

**LOUISIANA STATE BAR EXAMINATION  
LOUISIANA CODE OF CIVIL PROCEDURE  
JULY 2023**

**QUESTION 1 (40 POINTS)**

Demi applied for an engineering position with Pipes Solutions, Inc. (“Pipes”). Demi went for an interview at Pipes’ administrative office, which was located in Livingston Parish. At the end of the interview, Pipes offered Demi an engineering position working on the development of a self-cleaning pipe that was an original Pipes design and that Pipes hoped would revolutionize the plumbing market.

Demi’s job offer was contingent upon her signing an employment agreement containing confidentiality obligations. At the time Pipes’ hiring officer made the job offer to Demi, he signed the employment agreement on behalf of Pipes and handed it to her. She signed it as well.

Pursuant to the terms of the employment agreement, Demi performed her work for Pipes at its St. James Parish office. Before the project was complete, Demi and her husband, Harry, moved to East Baton Rouge Parish. The commute became too much for Demi, so, after providing requisite notice, she resigned from Pipes and accepted employment in East Baton Rouge Parish with a Pipes competitor, Trident Plumbing, LLC (“Trident”).

Over one year later, Pipes learned that Demi was working for Trident and that Trident was developing a self-cleaning pipe very similar to the one Pipes had designed. Pipes now wants to file a lawsuit against Demi for breach of the confidentiality provisions in the employment agreement.

*Please answer the following eight subquestions. The subquestions in Question 1 are not weighted equally. Where indicated, explain your answers; answers without explanation will receive no credit.*

- 1.1     6 pts     In which parish(es) may Pipes file its lawsuit? For each parish identified, explain why the parish is a proper venue.**
- 1.2     7 pts     Pipes filed its lawsuit in a proper venue and now must serve Demi with the citation.**
- a.       1 pt     By when must Pipes request service of citation on Demi?**
- b.       2 pts     What types of service should be utilized to serve Demi with the citation?**
- c.       4 pts     For each type of service identified in response to question 1.2(b), where and on whom may service be made? Explain.**
- 1.3     2 pts     Demi timely answered the lawsuit. She does not have a copy of the fully executed employment agreement. She wants to obtain a copy from Pipes. What steps must Demi take to obtain a copy of the fully executed employment agreement from Pipes? Explain.**
- 1.4     4 pts     Pipes has provided a copy of the employment agreement to Demi and now wants Demi to agree to the authenticity of the employment agreement. What steps may Pipes take in written discovery to have Demi admit to the authenticity of the employment agreement? Explain.**
- 1.5     4 pts     Pipes wants to take Demi’s deposition. What steps must Pipes take in order to take her deposition? Explain.**

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- 1.6     6 pts**    At her deposition, Demi testified that Trident was working on developing a self-cleaning pipe before she began working there, that the drawings Trident was using were almost identical to the drawing and specs she worked with when she was employed by Pipes, and that her Trident colleague told her the owner of Trident had asked him to obtain a copy of Pipes' drawings nefariously. Pipes now wants to add Trident as a defendant to the lawsuit. What steps must Pipes take to properly add Trident as a defendant to the lawsuit? What further steps must Pipes take to require Trident to respond? Explain.

*Trident is now a defendant in the lawsuit, and the district court has fixed a trial date.*

- 1.7     7 pts**    Believing that Pipes failed to develop specific facts during discovery to establish that Demi shared Pipes' confidential information with Trident, Demi filed a motion for summary judgment seeking a determination by the judge that she did not violate the confidentiality obligations in her employment agreement.
- a.     2 pts**    What showing must Demi make to prevail on her motion?
  - b.     3 pts**    What type of evidence may Demi submit to support her motion?
  - c.     1 pt**     When is the latest date prior to the trial date for Demi to file and serve her motion and all supporting documents?
  - d.     1 pt**     When is the latest date for Trident to file its opposition to Demi's motion and all supporting documents?

*The district court granted summary judgment in favor of Demi, but Pipes' claims against Trident proceeded to trial before a jury.*

- 1.8     4 pts**    The jury returned a verdict in favor of Pipes. What steps might Trident take to seek to have the district court set aside the jury verdict in favor of Pipes, and when must it take those steps? Explain.

