

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
JULY 2022**

**QUESTION 1 (40 POINTS)**

Dennis, who lives in Jefferson Parish, is employed by Pedal Around, Inc. (“Pedal Around”) as the driver of a pedicab (a bicycle-powered taxi). Pedal Around is a Louisiana corporation that has its registered office in St. Tammany Parish.

Dennis’s favorite part about being a pedicab driver is telling his passengers stories about the old buildings in the French Quarter neighborhood of Orleans Parish, where he works. However, this habit often causes Dennis to be inattentive to the streets, vehicles, and people around him.

On May 7, 2021, Patty attended a business luncheon at a French Quarter restaurant.

After the luncheon, as she walked back to her car, Patty stopped to watch a brass band perform on a street corner and began dancing with others to the music in the middle of the street. As a song ended, Patty looked up and saw Dennis’s pedicab swerve from behind a delivery truck and head straight toward her. Patty jumped out of the street and onto the sidewalk to avoid being hit by Dennis’s pedicab, but fell and broke her ankle in doing so. Whitney was standing on a corner nearby and witnessed the accident. Whitney summoned a police officer, who took statements from Patty, Whitney, Dennis, and other witnesses.

Patty met with an attorney to discuss her potential legal recourse. Thereafter, Patty filed a lawsuit against Dennis and Pedal Around in the district court in Jefferson Parish on Monday, May 9, 2022.

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

- 1.1    4 pts    Is Jefferson Parish a proper venue for Patty’s lawsuit against Pedal Around? Explain fully.**
- 1.2    3 pts    Assume that the prescriptive period for bringing an action for personal injuries is one year. Was Patty’s lawsuit filed on Monday, May 9, 2022 timely? Explain fully.**

*For Questions 1.3-1.10 below, assume that Patty’s lawsuit was timely filed in a proper venue.*

- 1.3    2 pts    Patty’s petition for damages, along with a citation and a set of interrogatories, was served on Pedal Around’s registered agent on June 15, 2022. What is Pedal Around’s deadline to respond to the interrogatories? Explain.**
- 1.4    4 pts    Pedal Around timely filed and served its answer to Patty’s petition. Two weeks later, after realizing that the citation served on Pedal Around erroneously referenced another unrelated lawsuit, Pedal Around filed an exception of insufficiency of citation. Patty opposed Pedal Around’s exception, arguing that the exception of insufficiency of citation had been waived. Should Pedal Around’s exception be successful? Explain fully.**
- 1.5    4 pts    Two weeks after Pedal Around served its answer, Patty obtained a copy of the police report and Whitney’s statement to the police regarding the incident during discovery. Patty’s attorney has spoken with Whitney about taking her deposition. Whitney indicated that she would be willing to appear voluntarily for her deposition without need of a subpoena. What steps must Patty now follow to take Whitney’s deposition? Explain fully.**

TEST CONTINUES ON NEXT PAGE

- 1.6 4 pts Patty coordinated with Whitney the time and place for her deposition and gave her a copy of the final notice of deposition but did not serve a subpoena on her. Pedal Around, Dennis, Patty and their attorneys attended the deposition in person, but Whitney did not appear. Afterward, Dennis called Whitney to ask why she did not appear. Whitney said she did not appear because she really does not want to get involved and she did not think she was required to appear. Dennis is upset because he had to take off work and pay for his attorney to appear for Whitney's deposition. Is there anything Dennis can do to recover these expenses? Explain fully.
- 1.7 6 pts Whitney's deposition was rescheduled for a later date and this time she appeared. During the deposition, Whitney testified that she saw Dennis lose control of his pedicab when Dennis had to maneuver around a delivery truck that ran a stop sign at a nearby intersection. Pedal Around wants to argue at trial that the delivery truck driver was at fault for causing Dennis to swerve his pedicab. Pedal Around has not previously raised in any pleading that the delivery truck driver or any other third party was at fault for Patty's alleged injuries. What steps must Pedal Around take to argue the fault of the delivery truck driver at trial? Explain fully.
- 1.8 6 pts After adequate discovery, the court fixed a trial date. Dennis and Pedal Around decide to file a motion for summary judgment on the ground that Dennis's conduct was not a cause-in-fact of Patty's damages.
- 2 pts What showing must Dennis and Pedal Around make to prevail on their motion? Explain fully.
  - 3 pts What type of evidence may Dennis and Pedal Around submit to support their motion? Explain fully.
  - 1 pt When is the latest date that Dennis and Pedal Around may file and serve their motion for summary judgment?
- 1.9 3 pts The judge denied Dennis and Pedal Around's motion for summary judgment, and the case proceeded to trial before a jury. At trial, Patty completed the presentation of her case. Dennis and Pedal Around do not believe that Patty has shown a right to relief against them and want to have her claim dismissed without them offering any evidence.
- 1 pt What should Dennis and Pedal Around do to have Patty's claims dismissed before they present their defense?
  - 2 pt If Dennis and Pedal Around are unsuccessful in their efforts to have Patty's claims dismissed, what effect does that have on their being allowed to offer evidence in support of their defense to Patty's personal injury claims? Explain.
- 1.10 4 pts Dennis and Pedal Around then proceeded to present their defense, taking the necessary steps to put on evidence and argue that Patty's damages were caused, at least in part, by the unidentified delivery truck driver. What steps, if any, can Dennis and Pedal Around take to have the jury allocate any amount of fault to the delivery truck driver? Explain fully.

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
JULY 2022**

**QUESTION 2 (40 POINTS)**

Boat Pros, LLC (“Boat Pros”) is a boat manufacturer and distributor with boat showrooms located in Calcasieu and Lafayette Parishes. It is a validly formed foreign limited liability company registered to do business in Louisiana. Its principal business establishment in Louisiana is located in East Baton Rouge Parish. Boat Pros’ company secretary, Regina, is designated as its registered agent.

Paul, who resides in Vermilion Parish, is a commercial fisherman. Paul went to both Boat Pros showrooms in search of a new boat. Paul ultimately decided on the Fisherman 5000, which is a boat he saw at the showroom in Lafayette Parish.

