

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE II
JULY 2018**

QUESTION 1 — 40 POINTS

Harry lived his entire life in Shreveport, Louisiana (Caddo Parish). Harry was married twice. He never executed a matrimonial agreement with either spouse.

His first marriage was to Betty. After living separate and apart for 180 days, Harry and Betty then divorced over thirty years ago. Betty married Robert one month following her divorce from Harry, and eight months later gave birth to Elizabeth. A few days after Elizabeth turned one year old, Harry received a letter from Betty stating: “Just so you know: Elizabeth is your child, but Robert and I are raising her as our own.” Harry never responded to Betty’s letter, never took any action with respect to Elizabeth, and never even met her.

Harry later married Karen and had three children with her:

- Doreen, age 48, who is unmarried and has no descendants.
- Joy, who predeceased Harry, leaving two children, Wanda and Veronica, both of whom are 25 years old.
- Lewis, age 35, who is unmarried and has no descendants.

Doreen, Lewis, Wanda and Veronica are all mentally and physically healthy.

Harry recently died intestate, while he was still married to Karen. He is survived by Betty, Karen, Elizabeth, Doreen, Lewis, Wanda and Veronica and also by his elderly mother, Margaret, and his brother, Thomas.

At the time of his death, Harry owned the following property located in Caddo Parish, Louisiana:

- Community Property: his undivided one-half interest in a home (the “Family Home”) that he and Karen purchased during their marriage with community funds.
- Separate Property: immovable property known as “Blackacre,” which he had purchased before he married Betty.
- Separate Property: immovable pastureland (the “Farm”) as well as various movable farm equipment on the Farm (the “Farm Equipment”), all of which Margaret had donated to Harry.

Following Harry’s death, his succession representative filed a disavowal action with respect to Harry’s putative parentage of Elizabeth.

Please answer the nine subquestions on the next page. All subquestions in Question 1 are worth up to four points except subquestion 1.4 which is worth up to eight points. Explain each answer; an answer without an explanation will receive no credit.

TEST CONTINUES ON NEXT PAGE

1.1. Is Elizabeth entitled to inherit from Harry? Discuss. (4 points)

ASSUME FOR QUESTIONS 1.2 TO 1.6 (IRRESPECTIVE OF YOUR ANALYSIS IN 1.1 ABOVE) THAT ELIZABETH PREDECEASED HARRY WITHOUT ANY DESCENDANTS.

1.2. Who should inherit Harry's interest in the Family Home and in what proportions? Discuss. (4 points)

1.3. If Karen remarried after Harry's death, to what interest would she be entitled in the Family Home upon her remarriage? Discuss. (4 points)

FOR SUBQUESTION 1.4 ONLY, ASSUME THAT:

- **HARRY'S INTEREST IN ALL OF HIS ASSETS HAD A VALUE OF \$1 MILLION AT THE TIME OF HIS DEATH;**
- **AT THE TIME THE SUCCESSION ADMINISTRATOR COMPLETED THE ESTATE ADMINISTRATION AND DISTRIBUTED THE ASSETS TO THE HEIRS PURSUANT TO THE JUDGMENT OF POSSESSION, THE VALUE OF THOSE ASSETS HAD INCREASED TO \$1.2 MILLION, WHICH IS THE TOTAL VALUE OF THE ASSETS RECEIVED BY HARRY'S HEIRS;**
- **NO OTHER ASSETS ARE UNDER ADMINISTRATION; AND**
- **AFTER THE JUDGMENT OF POSSESSION AND THE DISTRIBUTION OF ASSETS, A CREDITOR OF HARRY ASSERTED AND ESTABLISHED A CLAIM IN THE AMOUNT OF \$1.5 MILLION.**

1.4. What is Veronica's liability, if any, for Harry's \$1.5 million debt? Discuss. (8 points)

FOR SUBQUESTION 1.5 ONLY, ASSUME THAT DOREEN DOES NOT WISH TO INHERIT ANY INTEREST IN BLACKACRE BUT WANTS TO INHERIT HER SHARE OF THE OTHER ASSETS IN HARRY'S ESTATE.

1.5. What steps, if any, are available to Doreen to accomplish her desire to inherit her share of all of Harry's estate other than Blackacre? Discuss. If she is successful, who inherits interests in Blackacre and in what amount? (4 points)

FOR SUBQUESTION 1.6 ONLY, ASSUME THAT WANDA IS INDEBTED TO BANK, WHICH OBTAINED A JUDGMENT AGAINST HER FOR AN UNPAID NOTE AND THAT SHE DOES NOT WISH FOR BANK TO SEIZE HER INHERITANCE FROM HARRY AND THUS MAKES A TIMELY, EXPRESS, AND WRITTEN RENUNCIATION OF HER INHERITANCE FROM HARRY.

1.6. What options, if any, are available to Bank with respect to Wanda's inheritance from Harry? Discuss. (4 points)

FOR SUBQUESTIONS 1.7, 1.8 AND 1.9 ONLY, ASSUME THAT HARRY NEVER HAD ANY CHILDREN.

