

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

QUESTION 1 (40 POINTS)

Sierra and Howard, who are not related, are the sole members of Bayou, LLC (“**Bayou**”). In June of 2014, Bayou borrowed the sum of \$50,000 from Leslie. The loan was evidenced by a written promissory note executed by Howard on behalf of Bayou in the amount of \$50,000 dated June 5, 2014 (“**Note A**”) payable to the order of Leslie, with interest payable monthly on the first of each month beginning July 1, 2014, and with a final balloon payment of all outstanding principal and unpaid interest due on January 5, 2022.

At the time of execution of Note A, Howard executed a written guaranty in favor of Leslie by which Howard personally guaranteed all present and future indebtedness of Bayou to Leslie. This guaranty has not been released nor revoked. At the same time, in order to secure Note A, Howard executed and delivered to Leslie a written mortgage, in which Howard granted a mortgage “over all of my property in Caddo Parish, Louisiana”, with no further description; the mortgage provides that \$50,000 is the maximum amount of the obligations secured by the mortgage. The mortgage was not signed by Leslie, nor was it witnessed or notarized. This mortgage (the “**2014 Mortgage**”) was promptly duly recorded in the mortgage records of Caddo Parish, where Howard owned several properties.

In July 2014, after this loan was made, Sierra called Leslie and left a voice mail message on Leslie’s office phone assuring Leslie that Note A would be paid and that Sierra personally guaranteed payment of Note A.

In June of 2018, Bayou obtained an additional loan from Leslie. The loan was in the amount of \$100,000, was evidenced by a written promissory note in the amount of \$100,000 dated June 3, 2018 (“**Note B**”) by Bayou, payable on demand to the order of Leslie.

In January 2021, Leslie and Bayou (acting through Sierra) entered into a note modification agreement, in which Note B was converted from a demand note to a note payable in full on January 1, 2022, at an increased interest rate. Howard was not aware of this modification at the time it was made.

The execution of both Note A and Note B, the borrowing of funds thereunder, and the execution of the note modification agreement were all duly and properly authorized by the members of Bayou.

In January of 2022, Leslie demanded payment in full of Notes A and B from Bayou and Howard.

On February 1, 2022, Howard sold all of his Caddo Parish properties to a third-party purchaser for cash in a properly recorded written act of sale signed by Howard. The 2014 Mortgage was not mentioned in the act of sale.

As of today, no payments have been made on Note A or Note B.

Please answer the following six 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 the 2014 Mortgage invalid because it was not signed by Leslie and lacked witnesses and notarization? Explain fully. (5 points)**
- 1.2 Is the 2014 Mortgage effective against the third-party purchaser who purchased Howard’s Caddo Parish properties in 2022? Explain fully. (5 points)**
- 1.3 Did Sierra’s voice mail message left for Leslie in July of 2014 create an effective suretyship of Note A? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

- 1.4 Has any portion of the principal or interest due under Note A prescribed? Explain fully. (10 points)**
- 1.5 List and fully explain the three forms of suretyship. (5 points)**
- 1.6 Has Leslie's right to recovery from Howard of the balance due under Note B been impaired by any subsequent actions of Leslie? Explain fully. (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

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

QUESTION 2 (40 POINTS)

Earlier this year, Pete made up his mind to sell his existing home so that he could buy Lot 18 in the Meadows Subdivision in Lafayette Parish, Louisiana where he could then build his dream home. About three months ago, Pete found a house to rent from Jack for the interim period after he sold his original home and while he was building his new home. Pete telephoned Jack to ask if he could lease Jack's house beginning two months after their call. Jack stated that he would require a written 12-month lease with a rent of \$1500 per month. During the call, Pete agreed with the rent but told Jack that he needed to rent the house for just nine months and that they could decide on the term of the lease when it got closer to the time for Pete to move in; thus, Pete asked Jack to leave the term blank in the lease for future negotiation. A few weeks afterward, Pete sold his original home and bought Lot 18 in the Meadows Subdivision. The same day, Pete borrowed \$100,000 from Thrifty Credit to pay for the lot and finance the construction and granted it a mortgage on the new lot. Although this mortgage was properly executed by Pete and contained a proper description of the mortgaged property and was duly recorded in the mortgage records of Lafayette Parish the same day it was signed, the mortgage did not contain a description of any specific indebtedness or any specific promissory note, but instead described the secured obligations simply as "any and all present and future obligations and indebtedness that I may now or hereafter owe to Thrifty Credit, up to the maximum sum of \$50,000,000 at any one time outstanding." Thrifty Credit had Pete sign a promissory note that was not paraphrased for identification with the mortgage and made no mention of the mortgage. Thrifty Credit did not check the mortgage records of Lafayette Parish before recording its mortgage and thus did not discover that a judgment had been rendered in favor of Cash Now against Pete on September 12, 2012 and recorded in the mortgage records of Lafayette Parish on September 13, 2012. No payments have been made on the judgment, and Cash Now has done nothing more concerning the judgment.

