

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

QUESTION 1 – 40 POINTS

(This fact pattern applies to Questions 1.1-1.13)

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

Answer the following questions and explain each answer briefly:

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

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

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

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

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

[End of Question 1]

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QUESTION 2 – 40 POINTS

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

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

[End of Question 2]

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QUESTION 3 – 20 POINTS

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

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

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
JULY 2019**

QUESTION 1 -- 40 POINTS

- 1.1. When a lawyer has signed a pleading for a client and has filed it with the clerk of court, what does the lawyer certify personally? (4 points)
- 1.2. List three obligations under the Code of Civil Procedure an attorney has as an officer of the court. (3 points)
- 1.3. A lawyer's signature on a discovery response constitutes a certification by the lawyer of what? (4 points)
- 1.4. Plaintiff sued Defendant for failure to make timely payment under a promissory note. The promissory note provides that the full balance due thereunder becomes immediately due if any periodic payment thereunder is not timely made. After adequate discovery, the court fixed a trial date. Plaintiff has decided to file a motion for summary judgment for the judge to rule that Defendant breached the promissory note and to award Plaintiff judgment for the balance owing under the promissory note. (4 points total)
- (a) What is the latest date when Plaintiff may timely file and serve the motion for summary judgment? (1 point)
- (b) Plaintiff has timely filed and served the motion for summary judgment. The court has set a hearing date on the motion. What is the latest date when Defendant may timely file and serve an opposition to the motion? (1 point)
- (c) When is the last day for the court to render a judgment on the motion? (1 point)
- (d) The judge denied the motion, and the case has proceeded to a bench trial. At the close of Plaintiff's case, Defendant believes Plaintiff, under the evidence and applicable law, has shown no right to any relief against Defendant and wants to have Plaintiff's case dismissed. What can Defendant do to bring the trial to a conclusion in Defendant's favor at this point? (1 point)
- 1.5. Expert witness reports in a products liability case have been exchanged, and the discovery depositions of both experts have been taken. Attorney for Defendant believes that Plaintiff's expert is completely unqualified to give expert testimony in the suit and that his methodology is "junk science." A.) What motion should be brought before the court to test the expert's qualifications and opinions, and B.) what is the time deadline for bringing the motion? (2 points)
- 1.6. Defendant failed to respond to discovery propounded by Plaintiff. Plaintiff filed a motion to compel discovery. After a hearing on the motion, the judge ordered Defendant to respond to the discovery within 15 days. Defendant has still failed to respond to the discovery. What action should Plaintiff take? (1 point)
- 1.7. Plaintiff owns a homeplace and 100 acres of contiguous, wooded property. Plaintiff has observed that a forest crew is cutting what appears to be a wide right-of-way and that his property appears to be next in line for advancement. Plaintiff wants to file an action to prevent immediate entry upon his land by the company that is cutting the right of way. Plaintiff is aware of no right giving anyone the authority to clear a path across his property and wants such activity prohibited in the future.

What pleadings should Plaintiff file to prevent the immediate entry and work on Plaintiff's property and to prevent same in the future? Explain fully, including whether notice of any pleading filed must be given to the company employing the forest crew. (10 points)

- 1.8. Plaintiff claims to be the sole owner of a tract of land in Cameron Parish. Plaintiff read in a local newspaper that Defendant, who lives in Bienville Parish, has advertised to sell the land, cash only and without any warranty of title. Plaintiff filed a lawsuit against Defendant in Cameron Parish seeking to prevent any sale of the land by Defendant. (7 points total)
- (a) What additional action should Plaintiff take, and where, to protect Plaintiff's interest in the land from future sales by Defendant? (2 points)
 - (b) Plaintiff's suit has been filed but the clerk's office has taken no action to process the suit so that it may be turned over to the sheriff for service. Plaintiff has written two letters to the clerk requesting that the suit be processed by the clerk, but they have been ignored. Plaintiff knows there are deadlines for service, and has further learned that Defendant is the brother of the clerk of court. Plaintiff concludes that any further letter requests would be futile. What step may Plaintiff take to request that a judge order the clerk of court to perform her official duties? (2 points)
 - (c) Plaintiff is ultimately successful in getting the clerk of court to process the suit and to forward the suit to the Sheriff of Bienville Parish to effect service upon Defendant. The Sheriff of Bienville Parish returned a service return to the Cameron Parish Clerk of Court in proper form stating that domiciliary service was made on Defendant at the address given for service in the petition. It has now been 45 days since the service and no pleadings have been filed by Defendant, nor has Plaintiff heard from anyone representing Defendant. Plaintiff is ready to proceed to judgment. What must Plaintiff file to proceed to judgment in Plaintiff's favor, and what are the time delays, if any? (2 points)
 - (d) Judgment in favor of Plaintiff and against Defendant has been rendered. Three months later, Defendant learns about the judgment, even though he never received a citation for, or a copy of, Plaintiff's petition. Upon investigation, Defendant learns that a Bienville Parish deputy sheriff delivered the citation and petition to a neighbor rather than to anyone residing in Defendant's home. What action should Defendant take to challenge this judgment? Explain. (1 point)
- 1.9. A single man died a year ago without leaving a will. At the time of his death, he was domiciled in Jefferson Davis Parish and had a single heir, namely, his adult daughter. The only property he owned at the time of his death was his home in Jefferson Davis Parish and the contents in the home. The value of all the property in his estate, at the time of death, was \$100,000.
- What steps, without filing a judicial proceeding, should the daughter take to formally recognize her ownership of this home? Explain. (3 points)
- 1.10. A woman and her minor daughter are each one-half owners of a tract of land in Louisiana. The woman has been approached by a someone who has made an offer to purchase the land. She believes the offer is a good deal for both her and her minor child. What further steps must she take to have the authority to sell her minor child's one-half interest in the home? Explain. (2 points)

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
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JULY 2019**

QUESTION 2 -- 40 POINTS

Fact Pattern for all of Question 2:

Plaintiff was injured when the vehicle he was operating was rear-ended by an 18-wheeler operated by Driver and owned by Owner. Driver was acting within the course of and scope of his employment with Owner at the time of the collision. The collision occurred in a construction zone on a state highway in Calcasieu Parish. The construction was being undertaken by the Louisiana Department of Transportation and Development (DOTD). Plaintiff is a resident of Allen Parish. Driver is a resident of Tensas Parish. Owner is a Delaware corporation with its principal place of business in Phoenix, Arizona, but it is registered with the Louisiana Secretary of State to do business in Louisiana and has appointed a registered agent and has a Louisiana office, both located in East Baton Rouge Parish.