The next week, Paul returned to the Boat Pros Calcasieu Parish showroom, where he and Boat Pros signed a boat purchase agreement. The Boat Pros Calcasieu Parish sales agent placed the order for Paul’s new boat. Paul picked up his new boat several months afterward in Calcasieu Parish.

Just over a month later, Paul was fishing in the waterways of Terrebonne Parish when the engine of his new boat caught fire. It was then that Paul realized that Boat Pros gave him the wrong boat model. Although Paul had ordered a Fisherman 5000, Boat Pros gave him a Fisherman 2500, which is not recommended for commercial usage.

Paul has filed a lawsuit against Boat Pros in Calcasieu Parish for breach of contract.

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

- 2.1    3 pts    Would venue have been proper if Paul had filed his lawsuit against Boat Pros in Lafayette Parish? Explain fully.**
- 2.2    4 pts    What steps must Paul take to have Boat Pros properly served with the lawsuit? Explain fully.**
- 2.3    4 pts    Paul did not ask for a trial by jury in his Petition for Damages. What steps must Boat Pros take to obtain a trial by jury? Explain fully.**
- 2.4    6 pts    Paul wants to take the deposition of Boat Pros. What must Paul include in his notice of the deposition of Boat Pros, and what must Boat Pros do in response to the notice? Explain fully.**
- 2.5    10 pts    Boat Pros believes the boat engine fire was caused by Paul’s incorrect operation of the engine. Boat Pros would like for its engine expert to inspect the engine and to make its own determination regarding the cause of the fire.**
  - a.   4 pts    What step(s) must Boat Pros take to permit its expert’s inspection of Paul’s boat and the engine? Explain fully.**
  - b.   3 pts    What must Paul do to prevent an inspection of his boat and engine and when must it be done? Explain fully.**
  - c.   3 pts    Paul continues to refuse to permit inspection of the boat and engine by Boat Pros after it took all appropriate steps to obtain access. What, if anything, can Boat Pros now file with the court to obtain relief allowing it to enter Paul’s property and inspect Paul’s boat and engine? Explain fully.**

TEST CONTINUES ON NEXT PAGE

- 2.6 4 pts Assume that expert witness reports have been exchanged and that the discovery depositions of all experts have been taken. Paul believes that Boat Pros' expert is completely unqualified to give expert testimony in the suit and that his methodology is "junk science." What motion should Paul file to test the qualifications and opinions of Boat Pros' expert and when should it be filed? Explain fully.
- 2.7 5 pts Assume that the case proceeds to trial before a jury of twelve persons.
- a. 3 pts During the course of the trial, what obligations do the attorneys have as officers of the court? Explain.
  - b. 2 pts How many jurors must concur to render a verdict?
- 2.8 4 pts The jury returned a verdict in favor of Paul. What steps should Boat Pros take to seek to have the jury verdict in favor of Paul set aside, and when must it take those steps? Explain fully.

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
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 Discovery
- 3.2 City court jurisdiction
- 3.3 Finality of judgments – Supreme Court
- 3.4 Depositions by telephone/remote electronic means
- 3.5 Jury trial; challenge for cause
- 3.6 Abandonment
- 3.7 Delays for new trial
- 3.8 Finality of judgments – Court of Appeal
- 3.9 Exceptions; time of filing
- 3.10 Supplemental and amended petitions

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
FEBRUARY 2022**

**QUESTION 1 (40 POINTS)**

*(This fact pattern applies to all of Question 1.)*

The Ninjango is an electric motorcycle powered by a battery pack. The Ninjango is manufactured by Hy-Cycle, Inc. (“Hy-Cycle”), a Delaware corporation that has its principal place of business in Michigan. Hy-Cycle does not have any offices or physical locations in Louisiana, but it is registered to do business in Louisiana. Hy-Cycle’s principal business establishment in Louisiana, as designated in filings made with the Louisiana Secretary of State, is in East Baton Rouge Parish.

Motorcycle Express, Inc. (“Motorcycle Express”) is a Louisiana corporation with its registered office in Jefferson Parish. Motorcycle Express also has its motorcycle dealership located in Jefferson Parish. The Ninjango is Motorcycle Express’s bestselling electric motorcycle.

Eco-Tours, Inc. (“Eco-Tours”) is a Louisiana corporation with its registered office in Orleans Parish. Eco-Tours rents electric motorcycles to individuals looking for a convenient and eco-friendly way to tour New Orleans.

On August 1, 2019, Eco-Tours signed a contract with Motorcycle Express to purchase three new 2020 Ninjango motorcycles at Motorcycle Express’s dealership in Jefferson Parish. Within one month, the battery pack that powered each Ninjango motorcycle was fully drained and could not be recharged. As a result, Eco-Tours was unable to rent any of its Ninjango motorcycles. Eco-Tours brought all three Ninjango motorcycles back to Motorcycle Express for servicing. Motorcycle Express replaced the battery pack for each motorcycle with a new battery pack, but very shortly afterward, each of the battery packs again failed.

On July 8, 2020, Eco-Tours filed a petition in East Baton Rouge Parish against Hy-Cycle (as the manufacturer) and Motorcycle Express (as the seller) alleging that the Ninjango battery packs contained a redhibitory defect (the “East Baton Rouge Parish Lawsuit”). One week later, on July 15, 2020, Eco-Tours filed an identical petition against Hy-Cycle and Motorcycle Express in Jefferson Parish (the “Jefferson Parish Lawsuit”). Hy-Cycle and Motorcycle Express answered both lawsuits. However, Eco-Tours decided to prosecute the Jefferson Parish Lawsuit only.

