

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
JULY 2022**

QUESTION 1 (40 POINTS)

Ricky died last month in New Orleans. He was born and raised in Louisiana, but spent his twenties working as a wine sommelier at a hotel in California. After losing his job at the hotel, Ricky moved back to Louisiana, where he met and married Cindy.

At the time of Ricky's death, he had the following assets:

- A townhouse he bought with Cindy during their marriage as community property (the "*Townhouse*").
- A 200-bottle wine collection that he acquired during his time in California and thus was his separate property (the "*Wine Collection*").
- A 1869 Morgan Silver Dollar that Ricky inherited from his father and thus was his separate property (the "*Silver Dollar*").
- A vineyard that was located on 20 acres in Ouachita Parish and was Ricky's separate property (the "*Vineyard*").

Ricky died intestate. At the time of his death, Ricky was survived by his wife, Cindy; their three adult children, Jane, Tim and Adam; his father, Frank; and his sister, Emily.

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

- 1.1 Who succeeds to Ricky's interest in the Townhouse; and in what proportions? Explain fully. (8 points)**
- 1.2 Who succeeds to the interest in the Wine Collection; and in what proportions? Explain fully. (4 points)**

For Questions 1.3 and 1.4 ONLY, assume that Jane has a 10-year-old daughter, Ava, who witnessed Jane poison Ricky's drink on the night he died. Ava told her uncle Tim about what she saw.

- 1.3 What step(s) may Tim reasonably take to attempt to prohibit Jane from benefiting through inheritance from a death she caused, and what is the time limitation for Tim to take such step(s)? Explain fully. (14 points)**
- 1.4 For this Question 1.4 ONLY, assume the step(s) taken by Tim are successful. Who is entitled to inherit the Silver Dollar? Explain fully. (6 points)**
- 1.5 For this Question 1.5 ONLY, assume that Ricky did not marry and had no children. Who is entitled to inherit Ricky's interest in the Vineyard? Explain fully. (8 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

PART A (30 POINTS)

Alice, a lifelong Louisiana domiciliary, died instantly in a car wreck. She had a valid last will and testament. Alice's husband predeceased her, and his succession proceedings are concluded. Alice gave birth to three children who survived her, Yvonne, Xavier, and Wes, and one child, Zeke, who predeceased her after she signed her will. Zeke left two children, Ursula and Vern, who are both still alive.

The morning before she died, Alice borrowed \$100,000 from Wes and signed a promissory note providing for monthly interest-only payments and a balloon payment of all outstanding amounts due at Alice's death. With her untimely death, Alice never made any payments toward the satisfaction of the debt owed to Wes. Other than this debt to Wes, Alice's succession has no estate debts—other than minimum administrative expenses, for which there is ample cash in the residue of the succession to pay.

The dispositive provisions of Alice's valid last will and testament provide the following:

1. I leave my Alphonse Mucha color lithograph entitled *Nestlé's Food for Infants* (the "**Lithograph**") to Yvonne; if Yvonne does not survive me, I leave the Lithograph to the Lithograph Collection at the Metropolitan Museum of Art.
2. I leave the immovable property and improvements known as Blackacre Warehouse (the "**Warehouse**") to Xavier. The Warehouse is subject to a twenty-year, triple net lease generating \$5,000 per month in rental income.
3. I leave to Yvonne, Xavier, and Wes the cash sum of \$100,000 each.
4. I leave the residue of my estate to Big Bank, but in trust and as trustee of the Alice Testamentary Trust (the "**Trust**"), hereby established. My friend Tricia Tremont shall enjoy the income of the Trust for the remainder of her life. The principal beneficiaries of the Trust shall be Yvonne, Xavier, Wes, and Zeke, in equal shares. The Trust shall last for two hundred years and shall be a spendthrift trust. I expressly relieve Big Bank from any and all liability for its acts or inaction with respect to its service as my trustee.
5. I appoint Big Bank as independent executor for my succession.

Please answer the following six subquestions. Explain each answer; an answer without explanation will receive no credit.