1.7. Who should inherit Harry's interest in Blackacre? Discuss. (4 points)

1.8. Who should inherit Harry's interest in the Family Home? Discuss. (4 points)

1.9. Who should inherit the Farm and the Farm Equipment? Discuss. (4 points)

[End of Question 1]

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QUESTION 2 — 40 POINTS

Duncan died August 10, 2017. He was a domiciliary of the State of Louisiana. He divorced Jordan in 2012. They never reconciled.

Duncan had five children: Brooke, born January 3, 1988; George and Fred, both born June 14, 1990; Ernie, born October 3, 1992; and Anne, born July 19, 1995. Duncan also had three grandchildren: Lisa and Hailey, both born of Brooke; and Vernon, born of Anne.

On May 1, 2010, Duncan signed a testament, the dispositive provisions of which read as follows in the following order:

1. I appoint Jordan the independent executrix of my last will and testament. If Jordan cannot so serve, I appoint Brooke as independent executrix.
2. I leave Jordan all of my interest in the family home (the “Family Home”).
3. I leave my 2009 Honda Accord automobile (the “Accord”) to George.
4. I leave my interest in ACME Brick, L.L.C. to Brooke and my good friend Tom.
5. I leave Brooke my grandmother’s sterling silver service (“Granny’s Silver”). Brooke is to take good care of Granny’s Silver and at her death deliver it to Lisa and Hailey.
6. I leave my 2009 Honda Accord automobile (the “Accord”) to Fred.
7. I leave the residue of my estate to Brooke, George, Fred, and Ernie, in equal shares.
8. Because Anne married outside our faith and against my direct wishes, I hereby disinherit her. I know she was 18 years old and an adult at the time of her marriage, but she knew I did not approve of the marriage. In the event the laws of Louisiana require me to leave some legacy to Anne, I direct that such legacy for her benefit be made in trust to TrustCo, but in trust and as trustee for the benefit of Anne. This trust shall be known as the “Anne Trust.” Anne shall be the income beneficiary of this trust and shall be entitled to whatever trust income applicable law requires she receive. The trust shall exist for Anne’s lifetime, and at her death, its assets shall go to Brooke, George, Fred, and Ernie, in equal shares.

This document was typewritten, dated May 1, 2010, signed by Duncan on each page and at the end, and bore the attestation clause appearing in Civil Code Article 1577. The document was executed in the presence of a notary public and two witnesses, namely, the notary’s secretary and the secretary’s daughter, who was seventeen years old at the time of execution. Duncan never executed any further testaments or codicils.

Duncan’s friend Tom died intestate in 2015 and was survived by his only child Sonny.

All of Duncan’s descendants are still alive, as are his ex-wife Jordan and his friend Tom’s son, Sonny.

Please answer the nine subquestions on the next page. All subquestions in Question 2 are worth up to four points except subquestion 2.9 which is worth up to eight points. Explain each answer; an answer without an explanation will receive no credit.

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2.1. Is Duncan’s testament in valid form? Discuss. (4 points)

ASSUME FOR THE REMAINDER OF QUESTION 2 THAT DUNCAN’S TESTAMENT IS IN VALID FORM.

2.2. Is the bequest of the Family Home to Jordan a valid legacy? Discuss. (4 points)

2.3. Who should inherit the 2009 Honda Accord automobile? Discuss. (4 points)

2.4. Is the bequest of Granny’s Silver a valid legacy? Discuss. (4 points)

2.5. Who should inherit the ACME Brick, L.L.C. membership interest? Discuss. (4 points)

2.6. One month before he died, Duncan purchased a 1938 Rolls Royce Wraith motorcar (the “Rolls”). Duncan was storing the Rolls in a commercial garage at the time of his death. None of his children knew he had purchased the Rolls, and it was discovered by the succession representative only when he received a rental invoice from the garage. After the Rolls was discovered, Duncan’s son Ernie produced and delivered to the succession representative a typed, properly executed Act of Donation and Acceptance, in authentic form and dated August 29, 2015, which read in relevant part: “I hope one day to find a 1938 Rolls Royce Wraith for sale and buy it. If I do, I hereby donate that motorcar to my son, Ernie.” Following this statement, Ernie formally accepted the donation, and the document then reads as follows: “THUS DONE AND PASSED in my office at Baton Rouge, Louisiana, on this 29th day of August, 2015, in the presence of the undersigned competent witnesses and notary after reading of the whole,” followed by the signatures of Duncan, Ernie, two competent witnesses, and a notary public.

Did Duncan make a valid inter vivos or testamentary donation of the Rolls to Ernie? Discuss. (4 points)

2.7. Has Duncan effectively disinherited Anne? Discuss. (4 points)

FOR THE REMAINDER OF QUESTION 2, ASSUME THAT DUNCAN NEVER SOUGHT TO DISINHERIT ANNE AND THUS THAT DUNCAN HAD OMITTED THE FIRST TWO SENTENCES FROM PARAGRAPH 8 OF HIS LAST TESTAMENT.

