

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2023**

QUESTION 1 (40 POINTS)

Lou owns a commercial property (the “Property”) in Jefferson Parish. On February 1, 2013, Lou signed a fifteen-year written lease with Tim for the Property. The lease agreement has a full, valid description of the Property, specifies a fixed rent to be paid each month and contains an option to purchase in favor of Tim. The option grants Tim the right to purchase the Property at any time during the lease term for a purchase price of \$200,000. The lease also states that Tim is not liable for the maintenance of the Property.

The next month, Lou approached Dan to ask if Dan would lend Lou funds for maintenance and repairs of the Property. When Dan agreed, Lou prepared an Act of Mortgage in favor of Dan. Lou did not yet know the amount of the loan he would need, so he drafted the granting clause in the mortgage to read as follows: “In order to secure my present and future indebtedness to Dan, up to a maximum secured limit of \$50,000,000, including all principal, interest, fees, costs and other amounts that I may owe to Dan, I hereby grant Dan a mortgage on all of my present and future interest in the immovable property in Jefferson Parish, Louisiana described below.” The Act of Mortgage contains a full and correct legal description of the Property. On March 11, 2013, Lou signed the Act of Mortgage but neglected to have it signed by witnesses or a notary public. The Act of Mortgage was also not signed by Dan. After signing it, Lou recorded the Act of Mortgage in the mortgage records of Jefferson Parish on March 13, 2013. At the time the Act of Mortgage was executed and recorded, Dan had not yet lent any money to Lou.

In early 2015, Tim complained to Lou that the roof of the building on the Property usually leaked in rain storms. On May 12, 2015, Lou obtained a loan from Dan evidenced by a promissory note signed by Lou, in favor of Dan, dated May 12, 2015, in the amount of \$20,000 payable in monthly installments commencing on June 12, 2015, and continuing thereafter to be due on the twelfth day of each month over a term of ten years with a maturity date of May 12, 2025. The note contains an acceleration clause giving Dan the right to accelerate the maturity of the note if any payment is not made when due. The note does not reference the Act of Mortgage Lou had granted to Dan. Lou received the money from Dan and decided that the roof could wait a while to be repaired and used most of the funds borrowed for a month-long vacation out of the country. Even though he is not a licensed roofer and has no construction skills, Lou repaired the roof himself in late 2015 and then, after it had further leaks, again in early January 2023.

Dan forgot about the loan until he was cleaning his office in January 2023, when he found the note for \$20,000 signed by Lou. Dan then remembered that he had not received any payments on the note. As the note was in default, Dan made demand on February 1, 2023, for Lou to bring the note current. When no payments were made by Lou, Dan accelerated the maturity of the note and demanded payment of the full balance on February 10, 2023.

In early March 2023, Tim hand-delivered to Lou a letter signed by Tim advising Lou that Tim was electing to exercise his option to purchase the Property as provided for in their lease agreement. At that same time, Tim asked Lou about the condition of the roof, and Lou stated it had been repaired in January 2023. Lou agreed to the sale and prepared a Cash Sale, which they both signed on March 10, 2023, and which provided that the sale of the Property was “effective immediately, on an ‘as-is, where-is basis’, with no warranties as to the condition of the Property, and that Tim’s right to sue for return or reduction of the purchase price is waived.” Tim signed the Cash Sale, placed his initials by each waiver contained in the Cash Sale and paid Lou \$200,000.

One month after the sale of the Property, Tim found the roof leaking and wanted to rescind the sale. Tim went to an attorney for advice, and the attorney ran a title search and found the Act of Mortgage in favor of Dan in the mortgage records of Jefferson Parish recorded on March 13, 2013. The attorney also found a money judgment rendered against Lou by the Twenty-Fourth Judicial District Court, Parish of Jefferson on April 1, 2013 in favor of Fast Loans, Inc. and recorded in the mortgage records of Jefferson Parish on August 1, 2013. Since recording the judgment, Fast Loans, Inc. has taken no other action to enforce or preserve its judgment.

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

- 1.1 Was the Act of Mortgage executed by Lou in favor of Dan valid at the time of its execution in March 2013? Explain. (5 points)**

Assume for Questions 1.2-1.7 that the Act of Mortgage was valid at the time of its execution.

