

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2025**

QUESTION 1 (40 POINTS)

When AirWaves LLC advertised its radio station in Northwest Louisiana for sale, Charlie jumped at the chance to fulfill his dreams of owning his own radio station. Charlie contacted AirWaves LLC and learned that the price for the radio station was \$500,000. Charlie also learned that the radio station's large generator was not in working condition and that the purchaser of the radio station would need to replace it to ensure that the radio station would operate during a power outage.

Charlie thought the price was fair and wanted to proceed with the purchase. Charlie had \$400,000 in savings and approached BizLender Bank about borrowing the remaining \$100,000. To provide the loan, BizLender Bank required a mortgage from Charlie as well as surety agreements from at least two acceptable guarantors. Charlie told BizLender Bank that he would mortgage his home in Sabine Parish, which was acceptable to the bank. Charlie's two best friends, Emma and Lauren, wanted to help Charlie realize his dream and told him while they were all out to dinner that they would each act as a surety of the debt.

On July 8, 2024, Charlie went to BizLender Bank for the loan closing, where Charlie signed the loan agreement as well as a promissory note in favor of BizLender Bank in the amount of \$100,000. The promissory note did not refer to a mortgage but did state that if Charlie failed to pay any installment of the promissory note when due, then BizLender Bank had the right to declare the entire unpaid balance to be immediately due and payable. BizLender Bank had prepared surety agreements for each of Emma and Lauren to sign that stated each promised to pay Charlie's debt if he failed to do so. Charlie explained to BizLender Bank that Emma would come to the bank that day to sign the surety agreement prepared for her, but that Lauren was out of town the day of the closing and could not sign the separate surety agreement that had been prepared for her. BizLender Bank's loan officer told Charlie to have Lauren come to the bank to sign it when she was back in town. Later that day, after arriving at BizLender Bank, Emma asked the loan officer if Lauren's separate surety agreement had already been signed and the loan officer mistakenly told Emma that it had been. Emma then signed the surety agreement prepared for her, and BizLender Bank deposited the \$100,000 of loan proceeds in Charlie's deposit account. Charlie immediately called AirWaves LLC to say that he was ready to buy the radio station.

While the lawyers were preparing the paperwork for the purchase, Charlie went to PowerUp Inc. and picked out a large generator priced at \$75,000. Charlie needed all of the cash he had to buy the radio station, so PowerUp Inc. agreed to sell the generator to Charlie on credit. Charlie and PowerUp Inc. signed a bill of sale for the generator on July 10, 2024, and Charlie picked up the generator the next day.

When double checking through the loan paperwork, BizLender Bank realized that it had forgotten to have Charlie sign the mortgage during the loan closing and that Lauren still had not signed a surety agreement. On July 15, 2024, at BizLender Bank's request, Charlie went to the bank to review the act of mortgage, which stated it granted a mortgage on Charlie's Sabine Parish property to secure Charlie's present and future indebtedness to BizLender Bank. The mortgage also contained a proper legal description of Charlie's Sabine Parish property and stated a maximum secured limit of \$125,000. Charlie executed the mortgage, and one of the bank's other customers signed it as a witness, but no one signed it on behalf of BizLender Bank. Later that day, BizLender Bank recorded the act of mortgage in the Sabine Parish mortgage records. BizLender Bank's loan officer also called Lauren about the surety agreement that day. Lauren assured the loan officer that she would pay the loan if Charlie failed to do so and that she would come to the bank to sign any necessary paperwork. However, Lauren never did sign the surety agreement.

Charlie completed the purchase of the radio station on July 22, 2024.

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Charlie immediately began hiring the area's best on-air talent for the radio station, but neglected the revenue side of the business. Within months, the radio station was falling behind on its debts. Charlie missed the November and December payments on the loan from BizLender Bank and never made any payments to PowerUp Inc. for the generator. On January 22, 2025, BizLender Bank sent Charlie a notice stating that the loan was in default and was now due and payable in full. That same day BizLender Bank also sent notices to both Emma and Lauren, demanding \$100,000 under the surety agreements. Lauren ignored the notice, but Emma paid BizLender Bank all that she could at the time, being \$40,000.

Emma wants Charlie to pay her back the \$40,000, but he told her that he did not have the funds. Emma asked Charlie to give her the generator, but Charlie told her that he had not yet paid PowerUp Inc. for it.

Answer the following six subquestions. These subquestions are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

- 1.1 Was the mortgage valid at the time of execution on July 15, 2024? Explain fully. (6 points)
- 1.2 *For purposes of this subquestion 1.2 only, assume the mortgage was valid at the time of execution.*
- (a) Does the mortgage secure the \$100,000 promissory note that was executed on July 8, 2024? Explain fully.
- (b) Is the mortgage effective against third persons and, if so, when did it become effective? Explain fully.
- (6 points)
- 1.3 (a) Did Lauren create an effective suretyship? Explain fully.
- (b) Identify and explain the three forms of suretyship.
- (6 points)
- 1.4 *For purposes of this subquestion 1.4 only, assume Emma created an effective suretyship, but Lauren did not create an effective suretyship.*
- (a) What right(s), if any, does Emma have against Charlie for the \$40,000 that she paid to BizLender Bank? Explain fully.
- (b) Did BizLender Bank's failure to obtain a suretyship from Lauren create any defenses for Emma against enforcement of the suretyship? Explain fully.
- (6 points)
- 1.5 *For purposes of this subquestion 1.5 only, assume each of Lauren and Emma created an effective suretyship.*
- (a) Can BizLender Bank recover any additional amounts from Emma under the surety agreement and, if so, what amount? Explain fully.
- (b) Does Emma have any legal right to reimbursement from Lauren for the \$40,000 Emma paid to BizLender Bank on the note and if so, what amount? Explain fully.
- (8 points)

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- 1.6 (a) Was there a sale of the generator from PowerUp Inc. to Charlie and, if so, when was it effective? Explain fully.**

For purposes of subquestions 1.6(b) and 1.6(c) only, assume there was a sale of the generator from PowerUp Inc. to Charlie.

- (b) What right, if any, does PowerUp Inc. have to the generator now? Explain fully.**
- (c) If Charlie transfers ownership and possession of the generator to Emma, would PowerUp Inc.'s right to the generator change? Explain fully.**

(8 points)

[End of Question 1]

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QUESTION 2 (40 POINTS)

Paola had been selling cakes from her home kitchen for several years and had built up a loyal following. Looking to grow her business, Paola started searching for space for a commercial kitchen. Paola found a building in St. Bernard Parish just a few blocks from her home. The mixed-use building contained two rental units: Unit A was occupied by a small day spa operated on the weekends by Tim which also had a larger apartment in the back in which Tim lived, and Unit B was a commercial space available for rent. Unit B seemed ideal for the kitchen.

