



FORMATION PROFESSIONNELLE DU BARREAU DU QUÉBEC

EXAMINATION BOOKLET

CIVIL I

November 10, 2003

- (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 **12** pages (including this page) and that your answer booklet contains **6** pages.

FILE 1 (28 MARKS)

Kevin Théberge was born on December 23, 1985. He has been married to Cloé Marquis since November 9, 2002. He is the son of Jocelyne Théberge and Patrick Joly. Jocelyne and Patrick have lived apart since 1986. Although Jocelyne always had custody of Kevin after the separation, Patrick participated in the education of his son.

Kevin is a snowmobile lover and an experienced snowmobile driver. He practises this sport regularly with Marie-Jo Lacroix-Chagnon, a childhood friend, who owns a 330 kg Artic Cat snowmobile. Both of them practise snowmobiling in a former sand pit which is now set up for the practise of snowmobiling.

The sand pit is owned by *123467 Canada inc.* which allows snowmobile enthusiasts to practise their sport on its land for an entrance fee of \$12 per person. At the entrance to the land, in full view, the following sign is posted:

Welcome snowmobilers. We offer the best safe trails in Québec. We maintain the trails and a patroller ensures that they are safe.

On January 22, 2003, after Kevin and Marie-Jo have each paid their entrance fee, they go snowmobiling together at the sand pit. Marie-Jo asks Kevin to drive her snowmobile and sits at the back as a passenger.

At approximately 10:30 a.m., at the gate house to the sand pit, Kevin and Marie-Jo meet a friend, Steve Roy, who is paying his entrance fee.

Kevin and Steve challenge each other. Each will start from the opposite end of the sand pit, drive at top speed and, at the point where they cross each other, the snowmobilers will come as close to each other as possible at a very high speed. Although Marc Lacroix, the patroller, has heard the conversation between Kevin and Steve, he does not intervene.

Marie-Jo opposes this game and attempts to dissuade Kevin and Steve. She insists on getting off the snowmobile, but Kevin does not give her the opportunity to do so.

Kevin and Steve each go to their starting point. Steve gestures with his hand and the two snowmobiles take off, moving at top speed. At the crossing point, the snowmobiles collide violently and the occupants are thrown to the ground. Steve, Kevin and Marie-Jo are all unconscious.

At approximately 11:30 a.m., Gérald Nutilis, who was snowshoeing near the sand pit, spots the three victims. Using his cellular telephone, Gérald contacts the emergency services and the three victims are brought to the *Centre Hospitalier St-Jean*.

The emergency doctor, Doctor Yvan Duquette, diagnoses that Steve has a head trauma, Kevin has multiple fractures and Marie-Jo has internal hemorrhaging. He is of the opinion that Marie-Jo, who is still unconscious, requires delicate surgery which the hospital centre is not in a position to do. He decides, without providing further treatment, to transfer her to the *Centre Hospitalier de l'Université de Montréal*.

An investigation and some expert reports reveal the following:

- When snowmobilers pay their entrance fee at the sand pit, they are given a ticket with the following statement written on the back:

“We will not be held liable for any accidents which may occur.”

- The sand pit is monitored by a patroller who must see to it that the snowmobilers comply with the basic rules of care and safety.
- Marie-Jo Lacroix-Chagnon was born on December 10, 1986. She is the daughter of Blandine Lacroix and Pierre Chagnon.
- Marie-Jo’s condition required that she undergo delicate surgery and, in fact, the *Centre Hospitalier St-Jean* was unable to offer this service. However, the emergency doctor, Doctor Duquette, should have stabilized Marie-Jo’s condition before her transfer, something which was not done and will result in additional permanent impairment.
- Kevin, Steve and Marie-Jo do not remember the circumstances of the accident and there are no witnesses.
- Steve Roy was born on January 1, 1985 and he is the son of Jane Roy and Sylvain MacDonald. At the time of the accident he was driving his father’s 360 kg Ski-Doo snowmobile.
- Marie-Jo’s snowmobile is a total loss. Marie-Jo had purchased it in the fall of 2002 at a price of \$10,000. An evaluation shows that its depreciated value is \$7,500 and that it would now cost \$12,000 to purchase a new one.
- Steve has been in a coma since the accident. Specialists believe that surgery might improve his condition. However, the surgery is risky and the potential consequences are impossible to assess. Steve’s father, Sylvain MacDonald, was appointed tutor to his son and categorically refuses to have Steve undergo the surgery.

