



FORMATION PROFESSIONNELLE DU BARREAU DU QUÉBEC

EXAMINATION BOOKLET

CIVIL I

November 8, 2000

- 1) The examination in the CIVIL I section is intended to determine the extent to which you have met the ultimate goals set forth in the document entitled « Préambule Civil I ».
- 2) You have a maximum of four hours to complete the examination. You are entirely responsible for managing your time.
- 3) The examination contains questions relating to the following section :
 - Civil I
- 4) The questions total 100 marks. You must obtain a mark of 60 % or more in order to pass this examination.
- 5) You may use any written documentation which you deem to be useful.
- 6) For photocopying purposes, kindly use a **pen with black ink** to write your answers in your answer booklet.
- 7) **You must write legibly, otherwise your answers will not be graded.**
- 8) Please ensure that your examination booklet contains 13 pages (including this page) and that your answer booklet contains 5 pages.

N.B. : You may assume that the Civil Code of Québec and Titles II and III of *An Act respecting the implementation of the reform of the Civil Code*, S.Q. 1992, c. 57 apply. Do not take the transitional provisions into account, except those relating to the publication of rights.

FILE 1 (28 MARKS)

The situation described in File 1 is an evolving one : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

In September of 1998, Pierre Rozon, who was born on August 17, 1986, begins high school at *Collège St-Janvier inc.*, a private educational institution. He lives with his parents, Gilberte Gagné and Paul Rozon. In order to get to school, he uses school bus transportation in the morning and in the evening.

On September 11, 1998, Pierre boards the bus in front of his home and sits at the back of the bus. The trip to school takes approximately 40 minutes.

While Pierre is reviewing his school work in the bus, three youths, Jacques Bergeron, Paul Éthier and Vladimir Karchock, all of whom are grade 11 students, sit next to Pierre. Jacques explains to Pierre that he and his two cohorts are members in good standing of the « Totem » street gang and that like all new high school students, Pierre must « pay his high school admission fee ». Therefore, Jacques demands that Pierre give him his leather jacket.

Given that Pierre does not seem to want to cooperate, Vladimir takes out a knife and threatens him. Pierre panics and gets up in order to warn the bus driver. Jacques, Paul and Vladimir also get up and surround Pierre. There is shoving and pushing, Pierre is pushed and falls in the passageway in the bus. While falling, he hits his head on one of the seats, resulting in a deep wound above his right eye.

Yvon Bourguignon, the bus driver, stops the bus and Pierre is brought to the *Hôpital St-Sacrement* where a doctor performs surgery. As a result of this incident, Pierre loses the use of his right eye and will have a deep scar on his face.

On September 18, 1998, Pierre's parents give a mandate to Claude Caron, a claims adjuster, to shed light on this unfortunate incident.

On October 9, 1998, Claude Caron submits his report which includes the following comments, among others :

- Jacques Bergeron, who was born on June 27, 1982, has always been a difficult child; he has had behavioral problems for quite some time. His father is unknown. His mother, Jacqueline Bergeron, died on September 8, 1995. Jacqueline had made a will in which she appointed her mother, Évelyne Laprise, as tutor to her son Jacques, and her brother, Armand Bergeron, as tutor to her son's property. Both of them accepted their respective responsibilities. Since the death of his mother, Jacques has been living with his maternal grandmother, Évelyne Laprise.