Paola reached out to the landlord, Bryan, to ask about the rental details for Unit B. Paola explained to Bryan that she would need gas service in the unit because a gas oven cooked cakes much more evenly than an electric oven. Bryan assured Paola that gas service was available in Unit B. Paola and Bryan negotiated a ten-year lease commencing on March 1, 2024 with monthly rent of \$2,000. They both signed a written lease agreement on February 26, 2024 that stated the term, the rent and the legal description of the unit. The lease agreement also included a prohibition on the assignment of the lease by Paola. Paola recorded the lease agreement in the conveyance records of St. Bernard Parish on February 28, 2024. The lease agreement in favor of Tim covering Unit A was never recorded.

On March 11, 2024, Paola had the two new gas ovens she had just purchased delivered to Unit B. When the delivery personnel tried to hook the ovens up to the gas lines, they realized that no gas was flowing through the gas lines coming into Unit B. Paola immediately called Bryan, who said he would take care of the problem right away. Despite her regular requests, the gas was still not available in Unit B after a month, and as a result Paola made no progress on setting up the kitchen. On April 12, 2024, Paola ran into Tim, who asked how the kitchen was coming along. After Paola explained the lack of gas, Tim told her that he was not surprised because Bryan had been in a dispute with the gas company for at least the past year over repairing the gas line coming to the building. In fact, Tim told her that the prior tenant in Unit B had left for the exact same reason.

Shocked to hear this, Paola decided she would sublet the space to cover the rent until Bryan could get the gas situation resolved. Paola's best friend, Karl, ran a boxing club in the area, and she knew he was looking for a new space for members to practice and to hold tournaments. Paola showed Karl Unit B, and they orally agreed that Paola would sublease Unit B to him on a month-to-month basis for \$2,000 per month, starting on May 1, 2024. Paola moved the gas ovens to the very back of the unit so they would be out of the way, and Karl got the space set up for the boxing club.

The boxing club produced a great deal of noise during practice sessions and especially during tournaments. Tim's clients at the spa began to complain that the noise from the boxing club was interfering with their enjoyment of the spa services. Tim started to notice a decline in bookings and became concerned. The noise from the boxing club also kept Tim up at night, as many tournaments did not conclude until 2 a.m.

Tim remembered that his lease agreement with Bryan for Unit A included an option to purchase the entire building for \$100,000, which was its fair market value at the time the lease was signed on December 1, 2019. The lease provided that Tim could exercise the option to purchase at any time during the fifteen-year term of the lease and included a full legal description of the building. Tim would like to buy the building, but only if the boxing club was no longer in Unit B.

Paola decided to sell one of the new ovens she bought and listed it on an online marketplace for \$500 and stated "as is, where is." She also included a model number for the oven, but the model number she listed was incorrect and instead corresponded to an oven that can reach a much higher temperature than the oven she was actually selling. Steve saw the listing and agreed to buy the oven. Steve and Paola signed a bill of sale that included "as is, where is," and Steve paid Paola \$500 when he picked it up. When Steve attempted to cook with the oven, he realized that the oven was not the model that Paola had listed.

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Answer the following five subquestions. These subquestions are not weighted equally. Explain each answer; an answer without explanation will receive no credit.

2.1 (a) Has a valid and binding lease been entered into between Paola and Bryan for Unit B? Explain fully

(b) *For purposes of this subquestion 2.1(b) only, assume that the lease between Paola and Bryan is valid and binding. Was Paola permitted to sublease Unit B to Karl? Explain fully.*

(9 points)

2.2 (a) *For purposes of this subquestion 2.2(a) only, assume that the lease between Paola and Bryan is valid and binding. In March 2024, did Paola have any grounds to terminate the lease? Explain fully*

(b) *For purposes of this subquestion 2.2(b) only, assume that the lease between Paola and Bryan is valid and binding and that the lease between Tim and Bryan is valid and binding. In May 2024, did Tim have valid grounds to assert a breach of the lease agreement against Bryan? Explain fully.*

(10 points)

2.3 *For purposes of this subquestion 2.3 only, assume Tim's lease agreement of Unit A is valid and effective. Is Tim's option to purchase the building valid and, if so, when will it terminate? Explain fully. (8 points)*

2.4 *For purposes of this subquestion 2.4 only, assume that the lease between Paola and Bryan is valid and binding, that the sublease between Paola and Karl is valid and binding, and that Tim has exercised his option and purchased the building. Is Paola's lease of Unit B binding upon Tim after Tim's purchase of the building? Explain fully. (5 points)*

2.5 *Regarding the sale of the oven from Paola to Steve, does Steve have any grounds to assert a breach of warranty or the existence of a vice of consent? Explain fully. (8 points)*

[End of Question 2]

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QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds to the correct answer.

- 3.1 Registry and mortgage reinscription
- 3.2 Implied warranty against redhibitory defects
- 3.3 Lesion
- 3.4 After-Acquired Title Doctrine
- 3.5 Prescription
- 3.6 Compromise agreements
- 3.7 Effect of expropriation on rights and obligations under a lease
- 3.8 Offer and acceptance
- 3.9 Pledge
- 3.10 Discrepancies in act of sale; mutual error; sale by boundaries

[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2024**

QUESTION 1 (40 POINTS)

Diana has long owned a ten-acre unimproved piece of land in St. Tammany Parish, only using it to store her tractor. Needing additional income, Diana decided she could find another place to store the tractor and advertised the land for lease.

Ed thought the land would be well suited for parking vehicles for a transportation business he planned to start. Ed contacted Diana, and they negotiated a lease agreement. The lease agreement stated that it would commence upon signature by both parties and contained a complete legal description of the land and both of their names and addresses. The only other provisions contained in the lease agreement set out:

- monthly rent of \$500 for the month of February 2023 and monthly rent of \$500 plus 8% of Ed's prior month's profit from his planned transportation business for every month thereafter; and
- an option for Ed to purchase the land for \$150,000 in cash at any time while the lease agreement was in effect.

On February 1, 2023, Ed and Diana signed the lease agreement they had negotiated. Ed also wanted to buy the tractor. Diana decided it would be easier for her to just sell it rather than move it, so she offered to sell the tractor to Ed for \$10,000. At the same time Ed and Diana signed the lease agreement, Ed told Diana that he accepted her offer to sell the tractor. Ed also paid Diana \$500 in cash for February 2023 rent at this time. Ed spent the day walking around the land and planning out how he would most efficiently park his vehicles. The following day, Ed recorded the signed lease agreement in the St. Tammany Parish conveyance records.

Each month thereafter, Ed paid Diana \$500 in rent on the first day of the month, but being busy with his full-time job, he never got around to starting the transportation business. Ed also never moved the tractor from the parcel. Frustrated that she wasn't getting any profits as part of the monthly rent, on June 5, 2024, Diana sent Ed a written notice stating that the lease was terminated as of June 30, 2024. Ed was disappointed to receive Diana's letter and paid no further rent. Ed also never paid Diana for the tractor.