- 2.1. What parish or parishes would be a proper venue for Plaintiff's lawsuit against Driver and Owner? Explain fully. (6 points)

The facts set forth in each remaining question below for this Question 2 are cumulative (except for the facts in question 2.3 below). Thus, for example, the facts in question 2.2 apply equally to questions 2.3-2.14, the facts in question 2.4 apply equally to question 2.5-2.14, the facts in question 2.5 apply equally to question 2.6-2.14, etc.

- 2.2. Ten days after suit was filed, the clerk issued a notice to Plaintiff that the sheriff was unable to serve Driver because no address was given. What is the delay to request service with an address for Driver? (1 point)
- 2.3. ***Assume solely for this question 2.3*** that Owner has been served, that Driver has not been served and that the time delay to request service on Driver has expired. A.) What action can be taken to seek dismissal of Driver? B.) What must the judge determine in order to dismiss Driver? (3 points)
- 2.4. Both Defendants have been timely served. Defendants think Plaintiff has filed suit in the wrong venue. What pleading must be filed to challenge the venue, and when must it be filed? (2 points)
- 2.5. Plaintiff's petition does not ask for trial by jury. What must Defendants do to obtain a trial by jury in the case? (2 points)
- 2.6. A joint answer has been timely filed by both Driver and Owner. Plaintiff's lawyer suspects that Driver has a history of rear-end collisions. What discovery could be served on Driver and on Owner to obtain that information? (2 points)
- 2.7. Plaintiff's lawyer suspects that Owner's training program for its drivers, its hiring requirements for newly employed drivers, and its supervision policies for newly employed drivers are deficient. However, Plaintiff doesn't know which of Owner's officials is most likely to have knowledge of these subjects. A.) What action can Plaintiff take to obtain the deposition of these officials before knowing their identities? B.) What must Owner do to comply with this action? (2 points)
- 2.8. Defendants believe from information they obtained that the warnings and signage on the highway in the construction zone where the accident occurred were woefully inadequate and caused or contributed to the accident. Defendants want the fault of the Louisiana Department of Transportation and Development (DOTD) to be measured at trial so as to reduce any award to Plaintiff against Defendants, but do not want to name DOTD as a party to the suit. What must Defendants do in pleadings and at trial to accomplish that? (2 points)

- 2.9. During discovery, Plaintiff learns that an eyewitness to the accident lives in another parish, over 200 miles from the courthouse in which the trial is to be held. Plaintiff wants to present that witness for testimony at trial. Can the witness be compelled to testify at trial? Why or why not? (3 points)
- 2.10. Plaintiff properly notices the deposition of Driver for trial purposes. During the deposition, the defense lawyer repeatedly makes lengthy objections which Plaintiff believes are providing guidance and instruction to Driver as to how to answer the questions; the defense lawyer acts completely discourteously to Plaintiff and otherwise conducts himself as he would never conduct himself in open court. Following completion of the deposition and the transcript, Plaintiff brings a motion to the judge on the basis that he believes that the defense lawyer's objections were in violation of the Code of Civil Procedure and seeks sanctions. The judge agrees with Plaintiff. What can the judge order as sanctions? (2 points)
- 2.11. Plaintiff, in Defendants' opinion, has been unreasonably high in his settlement demands. Defendants decide to make an offer of judgment to put pressure on Plaintiff. A.) What is the deadline to serve an offer of judgment and what does the Code of Civil Procedure require to be included in the offer of judgment? B.) What is the deadline for Plaintiff to serve written notice that the offer is accepted? (5 points)
- 2.12. All parties agree to trial by jury, and jury selection has begun in the case. During jury selection, a potential juror advises that she is the legal secretary for Plaintiff's lawyer. Defendants ask the judge to excuse this potential juror for cause. What should be the basis for the request? (1 point)
- 2.13. Assume that the jury returned a verdict in favor of Plaintiff and against Driver and Owner in the amount of \$1 million. Although they do not contest the jury's liability finding, Driver and Owner believe that the evidence was insufficient to support this verdict of \$1 million in damages and the verdict award was contrary to the law. What are the two options for relief from this verdict that can be filed in the trial court? Provide the standards the judge is to use in analyzing the jury's verdict in order to determine the viability of each of options asserted by Driver and Owner. (6 points)
- 2.14. Assume that the trial judge denied Defendants' post-trial motions for relief. The clerk mailed the judge's order on July 5. A.) What is the last day upon which Defendants can file for a suspensive appeal? B.) What is the last day upon which Defendants can file for a devolutive appeal? (3 points)

[End of Question 2]

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QUESTION 3 -- 20 POINTS

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

- 3.1. Grounds for recusal of judge
- 3.2. Exceptions; time of filing
- 3.3. Pleadings definition
- 3.4. Finality of Supreme Court judgments
- 3.5. Delays for new trial
- 3.6. Successions; venue
- 3.7. Jury trial, challenge for cause
- 3.8. Finality of Court of Appeal judgments
- 3.9. Sanctions for failure to make discovery
- 3.10. Depositions by telephone/remote electronic means