2.8. What portion, if any, of Duncan’s estate should Anne inherit? Discuss. (4 points)

2.9. Should the Anne Trust fail? Discuss. (8 points)

[End of Question 2]

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QUESTION 3 — 20 POINTS

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

- 3.1. liabilities of a trustee

- 3.2. devolution of separate property

- 3.3. form of trusts

- 3.4. ingratitude as a basis for not inheriting

- 3.5. form of testaments

- 3.6. conflict of laws

- 3.7. delegation of testamentary legacies

- 3.8. presumption of paternity for inheritance purposes

- 3.9. termination of trusts

- 3.10. collation

[End of Question 3]

END OF CIVIL CODE II TEST

**LOUISIANA STATE BAR EXAMINATION — CIVIL CODE II
FEBRUARY 2018**

QUESTION 1 — 40 POINTS

Fred died intestate last month. At the time of his death, he was domiciled in Louisiana and was married to Marge. They never executed a matrimonial agreement.

Fred had two children during his marriage with Marge: Steven and Doris, neither of whom is a forced heir. Well before his marriage to Marge, Fred fathered a child, Mike. Mike was given up for adoption shortly after his birth, and Fred has neither seen nor talked to Mike.

Fred is survived by Marge, Steven, Doris and Mike and also by Fred's brother, Brian, and Fred's mother, Gran. Fred is also survived by his predeceased sister Carlotta's husband, Marvin, and her two children, Nicole and William.

At the time of his death, Fred owned the following property:

- A home (the "Family Home") that he and Marge purchased during their marriage with community funds.
- A brokerage account (the "Brokerage Account") established by Fred and Marge during their marriage which was funded by a portion of each of their salaries.
- Naked ownership of one-sixth of Blackacre, the farm and residence where Fred was raised and where Gran still lives. Fred inherited this interest from his father while Fred was married to Marge.
- Naked ownership of one-sixth of Whiteacre, an industrial parcel. Fred inherited this interest from his father while Fred was married to Marge. Whiteacre, a former refinery, is abandoned and heavily polluted.
- A gold watch (the "Watch") given to Fred by his father.
- A signed, first edition of Kurt Vonnegut's novel, *Slaughterhouse-Five*.
- A vintage Mustang automobile (the "Mustang") that a friend donated to Fred on his fortieth birthday.
- An Albert Bierstadt western landscape painting (the "Bierstadt").

1.1. Who inherits Fred's one-half community interest in the Family Home? Discuss. (4 points)

1.2. What rights, if any, does Marge have in Blackacre? Discuss. (4 points)

1.3. What might the successors to Fred's interest in Whiteacre do to avoid being in the chain of title to the polluted property? Discuss. (4 points)

1.4. If some of the successors to Whiteacre take the steps necessary to avoid being in the chain of title to Whiteacre, are they precluded from inheriting any interest in Blackacre? Discuss. (4 points)

FOR QUESTIONS 1.5. AND 1.6. ONLY, ASSUME THAT FRED NEVER FATHERED ANY CHILDREN

1.5. Who inherits Fred's interest in the Brokerage Account? Discuss. (4 points)

1.6. Who inherits Fred's interest in the Mustang? Discuss. (4 points)

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FOR QUESTIONS 1.7. TO 1.10. BELOW, ASSUME THAT FRED DID NOT DIE INTTESTATE BUT INSTEAD DIED WITH A VALIDLY EXECUTED LAST WILL AND TESTAMENT, THE DISPOSITIVE PROVISIONS OF WHICH READ AS FOLLOWS:

1. I leave my interest in our Family Home to Marge.
2. I leave my signed, first edition of Kurt Vonnegut's *Slaughterhouse-Five* to Brian.
3. I leave my Mustang to Steven.
4. I leave my Watch to Steven. At his death, I hope he gives it to his son, or, if he has no son, to William.
5. I leave Doris all my books, records, and collectable coins and stamps.
6. I leave my Mustang to Nicole.
7. I leave my Bierstadt to Doris. If Doris predeceases me or renounces this bequest, the Bierstadt shall go to the American Museum of Western Art in Denver, Colorado.
8. I name Marge as my executor. I direct that the residue of my estate be divided into two equal shares: the first share shall go to such of my children, in whatever shares, as my executor, in her sole discretion, shall determine; the second share shall go to such public charities, in whatever shares, as my executor, in her sole discretion, shall determine.