- 1.2 At the time the note was signed on May 12, 2015, did the Act of Mortgage secure the promissory note? Explain. (5 points)**
- 1.3 Had any portion of the note prescribed as of the date the maturity of the note was accelerated (February 10, 2023); and if so, why, and what portion and when? Explain. (5 points)**
- 1.4 Was the mortgage granted by Lou in favor of Dan on the Property still effective against third persons as of the date of the sale of the Property to Tim (March 10, 2023); and is it effective against third persons as of the date of this examination (in July 2023)? Explain. (5 points)**
- 1.5 As of the date of this exam (in July 2023), does Fast Loan, Inc. have an enforceable judicial mortgage on the Property? Explain what steps it should have taken in the past, or should take in the future, to ensure that its judicial mortgage remains enforceable. (5 points)**
- 1.6 Did the lease from Lou to Tim grant a valid option to purchase the Property; and if so, was the option still valid in March 2023? Explain. (5 points)**
- 1.7 What claims might Tim reasonably assert against Lou for the rescission of the sale of the Property, when must Tim assert those claims, and what damages may Tim properly demand against a good faith or bad faith seller? What potential defenses are available for Lou? Explain. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

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

PART A (24 Points)

Steve owned three, adjacent one-acre tracts of unimproved land, known as Lot 1, Lot 2 and Lot 3. Steve was approached by Tom to purchase Lot 1. Steve agreed and sold Lot 1 to Tom for a cash price of \$5,000 pursuant to a written Act of Sale on March 1, 2022. The day after the Act of Sale was signed by Steve and Tom, it was recorded in the conveyance records. In December 2022, Steve sold Lot 2 to Kim. Steve thought the value of the land had increased since the sale of Lot 1 and demanded that Kim pay \$10,000. As Steve thought the property might increase in value in the future, he added a provision to the Act of Sale providing that Kim may not sell Lot 2 without first offering it to Steve for \$10,000, or if less, the price that a third person would be willing to pay.

On January 20, 2023, Steve and Eric signed a purchase agreement under which Steve agreed to sell Lot 3 to Eric for \$10,000, to be paid in cash at closing, which was to occur 90 days after the purchase agreement was signed. At the time the purchase agreement was signed, Eric delivered to Steve a cash payment in the amount of \$1,000, which the purchase agreement stipulated to be earnest money.

On April 3, 2023, a subdivision developer announced plans to build a high-end subdivision on land adjoining Lots 1, 2, and 3. These plans immediately caused the value of all surrounding acreage to rise to approximately \$10,000 per acre as they might be able to be placed in the subdivision. Prior to the announcement of those plans, no land in the area had ever sold for more than \$10,000 per acre, and \$5,000 per acre seemed to be the “going price” for unimproved land in the area during the last five years. Neither Steve nor Tom nor Kim nor Eric knew about the plans of the subdivision before this announcement.

In view of the developer’s plans and a possible rise in property values, Steve notified Tom on April 10, 2023, that Tom’s purchase of Lot 1 is “void” because the price Tom paid for Lot 1 was “unconscionably low.” Steve also notified Kim that he (Steve) was exercising his option to repurchase Lot 2 and demanded that Kim sell Lot 2 back to him at the \$10,000 price for which Kim had purchased Lot 2. Kim advised Steve that she would not sell Lot 2 to him as she was keeping it and wanted to build her own house on it. Steve also notified Eric that he (Steve) does not wish to proceed with the sale of Lot 3 to Eric.

- 2.1 What action might Steve reasonably file to seek rescission of the sale of Lot 1 to Tom? If that action is filed as of the date of this examination (in July 2023), is it timely? (3 points) Assuming that the action is timely, is Steve likely to prevail? Explain. (3 points)**
- 2.2 What defense does Kim have to Steve’s action for exercising his right to buy back Lot 2? Explain. (6 points)**
- 2.3 If Eric sues Steve for specific performance under the purchase agreement to force the sale of Lot 3 and for damages, is Eric likely to succeed? Explain. (6 points)**
- 2.4 Does either Steve or Eric have the right to recede from the purchase agreement of Lot 3? For each party, explain why or why not and what amount, if any, such party must pay to recede. (6 points)**

TEST CONTINUES ON NEXT PAGE

PART B (16 Points)

Amahl owns a 1969 Corvette that he was storing and no longer wanted, so he placed an advertisement for the sale of the vehicle with the price at \$9,000. Bob, who is 18 years old, saw the advertisement and contacted Amahl to meet and view the vehicle. Bob met Amahl at the garage where the vehicle was stored. Bob viewed the vehicle, got in the vehicle, and started it. Bob wanted the car, so he offered to buy it for \$8,000 as that was all he had saved. Amahl refused and said \$9,000 was the price. Bob then agreed to the \$9,000 price thinking to himself that he would have his father lend him the extra \$1,000. Amahl and Bob orally agreed to the sale of the vehicle for \$9,000. Bob said he would return the next day with the cash. Bob returned the next day with his father and showed Amahl the \$8,000 cash he had brought. Amahl stated he must receive the full \$9,000 cash so Bob's father told Amahl that he guaranteed he would see that Amahl was paid the remaining \$1,000. Without paying anything to Amahl, Bob then got into the car, started it, put it in reverse and accidentally ran into the back wall of the garage. Bob then said he did not want to purchase the vehicle. Bob and his father refused to pay Amahl the purchase price. Amahl filed a lawsuit against Bob and Bob's father to enforce the sale.