- 1.1. 4 pts Do Louisiana courts have specific personal jurisdiction over Hy-Cycle? Explain fully.**
- 1.2. 4 pts Assume that Hy-Cycle and Motorcycle Express are solidary obligors under Louisiana redhibition laws. Has the Jefferson Parish Lawsuit been filed in a court of proper venue as to both Hy-Cycle and Motorcycle Express? Explain fully.**
- 1.3. 4 pts Prior to deposing Eco-Tours or its employees, Hy-Cycle would like to have Eco-Tours authenticate a copy of the 2020 Ninjango User Manual and confirm that it received a copy. May Hy-Cycle accomplish this through written discovery? If so, how? Explain fully.**
- 1.4. 2 pts Under what circumstances, if any, may Eco-Tours take depositions via remote electronic means?**

- 1.5. 6 pts Eco-Tours took the deposition of an engineer employed by Hy-Cycle who testified that the battery packs for the Ninjango motorcycles were manufactured by Batty Batteries, Inc. (“Batty Batteries”). Eco-Tours then filed the necessary motions and pleadings to add Batty Batteries as a defendant. However, Batty Batteries is located only in Tennessee, has no offices in Louisiana and is not registered with the Louisiana Secretary of State. How must Eco-Tours effect service of process on Batty Batteries? Explain fully.
- 1.6. 6 pts After service is made on Batty Batteries, what must Eco-Tours file in the record to prove service was made on Batty Batteries? Explain fully.
- 1.7. 8 pts The deadline for discovery has not passed, and a trial date has not been set. However, Hy-Cycle believes all the evidence needed to support the dismissal of Eco-Tour’s claim for loss of business income has been fully discovered. What motion must Hy-Cycle file to seek the dismissal of Eco-Tour’s claim for loss of business income? What showing must Hy-Cycle make in its motion to prevail? What type of evidence may Hy-Cycle submit to support its motion, and when may Hy-Cycle file its motion? Explain fully.
- 1.8. 6 pts The Jefferson Parish Lawsuit proceeded to trial on November 2, 2021, and final judgment was entered in favor of Eco-Tours a week later. No appeal was taken. On January 31, 2022, Eco-Tours propounds discovery to Hy-Cycle in the East Baton Rouge Parish Lawsuit. Hy-Cycle objects on the basis that Eco-Tours obtained a final judgment in the Jefferson Parish Lawsuit. Eco-Tours asserts that Hy-Cycle waived its objections by not excepting to the Jefferson Parish Lawsuit. Is Eco-Tour correct? Are there steps Hy-Cycle can still take to avoid litigating the claims filed against it in the East Baton Rouge Parish Lawsuit? Explain fully.

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION  
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FEBRUARY 2022**

**QUESTION 2 (40 POINTS)**

*(This fact pattern applies to all of Question 2.)*

Acme Energy, Inc. (“Acme Energy”) is a Delaware corporation. It operates an oil refinery in Cameron Parish, Louisiana (the “Refinery”). Acme Energy is registered to do business in Louisiana. Its principal business establishment, as designated on filings made with the Louisiana Secretary of State, is in Lafayette Parish. Acme Energy has designated its Refinery manager, Joe Johnson, as its agent for service of process in Louisiana.

On June 25, 2020, a pressure valve on a vessel tank being used at the Refinery failed, causing the materials inside the vessel tank to escape into the environment (the “Release Event”). Some of the materials released during the Release Event (the “Released Materials”) traveled across the Refinery fence line and into the neighboring community known as Hackberry. The Released Materials landed on immovable and movable property located in Hackberry. It is generally accepted that the Released Materials are highly caustic and can cause irreversible paint damage. There are about a thousand homes in Hackberry.

The liberative prescriptive period for claims arising out of the Release Event expired on June 25, 2021. Brad and Carla Smith were one of the homeowners and residents of Hackberry on the day of the Release Event. The Smiths hired the law firm of Class Counsel to represent them. Class Counsel has the reputation of being one of the best class action law firms in Louisiana. On June 21, 2021, the Smiths filed a class action lawsuit against Acme Energy in Cameron Parish. No other lawsuits relating to the Release Event were filed.

The Smiths allege in the class action petition that Acme Energy was negligent in its maintenance of the vessel tank and that its negligence caused the Release Event on June 25, 2020. The Smiths further allege that the Released Materials caused irreversible paint damage to all of the immovable and outdoor movable property located in Hackberry belonging to themselves and to all of the other persons owning property in Hackberry on June 25, 2020.

- 2.1. 4 pts Now that the lawsuit has been filed, the Smiths want to take the steps necessary to require Acme Energy to respond to the lawsuit. What steps must the Smiths take and by when must the Smiths take such steps? Explain fully. Your answer should discuss the papers and the form of the papers that must be delivered to Acme Energy.**
- 2.2. 2 pts The Cameron Parish Sheriff’s office served the necessary papers on Kate Gate, an adult employee of Acme Energy at the Refinery. Was service on Acme Energy through Kate Gate proper? Explain fully.**
- 2.3. 2 pts Where, other than Cameron Parish, could the Smiths have properly filed their lawsuit against Acme Energy? Explain fully.**
- 2.4. 6 pts Acme Energy answered. During preliminary discovery, the Smiths learned that Vessel Systems, LLC (“Vessel Systems”), which is a Louisiana limited liability company, manufactured and erected the vessel tank in April 2019. The Smiths also discovered that, on at least five occasions before the Release Event, Vessel Systems serviced and/or replaced the pressure valve that failed on June 25, 2020. The Smiths want to add Vessel Systems as a defendant to the class action. What steps must the Smiths take to add Vessel Systems as a defendant to the class action? Explain fully.**
- 2.5. 14 pts Please identify the necessary prerequisites for the Smiths to bring their lawsuit as a class action on behalf of all class members. For each prerequisite, provide a detailed argument describing how the Smiths can meet the prerequisite based on the facts provided.**

TEST CONTINUES ON NEXT PAGE



- 2.6. 4 pts *Assume for purposes of answering questions 2.6-2.7 that the Smiths failed to timely move for class certification or seek an extension of the class certification deadline. Therefore, Acme Energy and Vessel Systems successfully caused the demand for class relief to be stricken.*
- a. What result does the striking of class allegations have on the lawsuit? Explain fully.
  - b. Can the Smiths have the demand for class relief reinstated? Explain fully.
- 2.7. 8 pts The Smiths decided not to appeal the Court’s order striking the class allegations. Thereafter, on Monday, January 10, 2022, notice to the unnamed class members (“all residents of Hackberry on June 25, 2020”) was both properly mailed to each municipal address located in Hackberry and published in the local newspaper to advise that the demand for class relief had been stricken pursuant to LCCP Article 592. For purposes of this question, assume the correctness of the following propositions of law: (i) A class action petition suspends the running of liberative prescription as to all members of the class as defined in the petition, and (ii) When prescription is suspended, the period of suspension is not counted towards the accrual of prescription. Assume the notice to the unnamed class members was valid. On or before what precise date must the unnamed class members file a petition to assert their individual claims against Acme Energy and Vessel Systems in order for their petition to remain timely? Use the calendar below, and explain fully.