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2019**

QUESTION 1 - 40 POINTS

- 1.1. When a lawyer has signed a pleading for a client and has filed it with the clerk of court, what does the lawyer certify personally? (2 Points)
- 1.2. What are the pleadings to which the lawyer's certification applies? (2 Points)
- 1.3. List three obligations an attorney has as an officer of the court. (3 Points)
- 1.4. A lawyer's signature on a discovery response constitutes a certification by the lawyer of what? (2 Points)
- 1.5. If a civil trial is by a jury of six, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise? (1 Point)
- 1.6. After a bench trial, a money judgment was awarded in open court against Defendant on Monday, April 1. It was signed in open court and recorded in the mortgage records on that date. The clerk mailed it to all counsel on Tuesday, April 2. Plaintiff wants to enforce the judgment immediately against Defendant. After reviewing the record and also checking with the clerk of court, Plaintiff is satisfied that there has been no action taken or filed in the record or other request for relief by Defendant as of Friday, April 5.
- May Plaintiff take any action on the following Monday, April 8, against Defendant to enforce the judgment? (1 Point)
- 1.7. It has been six months since the clerk of court mailed to all parties notice of the signing of a money judgment in favor of Plaintiff against Defendant. Defendant has taken no action in the suit since that time. Plaintiff is aware that Defendant owns a tract of immovable property located in the parish where the judgment was taken.
- What action may Plaintiff take to enforce the judgment against the immovable property owned by Defendant? Explain. (3 Points)
- 1.8. A money judgment is now 9 years old, and it has not been satisfied by Defendant. Plaintiff is aware that a judgment remains enforceable for ten years and that there is a procedure to extend that judgment for another ten years. What action should Plaintiff take to gain such an extension? Explain. (3 Points)
- 1.9. Decedent was domiciled in Beauregard Parish at his death. He owned a tract of immovable property in Beauregard Parish. The other assets that he had at his death were an investment account and a checking account which totaled around \$100,000 in cash value. There are no debts associated with the succession. He did not leave a will and is survived by one daughter, who is domiciled and lives in Houston, Texas. She wants to be recognized as his sole heir and take possession of the assets of her father. (6 Points)
- A. In the succession proceedings, what facts must be set forth in an affidavit to demonstrate that the daughter is filing in the correct court and for the proper interested person or persons? (3 Points)
- B. Under Louisiana law, the daughter must introduce evidence of the assets of the decedent with the court. What are the two ways to accomplish introduction of the evidence and what should be filed to satisfy this requirement? (3 Points)

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1.10. The assets of the succession of a decedent who died without a will have a value of no more than \$50,000. Because the decedent owned a small tract of immovable property, there is a need to place in the record the facts of his death and the identity of the persons who will inherit his assets. What filing may the heirs make to accomplish this goal without having to file a judicial proceeding? Explain. (2 Points)

1.11. Lessor owns a small house and has rented it to Lessee on a monthly basis. There is no written contract, but the oral agreement between Lessor and Lessee is that Lessee pays rent on the first day of every month. Lessee has not paid rent for the last two months. Lessor has spoken to Lessee to remind Lessee of the rent due, but no other notice has been given to Lessee regarding past due rent. Lessee is still living in the house. Lessor wants the house back with Lessee removed from the premises.

What steps must be taken to accomplish this? (2 Points)

1.12. There is a written lease for a house between Lessor and Lessee with a definite term of one year. The lease provides that the rent is due on the first day of each month and that Lessee waives any notice to vacate.

Lessee has not made the required payment on the first day of the month; it is now the 15th day of the month and payment still has not been made. May Lessor proceed with filing an eviction proceeding in court without first giving Lessee a written notice to vacate? (1 Point)

1.13. Plaintiff is one of four children who have inherited a 1,400- acre tract of land located adjacent to the Mississippi River. The property is all agricultural and has been an active farm for over 100 years. The eastern boundary of the tract is approximately 800 feet long and runs along the river. A public road runs along the entire length of the northern property line.

Attempts have been made among the siblings to either divide the property or sell all or a portion of it, but those efforts have not been successful. Plaintiff has decided that she no longer wants to own that land with her siblings and wants it either divided or sold. What are her legal options? Explain. (3 Points)

1.14. Homeowner purchased a window air conditioner and installed it at her home. Soon after, the air conditioner caught fire, causing property damage to Homeowner's home. Homeowner's insurer paid Homeowner property damages to the limits of her homeowner's insurance policy. However, Homeowner's property damages exceed the limits of her policy with Insurer. One day before the prescription date, Homeowner filed a product liability suit against the air conditioner manufacturer (Manufacturer) for her property losses that exceed her insurance limits. Manufacturer was served ten days after the suit was filed. Two months later, Insurer filed an intervention in the suit, as a plaintiff, seeking to recover from Manufacturer the amount it paid Homeowner under the insurance policy. Manufacturer filed an exception of prescription to the intervention. Should the exception be maintained? Explain. (3 Points)

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- 1.15. Plaintiff sued Defendant for breach of contract. The contract specified the amount of damages that would be recoverable by Plaintiff in the event Defendant failed to perform. After adequate discovery, the court fixed a trial date. Plaintiff has now decided to file a motion for summary judgment for a judgment in its favor. (4 Points)
- A. What is the time deadline for Plaintiff to file and serve the motion for summary judgment and all supporting documents? (1 Point)
 - B. Plaintiff timely filed and served the motion for summary judgment. The court has set a hearing date on the motion. What is the time deadline for Defendant to file and serve an opposition to the motion, including all documents in support of the opposition? (1 Point)
 - C. When is the last day for the court to render a judgment on the motion? (1 Point)
 - D. The judge denied the motion for summary judgment. The case then proceeded to a bench trial. At the close of Plaintiff's case, Defendant believes Plaintiff, under the evidence and applicable law, has shown no right to any relief against Defendant and wants to have Plaintiff's case dismissed. What should Defendant do to bring the trial to a conclusion at this point? (1 Point)
- 1.16. In a tort suit, expert witness reports have been exchanged prior to trial, and the discovery depositions of both experts have been taken. Attorney for Defendant believes that Plaintiff's expert is completely unqualified to give expert testimony in the suit and that his methodology is "junk science." (2 Points)
- A. What motion should be brought before the court to test the expert's qualifications and opinions? (1 Point)
 - B. What is the time deadline for bringing the motion? (1 Point)

