased demand for catfish, Delta needed more help and hired several children to perform various odd jobs around the plant after school. Several of the older children played on the softball team sponsored by Delta. The company provided the uniforms, equipment and typically provided a picnic following each game to promote camaraderie amongst its workers. When Luke injured his knee during a game while sliding home plate, Delta refused to pay for his injury and fired him for filing a workers' compensation claim.

While they were working, the children would often slide on the slippery floors and compete to see who could slide the farthest. Courtney slid and fell injuring her leg which she had previously injured at home. Ben, who was working to support his grandparents and little brother, was found drowned in a stock pond. The last time he was seen alive he had been asked to take a tool to a maintenance person.

The job is an unpleasant one, and sometimes tempers flare up. Harolyn and Waneeta, two adults working on the skinning line, began arguing because Harolyn accused Waneeta of slowing down the production line. Harolyn alluded to the fact that Waneeta's slow work was probably the result of her late nights in the local bars. Harolyn hadn't forgotten their bar brawl from several years earlier. In the midst of one of Harolyn's tirades, Waneeta reached over and slapped Harolyn and the two women began fighting. Harolyn fell on the concrete floor and later died of head injuries. Her husband, children, step-children and mother, and mother-in-law all applied for death benefits.

Meanwhile, Waneeta's husband suspected that Waneeta was having an affair with her foreman, Bud, who Waneeta warned. Bud assured Waneeta that he would take care of everything. Just before shift change at the plant, Waneeta's husband entered the plant and shot Bud and Jane, who was standing at the door smoking. Bud recovered from his injuries, but feels constant pain. His physician has been unable to find a physical cause of the pain. Jane has returned to work in a lesser paying job until she is able to return to her old job.

Hank, the plant manager, was lifting pallets of frozen fish onto a truck when he suddenly grasped his chest and collapsed. The temperature was near 105° and he was helping to load the trucks due to a shipping backlog. Several employees have developed contact dermatitis and are concerned that it is due to handling the raw fish.

Address all the issues raised by this fact pattern. Which claims are likely to be challenged? On what basis? What benefits would be available to claimants and dependents? What is the procedure for raising these claims?