- 1.7. Is the disposition of Fred's Watch an invalid prohibited substitution? Discuss. (4 points)**
- 1.8. Who inherits the signed, first edition of Kurt Vonnegut's *Slaughterhouse-Five*, and who inherits the Mustang? Discuss. (4 points)**
- 1.9. Does Fred's will validly dispose of the residue of his estate? Discuss. (4 points)**
- 1.10. If Doris had predeceased Fred, would the bequest of the Bierstadt to the American Museum of Western Art be valid? Discuss. (4 points)**

[End of Question 1]

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QUESTION 2 — 40 POINTS

Delores died in Harris County, Texas earlier this month. She never married. She had five children, each of whom survived her and have always lived in Caddo Parish, Louisiana:

- Frieda, who was age 35 at the time of Delores' death.
- Lynette, who was age 33 at the time of Delores' death.
- Stan, who was age 30 at the time of Delores' death.
- Wilbur, who was age 27 at the time of Delores' death.
- Sally, who was age 23 at the time of Delores' death.

Delores was born and lived in Caddo Parish until ten years ago when she had a falling out with her children and moved to Harris County, Texas. Each of Delores' children is healthy except Stan who, before Delores' death, suffered a permanent brain injury giving him the mental age of a three-year old.

Two years ago, Delores executed a will in Harris County, Texas leaving her entire estate to a public charity (the "Charity"). This will was written and in proper Texas form; however, it lacked the attestation clause required under Louisiana Civil Code Article 1577.

At the time of her death, Delores' only asset was 500 acres of immovable property in DeSoto Parish, which she had inherited from her father prior to her move to Harris County, Texas. Delores never made any *inter vivos* donations.

The Charity probated Delores' will in Harris County, Texas and recorded an exemplified copy of the Order of Probate in the conveyance records of DeSoto Parish.

- 2.1. Is Delores' will valid in Louisiana? Discuss. (5 points)**
- 2.2. Is the recordation of an exemplified copy of the Texas probate order in the DeSoto Parish conveyance records sufficient to place the Charity in possession of any interest in the DeSoto Parish property? Discuss why or why not; and if not, discuss what further procedural steps are required. (5 points)**
- 2.3. What interest in the DeSoto Parish property is each of the following parties entitled to receive from Delores' succession: the Charity, Frieda, Lynette, Stan, Wilbur and Sally? Discuss as to each such party. (25 points)**
- 2.4. In the event Frieda wishes to challenge Delores' will on the grounds of lack of testamentary capacity, what burden of proof must she meet? Discuss. (5 points)**

[End of Question 2]

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QUESTION 3 — 20 POINTS

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

- 3.1. Trusts; alienation
- 3.2. Competency of witnesses to testaments
- 3.3. Form of trusts
- 3.4. Form of testament
- 3.5. Joint legacy
- 3.6. Representation of trust beneficiaries
- 3.7. Distribution of legacies
- 3.8. Filiation
- 3.9. Donations
- 3.10. Trust formation

[End of Question 3]

END OF CIVIL CODE II TEST

**LOUISIANA BAR EXAMINATION
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QUESTION 1 — 50 POINTS

PART A (INTESTATE SUCCESSION)

Peter died intestate on February 1, 2017. Peter and his wife, Wendy, were domiciled in Louisiana for their entire marriage. They never executed a matrimonial agreement. Peter was survived by their two children: Doug and Felicia. Peter was also survived by his mother, Gran, and his only sibling, Rory.

Peter had one other child, Barbara, with another woman before his marriage to Wendy. Barbara, who died in 2015, was survived by her sons, Harry and Kenny. Her last will and testament, which was closed by a judgment of possession in 2015, left her entire estate in equal parts to Harry, Kenny and Mike, who is her husband's son from a previous marriage. Barbara had raised Mike as her own child but never formally adopted him.

On February 10, 2017, Wendy was qualified as Peter's succession representative. Thereafter, Wendy discovered among Peter's papers a letter from Doug to Peter, dated December 26, 2016. The letter was written and signed by Doug and reads in part as follows: "I want nothing to do with you ever again. I don't even want your money. Therefore, I expressly renounce any inheritance from you."

At the time of his death, Peter owned the following property in Louisiana:

- Community Property: an undivided one-half interest in a home (the "Family Home") that he and Wendy purchased during their marriage.
- Separate Property: a gold watch that Peter inherited from his father.
- Separate Property: An original painting by Melissa Brampton, a well-known abstract artist, that Rory gave to Peter as a birthday present.
- Separate Property: Blackacre, a tract of land that Gran had donated to Peter.

1.1. Upon Peter's death, who owned interests in the Family Home and in what proportions? Discuss. (10 points)

1.2. What rights, if any, does Wendy have in Blackacre? Discuss. (3 points)

FOR QUESTIONS 1.3. AND 1.4. ONLY, ASSUME THAT PETER NEVER FATHERED ANY CHILDREN.