[End of Question 1]

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**LOUISIANA BAR EXAMINATION
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QUESTION 2 - 40 POINTS

The following fact pattern applies to all subparts of Question 2:

Plaintiff was injured when the vehicle he was operating was struck by an 18-wheeler operated by Driver and owned by Owner. Plaintiff, Driver, and Owner are all domiciled in Louisiana, and the accident occurred in Louisiana.

- 2.1. Plaintiff filed a petition for damages against Driver and Owner but at that time did not have a current address for Driver. How long and from what date does Plaintiff have to determine a current address for Driver and request service? (2 Points)
- 2.2. Plaintiff wants to obtain trial by jury. Neither Plaintiff's petition nor the answers filed by Owner and Driver included a jury demand. What must Plaintiff do, and when, to obtain trial by jury? (4 Points)
- 2.3. During discovery, Plaintiff learned that an eyewitness to the accident lives in another parish, over 100 miles from the courthouse in which the trial is to be held. Plaintiff wants to present that witness for testimony at trial. Can the witness be compelled to testify at trial? Explain. (3 Points)
- 2.4. Plaintiff believes Owner has relevant and admissible information on several matters that are necessary to support Plaintiff's claims. However, Plaintiff does not know which of Owner's officers or employees would be most likely to have knowledge of these subjects. (3 Points)
 - A. What action can Plaintiff take to obtain the deposition of the appropriate officials or employees without knowing their identities? (2 Points)
 - B. What must Owner do in response to this action? (1 Point)
- 2.5. Plaintiff's counsel served discovery asking Driver and Owner to identify all witnesses to the accident. Driver and Owner timely and accurately answered that discovery. Two weeks before trial, Driver learned of a new, previously unidentified witness who observed the accident. Driver does not plan to call this witness at trial, because the testimony will be adverse to Driver's interests. What responsibility, if any, does Driver have to divulge the identity of this new witness to opposing counsel? Explain. (2 Points)
- 2.6. Plaintiff knows that the hospital where Plaintiff was treated after the accident has documents and records that are very helpful to establish damages in his case. However, the hospital medical records librarian refuses to give the documents to Plaintiff. The librarian is not someone from whom testimony would be needed. All Plaintiff wants are the hospital's records. What can Plaintiff do to obtain the records of the hospital without taking the librarian's deposition testimony or examining the librarian at trial? (1 Point)
- 2.7. During jury selection, a potential juror disclosed that she is a first cousin of, and lives next door to, Plaintiff's lawyer. Defense counsel asked the judge to excuse this potential juror for cause. What should be the basis for defense counsel's request? (1 Point)

TEST CONTINUES ON NEXT PAGE

- 2.8. Plaintiff has completed the presentation of his case to the jury. Driver and Owner believe that, upon the facts adduced during Plaintiff's case and applicable law, Plaintiff has shown no right to relief against Driver and Owner and they want to have Plaintiff's case dismissed without Driver and Owner having to offer any evidence. (2 Points)
- A. What can be done to bring the trial to a conclusion at this point? (1 Point)
 - B. If Driver and Owner do not succeed in having the case dismissed at this point, what effect, if any, does this failure have on their rights to offer further evidence? (1 Point)
- 2.9. During the jury trial, testimony of Plaintiff's treating physician was presented to the jury by a pre-trial video deposition. The transcript of the deposition testimony was admitted into evidence, along with treating physician's medical records. During jury deliberations, the jury foreperson sent a note to the judge stating that the jury would like to see the transcript of the testimony of treating physician and his medical records. Defense counsel objected. How should the trial judge rule on defense counsel's objection, and what should the judge do in response to the jury's request? Explain. (3 Points)
- 2.10. The jury returned a verdict in favor of Plaintiff and against Driver and Owner. Plaintiff disagrees with the verdict on the grounds that it is woefully inadequate given the serious injuries suffered by Plaintiff. What action, if any, can Plaintiff take in the trial court to obtain an increase in the jury award but leave the liability finding intact? Explain. (2 Points)
- 2.11. Following the jury's verdict, the judge signed and dated a judgment in favor of Plaintiff and against Driver and Owner. Thereafter, the clerk of court mailed notice of the judgment to all counsel. Owner disagrees with the verdict, particularly the finding that Driver was acting in the course and scope of his employment at the time of the accident. (4 Points)
- A. What is the last day on which Owner may file a motion for a new trial or a judgment notwithstanding the verdict (JNOV)? (2 Points)
 - B. Assuming that no party makes an application for new trial or JNOV, how many days and from what day does Owner have to file for a suspensive appeal? (1 Point)
 - C. Assuming that no party makes an application for new trial or JNOV, how many days and from what day does Owner have to file for a devolutive appeal? (1 Point)
- 2.12. Following the jury's verdict in favor of Plaintiff, Driver timely filed motions for a new trial and for judgment notwithstanding the verdict.
- A. What are possible grounds upon which the judge should grant a new trial? (2 Points)
 - B. What standards should the judge use in analyzing the jury's verdict in order to determine whether to grant a judgment notwithstanding the verdict? (2 Points)
- 2.13. After his motions for a new trial and for judgment notwithstanding the verdict were denied, Driver timely filed for suspensive appeal. Plaintiff believes the security furnished by Driver is insufficient or invalid. What can Plaintiff do to challenge the security's sufficiency or validity? Explain. (4 Points)
- 2.14. A judgment has been rendered holding the security insufficient or invalid. What, if anything, can Driver do to correct these defects? Explain. (1 Point)