- 2.1 **With respect to the Lithograph, is the substitution of the Lithograph Collection at the Metropolitan Museum of Art a permitted substitution under the Louisiana Civil Code? Explain fully. (5 points)**
- 2.2 **Alice's succession has been under administration for seven months, and the independent executor as successor to the lessor has collected \$35,000 in rental income from the Warehouse lessee. There have been no administrative expenses to the succession associated with the Warehouse. The independent executor informed the Trust beneficiaries that this \$35,000 passes to the residue of the succession and will be added to the Trust for their benefit. Is the independent executor's treatment of the \$35,000 correct? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

- 2.3 The independent executor is preparing to distribute the cash legacies to Yvonne, Xavier, and Wes and proposed to distribute \$200,000 to Wes, which it states constitutes Wes' cash legacy and repayment of the debt Alice owed Wes at the time of her death. Yvonne objects, stating the \$100,000 legacy in the will to Wes constitutes Alice's repayment to Wes of the debt. Is the independent executor's proposed payment of \$200,000 to Wes correct? Explain fully. (5 points).
- 2.4 Wes has two money judgments against him, one in favor of Acme Bank for default on a loan and one in favor of his former wife for failure to pay child support. Is his interest in the Trust protected from these creditors? Explain fully. (5 points)
- 2.5 What is the maximum term of the Trust? Explain fully. (5 points)
- 2.6 Part of the Trust corpus consisted of a prime commercial real estate parcel. Big Bank decided to sell the parcel to itself for a new branch location and paid the Trust the appraised value of the parcel. The Trust did not need the liquidity or further diversification of assets generated by the sale.

The Trust beneficiaries protested the sale. Big Bank responded with two arguments: first, that it paid the appraised value, so the beneficiaries have nothing about which to complain; and second, that, even if the beneficiaries were harmed by the sale, Alice's will expressly exempts Big Bank from liability for its actions.

Is Big Bank likely to succeed with either of its arguments? Explain fully (5 points)

PART B (10 POINTS)

For Part B, assume the facts of Part A and add the following: Alice's father, Tom, was an unmarried lifelong Texas domiciliary and died in Texas several years before Alice's death. He left a valid, typewritten Texas will in which he left all of his property, "wherever situated, real or personal," to his only child, Alice. Inasmuch as Tom's will was a Texas instrument, it did not contain the attestation clause in accordance with Civil Code Article 1577.

Tom's family was under the impression that Tom had depleted all his assets to remain in a nursing home and thus died without assets. Therefore, no succession or probate proceedings were instituted following his death.

After Alice's death, a landman for an oil company contacted her independent executor and informed her that Tom still owned mineral rights in Caddo Parish, Louisiana (the "**Mineral Rights**") and that the oil company would like to lease them from Alice's succession.

The landman informed the independent executor that because there are no assets other than the Mineral Rights, they need only record Tom's last will and testament in the conveyance records of Caddo Parish to clear title to the Mineral Rights and permit the independent executor to lease the Mineral Rights to the oil company.

Please answer the following two subquestions. Explain each answer; an answer without explanation will receive no credit.

- 2.7 Will recordation of Tom's original Texas will in the Caddo Parish conveyance records permit Alice's independent executor effectively to lease the Mineral Rights? Explain fully. (5 points)
- 2.8 In light of the fact that Tom's will lacks an attestation clause in accordance with Civil Code Article 1577, is Tom's will valid under Louisiana law? Explain fully. (5 points)

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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JULY 2022**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Donations
- 3.2 Form of testament
- 3.3 In terrorem clauses
- 3.4 Collation
- 3.5 Form of trusts
- 3.6 Conflict of laws; property in successions
- 3.7 Trustees
- 3.8 Effect of child born after execution of testament
- 3.9 Undue influence
- 3.10 Intestate succession of immoveable property

[End of Question 3]

END OF CIVIL CODE II TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2022**

QUESTION 1 (40 POINTS)

Part A.

Ryan died last year without a will. He lived his entire life in Louisiana, except for the few years he spent at college in California. While in California, he met and married Anna, who was a budding tennis star. After college, Anna put her professional aspirations on hold and moved with Ryan to Louisiana, where they lived until his death last year. From their marriage, two children were born: Lila, who is 35, and Charlie, who is 30. Lila has a five-year old daughter named Sophie, and Charlie has twin four-year old sons named Dylan and Graham. All children are healthy and survived Ryan, as did Anna.

