



FORMATION PROFESSIONNELLE DU BARREAU DU QUÉBEC

EXAMINATION BOOKLET

CIVIL I

November 12, 2001

- 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.

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 (30 MARKS)**Situation 1**

On September 7, 2001, a local newspaper called *Le Journal des Lavallois* publishes an article on the initiation of new players on a local hockey team, the *Aigles de Laval*, which initiation took place on September 2, 2001. The article describes the humiliating initiation rites experienced by the new players, but it does not name or show the new players.

On September 10, 2001, having heard of the event, the twice-monthly magazine *La Revue des sportifs* prepares a report on the phenomenon of initiations. Raymond Carrier, a journalist, questions Daniel Fortin, an 18-year-old member of the team the *Aigles de Laval*, as he is leaving school, in order to obtain more information on the initiation practices.

Daniel describes where the initiation was held and provides details on the activities that took place there.

Raymond Carrier later obtains a photograph, provided to him by a student who did not disclose his name, showing four bare behinds and three players holding shaving cream and razors. However, it is not possible, from the photograph, to identify the players.

On October 2, 2001, *La Revue des sportifs* publishes Raymond Carrier's article as well as the photograph obtained from the anonymous student. The article explains in detail the rites to which the players were subjected. The only player named in the article as having been initiated is Daniel.

Daniel reads the article on the day it is published. He is humiliated and shocked by the text which refers to him and by the fact that his name is associated with a photograph, in which he does not appear, showing bare behinds, particularly since he was not one of the players who was subjected to the initiation.

QUESTION 1 (5 marks)

Within what time limit can Daniel Fortin exercise a recourse to obtain redress for the injury to his reputation resulting from the publication of the article in *La Revue des sportifs*?

Situation 2

Situation 2 described in File 1 is an evolving situation : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Jeannette Souci, who is 92 years old, lives alone, with her dog and three cats, in a house located in a small village in the Eastern Townships where she has lived for over 50 years. The inhabitants of the village have always known her as a solitary and eccentric person.

She suffers from serious eyesight problems and hip pains which require her to use a cane to walk. However, she manages to move around in her house and carry out her daily activities. She, herself, manages her Old Age Security pension as well as a small amount of capital inherited from her husband.

An employee of the local community service centre (CLSC) has visited her several times to offer home care, but she has always refused categorically. Rémi Bisson, a new social worker at the CLSC who is in charge of Jeannette's file, visits her in order to ensure that she does not need anything. He notices that dirty dishes are all over the place, that garbage is piling up and that the general state of cleanliness of the house leaves much to be desired. Moreover, he notices that Jeannette has neglected to take the heart medication prescribed to her. Rémi Bisson believes it would be preferable for Jeannette to go live in a residential and long-term care center (centre d'accueil) in order to improve her surroundings and facilitate the treatment of her heart problem.

QUESTION 2 (5 marks)

Can Jeannette Souci be placed, against her will, in a residential and long-term care center (centre d'accueil)?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

SUPPLEMENTARY FACTS

A few months later, Jeannette is admitted to the hospital for a hip operation. There, she meets an old friend, Magali Trottier, who is an employee of the hospital. Magali visits Jeannette on a regular basis and provides her with support and comfort. During her hospital stay, Jeannette gives Magali a sum of \$1,000 to thank her.

One of Magali's friends tells her that she should not have accepted Jeannette's money because the law forbids it.

QUESTION 3 (5 marks)

Under the circumstances, could a court declare the remittance of the amount of \$1,000 by Jeannette Souci to Magali Trottier to be invalid?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

Situation 3

Situation 3 described in File 1 is an evolving situation : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

For some years, Michel Martineau, who is 88 years old, has been showing disturbing signs of senility to such an extent that he does not understand the nature or the consequences of his actions. For over a year, he has been living with his cousin, Gisèle Brodeur, who takes care of him and is very familiar with his condition. On October 15, 2001, a gerontology specialist evaluates Michel and concludes that he is totally and permanently incapable.

On October 22, 2001, Michel's daughter, Marie Martineau, files a motion for the institution of curatorship.

On October 25, 2001, Marie learns that on October 17, 2001 her father sold his principal residence to Gisèle Brodeur at the market price and that he intends to make large gifts to several people over the coming weeks.

Marie is concerned about her father and fears that, under Gisèle's influence, he will squander his property before the final order instituting the curatorship is rendered. The hearing for the motion is scheduled for November 22, 2001.