The day after the closing, Pete received from Jack a written lease providing for rent of \$1500 per month and a term of 12 months. Pete is upset about the term as Pete and Jack had no further discussion to agree on the term of the lease. Pete refused to sign the lease. Pete's refusal to do so has upset Jack, who turned down other offers to lease his house and needs the rent.

Jack then decided to run an advertisement to sell his motorcycle to make some quick cash as he had no rent from Pete. Ten days ago, Jack received an email from Rhonda indicating her interest in purchasing the motorcycle. That same day, Jack sent Rhonda a reply email containing Jack's offer to sell the motorcycle to Rhonda for \$5,000, with the specific terms of the sale contained in the contract of sale attached to the email. Jack needed cash right away, so his offer stated that it would remain open and could be accepted within five days and that the offer could be accepted by returning the signed contract of sale to Jack by either email or regular mail. The next morning, Jack met with his friend Tim. Upon learning that Jack was willing to sell his motorcycle, Tim said he would pay Jack \$6,000 cash for the motorcycle. Jack immediately sent Rhonda a letter rescinding his offer to her, and Jack agreed to the sale of the motorcycle to Tim for the price of \$6,000. That afternoon, Tim then went to the bank to withdraw the cash he needed to pay Jack, but he has not yet paid Jack for the motorcycle or taken possession of it. The following day, Rhonda received Jack's rescission letter. But Rhonda really wanted to purchase the motorcycle, so later that same day, she sent Jack an email accepting Jack's offer to sell and attached to her email a signed copy of the contract in the form submitted by Jack, without any modifications. Jack replied to Rhonda's email that she was too late, as he has already revoked his offer to her.

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 Has a valid and binding lease been entered into between Pete and Jack? Explain fully. (10 points)**
- 2.2 Is Thrifty Credits' mortgage valid, and does it secure the \$100,000 promissory note that Pete executed in favor of Thrifty Credit? Explain fully. (5 points)**

TEST CONTINUES ON NEXT PAGE

- 2.3** What steps must Cash Now take to continue to have an enforceable judgment, what steps must Cash Now take to continue to have an enforceable judicial mortgage on Lot 18 in the Meadows Subdivision, and when must those steps be taken? Explain fully. (10 points)
- 2.4** Is Jack correct in his claim that he timely revoked his offer to Rhonda? Explain fully. (5 points)
- 2.5** Assuming Jack's offer to Rhonda was not timely revoked, did Rhonda successfully accept Jack's offer and if so when was there acceptance? Explain fully. (5 points)
- 2.6** Has a perfected sale of the motorcycle from Jack to Tim occurred? Explain fully. (5 points)

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
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 Registry and mortgage reinscription
- 3.2 Cause of obligations; rescission of error
- 3.3 Liberative prescription on open account
- 3.4 Discrepancies in act of sale; mutual error; sale by boundaries
- 3.5 Lessor's privilege
- 3.6 Effect of expropriation on rights and obligations under a lease
- 3.7 Revocatory actions
- 3.8 Conflicts of law
- 3.9 Lesion
- 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
FEBRUARY 2022**

QUESTION 1 (40 POINTS)

Taylor is in the business of manufacturing hand-crafted specialty wagons. She manufactures the frame and the tires and finishes the wagon with custom paint. James, who is the president of Geaux Dogs Geaux Adoption, Inc., a dog adoption group, was interested in purchasing three custom wagons to advertise his new business while pulling his adoptable dogs in the annual Mardi Gras dog parade scheduled to roll on February 6, 2021. James met with Taylor, and they agreed on the price of \$600 for each wagon. James informed Taylor of his specific needs for the wagons, being that one must be painted green and the second painted purple and the third painted gold, and each wagon must have the sides painted with the words “Geaux Dogs Geaux Adoption, Inc.” These terms were placed in the Purchase Order. Taylor prepared the bill of sale which provided the purchase price of \$600 for each wagon, and required a cash down payment of \$900 with the balance to be paid within thirty days. James paid the \$900 down payment to Taylor and signed the bill of sale. James did not read the bill of sale, which contained language that the sale of the wagons was “as-is, where-is” written in small type that was not brought to his attention.

Taylor manufactured the wagons and called James to pick them up from her shop. James said he did not have a vehicle large enough, so Taylor agreed to deliver them. Because Taylor had a small delivery van, she could deliver only two wagons at one time. She delivered two wagons to James in early January of 2021, over a month before the parade. The wagons were delivered to James’ office when he was away at a meeting. When he returned to the office and saw the two wagons later that same day, he was disappointed to see that they both were painted purple. In addition, the words “Go Dogs Go Adoption, Inc.” were written on the sides of each wagon. James, who was very busy at the time, failed to call Taylor to complain. James then tested each of the two wagons and pulled them around empty on the custom tires and each seemed to be in working order.