Ryan died owning the following property:

- The family home in Louisiana (the “*Family Home*”), which he and Anna purchased during their marriage with community funds;
- A ten-court tennis center in Louisiana (the “*Tennis Center*”), which was also community property between Ryan and Anna;
- A duplex in Louisiana (the “*Duplex*”), which Ryan inherited from his Uncle Buck during his marriage to Anna;
- A tennis racquet signed by Andre Agassi (the “*Racquet*”), which Anna’s best friend gave to Ryan as a wedding gift before the wedding; and
- A second-edition, autographed original of Ernest Hemingway’s *For Whom the Bell Tolls* (the “*Book*”), which Ryan purchased before going to college in California.

1.1. Who succeeds to Ryan’s interest in the Family Home; and in what proportions? Explain fully. (8 points)

1.2. Not long after Ryan’s death, Anna married Tom, her tennis instructor, who has been working at the Tennis Center. To what interest, if any, would she be entitled in the Tennis Center upon her remarriage? Explain fully. (4 points)

Assume solely for Question 1.3 that Charlie predeceased Ryan.

1.3. Who succeeds to Ryan’s interest in the Duplex; and in what proportions? Explain fully. (8 points)

Assume solely for Question 1.4 that Ryan had remarked on several occasions that he planned to adopt Owen, another young tennis pro at the Tennis Center. Ryan had even gone so far as to enter both of them into the ‘Father/Son’ Division in the Tennis Center’s annual Champions Tournament. Just prior to his death, Ryan formally and legally adopted Owen.

1.4. Who succeeds to Ryan’s interest in the Book? Explain fully. (4 points)

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Part B.

Assume for Part B of this Question 1 the facts as stated in Part A, except for the following: (1) assume Lila is the only child born to Ryan and Anna; (2) Owen was not adopted by Ryan; and (3) at Ryan's funeral, Lila, who hates tennis, declared out loud to two witnesses: "Dad has passed and I know I should be getting Dad's stuff, but I don't want anything that reminds me of tennis. I want my mother to get the Racquet and the Tennis Center." Lila then picked up the Racquet and put it into Anna's hands.

- 1.5. Is Lila's declaration, without more, sufficient to renounce her interest in the Tennis Center? Explain fully. (6 points)
- 1.6. If Lila successfully renounces the Tennis Center and the Racquet, may she still inherit her interest in the Book? Explain fully. (4 points)
- 1.7. Does Lila's daughter Sophie have any rights to the tennis racquet? (6 points)

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2022**

QUESTION 2 (40 POINTS)

Aaron died in August 2021. He was a domiciliary of the State of Louisiana. His wife predeceased him, and her succession proceedings are concluded.

Of Aaron's marriage, four children were born: Betty, Carl, Debra, and Ellen, none of whom is a forced heir. Aaron had two grandchildren, Frank and Frannie, both of whom are Debra's children.

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

1. I leave Betty my family home.
2. I leave Carl my Super Fine Authentic Persian Isfahan Signed Hand Knotted Silk Area Rug; if Carl does not survive me, I leave the rug to the Smithsonian.
3. I leave my farm Blackacre to Debra and my good friend George.
4. I have set aside \$100,000 in Big Bank Account Number 1234. I wish to leave \$75,000 from that account to charity. I wish to leave \$25,000 from that account to those persons who are most kind and caring for me in my last illness, be they family, sitters, or friends. I direct my executor to select the charities and determine how much of the \$75,000 each should receive. I further direct my executor to select those persons who are most kind and caring for me in my last illness and determine how much of the \$25,000 each should receive.
5. I leave my friend Hilda the cash sum of \$50,000. If Hilda predeceases me or disclaims the \$10,000 legacy made herein, such cash is to go to my friend Irving.
6. I leave the residue of my estate to Big Bank in trust and as trustee of the Aaron Testamentary Trust, hereby established. My friend Jane shall enjoy the income of the trust for the remainder of her life. The principal beneficiaries of the trust shall be Betty, Carl, Debra, and Ellen, in equal shares. The trust shall terminate when the last of Jane, Betty, Carl, Debra, and Ellen dies.

Debra predeceased Aaron. She was thirty years old at the time of her death and had no mental or physical disabilities.

The day before Aaron's death, Aaron's family home was completely destroyed by fire. The home was fully insured for fire damage, and the insurance company is prepared to pay an insurance settlement of \$350,000.