- Paul Éthier was born on August 6, 1981. He is the son of Jacques Éthier and Nicole Chamberland. In 1996, Paul met Brigitte Dumais. In the weeks following the start of their relationship, Brigitte became pregnant. After the birth, the couple was married on September 14, 1997. However, their love affair was short-lived and in December of 1997, Paul went back to live with his mother, where he is still living. His parents have been divorced for 10 years and Paul has not seen his father since his parents separated.
- Vladimir Karchock was born on May 7, 1980. He has had many problems in school and has failed a number of times. He lives with his parents, Isidor Karchock and Joséphine Taylor.
- Since 1997, the members of « Totem » have caused many problems at *Collège St-Janvier inc.*: extortion (taxing), threats, graffiti, drugs, etc. Many parents have complained about the situation to the principal, Jean-Paul Riopel. He has refused to intervene because he considers the incidents to be youthful indiscretions and thinks that things will work themselves out.
- In September of 1997, *Collège St-Janvier inc.* and *Transport Idéal inc.* signed a five-year contract for the transportation of the high school's students.
- In July of 1998, an agreement was entered into with *Collège St-Janvier inc.* regarding Pierre's school enrollment. The document was signed by the representatives of *Collège St-Janvier inc.*, by Pierre's parents in their personal capacity, and by Pierre himself, assisted by his parents. The document also stated that the school would provide school bus transportation for a monthly fee of \$50 which was included in the tuition.
- On the morning of the incident, the school bus was driven by Yvon Bourguignon who had 10 years of experience with *Transport Idéal inc.*. He saw the whole incident in his rear-view mirror. He could have intervened, but did not. He had previously had similar problems with « Totem » members in May of 1998; at that time, they had told him to mind his own business if he didn't want his bus to be set on fire. He had not reported this incident.
- The September 1998 incident lasted from four to five minutes. It is impossible to determine which of the three aggressors pushed the victim.
- In addition to the students who were involved directly in the incident, there were two other students in the school bus :

<u>Student's name</u>	<u>Date of birth</u>	<u>Parents</u>
Jocelyne Ouellet	March 10, 1981	Paul Ouellet Marie Goberge
Théo Gagné	July 11, 1980	Jean-Jacques Gagné Maryse Laporte

- Jocelyne Ouellet stated that on the morning of September 11, 1998, she had been in the bus for approximately 15 minutes when the incident occurred. She did not see anything because she was dozing and woke up with a start as a result of Pierre's fall.
- As for Théo Gagné, he was sitting on the bench right next to Pierre Rozon. He saw the whole incident, but did not intervene; he stated that he is not in the habit of meddling in other people's business. Théo Gagné is a talented athlete; he is a member of the high school football team and a black belt in karate.

Assume that none of the parties likely to be sued is insured.

QUESTION 1 (12 marks)

- **Determine four defendants against whom Pierre Rozon's tutors could institute an action for damages based upon a provision other than article 1457 C.C.Q.**
- **For each defendant, justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec, excluding article 1457 C.C.Q.**

ONLY THE NAMES OF THE FIRST FOUR DEFENDANTS WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

SUPPLEMENTARY FACTS

As a result of this incident, Pierre had to replace his clothing, having a value of \$200, and his glasses, having a value of \$250. The insurer of Pierre's parents indemnified Pierre for his losses, with the exception of the \$100 deductible. The insurance contract does not contain a contractual subrogation provision.

QUESTION 2 (4 marks)

- **What amount can Pierre Rozon's tutors claim legally for the loss of the clothing and glasses?**
- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

SUPPLEMENTARY FACTS

On January 11, 1999, M^e Julie Surprenant, the attorney for Pierre Rozon's tutors, institutes an action against Paul Éthier, among others, for damages as compensation for the injuries suffered by Pierre.

On March 10, 1999, Paul Éthier's attorney contacts M^e Surprenant in order to discuss the merits of the action. He contends that the action will be dismissed because the plaintiffs will not be able to prove that it was his client who pushed Pierre.

QUESTION 3 (4 marks)

- **Is the contention of Paul Éthier's attorney well founded?**
- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

SUPPLEMENTARY FACTS

On June 15, 2000, the Superior Court renders a judgment in favour of Pierre Rozon's tutors. The conclusions of the judgment are as follows :

FOR THESE REASONS, THE COURT :

ALLOWS this action in part;

ORDERS the defendants solidarily to pay to the plaintiffs, in their capacity as tutors to Pierre Rozon, a monthly annuity of \$1,500, payable on the first day of each month, from July 1, 2000 until June 1, 2010;

The whole with costs.