The next day, Taylor went to her shop to gather the third wagon to deliver to James. However, Taylor was unable to do so because a rainstorm had come the night before and flooded her shop, destroying the third wagon. Taylor called James and advised him that the third wagon was destroyed and that there was no time to manufacture any other wagons before the first Mardi Gras parade.

James so wanted to pull his dogs in the parade on February 6, 2021 that he just used the two wagons that were delivered. He loaded five large dogs into each wagon, exceeding the weight limit. James had not looked at the information sticker on the underside of the wagon specifying the weight limit of each wagon. James pulled the wagons of dogs about a mile down the route, when he heard a creaking sound coming from one wagon. The wagon tires began to wobble and one fell off, causing the wagon to violently fall to the pavement on that one side, rendering it inoperable.

The next day, James brought the wagon to a repair shop. The owner of the repair shop, Mike, inspected the wagon and advised James that the frame was not properly welded to be sturdy enough to hold the weight of more than a single large dog. In fact, he thought that putting more than one large dog in the wagon would cause the frame to collapse. Mike proceeded to weld on the frame stating this repair would give it more support. James then placed his five large dogs in the wagon, but the frame of the wagon again collapsed leaving the wagon useless.

James could not use the wagon for the rest of the Mardi Gras season. On February 1, 2022, when he was thinking of walking his dogs in a Mardi Gras day parade that year and remembered his broken wagon from the prior year, he filed a lawsuit against Taylor for his loss and damages.

TEST CONTINUES ON NEXT PAGE

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

- 1.1. Was there a perfected sale between James and Taylor as to all the wagons? Explain fully. (5 points)**
- 1.2. Who bears the risk of loss with respect to the undelivered, destroyed wagon? State who and why. Explain fully. (5 points)**
- 1.3. What redhibitory claims is Taylor reasonably facing from James concerning the broken wagon, and what potential defenses are reasonably available to her and who is likely to prevail on each claim? Explain fully. (10 points)**
- 1.4. How are the rights of James, the buyer, affected by the good faith or bad faith of Taylor as the seller in this case? Explain fully. (10 points)**
- 1.5. Does James have a claim for failure of the goods to conform to the parties' agreement in addition to any claim he may have in redhibition? Explain fully. (5 points)**
- 1.6. Solely for purpose of this Question 1.6, assume that James filed a timely lawsuit against Taylor. What recourse does James have considering the bill of sale has "AS IS WHERE IS" language? Explain fully. (5 points)**

[End of Question 1]

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

QUESTION 2 (40 POINTS)

Chad is leasing commercial property in Livingston Parish under a twenty-year written lease that commenced on January 1, 2002. The lease, which contains a complete legal description of the property, grants Chad the right to purchase the property at any time during the lease term for a purchase price of \$500,000 plus an amount equal to the net profit from Chad's business on the property during the three-year period immediately before the exercise of the option. In January of 2020, Chad sent his lessor, Walt, a written notice that Chad was electing to exercise his option to purchase the property. Walt agreed to the sale and sold the property to Chad for \$750,000 on January 13, 2020.

Shortly before this sale, Chad had contacted Credit Bank to take out a loan so he could make improvements to the building on the property. Credit Bank agreed to lend to Chad, and the bank prepared an Act of Mortgage in its favor. Chad needed \$50,000 now and knew he would need more funds at a later date. The bank drafted the granting clause in the mortgage to read as follows:

In order to secure my present and future indebtedness to Credit Bank, up to a maximum secured limit of \$1,500,000, including all principal, interest, fees, costs and other amounts that I may owe to Credit Bank, I hereby grant Credit Bank a mortgage on all of my present and future interest in the immovable property in Livingston Parish, Louisiana described below.

The Act of Mortgage contains a full and correct legal property description of the commercial property and was signed by Chad before two witnesses. Credit Bank did not sign the Act of Mortgage. A notary public was not present when Chad signed before the witnesses. Thereafter, Credit Bank had one of the witnesses to the Act of Mortgage acknowledge his own signature on the Act of Mortgage by recognizing the signature as his own before the notary public in the presence of two witnesses. Credit Bank then recorded the Act of Mortgage in the mortgage records of Livingston Parish on January 16, 2020.

At the time the Act of Mortgage was executed and recorded, Credit Bank had not yet lent any money to Chad. Chad then came back later and signed a promissory note for \$50,000 on January 17, 2020 in favor of Credit Bank. Credit Bank did not perform a review of the mortgage records of Livingston Parish to search for any recorded encumbrances that might affect the title to the property before funding the \$50,000 loan to Chad.