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

QUESTION 1 (8 marks)

Can Marie-Jo Lacroix-Chagnon's tutors claim damages or compensation from the following persons for the bodily injuries suffered by her?

- (a) *Société de l'assurance-automobile du Québec*
- (b) *123467 Canada inc.*
- (c) Doctor Yvan Duquette

For each of the aforementioned persons, justify your answer by referring to one or more specific and relevant provisions of any legislation.

- (d) Patrick Joly

For the aforementioned person, explain your answer.

QUESTION 2 (5 marks)

Assuming that Marie-Jo Lacroix-Chagnon's tutors were to sue *123467 Canada inc.* for the harm resulting from the loss of the snowmobile, besides the elements relating to the formation of the contract, what condition would the company have to establish in its defence in order to benefit from the non-liability clause set forth on the back of the ticket?

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

QUESTION 3 (5 marks)

Assuming that Marie-Jo Lacroix-Chagnon's tutors were to sue the persons responsible for the accident, what is the maximum amount they could claim for the loss of the snowmobile?

Select the correct answer from among the answers written hereinbelow and circle the corresponding letter in the answer booklet.

- a) 0\$
- b) 7 500 \$
- c) 10 000 \$
- d) 12 000 \$

QUESTION 4 (5 marks)

Assuming that Steve Roy's tutor were to institute proceedings to claim damages as a result of the harm suffered by Steve, could it be argued as a defence against the tutor that he did not minimize the damages because he refused the surgery? Explain your answer.

QUESTION 5 (5 marks)

Assuming that Marie-Jo Lacroix-Chagnon's tutors were to institute proceedings for damages against Kevin Théberge, could Kevin Théberge allege the fault committed by Steve Roy in order to reduce his liability?

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

FILE 2 (48 MARKS)

Situation 1

Jean Beaudin died on October 8, 2003 without having left a will. At the time of his death, he had been living in a *de facto* union for ten years with Manon Pérusse and her son, Patrick Forget. In addition to his *de facto* spouse, Manon, and Patrick, Jean Beaudin was survived by his father, Éric Beaudin, his mother, Corinne Bérubé, his brother, Mathieu Beaudin, as well as his two nephews, Pierre Fortin and Michel Fortin, the children of his sister, Julie Beaudin, who had predeceased him.

QUESTION 6 (5 marks)

Name Jean Beaudin's successors and indicate the share each will receive.

Select the correct answer from among the answers written hereinbelow and circle the corresponding letter in the answer booklet.

- (a) Manon Pérusse $\frac{1}{3}$, Patrick Forget $\frac{2}{3}$
- (b) Manon Pérusse $\frac{1}{3}$, Patrick Forget $\frac{1}{3}$, Éric Beaudin $\frac{1}{6}$, Corinne Bérubé $\frac{1}{6}$
- (c) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{2}$
- (d) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{4}$, Pierre Fortin $\frac{1}{8}$, Michel Fortin $\frac{1}{8}$
- (e) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Julie Beaudin $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{4}$

Situation 2

In May 1990, Alexis Pigeon made out a notarial will in which he bequeathed all his property to his parents. In the fall of 1990, Alexis became the father of a child, Stéphanie, following a brief relationship with Juliette Côté.

On May 10, 1993, Alexis married Marie Turcotte and opted for the regime of separation as to property. A child, Victor, was born of their union on June 15, 1994.

On October 9, 2002, Alexis took out a life insurance policy of \$50,000 in favour of his daughter Stéphanie. On September 20, 2003, Alexis died in an automobile accident.

The value of the succession is \$270,000 and Marie's claim relating to the partition of the family patrimony is \$70,000. On October 15, 2003, Marie consults you and gives you a mandate to claim from the succession, on behalf of her son Victor, a financial contribution as support.