- 2.5 Was there a valid sale between Amahl and Bob for the Corvette? If so, when did it occur? Explain. (6 points)**
- 2.6 When, if ever, did ownership transfer from Amahl to Bob? Explain. (5 points)**
- 2.7 Under what theory or theories of law, if any, might Amahl sue Bob's father for the \$1,000 he agreed to pay Amahl? Explain. (5 points)**

[End of Question 2]

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QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Effect of expropriation on rights and obligations under a lease
- 3.2 Mortgages; place of recordation
- 3.3 Conflicts of laws
- 3.4 Warranty of title
- 3.5 Rights of surety against principal obligor
- 3.6 Lesion
- 3.7 Offer and acceptance
- 3.8 Liberative prescription on open account
- 3.9 Mortgage records; transfers, amendments and releases
- 3.10 Reconduction of a lease

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[End of Question 3]

END OF CIVIL CODE III TEST

**LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
FEBRUARY 2023**

QUESTION 1 (40 POINTS)

In October 2012, Lisa decided her town in Iberville Parish needed a pet store. Lisa then approached Big Bank for a loan for funds to begin her business. Big Bank agreed to give Lisa a \$50,000 loan but required collateral for the loan, so Lisa agreed to place a mortgage on her Iberville Parish residence. The Iberville residence already had a mortgage on it granted in favor of Credit Inc. to secure a loan dated February 1, 2010 and having a maturity date of January 1, 2025. The Credit Inc. mortgage properly described the Iberville residence property and the maturity date of the loan and was properly recorded in the mortgage records of Iberville Parish on February 1, 2010.

Big Bank agreed to accept a second mortgage on the Iberville residence. On October 15, 2012, Lisa signed a promissory note in favor of Big Bank in the amount of \$50,000 payable in 72 monthly installments due on the first day of each month beginning November 1, 2012 and continuing until October 1, 2018 and also signed an Act of Mortgage to secure the promissory note. The mortgage contained a proper legal description of the Iberville residence, referenced the promissory note and its principal amount and date of signature, specified its installment dates and maturity date, and was signed by Lisa and two witnesses, but not by Big Bank. Big Bank's notary did not paraphrase the note and only had the two witnesses acknowledge that Lisa signed the Act of Mortgage in their presence; then the notary signed the acknowledgment. The notary recorded the mortgage in the mortgage records of Iberville Parish on October 16, 2012.

Lisa purchased her store supplies from Pet Supply Inc. Business had been great for many years until a much larger pet store opened nearby. With fewer customers, Lisa was unable to pay all of her bills. On December 1, 2017, Lisa paid her monthly installment payment to Big Bank (as she had timely done for every prior month), but she made no further payments to Big Bank after 2017. Lisa did not pay her supplier and was sued by Pet Supply Inc., which obtained a money judgment against Lisa on January 15, 2018 and recorded the judgment the same day in the mortgage records of Iberville Parish.

None of the creditors has sought to reinscribe its mortgage.

Lisa decided to start a new business in January 2021. She asked her friend, Dan, who owned a shopping center to lease her space with a one-year term. Dan wanted her to sign a written lease with a five-year term. Because he knew her former business failed, he required a co-signer on the lease. Lisa agreed and stated she could have her mother co-sign the lease. Dan was satisfied with that proposal and stated he would prepare a written lease.

Lisa received the written lease from Dan. The lease contained an acceleration of rent clause. Lisa still did not want to commit to a five-year lease especially with the acceleration clause, so Lisa marked up the lease document with a pen by reducing the term to one year commencing February 1, 2021. Lisa then signed the marked-up lease and mailed it back to Dan without pointing out her change to the lease term. Dan received the lease that Lisa signed and noticed that Lisa's mother had not signed the lease as a guarantor. Dan promptly called Lisa's mother, who stated during the phone call that she was sure Lisa could pay the rent but promised to make sure the rent was paid if Lisa failed to do so. Neither Lisa's mother nor Dan ever signed the lease. Dan allowed Lisa to move into the leased space and start operating her business.