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

Dante Chemicals, Inc. (“Dante Chemicals”) is a Delaware corporation licensed to do business in Louisiana. Dante Chemicals has several locations throughout the state but its principal business establishment in Louisiana, as designated in its application to do business in Louisiana, is in East Feliciana Parish. Andrea is identified as Dante Chemicals’ agent for service of process in Louisiana.

Phil lives in St. Bernard Parish and works at night as a security guard near the Dante Chemicals’ chemical plant in Plaquemines Parish. In late 2021, Phil began experiencing trouble breathing. On December 3, 2021, Phil was having coffee with his brother Wayne, who was a health and safety worker at Dante Chemicals in Plaquemines Parish. Phil told Wayne about his breathing problems. Wayne told Phil that a chemical release occurred at Dante Chemicals one night a few months earlier but that the release was not reported to the public. Wayne also told Phil the chemical that was released has been associated with respiratory issues.

Phil sought medical treatment, and his doctor confirmed that exposure to chemicals can cause respiratory issues. Phil’s respiratory issues got worse during the year and he had to quit work. In August 2022, Phil told an attorney about his conversation with Wayne on December 3, 2021 and asked if he had a claim against Dante Chemicals arising out of the chemical release. The attorney told Phil she thought he had a claim, but advised Phil that he should file the lawsuit by December 3, 2022 or it might be considered time barred.

*Please answer the following nine subquestions. The subquestions in Question 2 are not weighted equally. Where indicated, explain your answers; answers without explanation will receive no credit.*

- 2.1     4 pts     In which parish(es) may Phil file his lawsuit against Dante Chemicals? For each parish identified, explain why the parish is a proper venue.**
- 2.2     6 pts     Phil filed his lawsuit in the proper venue. The Sheriff’s office served the citation on Erica, an adult employee of Dante Chemicals at the Plaquemines Parish chemical plant. Dante Chemicals does not think service on Erica was proper.**
- a.     2 pts     What pleading must Dante Chemicals file in order to challenge service?**
- b.     2 pts     If Dante Chemicals wants to challenge service, by when must Dante Chemicals do so? Explain.**
- c.     2 pts     Is Dante Chemicals likely to be successful if it challenges service through Erica? Explain.**
- 2.3     6 pts     Dante Chemicals decides not to challenge service but instead files an answer and proceeds with discovery. Phil wants to take the deposition of Dante Chemicals. What must Phil include in his notice of the deposition of Dante Chemicals, and what must Dante Chemicals do in response to the notice? Explain.**

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- 2.4     7 pts     Dante Chemicals took the deposition of Phil. Phil testified he did not know about the chemical release until his conversation with Wayne regarding his respiratory problems on December 3, 2021. Dante Chemicals believes that Phil's tort claims prescribed one year from the date of Phil's conversation with Wayne but notes that Phil filed his lawsuit against it on Monday, December 5, 2022.
- a.     2 pts     What pleading must Dante Chemicals file in order to challenge the timeliness of Phil's lawsuit?
  - b.     2 pts     May Dante Chemicals still challenge the timeliness of Phil's lawsuit although it already answered the lawsuit and participated in discovery? Explain.
  - c.     3 pts     Is Dante Chemicals likely to be successful if it challenges the timeliness of Phil's lawsuit? Explain.
- 2.5     6 pts     Expert witness reports have been exchanged, and the discovery depositions of all experts have been taken. Dante Chemicals believes that Phil's expert is completely unqualified to give expert testimony in the lawsuit and that her methodology is "junk science."
- a.     2pts     What motion should Dante Chemicals bring before the court to test the expert's qualifications and opinions?
  - b.     2 pts     What is the time deadline for bringing the motion?
  - c.     2 pts     By when is the court to hold a contradictory hearing and rule on the motion?
- 2.6     2 pts     Phil requested a trial by jury in his petition but wants to withdraw his jury demand. What steps must Phil take to withdraw his jury demand?
- 2.7     4 pts     Phil successfully withdrew his jury demand. Dante Chemicals wants a trial by jury but did not request a trial by jury in its answer. What steps should Dante Chemicals take to obtain a trial by jury and by when must it take such steps?
- 2.8     2 pts     Dante Chemicals obtained a trial by jury and the case proceeded to trial by a 12-person jury. Absent a stipulation by the parties, how many jurors must concur to render a verdict?
- 2.9     3 pts     The jury returned a verdict in favor of Phil. Dante Chemicals has timely filed for a suspensive appeal and has furnished a bond as security. Phil believes the bond is insufficient or invalid. What action might Phil take to challenge the bond's sufficiency or validity? Explain.

