

**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.)**

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- 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.)**

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- 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]

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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.

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- 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.)**

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- 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]

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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.)**

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- 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]

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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.)**

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- 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]

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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]

**LOUISIANA STATE BAR EXAMINATION
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JULY 2017**

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.** What obligations does an attorney have 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.** During a discovery deposition, under what circumstances may a party instruct a deponent not to answer a question?
- 1.6. **2 pts.** What is the deadline, if any, to serve upon an adverse party an offer of judgment?
- 1.7. **4 pts.** What are the only documents that may be filed in support of, or in opposition to, a Motion for Summary Judgment?
- 1.8. **5 pts.** Plaintiff was injured when the vehicle he was operating was rear-ended by a truck operated by Driver and owned by Company. Driver was acting within the course and scope of his employment with Company at the time of the collision. The collision occurred in Calcasieu Parish. Plaintiff is domiciled in Allen Parish. Driver is domiciled in Tensas Parish. Company is a Utah corporation but is qualified to do business in Louisiana through the Secretary of State, designating Lincoln Parish as its principal business establishment in its application to do business. It has appointed a registered agent and has a Louisiana office, both located in Lincoln Parish.
- (a) What parish or parishes would be a proper venue for Plaintiff's lawsuit against Driver and Company? **(4 pts.)**
- (b) Plaintiff served discovery (interrogatories and requests for production of documents) on Driver with the citation and petition. Within what period of time from service of citation and petition must Driver respond to this discovery? **(1 pt.)**
- 1.9. **1 pt.** Plaintiff knows that his former 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 is not someone from whom testimony would be needed. All Plaintiff wants are accountant's records. What can plaintiff do to obtain the records of the accountant without taking the accountant's testimony?

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- 1.10. 9 pts.** Plaintiff served Company with a set of interrogatories and requests for production of documents. Company has a box of potentially responsive documents.
- (a) What responsibility, if any, does Company have to organize and label the responsive documents to correspond to the specific categories of the request for production of documents? **(3 pts.)**
 - (b) In reviewing the box of documents and discovery requests, Company 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 Company with any additional option in responding to the interrogatories? Explain briefly. **(3 pts.)**
 - (c) During the course of Company's review of the documents, Company discovered numerous pre-lawsuit emails among non-lawyer upper level management employees discussing possible strategies and other issues that may arise in the event of a suit, similar to the suit filed by Plaintiff.
 - (i) Are these pre-lawsuit emails by non-lawyer employees of Company subject to production? Explain briefly. **(1 pt.)**
 - (ii) Company decided not to produce the pre-lawsuit emails. How should Company respond to the document request as to the pre-lawsuit emails? Explain briefly. **(2 pts.)**

[End of Question 1]

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QUESTION 2 — 40 POINTS

- 2.1. 2 pts.** Trial is by jury. Defendant believes that a third party not sued by Plaintiff caused or contributed to the accident. Defendant wants the jury to measure the fault of the third party so as to reduce any award to Plaintiff against Defendant, without naming third party as a party to the suit. What must Defendant do in pleadings and at trial to accomplish that?
- 2.2. 4 pts.** Plaintiff believes Defendant Corporation has relevant and 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 action can Plaintiff take to obtain the deposition of these officials without knowing their identities? **(2 pts.)**
- (b) What must Corporation do to comply with this action? **(2 pts.)**
- 2.3. 2 pts.** When may a deposition be taken by telephone or other remote electronic means?
- 2.4. 5 pts.** Defendant failed to respond to discovery requests 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 request within 15 days. Defendant has still failed to respond to the discovery request.
- (a) What action should Plaintiff take? **(1 pt.)**
- (b) What actions may the judge order in response? Describe any four actions for full credit. **(4 pts.)**
- 2.5. 1 pt.** Plaintiff sued Defendant for personal injuries arising from a motor vehicle accident. At the beginning of the litigation, Plaintiff's counsel propounded interrogatories asking Defendant to identify all witnesses to the accident, and Defendant timely and accurately answered these interrogatories. Two weeks before trial, Defendant learned of a new, previously unidentified witness who observed the accident. Defendant does not want to call this witness at trial, since the testimony will be adverse to Defendant's interests.
- What responsibility, if any, does Defendant have to divulge the identity of this new witness to Plaintiff's counsel?
- 2.6. 6 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) What are three possible grounds upon which the judge should grant a new trial? **(3 pts.)**
- (b) What are the standards that the judge should use in analyzing the jury's verdict in order to determine the availability of a judgment notwithstanding the verdict? **(3 pts.)**

