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LOUISIANA STATE BAR EXAMINATION

FEBRUARY 2020

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**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2020**

QUESTION 1 – 40 POINTS

Part A – 20 POINTS (5 points each subpart)

Questions 1.1-1.4 are based on the following facts:

Allison, Billy and Clayton want to form a Louisiana corporation to sell college football championship apparel. They will name their business “ABC, Inc.” and initially issue 350 shares of stock. Allison will own 150 shares, Billy will own 100 shares, and Clayton will own 100 shares. ABC, Inc. will also be authorized to issue an additional 150 shares. All shares will be without par value. Billy and Clayton will run the day-to-day business, and Allison will be a silent investor with no managerial responsibilities. Allison, Billy and Clayton want the right to maintain their respective ownership percentages in the event ABC, Inc. decides to sell the authorized, but unissued 150 shares. They also want a right of first refusal to purchase each other’s shares in the event a shareholder decides to sell his or her shares. Finally, they want to require that any new prospective shareholder be approved by a majority vote of the current shareholders.

- 1.1 (a) What organizational papers are necessary to form ABC, Inc. as a Louisiana corporation? (b) What minimum information must be included in these papers to validly form ABC, Inc.? (c) What, if any, additional provisions are required to achieve the objectives as stated above?**
- 1.2 (a) Is ABC, Inc. required to issue certificates of stock representing the shares to be issued? Explain. (b) If ABC, Inc. issues certificates of stock, what information is to be shown on each share certificate? (c) If ABC, Inc. does not issue stock certificates, will this change the rights and obligations Allison, Billy or Clayton owe to ABC, Inc.? Explain.**
- 1.3 (a) Does the law require that any of Allison, Billy and Clayton be an officer or director of ABC, Inc.? Explain. (b) What officer positions (if any) must they elect? (c) May Billy hold more than one officer position at one time? Explain. (d) Does the law require that the officers also be directors? Explain. (e) What is the difference between straight voting and cumulative voting for director positions? (f) When will shareholders have cumulative voting rights?**
- 1.4 Assume that Allison, Billy and Clayton want to form a Louisiana limited liability company (LLC) instead of a corporation for their proposed venture. To achieve the objectives stated above, should the LLC be formed as a member-managed LLC or instead as a manager-managed LLC? Explain the difference between these two forms of LLC.**

Part B – 20 POINTS (5 points each subpart)

Questions 1.5-1.8 are based on the following facts:

Three radiologists—Amanda, Jack, and Matthew—opened a radiology practice together six years ago. They agreed to call their business “X-Ray Mart,” to divide the profits equally, and to run the practice together in a manner that would be competitive. Toward that end, they purchased state-of-the-art radiology imaging equipment comparable to that of other radiology offices in the community.

Shortly after opening the practice, Amanda, Jack, and Matthew retained an attorney to organize the practice as a limited liability company. The attorney prepared the appropriate articles of organization and the initial report and forwarded the documents to Amanda, Jack, and Matthew for signature. They each signed and dated the documents; however, they were so involved in their radiology practice that they did not send the documents to the attorney or anyone else.

A month ago, Amanda suggested to Jack and Matthew that the practice replace some of the imaging equipment. Jack was worried about overspending on imaging equipment, but he did not express his concern to Amanda and Matthew.

A week ago, Amanda, without discussing the matter further with either Jack or Matthew, purchased for the office a \$400,000 state-of-the-art digital x-ray machine like those recently acquired by other radiology offices in the community.

Yesterday, after the purchase but prior to delivery, Jack learned what Amanda had done and was furious. Jack did not believe the practice could afford such an expensive machine. When Jack confronted Amanda, Amanda said, “Too bad, it’s a done deal—get over it.” At that, Jack responded, “That’s it. I’ve had enough. This machine was purchased without my consent. It’s a terrible idea. I’m out of here and never coming back. Just give me my share of the value of the practice.” Worried that Jack’s withdrawal would jeopardize critical contract negotiations that the practice needed to finalize with certain insurance companies, Amanda asked Jack to reconsider. But Jack replied, “Nope. My mind is made up.”

- 1.5 What type of business entity is X-Ray Mart? Explain fully.**
- 1.6 Did Amanda have the authority to purchase the imaging machine; and if so, were there any actions that Jack and Matthew could have taken to revoke or limit her authority? Explain fully.**
- 1.7 Did Jack’s statements to Amanda constitute an effective withdrawal from X-Ray Mart? Explain fully.**
- 1.8 Assume for this question 1.8 that Jack’s withdrawal from X-Ray Mart was effective. What, if anything, should he be entitled to from X-Ray Mart, and who would be obligated to pay it? Explain fully.**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2020**

QUESTION 2 – 40 POINTS

PART A – 30 POINTS (10 points each subpart)

Questions 2.1-2.3 are based on the following facts:

Helios, Inc. (Helios), a Louisiana corporation, was formed in 2018. Helios’s certificate of incorporation states that its purpose is “to manufacture or market solar cells and panels, and no other purpose.” Helios’s shares are publicly traded.

Donna purchased shares in Helios in January 2019. Two months later, Helios’s board of directors properly called a directors’ meeting to consider whether Helios would invest \$500,000 in a Utah lithium ion battery manufacturer. Although not a director of Helios, Donna appeared at the directors’ meeting to object to the proposed investment. Over Donna’s objections, Helios’s board of directors voted unanimously to invest in the lithium ion battery manufacturer. Two days after the approval, it became public knowledge that the chairman of Helios’s board of directors partially owned the battery manufacturer.

Two weeks after the board of directors’ approval, Helios wired \$500,000 to complete the investment in the lithium ion battery manufacturer. Since then, the value of Helios’s investment in the battery manufacturer has fallen to zero, which caused the value of Helios’s shares to drop by one-half of what it was when Donna acquired her shares in Helios.

- 2.1 At the time of the board meeting, what actions might Donna have taken to prevent Helios from investing in the battery manufacturer; and for each such action is she likely to succeed? Explain fully.**
- 2.2 What actions, if any, should Donna take to recover her losses in her Helios stock? Explain fully, including the basis for any action and any procedural requirements.**
- 2.3 Assume that Donna sold all of her shares of Helios, Inc. to Carol the day after the board approved Helios’s investment in the battery manufacturer. (a) What action, if any, might Carol have taken to block the battery manufacturer investment? (b) What action, if any, might Carol take to recover her losses in her Helios stock? Explain fully.**

Part B – 10 POINTS - Short Answer (2 points each)

- 2.4 What is a “qualified director”?**
- 2.5 What records of a corporation may a shareholder inspect? What are the requirements for a shareholder to inspect the records of a corporation?**
- 2.6 How are the officers and directors of a corporation elected, and by what vote?**
- 2.7 What is a unanimous governance agreement? Discuss.**
- 2.8 What is the difference between express and implied authority by an agent?**

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
BUSINESS ENTITIES
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Agency; express and apparent authority (2 questions)

Agency; form of mandate

Corporations; voting

LLC; dissolution

LLC; management and division of profits

Negotiorum gestio

Partnership; liability for partnership debts

Partnership; partnership buyouts

Unanimous governance agreements

[End of Question 3]

END OF BUSINESS ENTITIES TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE I
FEBRUARY 2020**

QUESTION 1 — 40 POINTS

Harrison and Willow were married in Louisiana 5 years ago. Before their wedding, they executed a written agreement specifying that, in the event of a divorce, each spouse fully and irrevocably waived any and all rights to both interim and final periodic support. Although they signed the document before their wedding, it was not acknowledged before a notary until after they returned from their honeymoon.

Willow had never been married before, but Harrison had married another woman in Nevada 10 years ago. Harrison and his first wife sought a divorce two years after their marriage, but unbeknownst to Harrison, the Nevada court never issued a judgment of divorce. A year after Harrison and Willow's wedding, Harrison's first wife contacted him because, in the course of her efforts to re-marry, she discovered that their lawyer had not filed the final documents necessary to obtain a divorce judgment. Harrison immediately contacted a Nevada lawyer, who promptly obtained a judgment of divorce. Although Harrison told Willow about the mix-up, they took no steps to re-new their vows. They remained together and now have a 3-year-old son, David.

Harrison is a successful engineer with a profitable engineering company, and Willow is a schoolteacher. Both are actively involved with David, although Willow handles most of the afterschool activities and doctor's appointments since Harrison usually works until 6:00 pm and Willow finishes work at 3:00 pm. David attends daycare at Willow's school.

