



NATIONAL COMMITTEE ON ACCREDITATION

SAMPLE EXAMINATION

BRITISH COLUMBIA FAMILY LAW

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TIME: 3 HOURS

INSTRUCTIONS: ANSWER ALL QUESTIONS. QUESTIONS ARE OF UNEQUAL VALUE. PROPORTION YOUR TIME CAREFULLY.

N.B.: EXAMINEES MAY CONSULT ANY MATERIAL THEY WISH TO BRING INTO THE EXAMINATION ROOM (WITH THE EXCEPTION OF PERSONAL TYPED OR HANDWRITTEN NOTES). THE TIME LIMIT MUST BE STRICTLY OBSERVED. BOOKLETS HANDED IN AFTER EXPIRY OF THE ALLOTTED TIME WILL NOT BE ACCEPTED. IF YOU ARE USING EXAMINATION BOOKLETS, YOU MAY ANSWER MORE THAN ONE QUESTION IN EACH BOOK — PLEASE ENSURE THAT THE QUESTION NUMBER IS CLEARLY IDENTIFIED.

THE EXAM CONSISTS OF 6 QUESTIONS AND A TOTAL OF THREE PAGES INCLUDING THE COVER SHEET

YOU MUST RETURN THIS EXAM WITH YOUR ANSWERS. FAILURE TO DO SO WILL RESULT IN AN AUTOMATIC EXAM FAILURE.



QUESTION ONE (10 MARKS)

Gianna and Jassar were married in Vancouver in 2008. Gianna refused to consummate the marriage and Jassar withdrew from cohabitation three weeks after the wedding. Shortly thereafter, Gianna met Emile and they lived together for several months. They then decided to “regularize” their relationship and were married in New York having passed themselves off as singles to the licensing authorities. Consider the legal position of all three parties in the alternative contexts of nullity and divorce proceedings.

QUESTION TWO (20 MARKS)

Jane and Tarzan were married eight years ago and have a six year old son named David. Both parents have always worked outside the home. Until David started school, he was cared for during the day by Tarzan’s parents. Since he started school, the paternal grandparents have continued to look after David during the day in the summer months. Four months ago, the parents separated when Tarzan discovered that Jane was having an affair. Although Tarzan indicated at the time that he intended to seek custody of David, he agreed that David should live with Jane in the matrimonial home until Tarzan “got settled”. Tarzan has now applied for an order for joint custody of David whereby he will spend equal time with each parent on a rotating weekly basis. Alternatively, Tarzan seeks generous access coupled with joint guardianship rights entitling him to enjoy equal decision-making authority with respect to major decisions respecting David’s health, welfare and education. Jane has applied for sole custody of David and seeks to terminate the paternal grandparents’ close association with David. The paternal grandparents have applied for an access order that reflects their previous close relationship with David. Define and apply the legal principles that govern the issues of custody and access under the *Family Relations Act* of British Columbia and indicate the probable outcome of the judicial proceedings.

QUESTION THREE (20 MARKS)

Joan has 3 children, Adam, Eve and Rebecca. They are 10, 7 and 3 years of age respectively. George is Adam’s father. George earns \$40,000. Malcolm is Eve’s father. Malcolm earns \$60,000. Rodney is Rebecca’s father and has stood in the place of a parent to both Adam and Eve for the past year. Rodney earns \$90,000. Joan has launched an action for the support of all three children against Rodney. You have been consulted by Rodney. Advise him as to his legal position.

QUESTION FOUR (20 MARKS)

Lydia and Jason were married for twenty-seven years. They separated three years ago. Jason is a lawyer who earns \$100,000 per annum. Lydia was a homemaking spouse who had primary responsibility for raising their four children, all of whom are now financially independent. She is currently employed as a cashier at a retail store. She earns \$20,000 per annum. When they obtained an uncontested divorce two years ago, Lydia and Jason entered into a separation agreement without any legal advice. They equally divided all of their assets, valued at \$400,000. The separation agreement contained an express covenant whereby Lydia agreed to accept \$500 per month for life in full satisfaction of all future claims for support and expressly undertook to present no application to the court for spousal support. Jane seeks your advice whether she can now apply for spousal support in spite of the covenant and on the amount and duration of any order that might be granted. Discuss the applicable provisions of the *Divorce Act* and the potential application of the *Spousal Support Advisory Guidelines*.

QUESTION FIVE (10 MARKS)

Gerda and Stefan have had a turbulent marriage for the last fifteen years and have been living separate and apart under the same roof for the last eighteen months. Gerda is unemployed. Stefan continues to pay all household and personal expenses out of his income of \$40,000 per year. There are four children of the marriage, ranging in age from 4 to 13. Stefan is frequently drunk and this usually leads to his verbal abuse of Gerda in the presence of the children. Gerda can no longer cope with Stefan's objectionable behaviour. She wishes to obtain an exclusive possession order to exclude Stefan from the matrimonial home. Advise her on the assumption that she will have the primary care of the children.

QUESTION SIX (5 MARKS FOR EACH CASE)

Write a brief comment on each of the following cases:

Leskun v. Leskun, [2006] S.C.R. 920

Bruker v. Marcovitz, [2007] 2 S.C.R. 607

Stein v. Stein, [2008] 2 S.C.R. 263

Rick v. Brandsema, 2009 SCC 10