- 2.15. Driver and Owner have properly perfected suspensive appeals. After the trial court record was lodged with the appellate court, Plaintiff filed a motion in the trial court to tax expert witness fees and other court costs of trial to Driver and Owner. May the trial court hear that motion? Explain. (1 Point)
- 2.16. Driver and Owner have properly perfected their suspensive appeals and the record has been lodged with the court of appeal. Plaintiff did not take an appeal, and the deadline for Plaintiff to take an appeal has now passed. Plaintiff wants to have the court of appeal modify the trial court's judgment by increasing the award. What must Plaintiff file and when? (3 Points)

[End of Question 2]

TEST CONTINUES ON THE NEXT PAGE

**LOUISIANA BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2019**

QUESTION 3 - 20 POINTS

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

- 3.1. Sanctions for failure to respond to discovery
- 3.2. Jury trial; minimum for verdict
- 3.3. Reasons for denial of trial consolidation
- 3.4. Exceptions; time of filing
- 3.5. Suspensive appeals; bond amounts
- 3.6. Grounds for recusal of judge
- 3.7. Successions; venue
- 3.8. Jury trial; challenge for cause
- 3.9. Pleading of fault of third parties in tort actions
- 3.10. Finality of judgments – Court of Appeal

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
JULY 2018**

QUESTION 1 — 40 POINTS

- 1.1. 2 pts.** When a lawyer has signed a pleading that was filed for a client, what does the lawyer certify personally?
- 1.2. 2 pts.** What are the pleadings to which the lawyer's certification applies?
- 1.3. 3 pts.** List three obligations an attorney has as an officer of the court.
- 1.4. 2 pts.** A lawyer's signature on a discovery response constitutes a certification by the lawyer of what?
- 1.5. 1 pt.** Plaintiff sued Defendant twice on the same occurrence, first in Jefferson Parish and thereafter in Orleans Parish. Both suits are still pending. What can Defendant file to avoid having to litigate two suits with Plaintiff and where should it be filed?
- 1.6. 1 pt.** Defendant asks Attorney to defend him in an ongoing lawsuit following the death of his prior counsel. The lawsuit, which was brought against Defendant four years ago, involves claims of breach of contract. Discovery was propounded by Plaintiff at the same time the lawsuit was filed, but that discovery has never been answered. The suit record and the files of Defendant's prior counsel reflect no other action or activity in the case. What course or courses of action should Attorney recommend to Defendant?
- 1.7. 5 pts.** Plaintiff sued Defendant for breach of contract. The contract specified the amount of damages that would be recoverable by Plaintiff in the event of a breach. After adequate discovery, the court fixed a trial date. Plaintiff now plans to file a motion for summary judgment.
- (a) When is the latest date before the trial date that Plaintiff can file and serve the motion for summary judgment and all supporting documents? **(1 pt.)**
 - (b) Plaintiff has timely filed and served the motion for summary judgment. The court set a hearing date on the motion. When is the latest date Defendant can file and serve an opposition to the motion? **(1 pt.)**
 - (c) Defendant timely filed and served an opposition to the motion. When is the latest date Plaintiff can file and serve a reply to Defendant's opposition? **(1 pt.)**
 - (d) What additional documents, if any, may Plaintiff file with the reply? **(1 pt.)**
 - (e) When is the last day for the court to render a judgment on the motion? **(1 pt.)**

TEST CONTINUES ON NEXT PAGE

- 1.8. 3 pts.** In a tort suit, expert witness reports have been exchanged, and the discovery depositions of both experts have been taken. Attorney for Defendant believes that Plaintiff's expert is unqualified to give expert testimony in the suit and that his methodology is "junk science."
- (a) What motion should be brought before the court to test the expert's qualifications and opinions? **(1 pt.)**
 - (b) What is the time deadline for bringing the motion? **(1 pt.)**
 - (c) What is the deadline for the judge to rule on the motion? **(1 pt.)**
- 1.9. 5 pts.** In a suit for breach of contract, Defendant failed to respond to discovery propounded by Plaintiff. Plaintiff filed a motion to compel discovery. After a hearing on the motion, the judge ordered Defendant to respond to the discovery within 15 days. The 15 days have now passed, and Defendant has still failed to respond to the discovery.
- (a) What action should Plaintiff take? **(1 pt.)**
 - (b) List four (4) of the actions the judge might properly order in response in this case. **(4 pts.)**
- 1.10. 7 pts.** Decedent left a valid testament naming his Daughter as the independent executor of his succession. At the time of his death, Decedent was domiciled in Louisiana and owned his residence. Daughter seeks to open succession proceedings in order to qualify as independent executor.
- (a) What should be submitted to qualify Daughter as the independent executor? **(4 pts.)**
 - (b) Daughter, who has now qualified as Independent Executor, has received a favorable offer from a third person for the purchase of the residence. Must Daughter seek court approval in order to complete the sale? **(1 pt.)**
 - (c) After the sale of the residence, there is no longer a need for an administration, and Daughter wants to complete and close the succession. What filings with the court are required to complete and close the succession? **(2 pts.)**

TEST CONTINUES ON NEXT PAGE

1.11. 6 pts. Owner owns a large tract of farm land. Recently, after planting crops on the land, Owner discovered that Pipeline Company was in the progress of building a pipeline across neighboring property. He observed that there were survey stakes with orange flags attached running across his property in the same direction as the pipeline under construction. He approached a pipeline construction crew member, who confirmed that the crew was working for Pipeline Company and intended to begin construction shortly on and across Owner's planted field. Owner wants to protect his growing crops and prevent the intrusion on his property. Neither he nor any prior owner of the land has consented to any pipeline construction across his property.