1.3. Who inherits Peter's gold watch? Discuss. (3 points)

1.4. Who inherits Blackacre from Peter? Discuss. (3 points)

TEST CONTINUES ON NEXT PAGE

PART B (TESTATE SUCCESSION)

For Part B of Question 1, assume that the same facts apply as Part A of Question 1, except that none of Peter's heirs is a forced heir and that Peter died with a valid last will and testament, the relevant provisions of which read as follows:

1. I leave my interest in our family home to Wendy.
2. I leave my gold watch to Doug. He is to take good care of it for his lifetime and at his death leave it to Harry.
3. Because it is our old family homestead, I ask that my mother, Gran, decide who should inherit my interest in Blackacre.
4. I leave my Brampton painting to my daughter, Felicia.
5. I leave the residue of my estate one-third to Doug, one-third to Felicia, and one-ninth each to Harry, Kenny, and Mike, subject to Wendy's usufruct for life.
6. I name Wendy my independent executrix.

1.5. Which disposition or dispositions, if any, of the testament are invalid? Discuss. (8 points)

FOR QUESTIONS 1.6. TO 1.8. ONLY, ASSUME THE FOLLOWING ADDITIONAL FACT:

On December 25, 2016, Peter was visited by Susan, an aspiring artist. Susan admired Peter's Brampton painting, and Peter, telling her that it should be owned by someone who would appreciate it, took the painting off the wall and gave it to her.

1.6. Can Felicia successfully require Susan to return the Brampton painting to Peter's succession, so that ownership of the painting can pass via his testament? Discuss. (8 points)

FOR QUESTIONS 1.7. AND 1.8. ONLY, ALSO ASSUME THE FOLLOWING YET ADDITIONAL FACTS:

On January 5, 2017, Peter visited Susan to look at the Brampton painting. Seeing that she had hung it upside down, Peter quipped that she knew nothing about fine art. Susan became enraged and, grabbing a large kitchen knife, stabbed Peter in the leg. She told him that if he ever mentioned the Brampton painting again, she would slit his throat.

1.7. On what basis, if any, might Wendy have the donation of the Brampton painting to Susan revoked? If so, what prescriptive period applies to such action? Discuss. (9 points)

FOR QUESTION 1.8. ONLY, ALSO ASSUME THE FOLLOWING YET ADDITIONAL FACTS:

The next day (January 6), Susan sold the painting to Acme Art Gallery for \$100,000, its fair market value at the time. Following a January 15, 2017 triumphal exhibition of Melissa Brampton's abstract paintings at the New Orleans Museum of Art, the fair market value of the painting Susan sold to Acme Art Gallery doubled in value to \$200,000, which remains its current value.

1.8. If Wendy is successful in revoking Peter's donation of the Brampton painting to Susan, what must Susan return to Peter's succession? Discuss. (6 points)

[End of Question 1]

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QUESTION 2 — 30 POINTS

Oliver Jones died in 2015. He was a domiciliary of Louisiana. Oliver's wife died many years ago. Oliver and his wife had one child, Parker. Parker is not a forced heir of Oliver. Oliver had no other marriages or children.

Among Oliver's personal papers, his secretary found a document, entirely written in Oliver's hand, signed by him, and reading as follows:

“On this, my seventieth birthday, I make this last will and testament. The two loves of my life have been higher education and Parker, my only child. I am very concerned, however, with Parker's ability to manage his money. I know he has creditors, and I worry that he will squander his inheritance. Therefore, I am leaving half of my estate in a spendthrift trust with my brother, Bob, for Parker's benefit. The other half of the estate can go to such colleges and universities as my succession representative decides.

[signed] Oliver Jones

But I don't want my 1962 Ferrari 250 GTO to go in the trust or to the colleges and universities. It should go to the car museum in Maranello, Italy.”

At the time of Oliver's death, Parker had two creditors (the “Creditors”): National Bank (the “Bank”), which had a valid, final, but unsatisfied judgment for Parker's default on a loan from the Bank; and Parker's former wife, Wanda, who had a valid, final, but unsatisfied judgment against Parker for his failure to pay court-ordered alimony. The Creditors would like to execute their judgments against Parker's inheritance from Oliver.

- 2.1. The Creditors assert that the document found by Oliver's secretary is not a valid testament. Are they correct? Discuss. (8 points)**
- 2.2. The Creditors further assert that even if the writing constitutes a valid testament, the language in the document is insufficient to create a trust for the benefit of Parker. Are they correct? Discuss. (7 points)**
- 2.3. The Creditors further assert that even if a valid trust has been created by the writing, the language in the document is insufficient to bypass the general rule of the Louisiana Trust Code that a beneficiary may transfer or encumber his interest in a trust, unless the trust instrument provides to the contrary. Are they correct? Discuss. (4 points)**
- 2.4. (a) Does the Bank have a valid basis to seize trust assets to satisfy its judgment against Parker? Discuss. (2 points)**
(b) Does Wanda have a valid basis to seize trust assets to satisfy her judgment against Parker? Discuss. (2 points)
- 2.5. Is the bequest to the colleges and universities a valid bequest? Discuss. (4 points)**
- 2.6. May a court consider the bequest of the Ferrari to be part of Oliver's purported will, even though it appears after Oliver's signature? Discuss. (3 points)**

[End of Question 2]

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QUESTION 3 - (20 POINTS)

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

Conflict of laws (1), filiation (1), forced heirship (3), intestate distribution (1), Louisiana Trust Code (2), testate distribution (2)

[End of Question 3]

END OF CIVIL CODE II TEST

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FEBRUARY 2017**

QUESTION 1 — 40 POINTS

Kevin and his wife, Barbara, were married in Louisiana and domiciled in Louisiana for their entire marriage. They never executed a matrimonial agreement. Kevin and Barbara had three children: Emily, Frank, and George. Kevin had no other children. Three years ago, George died, leaving his spouse, Jenna, and three children: Lily, Mary, and Nancy.