QUESTION 4 (5 marks)

Can Marie Martineau exercise a recourse in order to be entrusted immediately with the administration of her father's property?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

SUPPLEMENTARY FACTS

On November 22, 2001, the Superior Court renders judgment, institutes a curatorship for Michel Martineau and appoints Marie as curator to the property and person of her father.

QUESTION 5 (5 marks)

In virtue of the specific rules pertaining to curatorship, can Marie Martineau apply for the annulment of the sale of her father's residence which took place on October 17, 2001?

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

Situation 4

Josée Trudel and Marc Gravel have been married for 16 years. On November 4, 2001, they have an automobile accident in which Josée is seriously injured; Marc is entirely unharmed. After Josée arrives at the *Hôpital du Boisé*, she is intubated and put on a respirator. After having examined her, the neurologist on call, Doctor Michel Barbant, attests that Josée is brain dead.

The only other doctor on call, Doctor Jacques Benoît, a surgeon, considers Josée to be an ideal candidate to make an organ donation. A nurse then presents him with the organ donation card signed by Josée, which card was found in her wallet. Doctor Benoît also attests to the death and immediately contacts Transplant Quebec which informs him that a compatible recipient is waiting for a liver and that the recipient only has a few more hours to live.

Doctor Benoît informs Marc of the situation, but Marc opposes any removal of organs.

QUESTION 6 (5 marks)

Can Doctor Jacques Benoît proceed with the removal of Josée Trudel's liver?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

FILE 2 (44 marks)**Situation 1**

Louis Pigeon married Marie Gauthier on December 10, 1995, in Longueuil, without a marriage contract. Two children were born of the marriage, Victoria, who is six years old, and Félix, who is four years old.

Louis has another son, Martin, who is ten years old and who is his child from a previous relationship with Florence Miron. Martin lives in Brossard with his mother. She has sole custody of Martin and Louis sees his son approximately two days each month. Louis and Florence were never married.

At the time of his marriage to Marie, Louis owned a single-family dwelling having a value of \$85,000. The balance of the hypothec then was \$60,000. The family has lived in this residence since the marriage. Today, it has a value of \$100,000 and the balance of the hypothec is \$50,000.

Louis is an elementary school teacher and earns a gross income of \$42,000 per year. His union dues are \$900 per year and, since the marriage, he has contributed \$600 to an RRSP each year. In this manner, he has accumulated \$3,000. He contributes \$2,000 per year to his employer's retirement fund. The value of his share of the retirement fund is now \$50,000, of which \$20,000 was accumulated during the marriage.

Louis also earns \$500 of interest income per year on his Quebec Savings Bonds which have a value of \$10,000.

As for Marie, she earns \$48,000 per year working as an accountant. She pays \$1,200 of professional dues per year.

Louis owns a Volkswagen automobile purchased in March of 1999 which is used for the family. To finance the purchase of the automobile, Louis took out a personal loan of \$17,000 with *Caisse populaire Saint-Antoine* in Longueuil; the balance of the loan is currently \$8,500. He also borrowed \$5,000 from his mother in order to pay the cash down-payment required by the automobile dealer at the time of the purchase. This amount is still owing. The automobile now has a value of \$20,000.

As for Marie, she currently has the use of her father's automobile, a 1997 Dodge Spirit, which has a value of \$10,000 and is used for the family's various travelling needs.

The furniture in the residence, which furniture has a value of \$10,000, belongs to Marie who inherited it in 1993 after her mother passed away. Her mother also bequeathed her an amount of \$20,000; Marie used this amount to purchase a 32-foot sailboat, with berths, which the family uses each year during the summer holidays. The sailboat, which had a value of \$20,000 at the time of the marriage, now has a value of \$12,000.

For several months, Louis and Marie have not been getting along and have been contemplating divorce.

Moreover, Louis received a motion from Florence, Martin's mother, requesting support for her son. Florence currently receives \$850 of income-security benefits per month as well as \$120 per month of child tax benefits and family allowance payments.

QUESTION 7 (5 marks)

What is the amount of the annual basic parental contribution that Louis Pigeon will have to pay for his son Martin? Show all your calculations.

QUESTION 8 (12 marks)

a) What is the value which may be partitioned of each of the following items of property forming part of the family patrimony and owned by Louis Pigeon? Show all your calculations.

- Family residence in Longueuil
- Volkswagen automobile

b) What is the value which may be partitioned of the following item of property forming part of the family patrimony and owned by Marie Gauthier? Show all your calculations.