During the summer of 2024, Jason was acquiring property throughout St. Tammany Parish to develop new housing communities. Jason offered Diana \$200,000 in cash for the land, which she felt was a fair price. On July 15, 2024, Jason and Diana signed a purchase agreement containing a complete legal description of the land, with Jason simultaneously paying Diana \$5,000 in cash as stipulated in the purchase agreement. Under the purchase agreement, the sale of the land for the price of \$200,000 was to close within 30 days.

Since receiving Diana's notice terminating the lease, Ed had been working to launch his transportation business and planned to work things out with Diana for parking on the land. Before he could do so, Ed heard that Diana had entered into the purchase agreement with Jason. Ed quickly sent her a letter on July 17, 2024 stating that he was exercising his option to purchase the property at the agreed price of \$150,000.

Answer the following six subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer. An answer without explanation will receive no credit.

- 1.1 Was the lease agreement entered into between Ed and Diana valid and, upon Ed's recordation of the lease agreement, was it enforceable against third parties? Explain fully. (8 points)**
- 1.2 *For purposes of this subquestion 1.2 only, assume the lease agreement was valid.* As of the date of this exam, is the lease agreement still in effect? If not, when did it terminate? Explain fully. (7 points)**

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- 1.3 (a) Was Ed's option to purchase the property valid at the time the lease agreement was signed?
- (b) *Assume for purposes of this subquestion 1.3 only, that the lease agreement was validly terminated effective June 30, 2024. Was Ed's exercise of the option to purchase valid on July 17, 2024?*

Explain both fully. (7 points)

- 1.4 Has a perfected sale of the tractor from Diana to Ed occurred and, if so, when? Explain fully. (7 points)
- 1.5 Was the purchase agreement entered into between Diana and Jason valid? Explain fully. (5 points)
- 1.6 *For purposes of this subquestion 1.6 only, assume the purchase agreement entered into by Diana and Jason was valid. If Diana tells Jason she has decided to sell the land to Ed, would Jason likely succeed in a suit against Diana for specific performance under the purchase agreement to force the sale of the land and for damages? Explain fully. (6 points)*

[End of Question 1]

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QUESTION 2 (40 POINTS)

In 2020, Kendra bought a home in East Baton Rouge Parish as an investment property. A Minnesota resident, Kendra found the home through a real estate website and properly completed the purchase of the home without traveling to Louisiana. Kendra had intended to renovate the home but, after owning the home for three years and not even having the opportunity to see the home in person much less renovate it, she decided that she should sell the home. On January 10, 2024, in a properly recorded written act of sale signed by both parties, Mark bought the home from Kendra for \$200,000 cash. Mark was in a hurry to move in, so he decided not to do his own full inspection of the home before he bought it. Immediately after the sale, Mark began moving his belongings into the home and realized he would need more space for all of his sports memorabilia. Mark decided he would hire a contractor to construct an addition to the home.

Mark knew that he would need a significant amount of money to pay for the addition, but fortunately he had sought a revolving loan from Quick Credit back in February 2018. At that time, Quick Credit agreed to lend Mark \$150,000 and required that Mark grant Quick Credit a mortgage on property he owns in Ascension Parish. On February 15, 2018, Mark executed an Act of Mortgage with a granting clause that states “In order to secure my present and future indebtedness to Quick Credit, up to a maximum secured limit of \$150,000 including all principal, interest, fees, costs and other amounts I may owe to Quick Credit, I hereby grant Quick Credit a mortgage on all of my present and future interest in the immovable property in Ascension Parish, described below.” The mortgage contained a full and correct legal description of Mark’s property in Ascension Parish. Although the Act of Mortgage was acknowledged before a notary public, there were no witnesses to Mark’s signature on it. The mortgage was recorded in the Ascension Parish mortgage records on the same day that it was signed. At that time, Mark needed only \$10,000 to fix the driveway at his Ascension Parish property, so Quick Credit lent Mark \$10,000 and had Mark sign a promissory note in the amount of \$10,000 on February 16, 2018 (the “**2018 Note**”), with interest payable monthly on the first day of each month beginning March 1, 2018, and with a final balloon payment of all outstanding principal and unpaid interest due on February 16, 2025.

In January 2024, Mark confirmed with Quick Credit that it would lend him the remaining \$140,000 as previously agreed. On January 30, 2024, Quick Credit lent Mark \$140,000 and had Mark sign a promissory note in the amount of \$140,000 on the same date (the “**2024 Note**”), payable on demand to the order of Quick Credit.

The next day, on January 31, 2024, a mild rainstorm passed through Baton Rouge, and a large portion of the roof on Mark’s East Baton Rouge Parish home blew off, causing significant rain damage to the home. Mark’s roofer quickly came to the home and told Mark that the roof was in poor condition and that it was obvious to any competent roofer that the roof was not properly secured to the home when it was installed. The roofer showed Mark how the bolts used to secure the roof were too small for the roof size and then showed Mark the bolts the roofer said should have been used, but Mark could not see that there was any difference between the two kinds of bolts. Mark agreed to pay the roofer \$15,000 to temporarily repair the roof but worried that he would need to use all of the money he borrowed from Quick Credit just to repair the damage and permanently fix the roof. To make matters worse, Mark received a notice from Quick Credit, dated February 2, 2024, stating that it was accelerating the maturity on the 2018 Note because, due to a computer glitch, Quick Credit just realized that Mark had never made any of the monthly interest payments due under the 2018 Note.

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Disgusted with the East Baton Rouge Parish home, Mark put it up for sale in March 2024. Paul was interested in purchasing the home and conducted a title search, which revealed the following instruments were recorded in the mortgage records of East Baton Rouge Parish:

- an Act of Mortgage signed by Kendra in favor of Growth Bank containing an accurate legal description of the East Baton Rouge property, dated and recorded in the East Baton Rouge Parish mortgage records on May 1, 2017, and stating that the indebtedness secured by the Act of Mortgage will mature on February 28, 2028.
- a certified copy of a money judgment in favor of Sandra against Kendra rendered by a Louisiana court on March 19, 2019 and recorded in the East Baton Rouge Parish mortgage records on March 20, 2019.

Paul asked Mark about the judgment in favor of Sandra and Growth Bank's mortgage. Mark responded that he did not know of the existence of either because he had forgotten to search the parish records for any encumbrances before he purchased the home from Kendra.

Answer the following six subquestions. The subquestions in Question 2 are not weighted equally. Explain each answer. An answer without explanation will receive no credit.