Kevin died intestate in Louisiana on November 1, 2015. He is survived by each person listed above, other than George. Neither Emily nor Frank is a forced heir of Kevin. Kevin is also survived by his mother, Harriet, and his only sibling, Susan.

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

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

- 1.1. Who succeeds to Kevin’s interest in the Family Home? Discuss. (12 points)**
- 1.2. For question 1.2 only, assume that Emily does not wish to be in the chain of title to the Family Home. What action must she take to effectuate her wish, and what are the legal requirements for such action? May Emily nonetheless inherit a portion of Kevin’s interest in the Farm? Discuss. (9 points)**

FOR QUESTIONS 1.3 AND 1.4 ONLY, assume that Barbara married Art on February 1, 2016.

- 1.3. What effect, if any, does Barbara’s marriage to Art have on ownership of the Family Home? Discuss. (4 points)**
- 1.4. For question 1.4 only, also assume that Barbara gave birth to Olivia on July 1, 2016. Under these circumstances, who succeeds to Kevin’s interest in the Farm? Discuss. (7 points)**

FOR QUESTIONS 1.5 AND 1.6 ONLY, assume that Kevin never had any children.

- 1.5. Who succeeds to Kevin’s interest in the Family Home? Discuss. (4 points)**
- 1.6. Who succeeds to Kevin’s interest in the Timberland? Discuss. (4 points)**

[End of Question 1]

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QUESTION 2 — 40 POINTS

Ellen was a domiciliary of the State of Louisiana. She and her husband, Fred, had five children: Kendra, Laura, Marcie, Paul, and Quincy. Her son Quincy had two children: Abby and Bella.

In 2010, Ellen executed a testament, the dispositive provisions of which read in the following order:

1. I appoint Fred the independent executor of my last will and testament. If Fred cannot so serve, I appoint Kendra as the independent executrix of my last will and testament. If Kendra cannot so serve, I appoint Marcie as independent executrix of my last will and testament.
2. I leave Fred all of my interest in our family home.
3. I leave Marcie my vintage 1968 Corvette; if Marcie does not survive me, I leave this Corvette to the National Corvette Museum of Bowling Green, Kentucky.
4. I leave my 2009 Honda to Paul.
5. I leave my interest in ACME Brick, L.L.C. to Marcie and my good friend Tom.
6. I leave a cash sum equal to 10% of my gross estate to charity. I direct my executor to select the charities and determine how much each should receive.
7. I leave my 2009 Honda to Laura.
8. I leave Quincy my grandmother's sterling silver service ("Granny's Silver"). Quincy is to take good care of Granny's Silver and at his death deliver it to Abby and Bella.
9. I leave the residue of my estate to my children, in the following shares: as to Kendra, a forty percent share; as to my other children, a fifteen percent share each.

This document was in writing, dated, signed by Ellen on each page and, at the end, bore the attestation clause as required by the Civil Code. It was executed in the presence of a notary public and witnessed by the notary's secretary and by Kendra's husband, Hubert, who had driven Ellen to the notary's office.

Ellen divorced Fred in 2012, and they never reconciled. All issues concerning the community were properly resolved in the divorce proceeding, and Ellen received in full ownership all property described above.

Ellen has now died and is survived by all other parties discussed above.

- 2.1. Who inherits the family home and in what proportions? Discuss. (12 points)**
- 2.2. Is Kendra entitled to be appointed as Ellen's independent executrix? Discuss. (6 points)**

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- 2.3. With respect to the Corvette, is the possible substitution of the National Corvette Museum for Marcie a permitted substitution under the Louisiana Civil Code? Discuss. (3 points)**
- 2.4. Who inherits the Honda? Discuss. (3 points)**
- 2.5. Is the charitable bequest of 10% of the gross estate valid? Discuss. (3 points)**
- 2.6. Is the bequest of Granny's Silver valid? Discuss. (3 points)**

FOR QUESTION 2.7 ONLY, **assume** that Ellen's friend Tom (referenced in clause 5 of the testament) predeceased Ellen and died intestate as a Louisiana domiciliary, leaving as his sole heir his daughter, Ursula.