Right after her wedding with Harrison, Willow, who comes from a wealthy family, had purchased a dilapidated historical property. Willow used \$250,000 from her pre-marriage savings account to buy the property. Using his own labor for the work, Harrison promptly renovated the property at a hard cost of \$300,000 which they borrowed from a bank at 5% annual interest. The couple moved into the home during renovations and has lived there since then. Immediately after the renovation, the home was worth \$1 million and is now worth \$1.5 million.

Four months ago, Harrison began to suspect that Willow had had an affair. Harrison confronted Willow about his suspicions, but Willow denied having an affair. Harrison could not get past his belief that Willow had been unfaithful, and he became increasingly despondent. Although Harrison continued to live with Willow despite his suspicions, he started staying out until the early morning and drinking heavily. When he would get drunk, he would often become aggressive and scream at Willow and their son. Last week, he struck Willow and David, leaving no marks on Willow but giving David a bruised cheek.

Harrison remains convinced Willow was unfaithful, and he cannot move past that and wants a divorce. Willow likewise wants a divorce given Harrison's inability to trust her and his recent drinking and physical abuse toward her and David.

Please answer the following five subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 1.1 Are Harrison and Willow legally married? Is either of them entitled to the civil effects of marriage? Discuss. (10 points)**
- 1.2 Assume Harrison and Willow were legally married. What are each spouse's options for divorce? What potential time delays, benefits and complications are associated with each option? Discuss. (7 points)**
- 1.3 Assume Harrison and Willow were legally married. How should the home be classified: as Willow's separate property or instead as the couple's community property? Is any party entitled to reimbursement at dissolution of the community; and if so, in what amount? Discuss. (10 points)**

- 1.4 Assume Harrison and Willow were legally married. Does the agreement to waive spousal support preclude either Harrison or Willow from receiving interim or final support? Discuss. (5 points)**
- 1.5 Assume Harrison and Willow were legally married. If Harrison and Willow cannot agree on custody for David, to whom should the court award custody? Discuss. (8 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE I
FEBRUARY 2020**

QUESTION 2 — 40 POINTS

Arnold and Belinda were married 35 years ago and have two children, Chester and Danielle, who are now adults. A year after their wedding, Arnold and Belinda purchased a home on the corner of two streets: First Street, onto which the front of their home faced, and Elm Street, along which the side of their home and their back yard ran. Edward owned the home next door on First Street on the opposite side from Elm Street. Immediately after they purchased their home, Arnold and Belinda installed a fence along their property line between their house and Edward's. Unbeknownst to all of them, the fence was placed 4 feet into Edward's property, enclosing a 4-foot strip of Edward's property.

Arnold and Belinda were friendly with Edward, and 20 years ago, they signed an agreement giving Edward the right to use a 10-foot passage across the back of their property, entering via a gate from Elm Street because he could not access his backyard with any vehicles from First Street. The agreement specified that Arnold and Belinda "now grant Edward, as owner of the neighboring property for himself, his heirs and assigns, the right of ingress and egress for his RV from Elm Street to and from his backyard across the ten-foot strip marked on the attached plat"; the attached plat depicted the two properties, Elm and First Streets and this ten-foot strip across Arnold and Belinda's backyard. Edward sold his RV about 15 years ago, but has continued to use the route to store his motorcycle in his backyard.

Belinda filled their home with antiques that she had inherited as her separate property. Belinda died five years ago; she left all of her assets (including the antiques, which were valued at \$250,000 at her death) to Chester and Danielle, subject to a lifetime usufruct in favor of Arnold. Arnold then married a woman named Whitney. Arnold and Whitney decided to redecorate the entire home to a more modern décor and donated the antiques to a local charity. They also spent \$20,000 on replacing the old, damaged roof, \$50,000 on re-doing the bathrooms, \$15,000 for a new deck along the back of the home, \$10,000 for painting, and \$5,000 for miscellaneous carpentry work, for a total of \$100,000. Whitney mentioned her and Arnold's renovation plans to Chester, who did not object, but said nothing to Danielle. Shortly after finishing the renovation, Danielle came to visit and was shocked to see the antiques gone.

Edward recently sold his home, along with any and all servitudes or rights of way, to Fiona. During the survey for the sale, Edward and Fiona discovered that Arnold's fence enclosed a 4-foot strip of his property along the side of the house and she demanded that Arnold move the fence. Fiona also wants to park her car behind the house, but Arnold has installed a new fence that blocks access so that he and Whitney could install a pool in that location as part of Whitney's renovation plan. Fiona has demanded access through Arnold's backyard so that she could reach her backyard from Elm Street.

Please answer the following five subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

- 2.1 What are the nature and classification of the rights Edward acquired under the agreement from Arnold and Belinda? Discuss. (9 points)**
- 2.2 What rights, if any, does Fiona have to use the 10-foot passage to reach her backyard to park her car there? Discuss. (10 points)**
- 2.3 Who now owns the 4-foot strip of land fenced across Edward's original property? (5 points)**
- 2.4 Did Arnold have the right to donate the antiques? What rights, if any, do Chester and Danielle have with regard to the antiques? Discuss. (8 points)**
- 2.5 What amounts, if any, spent on the various work for the home (the roof replacement, the bathroom work, the new deck, the painting, and the carpentry work) is Arnold entitled to recover from Chester and Danielle? Discuss. (8 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAM
CIVIL CODE I
FEBRUARY 2020**

**QUESTION 3
(20 points)**

The following subject matters were tested in this multiple choice section:

Child custody; burdens of proof
Classification of moveable v. immovable
Co-ownership; partition
Filiation
Full and limited interdiction
Immovables/movables
Parental authority
Presumption of paternity of the husband
Spousal support; final v. interim
Rights of a good faith possessor of land

[End of Question 3]

END OF CIVIL CODE I TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2020**

QUESTION 1 — 40 POINTS

Helen and James were married and lived in Louisiana. Helen and James had one child during their marriage, Claire. Helen and James divorced 30 years ago.

Following their divorce, Helen and James settled the division of community property. As part of the settlement, James took full ownership of an apartment complex in New Orleans, Louisiana. James promised Helen that he would donate the apartment complex to Claire for her 25th birthday. On her 25th birthday, James told Claire that the apartment complex was hers but that he would continue to manage and operate it on her behalf. James and Claire never signed any paperwork with regard to the complex, but James began to immediately give Claire the rental income, less expenses, collected. Four years ago, Claire died shortly after giving birth to twin boys, Derek and Eric.

A few years after his divorce from Helen, James married Valerie. James and Valerie had two children during their marriage: Wyatt, age 24, and Zander, age 22.

James recently died without a will, while he was still married to Valerie. James was predeceased by his father and his brother (Frank). He is survived by Derek, Eric, Wyatt and Zander and also by his elderly mother (Andra), his sister (Brooke) and a niece (Georgia, Frank's only child).

At the time of his death, James owned the following additional property, all of which is located in Louisiana:

- Community property: His undivided one-half interest in a family home that he and Valerie purchased during their marriage with community funds.
- Separate property:
 - Immovable property known as "Blackacre" donated to James by his mother, Andra;
 - An original George Rodrigue painting, also donated by Andra to James; and
 - A classic Corvette automobile, which James inherited from his father when his father passed away.

Six months before his death, James gave Zander 1,000 baseball cards that James collected during his childhood. James told Zander that he was forever giving the baseball card collection to Zander because James enjoyed discussing baseball with Zander more than anyone else. The baseball card collection was worth over \$50,000.

- 1.1 Who should inherit James' interest in the family home, and in what proportions? Explain fully. (4 points)**
- 1.2 If Valerie remarries after James' death, to what interest, if any, would she be entitled in the family home upon her remarriage? Explain fully. (4 points)**
- 1.3 Did James still own the apartment complex at the time of his death; and who should inherit the apartment complex and in what proportions? Explain fully. (6 points)**

FOR QUESTION 1.4 ONLY, ASSUME THAT WYATT DOES NOT WISH TO INHERIT ANY INTEREST IN BLACKACRE, BUT WANTS TO INHERIT HIS SHARE OF THE OTHER ASSETS IN JAMES' ESTATE.

- 1.4 What steps, if any, are available to Wyatt to accomplish his desire to inherit his share of all of James' estate other than Blackacre? Explain fully. If Wyatt is successful, who inherits interests in Blackacre and in what proportions? Explain fully. (4 points)**

- 1.5 Other than Zander, are any of James' heirs likely to be successful if they assert any interest in James' baseball card collection? Explain fully. (3 points)**

FOR THE PURPOSES OF QUESTION 1.6 ONLY, ASSUME THE FOLLOWING ADDITIONAL FACTS.