The parties did not appeal the judgment.

On October 14, 2000, Pierre's health suddenly worsens and he undergoes a new, and highly painful, operation to his right eye. The surgeon confirms that the deterioration in Pierre's health is a direct and foreseeable consequence of the incident which occurred on September 11, 1998; in fact, he had stated that this possibility existed during his testimony at the trial.

QUESTION 4 (4 marks)

- **Can Pierre Rozon’s tutors exercise a recourse against the defendants to the initial action, for damages to compensate for the injury resulting from the suffering, pain and inconvenience caused by the second surgery?**
- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

SUPPLEMENTARY FACTS

Within three months following the date on which Pierre Rozon becomes of full age, the defendants ask the court to replace the payment of the annuity by a payment of a lump sum representing the balance of the amount to be received.

QUESTION 5 (4 marks)

Can Pierre Rozon oppose this demand? Explain your answer.

FILE 2 (50 MARKS)

In April of 1989, Virginie Leblanc and James White meet for the first time at the home of mutual friends. James is divorced and Virginie has been widowed since 1987. In June of 1989, James moves in with Virginie who lives with her 2 children, Pénélope, who is 7 years old, and Jérôme, who is 4 years old.

At the time she meets James, Virginie owns a duplex in Laval. She had acquired this immovable for \$160,000 using the proceeds of a life insurance policy she collected upon the death of her husband. There has never been a hypothec on this immovable. Virginie lives in the dwelling on the ground floor and leases out the upper floor. She also has an RRSP of \$12,000 held with *Fiducie du Québec*.

At the time he meets Virginie, James is the sole shareholder of *Garage White inc.*, a transmission repair firm. James's shares in the share capital of this company are worth \$135,000. James also owns a parcel of land in Val Morin having a value of \$10,000.

When he moves in with Virginie, James purchases furniture having a value of \$30,000 which he pays for in cash and which is intended to fully furnish the dwelling. Virginie therefore gets rid of the furniture she owns.

On July 18, 1990, they are married without a marriage contract. They continue to live in the dwelling located in Virginie's duplex. The duplex is then worth \$165,000. As for the furniture which furnishes the dwelling, it has a value of \$25,000. James spends a great deal of time looking after the children, given that Virginie, who is an actress, has very long work hours. He not only provides for them in part, but also participates in their various scholastic and recreational activities. James would very much like to adopt the two children, but Virginie steadfastly refuses.

In 1991, James's business is flourishing and, using only his salary from *Garage White inc.*, he is able to make improvements to the parcel of land in Val Morin, at a cost of \$20,000. The value of the parcel of land has been the same for more than five years, and he hopes the improvements will increase its value. Moreover, James purchases a \$50,000 certificate of deposit using the salary paid by his company.

In 1992, James gives Virginie a collector's car. Given that Virginie does not use the car, James leases it out from time to time for weddings and special events. During that same period, he purchases an Adrien Gagnon painting having a value of \$13,000. The painting hangs on one of the walls in the family room.

During the marriage, Virginie takes out a new RRSP with the *CIBC*. She contributes \$25,000 to this RRSP, which amount is added to \$10,000 already contributed by James during the marriage.

The spouses contribute to the family expenses in accordance with their incomes.

In 1993, Virginie borrows \$15,000 from her friend Sophie Lemay in order to defray the cost of an acting course in order to improve her acting skills.

On June 22, 1994, James and Virginie buy a country house in Saint-Sauveur as co-owners. They go there with the children every weekend and spend their holidays there. The purchase price of the country house is \$105,000, paid for as follows : Virginie pays an amount of \$37,000 using funds from her deceased husband's succession; James pays \$18,000 using the salary he draws from *Garage White inc.*; the balance of \$50,000 is paid for with a hypothecary loan taken out by the spouses with *Caisse populaire Saint-Sauveur*.