- 2.1 What claims, if any, might Mark reasonably assert against Kendra for the rescission of the sale of the East Baton Rouge property because of the condition of the roof; when must Mark assert those claims; and what damages, if any, may Mark properly demand against Kendra? What potential defenses, if any, are available for Kendra? Explain fully. (10 points)**
- 2.2 Was the mortgage in favor of Quick Credit valid at the time of its execution? Does the mortgage secure the 2018 Note? Does the mortgage secure the 2024 Note? Explain fully. (7 points)**
- 2.3 *For purposes of this subquestion 2.3 only, assume the mortgage in favor of Quick Credit was valid at the time of its execution.* Was the mortgage in favor of Quick Credit effective against third persons immediately after its recordation? And, is it effective against third persons as of the date of this exam? Explain fully. (7 points)**
- 2.4 As of February 2, 2024, the date that the maturity of the 2018 Note was accelerated, had any portion of the 2018 Note prescribed? If so, why, and what portion and when? Explain fully. (6 points)**
- 2.5 Did the recordation of Sandra's money judgment properly create a mortgage in her favor upon the East Baton Rouge Parish home? If so, does it remain enforceable as of the date of this exam? Explain fully. (5 points)**
- 2.6 *For purposes of this subquestion 2.6 only, assume Growth Bank's mortgage was properly created.* As of the date of this exam, is Growth Bank's mortgage effective as to third persons with respect to the East Baton Rouge Parish property, and, if so, does it outrank Sandra's rights in the East Baton Rouge Parish property? Explain fully. (5 points)**

[End of Question 2]

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QUESTION 3 (20 POINTS)

For each of the following multiple choice items, select the letter that corresponds to the correct answer.

- 3.1 Contractual capacity; rescission
- 3.2 Reconduction of leases
- 3.3 Effect of modification of principal obligations; extension of liberative prescription
- 3.4 Sale; indeterminant price
- 3.5 Lessor's privilege
- 3.6 Lesion
- 3.7 Suretyship; solidary liability
- 3.8 Eviction; modification or exclusion of warranty
- 3.9 Conflicts of laws
- 3.10 Liberative prescription on open account

[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2024**

QUESTION 1 (40 POINTS)

Owen has long owned a tract of unimproved land that he has leased to Bradley each year on which to deer hunt. Last year, Bradley asked Owen to sell the tract to him so he could build a cabin on the land.

On October 1, 2023, Owen and Bradley signed a purchase agreement under which Owen agreed to sell the tract to Bradley for \$50,000 at a closing to be held by the end of 2023. The purchase agreement contained a clause that required Bradley to provide Owen with \$5,000 cash, which was stipulated to be earnest money. Bradley paid Owen the \$5,000 in cash a few hours after they signed their purchase agreement.

Later that day, Owen remembered that, in 2012, he had signed an agreement granting Max a right of refusal for 20 years to purchase the tract on the same terms as might be offered by another person. The agreement said nothing else about the terms of the right of first refusal. Because he had not had any communication with Max for many years, Owen suspected that Max had forgotten about his right of first refusal. Nevertheless, Owen sent Max a letter that afternoon, informing Max that he had finally decided to sell the tract and had found a buyer willing to purchase it for \$50,000. Max received the letter on October 3rd.

That same day, Bradley advised his son, Simon, that he was buying the land on which they hunt so that they could finally build their cabin in the woods. Simon, who is 16 years old, was excited and wanted to buy an All-Terrain Vehicle (“ATV”) for hunting. He had \$2,000 in his bank account and was counting on receiving \$500 as a birthday present the next day. Simon saw an advertisement by Theo for the sale of an ATV for \$2,500. Simon met Theo the same day to view the ATV. Theo asked Simon if he was 18. Simon lied and said “yes” because he really wanted the ATV. Theo did not ask for any proof of Simon’s age and continued to negotiate with him.

Simon advised Theo that he would purchase the ATV that day for \$2,500. Theo agreed to sell the ATV to Simon for that price. Simon knew he did not have the entire \$2,500 in his bank account, but he handed Theo a personal check for \$2,500 payable to Theo. Simon was counting on receiving \$500 on his birthday the next day, and he planned to deposit this money into his bank account in order to cover the check. However, he did not disclose that fact to Theo. Theo handed the personal check back to Simon, indicating that he would accept only a cashier’s check or cash. Simon said he would go to the bank and return later.

Simon went home to ask his parents whether he could receive his \$500 birthday money in advance. Simon’s parents refused. In a huff, Simon went to his room and began scrolling through his Instagram. Simon was delighted to see his friend, Alie, was offering an ATV for sale for \$2,000. Simon had \$2,000, so he immediately went to Alie’s house and purchased Alie’s ATV. Simon then advised Theo he no longer wanted to purchase his ATV. Theo was angry because he had turned down other potential buyers while he was waiting for Simon to return with the cashier’s check or cash. Theo demanded Simon pay him \$2,500 for the purchase of the ATV. Simon refused and stated he did not have the money to buy the ATV and, in any event, he was only 16 years old.

On December 1, 2023, Owen received a letter from Max saying that he decided to exercise his right of first refusal and demanded Owen sell the tract of land to him; Max included with his letter a check for \$50,000 payable to Owen for the tract. Bradley found out and was furious and demanded the sale to him occur as scheduled. Owen then decided he did not want to sell the tract to either Max or Bradley. Max and Bradley have each brought an action against Owen for specific performance of their contracts.

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

1.1 Is Bradley entitled to specific performance, or damages, under his purchase agreement with Owen for the tract of land? Explain fully. (10 points)

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- 1.2 Was Max entitled to specific performance for Owen to sell the tract of land to him? Explain fully. (10 points)**
- 1.3 Was there a sale between Simon and Theo for the ATV? Explain fully. In answering this question, do not address the issue of capacity. (5 points)**
- 1.4 For this Question 1.4 only, assume there was a sale between Simon and Theo. May Simon rescind the sale on grounds that he was not yet 18 years old? Explain fully. (8 points)**
- 1.5 For this Question 1.5 only, assume that Simon did not assert his age as a basis for not honoring his contract with Theo. Did Simon have a right to rescind the sale due to his not receiving the \$500 in birthday funds upon which he was relying to pay the purchase price of the ATV? Explain fully. (7 points)**

[End of Question 1]

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QUESTION 2 (40 POINTS)

Asa, Becky, and Cindy own Lot 1 in Sunny Side Acres Subdivision, East Baton Rouge Parish, Louisiana ("Lot 1"). They hired Dan, a contractor, to build a house on the property. Dan contracted with Acme Lumber to provide building materials for the framing of the house. On February 9, 2023, Acme Lumber delivered several stacks of lumber to Lot 1 for framing the new house and stacked them on Lot 1 off to the side close to some trees so they were not visible from the street.