Lisa's business failed again. She mailed her August 1, 2022 rent payment to Dan with a letter that stated she had decided to close the store and would vacate the premises at the end of August 2022. Dan received the letter on August 15, 2022. Dan called Lisa and advised her that he intended to sue her and her mother for any future rent owed and not paid under the terms of the lease.

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

- 1.1 Is Big Bank's mortgage valid, and does it secure the \$50,000 promissory note that Lisa executed in favor of Big Bank? Explain. (5 points)**
- 1.2 As of the date of this exam, have any of the installments due on the Big Bank note prescribed and therefore are now uncollectable? Explain. (5 points)**
- 1.3 As of the date of this exam, is Pet Supply's judicial mortgage superior in rank to Credit Inc.'s and Big Bank's mortgages? Explain. (5 points)**
- 1.4 What must Pet Supply Inc. do to maintain the validity and effectiveness against third persons of its money judgment, and by what date must these steps be taken? Explain. (5 points)**
- 1.5 Will Lisa be able to escape liability under the lease on the ground that there was no meeting of the minds over the terms of the lease? Explain. (5 points)**

For questions 1.6 and 1.7 below, assume that Dan and Lisa entered into a valid lease with a one-year term commencing on February 1, 2021.

- 1.6 Did Lisa properly terminate the lease? Explain. (10 points)**
- 1.7 For purposes of this Question 1.7 only, assume that Lisa still owes Dan \$1,000 in unpaid rent under the lease. Does Dan have recourse against Lisa's mother for this unpaid rent? Explain. (5 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
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FEBRUARY 2023**

QUESTION 2 (40 POINTS)

Lester Place LLC owns Lester Shopping Center in Acadia Parish, Louisiana. Lester Place entered into a lease of a portion of the shopping center to Super Store Inc., which operates a grocery store on the leased premises. The lease, which was dated January 2000, had a term of twenty years, with a rent of \$10,000 per month. The lease contained no provisions regarding the maintenance of the leased property but required public parking areas to be kept “reasonably free of unreturned shopping baskets.” Lester Place prepared a notice of lease which listed the names of the lessor and lessee and the expiration date of the term of the lease but nothing further. Lester Place and Super Store signed the notice of lease, and Lester Place promptly recorded it in the mortgage records of Acadia Parish, but not the conveyance records.

Les Lester, the sole member and manager of Lester Place, was a close personal friend of Steve Smith, the owner of Super Store. In late 2003, Steve expressed to Les an interest in buying the shopping center. Lester Place agreed to grant Steve a right of first refusal to purchase the property, and on December 26, 2003, executed a document containing the following provisions:

LESTER PLACE LLC (“LESTER”) HEREBY GRANTS TO STEVE SMITH (“STEVE”) FOR A TERM ENDING ON DECEMBER 26, 2023, A RIGHT OF FIRST REFUSAL TO PURCHASE LESTER SHOPPING CENTER, LOCATED ON LOT A OF GREEN ACRES SUBDIVISION, ACADIA PARISH. IN ORDER TO EXERCISE THIS RIGHT, STEVE MUST NOTIFY LESTER OF HIS ACCEPTANCE OF LESTER’S OFFER TO SELL WITHIN TEN DAYS OF STEVE’S RECEIPT OF WRITTEN NOTICE OF THE TERMS UNDER WHICH LESTER IS WILLING TO SELL THE PROPERTY TO A BONA FIDE PURCHASER.

Les delivered the document to Steve, who kept it in his office at the grocery store until December, 2010. Steve, knowing that Les was growing old, realized that he probably needed to record the document in order to protect his rights. Steve recorded the document in the conveyance records of Acadia Parish in December of 2010.

In May of 2014, Lester Place sold the Lester Shopping Center property to Rob Robertson. The act of sale stated that Rob was subrogated to all rights of Lester Place against all prior owners but did not contain any agreement by Rob to assume any existing leases. Nevertheless, Rob reviewed all of the leases of the property before buying it, including the lease with Super Store. Before the closing, Rob sent Les a letter, telling him that Rob “would take good care of everything and everyone, as we discussed.” When Super Store mailed its rent check on June 1, 2014, Rob returned it with a letter notifying Super Store that he was evicting Super Store due to Super Store’s failure to maintain the roof, which had small leaks, and due to Super Store’s failure to cause its shopping carts to be returned to the store during the Memorial Day weekend of 2014, resulting in a loss of parking spaces for other tenants. He also notified Super Store that its lease was not recorded and that he had no intention of honoring it. The next day, Rob filed an eviction proceeding against Super Store. Super Store filed a separate suit against Lester Place for damages arising out of Rob’s eviction proceeding. Steve filed his own suit against Lester Place demanding damages for its breach of the right of first refusal.