James died immediately after Zander shot him. Zander later pled guilty and said he killed James because James said he wanted the baseball card collection back.

- 1.6 What steps, if any, might James' other heirs take to assert an interest in the baseball card collection? When must they take those steps? Explain fully. (4 points)**

FOR THE PURPOSES OF QUESTION 1.7 ONLY, ASSUME THE FOLLOWING ADDITIONAL FACTS.

At the time of James' death, a bank had a valid, final, but unsatisfied judgment against Wyatt for Wyatt's default on a loan from the bank. Wyatt has timely and properly renounced his interest in James' estate. The bank would now like to execute its judgment against Wyatt's inheritance from James.

- 1.7 What options, if any, are available to the bank with respect to Wyatt's inheritance from James? Explain fully. (4 points)**

FOR THE PURPOSES OF QUESTIONS 1.8 AND 1.9 ONLY, ASSUME THAT JAMES NEVER HAD ANY CHILDREN.

- 1.8 Who should inherit James' interest in the family home? Explain fully. (3 points)**
- 1.9 Who should inherit the apartment complex, Blackacre, the original George Rodrigue painting and the classic Corvette; and in what proportions? Explain fully. (8 points)**

[End of Question 1]

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2020**

**QUESTION 2
(40 POINTS)**

Fred died a single man in 2019. He was a lifetime domiciliary of the State of Louisiana. He was previously married to Wanda, from whom he was divorced in 2017, and who survives him. Fred's only children are those of his marriage to Wanda: namely, Leonard, Mary, Nell, and Opie, all of whom survived him. Each of Fred's children is healthy and over 50 years old.

Fred is also survived by two grandchildren, Paul and Teri, who are Opie's children and over the age of 18 years.

Fred settled all community property issues with Wanda, and at the time of his death Fred owned 100% of the assets mentioned in his last will and testament.

Fred left a valid notarial testament, dated 2016, the dispositive provisions of which read in the following order:

1. I leave Wanda all of my interest in my family home.
2. I leave Opie my 2016 Tesla Model S automobile.
3. I leave Nell my signed, first edition of James Joyce's A Portrait of the Artist as a Young Man.
4. I leave Mary my 2010 Stefano Canturi Barbie Doll, which I believe to be worth in excess of \$300,000; if Mary does not survive me, I leave such doll to the Les Cours Mont-Royal Barbie Doll Museum of Montréal, Canada.
5. I leave a cash sum equal to 10% of my gross estate to charity. I direct my executor to select the charities and determine how much each should receive.
6. I leave Mary my 2016 Tesla Model S automobile.
7. I leave Leonard all my books.
8. I leave to Opie and my good friend, Rudolph, all of my interest in Spacely Space Sprockets, LLC (the "LLC Units").
9. I leave the residue of my estate as follows: an undivided one-fourth interest to each of Leonard, Mary, and Nell. I believe Opie has enough money, so I skip him and leave the remaining undivided one-fourth interest to Giant National Bank, N.A., but in trust and as trustee of the Fred Testamentary Trust for the benefit of Paul and Teri (the "Trust"). Each of Paul and Teri shall be equal income and principal beneficiaries of the trust, and I want the trustee to keep separate shares of the Trust for each of Paul and Teri and decide which of them gets Trust income and when. The remaining terms of the Trust shall be provided by the Louisiana Trust Code.

- 2.1 Who should inherit the family home? Explain fully. (4 points)**
- 2.2 Who should inherit the Tesla? Explain fully. (4 points)**
- 2.3 Who should inherit the signed, first edition of James Joyce's A Portrait of the Artist as a Young Man? Explain fully. (4 points)**
- 2.4 With respect to the Barbie Doll, is the substitution of the Les Cours Mont-Royal Barbie Doll Museum of Montréal, Canada a permitted substitution? Explain fully. (4 points)**

- 2.5 Is the charitable bequest of 10% of the gross estate a valid bequest? Explain fully. (4 points)
- 2.6 *Assume for the purpose of this Question 2.6 only that Opie predeceased Fred, dying intestate as a Louisiana domiciliary in 2017. Who should inherit the LLC Units? Explain fully. (4 points)*
- 2.7 In a future year, the trustee determines to distribute \$100,000 of Trust income to Paul and \$50,000 of Trust income to Teri. Teri objects, claiming that although Fred's will permits such unequal Trust income distributions, the Louisiana Trust Code does not sanction such inequality. Is Teri's assertion correct? Explain fully. (4 points)
- 2.8 What is the maximum term of the Trust? Explain fully. (4 points)
- 2.9 In a future year, the Trustee determines that Teri is near destitute, has no medical coverage of any kind, and needs an expensive medical procedure. How much (if any) of the trust principal may be used for Teri's medical care, and may the Trustee rely solely on its own discretion in making any invasion of principal? Explain fully. (4 points)
- 2.10 Teri resents the fact that her inheritance is in trust. She and Paul agree that Paul will buy her interest in the Trust. The Trustee opposes this transaction. Must the Trustee recognize such sale? Explain fully. (4 points)

[End of Question 2]

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2020**

QUESTION 3 -- 20 POINTS

The following subject matters were tested in this multiple choice section:

Competency of witnesses to testaments
Conflict of laws
Disinherison by parents
Donations
Effect of child born after execution of testament
Form of testament
Form of trusts (2 questions)
Inheritance of installment obligation
Undue influence on donations

[End of Question 3]

END OF CIVIL CODE II TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2020**

QUESTION 1 — 40 POINTS

Betsy inherited a motorcycle in early 2017. She had no information about the motorcycle, other than that it had been purchased new from the dealer just a year before and had an odometer reading of 800 miles and that its headlight and temperature gauge were not working. In July 2017, Betsy placed an online advertisement for the sale of the motorcycle. The advertisement listed a sale price of \$5,000 for the motorcycle and stated that the motorcycle was in excellent condition, hardly used and ready for long rides on the open road.

Jason just turned 17 years old in June 2017 and thought he was ready to own a motorcycle. Jason's parents disagreed and refused to let him buy one as he was only 17, had not been emancipated, and used the school bus to attend high school. But Jason was determined to buy a motorcycle, so he emailed Betsy about viewing the motorcycle. On July 5, 2017 Jason arrived at Betsy's house to see the motorcycle. Betsy thought Jason looked the same age as her nephew who was in his second year at college; she asked Jason if he was also attending college. Jason wanted the motorcycle and did not want Betsy to think he was too young, so he stated that he was 18, was registered to attend college in the fall, and wanted a motorcycle to enjoy on the weekends. Betsy was satisfied with his response.

She then turned the key and started the motor, which seemed to operate perfectly. Betsy pointed out that the headlight and temperature gauge did not work. Jason inquired whether the motorcycle had ever been involved in a collision. Betsy responded that to her knowledge it had not. Because Jason was so excited and did not want to wait and possibly lose the motorcycle to another buyer, he agreed to the price for the motorcycle and advised Betsy that he wanted to purchase it. But Jason did want to test drive the motorcycle first, so he then stated that he needed a trial period to test it. Betsy offered to allow him to try the motorcycle out over the following week, and to return it if he did not find it to be satisfactory. Jason readily agreed. He used the motorcycle over the next three days, finding it to have no discernable problems other than the headlight and temperature gauge.

On July 12, 2017, Jason telephoned Betsy and accepted Betsy's offer and verbally agreed to purchase the motorcycle for \$5,000. Two days later, on July 14, 2017, Jason presented Betsy with his \$5,000 check, and Betsy produced a handwritten bill of sale, which they each signed without any further discussion. Though Jason did not bother to read the bill of sale at the time, it contained language to the effect that "The herein described motorcycle is sold 'AS IS'."

Jason rode the motorcycle several times during the fall of 2017. On each of those occasions, the motorcycle performed well. In early January 2018, however, Jason noticed that one of the wheels was rubbing against its fender. Jason surmised that this condition was caused by underinflation of the motorcycle's tires, and he stopped by a gas station to make sure they were all properly inflated. The next time Jason used the motorcycle, the motorcycle operated without any problems, until Jason struck a pothole while riding it. Immediately afterward, he noticed that the motorcycle frame was sagging badly. He was puzzled, because he was certain that he had not been traveling fast enough to damage the motorcycle when he hit the pothole. The next day, Jason took the motorcycle to a local repair facility for a diagnosis of the problem and an estimate of the cost of repairs. After a detailed inspection, the repairman reported that the metal frame of the motorcycle had been badly fractured at some point in the past, most likely through a collision, and that someone had attempted to repair the damage through some weak, amateurish "tack" welds, which evidently had broken loose when Jason drove through the pothole. The repairman also told Jason that the motorcycle was worthless because it was not worth the cost of repair. The repairman assured Jason that he should not fault himself for failing to detect the damage to the frame of the motorcycle when he bought it, because the damage was hidden beneath its body, which itself must have been replaced at some point after the damage to the frame occurred.