Using his savings accumulated during the marriage, James purchases furniture having a value of \$22,000 in order to furnish the country house, and he also purchases a motor boat having a value of \$15,000 so that the children can go fishing.

James owns a 1998 Jetta automobile which Virginie uses on a daily basis for her needs and those of the children. The car has been paid for in full. James uses a 1997 Ford truck, owned by *Garage White inc.*, both for his business needs and for the needs of the family. The truck has been paid for in full.

In 1998, *Garage White inc.* experiences some financial difficulties. James has to replenish the company's funds and, therefore, takes out a \$35,000 personal loan with *Royal Bank*. Virginie agrees to have this loan secured by a hypothec on the Saint-Sauveur country house.

In February 2000, the relationship between Virginie and James sours. James sells the Adrien Gagnon painting for \$23,000. He invests this sum in an RRSP which he takes out with *National Bank*.

In October 2000, Virginie decides to ask for a divorce. She consults you on November 8, 2000 in order to know her rights. She tells you that Pénélope is a nursing student at *CEGEP Bois-de-Boulogne* and that Jérôme is in grade 11 at *Collège Français de Laval*.

Virginie also tells you that the balance of the loan owed to Sophie Lemay is \$4,000.

At the time Virginie consults you, the property owned or used by either one of the spouses is as follows :

- The Laval duplex, having a value of \$175,000. The space used by the family corresponds to 60% of the immovable's value;
- Virginie's RRSP taken out with the *CIBC*, having a current value of \$56,000;
- Virginie's RRSP taken out with *Fiducie du Québec*, having a current value of \$27,000;
- James's RRSP taken out with *National Bank*, which still has a value of \$23,000;
- The Val Morin parcel of land, having a current value of \$40,000;

- James's shares in the share capital of *Garage White inc.*, having a current value of \$180,000;
- James's certificate of deposit, which still has a value of \$50,000;
- An amount of \$18,000 deposited in a bank account in Virginie's name at *Caisse Populaire de Montréal*. This amount comes from the accumulation of rental income from the duplex over the last three years;
- The 1998 Jetta automobile, having a value of \$16,000;
- The Saint-Sauveur country house, having a current value of \$126,000. The balance of the hypothec taken out with *Caisse populaire Saint-Sauveur* is \$46,000, and the balance of the hypothec taken out with *Royal Bank* is \$32,000;
- The collector's car, having a value of \$33,000;
- The furniture in the dwelling, having a current value of \$21,000;
- The furniture in the country house, having a current value of \$19,000;
- The motor boat, which still has a value of \$15,000;
- The 1997 Ford truck, having a current value of \$10,000.

QUESTION 6 (5 marks)

Within the context of an action for divorce, will James White have an obligation of support towards the children Pénélope and Jérôme? Explain your answer.

QUESTION 7 (13 marks)

- a) **What is the net value of the property in the family patrimony of which Virginie Leblanc is the owner?**
- b) **What is the net value of the property in the family patrimony of which James White is the owner?**

QUESTION 8 (12 marks)

- a) Is Virginie Leblanc entitled to one or more deductions for purposes of establishing the value of the family patrimony which may be partitioned?
- If applicable, identify the item(s) of property to which the deduction(s) relate(s) and indicate the total amount of such deduction(s).
- b) Is James White entitled to one or more deductions for purposes of establishing the value of the family patrimony which may be partitioned?
- If applicable, identify the item(s) of property to which the deduction(s) relate(s) and indicate the total amount of such deduction(s).

QUESTION 9 (10 marks)

- a) Determine Virginie Leblanc's private property and acquests.
- b) Determine James White's private property and acquests.

QUESTION 10 (5 marks)

According to the rules applicable to the family patrimony, does Virginie Leblanc have a right she can assert against James White regarding the sale of the Adrien Gagnon painting? Explain your answer.