January 2022						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					
February 2022						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

[End of Question 2]

**LOUISIANA BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
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. Pleadings definition
- 3.2. Small succession definition
- 3.3. Pleading fault of third parties in tort action
- 3.4. Delays for new trial
- 3.5. Venue in tort actions
- 3.6. Jury trial; minimum for verdict
- 3.7. Sanctions for failure to make discovery
- 3.8. Abandonment of actions
- 3.9. Successions; venue
- 3.10. Grounds for recusal of judge

[End of Question 3]

[END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST]

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
JULY 2021**

**QUESTION 1 (100 POINTS)**

*(This fact pattern applies to all of Question 1.)*

Happy Homes, Inc. (“Happy Homes”) is a licensed general contractor that constructs homes throughout southeast Louisiana. It is a Louisiana corporation with its registered office located in East Baton Rouge Parish.

Bob, who currently lives in Orleans Parish, hired Happy Homes to build a new home for him in St. Tammany Parish. Bob and a representative for Happy Homes met at Bob’s existing residence in Orleans Parish to finalize and sign the construction contract for Bob’s new home.

Happy Homes began construction of Bob’s St. Tammany Parish home in May 2020. Bob placed his Orleans Parish home on the market and entered into an agreement to sell his home with a February 1, 2021 closing date.

On January 8, 2021, days before construction was scheduled to be completed and two weeks before he was scheduled to move in, Bob’s new St. Tammany Parish house caught on fire and burned completely to the ground, making it impossible for him to move in. The Fire Marshal’s investigation concluded that the cause of the fire was electrical wiring that was faulty and/or improperly installed.

Bob proceeded with the sale of his Orleans Parish home because the buyer threatened to sue him if he backed out. Bob found a new house to buy in Jefferson Parish but felt he incurred significant expense and damages as a result of the fire and Happy Home’s failure to complete and timely deliver the St. Tammany Parish home.

On March 15, 2021, Bob initiated a lawsuit in St. Tammany Parish asserting breach of contract and negligence claims against Happy Homes.

- 1.1 Bob needs to request service of citation on Happy Homes. Mark is the sole shareholder of Happy Homes. Joe and Mary are each designated as a registered agent for Happy Homes. By when must Bob request service on Happy Homes, and how must service be attempted on Happy Homes? (4 pts)**
- 1.2 Happy Homes was properly served with Bob’s Petition for Damages on Monday, April 12, 2021. Happy Homes has decided to answer and not file exceptions in response. What is the delay for Happy Homes to file its answer? (2 pts)**
- 1.3 Bob did not ask for a trial by jury in his Petition for Damages. What steps must Happy Homes take to secure a trial by jury? (5 pts)**

TEST CONTINUES ON NEXT PAGE

- 1.4 Do Louisiana courts have personal jurisdiction over Happy Homes? Explain fully. (3 pts)
- 1.5 Is St. Tammany Parish a proper venue for the lawsuit? Explain fully. (6 pts)
- 1.6 Bob's attorney decided that it might be better to litigate the claims against Happy Homes in Orleans Parish. Therefore, on April 15, 2021, Bob's attorney initiated a second lawsuit on Bob's behalf in Orleans Parish ("Lawsuit 2"). Bob alleges the same breach of contract and negligence claims against Happy Homes in Lawsuit 2 that were alleged in the original lawsuit ("Lawsuit 1"). Is Orleans Parish a proper venue for Lawsuit 2? Explain fully. (3 pts)
- 1.7 Happy Homes already answered Lawsuit 1 when it was served with Lawsuit 2. What must Happy Homes file to challenge and seek dismissal of Lawsuit 2 so as to avoid litigating the merits of Lawsuit 2, what must it assert in that challenge, and by when must it raise its challenge? Explain fully. (10 pts)

*For all remaining questions, assume that Happy Homes is successful in having Lawsuit 2 dismissed and the parties proceeded with the litigation of Lawsuit 1.*

- 1.8 Is the dismissal of Lawsuit 2 with or without prejudice? Explain fully. (4 pts)
- 1.9 Bob wants to take the deposition of Happy Homes. What must Bob include in his notice of the deposition of Happy Homes, and what must Happy Homes do in response to the notice? Explain fully. (8 pts)
- 1.10 Prior to deposing Happy Homes, Bob would like for Happy Homes to authenticate a copy of the construction contract. Can Bob accomplish this through written discovery? Explain fully. (6 pts)
- 1.11 Happy Homes revealed during its deposition that it subcontracted out the electrical work on Bob's St. Tammany Parish home to Ernie's Electrical, Inc. Bob wants to add Ernie's as a defendant. What steps must Bob take to properly add Ernie's as a defendant and require it to participate in Lawsuit 1? Explain fully. (8 pts)

*For all remaining questions, assume that Ernie's is now a defendant in the lawsuit.*

- 1.12 Happy Homes did not make the final payment on the subcontract between it and Ernie's. May Ernie's assert a breach of contract claim against Happy Homes in Lawsuit 1? If so, what steps must Ernie's take to assert that claim and cause Happy Homes to respond to the claim? Explain fully. (5 pts)