Unbeknownst to Credit Bank, Safety Loans has a mortgage dated June 12, 2000 and recorded that same day in the mortgage records of Livingston Parish, executed by Walt encumbering the same property. The mortgage recited that it secures Walt's promissory note dated June 12, 2000, payable to Safety Loans in equal monthly installments on the 10th of each month, with the final payment due on May 12, 2014. Walt stopped making payments to Safety Loans in December 2013. Safety Loans has taken no action to collect the debt under the promissory note.

In addition, Thrifty, Inc. obtained a money judgment against Chad in a Louisiana state court on February 2, 2012 and recorded the judgment in the mortgage records of Livingston Parish on that same date. Since recording the judgment, Thrifty Inc. has taken no other action to enforce or preserve its judgment.

Walt now thinks he should not have sold the property to Chad for \$750,000, as he is seeing other comparable properties being sold for twice that amount. Walt thinks he should bring an action against Chad to rescind the sale on the basis of lesion as the property had an actual fair market value of \$500,000 at the time the lease was executed and \$1,600,000 at the time of the sale, so on January 14, 2022, Walt filed an action against Chad to rescind the sale on the basis of lesion.

TEST CONTINUES ON NEXT PAGE

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

- 2.1. Did the lease grant to Chad a valid option to purchase the property; and, if so, was that option still valid in January 2020? Explain fully. (8 points)**
- 2.2. Was the Act of Mortgage executed by Chad in favor of Credit Bank prior to Credit Bank funding the loan, valid at the time of its execution? Explain fully. (10 points)**
- 2.3. As of the date of this exam, does Thrifty Inc. have an enforceable judicial mortgage on the property? Explain fully 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)**
- 2.4. By what precise date did the mortgage in favor of Safety Loans need to be reinscribed in order to remain effective against third persons? Explain fully. (5 points)**
- 2.5. When Credit Bank recorded the mortgage on the property on January 16, 2020, did it have the first ranking encumbrance on the property; or if not, what was the ranking? Explain fully. (7 points)**
- 2.6. What must Walt show to prevail in his rescission action against Chad on the basis of lesion and is Walt likely to prevail? Explain fully. (5 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
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. Privileges
- 3.2. Rights of surety against principal obligor
- 3.3. Suretyship; solidary liability
- 3.4. Contractual capacity; rescission
- 3.5. Registry and mortgage reinscription
- 3.6. Compensation between mutual obligors
- 3.7. Reconduction of a lease
- 3.8. Prescription; extension of prescription
- 3.9. After-acquired Title Doctrine
- 3.10. Mortgages; place of recordation

[End of Question 3]

[END OF CIVIL CODE III TEST]

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

QUESTION 1 (100 POINTS)

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

**PART A
(70 Points)**

The following facts apply to Questions 1.1–1.7 only:

Dan owned a 50% undivided interest in Lot A of Commercial Oaks in Allen Parish. Jack owned the other 50% undivided interest in Lot A of Commercial Oaks. Lot A contains a small shopping center. In 2015, Dan obtained a \$200,000 loan from Big Bank. Dan executed a promissory note dated April 1, 2015 in favor of Big Bank in the amount of \$200,000, due in 59 equal monthly installments with the first payment due on May 1, 2015 and all subsequent payments due on the first day of each month after that and a final payment due on April 1, 2020 (the “Shopping Center Note”). On April 1, 2015, Dan also granted a mortgage to Big Bank. The mortgage includes the following granting clause:

“In order to secure my present and future indebtedness to Big Bank, including the obligations under my \$200,000 promissory note dated April 1, 2015 up to a maximum secured limit of \$50,000,000, including all principal, interest, fees, costs and other amounts that I may owe to Big Bank, I hereby grant a mortgage on all of my present and future interest in Lot A of Commercial Oaks in Allen Parish, Louisiana described below.”

The mortgage was dated April 1, 2015, recorded by Big Bank on April 2, 2015 in the mortgage records of Allen Parish and properly described Lot A as the property being mortgaged. The mortgage was not witnessed, signed by the mortgagee, or notarized. The Shopping Center Note was not paraphrased for identification with the mortgage.

Credit Loans had obtained a money judgment against Dan on September 9, 2011, and properly recorded a certified copy of the final judgment in the mortgage records of Allen Parish on September 15, 2011.

In January 2016, Dan received an inheritance and used it to pay off the \$200,000 Shopping Center Note in full. As a result, Dan no longer owed any debt to Big Bank secured by the mortgage. Thereafter, Dan wanted to buy out Jack’s interest in Lot A. To finance the purchase, Dan obtained another loan from Big Bank. The loan was evidenced by a \$100,000 promissory note dated August 1, 2016, payable on demand (the “Demand Note”). Dan purchased Jack’s undivided 50% interest in Lot A on August 1, 2016 pursuant to a valid Act of Cash Sale.