- Sailboat

Situation 2

Nathalie Brouillette has been living with Robert Simmons since 1991. A daughter named Véronique, who is 8 years old, was born of this union. The family has always lived in Kitchener, Ontario.

In September of 2001, on Labour Day, Nathalie and her daughter go to Montreal to visit with family members. There, Nathalie meets Yves Quintal, a childhood friend, and they fall madly in love. She decides not to return to Kitchener and to move in with Yves in Laval, where she finds a job.

Given that the school year is already underway, Nathalie sends Véronique back to her father. Thereafter, Robert refuses to give her any access whatsoever to Véronique. Nathalie believes she has no choice but to ask for custody of her daughter.

QUESTION 9 (5 marks)

Does the Quebec Superior Court have jurisdiction to hear Nathalie Brouillette's application for custody of her daughter?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

Situation 3

Situation 3 described in File 2 is an evolving situation : all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

Pierre Mercier and Michèle Jutras were married on May 5, 1989, without a marriage contract.

On December 29, 1989, the spouses signed an agreement, before Notary Luc Tardif, to exempt themselves from the application of articles 462.1 to 462.13 of the *Civil Code of Québec* relating to the family patrimony. This agreement was registered in the appropriate register within the stipulated time limits.

No child was born of their union.

At the time of the marriage, Pierre owned a single-family dwelling located at 85 Honfleur Street, in Laval, having a value of \$100,000. The balance of the hypothec then was \$12,000. The couple has occupied this residence since their marriage.

Over the years, various improvements, which were paid for from Pierre's salary, were made to the house. As a result of these improvements, \$25,000 was invested in the immovable. An assessor has calculated that Pierre's investments increased the value of the immovable by \$8,000. Moreover, in September of 1996, Michèle loaned Pierre \$5,000 to have the roof recovered. This amount came from her savings accumulated during the marriage.

In 1998, Pierre bought 120 shares of the share capital of *XYZ inc.* which he paid for in the following manner : \$22,000 from savings accumulated during the marriage and \$10,000 from the cashing-in of Canada Savings Bonds which he had bought in 1987.

The spouses are respectively owners of the following items of property as of today :

Pierre Mercier :

- The residence on Honfleur Street which has a value of \$150,000 and has been paid for in full.
- A 1999 Chevrolet Cavalier automobile having a value \$16,000. This automobile was purchased for a price of \$18,500 paid out of an inheritance of \$19,000 from an elderly uncle in 1998.
- Savings of \$2,000 accumulated since the marriage and deposited in an account at the *Caisse populaire Ste-Ursule* in Laval.
- The shares of the share capital of *XYZ inc.* which currently have a value of \$50,000.

Michèle Jutras:

- The furniture in the residence on Honfleur Street, which furniture has a value of \$18,000 and was purchased in 1996 using her salary.
- An Isuzu automobile which has a value of \$15,000 and was purchased in 1995 at a price of \$20,000. To pay for this car, Michèle used \$8,000 of savings accumulated during the marriage and, for the balance of \$12,000, she traded in the car she owned at that time, namely, a Dodge automobile purchased in 1987.
- An amount of \$10,000 deposited at the *Caisse populaire Ste-Ursule* in Laval, which amount came from an indemnity received after an employment injury which occurred in 1992.

Pierre is contemplating starting up his own business and wants to modify his matrimonial regime.

QUESTION 10 (12 marks)

a) Do the following items of property owned by Pierre form part of the mass of his acquests or the mass of his private property?

- Residence on Honfleur Street in Laval
- 1999 Chevrolet Cavalier automobile
- Savings at the *Caisse populaire Ste-Ursule*
- Shares of the share capital of *XYZ inc.*

b) Establish the amount of compensation owed by the mass of Michèle Jutras's private property to the mass of her acquests. Show all your calculations.

SUPPLEMENTARY FACTS

On November 15, 2001, Pierre Mercier dies in an automobile accident without having had the time to modify his matrimonial regime. He is survived by his wife, Michèle Jutras, his father, Yves Mercier, his two brothers, Marcel and Sébastien, as well as a niece, Amélie, the daughter of Sébastien Mercier.

Pierre Mercier died without having left a will.

QUESTION 11 (5 marks)

Name Pierre Mercier's successor or successors and indicate the share each will receive.