A year after Aaron died, Jane died intestate and was survived by her only child, Karen.

- 2.1. What, if anything, is Betty entitled to receive as a result of Aaron's death? Explain fully. (4 points)**
- 2.2. Is the bequest to the Smithsonian valid under the Louisiana Civil Code? Explain fully. (4 points)**
- 2.3. Who inherits Blackacre; and if more than one person, in what proportions? Explain fully. (8 points)**

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- 2.4. Are the bequests from the Big Bank Account Number 1234 valid bequests? Explain fully. (6 points).
- 2.5. Hilda and Big Bank disagree over the amount of Hilda's legacy from Aaron's succession. What is the correct amount of her legacy? Explain fully. (6 points)
- 2.6. How often must Jane receive Trust income? Explain fully. (4 points)
- 2.7. Following Jane's death, who is entitled to income from the trust and, if more than one person, in what proportions? Explain fully. (8 points)

[End of Question 2]

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**LOUISIANA BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2022**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1. Collation
- 3.2. Trusts
- 3.3. Undue influence
- 3.4. Inheritance by collateral relatives
- 3.5. Effect of child born after execution of testament
- 3.6. Form of a testament
- 3.7. Ingratitude
- 3.8. Inheritance of installment obligation
- 3.9. Form of trusts
- 3.10. Conflict of laws

[End of Question 3]

[END OF CIVIL CODE II TEST]

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
JULY 2021**

QUESTION 1 (100 POINTS)

**PART A
(50 Points)**

Xavier, a lifelong Louisiana domiciliary, died intestate. He never married and never had any children. His parents, Oscar and Nancy, both predeceased him. Oscar's parents, Paul and Queenie, both predeceased Xavier. Paul's mother, Tessie predeceased Xavier, and Paul's father, Steve, survived Xavier. Nancy's father, Uriah predeceased Xavier, and Nancy's mother, Roxanne, survived Xavier. Xavier had no other relations either by affinity, consanguinity or adoption.

Xavier owned just the following assets when he died: farm property in Lafourche Parish known as "Blackacre," a \$1 million cash account standing in his name, a condominium in New Orleans, and an antique car.

1.1 Who succeeds to Xavier's interest in Blackacre? Explain fully. (10 Points)

1.2 For purposes of this Question 1.2 only assume that both Steve and Roxanne also predeceased Xavier. How should Xavier's interest in Blackacre be distributed? Explain fully. (10 Points)

For Questions 1.3 through 1.5 only, assume the following:

Xavier died with a valid last will and testament, the dispositive provisions of which read as follows:

1. I devise my New Orleans condo to my friend, Trevon Truxillo.
2. I bequeath one-half of the cash standing in my name to the Orleans Parish Animal Rescue Society.
3. I bequeath one-half of the cash standing in my name to my confidant and pastor, the Reverend John Smith.
4. I bequeath my antique car to my friend, Susan Stamford. Susan is to take good care of this car and then leave it to her son.
5. I devise and bequeath the residue of my estate, including any lapsed or renounced legacies, to my friend, Bob Baker.

Trevon determined that he does not want to inherit the New Orleans condo. He timely filed in Xavier's succession proceeding an authentic act which states: "I renounce my interest in Xavier's New Orleans condo in favor of Xavier's friend, Bob Baker."

TEST CONTINUES ON NEXT PAGE

- 1.3 Has Trevon made a proper renunciation under the Louisiana Civil Code such that he has escaped any possible obligation to pay Xavier's estate debts attributable to the New Orleans condo? Explain fully. (10 Points)**
- 1.4 Who inherits the antique car? Explain fully. (10 Points)**
- 1.5 Assume for this question only that Bob believes that both the Orleans Parish Animal Rescue Society and the Reverend John Smith exerted undue influence on Xavier to secure their respective legacies. What is the standard of proof Bob must establish if he wishes to successfully challenge these two legacies? Explain fully. (10 Points).**

**PART B
(50 Points)**

Belle died last month. She lived in Louisiana her entire life. She never married. She is survived by her four children, each of whom has always lived in Northwest Louisiana. Belle's children are:

- Davey, who was 40 at the time of Belle's death;
- Evan, who was 35 at the time of Belle's death;
- Felix, who was 30 at the time of Belle's death; and
- Gail, who was 19 at the time of Belle's death.