- 2.7. Who inherits the ACME Brick, L.L.C. membership interests? Discuss. (6 points)**

FOR QUESTION 2.8 ONLY, assume the following: Ellen's father, William, was a Texas domiciliary and died at his home in Texas in 2013; he left immovable property in Louisiana. William had executed a typewritten testament in which he left all of his property, "wherever situated, real or personal," to Ellen. Although William's testament is in the form required under Texas law, it does not contain the attestation clause required under the Louisiana Civil Code.

- 2.8. Is William's testament valid and enforceable as to his immovable property in Louisiana? Why or why not? (4 points)**

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
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FEBRUARY 2017**

QUESTION 3 — 20 POINTS

Multiple choice questions, each worth 2 points, testing the following areas of law:

- 3.1 Collation
- 3.2 Filiation
- 3.3 Form of trusts
- 3.4 Ingratitude
- 3.5 Devolution of separate property
- 3.6 Form of testament
- 3.7 Form of olographic testament
- 3.8 Trusts; alienation
- 3.9 Form of trusts
- 3.10 Joint legacy

[End of Question 3]

END OF CIVIL CODE II TEST

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
JULY 2016**

**QUESTION 1
(30 POINTS)**

Noah and his wife, Sandra, were married in Louisiana and domiciled in Caddo Parish for their entire marriage. They never executed a matrimonial agreement. Many years ago, long before he met Sandra, Noah fathered a child with his high school girlfriend. Noah never saw the child, who was given up for adoption at birth. The child's adoptive parents named him Pete.

Noah had the following three children with Sandra:

- Alice, age 45, who is married to Bob and with whom she has one child, Trudy, who is fifteen years old and has no descendants. Alice is mentally and physically healthy.
- Zoe, who died several years ago, leaving three children, Carmen, Joe, and Lily, all of whom are in their late twenties and are mentally and physically healthy.
- Kevin, age 40. Kevin is currently in a state penitentiary long-term care facility. He is imprisoned for the attempted murder of Noah, having shot Noah during an argument. While imprisoned, Kevin was seriously injured in a prison fight, and his physicians have determined that he will have the mental function of a very young child for the rest of his life. Kevin never married and has one child, Quincy, who is sixteen years old and lives with Noah's elderly mother, called Gram.

Noah died intestate this year. At the time of his death, Noah owned the following property located in Caddo Parish, Louisiana:

- Community Property: an undivided one-half interest in a home (the "Family Home") that he and Sandra purchased during their marriage with community funds.
- Separate Property: an industrial parcel (the "Smelting Plant"), which is contaminated by heavy metals and thus which Alice believes has no value.

Noah is also survived by his mother (Gram) and his sister, Ruth. Noah and Ruth never had any other siblings. Ruth died intestate as a result of an accident a week after Noah's death. She was sixty years old and otherwise healthy. She was married to David at the time of her death and never had any children.

TEST CONTINUES ON NEXT PAGE

- 1.1 2 pts. Can Pete inherit from Noah?
- 1.2 8 pts. Gram does not believe Kevin should inherit anything from Noah. What procedural avenues, if any, are open to her to accomplish this goal; and what effect, if any, does Kevin's physical condition have on Gram's procedural avenues?
- 1.3 8 pts. For the purposes of this subquestion 1.3 only, assume that Pete is Noah's heir and Kevin has been declared an unworthy heir of Noah. Who inherits Noah's interest in the family home? Please identify and discuss the interest inherited by each heir.
- 1.4 6 pts. Alice does not wish for her or her daughter (Trudy) to inherit the Smelting Plant, but she is interested in inheriting her share of the other assets. Noah's other heirs would like to own Alice's share of the Smelting Plant. What procedural avenues, if any, are available to Alice to accomplish both her and the other heirs' goals? Discuss.
- 1.5 6 pts. For the purpose of this subquestion 1.5 only, assume that Noah had no descendants. Who inherits the Smelting Plant?

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
JULY 2016**

**QUESTION 2
(30 POINTS)**

Franco and his wife, Marilyn, were married in Louisiana and domiciled in Saint Helena Parish, Louisiana. They never executed a matrimonial agreement.

At the time of his death Franco had fathered the following four children with Marilyn, all of whom are over the age of twenty-three and in good physical and mental health: Amy, Beth, Charles, and Donna. Franco's only grandchild is Charles's son, Gregory, who is two years old. Franco is also survived by six brothers and sisters.

Franco executed a valid notarial testament that contained the following dispositive provisions:

1. I leave my Vintage Model A automobile (the "Model A") to Amy. If Amy predeceases me or renounces this bequest, the Model A shall go to the Gilmore Car Museum of Hickory Corners, Michigan.
2. I leave Charles my 1st Edition, signed copy of Ernest Hemingway's famous novel The Sun Also Rises.
3. I leave Charles the pocket watch I received from my father (the "Pocket Watch"); it has always been owned by the family's oldest son. Charles is to take good care of the Pocket Watch for the remainder of his life and leave the Pocket Watch at his death to Gregory.
4. I leave Donna my A. J. Drysdale painting known as "Smoke on the Bayou."
5. I leave each of Amy, Beth, Charles, and Donna the cash sum of \$10,000.
6. I leave Donna all my books, records, and collectable coins and stamps.
7. I direct that the residue of my estate be divided into two equal shares: the first share shall go to such of my brothers and sisters as my executrix, in her sole discretion, shall determine; the second share shall go to such public charities as my executrix, in her sole discretion, shall determine.