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- 2.7. 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 filed a declinatory exception asserting that the court lacked personal jurisdiction over Defendant. The exception contained affidavits of Defendant's officers and attached verified business records that show that Defendant is a corporation organized under the laws of India, 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. Defendant's supporting affidavits and business records show that some of its products that are exported from Japan are sold to an importer in New Jersey, who is permitted in a written agreement with Defendant to sell and distribute the products throughout the United States, Canada, and Mexico. Defendant's records also show that the importer has sold the products in 22 U.S. states through several regional distributors, one of which is located in Texas and another of which is located in Arkansas. Defendant's product alleged to have caused Plaintiff's injuries came from the Texas distributor who ordered it from the New Jersey importer who had it shipped to Texas from Japan through the Port of Houston.

What rules should the court follow in deciding the exception? How do the rules apply to the facts of this case?

- 2.8. 6 pts.** Brother and Sister have inherited a 160-acre parcel in Calcasieu Parish. The property is more or less square in shape, consists of pasture and is bounded on the entire southern border by a public road. Brother lives in Allen Parish; Sister lives in Lincoln Parish.

They no longer wish to own the property together but cannot agree either to sell the property to a third party or for one of them to sell his or her interest in the property to the other.

What judicial action is available to Sister to force a disposition of the property? What, if any, venue issues may be presented? What will be the likely outcome of the action?

- 2.9. 5 pts.** Landlord owns a house that she rents out on a monthly basis to Tenant under an oral lease. Tenant has not paid rent for two consecutive months.

(a) What can Landlord do to reclaim possession of this house? **(2 pts.)**

- (b) Landlord has now received a Judgment from the Court which orders the tenant evicted. Tenant was served with the Judgment. However, the tenant has refused to move out. What is the next step to gain possession of the house? **(3 pts.)**

- 2.10. 4 pts.** Client's elderly mother lives in the family home in Lincoln Parish and has become

quite ill. Her illness affects both her mental competency and her physical ability to care for herself and her financial affairs. Client has no legal authority to provide for her mother's personal care and for her financial affairs. Client seeks authority to do both. Client lives in Caddo Parish.

(a) What action should Client take to gain such authority and where must such action be taken? **(2 pts.)**

(b) Client filed the necessary filings and a hearing has been set. Although the Sheriff personally served the mother, she made no appearance and no one appeared for her. What step should now be taken to advance the action? **(2 pts.)**

TEST CONTINUES ON NEXT PAGE

2.11. 2 pts. Plaintiff sued Defendant to collect money damages. The trial has begun, witnesses have testified, and Plaintiff has rested.

Defendant then called a witness never previously identified, nor had the existence of such witness ever been made known to Plaintiff from the discovery in the case. In addition, before trial, the judge issued a pre-trial order which specifically provided that no witnesses not made known to the other party may testify at trial unless a motion is made for such permission to present the new witness, and the judge finds that there is extraordinary cause for the introduction of such witness. Plaintiff objected to the witness and moved the judge to exclude the witness from testifying. Defendant responded that he simply forgot to list this witness or make the existence of such witness known to Plaintiff.

The judge, without discussion or reasons, ruled that the witness may testify. He ordered the trial to resume in two days.

What can Plaintiff do to further object to the witness and prevent the witness from testifying?