QUESTION 12 (5 marks)

Does Michèle Jutras have a right she can assert against Pierre Mercier's succession in order to become the owner of the residence on Honfleur Street in Laval?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

FILE 3 (26 POINTS)

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.

In September of 1998, Mathieu Belleau, who is 19 years old, registers at the Victoriaville municipal swimming pool in order to train for a triathlon in which he wants to participate. Mathieu is a good swimmer, but he wants to improve his performance.

On September 19, 1998, Mathieu pays a fee of \$75 and signs a registration card which includes the following statement, among others :

« The City of Victoriaville shall make available to the swimmer the equipment and the lifeguards necessary for the proper conduct of the classes or the unstructured activities.
 [...]
 The swimmer shall comply with the safety regulations.
 The City of Victoriaville assumes no liability in the event of an accident. »

The training takes place under the supervision of two lifeguards, Pascal Boutin and Bernadette Morin. It lasts for two hours, namely, from 7:00 p.m. until 9:00 p.m., and, thereafter, for one hour, the swimmers can enjoy a free swim or go underwater diving in the diving pool provided for that purpose.

On December 11, 1998, after his training session, Mathieu decides to go diving without any apparatus in the diving pool. Given that Mathieu is the only swimmer still at the pool, Pascal asks Bernadette to supervise him while he goes to the convenience store. Shortly after, the telephone rings in the lifeguards' office; Bernadette goes there and starts a telephone conversation. She cannot see Mathieu from the office. A few minutes later, Marc Maheux, the husband of one of the swimmers, arrives on the premises to pick up his wife. Seeing Mathieu, who is thrashing about in the diving pool in an unusual manner, Marc Maheux calls for help because he doesn't know how to swim. Bernadette immediately comes back and realizes that Mathieu is having a problem. She dives in to help him. Mathieu grabs on to Bernadette and drags her to the bottom of the pool. Bernadette desperately tries to come back up, but is unable to do so. At the same time, Pascal returns to the scene and dives in. He grabs Mathieu from behind, brings him back up to the surface and gets him out of the water. Bernadette is still lying at the bottom of the diving pool. Pascal dives in and brings her back to the surface. He immediately begins resuscitation procedures on her. In the meantime, Marc Maheux has called for an ambulance. The ambulance attendants transport Mathieu and Bernadette to the hospital.

The emergency doctor attests to the death of Bernadette. As for Mathieu, a few hours later, he is declared to be out of danger.

Although Mathieu's state of health has improved, he still has language and coordination problems. He will suffer the consequences of this unfortunate accident for the rest of his life.

On February 8, 1999, Mathieu gives a mandate to Claude Caron, a claims adjuster, to investigate the matter.

On March 2, 1999, Claude Caron provides his report which includes the following, among other information :

- Pascal Boutin was born on April 6, 1968; he has been a lifeguard for the City of Victoriaville for five years. He has the required training and qualifications to perform this job. He is paid \$20 an hour.
- On the evening of the accident, Pascal Boutin was absent for no more than fifteen minutes, the time required to go to the convenience store.
- At the time of the accident, Bernadette Morin was 20 years old; she had been a lifeguard for the City of Victoriaville since January of 1998. She also had the required training and qualifications. She was paid \$15 an hour. Her telephone conversation on December 11, 1998 lasted seven minutes.
- Bernadette Morin was the only daughter of Estelle Gagnon and Pierre Morin, the latter having died in 1985. Estelle was remarried in 1987, to Antoine Gilbert, and Bernadette had always lived with them.
- Bernadette Morin died without having left a will.
- The provincial regulation which applies to the Victoriaville swimming pool states as follows in section 30:
 - « A safety supervisor may leave his post, provided :
 - a) that the other safety supervisors, including at least one lifeguard, remain on duty; and
 - b) that the supervisor who has left his post is within calling distance. »

On July 13, 2001, M^e Claire Héту institutes an action for damages against Pascal Boutin on behalf of Mathieu Belleau.

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

QUESTION 13 (6 marks)

In addition to Pascal Boutin, determine two other defendants against whom Mathieu Belleau could institute an action for damages.

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

ONLY THE FIRST TWO DEFENDANTS WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

SUPPLEMENTARY FACTS

After having reviewed the facts of the case, Pascal Boutin's lawyer decides not to raise as a ground of defence the break in the causal link between the fault committed by Pascal Boutin and the fault committed by Bernadette Morin.