TEST CONTINUES ON NEXT PAGE

- 1.13 Ernie's does not believe that the cause of the fire at Bob's St. Tammany Parish home was due to the wiring or its electrical work on the home. Ernie's would like for its fire expert to inspect the home and make its own determination regarding the cause of the fire. (10 pts)**
- a. What type of request must Ernie's make to permit it and its expert's entry onto Bob's property to perform the inspection, and what must be contained in the request? (4 pts)**
  - b. If Bob wants to prevent an inspection of his home, what must he do and when must he do it? (3 pts)**
  - c. Ernie's request has been granted, but Bob has nevertheless refused to make his home available for inspection. What, if anything, can Ernie's file with the court to obtain relief and allow it to enter Bob's property and inspect the home? (3 pts)**
- 1.14 Expert witness reports have been exchanged, and the discovery depositions of all experts have been taken. Bob believes that Ernie's expert is completely unqualified to give expert testimony in the suit and that his methodology is "junk science." (4 pts)**
- a. What motion should Bob bring before the court to test the expert's qualifications and opinions? (2 pts)**
  - b. What is the time deadline for bringing the motion? (2 pts)**
- 1.15 The case proceeded to trial by a jury of twelve (12). Absent a stipulation by the parties, how many jurors must concur to render a verdict? (2 pts)**
- 1.16 The jury returned a verdict in favor of Bob against Ernie's, but it returned a verdict in favor of Happy Homes as to the claims that Bob asserted against Happy Homes. Bob wants the jury verdict in favor of Happy Homes to be overturned. What steps in the trial court must Bob take to achieve that goal and when must Bob take those steps? Explain briefly. (4 pts)**
- 1.17 Ernie's has timely filed for suspensive appeal and has furnished a bond as security. Bob believes the bond is insufficient or invalid. What can Bob do to challenge the bond's sufficiency or validity? Explain briefly. (4 pts)**
- 1.18 A judgment has been rendered holding the bond insufficient or invalid. What, if anything, can Ernie's do to correct these defects and what consequence would result from its failure to correct these defects? Explain briefly. (4 pts)**

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- 1.19 Ernie's has properly corrected the defects in its bond. After the trial court record was lodged with the appellate court, Bob filed a motion in the trial court to tax expert witness fees to Ernie's. May the trial court hear that motion? Explain briefly. (5 pts)**
- 1.20 During the course of litigation, what obligations, if any, do the attorneys have as officers of the court? (3 pts)**

[End of Louisiana Code of Civil Procedure Test]

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
FEBRUARY 2021**

**QUESTION 1 (100 POINTS)**

*(This fact pattern applies to all of Question 1)*

Mary, a resident of St. Tammany Parish, was driving to work the morning of Friday, January 4, 2019, when, while stopped at a red light in Jefferson Parish, she was involved in a rear-end collision. James, a resident of Orleans Parish, was slowing down to stop at the red light but slammed into Mary's car after his car was hit by a metallic green Ford Mustang. The driver of the Mustang fled the scene of the accident before Mary or James could stop the driver or take down the car's license plate number.

An eyewitness, George, called 911 to report the accident. When the responding police officer arrived, he took statements from Mary, James and George. George told the police officer that he looked towards the accident when he heard the sound of the impact and saw the Mustang go into reverse and speed away. George did not see the driver or the license plate number of the Mustang but said the car was pretty noticeable because of its metallic green color.

James was transported by ambulance to the local emergency room for treatment. James' car was totaled. Mary's car was damaged but she was able to drive home. Mary did not mention to James or George or report to the responding police officer that she suffered any physical injuries.

Mary waited until Friday, January 3, 2020 to consult an attorney about filing suit. She waited because she had hoped that the police would find the driver and/or owner of the Mustang so that she could bring suit against them, but the police never located the driver or owner. On Monday, January 6, 2020, Mary's attorney filed suit in Orleans Parish on her behalf against James asserting claims for personal injury and property damage. However, Mary could not find a copy of the Police Report and Mary could not recall the name of James' insurer. Therefore, James' insurer was not named as a defendant in the lawsuit.

- 1.1 Mary had asked her attorney to file the lawsuit in St. Tammany Parish because that is where Mary lives and where it would be most convenient for her.
- (a) Would it have been proper to file Mary's lawsuit in St. Tammany Parish? Explain fully. (3 pts)
  - (b) Which parish or parishes other than St. Tammany would be a proper venue for Mary's lawsuit against James? Explain fully. (3 pts)

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- 1.2 Mary wants a jury trial. What steps must Mary take to obtain a jury trial as early as possible in the litigation? (6 pts)
- 1.3 James was served with Mary's petition for damages on January 30, 2020. James has decided to file an answer and no exceptions. What is James' delay for filing his answer to the Petition for Damages? (3 pts)
- 1.4 James wants to argue at trial that the driver of the green metallic Ford Mustang was negligent and at fault for causing the accident. Therefore, in his answer to the Petition, he denied any liability whatsoever for the accident. What else must James include in his answer to allow him to argue at trial the fault of the unknown driver? (3 pts)
- 1.5 (a) James believes that the lawsuit against him is not timely. What pleading should James file, and has James waived his right to file that pleading since he already filed his answer? (4 pts)
- (b) Was Mary's lawsuit filed timely? Explain fully. (4 pts)
- 1.6 James did not file a jury demand in his answer. During the course of litigation but before the trial date was set, Mary withdrew, in writing, her jury demand. What can James do, if anything, to receive a trial by jury now that Mary has withdrawn her jury demand? Explain fully. (5 pts)
- 1.7 In preparing for trial, Mary wants to discover the name of the insurer who issued James' automotive insurance policy, the policy number and the limits of that policy. What are the means by which Mary can obtain this information from James? (4 pts)
- 1.8 Mary has discovered the name of James' automotive insurer and wants to add it as a defendant. What steps must Mary take to properly add the insurance company as a defendant? (8 pts)
- 1.9 Mary knows George saw how hard James hit her car and wants to take George's deposition before trial. What steps must Mary take to take George's deposition? Explain fully. (4 pts)
- 1.10 Mary coordinated with George the time and place for his deposition and gave him a copy of the final notice of deposition but did not serve a subpoena on him. James and his attorney attended the deposition in person but George did not appear. Afterward, James called George to ask why he did not appear. George said he did not appear because he really does not want to get involved and he did not think he was required to appear. James is upset because he had to take off work and pay for his attorney to appear for George's deposition. What should James do to recover these expenses? (5 pts)