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
JULY 2017**

QUESTION 3 — 20 POINTS

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

Exceptions (1), post-trial (2), recusal (1), successions (2), trial (2), venue (2)

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2017**

QUESTION 1 — 25 POINTS

- 1.1. **2 pts.** When may a deposition be taken by telephone or other remote electronic means?
- 1.2. **0.5 pt.** (a) 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?
- 0.5 pt.** (b) If a civil trial is by a jury of twelve, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise?
- 1.3. **2 pts.** List four of the bases for which a juror may be challenged for cause.
- 1.4. Plaintiff was injured when the vehicle which he was operating was rear-ended by an 18-wheeler operated by Driver and owned by Owner. Driver was acting within the course and scope of his employment with Owner at the time of the collision. The collision occurred in Calcasieu Parish. Plaintiff is domiciled in Allen Parish. Driver is domiciled in Tensas Parish. Owner 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. It has appointed a registered agent and has a Louisiana office, both located in Lincoln Parish.
- 5 pts.** (a) Which parish or parishes would be a proper venue for Plaintiff's lawsuit against Driver and Owner? Explain.
- 4 pts.** (b) A lawsuit has been filed by Plaintiff naming Driver and Owner as defendants. Driver and Owner believe that Plaintiff has filed suit in the wrong venue. What must be filed to challenge the venue and when must it be filed?
- 3 pts.** (c) During discovery, Plaintiff's attorney learns 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's attorney wants to present that witness for testimony at trial. Can the witness be compelled to testify at trial? Why or why not?
- 2 pts.** (d) Plaintiff's attorney is deposing Driver. During the deposition, defense counsel for the Driver makes and continues to make lengthy objections which appear to be giving guidance and instruction to the Driver as to how to answer the questions. Are such objections appropriate under the Code of Civil Procedure? Why or why not?
- 2 pts.** (e) Defendants have been served with Plaintiff's discovery requests seeking potentially thousands of documents. Defendants' attorney believes these documents are not relevant to the litigation and not reasonably calculated to lead to the discovery of admissible evidence. Defendants' attorney also believes that the discovery was propounded by Plaintiff to cause defendants to incur unnecessary effort and expense. What, if anything, can defense counsel file with the court to restrict this discovery, and what showings should be made in order for the court to restrict this discovery?

TEST CONTINUES ON NEXT PAGE

- 3 pts.** (f) Plaintiff's counsel propounded interrogatories asking Defendants to identify all witnesses to the accident. Defendants timely and accurately answered the interrogatories. Two weeks before trial, Defendants learn of a new, previously unidentified witness who 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 opposing counsel?
- 1 pt.** (g) 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?

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2017**

QUESTION 2 — 25 POINTS

- 2.1. Defendant has just been served under the Louisiana long-arm statute with a petition filed in Civil District Court for the Parish of Orleans. The petition alleges that software the Defendant sold to Plaintiff was defective and that Plaintiff sustained damages as a result of the installation of the software in the computer systems of Plaintiff's customers. When the software proved defective, Plaintiff was required to replace the software and reimburse its clients for the damages that they had sustained.

Defendant is a Georgia corporation with its principal place of business in Atlanta, Georgia. The vast majority of its business is done within a 100-mile radius of Atlanta. It does not have a business office in Louisiana, an agent for service of process in Louisiana, or any employees or representatives in Louisiana. It does not own any property or have any assets in Louisiana. It has never sent any of its sales or service staff or other representatives to Louisiana for business purposes. It has never advertised in local Louisiana media, although it did place an ad in a national trade magazine for one month and placed its name in the Red Book, a software developer's publication distributed to software dealers nationwide.

Plaintiff, a New Orleans software dealer, obtained Defendant's name from the Red Book, telephoned Defendant's office in Georgia and inquired about certain computer software; the software was unavailable from Defendant at that time. Two months later, Plaintiff telephoned Defendant's Georgia office a second time. The software was then available, and Plaintiff purchased the software. The software was shipped via Federal Express to Plaintiff. Prior to the sale to Plaintiff, Defendant had only one previous contact in Louisiana: a sale to a Baton Rouge customer of one module for \$500.00. That prior sale also was generated by a telephone call by that customer to Defendant's Georgia office.

