

## EXAMPLES OF PAGES FROM SCENARIO COMPONENT WORKBOOK

### 1. SIGNATURES/APPEARANCE CLAUSES:

Information to prepare clauses. Assume all persons are of the age of majority and/or properly incorporated, and the document for both 1) and 2) encumbers immovable property. All documents are in authentic form, notarized in Lafayette Parish on February 2, 2012 by Lee Lindsey, #12345, where he is commissioned, before Mona Smith and Sam Cook.

1) Husband: John Johnson 421-10-7234, mortgagor  
Wife: Jessica Johnson, born Boudreaux, 410-63-5283, mortgagor  
John and Jessica live in Lafayette, Lafayette Parish, Louisiana; 805 Brookwood Blvd. (70506)  
First marriage for him, second marriage for her, divorced from Robert Hebert

2) Company name: iPhone, Inc, 72-5364313, mortgagor  
Lafayette, Lafayette Parish, Louisiana is location of company  
Principal Office address is 1023 Johnston Street, Lafayette, La. 70501  
Agent authorized to sign is Steve Scott, by resolution of board of directors October 28, 2011 and you have a certified copy of the resolution.

### 2. ALPHABETICAL COMPILATION INDEX OVERVIEW

You should commit a dedicated block of time to place the indexed information which follows in this workbook, within the study guide book, annotating on pages 554-557 to begin. I make my classes do this as part of a student's grade, and keep updating it throughout the semester, as they learn more. Annotate elsewhere as space allows or where you feel it is helpful. Remember you are permitted to write in your study guide, as per Secretary of State guidelines. Do not just place the information in the book in a rote way (choose your blank spaces carefully!). Make this exercise count! References to page numbers under "Content of Act" refer to the pages in the study guide where the relevant information is set forth. "Form Location" may include the actual form or sufficient information from the study guide itself, from which one can create a document.

- **STUDY THE CONTENT OF ACT REQUIREMENTS FOR EACH DOCUMENT REFERENCED IN THE INDEX AS YOU ANNOTATE YOUR STUDY GUIDE.**
- **THE INDEX PROVIDES EXHAUSTIVE INFORMATION NOT ONLY FOR DOCUMENTS REFERENCED ON PAGES 554-557, BUT MANY OTHER NOTARIAL ACT CONCERNS TESTED ON SCENARIOS AND "MINI-SCENARIOS" AND MULTIPLE CHOICE**

Annotating this index in your study guide is **THE** way to unlock the scenarios. Many of my students point to this copyrighted workbook index as a critical foundation of their test success. Do not wait until the week before the exam to annotate. Do this early

in your preparation, even before you have fully read all of the chapters. **IT IS CRITICAL TO YOUR SUCCESS.** Take the time to study and absorb the pages referred to in the index for the referenced documents. Internalize and memorize “content of act” study. This workbook also includes extensive examples of “content of act” language for all documents to incorporate into your study guide, and these include “test preparation tips” and “annotation suggestions.”

- Take your time in working through the index.
- Read the pages you index.
- Comprehend what you are studying.
- You must build on this knowledge so that you can comprehend the information.
- Only then can you APPLY these materials to the scenario facts.
- Review the “score report” examples set forth above, and you will begin to see a pattern emerge and hopefully, “light bulbs go off”

**COMPREHENSIVE ALPHABETICAL INDEX TO DOCUMENTS OR COMPONENTS OF DOCUMENTS REFERENCED IN NOTARY STUDY GUIDE AND OTHER IMPORTANT INFORMATION RELATING TO NOTARIAL ACTS**

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<b><u>DOCUMENT</u></b>	<b><u>CONTENT OF ACT</u></b>	<b><u>FORM LOCATION</u></b>
ACKNOWLEDGEMENT (Private Act Duly Acknowledged)	273-276,469-470	L.R.S 35:511 273-276
PERSONAL	274-276	275-276
WITNESS	275-276	La. R.S. 13:3720
<ul style="list-style-type: none"> <li>• Can't be used if original private act not witnessed</li> </ul>		
CORPORATE	275	274, 520-521
ACKNOWLEDGEMENT BY AFFIDAVIT	275	L.R.S. 13:3720 274
ACKNOWLEDGMENT OF PATERNITY	440-442	State forms reference 442
ACT OF DONATION (Donation Inter Vivos)	122-123; 125-128 298-300	299-300 Workbook
<ul style="list-style-type: none"> <li>• Revocation-see pages 298-300</li> <li>• Authentic Act form <b>and</b> acceptance of donee are required by statute.</li> </ul>		

### 3. **DONATION INTER VIVOS** (Act of Donation)

**Essence of the transaction:** A type of conveyance which is a gratuitous disposition of a tract of land or immovable (or any kind of property) where a donor (the person who presently owns the property) irrevocably (in most cases) gives the property to a donee, who is required to evidence the acceptance of the property in writing, if it is an immovable. The transfer can be with or without warranty of title. The acceptance can be in the original donation or in a later document. Donations often appear on the scenario exam.