A clothing store, Bedazzled, also leased property in the Lester Shopping Center for a ten-year term ending in 2020. At the time of the sale to Rob in May of 2014, Bedazzled had two outstanding, unpaid monthly rental payments and had removed its merchandise from the shopping center to a new store across the street. Bedazzled’s lease from Lester Place granted the lessor the right to accelerate rent following the lessee’s default. Rob noticed that Bedazzled’s merchandise was moved across the street and that Bedazzled had put up a sign on the leased premises stating, “Closed, moved to new location.” Because Bedazzled had abandoned its lease space, Rob filed a lawsuit to evict Bedazzled and obtain a judgment of eviction. Rob could not locate a tenant to rent the same space, so Rob filed a lawsuit against Bedazzled for the past due rent as well as all future rent owed under the lease.

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

- 2.1** Was the recorded notice of the lease between Lester Place and Super Store sufficient under the public records doctrine to make the lease effective against third persons? Explain. (5 points)
- 2.2** Assume solely for this Question 2.2 that the notice of lease between Lester Place and Super Store was NOT sufficient under the public records doctrine to make the lease effective against third persons. In defense of the suit filed by Super Store, Rob claims to be a third-party purchaser entitled to the protection under the public records doctrine. What arguments could be raised against him to defeat his claim of protection from the public records doctrine? Explain. (10 points)
- 2.3** Assume solely for this Question 2.3 that the notice of lease between Lester Place and Super Store WAS sufficient under the public records doctrine to make the lease effective against third persons, including Rob. What defenses should Super Store assert against Rob in the eviction action? Explain. (10 points)
- 2.4** Assume that the court grants Rob a judgment of eviction against Super Store. Is Super Store likely to prevail in its suit against Lester Place? Explain. (5 points)
- 2.5** What grounds should Steve assert in his action against Lester Place for damages for the breach of the right of first refusal, what defenses are available to Lester Place, and is Steve likely to prevail in his suit against Lester Place? Explain. (5 points)
- 2.6** What grounds should Rob assert in his action against Bedazzled for the past due rent as well as the rent due for the remaining term of Bedazzled's lease; what defenses should Bedazzled assert; and who is likely to prevail? Explain. (5 points)

[End of Question 2]

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FEBRUARY 2023**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Contractual limitations of damages
- 3.2 Suretyship; solidary liability
- 3.3 Compromise agreements
- 3.4 Privileges
- 3.5 Offer and acceptance
- 3.6 Contractual capacity; rescission
- 3.7 Cause for obligations; rescission of error
- 3.8 Eviction; modification or exclusion of warranty
- 3.9 Discrepancies in act of sale; mutual error
- 3.10 Effect of modification of principal obligations; extension of liberative prescription

[End of Question 3]

END OF CIVIL CODE III TEST

LOUISIANA STATE BAR EXAMINATION
CIVIL CODE III
JULY 2022

QUESTION 1 (40 POINTS)

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

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

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

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

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

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

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

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

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

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

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

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

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

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

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

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

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

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

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

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Registry and mortgage reinscription
- 3.2 Cause of obligations; rescission of error
- 3.3 Liberative prescription on open account
- 3.4 Discrepancies in act of sale; mutual error; sale by boundaries
- 3.5 Lessor's privilege
- 3.6 Effect of expropriation on rights and obligations under a lease
- 3.7 Revocatory actions
- 3.8 Conflicts of law
- 3.9 Lesion
- 3.10 Eviction; modification or exclusion of warranty

[End of Question 3]

END OF CIVIL CODE III TEST

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

QUESTION 1 (40 POINTS)

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

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

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

[End of Question 1]

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

QUESTION 2 (40 POINTS)

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

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

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

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

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

[End of Question 2]

TEST CONTINUES ON NEXT PAGE

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

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

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

[End of Question 3]

[END OF CIVIL CODE III TEST]

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

QUESTION 1 (100 POINTS)

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

**PART A
(70 Points)**

The following facts apply to Questions 1.1–1.7 only:

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

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

TEST CONTINUES ON NEXT PAGE

PART B
(30 POINTS)

The following facts apply to Questions 1.8-1.10 only.

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

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

[End of Civil Code III Test]