- 2 pts.** (a) Defendant does not wish to litigate in Louisiana. Describe the pleading or pleadings that it would file, and when, in response to this petition.
- 4 pts.** (b) Analyze Defendant's chances for success with the remedy sought in the pleading or pleadings that it filed.

TEST CONTINUES ON NEXT PAGE

Fact Pattern for Questions 2.2 to 2.8:

After a trial, the jury returned its verdict in favor of Plaintiff and against Defendant on December 4. The judge instructed Plaintiff to prepare and furnish to Defendant a proposed judgment based upon the jury's verdict. Plaintiff complied, but Defendant had an objection to the proposed judgment. Thereafter, the judge held a conference in chambers on Monday, December 21 and presented a judgment of his own, to which all parties had objections. The judge then entered the courtroom and, on the record and in the presence of the lawyers for both parties, announced his judgment, signed the judgment he had prepared, and handed it to the deputy clerk of court for filing. The judge acknowledged that all parties had objections to the judgment, and counsel for all parties reiterated and stated those objections on the record. The sheriff served on both lawyers notice of the judgment on Wednesday, January 2.

- 2.2. **1 pt.** What is last date on which Defendant can move for a new trial or judgment notwithstanding the verdict (JNOV)?
- 2.3. Following the jury's verdict in favor of Plaintiff, Defendant timely filed motions for a new trial and for judgment notwithstanding the verdict.
- 4 pts.** (a) What are the possible grounds upon which the judge should grant a new trial?
- 4 pts.** (b) What are the standards that the judge should use in analyzing the jury's verdict in order to determine the availability of a judgment notwithstanding the verdict?
- 2.4. **2 pts.** Assuming that Defendant makes no application for new trial or JNOV, how many days and from what date does Defendant have to file for a suspensive appeal?
- 2.5. **2 pts.** How many days and from what date does Defendant have to file the suspensive appeal bond?
- 2.6. **2 pts.** How many days and from what date does Defendant have to file for a devolutive appeal?
- 2.7. **2 pts.** If Defendant filed an untimely application for a new trial and it was denied on March 2, how many days and from what date does Defendant have to file for a devolutive appeal?
- 2.8. **2 pts.** Plaintiff filed no post-judgment motions but wants to preserve his rights to have the court of appeal consider his objections to the judgment. Defendant has perfected its suspensive appeal and the record has been lodged with the court of appeal. What must Plaintiff file and when?

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2017**

QUESTION 3 — 25 POINTS

- 3.1. **3 pts.** 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 completely unqualified to give expert testimony in the suit and that his methodology is "junk science." What motion should be brought before the court to test the expert's qualifications and opinions; what is the time deadline for bringing the motion; and, what is the deadline for the judge to rule on the motion?
- 3.2. **2 pts.** Defendant asks you to defend him in an ongoing lawsuit following the untimely death of his prior counsel. The lawsuit, which was brought against Defendant four years ago, involves claims of patent infringement relating to the invention of a fire ant pesticide. Discovery that was propounded to Defendant at the same time the lawsuit was filed 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 do you recommend to Defendant?
- 3.3. **3 pts.** Plaintiff's petition did not request trial by jury. Defendant answered Plaintiff's petition, requesting a trial by jury. Nine months after the answer was filed, Defendant filed a motion to withdraw its request for trial by jury, and this motion was granted. May Plaintiff now file a request for trial by jury despite the fact that Plaintiff did not request a jury trial in the original petition. If so, what deadlines, if any, exist? Explain briefly.
- 3.4. Plaintiff sued Defendant for breach of contract. The contract specified the amount of damages that would be recoverable by the Plaintiff in the event of a breach. On January 2, after adequate discovery, the court fixed a trial date for a trial to begin July 1. Plaintiff now decides to file a Motion for Summary Judgment seeking a determination by the judge that Defendant breached the contract.
- 1 pt.** (a) When is the latest from the trial date that Plaintiff can file and serve the motion and all supporting documents?
- 1 pt.** (b) Plaintiff has timely filed and served the Motion for Summary Judgment. The court has set a hearing date on the motion. When is the latest that Defendant can file and serve an opposition to the motion, including all documents in support of the opposition?