- (a) What immediate relief might Owner request from a court to stop the entry on his property and what evidence is necessary for such relief? **(2 pts.)**
- (b) What must Owner show in order to obtain immediate relief without first giving actual notice to Pipeline Company? **(1 pt.)**
- (c) If the court issues an order granting such immediate relief, how long does this order remain in effect without further court order or agreement of the parties? **(1 pt.)**
- (d) If immediate relief is granted and in a later proceeding the court finds that the immediate relief was wrongfully issued, what relief is available to Pipeline Company? **(2 pts.)**

1.12. 3 pts. Son, who is an adult, is the only child of Mother. Son's father died many years ago. Mother is now elderly, and her mental condition has rendered her incapable of taking care of her personal needs as well as her day to day life requirements. Mother is domiciled in Jefferson Davis Parish where she owns her home. However, after her mental condition had become impaired to its current state, Mother relocated to a retirement home in Calcasieu Parish for mentally impaired patients. Son wants the authority to care for Mother.

- (a) What proceeding is available to Son to grant him the authority to care for Mother, and where should such proceeding be filed? **(2 pts.)**
- (b) After the action was filed, Mother was served but filed no response. Is Son required to take any further action before proceeding with the case? Explain briefly. **(1 pt.)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
JULY 2018**

QUESTION 2 — 40 POINTS

Plaintiff was injured when the vehicle he was operating was struck by an 18-wheeler operated by Driver and owned by Owner (a corporation). Driver was acting within the course and scope of his employment with Owner at the time of the collision. The collision occurred in Louisiana. Plaintiff, Driver, and Owner are all domiciled in Louisiana.

- 2.1. 4 pts.** Plaintiff plans to file a petition for damages against Driver and Owner in the next few days and wants to take the appropriate steps as early as possible to obtain trial by jury. What must Plaintiff do to obtain trial by jury?
- 2.2. 2 pts.** Plaintiff filed a petition for damages but did not request service on the defendants. How long and from what date does Plaintiff have to request service on the defendants?
- 2.3. 3 pts.** During discovery, Plaintiff learned that an eye witness to the accident lives in another parish, over 100 miles from the courthouse in which the trial is to be held. Plaintiff wants to present that witness for testimony at trial. Can the witness be compelled to testify at trial? Explain briefly.
- 2.4. 2 pts.** Plaintiff believes Owner has relevant and admissible information on several matters that are necessary to support Plaintiff's claims. However, Plaintiff does not know which of Owner's officials or employees would be most likely to have knowledge of these subjects.
- (a) What step might Plaintiff take to obtain the deposition of these officials and employees without knowing their identities? **(1 pt.)**
- (b) What must Owner do in response to this step? **(1 pt.)**
- 2.5. 2 pts.** Plaintiff's counsel served discovery upon Driver and Owner (Defendants) asking them to identify all witnesses to the accident. Defendants timely and accurately answered that discovery. Two weeks before trial, Defendants learned of a new, previously unidentified witness who had observed the accident. Defendants do not plan to call this witness at trial because the testimony will be adverse to Defendants' interests. What responsibility, if any, do Defendants have to divulge the identity of this new witness to Plaintiff's counsel? Explain briefly.

TEST CONTINUES ON NEXT PAGE

- 2.6. 2 pts.** Plaintiff knows that the hospital where Plaintiff was treated after the accident has documents and records that are very helpful to establish damages in his case. However, the hospital medical records librarian has refused to give the documents to Plaintiff. The librarian is not someone from whom testimony would be needed. All Plaintiff wants are the hospital's records. What might Plaintiff do to obtain the records of the hospital without taking the librarian's deposition testimony or examination at trial?
- 2.7. 3 pts.** During the jury trial, the testimony of Plaintiff's treating physician was presented to the jury by a pre-trial video deposition. The transcript of the deposition testimony was admitted into evidence, along with the treating physician's medical records concerning Plaintiff. During jury deliberations, the jury foreperson sent a note to the judge stating that the jury would like to see the transcript of the testimony of the treating physician and the medical records. Defense counsel has objected. How should the trial judge rule on defense counsel's objection and what should the judge do in response to the jury's request? Explain briefly.
- 2.8. 2 pts.** Plaintiff has completed the presentation of his case to the jury. Defendants believe that, upon the facts adduced during Plaintiff's case and applicable law, Plaintiff has shown no right to relief against Defendants and they want to have Plaintiff's case dismissed without Defendants offering any evidence.
- (a) What might be done to bring the trial to a conclusion at this point? **(1 pt.)**
- (b) If the attempt in subpart (a) fails, what impact, if any, does this failure have on the Defendants' right to offer evidence? **(1 pt.)**
- 2.9. 6 pts.** Following the jury's verdict, the judge signed and dated a judgment in favor of Plaintiff and against Defendants. Thereafter, the clerk mailed a notice of the judgment to all counsel.
- (a) How long and from what date do Defendants have to file a motion for new trial or a motion for judgment notwithstanding the verdict? **(2 pts.)**
- (b) Assume that Defendants file no motion for new trial or a judgment notwithstanding the verdict. How many days and from what date do Defendants have to file for a suspensive appeal? **(2 pts.)**
- (c) Assume that Defendants file no motion for new trial or a judgment notwithstanding the verdict. How many days and from what date do Defendants have to file for a devolutive appeal? **(2 pts.)**
- 2.10. 6 pts.** Assume that following the jury's verdict in favor of Plaintiff, Defendant timely filed motions for a new trial and for judgment notwithstanding the verdict.
- (a) What are possible grounds upon which the judge should grant a new trial? **(3 pts.)**
- (b) What are the standards the judge should use in analyzing the jury's verdict in order to determine the availability of a judgment notwithstanding the verdict? **(3 pts.)**

TEST CONTINUES ON NEXT PAGE

- 2.11. 3 pts.** Assume that Defendants timely filed for a suspensive appeal. Plaintiff believes the security furnished is insufficient or invalid. What can Plaintiff do to challenge the security's sufficiency or validity? Explain briefly.
- 2.12. 2 pts.** Defendants have properly perfected a suspensive appeal. After the trial court record was lodged with the appellate court, Plaintiff filed a motion in the trial court to tax expert witness fees and other court costs of trial to Defendant. May the trial court hear that motion? Explain briefly.
- 2.13. 3 pts.** Plaintiff did not take a suspensive appeal and made no objections in the trial court to the judgment. Defendants have properly perfected their suspensive appeal and the record has been lodged with the court of appeal. Plaintiff decides he wants to have the court of appeal modify the trial court's judgment. What must Plaintiff file and when?

