Part III

a  Timber estate (to A)
   1) AAD: unclear. ........................................ 0.5 1
      a) Form of donation OK. ........................................ 0.5 1
         * DIV of immovable requires authentic act. ................. 0.5 1
         † Here, act made before a notary + 2 witnesses. .......... 0.5 1
      b) Possible problem with acceptance. ......................... 0.5 1
         1) Acceptance of DIV of immovable generally requires authentic act. .......... 0.5 1
         2) By exception, not required when donee is put into possession (tacit). 0.5 1 1.5
            * Not clear whether exception applies to DIVs of immovables. ................. 0.5 1
            † Better view: yes; history: meaning of “chose”. .......................... 0.5 1 1.5 2
   2) FAB: no. ........................................ 0.5 1
      * Excluded under CC art. 1505(A): too old (more than 3 years). ................. 0.5 1 1.5

b  Cash (to A)
   1) AAD: unclear. ........................................ 0.5 1
      a) No form problem. ........................................ 0.5 1
         * B/c corporeal movable, manual gift is OK. .................... 0.5 1
      b) Potential problem: possible unlawful condition. .......... 0.5 1
         1) Potential defect: may constitute improper interference with fundamental right to marry, which may include right to divorce. .................. 0.5 1 1.5
            a) French view: right to marry entails right to be married to whomever one wants, whenever one wants. ................................ 0.5 1
            b) LA view 1) Original: divorce actively discouraged: implications. 0.5 1 1.5
               2) Evolved: divorce allowed “on demand”: implications. 0.5 1 1.5
         2) Remedy: it depends –
            a) If D’s “principal and determinative cause” for making DIV was to get behavior in conformity w/ condition, then whole DIV is null. ................. 0.5 1 1.5
            † Jurisprudential rule, in derogation of legislation. ................. 0.5 1 1.5
            b) If not, then DIV stands, but condition is stricken. ................. 0.5 1
   2) FAB: no. ........................................ 0.5 1
      * Excluded under CC art. 1505(A): too old (more than 3 years). ................. 0.5 1 1.5

c  Mineral servitude (to B for $4,000)
   1) AAD: no. ........................................ 0.5 1
      a) Sale at low price. ........................................ 0.5 1 1.5
         * Treated as such, not as disg’d DIV, b/c value given was > than 1/4 FMV... 0.5 1 1.5
      b) Form proper. ........................................ 0.5 1
         * Act under private signature for sale of immovable ................. 0.5 1
   2) FAB: yes. ........................................ 0.5 1
      * An “other advantage” made w/n last 3 years of life; collatable. ................. 0.5 1 1.5
      * Only “gratuitous” part is added back ($6,000). ................. 0.5 1 1.5

d  Race horse (to E)
   1) AAD: yes. ........................................ 0.5 1
      a) DIV valid. ........................................ 0.5 1
         † Proper form. ........................................ 0.5 1
         † B/c corporeal movable, manual gift is OK. .................... 0.5 1
      b) But it’s revocable. ........................................ 0.5 1
         * Cause: ingratitude. ........................................ 0.5 1
            1) “Cruel treatment, crime, or grievous injury” is ingratitude. .... 0.5 1 1.5 2 2.5
               a] Cursing, spitting involved grievous injury (psych. harm). ... 0.5 1 1.5 2
               b] Vandalism of car was crime. ................................ 0.5 1
            2) Action is heritable. ........................................ 0.5 1
            3) Not prescribed: less than one year. ......................... 0.5 1 1.5
   2) FAB: if not AAD, then yes. ..................................... 0.5
      * Don IV within last three years of life. .......................... 0.5
      † Can’t be excluded as “customary gift”: too large. .................... 0.5 1 1.5

e  Share of Magdalene’s estate (to S)
   1) AAD: no. ........................................ 0.5 1
      a) Not really a renunciation, but an acceptance plus donation. ................. 0.5 1 1.5
         * Departs from order of accretion set by legislation. ................. 0.5 1 1.5
      b) No form problem. ........................................ 0.5 1
         * Ordinary form requirements inapplicable. .................... 0.5 1
         † Only form required is that for renunciation. .................... 0.5 1
         † For renunciation, any writing is sufficient. .................... 0.5 1