TEST CONTINUES ON NEXT PAGE

- 3.5. In 2009, Paula purchased 100 acres of land in Jefferson Davis Parish from Sam and built a home on it which was her primary residence. Since that time, Paula has continued to live in the home and maintain the entire 100 acres. She has paid the taxes on the property as they came due together with any other necessary expenses for the maintenance of the property.

Paula just became aware that a timber company began cutting timber on a remote portion of the property a few weeks ago. When she confronted the timber crew, she was informed that the timber company, which is a limited liability company domiciled in Rapides Parish, had purchased the rights to cut the timber from Bob. The foreman of the crew had a copy of the Timber Deed and showed it to Paula. The Timber Deed, which was signed by Bob and the timber company and bore a stamp from the clerk of court indicating that it had been recorded in the Conveyance Records of Jefferson Davis Parish, recited that Bob had bought the land from Sam by an act of sale recorded in 2003. The foreman further informed Paula that he would continue to cut the timber and planned to begin trucking the logs out to a lumber mill which is located in Acadia Parish. Paula is concerned about this disturbance to her use and enjoyment of the property. She is also concerned about the potential loss of the timber that the timber company is threatening to harvest.

- 5 pts.** (a) What action(s) can Paula file to prevent the continuing timber cutting operations? When must she file? Discuss fully.
- 4 pts.** (b) Paula is fearful that, even if a suit is filed, the timber company will continue to cut the trees and transport the cut logs during the pendency of the suit. What can she do to immediately prevent the logging and transport of the cut logs? What must she show in order to be successful in preventing the timber company from taking these actions? Discuss fully.
- 3 pts.** (c) Bob has learned of Paula's actions and the fact that she claims ownership of the 100-acre tract. What proceeding(s) may Bob bring to recognize his claim of ownership of the property?
- 2 pts.** (d) What is the proper venue for Paula's actions? What is the proper venue for Bob's actions?
- 1 pt.** (e) A mortgage company claims to have a mortgage on the property granted by Bob. What action can the mortgage company take to protect its interest in the property?

[End of Question 3]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
LOUISIANA CODE OF CIVIL PROCEDURE
FEBRUARY 2017**

QUESTION 4 — 25 POINTS

- 4.1. **4 pts.** When a lawyer signs a pleading filed for a client, what does the lawyer certify personally, if anything?
- 4.2. **2 pts.** What are the pleadings to which the lawyer's certification applies?
- 4.3. **3 pts.** List three obligations that an attorney has as an officer of the court.
- 4.4. **4 pts.** When a lawyer signs a discovery response, what does the lawyer certify personally, if anything?
- 4.5. **4 pts.** During a discovery deposition, under what circumstances may a party instruct a deponent not to answer a question?
- 4.6. **4 pts.** What are the mandatory grounds for recusal of a judge from a particular case?
- 4.7. **2 pts.** List four reasons for which a court should deny the consolidation of two separate actions for trial.
- 4.8. **2 pts.** Which two kinds of exceptions are required to be pleaded prior to or in the answer?

[End of Question 4]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

LOUISIANA BAR EXAMINATION

LOUISIANA CODE OF CIVIL PROCEDURE

JULY 2016

For all questions in this exam, you should assume that, unless specifically indicated otherwise, all lawsuits referenced in a question are civil actions filed or to be filed in a Louisiana state court.