QUESTION 11 (5 marks)

- Within the context of the partition of the partnership of acquests, is Virginie Leblanc entitled to request that James White assume part of the \$4,000 balance of the loan owed to Sophie Lemay?
- Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.

FILE 3 (22 MARKS)

The situation described in File 3 is an evolving one : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Jeanne Roberge and Maurice Soucy, who have been married for 15 years, have two children, Joëlle, who is 12 years old, and Antoine, who is 18 years old. The family decides to tour Quebec by car. While touring, they are the victims of a serious car accident in Tadoussac. Maurice dies on the spot, Jeanne suffers a head injury, Joëlle's trachea is perforated, and Antoine only suffers a broken leg and a broken arm.

Jeanne and her two children are hospitalized in Chicoutimi. Jeanne is unconscious and the hospital personnel is unable to reach any family members. The attending physician explains to Antoine the treatment plan for Jeanne which includes delicate brain surgery which has to be carried out immediately in order to avoid complications which could endanger her life.

According to Antoine, his mother never signed a mandate in anticipation of her incapacity. The hospital personnel asks Antoine to consent to the health care to be provided to Jeanne. Antoine, who is still in shock, feels unable to make such an important decision.

Joëlle is currently breathing through a tube inserted under the perforation in her trachea. In a few days, she will need surgery in order to allow her to breathe normally. Antoine consents to the surgery and signs the required consent form.

The hospital representatives consult you to find out what they should do under the circumstances in order to treat Jeanne and Joëlle in an entirely legal manner.

QUESTION 12 (8 marks)

a) Can the hospital personnel carry out the proposed brain surgery on Jeanne, without any other formalities?

- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

b) Was Antoine able to consent validly to the proposed surgery on Joëlle's trachea?

- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

SUPPLEMENTARY FACTS

Julie Roberge, Jeanne's only sister, is worried about Joëlle's future, given that Maurice has died and Jeanne is still unconscious.

She confirms that Jeanne had made out a fully valid will in the presence of witnesses, in which will she bequeathed all of her property to her husband, Maurice. The will stipulates that if Maurice dies before her or at the same time as her, her property is to be bequeathed to Joëlle and Antoine in equal shares. She appointed her sister, Julie, as tutor to her children Joëlle and Antoine.

Maurice had also made out a fully valid will in the presence of witnesses, in which he bequeathed all of his property to Jeanne. The will stipulates that if Jeanne dies before him or at the same time as him, his property is to be bequeathed to Joëlle and Antoine in equal shares. He appointed Jeanne's sister, Julie, as tutor to his children Joëlle and Antoine.

Julie wants to be appointed as tutor to Joëlle.

QUESTION 13 (5 marks)

- **Indicate one legal step which Julie's lawyer must take in order for Julie to be appointed as tutor to Joëlle.**
- **Justify your answer by referring to one or more specific and relevant provisions of any legislation.**

SUPPLEMENTARY FACTS

A few days after she is appointed as tutor to her niece Joëlle, Julie consults her lawyer again. She wishes to be paid for carrying out her duties as tutor.

QUESTION 14 (5 marks)

- **What written proceeding will Julie's lawyer use to present Julie's request?**
- **Justify your answer by referring to one or more specific and relevant provisions of the Code of Civil Procedure.**

SUPPLEMENTARY FACTS

A few months pass, and Jeanne is still unconscious. Protective supervision has been instituted with respect to Jeanne, and Julie has been appointed as tutor to her property and person. The status of Maurice's succession is now known, and Julie indicates to you that it is in the interests of Jeanne to accept the succession.