QUESTION 14 (5 marks)

Under these circumstances, can Pascal Boutin free himself, in whole or in part, from his civil liability towards Mathieu Belleau by proving the fault committed by Bernadette Morin?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

QUESTION 15 (5 marks)

Can Estelle Gagnon institute an action for damages against the City of Victoriaville as a result of Bernadette Morin's death? Explain your answer.

SUPPLEMENTARY FACTS

Since the accident, Mathieu Belleau's financial situation has deteriorated substantially. In order to meet his needs, he has been obliged to borrow money from his father who has proposed purchasing Mathieu's claim resulting from his accident for an amount of \$50,000.

QUESTION 16 (5 marks)

Can Mathieu Belleau sell the claim resulting from his accident to his father?

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

SUPPLEMENTARY FACTS

On November 19, 2001, M^c Héту, who is unable to agree with Mathieu as to how the case should be handled, presents a motion to cease representing, which motion is granted that same day.

On November 22, 2001, the lawyer for Pascal Boutin serves Mathieu with a notice to appoint another attorney or appear on his own behalf.

On December 14, 2001, Pascal Boutin's lawyer files a motion for the dismissal of the action, given Mathieu's failure to comply with the notice. That same day, the court grants the motion and dismisses the action. This judgment is served on Mathieu on January 8, 2002.

QUESTION 17 (5 marks)

As at January 8, 2002, can Mathieu Belleau institute a new action against Pascal Boutin? If so, indicate the latest date on which he can do so. If not, explain your answer.

Justify your answer by referring to one or more specific and relevant provisions of any legislation.

CORRIGÉ

EXAMEN RÉGULIER - CIVIL I
Le 12 novembre 2001

DOSSIER 1 (30 POINTS)

QUESTION 1 (5 points)

Dans quel délai Daniel Fortin peut-il exercer un recours pour obtenir réparation du préjudice subi pour atteinte à sa réputation résultant de la publication du reportage dans *La Revue des sportifs*?

Dans un délai de trois mois à compter de la date de publication ou de la connaissance de l'article (art. 2 *Loi sur la presse*).

1.

QUESTION 2 (5 points)

Jeannette Souci peut-elle être placée contre son gré dans un établissement de santé de type centre d'accueil?

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

Non, art. 11, al. 1 *C.c.Q.*

2.

QUESTION 3 (5 points)

Le tribunal pourrait-il, dans les circonstances, déclarer invalide la remise de la somme de 1 000 \$ par Jeannette Souci à Magali Trottier?

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

Oui, art. 1817, al. 1 *C.c.Q.*

OU

Oui, art. 275 *L.s.s.s.*

3.

QUESTION 4 (5 points)

Marie Martineau peut-elle exercer un recours pour se voir confier immédiatement l'administration des biens de son père?

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

Oui, art. 274 *C.c.Q.*

4.

QUESTION 5 (5 points)

Marie Martineau peut-elle, en vertu des règles particulières à la curatelle, demander l'annulation de la vente de la résidence que son père a conclue le 17 octobre 2001?

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

Oui, art. 284 *C.c.Q.*

5.

QUESTION 6 (5 points)

Le D^r Jacques Benoît peut-il procéder au prélèvement du foie de Josée Trudel?

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

Non, art. 45 *C.c.Q.*

6.

DOSSIER 2 (44 POINTS)

QUESTION 7 (5 points)

Quel est le montant de la contribution alimentaire parentale de base annuelle que devra verser Louis Pigeon pour son fils Martin? Faites état de tous vos calculs.

LOUIS

État des revenus

Salaire brut	42 000 \$
Intérêt	500 \$
Total	42 500 \$

Calcul du revenu disponible

Revenu annuel	42 500 \$
Déduction de base	9 000 \$
Déduction pour cotisation syndicale	900 \$
Total des déductions	9 900 \$
Revenu disponible	32 600 \$

7.

FLORENCE

État des revenus 0 \$

QUESTION 8 (12 points)

a) Quelle est la valeur partageable de chacun des biens suivants du patrimoine familial dont Louis Pigeon est propriétaire? Faites état de tous vos calculs.

- Résidence familiale de Longueuil
- Automobile de marque Volkswagen

Résidence familiale de Longueuil

$100\ 000 - 50\ 000 = 50\ 000$

$85\ 000 - 60\ 000 = 25\ 000$

$\frac{25\ 000}{85\ 000} \times 15\ 000 = 4411,76$

$50\ 000 - (25\ 000 + 4411,76) =$

8.