QUESTION 1
(25 POINTS)

- 1.1 4 pts A lawyer's signature on a pleading filed for a client constitutes the lawyer's certification of what statements?
- 1.2 4 pts What are the pleadings to which the lawyer's certification applies?
- 1.3 4 pts During a discovery deposition, under what circumstances may a party instruct a deponent not to answer a question?
- 1.4 4 pts Plaintiff sued Manufacturer, the manufacturer of a product alleged to be the cause of Plaintiff's injuries from an accident in Louisiana. Manufacturer filed a declinatory exception asserting that the court lacks personal jurisdiction over Manufacturer. The exception contained affidavits of Manufacturer's officers and attached verified business records that show Manufacturer is a corporation organized under the laws of India, has offices and manufacturing facilities only in India, has no offices or employees in Louisiana or elsewhere in the United States, and has not sold any of its products in Louisiana. Manufacturer's supporting affidavits and business records show that some of its products that are exported from India are sold to an importer in New Jersey, who is permitted in a written agreement with Manufacturer to sell and distribute the products throughout the United States, Canada, and Mexico. Manufacturer's records also show that the importer has sold the products in 22 U.S. states through several regional distributors, one of which is located in Texas and another of which is located in Arkansas. Manufacturer's product alleged to have caused Plaintiff's injuries came from the Texas distributor who ordered it from the importer who had it shipped to Texas from India through the Port of Houston. Briefly summarize the rules that the court should follow in deciding the declinatory exception, and apply those rules to the fact of the problem.
- 1.5 2 pts When may a deposition be taken by telephone or other remote electronic means?
- 1.6 3 pts During discovery, Plaintiff learned that an important witness resides in another parish, a drive of several hours 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.
- 1.7 1 pt (a) 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 pt (b) If a civil trial is by a jury of twelve, how many of the jurors must concur to render a verdict unless the parties stipulate otherwise?
- 1.8 2 pts What obligations, if any, does an attorney have as an officer of the court?

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

LOUISIANA BAR EXAMINATION

LOUISIANA CODE OF CIVIL PROCEDURE

JULY 2016

QUESTION 2
(25 POINTS)

Plaintiff was injured when the vehicle which he was operating was rear-ended by an 18-wheeler operated by Driver and owned by Owner. Driver was acting within the course and scope of his employment with Owner at the time of the collision. The collision occurred in Calcasieu Parish. Plaintiff is domiciled in Allen Parish. Driver is domiciled in Tensas Parish. Owner is a Utah corporation, but is qualified to do business in Louisiana through the Secretary of State; its application to do business in Louisiana designates its principal business establishment in Louisiana as being in Lincoln Parish. It has appointed a registered agent and has a Louisiana office, both located in Lincoln Parish.

- 2.1 4 pts What parish or parishes would be a proper venue for Plaintiff's lawsuit against both Driver and Owner? Explain.
- 2.2 4 pts A lawsuit has been filed by Plaintiff naming Driver and Owner as defendants. Driver and Owner believe that Plaintiff has filed suit in the wrong venue. What must be filed to challenge the venue and when must it be filed?
- 2.3 2 pts Plaintiff served discovery (interrogatories and requests for admissions of fact) on Driver and Owner with the citation and petition. Within what period of time must Driver and Owner respond to this discovery?
- 2.4 2 pts After a trial, the jury returned its verdict in favor of Plaintiff and against Driver and Owner on Thursday, December 4. The judge instructed Plaintiff to prepare and furnish to Driver and Owner a proposed judgment based upon the jury's verdict. Plaintiff complied, but Driver and Owner had an objection to the proposed judgment. Thereafter, the judge held a conference in chambers on Monday, December 21, and presented a judgment of his own, to which all parties had objections. The judge then entered the courtroom and, on the record and in the presence of the lawyers for all parties, announced his judgment, signed the judgment he had prepared, and handed it to the deputy clerk of court for filing. The judge acknowledged that all parties had objections to the judgment, and counsel for all parties reiterated and stated those objections on the record. The sheriff served notice of the judgment on Wednesday, January 2. What is last date on which Driver and Owner can move for a new trial or judgment notwithstanding the verdict?
- 2.5 Following the jury's verdict in favor of Plaintiff, Driver and Owner timely filed motions for a new trial and for judgment notwithstanding the verdict.
- 4 pts (a) What are the possible grounds upon which the judge should grant a new trial?
- 4 pts (b) What are the standards that the judge should use in analyzing the jury's verdict in order to determine whether to grant a judgment notwithstanding the verdict?