Asa, Becky, and Cindy went to Trusty Credit seeking a loan to build the house on Lot 1. Trusty Credit was willing to lend them \$180,000, but Trusty Credit insisted on a mortgage on Lot 1. Before the loan closing, Trusty Credit hired a licensed engineer to determine if any work had commenced on Lot 1. On Monday, February 13, 2023, the engineer drove by the lot and saw that workers were removing a dumpster containing the debris from the lot and that a bulldozer was placing fill dirt and leveling the land surface. The engineer just conducted a quick drive-by inspection and did not stop to walk around Lot 1. That same day, the engineer executed and delivered to Trusty Credit an Affidavit of No Work attesting that he had inspected Lot 1 earlier that day for Trusty Credit and had found neither work nor materials that indicated the commencement of work according to law. The next day, February 14, 2023, Trusty Credit recorded the Affidavit of No Work in the mortgage records of East Baton Rouge Parish. On February 16, 2023, Trusty Credit prepared an Act of Mortgage with a granting clause that reads "In order to secure my present and future indebtedness to Trusty Credit, up to a maximum secured limit of \$500,000 including all principal, interest, fees, costs, and other amounts I may owe to Trusty Credit, I hereby grant Trusty Credit a mortgage on all of my present and future interest in the immovable property in East Baton Rouge Parish, described below." The mortgage contained a full and correct legal description of Lot 1. Trusty Credit had Asa, Becky, and Cindy sign the Mortgage before a notary public that same day. The mortgage was recorded in the mortgage records of East Baton Rouge Parish on Friday, February 17, 2023. Trusty Credit did not conduct a search of the East Baton Rouge Mortgage Records for any prior encumbrances on the property or judgments recorded against Asa, Becky, or Cindy.

At the time the Act of Mortgage was signed and recorded, Trusty Credit had not lent any funds to Asa, Becky, and Cindy. The next week, Asa, Becky, and Cindy decided they would need the full \$180,000 so Trusty Credit had Asa, Becky, and Cindy sign a promissory note in the amount of \$180,000 dated February 24, 2023, payable in monthly payments of interest only commencing March 1, 2023, and continuing to be due on the 1st day of each month thereafter, with one final payment of all principal and accrued interest due on February 1, 2024. The note included a clause allowing Trusty Credit to accelerate the entire loan upon a default in payment.

Dan, the contractor, had not been paid and thus, he did not pay Acme Lumber for the building materials. On April 3, 2023, Acme Lumber filed a statement of claim or privilege in the mortgage records of East Baton Rouge Parish that accurately described both Lot 1 and the balance due for its supplies. The construction work was still in progress at that time.

Asa, Becky, and Cindy stopped making payments on the note to Trusty Credit in June 2023. The note was in default for failure to make payments. Using the acceleration clause of the promissory note, Trusty Credit made demand for payment of the entire \$180,000 owed by Asa, Becky, and Cindy.

Asa did not want to be sued, so she withdrew \$120,000 from a savings account she had and paid that amount to Trusty Credit to stop it from filing a lawsuit against her.

Asa, Becky, and Cindy decided to sell Lot 1 to pay off the remaining debt of \$60,000 (plus accrued interest) owing to Trusty Credit. A purchase agreement with a buyer was entered into and the sale closed on November 15, 2023.

TEST CONTINUES ON NEXT PAGE

Prior to the sale, the attorney for the buyer reviewed the title to Lot 1 and found the following encumbrances:

1. An Act of Mortgage in favor of People's Bank executed by the prior owners of the property dated June 9, 2000, and recorded that same day in the mortgage records of East Baton Rouge Parish, describing a promissory note dated June 9, 2000, payable in equal monthly installments with the final payment due on May 9, 2015;
2. A final money judgment in favor of Easy Loans rendered against Asa, Becky, and Cindy by the Nineteenth Judicial District Court, Parish of East Baton Rouge, dated November 3, 2013, and recorded in the mortgage records of East Baton Rouge Parish on November 7, 2013;
3. The Affidavit of No Work mentioned above, recorded in the mortgage records of East Baton Rouge Parish on February 14, 2023;
4. An Act of Mortgage in favor of Trusty Credit recorded in the mortgage records of East Baton Rouge Parish on February 17, 2023;
5. The statement of claim or privilege filed by Acme Lumber in the mortgage records of East Baton Rouge Parish on April 3, 2023; and,
6. A written notice signed by Easy Loans on November 2, 2023, and recorded in the mortgage records of East Baton Rouge Parish on November 6, 2023. This notice was signed by Easy Loans and stated that "Easy Loans is hereby extending the recordation of the judgment that was rendered against Asa, Becky, and Cindy in favor of Easy Loans on November 3, 2013." Nothing further was listed on this notice.

The attorney for the buyer also confirmed that Easy Loans took no other legal action to enforce or preserve its 2013 money judgment.

The sale of the property did not reimburse Asa for the \$120,000 she paid to Trusty Credit. Following the sale of Lot 1, Asa made demand on Becky and Cindy for reimbursement of the \$120,000 she had paid to Trusty Credit. Becky and Cindy refused to pay Asa, so Asa filed a lawsuit against Becky and Cindy to recover \$120,000.

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

- 2.1 Does Asa have any legal rights to reimbursement from Becky and Cindy of the \$120,000 amount Asa paid to Trusty Credit on the note; and if so, what amount is Asa entitled to receive from Becky and from Cindy? Explain fully. (5 points)**
- 2.2 Was Trusty Credit's mortgage valid at the time of its execution on February 16, 2023; and does the mortgage secure the \$180,000 note that was executed on February 24, 2023? Explain fully. (10 points)**
- 2.3 On the date of the sale of the property (November 15, 2023), was the judgment in favor of Easy Loans an enforceable encumbrance against Lot 1? Would the answer be different if Easy Loans had filed its written notice on November 1, 2023, instead of November 6, 2023? Explain fully. (10 points)**
- 2.4 Immediately prior to the sale on November 15, 2023, did the mortgage in favor of People's Bank constitute an encumbrance against Lot 1 enforceable against third persons? Explain fully. (5 points)**
- 2.5 For this Question 2.5 only, assume that Trusty Credit's mortgage is valid. On the day Acme Lumber recorded its statement of claim or privilege (April 3, 2023), did it have priority over Trusty Credit's mortgage? Explain fully. (10 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2024**

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 Law of registry for leases and options to purchase
- 3.2 Privileges
- 3.3 Contractual limitations of damages
- 3.4 Sale of litigious rights
- 3.5 Risk of loss under contract of sale
- 3.6 Compensation between mutual obligors
- 3.7 Pledge
- 3.8 Open accounts liberative prescription
- 3.9 Compromise agreements
- 3.10 Eviction; modification or exclusion of warranty

[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2023**

QUESTION 1 (40 POINTS)

Lou owns a commercial property (the “Property”) in Jefferson Parish. On February 1, 2013, Lou signed a fifteen-year written lease with Tim for the Property. The lease agreement has a full, valid description of the Property, specifies a fixed rent to be paid each month and contains an option to purchase in favor of Tim. The option grants Tim the right to purchase the Property at any time during the lease term for a purchase price of \$200,000. The lease also states that Tim is not liable for the maintenance of the Property.