Three of Belle's children are healthy. However, Evan, who at the age of 18 suffered a significant brain and spine injury, requires around-the-clock medical care.

At the time of Belle's death, her only asset was her personal residence in Caddo Parish, Louisiana. Belle never made any donations before she died.

Belle left a valid notarial testament, signed in 2009, in which she left her entire estate to Irielle, her favorite neighbor.

- 1.6 To what interest in the Caddo Parish property is each of Davey, Evan, Felix, Gail, and Irielle entitled? Explain fully. (20 Points)**
- 1.7 For purposes of this only, assume that prior to Belle's death, Central Credit Union secured a final judgment against Gail, who had defaulted on a \$200,000 personal loan. Gail is unwilling to appear in Belle's succession, so Central Credit Union appears in her stead and asserts Gail's rights as a forced heir. Will Central Credit Union be entitled to receive any interest in Belle's estate? Explain fully. (10 Points)**

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For Questions 1.8 and 1.9 only, assume that, in addition to the Caddo Parish property, which was worth \$200,000 at that time, Belle also owned the following assets at her death:

- A Chase Bank account, which had a balance of \$50,000 at that time; and
- A first edition, signed copy of W. Somerset Maugham's masterpiece "Of Human Bondage," which was worth \$100,000 at that time.

Belle's liabilities/debts at the time of her death totaled \$150,000.

One year before her death, Belle donated \$30,000 in cash to Felix to encourage him to return to college.

1.8 What is the value of the forced portion in Belle's succession? Explain fully. (10 Points)

1.9 Evan and Gail disapproved of their mother's attempts to coax their brother Felix back to school. In the succession, they would like to claw back the money their mother gave to Felix before her death. Are they likely to succeed? Explain fully. (10 Points)

[End of Civil Code II Test]

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
FEBRUARY 2021**

QUESTION 1 (100 POINTS)

Please answer the following questions. These questions are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

**PART A
(50 Points)**

Albert, a lifelong Louisiana domiciliary, died without a will. He was survived by his spouse, Bessie. Albert and Bessie never executed a matrimonial agreement. Albert and Bessie had five children: Carl, Debra, Ed, Jack, and Kendall, all of whom are over 25 years old and mentally and physically healthy. Carl has two children, Fred and Gertrude. Debra has one child, Harry. Ed has one child, Ivan. The only property Albert owned at the time of his death were a separate property account with \$1 million and his undivided one-half community interest in the Family Home. Albert had no debts at the time of his death.

A year before Albert's death, he and Carl had a falling out, and Carl wrote, dated, signed, and delivered a letter to Albert which read in relevant part: "I hate you. I never want anything to do with you again. I don't even want any inheritance from you and irrevocably renounce my inheritance." Albert's succession was opened and after Carl learned about the \$1 million in cash, he had a change of heart and decided he would like to inherit from Albert.

Six months before Albert died, Big National Bank obtained a valid, final judgment against Debra for \$100,000. A week after Albert died, Debra formally renounced her inheritance from Albert. Big National Bank has not taken any action in Albert's succession with respect to Debra's interest in the Family Home.

- 1.1 Who succeeds to Albert's interest in the Family Home? Explain fully. (25 Points)**
- 1.2 What legal action must Big National Bank take to obtain an interest in Albert's \$1 million separate property account? If Big National Bank is successful in such action, to what amounts of Albert's \$1 million separate property account does each of Big National Bank, Debra, and Harry succeed? Explain fully. (10 Points)**
- 1.3 Assume for purposes of this Question 1.3 only, that Jack and Kendall were teenagers at the time of Albert's death and that Albert died with a valid last will and testament leaving his entire estate in equal shares to his five children, subject to a usufruct for life to Bessie. To what percentage of Albert's succession are Jack and Kendall each entitled and is the usufruct for life to Bessie valid? Explain fully. (15 Points)**

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PART B
(50 POINTS)

Mary, a lifelong Louisiana domiciliary, died with a valid last will and testament. She is survived by her children, Ned, Oscar, Penny, and Quinton, all of whom are over thirty years old and in good mental and physical health. The relevant portions of Mary's will read as follows:

1. I leave the family farm, Blackacre, to Ned and Oscar in equal shares. The devise of Blackacre is made subject to the condition that no part of such land shall be sold, mortgaged, or in any way alienated unless the said land or part thereof proposed to be sold, conveyed, or alienated has first been offered to the other co-owner thereof on equal terms and such co-owner has refused to purchase such land. In the event any sale, conveyance, or alienation of said Blackacre is made in violation of this condition, the right, title, and interest of such purported sale, conveyance, or alienation shall become the property of the other devisee of Blackacre under this will.
2. I leave to Penny all of my interest in my mother's succession, currently under administration in Caddo Parish, Louisiana.
3. I leave to Quinton the 100 shares of the common stock of IBM Corporation in my brokerage account.
4. I also leave to Quinton the 100 shares of common stock I own in Intel, Inc.
5. I appoint Ned as independent executor of my succession.
6. I leave the residue of my estate to the Community Foundation of Northwest Louisiana.
7. I name the Xanadu Law Firm, APLC as attorney for my succession.

After Mary executed her will but before she died, the following events occurred:

- Mary executed an authentic act by which she donated all of her interest in her mother's succession to Ned. Ned did not sign the act of donation but did write, sign, date, and hand-deliver to Mary a letter thanking her for the donation of the succession rights and stating that he "accepted the gift with the greatest gratitude."
- Mary visited her broker and told him that she wished to donate her IBM Corporation stock to Oscar. The broker had her execute the forms the brokerage firm needed to transfer the stock. The forms recited that the transfer was a gift and directed the transfer to Oscar. The forms were signed by Mary. They did not recite that Oscar accepted the donation. The brokerage firm transferred the IBM stock to Oscar's brokerage account.
- The Intel, Inc. stock split; thus, Mary had 200 shares when she died (rather than just the 100 shares she had at the time she signed her will).

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At the time Mary died, no judgment of possession had been entered in the succession for Mary's mother. One month after the judgment of possession was entered in Mary's succession, Oscar, without informing Ned, sold his interest in Blackacre to Jones Land Company, LLC.

- 1.4 Who inherits the Intel, Inc. stock? Explain fully. (10 Points)**
- 1.5 Penny brought an action in Mary's succession alleging that the acceptance by Ned of the succession rights in Mary's mother's succession was not valid. Is Penny correct? Explain fully. (10 Points)**
- 1.6 Quinton brought an action in Mary's succession alleging that Mary's donation of the IBM Corporation stock to Oscar was not valid. Is Quinton correct? Explain fully. (10 Points)**
- 1.7 Must Ned employ the Xanadu Law Firm, APLC as attorney for the succession? Explain fully. (10 Points)**
- 1.8 One week after Ned learned that Oscar sold Oscar's interest in Blackacre, Ned filed a petition to reopen Mary's succession for the purpose of securing a declaration that pursuant to Mary's will, he is entitled to be declared the owner of the entirety of Blackacre. Is Ned entitled to such a declaration? Explain fully. (10 Points).**

[End of Civil Code II Test]

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

QUESTION 1 (100 POINTS)

PART A (30 POINTS)

Henry and Irene were married in Louisiana and domiciled in Louisiana for their entire marriage. They never executed a matrimonial agreement. Henry and Irene had three children together:

- Jason, age 50;
- Karen, who died in 2015 with two children, Mary and Neil, who are in their late twenties; and
- Lyle, age 35.

Jason, Lyle, Mary and Neil have never been married, never had any children and have always been mentally and physically healthy. Henry neither fathered nor adopted any other children.

Henry died intestate in Louisiana in 2019. He is survived by Irene, Jason, Lyle, Mary, Neil and by his mother, Mom, and his only sibling, Samuel.

At the time of his death, Henry owned the following immovable property located in Louisiana:

- Community Property: his undivided one-half interest in a home (the “*Family Home*”) that he and Irene purchased during their marriage with community funds.
- Separate Property: naked ownership of an undivided one-half interest in the family fishing camp (the “*Camp*”), inherited from his father and subject to the usufruct of Mom.
- Separate Property: certain mineral interests (the “*Mineral Interests*”) purchased by Henry prior to his marriage to Irene.