QUESTION 15 (4 marks)

- **Is the acceptance of Maurice's succession by Julie on behalf of Jeanne subject to a particular formality? If yes, which one.**
- **Justify your answer by referring to one or more specific and relevant provisions of the Civil Code of Québec.**

CORRIGÉ**EXAMEN RÉGULIER - CIVIL I
Le 8 novembre 2000****DOSSIER 1 (28 POINTS)****QUESTION 1 (12 points)**

- Déterminez quatre défendeurs contre qui les tuteurs de Pierre Rozon pourraient tenter une action en dommages et intérêts fondée sur une disposition autre que l'article 1457 C.c.Q.
- Pour chacune des défendeurs, appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec, à l'exclusion de l'article 1457 C.c.Q.

SEULS LES NOMS DES QUATRE PREMIERS DÉFENDEURS INSCRITS AU CAHIER DE RÉPONSES SERONT CORRIGÉS.

3 points / bulle

Transport Idéal inc., art. 1460 C.c.Q. OU 1463 C.c.Q.
Yvon Bourguignon, art. 1460 C.c.Q.
Évelyne Laprise, art. 1459 C.c.Q. (et 186 C.c.Q.)
Collège St-Janvier inc., 1458 C.c.Q.
Jean-Paul Riopel, art 1460 C.c.Q.

1.
2.
3.
4.
5.

1. **12****QUESTION 2 (4 points)**

- Quel montant les tuteurs de Pierre Rozon peuvent-ils légalement réclamer pour la perte des vêtements et des lunettes ?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

100 \$, art. 1608 C.c.Q. OU 2474 C.c.Q.

2. **4****QUESTION 3 (4 points)**

- Cette affirmation du procureur de Paul Éthier est-elle bien fondée?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Non, art. 1480 C.c.Q.

3. **4****QUESTION 4 (4 points)**

- Les tuteurs de Pierre Rozon peuvent-ils exercer un recours contre les défendeurs à l'action initiale, en réparation du préjudice résultant des souffrances, douleurs et inconvénients causés par cette deuxième intervention chirurgicale?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Non, art. 1615 C.c.Q.

OU

Non, art. 2848 C.c.Q.

4. **4****QUESTION 5 (4 points)**

Pierre Rozon peut-il s'opposer à cette réclamation? Dites pourquoi.

Oui, parce que seul le créancier (Pierre) peut formuler une telle réclamation et non les débiteurs (défendeurs)(art. 1616 al. 2 C.c.Q.)

5. **4**

DOSSIER 2 (50 POINTS)

QUESTION 6 (5 points)

James White a-t-il, dans le cadre d'une action en divorce, une obligation alimentaire envers les enfants Pénélope et Jérôme? Dites pourquoi.

Oui, James a agi "in loco parentis"

6. 5

QUESTION 7 (13 points)

a) Quelle est la valeur nette des biens du patrimoine familial dont Virginie Leblanc est propriétaire?

201 000 \$

7. 6

60% du duplex	105 000 \$
REER CIBC	56 000 \$
50% du chalet de Saint-Sauveur	63 000 \$
	224 000 \$
Moins la moitié du solde de l'hypothèque de Caisse populaire Saint-Sauveur	23 000 \$
Valeur nette	201 000 \$

b) Quelle est la valeur nette des biens du patrimoine familial dont James White est propriétaire?

119 000 \$

8. 7

50% du chalet de Saint-Sauveur	63 000 \$
Meubles du logement	21 000 \$
Meubles du chalet	19 000 \$
Voiture Jetta	16 000 \$
REER Banque Nationale	23 000 \$
	142 000 \$
Moins la moitié du solde de l'hypothèque de Caisse populaire Saint-Sauveur	23 000 \$
Valeur nette	119 000 \$

QUESTION 8 (12 points)

a) Virginie Leblanc a-t-elle droit à une ou des déductions aux fins de l'établissement de la valeur partageable du patrimoine familial?