TEST CONTINUES ON NEXT PAGE

- 2.6 2 pts On January 28, the court denied the motions for a new trial and for judgment notwithstanding the verdict filed by the Driver and Owner. The court's denial of these motions was mailed on January 31. Driver and Owner now want to take a suspensive appeal. How many days, and from what date, do Driver and Owner have to file the suspensive appeal bond?
- 2.7 3 pts Plaintiff filed no post-judgment motions but wants to preserve his rights to have the court of appeal consider his objections to the judgment and modify it. Driver and Owner have perfected their suspensive appeal, and the record has been lodged with the court of appeal. What must Plaintiff file in order to have the court of appeal consider his objections, and where and when must this filing be made?

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

LOUISIANA BAR EXAMINATION

LOUISIANA CODE OF CIVIL PROCEDURE

JULY 2016

QUESTION 3
(25 POINTS)

- 3.1 4 pts A tort suit has been pending in Sabine Parish for six months against Defendant, which is a Louisiana corporation with its registered office located in Vernon Parish. Plaintiff is domiciled in Sabine Parish. The tort forming the basis of the lawsuit occurred in DeSoto Parish, and all fact and expert witnesses reside there except Plaintiff. Five months ago, Defendant filed an answer, but asserted no exceptions. Defendant now believes that the suit should be heard in DeSoto Parish. What steps, if any, can Defendant take to change the venue in which the suit is now pending? Does the fact that Plaintiff is domiciled in Sabine Parish preclude a change in venue? Explain.
- 3.2 2 pts At the conclusion of a bench trial, the trial judge ruled from the bench in favor of the defendant and against Plaintiff, stating only that she found in favor of the defendant and would sign a judgment to that effect upon presentation. Defense counsel conveniently had such a judgment prepared and presented it to the judge, who immediately signed it in open court. The clerk mailed the notice of signing the judgment the next day. Plaintiff believes that the trial court's ruling is incorrect and would like to gain a better understanding of the trial court's reasons for decision beyond her simple statement that she had ruled in favor of the defendant. What, if anything, can Plaintiff do to achieve that goal and what time limitations, if any, exist?
- 3.3 4 pts a) What is the delay for requesting service of citation on all named defendants in a civil action?
b) If the request for service of citation is not timely made, what action, if any, can be taken by the defendant to obtain dismissal of the action?
- 3.4 3 pts Plaintiff filed a lawsuit against multiple defendants. Defendant A filed a res judicata exception, which was granted by the court. On Wednesday, January 16, the court signed a formal judgment dismissing Defendant A from the lawsuit with prejudice. The formal judgment bears no designation of any kind by the court. On Wednesday, January 23, Plaintiff received by mail a notice of judgment that was mailed on Friday, January 18, to which was attached a copy of this formal judgment. Plaintiff wishes to appeal this dismissal immediately rather than awaiting disposition of Plaintiff's claims against the other defendants. Can Plaintiff do so? Explain.