1.1 Who succeeds to Henry’s interest in the Family Home; and in what proportions? Explain fully. (10 Points)

TEST CONTINUES ON NEXT PAGE

- 1.2** *Assume solely for Question 1.2 that Jason does not wish to inherit the Camp, but is interested in inheriting his share of the other assets. What steps, if any, are available to Jason to accomplish his goals? If he is successful, who should inherit his interest in the Camp? Explain fully. (10 Points)*
- 1.3** *At the time of his death, Henry's interest in all of his assets had a value of \$1 million. At the time the succession administrator completed the estate administration and distributed the assets to the heirs pursuant to the judgment of possession, the value of those assets had increased to \$1.2 million, which is the total value of the assets received by Henry's heirs. No other assets are under administration. After the judgment of possession and the distribution of assets, one of Harry's creditors asserted and established a timely, valid claim in the amount of \$1.5 million. What is Mary's liability for Henry's \$1.5 million debt? Explain fully. (10 Points)*

PART B (20 POINTS)

Hector and Willow were married in Louisiana and domiciled in Louisiana for their entire marriage. They never executed a matrimonial agreement and never had any children. Hector died intestate in Louisiana in 2020 and is survived by Willow; his father, Dad; and his brother, Bob.

At the time of his death, Hector owned the following immovable property:

- As community property, an undivided one-half interest in the family home that he and Willow had purchased during their marriage with community property funds.
- As his separate property, an apartment building that he had purchased before his marriage to Willow.

- 1.4** *Who succeeds to Hector's interest in the family home? Explain fully. (10 Points)*
- 1.5** *Who succeeds to Hector's interest in the apartment building? Explain fully. (10 Points)*

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PART C (50 POINTS)

Howard and Ester, after many years of marriage, were divorced in 2018, settling their community property affairs before his death so that all assets discussed below were owned by Howard at the time of his death. Howard died in 2019, survived by Ester, his sons Jake and Larry, and his granddaughter Gayle, whose mother, Howard's daughter, had predeceased Howard. Howard left a putative notarial testament, dated January 4, 2015, the dispositive provisions of which read as follows:

1. I leave my wife Ester all of my interest in the family home (the "*Family Home*").
2. I leave my interest in ACME Brick, L.L.C. to my son Jake and my good friend Tom.
3. I leave my son Larry my grandmother's sterling silver service ("*Granny's Silver*"). Larry is to take good care of Granny's Silver and at his death deliver it to my granddaughter Gayle.
4. I leave the residue of my estate to the Community Foundation of North Louisiana.

This document was in writing, dated, signed on each page and at the end, and bore the attestation clause appearing in Civil Code Article 1577. The document was executed in the presence of a notary public, and two witnesses consisting of the notary's secretary and the secretary's daughter, who was seventeen years old at the time of execution. Howard's friend Tom died in 2017 and is survived by his daughter Donna.

1.6 Is the form of Howard's putative testament valid? Explain fully. (10 Points)

ASSUME FOR THE REMAINDER OF PART C (QUESTIONS 1.7 – 1.10) THAT HOWARD'S TESTAMENT IS IN VALID FORM.

1.7 Who inherits the Family Home? Explain fully. (10 Points)

1.8 Is the bequest of Granny's Silver valid? Explain fully. (10 Points)

1.9 Who should inherit the ACME Brick, L.L.C. membership interests? Explain fully. (10 Points)

TEST CONTINUES ON NEXT PAGE

1.10 One month before he died in 2019, Howard purchased a 1940 Indian Chief Motorcycle (the “Chief”). Howard was storing the Chief in a commercial garage at the time of his death, and none of his family knew of the purchase. After the Chief was discovered during the succession administration, Howard’s granddaughter Gayle produced and delivered to the succession representative a typed, properly executed Act of Donation and Acceptance, in authentic form and dated August 29, 2015, which read in relevant part: “I hope one day to find a 1940 Indian Chief Motorcycle for sale and buy it. If I do, I hereby donate that motorcycle to my granddaughter Gayle.” Following this statement, Gayle formally accepted the donation, and the document then reads as follows: “THUS DONE AND PASSED in my office at Shreveport, Louisiana, on this 29th day of August, 2015, in the presence of the undersigned competent witnesses and notary after reading of the whole,” followed by the signatures of Howard, Gayle, two competent witnesses, and a notary public.