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
JULY 2018**

QUESTION 3 — 20 POINTS

Each of the following multiple-choice items counts for two points. Select the letter that corresponds with the correct answer.

- 3.1. venue in tort actions
- 3.2. discovery, response deadline
- 3.3. depositions by telephone/remote electronic means
- 3.4. small succession definition
- 3.5. jury trial, challenge for cause
- 3.6. exceptions, time of filing
- 3.7. delays for new trial
- 3.8. venue in succession proceedings
- 3.9. grounds for recusal of judges
- 3.10. pleading fault of third parties in tort actions

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2018**

QUESTION 1 — 40 POINTS

- 1.1. **4 pts.** When a lawyer signs a pleading filed for a client, what does the lawyer certify personally?
- 1.2. **4 pts.** What are the pleadings to which the lawyer's certification applies?
- 1.3. **3 pts.** List three obligations a lawyer in Louisiana has as an officer of the court.
- 1.4. **4 pts.** A lawyer's signature on a discovery response constitutes a certification by the lawyer of what?
- 1.5. **4 pts.** In a personal injury case, the jury returned a verdict in favor of Plaintiff against Defendant. Plaintiff's only objection to the verdict is that it is woefully inadequate given the serious injuries suffered by Plaintiff. What action, if any, can Plaintiff take to obtain, in the trial court, an increase in the jury award while leaving the liability finding intact? Explain briefly.
- 1.6. **5 pts.** Plaintiff sued Defendant for breach of contract. The contract specified the amount of damages that would be recoverable by Plaintiff in the event of a breach. After adequate discovery, the court fixed a trial date. Plaintiff now plans to file a motion for summary judgment seeking a determination by the judge that Defendant breached the contract.
- (a) When is the latest day before the trial date that Plaintiff can file and serve the motion for summary judgment and all supporting documents? **(1 pt.)**
 - (b) Plaintiff has now timely filed and served the motion for summary judgment. The court has set a hearing date on the motion. When is the latest day that Defendant can file and serve an opposition to the motion? **(1 pt.)**
 - (c) Expert witness reports have now been exchanged, and the discovery depositions of all experts have been taken. Attorney for Defendant believes that Plaintiff's expert is unqualified to give expert testimony in the suit and that his methodology is "junk science."
 - (i) What motion should be brought before the court to test the expert's qualifications and opinions? **(1 pt.)**
 - (ii) What is the deadline for bringing the motion? **(1 pt.)**
 - (iii) What is the deadline for the judge to rule on the motion? **(1 pt.)**

TEST CONTINUES ON NEXT PAGE

- 1.7. 6 pts.** Plaintiff served Defendant with a set of interrogatories and requests for production of documents. Defendant has a box full of potentially responsive documents.
- (a) What responsibility, if any, does Defendant have to organize and label the responsive documents to correspond to the specific categories of the requests for production of documents? Explain briefly. **(3 pts.)**
 - (b) In reviewing the box of documents and discovery requests, Defendant has determined that the answers to the bulk of the interrogatories are set forth in the specific documents that are responsive to the requests for production of documents. Does this determination provide Defendant with any additional option in responding to the interrogatories? Explain briefly. **(3 pts.)**
- 1.8. 4 pts.** Defendant has failed to respond to discovery propounded by Plaintiff, so Plaintiff filed a motion to compel discovery. After a hearing on the motion, the judge ordered Defendant to respond to the discovery within 15 days. More than 15 days have now passed, and Defendant has still failed to respond to the discovery.
- (a) What action should Plaintiff take? **(1 pt.)**
 - (b) What actions may the judge order in response? Describe any three actions for full credit. **(3 pts.)**
- 1.9. 2 pts.** Which two kinds of exceptions are required to be pleaded prior to or in the answer?
- 1.10. 1 pt.** (a) If a civil trial is to be tried before a jury of six, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise?
- 1 pt.** (b) If a civil trial is to be tried before a jury of twelve, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise?
- 1.11. 2 pts.** List four reasons for which a court should deny the consolidation of two separate actions for trial.

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2018**

QUESTION 2 — 40 POINTS

The following facts apply to Questions 2.1 through 2.8. (possible total of 22 points)

Plaintiff was injured when the vehicle he was driving on a road in Calcasieu Parish was struck by an 18-wheeler operated by Driver and owned by Corporation. Driver was acting within the course and scope of his employment with Corporation at the time of the collision. Plaintiff is domiciled in Allen Parish. Driver is domiciled in Tensas Parish. Corporation is a Utah corporation but is qualified to do business in Louisiana through an application to do business filed with the Secretary of State, designating Lincoln Parish as its principal business establishment in Louisiana. Corporation has appointed a registered agent and has a Louisiana office, both located in Lincoln Parish.