TEST CONTINUES ON NEXT PAGE

Dan never made any payments on the Demand Note. On June 10, 2021, Big Bank decided to foreclose on Lot A and made a demand for payment of the Demand Note. Big Bank had never previously asked Dan for payments on the Demand Note. Credit Loans also wants to be paid and filed a Notice of Reinscription of its judgment in the mortgage records of Allen Parish on February 1, 2021 but has done nothing further with regard to its judicial mortgage.

- 1.1 Was the mortgage executed by Dan valid at the time of execution? Explain fully why or why not; address the effect, if any, from the mortgage not being signed before any witnesses. (10 points)**
- 1.2 When Dan acquired Jack's 50% interest in Lot A, did the mortgage burden Dan's entire interest in Lot A, or only his initial 50% interest? Explain fully. (5 points)**
- 1.3 At the time Dan executed the Demand Note, did the mortgage secure that note? Explain fully. (10 points)**
- 1.4 By what precise date must the mortgage in favor of Big Bank be reinscribed in order to remain effective against third persons? Explain fully. (10 points).**
- 1.5 What actions must Credit Loans take to preserve its right to collect on its judgment against Dan, and when must those actions be taken? Explain fully. (20 points).**
- 1.6 *For purposes of this Question 1.6 only, assume that both Big Bank's mortgage and Credit Loans' judicial mortgage are presently enforceable against Jack and third persons and that both encumber the entirety of Lot A. As of the date of this exam, does Big Bank's mortgage outrank Credit Loans' judicial mortgage? Explain fully. (5 points)***
- 1.7 As of the date of this exam, does Big Bank still have the right to enforce the Demand Note executed by Dan, and, if so, when will the note prescribe? Explain fully. (10 points)**

TEST CONTINUES ON NEXT PAGE

PART B
(30 POINTS)

The following facts apply to Questions 1.8-1.10 only.

Jill had long been in the business of handmaking and selling large, unique and fully furnished wooden dollhouses. Kelly was interested in purchasing four dollhouses. Jill offered to sell Kelly four dollhouses for the purchase price of \$500 per dollhouse. Kelly agreed to the price, and Jill and Kelly executed a bill of sale which provided that the purchase price for each dollhouse was \$500, to be paid with a cash down payment of \$250 for each dollhouse, and with the credit balance payable within thirty days of sale. Kelly paid the cash down payment of \$1,000 (\$250 for each dollhouse) to Jill. Kelly wanted to take home all four dollhouses but was only able to safely fit two of the dollhouses in her SUV. Kelly made arrangements to pick up the other two dollhouses from Jill in a few days. Unfortunately, the next day, a lightning strike caused a fire that destroyed Jill's shop and the other two dollhouses still in the shop.

- 1.8 Was there a perfected sale between Jill and Kelly as to all the dollhouses? Explain fully. (10 points)**
- 1.9 Did ownership of all four dollhouses pass to Kelly? Explain fully. (10 points)**
- 1.10 Who bears the risk of loss with respect to the undelivered dollhouses that were destroyed in the fire? Explain fully. (10 points)**

[End of Civil Code III Test]

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

QUESTION 1 (100 POINTS)

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

**PART A
(30 Points)**

The following facts apply to Questions 1.1 and 1.2 only:

Victor, as vendor, submitted an offer by email to Paul, as purchaser, offering to sell a pump for a set price on the terms set forth in the form of contract that was attached to the email. The offer specified that it would remain open and could be accepted within ten days, and that the offer must be accepted by returning a signed copy of the contract by either email or regular mail.

The next day, Paul telephoned Victor and accepted the offer. Although Victor did not say so during the telephone call, he had become hesitant about selling to Paul. So shortly after the telephone conversation with Paul, Victor sent Paul a letter by regular mail rescinding the offer. Paul received the letter from Victor on the fourth day after Victor had sent the initial offer by email. Because Paul really wanted to purchase the pump, he sent Victor, immediately after receiving Victor's letter, an email in which Paul accepted the offer to purchase. The email enclosed a signed copy of the contract in the form submitted by Victor, without any modifications by Paul. Paul promptly submitted payment in accordance with the terms in Victor's form of contract, but Victor did not accept this payment.