TEST CONTINUES ON NEXT PAGE

- 3.5 5 pts Defendant failed to respond to discovery propounded by Plaintiff. Plaintiff filed a motion to compel discovery, and, 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.
- (a) What action should Plaintiff take?
- (b) What actions may the judge order in response? Describe any correct four actions for full credit.
- 3.6 2 pts Plaintiff sued Defendant for personal injuries arising from a motor vehicle accident. At the beginning of the litigation, Plaintiff's counsel propounded interrogatories asking Defendant to identify all witnesses to the accident, and Defendant timely and accurately answered these interrogatories. Two weeks before trial, Defendant learned of a new, previously unidentified witness who observed the accident. Defendant does not plan to call this witness at trial, since her testimony will be adverse to Defendant's interests.
What responsibility, if any, does Defendant have to divulge the identity of this new witness to Plaintiff's counsel?
- 3.7 2 pts Plaintiff sued Defendant in a redhibition claim. During cross examination during Plaintiff's presentation of his case at the trial, Plaintiff admitted for the first time in the case that he was aware of the alleged defect about which he complains over two years prior to filing the lawsuit. Defendant believes this admission establishes that the lawsuit is prescribed. However, Defendant did not previously urge a prescription exception.
What procedural steps, if any, can Defendant take with respect to this admission?
- 3.8 3 pts A lawsuit for a money judgment has been pending against Defendant for four years. Defendant recently retained new counsel to defend him in the lawsuit following the untimely death of his prior counsel. In reviewing the file, new counsel determined that discovery was propounded to Defendant at the same time the lawsuit was filed and that this 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 Defendant take?

[End of Question 3]

TEST CONTINUES ON NEXT PAGE

LOUISIANA BAR EXAMINATION

LOUISIANA CODE OF CIVIL PROCEDURE

JULY 2016

QUESTION 4
(25 POINTS)

- 4.1 Client from Texas wants to enforce a judgment for money that Client obtained in Texas against a Louisiana resident who is domiciled in Grant Parish, Louisiana. The judgment arises out of a cattle grazing lease of land located in Cameron Parish owned by the Louisiana resident.
- 2 pts (a) What action should Client file in Louisiana and what are the requirements for that action?
- 2 pts (b) In what parish must this action be filed?
- 1 pt (c) What documents, if any, must be included in the action?
- 4.2 Client and his brother are co-owners of a tract of pastureland that is located on a public road. Client no longer wants to own the property in co-ownership with his brother.
- 2 pts (a) What type of civil action is available to Client to accomplish this?
- 5 pts (b) What may the court order in response to Client's demands? Explain.
- 4.3 1 pt Decedent died in Jefferson Davis Parish. At the time of death, Decedent was domiciled in Calcasieu Parish. Decedent also owned immovable property in Rapides Parish at the time of his death. In what parish must a proceeding to open Decedent's succession be brought?
- 4.4 1 pt Decedent died in Jefferson Davis Parish. At the time of death, Decedent was domiciled in Houston, Texas. Decedent owned immovable property in Rapides Parish at the time of his death. In what parish must a proceeding to open Decedent's succession be brought?
- 4.5 6 pts Client advises that his brother has petitioned the proper court to probate the testament of their deceased father. The court has scheduled a probate hearing to take place in two weeks. Client wants to oppose the probate on the grounds that the testament is invalid. What procedural steps must Client take to accomplish what Client desires? Explain.

TEST CONTINUES ON NEXT PAGE

4.6

Client is domiciled in Cameron Parish, and his elderly mother, who is no longer capable of caring for herself, is domiciled in Calcasieu Parish. She maintains a checking account at a bank located in Cameron Parish. After a review of his mother's checking accounts with her, Client has found 10 checks made out to persons unknown to him. Upon Client's questioning, she has told him she does not remember writing those checks and has no idea what they were for.

Client wants to prevent his mother from writing checks in the future and would like to be placed in charge of her care and her affairs.

- 2 pts (a) What proceeding should Client file to accomplish these goals and in what parish should this proceeding be filed?
- 1 pt (b) Client's petition has been served on his mother and, after legal delays for answering have elapsed, there have been no pleadings filed on her behalf. What is the next step Client should take in order to proceed with this action?
- 2 pts (c) The court has set a date for a hearing on Client's proceeding. Who has the burden of proof at such a hearing and what is the standard of proof?

[End of Question 4]

End of Louisiana Code of Civil Procedure Exam