#### **Other essential aspects which make the donation inter vivos unique:**

- The donation must be by authentic act, both the donor's giving and the donee's acceptance, even if the acceptance is signed at a later time than the original donation.
- The donation inter vivos, with few exceptions, can only dispose of property presently owned by the donor.
- The donation is generally irrevocable although there are justifiable reasons for revocation set forth in La. C.C. arts. 1556, 1557, 1562 and 1563. See pages 129-130 of the study guide. The revocation would be a separate document signed by a donor setting forth the reasons for revocation.
- The donation must be properly accepted by the donee during the donor's lifetime to have legal effect (Corporeal possession of a movable satisfies acceptance in regard to movables.) As to immovables, the donee must accept in writing, either in the original donation or separately at a later time by authentic act).
- The law prohibits one from donating all of his/her property.

#### **Content of Act:**

- **Appearance Clause:** Parties' full name, capacity, marital status, domicile, permanent mailing address, include change (or no change) in marital status declaration donor acquired. The party giving will be called the "donor". The party receiving will be called the "donee", and the law requires that they be clearly identified. L.R.S. 35:11, 12, C.C. art. 3352.
- **Conveyance Language and donative intent:** Donation of property with or without warranty of title.

*"Said Donor, \_\_\_\_\_ does, by these presents give, grant, convey, donate, assign, set over and deliver unto the said donee \_\_\_\_\_, who is here present and accepting with gratitude for herself, all of donor's interest in the following described property, to-wit:"* NOTE: This expresses the requirement that there be "donative

*intent” and that the transfer is a gift. Or “Said donors does hereby give” (This is warranty language)*

**“TO HAVE AND TO HOLD** the said property unto the said Donee, her heirs, successors and assigns, in full ownership forever, with full and general warranty of title, and with full substitution and subrogation to all rights and actions of warranty, which said Donor may have against all former owners or vendors of said property.”

#### **4. NOTARIAL TESTAMENTS**

(Last Will and Testament, Donation Mortis Causa)

**Purpose:** Louisiana law only recognizes the olographic will (see glossary page 545, and 364-365) **and** the notarial testament as the two legal methods for disposition of a person’s estate at death, other than through intestate succession. The notary’s role is authorized by L.R.S. 35:2 (A) (1) (b). In creating, perfecting and overseeing the execution of a last will and testament (notarial testament) in accordance with a client’s wishes, statutory directives and legal requirements, it is one of the most solemn and important duties inherent in the office of notary. LegalZoom.com notwithstanding, the Louisiana notary has the privilege of serving a role in perhaps the most important document a person creates in their lifetime. This document allows a person to “speak from the grave” and expresses, among other things, their desires for the disposition of the estate they have worked a lifetime to create. It must be done carefully and correctly because the decedent will not be around to correct mistakes! Just as critical as a failure to properly prepare the document in accordance with the decedent’s wishes, the notary must be mindful of adhering to strict form requirements, in order to create a valid will. A failure to correctly address substantive and form issues can result in real financial and emotional hardship to the survivors, not to mention the notary!. Civil Code Article 1573 makes the consequences of failing to attend to detail abundantly clear, when it states: *“The formalities prescribed for the execution of a testament must be observed or the testament is absolutely null.”* The law technically views the notary as “receiving” the will in his solemn duty to prepare the document for execution.

**Terminology:** A thorough reading (several times) of Chapter 24 of the study guide will serve as a foundation for your understanding of this area of the law. This workbook presumes that the student is conversant with the basics as well as glossary terms relevant to this area of law. Conceptually, the following terms are useful for a “snapshot” of the law concerning testaments. The male person with capacity making disposition by will is the “testator”, the female person is called the “testatrix”. The word testator will be used here for ease of illustration.

The testator’s wishes memorialized in the will are “legacies”. Those who inherit via will are known as “legatees” although the generic word “heirs” is common place. “Attestation clauses” are statements peculiar to wills and vary depending on the physical capacities of the testator. They are statutory requirements for a valid will. See pages 365-371 of the study guide and Civil Code articles 1577-1580.1. Concern with “forced heirs” is always a consideration if the decedent/testator dies with descendants

who are under 24 years of age, or a descendant of any age, if the descendant is physically infirm or mentally incapacitated. “Pre-deceased” means that a person who would have inherited from the decedent, died before the decedent.

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#### **4. Approach to advanced metes and bounds:**

As in basic metes and bounds, you include measurements in feet for the boundary lines of the tract AND locate the most accessible point of beginning or commencement for the perimeter of the tract. The commencing point is used to locate the point of beginning, but may require you to actually state a direction and measurement BEFORE you actually get to the point of beginning. This is similar to basic metes and bounds where you commenced to a point of beginning a certain number of feet in a certain to direction, to a point of beginning from a street intersection. It is more involved in a plat description that has various angles. Your description must bring you back to the point of beginning. Getting back to the point of beginning is the challenge of creating an advanced metes and bounds description. Look at Figure 4b as you read below.

- The tract you have to describe may be adjacent to other tracts which share boundaries. The survey will have some reference points to guide you and also indications like “FD axle” or “FD iron rod” which are surveyor points you can use for reference.
- The plat you work from will indicate measurements in feet **plus bearings** (study 320 carefully to understand “bearings” orientation—it is the basis for this type of description).
- Locate a commencement point (which may actually be your point of beginning, or a reference point to get to your actual point of beginning), depending on the survey tract. Then work your way around the tract back to the point of beginning.