QUESTION 7 (5 marks)

What is the maximum amount of the support that Marie Turcotte may claim on behalf of her son Victor? Show all your calculations.

Situation 3

Lisa Drouin and Stéphane Lewis met on May 10, 1989. At that time, Stéphane was operating a flower shop inherited from his mother in 1985. Lisa and Stéphane were married in Montreal on August 8, 1990 without having entered into a marriage contract prior to their marriage. No children were born of their union.

In January of 2000, the spouses purchased, as co-owners, a five-dwelling income-producing immovable in Hudson for an amount of \$150,000. The five dwellings were leased. At the time of the purchase, Stéphane paid \$20,000 in cash from the inheritance left by his mother and the spouses financed the balance with a hypothec from the *CIBC Bank*.

In January of 2002, the couple sold the immovable for \$175,000 and used this amount in order to purchase, as co-owners, a new residential immovable for an amount of \$180,000 as a replacement for the previous immovable. The couple took out a hypothec of \$135,000 with the *CIBC Bank*.

In June of 2003, Stéphane decided to renovate the flower shop and, in order to do so, he took out a hypothec in the amount of \$15,000 with the *Caisse populaire d'Hudson*. The balance required to complete the work was provided by Lisa who gave Stéphane \$10,000 from her savings accumulated during the marriage.

In September of 2003, Lisa left Stéphane and wanted to end their marriage. The balance sheet of the spouses was then as follows:

Lisa Drouin

ASSETS

Half of the residential immovable, evaluated at \$200,000	\$100,000
An RRSP with the <i>Royal Bank</i> , held before the marriage	\$20,000
A 1999 Honda Civic automobile, acquired in September 2002 using her income and used by the couple for travelling	\$15,000
A trailer used by the couple for their vacations and offered to Lisa by her mother as a gift	\$18,000
The furniture which furnished the trailer, purchased by Lisa during the marriage using an amount inherited from her father	\$6,000

LIABILITIES

Personal loan from the <i>Caisse populaire de Vaudreuil</i> for the purchase of the Honda	\$5,000
Half of the hypothec with the <i>CIBC Bank</i> for the residential immovable	\$60,000

Stéphane Lewis

ASSETS	
Half of the residential immovable, evaluated at \$200,000	\$100,000
A 1995 Dodge Caravan minivan, used exclusively for the flower shop, purchased in September 2002 and paid for using his savings accumulated during the marriage	\$10,000
The furniture which furnished the dwelling in which the couple lived in Pierrefonds and which was purchased after the marriage using his savings accumulated before the marriage	\$8,000
The flower shop	\$125,000
A bank account at the <i>Royal Bank</i> where the income from the flower shop was deposited	\$10,000

LIABILITIES	
The balance of the hypothec with the <i>Caisse populaire d'Hudson</i> for the flower shop	\$15,000
Half of the hypothec with the <i>CIBC Bank</i> for the residential immovable	\$60,000

QUESTION 8 (8 marks)

(a) Within the framework of the partition of the partnership of acquests, should there be compensation of one or more amounts from the mass of private property to the mass of acquests of Stéphane Lewis?

If so, specify the amount or amounts while showing all your calculations, if any, and justify your answer by referring to one or more specific and relevant provisions of any legislation.

If not, explain your answer

(b) WITHDRAWN QUESTION

QUESTION 9 (10 marks)

- (a) **What is the net value of the property in the family patrimony of which Lisa Drouin is the owner? Show all your calculations, if any.**
- (b) **What is the net value of the property in the family patrimony of which Stéphane Lewis is the owner? Show all your calculations, if any.**

QUESTION 10 (5 marks)

What right can Lisa Drouin assert with respect to the amount of \$10,000 invested in the renovation of the flower shop?

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

Situation 4

Josée Riendeau and Alain Duplessis were married in Montreal on June 20, 1990 without a marriage contract. At the time of the marriage, Alain owned a building which now serves as the residence for the couple and the two children born of their union. For some months, Alain has been having some financial difficulties and in order to get back on his feet, he should sell the family residence. Josée categorically refuses, without valid reason, because she believes that the situation can be improved through proper management of the family's finances and that it would not be in the interest of the family for the sale to take place.