- 1.1 Did Paul successfully accept Victor's offer; and if so, how and when was there acceptance; and if not, why not? Explain fully. (15 points)**
- 1.2 Did Victor successfully revoke his offer to Paul? Discuss why or why not. (15 points)**

TEST CONTINUES ON NEXT PAGE

PART B
(40 Points)

The following facts apply to Questions 1.3–1.6 only:

Jack was interested in opening a car repair shop. He located a property with a lot and building in Vermilion Parish owned by Land Company. Jack approached Money Bank for a loan to buy the property from Land Company. Money Bank agreed to lend Jack the funds to purchase the property and, to secure the loan, Money Bank would receive a mortgage on the property. Jack purchased the property from Land Company by borrowing \$500,000 from Money Bank. The loan was evidenced by a promissory note dated February 1, 2010, payable in equal monthly installments due on the first day of each month over a repayment term of nine years and eleven months, with a maturity date of January 1, 2020. To secure the promissory note, Jack granted Money Bank a mortgage on the property. The mortgage accurately described the promissory note that Jack had signed, stated the maturity date of the promissory note, and contained a proper legal description of the building and the lot upon which it is located. The mortgage was signed by Jack before two witnesses and a notary public on February 1, 2010. Although the mortgage contained a space for the signature of the mortgagee, Money Bank's loan officer neglected to sign the mortgage. The mortgage was recorded in the mortgage records of Vermilion Parish on February 5, 2010. It has never been reinscribed.

After initial success, Jack's business began to experience financial difficulties in November 2010, and Jack was unable to pay his supplier, Auto Parts, Inc. Auto Parts, Inc. obtained a money judgment against Jack on January 10, 2011, and recorded the judgment in the mortgage records of Vermilion Parish on January 12, 2011. Jack never appealed that judgment. On December 23, 2020, Auto Parts, Inc. filed a notice of reinscription of its money judgment in the mortgage records of Vermilion Parish, but otherwise has taken no other action to execute upon its money judgment or to preserve its rights under its money judgment. No payments have ever been made on the money judgment.

Jack's last payment on the promissory note held by Money Bank was on January 2, 2016; he has made no further payments on the promissory note since then. Money Bank has taken no action to collect the balance owing on its promissory note.

- 1.3 Was the mortgage in favor of Money Bank valid at the time of its execution? Explain fully. (10 points)**
- 1.4 As of the day of this exam, does Money Bank have an enforceable mortgage burdening the property? Explain fully. (5 points)**
- 1.5. As of the day of this exam, does Money Bank still have the right to enforce the promissory note executed by Jack, and, if so, to what extent? (10 points)**
- 1.6 As of the day of this exam, does Auto Parts, Inc. have an enforceable judicial mortgage burdening the property? Explain fully. (15 points)**

TEST CONTINUES ON NEXT PAGE

PART C
(30 Points)

The following facts apply to Questions 1.7 and 1.8 only:

On December 1, 2020, Mark, who was in the business of leasing motorcycles to others, leased a motorcycle to Larry for a six-week period ending on January 11, 2021 at a rent of \$10 per day. One week after leasing the motorcycle, Larry noticed a steering problem that occurred only at high speeds, and promptly brought the motorcycle back to Mark for repair. The motorcycle was repaired in three hours and then returned to Larry at his home in the evening. Larry used the motorcycle for the next several weeks, but, on January 22, 2021, Larry returned the motorcycle to Mark. At the time of the return, he told Mark that he was very disappointed with the motorcycle, not only as a result of the steering work, but because it did not go faster than 100 miles per hour, even after the repairs, despite the fact that the speedometer could register speeds as high as 150 miles per hour. Mark responded that the legal speed limit was far less than 100 miles per hour and that the repairs were necessitated by Larry's operation of the motorcycle at speeds far in excess of its design capacities. When Larry refused to pay any rent for the motorcycle, Mark filed suit against Larry for the unpaid rent.

- 1.7 Was this a valid lease, and was Mark in breach of his warranties with respect to his lease and repair of the motorcycle to Larry? Explain fully. (15 points)**
- 1.8 Was Larry's lease reconducted? If so, for what additional term; and if not, why not? Explain fully. (15 points)**

[End of Civil Code III Test]

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

QUESTION 1 (100 POINTS)

Please answer the following 7 questions. These questions are not weighted equally. Explain each answer; an answer without an explanation will receive no credit.

PART A (50 POINTS)

Bob wanted to purchase four adjacent one-acre lots. Each of the lots, which are commonly known as Lots A, B, C, and D, consists of raw land without improvements. The following occurred:

- Lot A: Bob purchased Lot A from Sid eleven months ago for \$1,000 in cash pursuant to a written act of sale. Sid was in dire need of money at the time, and the price Bob paid for Lot A was substantially less than its appraised value of \$5,000. The day after the sale was concluded, the act of cash sale was recorded in the conveyance records.
- Lot B: Bob purchased Lot B from Sid six months ago for \$12,000 in cash pursuant to a written act of sale. The act of sale did not mention any warranty of any nature being made by Sid. At the time of the sale, Sid did not actually own Lot B but was in possession of the lot under a lease with option to purchase that Sid had entered into with a former owner several years earlier. A week after Sid signed the act of sale in favor of Bob, the former owner conveyed Lot B to Sid.
- Lot C: A month ago, Bob and Sid signed a purchase agreement pursuant to which Sid agreed to sell Lot C to Bob for \$15,000, 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, Bob delivered to Sid a \$1,000 cash payment, which the purchase agreement stipulated to be earnest money.
- Lot D: Pursuant to a written lease that Sid and Bob signed 15 years ago, Bob leased Lot D from Sid for a term of 20 years. This lease is still in effect, and Bob has always paid his monthly rental payments when due and has otherwise complied with his obligations under the lease. Under the terms of the lease, Bob has the right to purchase Lot D at any time during the lease term for its fair market value as of the time Bob notifies Sid of his desire to do so. The lease specifies that fair market value will be determined by a local appraiser, whose name is stated in the lease. Within the last week, Bob delivered written notice to Sid of his desire to purchase Lot D.

TEST CONTINUES ON NEXT PAGE

Yesterday, Sid notified Bob that Bob’s purchase of Lot A is “void” because the price Bob paid for Lot A was “unconscionably low.” Sid further contends that Bob’s purchase of Lot B is also “void” because Sid did not own Lot B at the time of the purported purchase. Sid also indicated in his notice that he will not proceed with the sale of Lot C and will not sell Lot D to Bob.

Bob has brought an action against Sid regarding each of the lots.

- 1.1 Is Sid likely to prevail on his claim that Bob’s purchase of Lot A is “void” because the price Bob paid was “unconscionably low”? Explain fully. (10 points)**
- 1.2 Was the sale of Lot B to Sid effective in conveying ownership of the lot to Sid? Explain fully. (10 points)**
- 1.3 If Bob brings an action against Sid for specific performance under the purchase agreement for Lot C, is he likely to be successful? Explain fully. (10 points)**
- 1.4 Does Bob have the right to force Sid to sell Lot D to Bob? Explain fully. (20 points)**

PART B (50 POINTS)

Big Bank has a valid money judgment in its favor against Thrifty Land Co. In an effort to execute the judgment, Big Bank has properly arranged for the sheriff to seize a tract of immovable property owned by Thrifty Land Co. The mortgage records of the parish where the immovable property is located contain only the following four filings mentioning Thrifty Land Co.:

1. A mortgage, dated February 1, 2010, but not recorded in the mortgage records until November 1, 2010, in favor of Credit Bank securing a promissory note in the amount of \$50,000, payable in 72 monthly installments with a final balloon payment due on February 1, 2016, and burdening this same tract of immovable property owned by Thrifty Land Co.
2. A money judgment, rendered on June 4, 2010 and recorded in the mortgage records on June 7, 2010, against Thrifty Land Co. in favor of Sugarhouse Suppliers for the principal sum of \$25,000, plus interest and costs.
3. A multiple indebtedness mortgage dated October 2, 2019 and recorded in the mortgage records that same day, securing all present and future indebtedness of Thrifty Land Co. to Alexandria Bank up to the maximum amount of \$50,000,000 and burdening the same immovable property.
4. A money judgment, rendered on January 9, 2020 and recorded in the mortgage records on January 10, 2020, against Thrifty Land Co. in favor of Big Bank for the principal sum of \$75,000, plus interest and costs.

TEST CONTINUES ON NEXT PAGE

All of these encumbrances were valid at the time recorded. Alexandria Bank made a single loan advance to Thrifty Land Co. in the amount of \$45,000 on January 13, 2020.

Thrifty Land Co. has made no payments to any of these creditors.

Although not reflected by any filing in the mortgage records, Sugarhouse Suppliers properly revived its judgment on January 17, 2020 and obtained a judgment of revival on January 31, 2020.

- 1.5 Does Sugarhouse Suppliers have an enforceable encumbrance on the immovable property? What steps, if any, should Sugarhouse Suppliers have taken in the past, or should it take in the future, to ensure that its money judgment remains an enforceable encumbrance? Explain fully. (20 points)**
- 1.6 Does Alexandria Bank's multiple indebtedness mortgage rank ahead or behind the money judgment in favor of Big Bank? Explain fully. (15 points)**
- 1.7 Is Credit Bank's mortgage on the immovable property presently effective against third persons? What steps should Credit Bank have taken in the past, or should it take in the future, to ensure that its mortgage remains effective against third persons. Explain fully. (15 points)**

[End of Civil Code III Test]

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

QUESTION 1 (100 POINTS)

John owns a commercial property (the “*Center Property*”) in Tangipahoa Parish. In January 2007, John approached his friend Max to ask if Max would be interested in lending John funds for renovating the Center Property. When Max agreed, John prepared an Act of Mortgage in favor of Max. John 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 Max, up to a maximum secured limit of \$50,000,000, including all principal, interest, fees, costs and other amounts that I may owe to Max, I hereby grant Max a mortgage on all of my present and future interest in the immovable property in Tangipahoa Parish, Louisiana described below.” The Act of Mortgage contains a full and correct legal property description of the Center Property. On January 10, 2007, John signed the Act of Mortgage before two witnesses. Max was not present at the time and did not sign the Act of Mortgage. The next day John went to a notary public with one of the witnesses to the Act of Mortgage. The notary public had this witness acknowledge his signature on the Act of Mortgage by recognizing the signature as his own before the notary public in the presence of two witnesses. John then recorded the Act of Mortgage in the mortgage records of Tangipahoa Parish on January 12, 2007. At the time the Act of Mortgage was executed and recorded, Max had not yet lent any money to John.