After hearing this report, Jason contacted Betsy to ask for the return of his money. Betsy refused, pointing out that she had sold the motorcycle to Jason “AS IS.” Jason did not want his parents to know what he had done, so he took no action against Betsy until after his 18th birthday in June 2018 when he moved out on his own. Jason filed suit against Betsy for a refund of his money on August 1, 2018.

- 1.1 Was there a valid sale between Jason and Betsy and, if so, when did ownership transfer? Explain fully. (For purposes of this Question 1.1 only, assume that Jason had the capacity to enter into the sale). (5 points)**
- 1.2 Assuming there was a valid sale, may Jason rescind the sale based on his incapacity? Explain fully both the arguments to be made in favor of rescission of the sale for incapacity and the defenses against rescission. (10 points)**

FOR THE REMAINING QUESTIONS, ASSUME THE SALE IS VALID AND HAS NOT BEEN RESCINDED ON ACCOUNT OF JASON'S INCAPACITY.

- 1.3 Does Jason have a valid claim in redhibition against Betsy regarding the condition of the motorcycle? Explain fully. (10 points)**
- 1.4 How might the redhibitory rights of Jason be affected by the good or bad faith of Betsy in her sale of the motorcycle? Did Betsy act in good faith or in bad faith in this transaction? What additional claims might Jason have if Betsy acted in bad faith? What additional defenses might Betsy assert if she acted in good faith? Explain each fully. (10 points)**
- 1.5 What recourse, if any, might Jason have in light of the “AS IS” language contained in the bill of sale? Explain fully. (5 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2020**

QUESTION 2 — 40 POINTS

Owner owns Lot 1 of the Greenacre Subdivision. On June 1, 2008, Owner entered into a contract with Contractor to build a house for Owner on Lot 1. Neither the contract nor any notice of the contract was ever filed in any public records.

Contractor contracted with SupplyCo to provide \$20,000 of building materials for construction of the house. On June 3, 2008, SupplyCo delivered the building materials to Lot 1 and stacked them at the back corner of the lot. In that location, they were not visible from the street.

Owner approached Big Bank for a \$200,000 construction loan. Big Bank agreed to make the loan. Before the loan closing, Big Bank hired a licensed engineer to determine if any work had commenced on Lot 1. On Friday, June 6, 2008, the engineer drove by the lot and saw no work in progress. But the engineer did not walk the entire lot as it was hot, and he wanted to get back to his office. That same day, the engineer reported to Big Bank that no work had commenced on Lot 1.

On Wednesday, June 11, 2008, Big Bank held the loan closing with Owner. Big Bank had Owner sign a promissory note dated June 11, 2008, in the amount of \$200,000 bearing interest at 10% per year and payable to the order of Big Bank in 119 monthly payments of interest only, commencing July 1, 2008, and a final payment due on June 1, 2018 for the principal and all other sums remaining due. As security for the loan, Owner executed an act of mortgage that accurately described the promissory note and contained a proper legal description of Lot 1. Owner signed the mortgage at the bank in the presence of two witnesses. Although she was also present at the time, Big Bank's loan officer for the loan did not sign the mortgage. Later that day, Big Bank presented the mortgage to its attorney, who had one of the witnesses to the mortgage acknowledge his signature on the mortgage by recognizing the signature as his own before the notary public in the presence of two witnesses. That same day, the attorney for Big Bank recorded the mortgage in the mortgage records of the parish where the Greenacre Subdivision is situated.

The following day, June 12, 2008, at the request of Big Bank, the engineer drove by Lot 1 again and, discerning no change in the condition of the lot, executed and delivered to Big Bank an Affidavit of No Work attesting that he had inspected Lot 1 for Big Bank and found neither work in progress nor materials on site. That same day, Big Bank recorded the affidavit in the mortgage records of the parish where the Greenacre Subdivision is situated.

In late June 2008, Contractor poured the foundation during a rainstorm. Days later, the foundation dried but had cracks and was not level. Owner was furious and thus fired Contractor on June 30, 2008 and refused to pay Contractor for any work or supplies. Contractor had no money and failed to pay SupplyCo for the building materials it had delivered. On July 2, 2008, SupplyCo filed a statement of claim or privilege that accurately described Lot 1, the supplies that had been delivered, and balance due for those supplies.

Owner hired a new contractor to remove and replace the faulty foundation. The replacement of the foundation caused Owner to need more money to finish the house construction. On September 30, 2008, Owner borrowed \$100,000 from EZ Cash and granted EZ Cash a mortgage on Lot 1.

The mortgage granted to EZ Cash was executed by Owner before two witnesses and a notary public, contained a proper description of Lot 1, and was recorded in the mortgage records of the correct parish the same day it was signed. The mortgage did not contain a description of any specific indebtedness or any specific promissory note, but instead described the secured obligations simply as "any and all present and future obligations and indebtedness that we may now or hereafter owe to EZ Cash, up to the maximum sum of \$50,000,000 at any one time outstanding." EZ Cash also had Owner execute a \$100,000 promissory note, which was not paraphrased for identification with the mortgage and made no mention of the mortgage.

The original Contractor later sued Owner for Owner's failure to pay Contractor. Owner did not respond to the lawsuit, and on November 3, 2009, Contractor obtained a default money judgment, which Contractor recorded in the mortgage records that same day. He has taken no further action to enforce or preserve his judgment since then.

On June 1, 2018, Owner's final payment to Big Bank was due. Owner could not pay this final payment in full but continued to make a monthly payment to Big Bank in hopes of holding off legal proceedings by Big Bank.

In December 2019, Big Bank hired an attorney to file foreclosure proceedings on Lot 1. The attorney obtained an abstract of the title to Lot 1 and found the Act of Mortgage in favor of Big Bank recorded on June 11, 2008, the Affidavit of No Work recorded on June 12, 2008, the statement of claim or privilege filed by SupplyCo on July 2, 2008, the mortgage in favor of EZ Cash recorded on September 30, 2008, and the money judgment in favor of Contractor recorded on November 3, 2009. No other documents were recorded against Lot 1.

- 2.1 Was the Act of Mortgage in favor of Big Bank valid at the time of its execution? Discuss. (5 points)**
- 2.2 EZ Cash asserts that Big Bank's mortgage is no longer effective against third persons and that EZ Cash's rights in the mortgaged property outrank any rights Big Bank may have. Is EZ Cash correct? Why or why not? (5 points)**
- 2.3 Does Contractor currently have an enforceable judicial mortgage burdening Lot 1? Why or why not? (10 points)**
- 2.4 Is EZ Cash's mortgage valid and does it secure the \$100,000 promissory note that Owner executed in favor of EZ Cash? Why or why not? (10 points)**
- 2.5 On the day SupplyCo recorded its statement of claim or privilege (July 2, 2008), did its privilege have priority over Big Bank's mortgage? Why or why not? (10 points)**

[End of Question 2]

LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2020

QUESTION 3 — 20 POINTS

The following subject matters were tested in this multiple choice section:

Suretyship; solidary liability
Discrepancies in acts of sale; mutual error; sale by boundaries
Effect of modification of principal obligation; extension of liberative prescription
Eviction; modification or exclusion of warranty
Mortgage records; transfers, amendments and releases
Privileges
Recordation of lease
Rights of surety against principal obligor
Sale of litigious rights
Time within which to bring revocatory action

[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2020**

WARNING:

The following are not issues on the ESSAY PORTION (Questions 1 and 2) of the Constitutional Law Examination: mootness, ripeness, political question, case or controversy, standing or justiciability. NO CREDIT WILL BE GIVEN FOR DISCUSSION OF THESE ISSUES IN EITHER OF THE TWO ESSAY QUESTIONS.