[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 Service by private person
- 3.2 Methods for taking discovery
- 3.3 Jury trial; challenge for cause
- 3.4 Petitory action
- 3.5 Abandonment
- 3.6 Deadline for responding to initial pleadings
- 3.7 Reasons for denial of trial consolidation
- 3.8 Succession; venue
- 3.9 Appeal bonds
- 3.10 Finality of supreme court judgments

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION  
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FEBRUARY 2023**

**QUESTION 1 (40 POINTS)**

Patrick, a resident of Vernon Parish, was recently shopping at his favorite Beauregard Parish grocery store, which is owned and operated by Diamond Groceries of Louisiana, LLC (“Diamond Groceries”). Diamond Groceries is a Louisiana limited liability company that has its registered office in Allen Parish.

A pool of broken glass and marinara sauce was on the floor of aisle seven in the store. There was a single yellow caution sign containing the words “Caution Wet Floor” placed next to the broken jar and sauce. Patrick proceeded down aisle seven and slipped on the pool of broken glass and marinara when he stepped around the yellow caution sign and reached for a jar of marinara sauce on the shelf. An employee of Diamond Groceries, Winnie, ran to aisle seven after hearing Patrick scream. Winnie saw Patrick lying on the floor and ran to help him.

The Diamond Groceries manager took statements from Patrick, Winnie, and several other Diamond Groceries employees.

Patrick now wants to file suit against Diamond Groceries for negligence and intentional infliction of emotional distress.

- 1.1     4 pts     In which parish(es) may Patrick file his suit? For each parish identified, explain why the parish is a proper venue.**
- 1.2     4 pts     Patrick filed suit in a proper venue and properly served Diamond Groceries with a citation through its registered agent.**
- a.     *Assume for the purposes of this question a. only that Diamond Groceries was served with a citation and a copy of Patrick’s petition for damages only. What is the period of delay for Diamond Groceries to respond to the petition? (2 pts)***
- b.     *Assume for the purposes of this question b. only that that Diamond Groceries was properly served with a citation, a copy of Patrick’s petition for damages, and written interrogatories. What is the period of delay for Diamond Groceries to respond to the petition? (2 pts)***
- 1.3     2 pts     Diamond Groceries believes Patrick is at fault in causing his accident because he disregarded the yellow caution sign. What action must Diamond Groceries take in response to Patrick’s petition to allow it to argue the fault of Patrick at trial?**
- 1.4     4 pts     Patrick did not make a jury demand in his petition, but Diamond Groceries wants a trial by jury. What steps should Diamond Groceries take to make a valid jury demand, and by when must it take such steps? Explain.**
- 1.5     4 pts     Two weeks after Diamond Groceries answered the petition, it decided it wanted to challenge Patrick’s claim for intentional infliction of emotional distress because Diamond Groceries does not believe that the facts alleged in the petition support a cause of action for an intentional infliction of emotional distress claim.**
- a.     What pleading should Diamond Groceries file to have Patrick’s claim for intentional infliction of emotional distress dismissed before engaging in discovery on the claim? (2 pts)**

