



NATIONAL COMMITTEE ON ACCREDITATION

SAMPLE EXAMINATION

ONTARIO 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 5 QUESTIONS AND A TOTAL OF FOUR 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)

Sophia and Boris have been separated for 18 months. For the past year, Sophia has resided in Vancouver. She has commenced a divorce proceeding in the British Columbia Supreme Court seeking sole custody of their son, Igor, age 10 years, who has lived with Boris in Toronto since the spousal separation. Boris seeks to transfer the divorce proceeding to the Ontario Superior Court of Justice. Advise him.

QUESTION TWO (20 MARKS FOR PART A; 10 MARKS FOR PART B)

Jules divorced his first wife Josée, eight years ago. At that time, he was granted sole custody of their daughter, Denise, age five, and Josée was granted specified access privileges. Jules married Marie two months after his divorce. At that time, Jules and Josée orally agreed that all access privileges should be terminated in return for Jules' undertaking to waive any right to seek child support from Josée. During his marriage to Marie, Jules held down two jobs as an unskilled labourer. Marie, with a grade VIII education, could never find full-time employment and assumed the primary responsibility for looking after Denise while Jules was discharging his employment responsibilities. Jules has always spent a great deal of time with Denise to the extent that his employment obligations permitted. Denise is more closely bonded, however, to Marie. Jules and Marie recently separated. Both Jules and Marie wish to obtain sole custody of Denise. Josée, who is aware of the spousal separation, wishes to resume access to Denise now that Jules is no longer involved with Marie. Denise is ambivalent about her preferences concerning future parenting arrangements but wishes to re-establish a relationship with her mother, Josée.

- A. Define and apply the substantive legal principles governing the above facts on the assumption that the issues between Jules and Marie have resulted in cross-applications for sole custody under the *Children's Law Reform Act*, whereas Josée is seeking to vary the access order granted to her in the divorce proceedings eight years ago.
- B. Describe the diverse processes that might be used by any of the aforementioned parties in attempting to resolve their dispute.



QUESTION THREE (10 MARKS FOR EACH PART)

A. Lucretia and Cesare cohabited for seven years during which Cesare treated Lucretia's two children from her previous marriage as he would treat his own children. When Lucretia and Cesare started living together, they formally agreed with Ghengis, the father of Lucretia's two children, that he would have no contact with the children and in return would not pay any child support. Last month, Lucretia and Cesare separated. Cesare has decided that he will have nothing more to do with the children. Ghengis earns \$30,000 per annum; Cesare earns \$60,000 per annum; Lucretia earns \$15,000 per annum. Advise Lucretia who wishes to know whether she can seek the full table amounts of child support from both Cesare and Ghengis and, if not, how a court might determine the respective obligations of Cesare and Ghengis.

B. Zeus and Leda have two children who are 12 and 13 years of age. Both children attend private school at a cost of \$20,000 per year for each child. Zeus earns an annual income of \$950,000 which would yield an overall table amount of \$11,272 per month for child support. Leda has an annual income of \$200,000. The two children are beneficiaries under a trust established by their paternal grandfather that generates an income of \$5,000 per year for each child. Advise Leda on the relevant legal principles governing child support, indicating whether the court should order Zeus to pay the full table amount of child support in addition to the children's private school expenses pursuant to sections 4 and 7 of the *Child Support Guidelines*.

QUESTION FOUR (20 MARKS)

Edward and Mary were married in 1981 and separated in 2008. They have no children. Both spouses have been employed in the provincial public service since the date of the marriage. Edward, a lawyer, earns a gross income of \$84,000 per annum. Mary, an executive assistant to a provincial Cabinet minister, earns a gross income of \$42,000 per annum. On the separation of the spouses, Edward personally drew up a separation agreement that provided for an unequal division of their assets whereby he would receive two-thirds of their overall value. Mary also agreed to waive all rights to spousal support. Mary executed this agreement without receiving independent legal advice. She expressly waived financial disclosure with respect to the value of Edward's assets. Mary is now living in a common law relationship with Tom and left her employment three months ago. She wishes to institute proceedings to set aside the separation agreement and to obtain an equal division of the spousal net family properties. She also seeks spousal support. Advise her.

QUESTION FIVE (20 MARKS)

Cyrano and Roxanne were married for twenty-four years. They have recently separated. Roxanne has instituted proceedings for the equalization of their net family properties under the *Family Law Act*. At the time of their marriage, Cyrano owned the following assets:

- (i) A truck worth \$15,000;
- (ii) A cottage worth \$75,000;
- (iii) RRSPs worth \$100,000.

Cyrano had no debts when he married. Roxanne had no assets at the time of the marriage but had pre-marital debts of \$35,000 which were discharged by Cyrano during the marriage. On the date of their permanent separation, Cyrano no longer owned a truck but he owned a Cadillac worth \$30,000. He still owned the cottage which had been used as a second home for Cyrano and Roxanne during their marriage. When they separated the cottage was worth \$175,000 and Cyrano's RRSPs were worth \$280,000. Cyrano also inherited \$400,000 in cash from his mother on her death three weeks before he separated from Roxanne. In addition, he received \$200,000 as the sole beneficiary under his mother's life insurance policy. Cyrano and Roxanne were the joint owners of their primary matrimonial home, a townhouse in Toronto, which had a market value of \$500,000 when they separated. Roxanne sustained serious personal injuries two years prior to the spousal separation. Three weeks after the separation, she received \$25,000 as damages for pain and suffering and \$180,000 as damages for lost wages. Roxanne had debts of \$5,000 owing on her credit cards on the date of spousal separation. Advise Roxanne as to her legal position with respect to her application for an equalization of the spousal net family properties.