QUESTION 1 — 40 POINTS

Women for Justice in America (“WJA”) hosts regular meetings to provide a space for members of the organization to come together to discuss issues related to their written mission regarding family and political issues. During their meetings, they pray about those issues and seek to apply biblical principles to the issues discussed. Their meetings often include guest lectures on various topics, such as early childhood education and women’s health initiatives. Paula, President of WJA, recently requested use of the auditorium in the city-owned public library to discuss concerns related to safety of students in public schools, decline in the education system, and the need to increase teacher pay and to strategize on how to lobby candidates for office to take positions supported by WJA on various issues. The intended guest lecturer was Betty, whose ultra conservative viewpoints and vast knowledge of biblical principles made her a popular figure amongst members of WJA. Any group desiring access to the auditorium must first obtain permission from Cynthia, a city employee who is the director of the library. Cynthia denied Paula’s request with a letter, stating that such a meeting would violate library policy because WJA was a group with religious purpose. The library’s published policy states:

The auditorium in our library is open for use of public groups or organizations of a civic, cultural, or educational character, but not for social gatherings, entertaining, dramatic productions, money-raising, or commercial purposes. It is also not available for meetings for social, political, partisan, or religious purposes or when, in the judgment of the director of the library, any disorder is likely to occur.

Cynthia emphasized that in accordance with its policy the auditorium was open only to group meetings for artistic or educational purposes and that, once she determined that a group would not be meeting for a religious or political purpose, she would then grant the group permission to use the auditorium. Cynthia further explained that, because WJA’s request was denied, Paula could approach the mayor and city council for further review of the request.

Paula, on her own behalf, had previously requested permission to use the auditorium for a “family gathering,” which Cynthia had granted. On the night of that event, 75 residents who learned of the event through social media attended the meeting, which lasted more than three hours and consisted of singing songs, praying for the local community, and discussing issues such as the condition of schools, the safety of students, and encouraging individuals to be role models in the community. Further, Paula was aware that her Kiwanis Club had used the auditorium for meetings that were for non-artistic or non-educational purposes, such as a fundraiser for the United Way, a potluck luncheon for retirees, and local swim club meetings.

Immediately upon receiving Cynthia’s letter, Paula sent a letter on behalf of WJA to the mayor and city council, requesting they reverse Cynthia’s denial of WJA’s request to use the auditorium; she cited among other things the prior permission granted to these other groups to use the auditorium. The mayor sent WJA a formal letter denying the request and stating that the auditorium is not available for any type of meetings for a religious purpose. Thereafter the city council, after consulting with the city attorney, unanimously passed a motion to exclude meetings with a religious purpose from the auditorium at the library.

Please answer the two subquestions which follow on the next page.

- 1.1 What claims, if any, might WJA have against the city under the Free Speech Clause of the First Amendment of the U.S. Constitution? Explain fully. (20 points)**
- 1.2 What claims, if any, might WJA have against the city under the Free Exercise Clause of the First Amendment? Explain fully. Include in your discussion whether the city might assert any valid defenses under the Establishment Clause of the First Amendment of the Constitution? (20 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2020**

QUESTION 2 – 40 POINTS

Several years ago, a new species of frogs was discovered in the bayous of a handful of southern states in the United States, including Louisiana. It was discovered that this new species of frog was the source of a substance that acts to combat diabetes more effectively than any medication on the market and at a much lower cost. Because of these benefits, the species was named sugarfrog. Medication derived from the sugarfrog substance was recently approved by the Federal Drug Administration (FDA) and was found to produce the effects it was purported to produce. A few companies in some of the states where the sugarfrogs were found to be living began to catch the sugarfrogs and produce diabetes medication that was available to consumers nationwide by direct shipping from the processing lab via phone or internet orders.

Individuals from around the country began sharing the news of this newly available medication and its success in treating diabetes on social media, and news of success stories were also shared on both local and national news stations. After hearing of the growing interest in the medication from the sugarfrogs, Charles decided he would break into the market and formed Froggy, Inc., a processing lab for the sugarfrog substance, in Louisiana. Froggy, Inc. purchased three acres of land near a bayou where the sugarfrog was found to be in great supply and built a processing lab and distribution factory on the land. Froggy, Inc. used the same process for producing diabetes medication from sugarfrogs as the other processing labs in other states. Froggy, Inc. packaged and sold its product as “Sugar Be Gone.”

Charles then contacted his local state representative, and together the two persuaded the Louisiana State Legislature to enact a law prohibiting the import of sugarfrogs or any medications derived from sugarfrogs into Louisiana. The Act is called the Sugarfrog Reservation Act (Act), and the stated purpose of the Act is, given the state of the economy in Louisiana, to encourage Louisiana consumers to buy Louisiana products.

Josie is a resident of a small town in Louisiana. She was diagnosed with diabetes and has had a difficult time controlling her blood sugar due to the recent substantial increase in the cost of insulin. She has limited funds, and thus decided to purchase and try the sugarfrog medication. She found Froggy’s Sugar Be Gone online, but it was too expensive for her budget. After spending several days researching other sugarfrog medications online, Josie discovered a similar product with discounted prices from a company by the name of “Low A1C” out of South Carolina. Josie placed an online order with Low A1C only to be told that Louisiana state law precluded direct shipment of out-of-state sugarfrog related products.

- 2.1 Might Josie and/or Low A1C reasonably raise a Commerce Clause challenge to the Act, and is either likely to succeed? Discuss fully. (15 points)**
- 2.2 Might Josie and/or Low A1C reasonably raise a challenge under the Equal Protection Clause, and is either likely to succeed? Discuss fully. (15 points)**
- 2.3 Might Josie and/or Low A1C reasonably raise a Due Process challenge to the Act, and is either likely to succeed? Discuss fully. (5 points)**
- 2.4 Might Josie reasonably raise a Privileges and Immunities challenge, and is she likely to succeed? Discuss fully. (5 points)**

[End of Question 2]

**LOUISIANA STATE BAR EXAM
CONSTITUTIONAL LAW
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Adequate and Independent State Grounds; Justiciability
Anti-commandeering; Federalism
Establishment of religion; public displays
Free Speech; Time, Place and Manner Restrictions
Free Speech in Schools
Freedom of Religion (Free Exercise Clause)
Standing (2 questions)
State action
Takings Clause

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
FEBRUARY 2020**

QUESTION 1 — 40 POINTS

One evening, Jamie, who had recently completed serving a sentence for armed robbery, decided to go out to a sports bar to watch a football game and have a couple of drinks. Jamie proceeded to drink nine double bourbon drinks. Jamie became intoxicated and got into a heated argument with another man at the bar, Bob, over the game. This led to Jamie, who thought of himself as a bit of a tough guy, to act like he was going to punch Bob. In defense, Bob struck Jamie. This led to a physical altercation, with both Bob and Jamie exchanging punches. Ultimately, no one was hurt, but the bar owner ushered Jamie out of the bar. Jamie then threw a bottle at a neon light fixture hanging above the entrance to the bar, breaking it. The bar owner told Jamie never to return to the establishment or law enforcement would be called.

Enraged, Jamie began walking home, but decided to make a quick stop to pick up some marijuana to calm his nerves. He called his friend, Claire, and the two discussed where and when to meet so that Jamie could purchase an ounce of marijuana from Claire. The two then met in a nearby parking lot. Jamie got in the front passenger seat of Claire's car. While Claire was weighing out the ounce she agreed to sell to Jamie, Jamie discussed the events that occurred at the bar. The two then developed a plan to make a quick buck by robbing the bar. Claire, who didn't like Bob, convinced Jamie that she and Jamie should kill Bob while they were robbing the bar.

Once Jamie and Claire arrived at the bar, they both put on masks. Jamie also armed himself with a 9mm handgun. Claire brought into the bar a pocket knife and duffel bag. Immediately after they walked into the bar, Jamie walked up to Bob and shot him twice in the chest. Bob suffered very severe injuries, but ultimately survived. Next, Jamie pointed the gun at three other bar patrons and told them to put their hands on their heads, lay face down on the ground, and to "keep their eyes shut or they will never see their friends or family again". While brandishing the pocket knife, Claire walked up to the bartender and forced him to empty the cash register into the duffel bag. After Claire got all the money out of the register, she and Jamie went to leave. The bartender then pulled out a 12-gauge shotgun he had hidden behind the bar. Jamie in turn shot and killed the bartender.

Jamie and Claire then got into Claire's car, and Jamie drove. Jamie subsequently crashed the car into a light pole and was apprehended by law enforcement shortly thereafter.

- 1.1 With what crimes, if any, might Jamie reasonably be charged under the Louisiana Criminal Code (Title 14 of the Louisiana Revised Statutes) and is he likely to be convicted? Please discuss each crime fully, identifying the elements of each crime and the facts supporting each crime.**
- 1.2 With what crimes, if any, might Claire reasonably be charged under the Louisiana Criminal Code (Title 14 of the Louisiana Revised Statutes) and is she likely to be convicted? Please discuss each crime fully, identifying the elements of each crime and the facts supporting each crime.**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
FEBRUARY 2020**

QUESTION 2 — 40 POINTS

Assume all the facts given in Question 1, in addition to the following:

Immediately after Jamie crashed Claire's car into the light pole, police officers arrested Jamie and placed him into the back of a police cruiser. Claire, however, managed to flee on foot to her home before law enforcement arrived at the scene of the crash. The officers then searched the car Jamie was driving and found a duffle bag of cash, a 9mm handgun, multiple cell phones, and approximately 3 pounds of marijuana. Prosecutors intend to introduce the money, the gun, and the marijuana into evidence at trial.