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- b. Patrick believes that Diamond Groceries waived its right to challenge Patrick's claim for intentional infliction of emotional distress on the basis of the factual allegations of the petition. Is Patrick correct? Explain. (2 pts)
- 1.6 3 pts Diamond Groceries owns more than twenty grocery stores in Louisiana. Patrick propounded an interrogatory to Diamond Groceries asking it to identify each and every slip and fall accident that occurred at any of its grocery stores in the past ten years. Diamond Groceries believes that it would be overly burdensome to gather the information Patrick is seeking and that the information sought is not relevant to Patrick's claims. What initial steps must Diamond Groceries take to avoid having to respond to the interrogatory, and by when must Diamond Groceries take those steps?
- 1.7 2 pts Diamond Groceries took the necessary initial steps to avoid responding to Patrick's interrogatory regarding other slip and fall accidents. Afterward, Patrick's attorney met and conferred with Diamond Groceries' attorney to discuss Diamond Groceries' refusal to respond to the interrogatory. Diamond Groceries still refuses to respond. What steps, if any, can Patrick take to require Diamond Groceries to answer the interrogatory? Explain.
- 1.8 2 pts Patrick would like to obtain a copy of any video surveillance footage that Diamond Groceries has for its Beauregard Parish store for the day of his accident. What steps must Patrick take to obtain a copy of the surveillance footage? Explain.
- 1.9 4 pts Diamond Groceries believes Patrick is exaggerating his injuries. What, if anything, can Diamond Groceries do to require Patrick to undergo further physical examination? Explain.
- 1.10 4pts Patrick has learned that Winnie is the employee who placed the yellow caution sign next to the broken jar of marinara sauce on the floor of aisle seven and wants to take her deposition. What steps must Patrick take to take Winnie's deposition? Explain.
- 1.11 4 pts Patrick's attorney took Winnie's deposition. Before her deposition, Diamond Groceries had interviewed Winnie and learned that Patrick's attorney had interviewed Winnie over the phone before the lawsuit was filed. Diamond Groceries has now propounded a request for production of documents to Patrick asking him to produce any witness statements or notes from witness interviews he or his attorney have in their possession. Patrick's attorney has notes she took from when she interviewed Winnie over the phone. Does Patrick have to produce those notes in response to Diamond Groceries' discovery request? Explain.
- 1.12 3 pts After adequate discovery, the court fixed a trial date. Patrick has now decided to file a motion for summary judgment that Diamond Groceries is solely at fault for the injuries he sustained as a result of his slip and fall incident.
- a. When must Patrick file and serve the motion and all supporting documents? (1 pt)
- b. Patrick timely filed and served his motion for summary judgment. The court has set a hearing date on the motion. When must Diamond Groceries file and serve its opposition to Patrick's motion, including all documents in support of its opposition? (1 pt)
- c. When must the court render a judgment on Patrick's motion? (1 pt)

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

Durable Digs, Inc. (“Durable”) makes prefabricated construction kits for sheds and other small structures that can be assembled and installed on immovable property. Durable is a Texas corporation licensed to do business in Louisiana. Durable designated Roberta to be its registered agent for service of process in Louisiana.

Pam heard about Durable and decided she wanted to build an outdoor office in her backyard. Pam met with Durable’s representative, Wayne, at Pam’s home in St. Bernard Parish. Wayne showed Pam three structures that could be wired for electricity and that he thought would work well as an office space in Pam’s backyard. Pam selected the structure she liked and asked Wayne if Durable could also handle the complete installation, including electrical wiring. Wayne confirmed that Durable could handle the complete installation, and Pam said she would like to proceed.

Durable delivered the construction kit for Pam’s office space a few weeks later. The Durable installation crew arrived the next day and constructed her office in a little over a week. Pam moved her office equipment and furniture into her outdoor office and started working there on a daily basis. Two months later, Pam began experiencing repeated electrical outages in the office. One day, the electricity shut off and would not come back on. When Pam contacted Durable about the problem, Durable sent Tommy to inspect the electricity in the structure. Tommy told Pam that he had identified and fixed the problem and left. Pam began working in the office again that afternoon, and the electricity appeared to be working fine. But a week later, Pam’s office structure caught fire. The fire department determined that the fire was an electrical fire.

Pam timely filed suit against Durable in St. Bernard Parish for breach of contract and negligence.