Automobile de marque Volkswagen

$20\ 000 - (8\ 500 + 5\ 000) =$

9.

b) Quelle est la valeur partageable du bien suivant du patrimoine familial dont Marie Gauthier est propriétaire? Faites état de tous vos calculs.

- Voilier

$20\ 000 - \left(\frac{8\ 000}{20\ 000} \times 20\ 000\right) = 12\ 000 \$$

10.

$12\ 000 - 12\ 000 =$

QUESTION 9 (5 points)

La Cour supérieure du Québec est-elle compétente pour entendre la demande de garde d'enfant de Nathalie Brouillette ?

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

Non, art. 3142 C.c.Q. (et 80 al. 2 C.c.Q.)

11.

QUESTION 10 (12 points)

a) Les biens suivants de Pierre Mercier font-ils partie de la masse de ses acquêts ou de celle de ses propres?

- **Résidence de la rue Honfleur à Laval**
- **Automobile Chevrolet Cavalier 1999**
- **Économies à la Caisse populaire Ste-Ursule**
- **Actions du capital-actions de XYZ inc.**

- Résidence de la rue Honfleur à Laval : propre

12.

- Automobile Chevrolet Cavalier 1999 : propre

13.

- Économies à la Caisse populaire Ste-Ursule : acquêt

14.

- Actions du capital-actions de XYZ inc. : acquêt

15.

b) Établissez le montant de la récompense due par la masse des propres de Michèle Jutras, à la masse de ses acquêts. Faites état de tous vos calculs.

6 000 \$.

16.

$$\frac{8000 \$ \times 15\ 000 \$}{20\ 000 \$}$$

QUESTION 11 (5 points)

Nommez le ou les successible(s) de Pierre Mercier et indiquez la part de chacun.

Michèle Jutras pour 2/3

Yves Mercier pour 1/3

17.

QUESTION 12 (5 points)

Michèle Jutras a-t-elle un droit à faire valoir à l'encontre de la succession de Pierre Mercier afin de devenir propriétaire de la résidence de la rue Honfleur à Laval?

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

Oui, art. 856 al. 1 C.c.Q.

18.

DOSSIER 3 (44 POINTS)

QUESTION 13 (6 points)

Outre Pascal Boutin, déterminez deux autres défendeurs contre qui Mathieu Belleau pourrait intenter une action en dommages et intérêts.

Pour chacun des défendeurs, appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes de tout texte de loi.

SEULS LES DEUX PREMIERS DÉFENDEURS INSCRITS AU CAHIER DE RÉPONSES SERONT CORRIGÉS.

1. Ville de Victoriaville, art. 1458 *C.c.Q.*

19.

2. Estelle Gagnon, en sa qualité de liquidatrice, art. 1457 *C.c.Q.*

20.

QUESTION 14 (5 points)

Dans ces circonstances, Pascal Boutin peut-il se dégager, en totalité ou en partie, de sa responsabilité civile envers Mathieu Belleau en prouvant la faute commise par Bernadette Morin?

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

Non, art. 1526 *C.c.Q.* en ce qui concerne la responsabilité envers Mathieu Belleau.

OU compte tenu de l'interprétation possible de la question la réponse suivante est acceptée.

21.

Oui, art. 1478 al. 1 *C.c.Q.* en ce qui concerne la responsabilité entre les défendeurs.

QUESTION 15 (5 points)

Estelle Gagnon peut-elle intenter contre la Ville de Victoriaville une action en dommages et intérêts résultant du décès de Bernadette Morin? Dites pourquoi.

Non, la *Loi sur les accidents du travail et les maladies professionnelles* accorde une immunité à l'employeur contre toute poursuite en cas de décès d'un travailleur.

OU

22.

Non, l'employeur bénéficie d'une immunité.

QUESTION 16 (5 points)

Mathieu Belleau pourrait-il vendre à son père la créance qui résulte de son accident?

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

Non, art. 1610 al. 2 *C.c.Q.*

23.

QUESTION 17 (5 points)

Mathieu Belleau peut-il, en date du 8 janvier 2002, intenter une nouvelle action contre Pascal Boutin? Si oui, indiquez la date ultime à laquelle il peut le faire. Si non, dites pourquoi.

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

Oui, le 8 avril 2002

OU compte tenu de l'interprétation des art. 2895 et 2879 *C.c.Q.*

24.

Oui, le 7 avril 2002 **ou** le 9 avril 2002

art. 2895 al. 1 *C.c.Q.*

25.