

Mock Exam. Thinking Skills.  
Paper 2, Question 1.

1) Primary argument:

1. It seems the overriding reason is the non-slip surface. If Lamont is actually correct in his claim that the surface was "worse than useless" then he could have slipped, even without having to reach for the soap. Therefore, the claim can just turn on whether the surface was non-slip or not? The testimony of the investigator seems to corroborate Lemont's account. If the investigator did not find any worn surfaces, Mr. Lamont's claim would have been positively rebutted. Furthermore, since it was not likely that a surface which clearly says is non-slip would actually be worn, it points to negligence on the part of the hotel management, or gross over-statement by the manufacturer of the surface. Coming across the "non-slip" sign would indicate to one that one does not have to be extra precautious while standing for the surface is reliable. However, as the investigator found out, certain surfaces contrary to their claim were actually "worn smooth". This unlikely piece of evidence (since non-slip surfaces are unlikely to be worn) weighs in Mr. Lamont's favour heavily. If these surfaces are "worse than useless", i.e. worse than regular surfaces which do not claim that they are non-slip, it would further strengthen Mr. Lamont's claim.
2. The hotel's spokesperson's statement that the hotel has no history of such incidents merely implies that the hotel is *unaware* of any such previous incidents. It is possible that they took place but nobody actually got seriously injured or developed any debilitating symptoms to report it. It is also possible that the "non-slip" surfaces have only recently begun to wear smooth because of use. Therefore, the statement has does not sufficiently disconfirm Mr. Lamont's claim.
3. The hotel should therefore pay Mr. Lamont the money, and perhaps in turn file a suit against the manufacturers of the surface for exaggerating its non-slip property.
4. The soap dispenser was placed at the shoulder level. If one reaches for something at shoulder level from within the bath tub one can hold on to the supporting bar, however, in this case, since getting the soap from the dispenser requires both hands, it apparently increases the risk. This however is not a conclusive reason. One is expected to be able to stand in the shower, for example, to move the mouth of the shower, which is definitely at shoulder level, without needing to support oneself (say while holding a bar of soap). Neither is one expected to be able to grip the support bar during a fall because it happens too quickly, and for older people this will not be possible.
5. The reasonable claim is that the surface manufacturers explicitly stated that the surface is non-slip; therefore, it should meet certain safety standards, which on Mr. Lamont's account it didn't. And the investigator's account corroborates this unlikely claim.<sup>1</sup>

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<sup>1</sup> An unlikely prediction of a hypothesis, if observed to be true, brings it a high degree of confirmation (Remember: Einstein's prediction that light would curve, as seen in 1919, or Newton's prediction that a comet will return to earth and be seen again in 70 years, long after he was dead). See notes on scientific reasoning I gave to you. This analysis of rival claims, is not logically dissimilar to scientists choosing between rival hypotheses (light is wave or particle, Newtonian mechanics or relativity) based on confirmation, disconfirmation, unique prediction, testing, and consistency. All of these elements are considered in the analysis of the account. The question is: which hypothesis is likelier to be true (or is borne out by evidence/observation): (1) Mr. Lamont's account that the floor was slippery and the high position of soap dispenser led to his fall; or (negation of this) (2) Mr. Lamont is lying, faking, or even if he fell it is not the hotel's fault.

2) Secondary arguments:

1. The secretary's account that Mr. Lamont was holding his side doesn't amount to much because Mr. Lamont could be pretending, and that cannot be sufficient reason to ground Mr. Lamont's claim. Since, even if she had said that Mr. Lamont walked properly, it can clearly be possible that the effects of the fall only take effect later. This will not have disconfirmed or made Mr. Lamont's claim improbable.
2. Neither does the doorman's account add anything substantial to the case. He might not have noticed Mr. Lamont holding his side, while the secretary did. He might also have been upset with Mr. Lamont for not giving him tip, which could be expected of Mr. Lamont since he is upset with the hotel, and some of his anger he is venting against the staff.
3. Mr. Lamont didn't call for medical help right away. This is entirely consistent with his claim, because it is quite likely that he did not realize the severity of his fall till later, when he was unable to do work anymore, only after which did he press charges. But there is another issue: If Mr. Lamont was making this up, then he might not have wanted to call the doctor right there and then; the doctor might have determined that there was no serious injury. Now, in order to determine if Mr. Lamont was not making it up, it remains to be seen what evidence there is for the injury to Mr. Lamont. The doctor's report suggests that Mr. Lamont claim is consistent with the kind of injury he claims to have sustained. This does not amount to much, and does not help us determine if Mr. Lamont merely faked the whole thing to get out of trouble, since no objective evidence is offered except for Mr. Lamont's own complaints. Therefore this cannot have much impact on the evaluation of the case, and neither can the fact that Mr. Lamont lost on many profitable deals. Apparently, there is no way to verify this, as it is very difficult to judge which deals would succeed and be profitable. The business associate's secretary's statement does not affect the case either. It is hearsay. Furthermore, any one could be expected to say it jokingly. One cannot draw inferences from such non-serious statements (Grice's conversational implicature). (Examples: "I nearly got killed" does not necessarily imply that *he nearly got killed*, neither does "Only if I had his money" imply that *the speaker wishes to have his money*.) The doctor, since he is a regular client of JKL, even if biased, would exaggerate the extent of injury to Mr. Lamont, and not understate it; and yet he could not produce anything to substantiate Mr. Lamont's account except Mr. Lamont's own testimony (his complains of worsening pain), and his judgement that this kind of complain is *consistent* with Mr. Lamont's account. While the doctor's report does not contradict Mr. Lamont's claim (it will be very difficult to contradict since the symptoms are not visible), the lack of objective evidence hurts Mr. Lamont's claim.
4. According to the spokesperson of the hotel, the hotel has changed its policy and gone back to supplying bars of soap. This is more expensive, and the law firm's claim is that the hotel switched to soap dispensers to cut costs which led to the accident. This claim is not substantiated. The bars happen to be more expensive, but they are less hygienic. The hotel might have been motivated by hygiene rather than costs, and further evidence is necessary to determine the intention behind this. The hotel according to the spokesperson chose the less hygienic option, it seems, as a precaution, although they could have simply adjusted the height of the dispensers, which was really Mr. Lamont's complain against the hotel. Yet, hotel's switching to bars cannot be taken as a *proof* of hotel's guilt of

initially cutting costs. Many things could have motivated the move, such as fear of bad publicity, and avoidance of any further possible controversy.

5. As for the hotel firm's advertisement that the client will not be billed if he does not win might be suggested as a motivating factor behind Mr. Lamont's claim. But then, conversely, if in any case where the client is paying hefty amounts to the law firm representing him, his case should thereby be bolstered (for having risked that money). This is clearly not reasonable. The money being paid to the attorneys cannot be reasonably taken into account in determination of the truth of the matter at hand.

Conclusion:

Thus while it seems Mr. Lamont claim might be true, there is no positive medical evidence, yet produced, which could determine the veracity of his claims. Thus his claims regarding injury cannot be shown to be proven. However, since some of the surfaces were actually slippery, as the insurance investigator found out, the hotel should bear any responsibility for injury caused as a result, and Mr. Lamont deserves the damages be paid to him even though he cannot prove that he fell. The hotel cannot claim something it cannot deliver; that would be unethical and therefore will be the only substantial reason the claim should be awarded to Mr. Lamont.

6. , and Mr. Lamont will not know if there were other surfaces also worn smooth,
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  8. And w
  - 9.
  10. One could be reaching for anything at shoulder level,
  11. and if one slips because the surface has worn smooth, then i
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- 3) Secretary saw him holding the side and walking slowly. The doorman thought he was perfectly all right. Doorman's testimony does not contradict the secretary's, the doorman might have overlooked the details, however, the secretary having positively.
  - 4)
  - 5) supposedly non-slip surface:
    - b. if the surface claims to be non-slip, then the manufacturer should be responsible.
    - c. If the surface has worn smooth then it would be looked into whether the surface had any time frame.
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