



Federation of Law Societies of Canada

National Committee on Accreditation

SAMPLE

**Examination for
Family Law
(British Columbia)**

Candidate No.: _____

(To ensure your anonymity, please do not print or sign your name)

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**Examination for Family Law
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General conditions of the exam:

This is a **three (3) hour, open book** exam.

Answers should be **double-spaced** and written in **blue or black ink** (no pencils).

All answers **must** be completed on the pads provided.

The examination will be graded on a pass/fail basis (50% is a pass).

WRITE LEGIBLY. Writing considered illegible by the examiner may result in your exam not being fully graded **or your exam being disqualified.**

You must **return the exam questions in the envelope provided** along with your answers. Failure to return the questions will result in the **automatic disqualification** of your exam.

The contents of the examination, including the exam questions, **must not be disclosed** or discussed with others.

Instructions specific to this exam:

1. Each exam may have its own special instructions therefore it is important for you to read these carefully before starting.
2. These sample exams are simply indications of the style/types of questions which may be asked in each exam; they do not reflect the content or actual format/structure of questions nor of their value.
3. Actual exams vary from subject to subject and from exam session to exam session.



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 (20 MARKS TOTAL, 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

End of Examination



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