- 2.1     4 pts     By when must Pam request service of citation on Durable, and how must service be attempted on Durable? Explain.**
- 2.2     2 pts     Durable timely answered the lawsuit. Pam wants to take Durable’s deposition, but its representative is located in north Louisiana near Shreveport. Pam would like to take Durable’s deposition remotely so she does not have to travel. Under what circumstances, if any, may Pam take Durable’s deposition via remote electronic means? Explain.**
- 2.3     6 pts     Pam took Durable’s deposition. Durable revealed during its deposition that Tommy is an employee of Titan Electrical LLC (“Titan”), which is a Louisiana limited liability company and one of Durable’s subcontractors. Pam wants to add Titan as a defendant. What steps must Pam take to properly add Titan as a defendant to the lawsuit? Explain.**

*Titan is now a defendant in the lawsuit, and the court has fixed a trial date.*

- 2.4     12 pts     The court has issued an order requiring complete pretrial expert disclosures and issuance of written expert reports but did not provide a timeline for when the parties should make their respective expert disclosures and reports. Nor did the parties stipulate a timeline. Pam has retained an expert electrician to offer opinions regarding the potential causes of Pam’s office fire. Durable and Titan each retained an expert solely to contradict and rebut the opinions of Pam’s expert.**
- a.     When must Pam disclose the identity of her retained expert and provide the expert report? (2 pts)**

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- b. When must Durable and Titan disclose the identity of their rebuttal experts and provide rebuttal expert reports? (2 pts)
  - c. What are the form requirements for a testifying expert's report, and what information must be included in or with the report? Explain. (8 pts)
- 2.5    5 pts    After adequate discovery, Titan filed a motion for summary judgment on the basis that all experts had opined that the fire was due to Durable's failure to use electrical wiring that was up to code for the type of structure it supplied, assembled, and installed for Pam.
  - a. What showing must Titan make to prevail on its motion? Explain. (2 pts)
  - b. What type of evidence may Titan submit to support its motion? (3 pts)
- 2.6    2 pts    The judge denied Titan's motion for summary judgment, and the case proceeded to trial before a jury of six (6) persons. Absent a stipulation by the parties, how many jurors must concur to render a verdict?
- 2.7    3 pts    At trial, Pam completed the presentation of her case. Titan still does not believe that Pam has shown a right to relief against it.
  - a. What should Titan do to have Pam's claims against it dismissed before it presents its defense? (1 pt)
  - b. If Titan is unsuccessful in its efforts to have Pam's claims against it dismissed, what effect does that have on Titan's being allowed to present to the jury evidence in support of its defense to Pam's claims? (2 pts)
- 2.8    6 pts    The jury did not accept Durable or Titan's defenses and found them each 50% at fault for the fire. Following the jury's verdict, the judge signed and dated a judgment in favor of Pam and against Durable and Titan. Thereafter, the clerk mailed a notice of the judgment to all counsel.
  - a. How long and from what date does Titan have to file a motion for new trial or a motion for judgment notwithstanding the verdict? (2 pts)
  - b. Assume that Titan does not file a motion for new trial or a motion for a judgment notwithstanding the verdict. How many days and from what date does Titan have to file for a suspensive appeal? (2 pts)
  - c. Assume that Titan does not file a motion for new trial or a motion for a judgment notwithstanding the verdict. How many days and from what date does Titan have to file for a devolutive appeal? (2 pts)

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

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

- 3.1 Pleadings; definition
- 3.2 Pleading fault of third parties in tort actions
- 3.3 Grounds for recusal of judge
- 3.4 Actions related to immovable property; partition
- 3.5 Venue; child support modification
- 3.6 Discovery of tangible things
- 3.7 Notice of action to affect third persons
- 3.8 Sanctions for failure to make discovery
- 3.9 Kinds of executions
- 3.10 Venue; successions

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 (40 POINTS)**

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

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

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

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

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

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

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

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

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

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

[End of Question 1]

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**QUESTION 2 (40 POINTS)**

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

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

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

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

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

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

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

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

[End of Question 2]

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

**QUESTION 3 (20 POINTS)**

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

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

[End of Question 3]

END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST

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

**QUESTION 1 (40 POINTS)**

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

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

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

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

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

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

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



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

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

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

**QUESTION 2 (40 POINTS)**

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

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

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

[End of Question 2]

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

**QUESTION 3 (20 POINTS)**

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

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

[End of Question 3]

[END OF LOUISIANA CODE OF CIVIL PROCEDURE TEST]

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

**QUESTION 1 (100 POINTS)**

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

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

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

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

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

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

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

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

TEST CONTINUES ON NEXT PAGE

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

TEST CONTINUES ON NEXT PAGE

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

[End of Louisiana Code of Civil Procedure Test]