Did Howard make a valid *inter vivos* or testamentary donation of the Chief to Gayle? Explain fully. (10 Points)

[End of Civil Code II Test]

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

QUESTION 1 (100 POINTS)

Aaron and his wife, Barbara, were married in Louisiana and domiciled in Louisiana for their entire marriage. They never executed a matrimonial agreement. Aaron and Barbara had three children together: Carol, who was born in 1991; Doug, who was born in 1994, both of whom are physically and mentally competent; and Ed, who was born in 1997 and died in 2018, leaving his children, Hilda, Ivan, and Jack. Aaron fathered no other children.

Aaron died in Louisiana in 2019, survived by Barbara, Carol, Doug, Hilda, Ivan, and Jack. Aaron is also survived by his mother, Mom, and his only sibling, Lisa.

In 2017, Aaron executed a Louisiana testament, valid in form, the dispositive provisions of which read in the following order:

1. I leave Carol my 2016 Blue Tesla Model S Performance (my “Tesla”).
2. I leave Doug my *circa* 1850 Trephination Drill (the “Drill”). If Doug does not survive me, I leave the Drill to the New Orleans Pharmacy Museum on Chartres Street.
3. I leave Doug my gold watch (the “Watch”).
4. Because it is our old family homestead, I ask that Mom decide who should inherit my interest in the family farm (the “Farm”).
5. I leave Lisa my Clementine Hunter painting *Hog Killing* (the “Clementine Hunter”).
6. I leave Doug my Blue 2016 Tesla Model S Performance (my “Tesla”).
7. I leave the residue of my estate, which I estimate to have a value in excess of \$10 million, to my surviving children, Carol and Doug, in equal shares.

TEST CONTINUES ON NEXT PAGE

At the time of his death, Aaron owned the articles of movable property listed in the testament, except for the Watch, which he had hand delivered to Carol prior to his death, as well as the following immovable property located in Louisiana:

- Community Property: an undivided one-half interest in a family home (the “Family Home”) that he and Barbara purchased during their marriage with community funds.
- Separate Property: naked ownership of an undivided one-half interest in the Farm, inherited from his father and subject to the usufruct of Mom.
- Separate Property: certain timberland (the “Timberland”) purchased by Aaron prior to his marriage to Barbara.

PART A
(50 POINTS)

- 1.1 Who inherits the Tesla? Discuss. (10 Points)**
- 1.2 With respect to the Drill, is the substitution of the New Orleans Pharmacy Museum on Chartres Street a permitted substitution under the Louisiana Civil Code? Discuss. (10 Points)**
- 1.3 Assume that Mom filed an affidavit in Aaron’s succession proceeding awarding Aaron’s interest in the Farm to Lisa. Is this a valid disposition of Aaron’s interest in the Farm? Discuss. (10 Points)**
- 1.4 Can Doug successfully require Carol to return the Watch to Aaron’s succession, so that ownership of the Watch can pass via his testament? Discuss. (10 Points)**
- 1.5 Hilda, Ivan, and Jack were omitted from Aaron’s will. What rights (if any) do they have with respect to Aaron’s succession? Discuss. (10 Points)**

PART B
(50 POINTS)

ASSUME FOR PART B OF THE EXAM THAT AARON DID NOT LEAVE A TESTAMENT AND DIED INTESTATE.

- 1.6 Who succeeds to Aaron’s interest in the Family Home? Discuss. (15 Points)**
- 1.7 *For Question 1.7 only, assume Barbara married Mark in January 2020. What effect, if any, does that marriage have on ownership of the Family Home? Discuss. (5 Points)***

TEST CONTINUES ON NEXT PAGE

1.8 *For Question 1.8 only*, assume that Doug does not wish to be in the chain of title to the Family Home. What action must he take to effectuate his wish, and what are the legal requirements for such action? May Doug nonetheless inherit a portion of the Timberland? Discuss. (10 Points)

FOR QUESTION 1.9 AND 1.10 ONLY, ASSUME THAT AARON NEVER HAD ANY CHILDREN.

1.9 Who succeeds to Aaron's interest in the Family Home? Discuss. (10 Points)

1.10 Who succeeds to Aaron's interest in the Timberland? Discuss. (10 Points)

[End of Civil Code II Test]