TEST CONTINUES ON NEXT PAGE



- 1.11 Ultimately George agrees that he will participate in a deposition but, because of a pandemic, he prefers not to be in a room with other people. What is required for George's deposition to be taken via remote electronic means? (4 pts)
- 1.12 James learned during the deposition of George that Mary told George the day of the accident that she was not injured at all during the car accident at issue. Therefore, James does not believe Mary was injured during the accident and wants Mary to undergo an additional physical examination. James also wants an additional medical opinion of her condition. What should James do to require Mary to undergo further physical examination? Explain fully. (6 pts)
- 1.13 James has properly noticed Mary's deposition. While taking her deposition, James asked Mary whether she has been involved in any other accidents or has suffered any personal injuries since the car accident at issue. Mary's attorney objects to the question on the grounds that the information would not be admissible at trial and instructs Mary to not respond.
- (a) Was it proper for Mary's attorney to instruct Mary not to answer the questions regarding subsequent accidents? Explain fully. (4 pts)
  - (b) What, if anything, should James file with the court to force Mary to answer the questions regarding subsequent accidents? (2 pts)
  - (c) Does James waive his right to challenge Mary's refusal to answer questions regarding subsequent accidents if he completes her deposition before doing so? Explain fully. (2 pts)
  - (d) The Judge ordered Mary to answer questions regarding subsequent accidents. However, Mary still refuses to answer. What action should James take? (2 pts)
  - (e) Identify four (4) actions the Judge might take in response to Mary's continued refusal to answer the questions? (4 pts)
- 1.14 After adequate discovery, the court fixed a trial date. James then decided to file a motion for summary judgment seeking a determination by the judge that Mary did not sustain personal injuries from the car accident.
- (a) When is the latest date before the trial date for James to file and serve the motion and all supporting documents? (1 pt)
  - (b) What is the legal standard James must satisfy to obtain the determination that Mary did not sustain personal injuries from the car accident, and what evidence must James present in support of his motion for summary judgment? (9 pts)

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- (c) James timely filed and served his motion for summary judgment. The court has set a hearing date on the motion. When is the latest day before the hearing date for Mary to file and serve her opposition to the motion, including all documents in support of her opposition? (1 pt)
  - (d) When is the last day for the court to render a judgment on the motion? (1 pt)
- 1.15 Each party retained an expert to reconstruct the accident. Expert witness reports have been exchanged, and the discovery depositions of all experts have been taken. Mary's expert opined that the accident was 100% the fault of James because he was speeding and that the accident would have occurred even if the metallic green Ford Mustang had not hit James' car. James believes that Mary's accident reconstruction expert is completely unqualified to give expert testimony in the lawsuit and that the methodology used by Mary's expert is "junk science."
- (a) What motion should James bring before the court to test the qualifications and opinions of Mary's expert? (3 pts)
  - (b) What is the time deadline for filing the motion? (2 pts)
- 1.16 At trial, James puts on evidence that Mary's damages from the accident were caused, at least in part, by the unidentified driver of the metallic green Ford Mustang. What steps, if any, should James take to have the jury allocate any amount of fault to the driver of the Ford Mustang? Explain fully. (4 pts)
- 1.17 During the course of representing their clients in this lawsuit, what obligations, if any, do the attorneys have as officers of the court? (3 pts)

[End of Louisiana Code of Civil Procedure Test]

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

**QUESTION 1 (100 POINTS)**

- 1.1 Employer has been sued by Victim after Employee was involved in a wreck with Victim while Employee was driving a vehicle owned by Employer. Through discovery, Employer learned that the accident happened at 10:00 p.m. and that, at the time, Employee was returning from a movie with Employee's mother. Employee's work hours are 7:00 a.m. until 3:00 p.m. Employee drives a company vehicle and takes the vehicle home at the end of each work day. Thus, Employer believes there is no basis for Victim's allegation that Employee was in the course and scope of employment at the time of the accident. Trial is scheduled to occur in six months.
- (a) What, if anything, should Employer file now to try to have this lawsuit against Employer dismissed before trial, and what legal standard, if any, must Employer satisfy to obtain the relief sought? (7 points)
- (b) Explain how Employer could properly offer factual evidence in support of Employer's effort. (3 points)
- 1.2 Susan, along with five other defendants, has been named a defendant in a partition lawsuit. Susan believes that she has a claim against the plaintiff for a timber trespass occurring on a different parcel of land that she solely owns. May Susan properly assert in this same lawsuit her timber trespass claim against the plaintiff? Explain fully. (5 points)
- 1.3 When a lawyer signs a pleading filed for a client, what, if anything, does the lawyer certify personally? (6 points)
- 1.4 Plaintiff filed an action for breach of a purchase agreement. In answer to Plaintiff's petition, Defendant denied Plaintiff's allegations and asserted the affirmative defenses of error and failure of consideration. During the course of trial, Defendant's counsel seeks to interrogate Plaintiff with a line of questioning that Plaintiff's counsel believes is an attempt to accuse Plaintiff of fraudulent conduct. What, if anything, should Plaintiff's counsel do to prevent that line of questioning? Your answer must explain Plaintiff's counsel's action and the basis for that action. (5 points)
- 1.5 During the course of gathering and reviewing documents to respond to an opponent's discovery requests to Client, Client's Lawyer discovered numerous pre-lawsuit emails between non-lawyer upper level management employees of Client in which they discuss possible strategies and other issues that may arise in the event of litigation. Are these pre-lawsuit emails by non-lawyer employees of Client subject to production? Explain fully. (5 points)