The next month, Lou approached Dan to ask if Dan would lend Lou funds for maintenance and repairs of the Property. When Dan agreed, Lou prepared an Act of Mortgage in favor of Dan. Lou did not yet know the amount of the loan he would need, so he drafted the granting clause in the mortgage to read as follows: “In order to secure my present and future indebtedness to Dan, up to a maximum secured limit of \$50,000,000, including all principal, interest, fees, costs and other amounts that I may owe to Dan, I hereby grant Dan a mortgage on all of my present and future interest in the immovable property in Jefferson Parish, Louisiana described below.” The Act of Mortgage contains a full and correct legal description of the Property. On March 11, 2013, Lou signed the Act of Mortgage but neglected to have it signed by witnesses or a notary public. The Act of Mortgage was also not signed by Dan. After signing it, Lou recorded the Act of Mortgage in the mortgage records of Jefferson Parish on March 13, 2013. At the time the Act of Mortgage was executed and recorded, Dan had not yet lent any money to Lou.

In early 2015, Tim complained to Lou that the roof of the building on the Property usually leaked in rain storms. On May 12, 2015, Lou obtained a loan from Dan evidenced by a promissory note signed by Lou, in favor of Dan, dated May 12, 2015, in the amount of \$20,000 payable in monthly installments commencing on June 12, 2015, and continuing thereafter to be due on the twelfth day of each month over a term of ten years with a maturity date of May 12, 2025. The note contains an acceleration clause giving Dan the right to accelerate the maturity of the note if any payment is not made when due. The note does not reference the Act of Mortgage Lou had granted to Dan. Lou received the money from Dan and decided that the roof could wait a while to be repaired and used most of the funds borrowed for a month-long vacation out of the country. Even though he is not a licensed roofer and has no construction skills, Lou repaired the roof himself in late 2015 and then, after it had further leaks, again in early January 2023.

Dan forgot about the loan until he was cleaning his office in January 2023, when he found the note for \$20,000 signed by Lou. Dan then remembered that he had not received any payments on the note. As the note was in default, Dan made demand on February 1, 2023, for Lou to bring the note current. When no payments were made by Lou, Dan accelerated the maturity of the note and demanded payment of the full balance on February 10, 2023.

In early March 2023, Tim hand-delivered to Lou a letter signed by Tim advising Lou that Tim was electing to exercise his option to purchase the Property as provided for in their lease agreement. At that same time, Tim asked Lou about the condition of the roof, and Lou stated it had been repaired in January 2023. Lou agreed to the sale and prepared a Cash Sale, which they both signed on March 10, 2023, and which provided that the sale of the Property was “effective immediately, on an ‘as-is, where-is basis’, with no warranties as to the condition of the Property, and that Tim’s right to sue for return or reduction of the purchase price is waived.” Tim signed the Cash Sale, placed his initials by each waiver contained in the Cash Sale and paid Lou \$200,000.

One month after the sale of the Property, Tim found the roof leaking and wanted to rescind the sale. Tim went to an attorney for advice, and the attorney ran a title search and found the Act of Mortgage in favor of Dan in the mortgage records of Jefferson Parish recorded on March 13, 2013. The attorney also found a money judgment rendered against Lou by the Twenty-Fourth Judicial District Court, Parish of Jefferson on April 1, 2013 in favor of Fast Loans, Inc. and recorded in the mortgage records of Jefferson Parish on August 1, 2013. Since recording the judgment, Fast Loans, Inc. has taken no other action to enforce or preserve its judgment.

TEST CONTINUES ON NEXT PAGE

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

- 1.1 Was the Act of Mortgage executed by Lou in favor of Dan valid at the time of its execution in March 2013? Explain. (5 points)**

Assume for Questions 1.2-1.7 that the Act of Mortgage was valid at the time of its execution.

- 1.2 At the time the note was signed on May 12, 2015, did the Act of Mortgage secure the promissory note? Explain. (5 points)**
- 1.3 Had any portion of the note prescribed as of the date the maturity of the note was accelerated (February 10, 2023); and if so, why, and what portion and when? Explain. (5 points)**
- 1.4 Was the mortgage granted by Lou in favor of Dan on the Property still effective against third persons as of the date of the sale of the Property to Tim (March 10, 2023); and is it effective against third persons as of the date of this examination (in July 2023)? Explain. (5 points)**
- 1.5 As of the date of this exam (in July 2023), does Fast Loan, Inc. have an enforceable judicial mortgage on the Property? Explain what steps it should have taken in the past, or should take in the future, to ensure that its judicial mortgage remains enforceable. (5 points)**
- 1.6 Did the lease from Lou to Tim grant a valid option to purchase the Property; and if so, was the option still valid in March 2023? Explain. (5 points)**
- 1.7 What claims might Tim reasonably assert against Lou for the rescission of the sale of the Property, when must Tim assert those claims, and what damages may Tim properly demand against a good faith or bad faith seller? What potential defenses are available for Lou? Explain. (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2023**

QUESTION 2 (40 POINTS)

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

PART A (24 Points)

Steve owned three, adjacent one-acre tracts of unimproved land, known as Lot 1, Lot 2 and Lot 3. Steve was approached by Tom to purchase Lot 1. Steve agreed and sold Lot 1 to Tom for a cash price of \$5,000 pursuant to a written Act of Sale on March 1, 2022. The day after the Act of Sale was signed by Steve and Tom, it was recorded in the conveyance records. In December 2022, Steve sold Lot 2 to Kim. Steve thought the value of the land had increased since the sale of Lot 1 and demanded that Kim pay \$10,000. As Steve thought the property might increase in value in the future, he added a provision to the Act of Sale providing that Kim may not sell Lot 2 without first offering it to Steve for \$10,000, or if less, the price that a third person would be willing to pay.

On January 20, 2023, Steve and Eric signed a purchase agreement under which Steve agreed to sell Lot 3 to Eric for \$10,000, to be paid in cash at closing, which was to occur 90 days after the purchase agreement was signed. At the time the purchase agreement was signed, Eric delivered to Steve a cash payment in the amount of \$1,000, which the purchase agreement stipulated to be earnest money.

On April 3, 2023, a subdivision developer announced plans to build a high-end subdivision on land adjoining Lots 1, 2, and 3. These plans immediately caused the value of all surrounding acreage to rise to approximately \$10,000 per acre as they might be able to be placed in the subdivision. Prior to the announcement of those plans, no land in the area had ever sold for more than \$10,000 per acre, and \$5,000 per acre seemed to be the “going price” for unimproved land in the area during the last five years. Neither Steve nor Tom nor Kim nor Eric knew about the plans of the subdivision before this announcement.