QUESTION 11 (5 marks)

Does Alain Duplessis have a recourse in order to disregard Josée Riendeau's refusal to consent to the sale of the family residence?

If so, justify your answer by referring to one or more specific and relevant provisions of the *Civil Code of Québec*. If not, explain your answer.

Situation 5

During a study trip to Vancouver, British Columbia, in the summer of 2001, Véronique Hudon, of Victoriaville, Québec, met Frédéric Cloutier, of Matane, Québec. They fell madly in love. In July of 2002, Véronique and Frédéric decided to unite in accordance with the provisions governing civil unions. The ceremony took place at the Victoriaville Courthouse. In May of 2003, Jules, a son, was born of the union of the spouses. In August of 2003, things were no longer working well between the spouses. The couple decided to terminate their union and Véronique instituted proceedings for the dissolution of the civil union. They agreed that Véronique would have full custody of their son, because Frédéric had returned to Vancouver to live there.

The only item in dispute is the support to be paid by Frédéric for his son. Frédéric is a professor at Vancouver University and earns an annual salary of \$55,000. He is a member of the union of professors and his annual dues are \$2,000. Furthermore, each year he contributes \$1,000 to his RRSP and \$2,000 to an educational savings plan for his son.

Véronique is an esthetician. Her annual income is \$20,000. Furthermore, she receives a family allowance and a child tax benefit of \$200 per month. The net daycare costs for her son are \$6,500 per year.

QUESTION 12 (5 marks)

What is the amount of the annual support that Frédéric Cloutier will have to pay for his son Jules?

Select the correct answer from among the answers written hereinbelow and circle the corresponding letter in the answer booklet.

- (a) 10 382,66 \$
- (b) 10 533 \$
- (c) 10 557,50 \$
- (d) 10 813 \$
- (e) 10 848 \$

Situation 6

On July 2, 2003, Zoé Vermette and Martin Faucher were married in Montreal. At the time of their marriage, Zoé and Martin were 17 years old and their respective parents consented to their union. Prior to the marriage, Martin and Zoé signed a marriage contract before Notary Luc Poirier. The respective parents of the future spouses intervened in the marriage contract. The marriage contract was duly entered in the appropriate register.

Martin consults you today, November 10, 2003, to know whether it is possible to have the gifts contained in his marriage contract annulled.

QUESTION 13 (5 marks)

Can Martin Faucher have the gifts contained in his marriage contract annulled?

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

FILE 3 (24 MARKS)

Situation 1

Line Alarie and Antoine Chan lived together from July 1, 1988 to April 27, 2002, the date on which Antoine passed away after a long illness. Antoine was the director of *Sato inc.*, a family-owned timber construction company not listed on a stock exchange. Martin, the son of Line and Antoine, was 11 years old at the time of his father's death.

Antoine left a will appointing Martin as his only heir and naming his brother, Byron Chan, as the liquidator of the succession.

On September 12, 2003, Byron filed a rendering of accounts which was validly accepted and indicated that the value of the succession was \$70,000, comprised, among other things, of 350 shares of *Sato inc.* According to the company's accountant, these shares are currently worth \$100 each and he advises selling them soon, because he foresees a significant reduction in the company's order book.

QUESTION 14 (8 marks)

(a) Name the person or persons authorized by law to proceed with the sale of the shares of *Sato inc.*

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

(b) What legal formality(ies) must this person or these persons fulfill before legally selling the shares of *Sato inc.*?

Situation 2

Louise Pitre and Simon Coletti are the parents of Yann, a 15-year-old who was the victim of a serious road accident on July 8, 2003. The accident left the young man paralyzed and he had to undergo two hip reconstruction operations during the weeks immediately following the accident.

Unfortunately, the outcome of the operations was not as hoped, such that the orthopedic surgeon, Doctor François Caron, has recommended further surgery, indicating that the operation must be carried out within the next two months if there is to be any chance of success. Louise and Simon have given their written consent to the procedure, but Yann has stated his fierce opposition because, according to him, he is unable to bear any further pain.