On August 1, 2007, one of John’s creditors, Big Bank, obtained a money judgment against John from a Louisiana district court and recorded the judgment in the mortgage records of Tangipahoa Parish on August 3, 2007. At the time that the judgment was recorded, John had borrowed no money from Max. Since recording the judgment, Big Bank has taken no other action to enforce or preserve its judgment.

On May 12, 2008, John obtained two loans from Max. One of these was a term loan evidenced by a promissory note (Note A) signed by John, dated May 12, 2008 in the amount of \$50,000 payable in monthly installments of interest only commencing on June 12, 2008 and continuing thereafter to be due on the twelfth day of each month over a term of ten years with a final balloon payment of all outstanding principal and accrued but unpaid interest due at maturity on May 12, 2018. The note contains an acceleration clause giving Max the right to make demand and accelerate the maturity of the note if any payment is not made when due.

The other loan that John obtained from Max on May 12, 2008 was a demand loan evidenced by a promissory note (Note B) signed by John, dated May 12, 2008 in the amount of \$40,000 payable immediately upon demand.

Neither Note A nor Note B contains any reference to the Act of Mortgage.

TEST CONTINUES ON NEXT PAGE

As of July 15, 2013, no payments have been made on either Note A or Note B. Max asked John to pay him the full amount of Note B. John did not have any money to pay Max. In order to stall Max from filing collection proceedings, John entered into a written agreement that expressly extended the liberative prescription period (tolling agreement) on Note B for two more years. Max agreed, and they both executed the agreement on July 15, 2013.

Please answer the following 10 questions. These questions 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 John in favor of Max valid at the time of its execution in January 2007? Discuss. (10 Points)

Assume for all the remaining questions that the Act of Mortgage was valid at the time of its execution.

1.2 At the time Note A and Note B were signed on May 12, 2008, did the Act of Mortgage secure Note A and Note B? Discuss. (5 Points).

1.3 Does the lack of a paraph on Note A and Note B impair the effectiveness of the Act of Mortgage to secure them? Discuss. (5 points)

1.4 Has any portion of Note A prescribed as of the date of this examination; and if so, why, and what portion and when? Discuss. (5 points)

1.5 Had any portion of Note B prescribed on July 15, 2013, and if so, why and what portion and when? Discuss. (5 points)

1.6 Did the tolling agreement extend prescription of Note B, and if so until when? (10 points)

1.7 When Note A and Note B were signed on May 12, 2008, did Big Bank have a claim to the Center Property that outranked the mortgage in favor of Max with respect to Note A and Note B? Discuss. (10 points)

1.8 Does Big Bank presently have an enforceable judicial mortgage on the Center Property? Discuss what steps it should have taken in the past, or should take in the future, to ensure that its judicial mortgage remains enforceable. (10 points)

1.9 By what precise date must the mortgage in favor of Max be reinscribed in order to remain effective against third persons? Discuss. (10 points)

TEST CONTINUES ON NEXT PAGE

For the below Question 1.10 only, assume the following additional facts:

John needed money so he offered to sell his all-terrain vehicle (ATV) to Bob for \$5,000. Bob asked John if it had any mechanical problems. John stated that it had never been in a wreck and that he did not know of any mechanical problems as it had always started and run fine for him. Although John thought the engine had been running hot the day before their conversation, he did not mention this to Bob. John started the engine to show Bob it ran fine. Bob then presented John with a \$5,000 check and John presented Bob with a handwritten bill of sale, dated July 2, 2018, which they each signed. Though Bob did not bother to read the bill of sale at the time, it contained language stating that "The herein described ATV is sold 'AS IS'." As soon as the check and bill of sale were executed, John delivered possession of the ATV to Bob. Bob used the ATV over the next three weeks, after which Bob experienced trouble and the ATV stopped operating. Bob took it to a repair shop and was told on August 1, 2018 that the engine block had cracked. Bob filed a lawsuit in redhibition against John on June 25, 2019.

1.10 What arguments should Bob make in support of his claim in redhibition, what relief may Bob recover for his claim, what defenses should John assert, and who is likely to prevail? (30 points)

[End of Civil Code III Test]