- 2.1. 5 pts.** Which parish or parishes would be a proper venue for Plaintiff's lawsuit against Driver *and* Corporation? Explain briefly.
- 2.2. 2 pts.** During discovery, Plaintiff's attorney learned that an eye witness to the accident lives in another Louisiana parish, over 100 miles from the courthouse in which the trial is to be held. Plaintiff's attorney wants to present that witness for testimony at trial. Can the witness be compelled to testify at trial? Explain briefly.
- 2.3. 4 pts.** Plaintiff believes Corporation has admissible information on several matters that are necessary to support Plaintiff's claims. However, Plaintiff does not know which of Corporation's officials would be most likely to have knowledge of these subjects.
- (a) What procedure can Plaintiff follow to obtain the deposition of these officials without knowing their identities? **(2 pts.)**
- (b) If Plaintiff follows this procedure, what must Corporation do in response? **(2 pts.)**
- 2.4. 2 pts.** Plaintiff learned of a favorable eye witness to the accident. The witness resides in another state. Plaintiff wants to take the witness' deposition by telephone. The witness is willing to give a deposition by telephone. Defendant objected. What, if anything, can Plaintiff do to overcome the objection and seek to take the deposition by telephone? Explain briefly.
- 2.5. 1 pt.** Plaintiff knows that an accountant has documents and records that are very helpful to establish damages in his case. However, the accountant refuses to give the documents to Plaintiff. The accountant's testimony is not needed; all Plaintiff wants are the accountant's records. What, if anything, can Plaintiff do to obtain the accountant's records without taking the accountant's testimony?
- 2.6. 2 pts.** Defendant believes that a third person not sued by Plaintiff caused or contributed to the accident. Without naming the third person as a party to the suit, Defendant wants the jury to measure the fault of the third person so as to reduce any award to Plaintiff against Defendant. In order to accomplish this, what must Defendant do in pleadings *and* at trial?

TEST CONTINUES ON NEXT PAGE

- 2.7. 1 pt.** Jury selection has begun in the case. During jury selection, a potential juror advises that she is the legal secretary for the Plaintiff's lawyer. Defense counsel asks the judge to excuse this potential juror for cause. What should be the basis for defense counsel's request?
- 2.8. 5 pts.** Following the jury's verdict in favor of Plaintiff, Defendant timely filed motions for a new trial and for judgment notwithstanding the verdict.
- (a) Identify three possible grounds upon which the judge should grant a new trial? **(3 pts.)**
 - (b) What standards should the judge use in analyzing the jury's verdict in order to determine the availability of a judgment notwithstanding the verdict? **(2 pts.)**
- 2.9. 3 pts.** Plaintiff sued Defendant, the manufacturer of a product alleged to be the cause of Plaintiff's injuries from an accident in Louisiana. Defendant was served under the Louisiana long arm statute with a citation and certified copy of a petition filed in the Civil District Court for the Parish of Orleans. Defendant is a corporation organized under the laws of Japan, has offices and manufacturing facilities only in Japan, has no offices or employees in Louisiana or elsewhere in the United States, and has not sold any of its products in Louisiana. Some of its products that are exported from Japan are sold to an importer in Oregon, who is permitted in a written agreement with Defendant to sell and distribute the products throughout the United States, Canada, and Mexico. The importer has sold the products in 22 U.S. states through several regional distributors, one of whom is located in Texas and another of whom is located in Arkansas. Defendant's product alleged to have caused Plaintiff's injuries came from the Texas distributor who ordered it from the Oregon importer, who in turn had it shipped to Texas from Japan through the Port of Houston. Defendant has filed an exception to the jurisdiction of the court.
- What rules should the court follow in deciding the exception? How do the rules apply to the facts of this case?
- 2.10. 3 pts.** A money judgment has been rendered against a Louisiana corporation in the Thirty-Eighth Judicial District Court for Cameron Parish. The judgment is now executory.
- (a) Apart from propounding ordinary discovery, what action, if any, is available to the judgment creditor to discover whether the judgment debtor has assets that may be seized to satisfy judgment? **(1 pt.)**
 - (b) Where should this action against the judgment debtor be filed? **(1 pt.)**
 - (c) If the proper procedure is followed, the judgment debtor is properly served through its agent for service of process and the judgment debtor fails to respond, what can be done to punish Judgment Debtor? **(1 pt.)**

TEST CONTINUES ON NEXT PAGE

- 2.11. 5 pts.** Husband and Wife have always resided solely in Jefferson Parish and have one child who is 25 years old and competent and another child who is 16 years old. They own a small home in Jefferson Parish and an automobile and have less than \$10,000 in cash in a local bank. Their total assets are worth \$100,000. Yesterday, Wife died without a will and her only assets are her undivided one-half interest in these assets.
- (a) Can Husband pursue a succession procedure that does not involve obtaining formal court orders or other judgments of a court? Discuss. **(3 pts.)**
 - (b) What is the appropriate procedure for pursuing a succession under the facts described above without a judicial opening of the succession? **(2 pts.)**
- 2.12. 7 pts.** Judgment Creditor holds a valid, executory money judgment that was rendered against Judgment Debtor by a Louisiana court almost ten years ago. No payments have ever been made in full or partial satisfaction of the judgment.
- (a) What, if anything, may Judgment Creditor file to prevent the judgment from becoming prescribed? **(4 pts.)**
 - (b) If the correct filing is made, what should the court issue? **(1 pt.)**
 - (c) What notice, if any, should Judgment Debtor receive if the correct filing is made and who should send this notice? **(2 pts.)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2018**

QUESTION 3 — 20 POINTS

Ten multiple choice questions, each worth 2 points, tested the following areas of law:

- 3.1. Finality of judgments – Court of Appeal
- 3.2. Finality of judgments – Supreme Court
- 3.3. Successions; will probate deadline
- 3.4. Exceptions; time of filing
- 3.5. Venue to disavow filiation
- 3.6. Suspensive appeal bond amounts
- 3.7. Jurisdiction – City Courts
- 3.8. Abandonment of actions
- 3.9. Venue; child support modification
- 3.10. Grounds for recusal of judge

[End of Question 3]