• **Le cas échéant, identifiez le ou les biens au(x)quel(s) se rattache(nt) cette ou ces déductions et indiquez le montant total de celle(s)-ci.**

• Oui, relativement à la résidence familiale : (105 000 \$)

9. 2

• Oui, relativement au chalet de Saint-Sauveur : (44 399,99 \$)

10. 2

Apport: 37 000 \$	
Plus value:	
37 000 \$	X 126 000 \$ - 105 000 \$ = 7 399,99
	105 000 \$
37 000 \$ + 7 399,99 = 44 399,99 \$	

• 105 000 \$ + 44 399,99 \$ **OU** 149 399,99 \$

11. 4

b) James White a-t-il droit à une ou des déductions aux fins de l'établissement de la valeur partageable du patrimoine familial?

• **Le cas échéant, identifiez le ou les biens au(x)quel(s) se rattache(nt) cette ou ces déductions et indiquez le montant total de celle(s)-ci.**

Oui, relativement aux meubles de la résidence familiale :
21 000 \$.

12. 2

13. 2

QUESTION 9 (10 points)

a) Déterminez les biens propres et les biens acquis de Virginie Leblanc.

Bien(s) propre(s)	REER de la Fiducie du Québec	14. 3
	Voiture de collection	
	40 % du duplex de Laval	
Bien(s) acquêt(s)	(18 000 \$ dans le) compte de banque à <i>Caisse populaire de Montréal</i>	15. 2

b) Déterminez les biens propres et les biens acquis de James White.

Bien(s) propre(s)	Actions du capital-actions de <i>Garage White inc.</i>	16. 2
Bien(s) acquêt(s)	Terrain de Val Morin (40 000 \$)	17. 3
	Certificat de dépôt (50 000 \$)	
	Chaloupe à moteur (15 000 \$)	

QUESTION 10 (5 points)

En vertu des règles du patrimoine familial, Virginie Leblanc a-t-elle un droit à faire valoir contre James White eu égard à la vente du tableau d'Adrien Gagnon? Dites pourquoi.

Non, il n'y a pas de paiement compensatoire parce que le bien a été remplacé par un bien (de même valeur) qui fait partie du patrimoine familial. 18. 5

QUESTION 11 (5 points)

- Dans le cadre du partage de la société d'acquêts, Virginie Leblanc peut-elle exiger que James White assume une partie du solde de 4 000 \$ de l'emprunt contracté auprès de Sophie Lemay?
- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Non, 464 C.c.Q. 19. 5

DOSSIER 3 (22 POINTS)

QUESTION 12 (8 points)

a) Le personnel hospitalier peut-il, sans autre formalité, procéder à l'intervention chirurgicale au cerveau proposée en ce qui concerne Jeanne?

- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Oui, art. 13 C.c.Q. OU art. 16 C.c.Q.

20. 4

b) Antoine pouvait-il valablement consentir à l'intervention chirurgicale à la trachée proposée en ce qui concerne Joëlle?

- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Non, art. 14 C.c.Q. OU art. 16 C.c.Q.

21. 4

QUESTION 13 (5 points)

- Indiquez une démarche légale que le procureur de Julie doit entreprendre afin que celle-ci soit nommée tutrice de Joëlle?

- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de tout texte de loi.

Voie judiciaire :

Faire une demande au tribunal, art. 206 C.c.Q. OU 205 C.c.Q. OU 885 b), c) C.p.c.

ou

Faire une demande pour constituer un conseil de tutelle, art. 224 C.c.Q.

OU

22. 5

Voie notariale :

Présenter une demande à un notaire, art. 863.4 C.p.c. ou art. 876.2 C.p.c.

QUESTION 14 (5 points)

- Par quel acte de procédure le procureur de Julie fera-t-il valoir la demande de celle-ci?

- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code de procédure civile.

Une requête, art. 885 c) C.p.c. OU art. 862 C.p.c.

23. 5

QUESTION 15 (4 points)

- L'acceptation par Julie de la succession de Maurice au bénéfice de Jeanne est-elle soumise à une formalité particulière? Si oui, laquelle?

- Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du Code civil du Québec.

Non, art. 638 C.c.Q.

24. 4