QUESTION 15 (4 marks)

Can Doctor François Caron proceed with the orthopedic surgery he has recommended, without any other formalities?

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

Situation 3

Paul Angers, who was born on December 8, 1985 and is 17 years old, has Down's Syndrome (severe mental deficiency). He has lived alone with his father, Joseph Angers, since the death of his mother in 1988.

On December 1, 2000, Paul suffered injuries as a result of an assault by a young neighbour, Pierre Clark.

On May 2, 2003, Joseph filed an application for the institution of protective supervision for his son Paul and, on September 8, 2003, the Superior Court rendered a judgment appointing Henri Angers as tutor to the person and property of his nephew Paul.

Today, November 10, 2003, Joseph and Henri meet to discuss matters affecting both Paul personally and his property. They notice that it has become urgent to exercise Paul's recourse against Pierre Clark, given the prescription period.

QUESTION 16 (4 marks)

Today, can Henri Angers validly institute an action for damages against Pierre Clark on behalf of Paul Angers? Explain your answer.

Situation 4

Situation 4 described in File 3 is an evolving situation: all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Charlie Quentin, born on April 12, 1983, is the only child of Roger Quentin and Carmen Duval. On July 15, 2001, Charlie suffered a bicycle accident as a result of which he fell into a deep coma.

On January 8, 2002, the Superior Court rendered a judgment appointing Roger as curator to his son Charlie. Charlie's only asset is a boat which, according to the dealer, has a value of \$27,000. Roger considers it appropriate to sell the boat, but despite his efforts, the best offer he has received is \$23,000. Roger decides to purchase the boat himself and is willing to pay \$27,000.

QUESTION 17 (4 marks)

Can Roger Quentin proceed with the purchase of Charlie Quentin's boat for the amount of \$27,000 without any other formalities?

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

SUPPLEMENTARY FACTS

On October 8, 2003, contrary to all expectations, Charlie emerges from his coma. Although he is once again fully conscious and able to express himself verbally, he is still completely paralyzed. The doctors are of the opinion that Charlie's physical condition will not improve. However, they propose an operation intended to bring him some comfort when breathing.

After having heard the doctors' explanations regarding the proposed surgery, Charlie states that he refuses to undergo the surgery. Roger agrees with the doctors that his son's refusal is unjustified and he signs a consent for the surgery.

QUESTION 18 (4 marks)

In the circumstances, can the doctors disregard Charlie Quentin's refusal to undergo the proposed surgery?

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 10 novembre 2003

DOSSIER 1 (28 POINTS)

QUESTION 1 (8 points)

Les tuteurs de Marie-Jo Lacroix-Chagnon peuvent-ils réclamer des dommages-intérêts ou une indemnité des personnes suivantes pour le préjudice corporel qu'elle a subi ?

a) *Société de l'assurance-automobile du Québec*

1. Non, art. 10 (3) *Loi sur l'assurance automobile*.

1. 2 pts

OU

OU

1.

2. Non, ce n'est pas une automobile, art. 1 al. 2 *Loi sur l'assurance automobile*.

2. 1 pt

b) *123467 Canada inc.*

Oui, 1458 *C.c.Q.*

2.

c) *D^r Yvan Duquette*

Oui, 1457 *C.c.Q.*

3.

Pour chacune des personnes ci-dessus mentionnées, appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de tout texte de loi.

d) *Patrick Joly*

Non, parce que Kevin est émancipé (par le mariage).

(Le père n'est pas civilement responsable des actes de son fils) (art. 171 ou 175 ou 176 ou 598 *C.c.Q.*)

4.

Pour la personne ci-dessus mentionnée, dites pourquoi.

QUESTION 2 (5 points)

Dans l'hypothèse où les tuteurs de Marie-Jo Lacroix-Chagnon poursuivraient *123467 Canada inc.* pour le préjudice qui résulte de la perte de la motoneige, outre les éléments relatifs à la formation du contrat, quelle condition la société devrait-elle établir en défense pour bénéficier de la clause de non-responsabilité mentionnée à l'endos du billet?

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

1. Marie-Jo avait pris connaissance de l'avis (au moment de la formation du contrat), art. 1475 *C.c.Q.* 1. 5 pts

OU

OU

5.