After the search, one of the police officers returned to his cruiser and attempted to advise Jamie of his Miranda rights. But Jamie abruptly interrupted the officer before the officer could complete the warnings and angrily proclaimed "I've been arrested before, man. I already know all that stuff." The officer did not complete the reading of the warnings. Minutes later, Jamie offered a statement implicating himself regarding the incident at the bar.

Before police transported Jamie to the parish jail, one of the bar patrons was taken to the accident scene. Once there, investigators asked the patron if he could identify Jamie as the person who had pointed a gun at him. The patron quickly indicated that Jamie was the culprit.

Investigators then learned that Claire had been Jamie's partner during the commission of the robbery. They also learned that she may have purchased a mask similar to one used by a suspect at the scene of another armed robbery and shooting reported at a different local bar the evening before. Investigators also learned that the mask may have been stored at the home Claire shared with her boyfriend. The investigators thought the mask would make good evidence for their case and drove to Claire's home with the intention of conducting a search for the mask and arresting Claire. Upon arrival, they identified themselves to Claire's boyfriend and requested his consent to search the residence. Claire's boyfriend readily consented to the search. Claire herself, however, vigorously opposed it. Relying on the consent given by Claire's boyfriend, officers proceeded to search the couple's bedroom and discovered the mask. Claire was later arrested.

Police officers also decided to search Claire's childhood trailer where she had grown up with her family. They obtained a court-issued warrant to enable them to do so. When they arrived at the trailer, Claire's brother, Bill, was present. While searching the trailer, the officers ordered Bill to empty his pockets and discovered a small amount of cocaine in Bill's shirt pocket.

At Jamie's later criminal trial, Jamie's lawyer challenged the admissibility of Jamie's statement implicating himself regarding the incident at the bar and the admissibility of the witness's identification of Jamie.

At Claire's later criminal trial, her attorney challenged the legality of the search of Claire's car and home.

At Bill's later criminal trial, his attorney challenged the legality of the search of Bill's person and the seizure of the cocaine.

Please address the following five questions:

- 2.1 What are the state and federal constitutional bases, if any, for challenging the admissibility of Jamie's statements, and are they likely to succeed? Discuss. (8 points)**
- 2.2 What are the state and federal constitutional bases, if any, for challenging the admissibility of the results of the witness identification procedure, and are they likely to succeed? Discuss. (8 points)**

- 2.3** What are the state and federal constitutional bases, if any, for challenging the search of Claire's car, and are they likely to succeed? Discuss. (8 points)
- 2.4** What are the state and federal constitutional bases, if any, for challenging the legality of the search of Claire's home, and are they likely to succeed? Discuss. (8 points)
- 2.5** What are the state and federal constitutional bases, if any, for challenging the legality of the search of Bill's person and the seizure of the cocaine, and are they likely to succeed? Discuss. (8 points)

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
CRIMINAL LAW, PROCEDURE AND EVIDENCE
FEBRUARY 2020**

QUESTION 3 — 20 POINTS

The following subject matters were tested in this multiple choice section:

Criminal pretrial discovery
Deadlines for capital cases
Evidence of other crimes
Impeachment evidence
Institution of criminal proceedings
Procedures relating to objectionable evidence
Relief for judge's bias
Review of criminal pretrial order
Scope of cross-examination
Suppressing evidence

[End of Question 3]

END OF CRIMINAL LAW, PROCEDURE, AND EVIDENCE TEST

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2020**

QUESTION 1 – 36 POINTS

Larry, a lifelong resident of Louisiana, owns a facility in Baton Rouge to produce and sell hot sauce. Four years ago, while on vacation in Florida, he met Adam, who also lived in Louisiana. Larry learned that Adam owned Umbrella Corp. (UC), which had an interest in GlassCo LLC (GlassCo), which manufactured glass bottles for food products. Larry was looking for a reliable supplier of glass bottles for his hot sauce business. Although Adam lived in Louisiana, none of his companies did any business in Louisiana, so Adam was interested in a new business prospect in Louisiana. The next week, Larry and GlassCo signed a five-year contract for GlassCo to supply all the glass bottles Larry would need for his hot sauce business.

The relationship went well until a few months ago, when a GlassCo delivery driver damaged Larry's loading dock and caused \$50,000 in property damage. Larry attempted to get GlassCo to pay for the damage, but GlassCo suddenly stopped communicating with him and stopped its deliveries to him even though over a year remained on its supply contract with Larry. Larry calculated that his damages in lost sales and increased expenses to obtain glass bottles elsewhere will amount to \$60,000.

GlassCo is a limited liability company organized under Louisiana law that operates manufacturing facilities in Alabama and Mississippi. It is licensed to do business in those two states as well as in Florida and Georgia.

The sole member of GlassCo is Bottles-R-Us, LP (Bottles), a partnership in commendam organized under Louisiana law. Its general partner is UC, which is incorporated in Delaware. Adam is the president of UC and owns 100% of its stock. UC also owns shopping centers in Florida and Texas. The other two officers of UC handle the daily affairs of the business of both UC and GlassCo from an office in Gulfport, Mississippi, which Adam calls daily from his home in Louisiana and visits twice a month to go over reports. GlassCo was never able to develop any other customers in Louisiana besides Larry.

The limited partner in Bottles is Billy, Adam's younger brother. Billy lived with his parents in Jackson, Mississippi all of his life. But for the past three years, he has been living in Baton Rouge, where he attends Louisiana State University as an undergraduate student. Billy still goes home to visit his parents for every holiday. He plans to graduate in one year. He is undecided what career he will pursue, but he is giving a strong consideration to staying in Louisiana to attend graduate school.

Larry filed a complaint against GlassCo in Louisiana federal court. The complaint prays for a jury and alleges two claims under Louisiana law: a tort claim for \$50,000 for damage to the loading dock and a breach of contract claim for \$60,000 in damages. Promptly after it was served with Larry's complaint, GlassCo filed a motion to dismiss both for lack of subject matter jurisdiction and for lack of personal jurisdiction over GlassCo.

Questions 1.1 to 1.3 are based on the facts above. Please use paragraph breaks to separate the major components of each answer to the following questions:

- 1.1 Does the federal court have diversity subject-matter jurisdiction over Larry's case against GlassCo? Explain fully. (25 points)**
- 1.2 Does the Louisiana federal court have general personal jurisdiction or specific personal jurisdiction over GlassCo for Larry's case against GlassCo? Explain fully. (6 points)**

- 1.3** *Assume for Question 1.3 that the federal court denied GlassCo's motion to dismiss. A Louisiana statute requires a party who requests a jury to post \$2,500 security to cover the cost of summoning and paying the expenses of the jurors. Another Louisiana statute provides that a person who breaches a written contract to provide components to a company that fits the definition of a small manufacturer is subject to an additional 10% damages payable as a civil penalty. Larry meets the definition of a small manufacturer and properly amended his complaint to assert a claim for the 10% penalty.*

Should the federal court apply to Larry's case:

- (a) the Louisiana statute that requires a party who requests a jury to post security?**
- (b) the Louisiana statute that provides for an additional 10% damages?**

Explain each answer fully. (5 points)

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2020**

QUESTION 2 – 44 POINTS

Brian, a citizen of Arkansas (AR), was shopping at Food Mart in Shreveport, Louisiana (LA) on April 12, 2015 when he slipped on a puddle of water near the restroom and fell. On May 1, 2015, Brian filed a petition against Food Mart, a LA corporation with stores only in LA, in LA state court in Shreveport. His petition, consistent with LA law, did not demand a particular amount of damages, and the petition offered no greater description of Brian's injuries than to state that he had "suffered physical injuries as a result of the fall."

Brian delayed serving his petition on Food Mart until August 3, 2015. Food Mart promptly served discovery requests on Brian to learn the details about his injuries, but he requested several extensions of time and in answers to interrogatories stated only that he had suffered back injuries for which he continued to receive treatment. After additional delay, Brian eventually produced his medical records to Food Mart on June 1, 2016. The records showed that Brian suffered two ruptured discs and that his treating physician told him soon after the accident that he would need expensive surgery and lengthy rehabilitation. The production of the medical records was accompanied by Brian's settlement demand for \$450,000. Food Mart, receiving this first indication that the amount in controversy would support diversity jurisdiction, removed the case to federal court 27 days later on June 28, 2016.