In view of the developer’s plans and a possible rise in property values, Steve notified Tom on April 10, 2023, that Tom’s purchase of Lot 1 is “void” because the price Tom paid for Lot 1 was “unconscionably low.” Steve also notified Kim that he (Steve) was exercising his option to repurchase Lot 2 and demanded that Kim sell Lot 2 back to him at the \$10,000 price for which Kim had purchased Lot 2. Kim advised Steve that she would not sell Lot 2 to him as she was keeping it and wanted to build her own house on it. Steve also notified Eric that he (Steve) does not wish to proceed with the sale of Lot 3 to Eric.

- 2.1 What action might Steve reasonably file to seek rescission of the sale of Lot 1 to Tom? If that action is filed as of the date of this examination (in July 2023), is it timely? (3 points) Assuming that the action is timely, is Steve likely to prevail? Explain. (3 points)**
- 2.2 What defense does Kim have to Steve’s action for exercising his right to buy back Lot 2? Explain. (6 points)**
- 2.3 If Eric sues Steve for specific performance under the purchase agreement to force the sale of Lot 3 and for damages, is Eric likely to succeed? Explain. (6 points)**
- 2.4 Does either Steve or Eric have the right to recede from the purchase agreement of Lot 3? For each party, explain why or why not and what amount, if any, such party must pay to recede. (6 points)**

TEST CONTINUES ON NEXT PAGE

PART B (16 Points)

Amahl owns a 1969 Corvette that he was storing and no longer wanted, so he placed an advertisement for the sale of the vehicle with the price at \$9,000. Bob, who is 18 years old, saw the advertisement and contacted Amahl to meet and view the vehicle. Bob met Amahl at the garage where the vehicle was stored. Bob viewed the vehicle, got in the vehicle, and started it. Bob wanted the car, so he offered to buy it for \$8,000 as that was all he had saved. Amahl refused and said \$9,000 was the price. Bob then agreed to the \$9,000 price thinking to himself that he would have his father lend him the extra \$1,000. Amahl and Bob orally agreed to the sale of the vehicle for \$9,000. Bob said he would return the next day with the cash. Bob returned the next day with his father and showed Amahl the \$8,000 cash he had brought. Amahl stated he must receive the full \$9,000 cash so Bob's father told Amahl that he guaranteed he would see that Amahl was paid the remaining \$1,000. Without paying anything to Amahl, Bob then got into the car, started it, put it in reverse and accidentally ran into the back wall of the garage. Bob then said he did not want to purchase the vehicle. Bob and his father refused to pay Amahl the purchase price. Amahl filed a lawsuit against Bob and Bob's father to enforce the sale.

- 2.5 Was there a valid sale between Amahl and Bob for the Corvette? If so, when did it occur? Explain. (6 points)**
- 2.6 When, if ever, did ownership transfer from Amahl to Bob? Explain. (5 points)**
- 2.7 Under what theory or theories of law, if any, might Amahl sue Bob's father for the \$1,000 he agreed to pay Amahl? Explain. (5 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2023**

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 Effect of expropriation on rights and obligations under a lease
- 3.2 Mortgages; place of recordation
- 3.3 Conflicts of laws
- 3.4 Warranty of title
- 3.5 Rights of surety against principal obligor
- 3.6 Lesion
- 3.7 Offer and acceptance
- 3.8 Liberative prescription on open account
- 3.9 Mortgage records; transfers, amendments and releases
- 3.10 Reconduction of a lease

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[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2023**

QUESTION 1 (40 POINTS)

In October 2012, Lisa decided her town in Iberville Parish needed a pet store. Lisa then approached Big Bank for a loan for funds to begin her business. Big Bank agreed to give Lisa a \$50,000 loan but required collateral for the loan, so Lisa agreed to place a mortgage on her Iberville Parish residence. The Iberville residence already had a mortgage on it granted in favor of Credit Inc. to secure a loan dated February 1, 2010 and having a maturity date of January 1, 2025. The Credit Inc. mortgage properly described the Iberville residence property and the maturity date of the loan and was properly recorded in the mortgage records of Iberville Parish on February 1, 2010.

Big Bank agreed to accept a second mortgage on the Iberville residence. On October 15, 2012, Lisa signed a promissory note in favor of Big Bank in the amount of \$50,000 payable in 72 monthly installments due on the first day of each month beginning November 1, 2012 and continuing until October 1, 2018 and also signed an Act of Mortgage to secure the promissory note. The mortgage contained a proper legal description of the Iberville residence, referenced the promissory note and its principal amount and date of signature, specified its installment dates and maturity date, and was signed by Lisa and two witnesses, but not by Big Bank. Big Bank's notary did not paraphrase the note and only had the two witnesses acknowledge that Lisa signed the Act of Mortgage in their presence; then the notary signed the acknowledgment. The notary recorded the mortgage in the mortgage records of Iberville Parish on October 16, 2012.

Lisa purchased her store supplies from Pet Supply Inc. Business had been great for many years until a much larger pet store opened nearby. With fewer customers, Lisa was unable to pay all of her bills. On December 1, 2017, Lisa paid her monthly installment payment to Big Bank (as she had timely done for every prior month), but she made no further payments to Big Bank after 2017. Lisa did not pay her supplier and was sued by Pet Supply Inc., which obtained a money judgment against Lisa on January 15, 2018 and recorded the judgment the same day in the mortgage records of Iberville Parish.

None of the creditors has sought to reinscribe its mortgage.

Lisa decided to start a new business in January 2021. She asked her friend, Dan, who owned a shopping center to lease her space with a one-year term. Dan wanted her to sign a written lease with a five-year term. Because he knew her former business failed, he required a co-signer on the lease. Lisa agreed and stated she could have her mother co-sign the lease. Dan was satisfied with that proposal and stated he would prepare a written lease.

Lisa received the written lease from Dan. The lease contained an acceleration of rent clause. Lisa still did not want to commit to a five-year lease especially with the acceleration clause, so Lisa marked up the lease document with a pen by reducing the term to one year commencing February 1, 2021. Lisa then signed the marked-up lease and mailed it back to Dan without pointing out her change to the lease term. Dan received the lease that Lisa signed and noticed that Lisa's mother had not signed the lease as a guarantor. Dan promptly called Lisa's mother, who stated during the phone call that she was sure Lisa could pay the rent but promised to make sure the rent was paid if Lisa failed to do so. Neither Lisa's mother nor Dan ever signed the lease. Dan allowed Lisa to move into the leased space and start operating her business.

Lisa's business failed again. She mailed her August 1, 2022 rent payment to Dan with a letter that stated she had decided to close the store and would vacate the premises at the end of August 2022. Dan received the letter on August 15, 2022. Dan called Lisa and advised her that he intended to sue her and her mother for any future rent owed and not paid under the terms of the lease.