2. *123467 Canada inc.* n'a pas commis de faute intentionnelle ou lourde, art. 1474 *C.c.Q.*

2. 3 pts

QUESTION 3 (5 points)

Dans l'hypothèse où les tuteurs de Marie-Jo Lacroix-Chagnon poursuivraient les responsables de l'accident, quel montant maximal pourraient-ils réclamer pour la perte de la motoneige?

Choisissez la bonne réponse parmi celles inscrites ci-dessous et encerclez la lettre correspondante dans votre cahier de réponses.

- a) 0\$
- b) 7 500 \$
- c) 10 000 \$
- d) 12 000 \$

Réponse : b) 7 500 \$

6.

QUESTION 4 (5 points)

Dans l'hypothèse où le tuteur de Steve Roy intenterait un recours pour réclamer les dommages-intérêts en raison du préjudice subi par ce dernier, pourrait-il se voir invoquer en défense qu'il n'a pas minimisé les dommages parce qu'il a refusé l'intervention chirurgicale? Dites pourquoi.

Non, parce que le refus n'est pas déraisonnable.

7.

QUESTION 5 (5 points)

Dans l'hypothèse où les tuteurs de Marie-Jo Lacroix-Chagnon intenteraient un recours en dommages-intérêts contre Kevin Théberge, ce dernier pourrait-il alléguer la faute commise par Steve Roy pour réduire sa part de responsabilité?

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

Non, art. 1526 *C.c.Q.*

8.

DOSSIER 2 (48 POINTS)

QUESTION 6 (5 points)

Nommez les successibles de Jean Beaudin et indiquez la part de chacun.

Choisissez la bonne réponse parmi celles inscrites ci-dessous et encerclez la lettre correspondante dans votre cahier de réponses.

- a) Manon Pérusse $\frac{1}{3}$, Patrick Forget $\frac{2}{3}$
- b) Manon Pérusse $\frac{1}{3}$, Patrick Forget $\frac{1}{3}$, Éric Beaudin $\frac{1}{6}$, Corinne Bérubé $\frac{1}{6}$
- c) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{2}$
- d) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{4}$, Pierre Fortin $\frac{1}{8}$, Michel Fortin $\frac{1}{8}$
- e) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Julie Beaudin $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{4}$

Réponse: d) Éric Beaudin $\frac{1}{4}$, Corinne Bérubé $\frac{1}{4}$, Mathieu Beaudin $\frac{1}{4}$, Pierre Fortin $\frac{1}{8}$, Michel Fortin $\frac{1}{8}$ 9. 5

QUESTION 7 (5 points)

Quel est le montant maximal de contribution alimentaire que peut réclamer Marie Turcotte pour son fils Victor? Faites état de tous vos calculs.

$$\frac{1}{3} \times \frac{250\,000 \$}{2} = 41\,666,66 \$$$

10. 5

270 000 \$ - 70 000 \$ (patrimoine familial) = 200 000 \$ (valeur nette de la succession)

200 000 \$ + 50 000 \$ (libéralité à l'intérieur des 3 ans, art. 691 C.c.Q.) = 250 000 \$.

Succession *ab intestat* : 1/3 épouse, 2/3 enfants, soit 1/3 chacun.

QUESTION 8 (8 points)

a) Dans le cadre du partage de la société d'acquêts, y a-t-il lieu à récompense(s) à l'égard de la masse de biens propres à la masse de biens acquêts de Stéphane Lewis?

Si oui, précisez le ou les montants en faisant état de tous vos calculs, le cas échéant, et appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de tout texte de loi.

Si non, dites pourquoi.

Oui, 15 000 \$ (soit le solde de l'hypothèque du commerce de fleurs), art. 478 C.c.Q.

11. 4

b) QUESTION RETIRÉE

12. 4

QUESTION 9 (10 points)

a) Quelle est la valeur nette des biens du patrimoine familial dont Lisa Drouin est propriétaire? Faites état de tous vos calculs, le cas échéant.