TEST CONTINUES ON NEXT PAGE

- 1.6 A husband filed his petition for divorce from his wife. A deputy sheriff served a copy of the citation and the petition on the wife's brother at his office. The plaintiff's wife works in the same office as her brother and is living with him after leaving her husband. Was the service of process proper? Explain fully. (4 points)
- 1.7 An insurance company is a defendant in an action brought against it by its insured. After three days of a bench trial, the plaintiff has rested her case. The insurance company believes that the plaintiff has failed to offer evidence needed to establish her cause of action. What, if anything, should the insurance company now do to try to secure an immediate ruling in its favor, and what is the legal standard that the insurance company must satisfy to prevail? (6 points)
- 1.8 In a lawsuit arising from a motor vehicle accident, the jury rendered a seven-figure verdict against Defendant. News of that verdict has made all of the local newspapers. Four days after the verdict, Defense Counsel received a call from Unknown Witness, who told Defense Counsel that she read the newspaper account and was shocked by the verdict since she had witnessed the accident and saw Plaintiff run a red light and cause the accident in question. Later that same day, Defense Counsel met with Unknown Witness, who advised that both she and her 22-year-old daughter witnessed the accident but were not referenced on the accident report and were never contacted by anyone about the matter. What, if anything, should Defense Counsel do with this information at this point and, if anything can be done, what legal standard must be met and what time deadlines, if any, exist for taking action? (6 points)
- 1.9 What is the delay for requesting service of citation on all named defendants in a civil action? If the request for service of citation is not timely made, what action, if any, should be taken to obtain dismissal of the action? (3 points)
- 1.10 Defense Counsel is defending a personal injury action in which Defense Counsel believes the evidence plainly demonstrates that, despite the clear liability of Defendant, Plaintiff's damages are very minor. Defendant has made a reasonable settlement offer to Plaintiff, who rejected that offer without making a counteroffer. Defendant is confident that a trial verdict will not exceed this settlement offer and is frustrated with the ongoing costs of defending the claim. The suit is fixed for trial in two months. What, if anything, should Defendant do to recover those costs from Plaintiff. Explain in detail what and when, if anything, Defendant can do in this situation. (10 points)

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***The following facts apply to Questions 1.11-1.16 below.***

John's Plumbing is a Louisiana corporation having its registered office in Winn Parish. Owner lives in adjacent LaSalle Parish and owns a camp in adjacent Grant Parish. Owner called John's Plumbing to check a possible gas leak at his Grant Parish camp. John's Plumbing sent employee Ben, a resident of nearby Caldwell Parish who had one month experience as a plumber, to field the call. Ben discovered a gas leak inside Owner's Grant Parish camp. Ben replaced the leaking valve with a valve manufactured by Ohio Valve Company, an Ohio corporation that is not registered with the Louisiana Secretary of State and has no offices in Louisiana. One week later, Owner's Grant Parish camp was destroyed due to a gas explosion. Fortunately, Owner was away and is not injured. Owner hired a lawyer to sue Ben and John's Plumbing for the destruction of his camp.

- 1.11 What parish or parishes would be a proper venue for Owner's lawsuit against Ben and John's Plumbing? Explain fully. (12 points)
- 1.12 Owner sued Ben and John's Plumbing in LaSalle Parish. Ben and John's Plumbing want to object to that venue.
- (a) What pleading must be filed to object to venue in LaSalle Parish and when must it be filed? (3 points)
  - (b) If the court finds that the objection is well-founded and that the grounds for the objection cannot be removed, what are the two orders the court may issue in sustaining the objection? (3 points)

***Assume for Questions 1.13-1.16 below that suit is filed in a proper venue.***

- 1.13 John's Plumbing believes Ohio Valve Company's valve was defective and wants to add the company as a party to the lawsuit.
- (a) What pleading must John's Plumbing file to add Ohio Valve Company as a party to the case? (2 points)
  - (b) Since Ohio Valve Company has no offices in Louisiana and is not registered with the Louisiana Secretary of State, how must John's Plumbing effect service of process on Ohio Valve Company? Explain in detail how this is done. (4 points)

TEST CONTINUES ON NEXT PAGE

- 1.14 Because Ohio Valve Company sells no products to any Louisiana distributors, it wishes to contest personal jurisdiction of the Louisiana court. Its closest distributors to Louisiana are in Longview, Texas; El Dorado, Arkansas; and Vicksburg, Mississippi.
- (a) What pleading must Ohio Valve Company file to contest jurisdiction of the Louisiana court over it in this matter and when must the pleading be filed? (4 points)
  - (b) What is the basis for possible jurisdiction over Ohio Valve Company, and how should the judge rule? (6 points)
- 1.15 Owner's attorney wants to know if John's Plumbing has liability insurance that might provide coverage in this lawsuit and if John's Plumbing has any statements of witnesses relating to this case. How should Owner's attorney secure this information? (3 points)
- 1.16 The jury trial of this matter is scheduled to begin. During voir dire, a prospective juror says "John's Plumbing did a lousy job at my home last year, but I think I could be fair to them." What, if anything, should John's Plumbing do to have this potential juror excused? (3 points)

[End of the Louisiana Code of Civil Procedure Test]

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

**QUESTION 1 (100 POINTS)**

Pearl, who is a resident of Lafayette Parish, was driving eastbound along Interstate 10 while on her way to visit family in West Baton Rouge Parish. Tucker, who is a resident of Bossier Parish, was driving an 18-wheeler, also going eastbound on Interstate 10 to make a delivery in Orleans Parish for his employer, Delta, Inc., which is a Louisiana corporation with a registered office in Caddo Parish and another office in Rapides Parish. Upon leaving a weigh station in St. Martin Parish and re-entering the interstate highway, Tucker's truck collided with Pearl's vehicle. Pearl suffered major injuries from the accident and has hired a lawyer to file a lawsuit on her behalf against Tucker and Delta, Inc.