Questions 2.1 to 2.8 are based on the facts above. Please use paragraph breaks to separate the major components of each answer to the following questions:

- 2.1 What procedure and requirements must counsel for Food Mart follow to remove the case to federal court? Explain fully, and indicate the federal court to which the case may be removed. (8 points)**
- 2.2 What objections might Brian reasonably raise to the removal, and is he likely to succeed? Explain fully. (8 points)**
- 2.3 If Brian wants the case returned to state court, what must Brian file in the federal court? (2 points)**
- 2.4 Describe the effect, if any, if Brian makes his filing on August 5, 2016. (4 points)**
- 2.5 Assume for this question only that Brian filed a timely motion to object to the removal and that the only objection Brian raised was the timeliness of the removal. What is Food Mart's best argument to overcome that objection? (4 points)**

Assume for Questions 2.6 to 2.8 that the case remains in federal court.

- 2.6 The owner of Food Mart met with an attorney to discuss a defense to the lawsuit. The attorney asked the owner to gather up all paperwork and records Food Mart had relating to the store's maintenance and clean-up procedures and send them to the attorney. Food Mart's owner later delivered the business records to the attorney along with a letter in which the owner explained what was included in the business records and why he believed Food Mart did not follow proper procedures the day of the accident. The attorney reviewed the records and determined that they would not be useful to a defense of the lawsuit.

Brian served Food Mart with a request for production of documents that asked for "all correspondence, emails, and business records of any kind that reference or are related to maintenance and clean-up procedures implemented by Food Mart."

In response to Brian's request, must Food Mart produce:

- (a) the letter from Food Mart's owner?
- (b) the business records Food Mart delivered to its attorney?

Explain each fully. (6 points)

- 2.7 Food Mart filed a summary judgment motion supported by an affidavit from a Food Mart employee, who stated that he saw Brian near the restroom and that Brian never slipped or fell. Food Mart also submitted an affidavit from Brian's former parole officer, who stated that Brian had been convicted three years earlier for perjury after Brian offered false alibi testimony at a friend's burglary trial.

Brian opposed the motion. Although he submitted no affidavit of his own, his attorney's opposition memorandum pointed to the allegations in Brian's original petition and surmised that the employee must have looked away before Brian fell.

- (a) What is the applicable standard for assessing Food Mart's motion for summary judgment?
- (b) How should the submissions of the parties be analyzed under the applicable standard?
- (c) How should the court rule on the motion?

Explain each answer fully. (8 points)

- 2.8 Assume that Brian's opposition to Food Mart's motion for summary judgment included his own affidavit in which he stated that he did slip and fall in the puddle of water, just as alleged in his complaint. Should this additional item affect how the court should rule on Food Mart's motion? Explain fully. (4 points)

[End of Question 2]

**LOUISIANA BAR EXAMINATION
FEDERAL JURISDICTION AND PROCEDURE
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Amendments to pleadings; supplemental jurisdiction
Discovery
Initial disclosures under FRCP 26
Interpleader
Removal; joining of defendants
Res judicata
Timing of appeals; interlocutory dismissals
Subject matter jurisdiction (2 questions)
Venue

[End of Question 3]

END OF FEDERAL JURISDICTION AND PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2020**

QUESTION 1 – 40 POINTS

(This fact pattern applies to Questions 1.1-1.13)

Tangi Electric Inc. is a Louisiana corporation with its registered office in Tangipahoa Parish. Arthur lives in adjacent St. Helena Parish and owns a rental house in adjacent Livingston Parish. Arthur called Tangi Electric to check unexplained power outages at his Livingston Parish rental house. Tangi Electric sent employee Bob to respond to the call. Bob, a resident of nearby Washington Parish, had 2 months experience as an apprentice electrician. Bob found a defective breaker box in the Livingston Parish rental house and installed a new breaker box. The newly installed box was manufactured by Portland Electric, an Oregon corporation with no offices or representatives in Louisiana. One week later, Arthur's Livingston Parish rental house was destroyed by a fire that is believed to have originated in the new breaker box. Arthur wants to sue Bob and Tangi Electric for negligence resulting in the destruction of his Livingston Parish rental house.

Answer the following questions and explain each answer briefly:

- 1.1 What Parish or Parishes would be a proper venue for Arthur's lawsuit against Bob and Tangi Electric? (6 points)
- 1.2 *Assume solely for this Question 1.2* that Arthur filed a lawsuit against Bob and Tangi Electric in St. Helena Parish. Defendants Bob and Tangi Electric want to challenge the venue. (4 points)
 - (a) What pleading must be filed to challenge the venue, and when must it be filed? (2 points)
 - (b) Are Defendants likely to prevail? Why or why not? (2 points)

For the remaining subquestions in Question 1, assume that Arthur filed suit in a proper venue.

- 1.3 The clerk's office has taken no action to process Arthur's suit so that it may be turned over to the Sheriff for service. Arthur has written the clerk two letters requesting that the clerk process the suit, but both letters have been ignored. Arthur has learned that defendant Bob is the brother of the clerk of court. Arthur concludes that any further letter requests would be futile. What step, if any, should Arthur take to request that a judge order the clerk of court to process the suit? (2 points)
- 1.4 Arthur was successful in having the clerk of court process the suit and forward it to the sheriff to make service upon Defendants. Tangi Electric promptly filed an answer. The sheriff prepared and filed with the clerk of court a service return stating that Bob was served personally. It has now been 45 days since the service and no pleadings have been filed by Bob, nor has Arthur heard from anyone representing Bob. Arthur is ready to proceed to trial with the case. What must Arthur file to proceed with the case and what are the time delays, if any? (3 points)
- 1.5 In the petition, Arthur did not ask for trial by jury. If it wants a jury trial, what must Tangi Electric do to ensure trial by jury in the case? (2 points)

For the remaining subquestions in this Question 1, assume that both Tangi Electric and Bob have filed timely answers denying liability.

- 1.6 Tangi Electric believes Portland Electric's breaker was defective and wants to add it as a party to the lawsuit. (4 points)
- What pleading must Tangi Electric file to add Portland Electric as a party to the case? (1 point)
 - How may Tangi Electric effect service of process on Portland Electric? Explain in detail how this is done. (2 points)
 - What must Tangi Electric file in the record to prove service was made on Portland Electric? (1 point)
- 1.7 Because Portland Electric sells no products to any Louisiana distributors, it wishes to contest personal jurisdiction of the Louisiana court. Its closest distributors to Louisiana are in Houston, Texas; Little Rock, Arkansas; and Biloxi, Mississippi. (5 points)
- What pleading must Portland Electric file to contest jurisdiction of Louisiana over it in this matter, and when must it be filed? (2 points)
 - What is the basis for possible jurisdiction over Portland Electric? (3 points)
- 1.8 Arthur wants to know about Tangi Electric's training program for apprentice electricians, hiring requirements for newly employed electricians, and supervision policies for apprentice electricians sent into the field to do electrical work. Arthur does not know which Tangi Electric officials would be most likely to have knowledge of these subjects. What action, if any, can Arthur's attorney take to obtain the depositions of these officials without knowing their identities? (2 points)
- 1.9 Arthur suspects that Bob has had a history of faulty electrical repairs while being employed by Tangi Electric. Identify at least two forms of discovery that Arthur could serve to seek to obtain that information? (2 points)
- 1.10 Arthur had fire insurance on the rental house with Ace Insurance Co. ("Ace"). Arthur made a claim to Ace for the fire loss. More than one year after Arthur filed suit, Ace paid Arthur its policy limits for the fire claim, but the payment was less than Arthur's total damages. Ace filed an Intervention as a plaintiff in Arthur's suit against Tangi and Bob, seeking to recover by way of subrogation the amount Ace paid Arthur. Defendants filed an exception of prescription. How should the court rule and why? (2 points)
- 1.11 Expert witness reports were exchanged, and the discovery depositions of both experts were taken. Arthur believes that the defense expert is completely unqualified to give expert testimony in the suit and that his methodology is "junk science." (2 points)
- What motion should Arthur file to test the expert's qualifications and opinions? (1 point)
 - What is the time deadline for bringing the motion? (1 point)
- 1.12 After adequate discovery, the court fixed a trial date. Arthur has now decided to file a Motion for Summary Judgment seeking a determination by the judge that Defendants are liable for the fire and to set the damages. (4 points)
- When is the last day that Arthur can file and serve the motion? (1 point)
 - Arthur has timely filed and served the Motion for Summary Judgment. The court has set a hearing date on the motion. When is the latest day before the hearing date when Defendants can file and serve oppositions to the motion? (1 point)
 - When is the last day for the court to render a judgment on the motion? (1 point)
 - Assume that the judge denied the Motion for Summary Judgment. The case proceeded to a jury trial. At the close of Arthur's case, Defendants believe Arthur, under the evidence and applicable law, has shown no right to any relief against Defendants and they want to have Arthur's case dismissed. What should Defendants do to have Arthur's case dismissed at this point? (1 point)
- 1.13 Assume that the jury trial of this matter has begun, and the entire jury has been sworn and accepted. Before beginning of the taking of evidence, a juror says "Tangi Electric did a lousy job at my home last year, but I think I could be fair to them." What, if anything, should Tangi Electric do to have this juror removed? (2 points)