16 000 \$

13. 5

10 000 \$ (15 000 \$ - 5 000 \$ pour l'auto)
6 000 \$ (meubles de la roulotte)
10 000 \$ + 6 000 \$ = 16 000 \$

b) Quelle est la valeur nette des biens du patrimoine familial dont Stéphane Lewis est propriétaire? Faites état de tous vos calculs, le cas échéant.

8 000 \$ (soit les meubles du logement de Pierrefonds)

14. 5
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QUESTION 10 (5 points)

Quel droit Lisa Drouin peut-elle faire valoir relativement à la somme de 10 000 \$ investie dans la rénovation du commerce de fleurs?

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

Une demande de prestation compensatoire, art. 427 al. 1 *C.c.Q.*

15.

QUESTION 11 (5 points)

Alain Duplessis dispose-t-il d'un recours pour passer outre au refus de Josée Riendeau de consentir à la vente de la résidence familiale?

Si oui, appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code civil du Québec*. Si non, dites pourquoi.

Oui, art. 399 *C.c.Q.* (une demande d'autorisation)

16.

QUESTION 12 (5 points)

Quel est le montant de la contribution alimentaire annuelle à être versée par Frédéric Cloutier pour son fils Jules?

Choisissez la bonne réponse parmi celles inscrites ci-dessous et encerclez la lettre correspondante dans votre cahier de réponses.

- a) 10 382,66 \$ (table fédérale, *Loi sur le divorce*, Colombie-Britannique)
- b) 10 533 \$ (allocations familiales et prestations fiscales incluses dans revenu de Véronique)
- c) 10 557,50 \$ (déductions du REER et REE pour Frédéric)
- d) 10 813 \$ (omission de la déduction de cotisation syndicale pour Frédéric)
- e) 10 848 \$ (bonne réponse)

Réponse : e) 10 848 \$

17.

QUESTION 13 (5 points)

Martin Faucher peut-il faire annuler les donations contenues dans son contrat de mariage?

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

1. Oui, art. 435 *C.c.Q.*

1. 5 pts

OU

OU

18.

2. Oui, art. 434 *C.c.Q.*

2. 3 pts

(Les donations n'ont pas été autorisées par le tribunal et il ne s'est pas écoulé plus d'un an depuis la célébration du mariage).

DOSSIER 3 (24 POINTS)

QUESTION 14 (8 points)

a) Nommez la ou les personne(s) autorisée(s) par la loi à procéder à la vente des actions de *Sato inc.*

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

Line Alarie 19.

art. 192 *C.c.Q.* 20.

b) Quelle(s) formalité(s) légales cette ou ces personnes doivent-elles accomplir avant de vendre légalement les actions de *Sato inc.*?

1. Obtenir l'évaluation d'un expert (art. 214 *C.c.Q.*) 21.

2. Obtenir l'autorisation du tribunal (qui aura sollicité l'avis du conseil de famille) (art. 213 *C.c.Q.*) 22.

QUESTION 15 (4 points)

D^r François Bérubé peut-il, sans autre formalité, procéder à l'opération de chirurgie orthopédique qu'il recommande?

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

Non, art. 16 al. 2 *C.c.Q.* 23.

QUESTION 16 (4 points)

Henri Angers peut-il valablement intenter aujourd'hui, au nom de Paul Angers, une action en dommages et intérêts contre Pierre Clark? Dites pourquoi.

Non, car Joseph Angers est le seul tuteur légal de son fils encore mineur (art. 192 *C.c.Q.*) 24.

OU

Non, car le jugement nommant Henri tuteur ne prendra effet qu'à la majorité de Paul (art. 271 *C.c.Q.*)

QUESTION 17 (4 points)

Roger Quentin peut-il, sans autre formalité, procéder à l'achat du bateau de Charlie Quentin pour la somme de 27 000 \$?

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

Non, art. 1312 OU art. 1709 *C.c.Q.* (et 282 *C.c.Q.*) 25.

QUESTION 18 (4 points)

Dans les circonstances, les médecins peuvent-ils passer outre au refus de Charlie Quentin de subir l'intervention proposée ?

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

Non, art. 10 OU art. 11 *C.c.Q.* 26.