*Using the above facts, answer the following questions and explain each answer briefly.*

- 1.1 (a) During the lawsuit, when the attorneys in the above described case file pleadings on behalf of their clients, what do the attorneys certify personally? (6 points)
- (b) What are the pleadings to which the attorneys' certifications apply? (6 points)
- (c) What obligations, if any, do the attorneys have as officers of the court? (3 points)
- 1.2 (a) What parish or parishes are a proper venue for Pearl's lawsuit against Tucker and Delta, Inc.? (12 points)
- (b) If Delta, Inc. believes the lawsuit has been filed in the wrong venue, what must Delta, Inc. file to challenge the venue and when must it be filed? (6 points)
- 1.3 Assume that the lawsuit has been filed in the proper venue, and a judge has been assigned to the case. Pearl has been told the judge that has been assigned to the case is very pro-company and often makes rulings in favor of defendant companies in personal injury cases. Pearl has chosen to seek recusal of the judge. Is she likely to succeed? Explain fully. (6 points)
- 1.4 What is the time delay for requesting service of citation on defendants Delta Inc. and Tucker? If the request for service of citation is not timely made, what action, if any, can be taken by the defendant(s) to obtain dismissal of the action? (6 points)

TEST CONTINUES ON NEXT PAGE

- 1.5 During the discovery process, Pearl noticed the deposition of Tucker. Unfortunately, Tucker has been caring for his mother, who is recovering from a recent surgery. She lives two hours away and is in need of constant supervision and care. As a result, Tucker is unable to leave his mother's home in order to attend an in-person deposition. Given these circumstances, how might Pearl seek to take Tucker's deposition and what are the requirements to do so? (3 points)
- 1.6 Assume that Tucker's deposition has been scheduled. During Tucker's deposition, Pearl's attorney noted he had recently looked over Tucker's social media accounts and noticed Tucker did not list having any children. Pearl's attorney began asking questions about why Tucker was not married and did not have any children. Tucker's attorney instructed Tucker not to answer any of the questions. Was it proper for Tucker's attorney to instruct Tucker not to answer the questions regarding marriage and children? Why or why not? (4 points)
- 1.7 Through discovery, the parties learned that the weigh station, which is owned and run by Interstate Weight, Inc., may have video recordings of the trucks exiting the weigh station back onto the interstate highway and of the weigh station's flashing light on the exit ramp to signal to the truck drivers when it is safe to re-enter the highway. Pearl would like to obtain any video recording of Tucker's truck. What must Pearl do to obtain any video recording that Interstate Weight, Inc. may have of Tucker's truck? (3 points)
- 1.8 After adequate discovery, the court fixed a trial date. Pearl has now decided to file a motion for summary judgment seeking a determination by the judge that Delta, Inc. and Tucker are liable for the damages Pearl sustained in the accident.
- (a) When is the last day that Pearl can file and serve the motion? (2 points)
  - (b) Assume that Pearl has timely filed and served the motion and that the court has set a hearing date on the motion. When is the latest day before the hearing when Delta, Inc. and Tucker can timely file and serve oppositions to the motion? (2 points)
  - (c) What is the standard by which the court may grant the motion? (6 points)
  - (d) When is the last day for the court to render a judgment on the motion? (2 points)

TEST CONTINUES ON NEXT PAGE



- 1.9 Assume that Pearl's motion for summary judgment was denied and that the case has been set for trial by jury.
- (a) If Pearl's trial is by a jury of six, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise? (2 points)
  - (b) If Pearl's trial is by a jury of twelve, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise? (2 points)
- 1.10 Assume that early in the discovery process, Pearl propounded interrogatories asking Tucker to identify all witnesses to the accident and that Tucker timely and accurately answered those interrogatories. Two weeks before trial, Tucker learned that a person who was doing road work on the interstate highway observed the accident in its entirety and further observed Tucker looking at his cell phone as he was going through the flashing light. Tucker does not plan to call this witness at trial, since his testimony will be adverse to Tucker's interests. What responsibility, if any, does Tucker have to divulge the identity of this new witness to Pearl? (6 points)
- 1.11 Assume that Pearl has recently learned that the operator of the weigh station has moved across the state and is a six-hour drive from the courthouse in which the trial is to be held. Pearl wants to present the operator as a witness for testimony during the trial. Can the operator be compelled to testify at trial and, if so, what steps should Pearl take to compel the operator's testimony? (4 points)
- 1.12 Assume that trial is underway and that Pearl did not join the owner of the weigh station, Interstate Weight, Inc. in the lawsuit. Delta, Inc. believes that not joining Interstate Weight, Inc. will prejudice Delta, Inc. What, if anything, can Delta, Inc. do now? (6 points)

TEST CONTINUES ON NEXT PAGE

1.13 Assume that the trial is over and that the jury returned a verdict in favor of Pearl and against Delta, Inc. on Monday, December 4. The judge instructed Pearl to prepare and furnish to Delta, Inc. a proposed judgment based upon the jury's verdict. Pearl complied, but Delta, Inc. had an objection to the proposed judgment. Thereafter, the judge held a conference in chambers on Monday, December 11, and presented a judgment of her own, to which all parties had objections. The judge then entered the courtroom and, on the record and in the presence of the lawyers for all parties, announced her judgment, signed the judgment she had prepared, and handed it to the deputy clerk of court for filing. The judge acknowledged that all parties had objections to the judgment, and counsel for all parties reiterated and stated those objections on the record. The sheriff served notice of the judgment on Tuesday, December 12.

- (a) What is the last date on which Delta, Inc. can move for a new trial or judgment notwithstanding the verdict? (3 points)
- (b) No party filed post-judgment motions, but Delta, Inc. wants to take a suspensive appeal from the adverse money judgment. How many days, and from what date, does Delta, Inc. have to file for the suspensive appeal? (4 points)
- (c) Delta, Inc. has perfected its suspensive appeal, and the record has been lodged with the court of appeal. Pearl filed no post-judgment motions but wants to preserve her right to have the court of appeal consider her objections to the judgment and modify it. What must Pearl file, where should it be filed, and when should it be filed? (6 points)

[End of Louisiana Code of Civil Procedure Test]