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2020**

QUESTION 2 – 40 POINTS

- 2.1 Paul entered into a long term supply contract with International Corporation. The contract in question has a complicated pricing provision that requires the monthly price to be calculated based on the weighted average price as listed in three different recognized industry publications. International Corporation has recently advised Paul that it believes the calculations previously used were in error and that a slightly different weighted calculation should now be used. Paul disagrees with International Corporation's suggested changes and seeks to bring legal action in advance of a breach of the contract that might confirm the validity of the price calculation method that has been used by both parties to date. What is the appropriate legal action, if any, that Paul should file and what kind of relief should the court provide in conjunction therewith? (3 points)
- 2.2 When a lawyer has signed a pleading for a client and has filed it with the clerk of court, what does the lawyer certify personally? (4 points)
- 2.3 List five obligations an attorney has as an officer of the court. (5 points)
- 2.4 A lawyer's signature on a discovery request, response, or objection constitutes a certification by the lawyer of what? (4 points)
- 2.5 In a civil suit between Donna and Pam, Donna failed to respond to discovery propounded by Pam. Pam filed a motion to compel discovery. After a hearing on the motion, the judge ordered Donna to respond to the discovery within 15 days. Donna, after 15 days from the order, has still failed to respond to the discovery. What action should Pam take? (1 point)
- 2.6 A jury returned a verdict in favor of Peter and against Dale in the amount of \$1 million. Dale believes that the evidence was insufficient to support this verdict of \$1 million in damages and that the verdict was contrary to the law, but Dale does not contest the jury's liability finding. (8 points)
- (a) What are the options for relief from this verdict that Dale can file in the trial court? (2 points)
- (b) What are the time delays for filing the options available to Dale? (1 point)
- (c) What standards should the judge use in analyzing the jury's verdict in order to determine the availability of the options asserted by Dale? (4 points)
- (d) The judge denied Dale's attempt to obtain post-trial relief. The judge's order was mailed by the clerk of court to all counsel. What is the last day on which Dale can file for a suspensive appeal? (1 point)
- 2.7 Plaintiff has a money judgment rendered in her favor and against Judgment Debtor for \$150,000. The judgment was rendered on March 2, 2010. The judgment has never been collected due to Judgment Debtor's limited means, but Plaintiff recently learned that Judgment Debtor got "millions of dollars" from a winning lottery ticket. (9 points)
- (a) Plaintiff is concerned that the judgment may soon prescribe due to the passage of 10 years unless she takes certain steps to prevent the prescription. What steps must Plaintiff take to prevent the judgment from prescribing, what, if anything, must Plaintiff file, and where it must be filed? (4 points)
- (b) Plaintiff has taken the proper steps to prevent her judgment from prescribing and now seeks to determine whether Judgment Debtor actually has any assets that might be used to satisfy the judgment. What must Plaintiff file to learn from Judgment Debtor whether he has any assets to satisfy the judgment? (1 point)
- (c) Plaintiff has learned that Judgment Debtor has in a local bank more than sufficient funds to pay all money owed to Plaintiff. Please briefly explain what Plaintiff must file so that Plaintiff can have her judgment satisfied from Judgment Debtor's bank funds. (4 points)

- 2.8 Dennis was served with discovery requests seeking potentially thousands of documents that Dennis thinks are neither relevant to the litigation nor reasonably calculated to lead to the discovery of admissible evidence. Dennis further believes that the discovery was propounded to cause him to incur unnecessary effort and expense. What can Dennis file with the court to restrict this discovery, and what standard is the court to apply? (3 points)
- 2.9 Penny was deposing a key employee of Defendant in a contract dispute. As Penny proceeded with questioning, Penny noticed that the defense attorney continued to make lengthy objections that were providing guidance and instruction to the witness as to how to answer the questions. Are such objections appropriate under the Louisiana Code of Civil Procedure? Explain why or why not. (3 points)

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Actions related to immovable property; partition
City Court jurisdiction
Discovery; response deadline
Jury trial; challenge for cause
Notice of action to affect third persons
Petitory action
Service by a private person
Small succession
Succession venue
Venue; child support modification

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
TORTS
FEBRUARY 2020**

QUESTION 1 – 40 POINTS

Patty has a 13-year-old daughter, Vicky. Patty and Vicky are emotionally close to one another. They live next door to Nancy and her daughter Deborah, who is also 13 years old.

The two children were playing atop a hill at a park across the street from their homes. The playing became violent. The children were pushing each other back and forth. While pushing each other, Deborah pushed Vicky, who fell backwards and tumbled down the hill. Vicky's leg and ankle were severely injured. When Deborah pushed Vicky, Deborah did not intend for Vicky to fall.

After the fall, Vicky screamed for her mother. Patty heard Vicky's screams and ran to the park where she found Vicky lying at the bottom of the hill, crying. Patty saw Vicky's leg and ankle were severely injured with multiple bruises and brush burns. Patty carried Vicky home. Patty had a tube of "Earth's Healing Ointment" in a first aid kit. After cleaning Vicky's wounds, Patty applied the ointment on Vicky's leg and ankle. The ointment severely irritated the brush burns that covered Vicky's leg and ankle. The irritation from the ointment led to a serious infection that began to spread up Vicky's leg. Vicky's doctors informed Vicky and her mother that Vicky's leg may have to be amputated at the knee if they could not successfully treat the infection.

The ointment was manufactured by ACME Ointment Co. The backside of the tube of ointment read: "Warning – do not use on sensitive areas."

Patty now suffers from post-traumatic stress disorder (PTSD) as a result of witnessing her daughter's leg injury. Patty and Vicky's relationship has become extremely difficult since Vicky's injury, as Vicky requires care around the clock.

What theory or theories of liability might reasonably be asserted in each of the following actions, what defenses can reasonably be raised, and which party is likely to prevail? Explain each fully.

- 1.1 Vicky (through her tutor) v. Deborah (through her tutor) (14 points)**
- 1.2 Vicky (through her tutor) v. ACME Ointment Co. (14 points)**
- 1.3 Patty v. Deborah (through her tutor) (8 points)**
- 1.4 Patty v. Nancy (4 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
TORTS
FEBRUARY 2020**

QUESTION 2 – 40 POINTS

The infection of Vicky's ankle and leg persisted, and one night Vicky completely lost feeling in the foot of her injured leg. Vicky was rushed to the hospital, where the doctors determined Vicky would have to have her injured leg amputated at the knee. Vicky went into surgery. The nurses identified the wrong leg as the one that needed treatment. The surgeon did not read the records before the surgery and amputated the wrong lower leg. The hospital does not employ the surgeon but employs all of the nurses who work at the hospital. During the surgery, a nurse dropped the scalpel, which sliced off the tip of another nurse's finger.

When Patty returned home from the hospital, she was angry at her next door neighbor, Nancy, because of the injuries to Vicky. Patty constructed a machine that wafts her sewer odors into Nancy's home. Nancy began to suffer severe migraines from the noxious fumes.

What theory or theories of liability might reasonably be asserted in each of the following actions, what defenses can reasonably be raised, and which party is likely to prevail? Explain each fully.

- 2.1 Vicky (through her tutor) v. Surgeon (13 points)**
- 2.2 Vicky (through here tutor) v. Hospital (10 points)**
- 2.3 Injured Nurse v. Hospital (10 points)**
- 2.4 Nancy v. Patty (7 points)**

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
TORTS
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Battery
Beneficiaries for a survival action
Comparative fault
Conflict of laws; products liability
Defamation
Merchant liability
Premises liability
Self-defense
Strict liability for animals
Tortious interference with a contract

[End of Question 3]

END OF TORTS TEST