After he executed his will, Franco orally told Beth that he wanted her to have the Drysdale painting. She thanked him, took the painting off Franco's wall, and hung it in her own home.

Shortly before his death, Franco had a short-term liquidity problem and borrowed \$10,000 from Amy. He executed a valid promissory note for the debt, but it was unpaid at the time of Franco's death.

TEST CONTINUES ON NEXT PAGE

- 2.1 4 pts. If Amy had predeceased Franco, would the bequest of the Model A to the Gilmore Car Museum of Hickory Corners, Michigan be valid? Discuss.
- 2.2 4 pts. Is the bequest of the Pocket Watch valid? Discuss.
- 2.3 6 pts. Can Donna require Beth to return the Drysdale painting to Franco's succession, so that ownership of the painting can pass via his testament? Discuss.
- 2.4 4 pts. Who between Charles and Donna inherits Franco's 1st Edition, signed copy of Ernest Hemingway's famous novel The Sun Also Rises? Discuss.
- 2.5 4 pts. For purposes of this subquestion 2.5 only, assume that Amy made a claim on the succession, demanding that the \$10,000 loan she made to her father be paid and that the executrix informed Amy that the particular legacy of \$10,000 she received in Franco's will satisfies the debt and she is not entitled to "more than her siblings."
Is the legal position taken by the executrix correct? Discuss.
- 2.6 8 pts. Does Franco's will validly dispose of the residue of his estate? Discuss.

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
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**QUESTION 3
(30 POINTS)**

Martha died in 2015. She was a domiciliary of Louisiana. Martha's husband died many years ago. Martha and her husband had three children, Allen, who is over the age of twenty-three and in good physical and mental health; Betsy, who predeceased Martha in May, 2014, leaving one child, George; and Diane, who is over the age of twenty-three and in good physical and mental health. Martha had no other marriages or children.

Martha is also survived by her sister, Sarah.

Martha left a last will and testament in notarial form, dated January 15, 2011, executed by her, notarized by her attorney, and witnessed by Sarah and the attorney's secretary. The provisions of the will read as follows:

- I name Giant National Bank (the "Bank") as my independent executor.
- I leave Sarah the cash sum of \$100,000.
- I leave Diane nothing, for reasons she well knows.
- I leave the residue of my estate, including any renounced or lapsed legacies, to Sarah, but in trust and as trustee for the benefit of Allen and Betsy. The name of this trust shall be the "Trust." If Sarah does not qualify as trustee of the Trust, or having qualified, no longer serves as trustee of the Trust, I appoint the Bank as Trustee of the Trust.
- I wish the Trust to benefit my family for generations; therefore, it shall have a term of 200 years.
- The Trust shall be a spendthrift trust.

Among Martha's papers, her family found a document, entirely written in her hand, signed by her at the end, and reading in its entirety as follows:

Sarah would be a terrible trustee for Allen and Betsy. Giant National Bank will be their trustee.
s/Martha

Following Martha's death, the Bank qualified as Martha's independent executor and informed Sarah of the following: (1) it will not honor the \$100,000 particular legacy to her and will seek a Judgment of Possession in which the \$100,000 passes to the Trust; and (2) pursuant to Martha's instructions in the written document found among her papers, it will seek a Judgment of Possession naming the Bank as trustee of the Trust.

TEST CONTINUES ON NEXT PAGE

- 3.1 8 pts. Is the Bank's position regarding the succession of the \$100,000 correct? Discuss.
- 3.2 6 pts. Is the Bank's position regarding the proper trustee of the Trust correct? Discuss.
- 3.3 4 pts. Who are the proper beneficiaries of the Trust? Discuss.
- 3.4 4 pts. After the Judgment of Possession and the funding of the Trust, Allen concluded that Diane was treated unfairly by Martha and, in order to right this wrong, he donated to Diane, via authentic act, one-half of his interest in the Trust. Is this a valid donation? Discuss.
- 3.5 8 pts. What is the maximum term of the Trust?

[End of Question 3]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA BAR EXAMINATION
CIVIL CODE II
JULY 2016**

**QUESTION 4
(10 POINTS)**

Multiple choice questions, each worth 2 points, testing the following areas of the law:

- 4.1 Form of testament.
- 4.2 Filiation.
- 4.3 Devolution of separate property.
- 4.4 Spendthrift trust.
- 4.5 Inheritance of installment obligation.

[End of Question 4]

END OF CIVIL CODE II EXAM