TEST CONTINUES ON NEXT PAGE

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

- 1.1 Is Big Bank's mortgage valid, and does it secure the \$50,000 promissory note that Lisa executed in favor of Big Bank? Explain. (5 points)**
- 1.2 As of the date of this exam, have any of the installments due on the Big Bank note prescribed and therefore are now uncollectable? Explain. (5 points)**
- 1.3 As of the date of this exam, is Pet Supply's judicial mortgage superior in rank to Credit Inc.'s and Big Bank's mortgages? Explain. (5 points)**
- 1.4 What must Pet Supply Inc. do to maintain the validity and effectiveness against third persons of its money judgment, and by what date must these steps be taken? Explain. (5 points)**
- 1.5 Will Lisa be able to escape liability under the lease on the ground that there was no meeting of the minds over the terms of the lease? Explain. (5 points)**

For questions 1.6 and 1.7 below, assume that Dan and Lisa entered into a valid lease with a one-year term commencing on February 1, 2021.

- 1.6 Did Lisa properly terminate the lease? Explain. (10 points)**
- 1.7 For purposes of this Question 1.7 only, assume that Lisa still owes Dan \$1,000 in unpaid rent under the lease. Does Dan have recourse against Lisa's mother for this unpaid rent? Explain. (5 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2023**

QUESTION 2 (40 POINTS)

Lester Place LLC owns Lester Shopping Center in Acadia Parish, Louisiana. Lester Place entered into a lease of a portion of the shopping center to Super Store Inc., which operates a grocery store on the leased premises. The lease, which was dated January 2000, had a term of twenty years, with a rent of \$10,000 per month. The lease contained no provisions regarding the maintenance of the leased property but required public parking areas to be kept “reasonably free of unreturned shopping baskets.” Lester Place prepared a notice of lease which listed the names of the lessor and lessee and the expiration date of the term of the lease but nothing further. Lester Place and Super Store signed the notice of lease, and Lester Place promptly recorded it in the mortgage records of Acadia Parish, but not the conveyance records.

Les Lester, the sole member and manager of Lester Place, was a close personal friend of Steve Smith, the owner of Super Store. In late 2003, Steve expressed to Les an interest in buying the shopping center. Lester Place agreed to grant Steve a right of first refusal to purchase the property, and on December 26, 2003, executed a document containing the following provisions:

LESTER PLACE LLC (“LESTER”) HEREBY GRANTS TO STEVE SMITH (“STEVE”) FOR A TERM ENDING ON DECEMBER 26, 2023, A RIGHT OF FIRST REFUSAL TO PURCHASE LESTER SHOPPING CENTER, LOCATED ON LOT A OF GREEN ACRES SUBDIVISION, ACADIA PARISH. IN ORDER TO EXERCISE THIS RIGHT, STEVE MUST NOTIFY LESTER OF HIS ACCEPTANCE OF LESTER’S OFFER TO SELL WITHIN TEN DAYS OF STEVE’S RECEIPT OF WRITTEN NOTICE OF THE TERMS UNDER WHICH LESTER IS WILLING TO SELL THE PROPERTY TO A BONA FIDE PURCHASER.

Les delivered the document to Steve, who kept it in his office at the grocery store until December, 2010. Steve, knowing that Les was growing old, realized that he probably needed to record the document in order to protect his rights. Steve recorded the document in the conveyance records of Acadia Parish in December of 2010.

In May of 2014, Lester Place sold the Lester Shopping Center property to Rob Robertson. The act of sale stated that Rob was subrogated to all rights of Lester Place against all prior owners but did not contain any agreement by Rob to assume any existing leases. Nevertheless, Rob reviewed all of the leases of the property before buying it, including the lease with Super Store. Before the closing, Rob sent Les a letter, telling him that Rob “would take good care of everything and everyone, as we discussed.” When Super Store mailed its rent check on June 1, 2014, Rob returned it with a letter notifying Super Store that he was evicting Super Store due to Super Store’s failure to maintain the roof, which had small leaks, and due to Super Store’s failure to cause its shopping carts to be returned to the store during the Memorial Day weekend of 2014, resulting in a loss of parking spaces for other tenants. He also notified Super Store that its lease was not recorded and that he had no intention of honoring it. The next day, Rob filed an eviction proceeding against Super Store. Super Store filed a separate suit against Lester Place for damages arising out of Rob’s eviction proceeding. Steve filed his own suit against Lester Place demanding damages for its breach of the right of first refusal.

A clothing store, Bedazzled, also leased property in the Lester Shopping Center for a ten-year term ending in 2020. At the time of the sale to Rob in May of 2014, Bedazzled had two outstanding, unpaid monthly rental payments and had removed its merchandise from the shopping center to a new store across the street. Bedazzled’s lease from Lester Place granted the lessor the right to accelerate rent following the lessee’s default. Rob noticed that Bedazzled’s merchandise was moved across the street and that Bedazzled had put up a sign on the leased premises stating, “Closed, moved to new location.” Because Bedazzled had abandoned its lease space, Rob filed a lawsuit to evict Bedazzled and obtain a judgment of eviction. Rob could not locate a tenant to rent the same space, so Rob filed a lawsuit against Bedazzled for the past due rent as well as all future rent owed under the lease.

TEST CONTINUES ON NEXT PAGE

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

- 2.1** Was the recorded notice of the lease between Lester Place and Super Store sufficient under the public records doctrine to make the lease effective against third persons? Explain. (5 points)
- 2.2** Assume solely for this Question 2.2 that the notice of lease between Lester Place and Super Store was NOT sufficient under the public records doctrine to make the lease effective against third persons. In defense of the suit filed by Super Store, Rob claims to be a third-party purchaser entitled to the protection under the public records doctrine. What arguments could be raised against him to defeat his claim of protection from the public records doctrine? Explain. (10 points)
- 2.3** Assume solely for this Question 2.3 that the notice of lease between Lester Place and Super Store WAS sufficient under the public records doctrine to make the lease effective against third persons, including Rob. What defenses should Super Store assert against Rob in the eviction action? Explain. (10 points)
- 2.4** Assume that the court grants Rob a judgment of eviction against Super Store. Is Super Store likely to prevail in its suit against Lester Place? Explain. (5 points)
- 2.5** What grounds should Steve assert in his action against Lester Place for damages for the breach of the right of first refusal, what defenses are available to Lester Place, and is Steve likely to prevail in his suit against Lester Place? Explain. (5 points)
- 2.6** What grounds should Rob assert in his action against Bedazzled for the past due rent as well as the rent due for the remaining term of Bedazzled's lease; what defenses should Bedazzled assert; and who is likely to prevail? Explain. (5 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2023**

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 Contractual limitations of damages
- 3.2 Suretyship; solidary liability
- 3.3 Compromise agreements
- 3.4 Privileges
- 3.5 Offer and acceptance
- 3.6 Contractual capacity; rescission
- 3.7 Cause for obligations; rescission of error
- 3.8 Eviction; modification or exclusion of warranty
- 3.9 Discrepancies in act of sale; mutual error
- 3.10 Effect of modification of principal obligations; extension of liberative prescription

[End of Question 3]

END OF CIVIL CODE III TEST