    -i-
2. FAB: yes............................................................ 0.5 1 1
   * Don IV within last three years of life........................................ 0.5 1

f  Cash (to victim of B’s tort)
1) AAD: no............................................................ 0.5 1 1
   * Transfer valid. ................................................. 0.5 1
      † An “other advantage” in form of payment of debt ...................... 0.5 1
2) FAB: yes............................................................ 0.5 1 1
   * Other advantage within last three years of life; collatable............ 0.5 1 1.5

Cash (to victim of B’s tort)
1) AAD: yes............................................................ 0.5 1 1
   * Donation invalid.................................................. 0.5 1 1
      † Predominantly gratuitous / onerous mixed transfer..................... 0.5 1 1.5
         # Alt. formula: onerous mixed transfer is predominantly gratuitous if–
            @ O > 1.5 C...................................................... 0.5 1
            @ C < 2/3 O....................................................... 0.5 1
         #@ $15,000 > 1.5 ($5,000), i.e., $7,500. ............................... 0.5 1 1.5
         @ $5,000 < 2/3 ($15,000), i.e., $10,000. ................................ 0.5 1 1.5
      ‡ DIV of incorporeal must be by authentic act............................ 0.5 1
         # Predial servitude is an incorporeal immovable........................ 0.5 1
2) FAB: if not ADD, then yes................................................ 0.5 1 1
   * Don IV within last three years of life........................................ 0.5
      † Only “gratuitous” part ($10,000) would be FABed....................... 0.5

h  Check (to Our Lady)
1) AAD: yes............................................................ 0.5 1 1
   * Donation invalid.................................................. 0.5 1 1
      † Form problem...................................................... 0.5 1
         ‡ Predominantly gratuitous / onerous mixed transfer..................... 0.5 1 1.5
            # Alt. formula: onerous mixed transfer is predominantly gratuitous if–
               @ O > 1.5 C...................................................... 0.5 1
               @ C < 2/3 O....................................................... 0.5 1
            #@ $15,000 > 1.5 ($5,000), i.e., $7,500. ............................... 0.5 1 1.5
            @ $5,000 < 2/3 ($15,000), i.e., $10,000. ................................ 0.5 1 1.5
         ‡ DIV of incorporeal must be by authentic act............................ 0.5 1
            # Predial servitude is an incorporeal immovable........................ 0.5 1
2) FAB: if not ADD, then yes................................................ 0.5 1 1
   * Don IV within last three years of life........................................ 0.5
      † Only “gratuitous” part ($10,000) would be FABed....................... 0.5

j  Pension payoff (to E)
1) AAD: no............................................................ 0.5 1 1
   * By special legislation (Rev. Stat.), belongs to named beneficiary........ 0.5 1 1.5
2) FAB: no............................................................... 0.5 1
   * Excluded by CC art. 1505(D). ........................................... 0.5 1 1.5

–B
1 Calculation of active mass. ................................................. 0.5 1
a  Net assets left at death
   1) Assets left at death................................................. 0.5 1
      a) Assets under the de cujus’ control................................. 0.5 1
         1) House & lot................................................. 120,000 0.5 1
         2) Stocks & bonds............................................. 10,000 0.5 1
         3) Bank accounts.............................................. 5,000 0.5 1
            SUBTOTAL 135,000 0.5 1
      b) Recoverable assets................................................. 0.5 1
         1) Cash (to A)................................................... 10,000 0.5 1
         2) Race horse (to E)............................................ 20,000 0.5 1
         3) Cash (to Vitter).............................................. 5,000 0.5 1
            SUBTOTAL 35,000 0.5 1
   TOT ASSETS 170,000 0.5 1
2) Debts left at death. ................................................................. 0.5 1
* Error in CC art. 1505: subtract debts before fictitious aggregation. . . . 0.5 1 1.5 2
  a) Home mortgage loan.......................................................... 100,000 0.5 1
  b) Credit cards. ..................................................................... 30,000 0.5 1
  c) Back taxes. ......................................................................... 20,000 0.5 1
  d) Funeral charges. ................................................................. 10,000 0.5 1

| TOT DEBTS. | 160,000 | 0.5 1 |
| NET ASSETS. | 10,000 | 0.5 1 |

b) Fictitious aggregation. ................................................................. 0.5 1
1) The renounced share of Magdalen’s estate (to S). 130,000 0.5 1
2) Cash (to victim of B’s tort) .................................................... 40,000 0.5 1
3) The donation of the servitude (to R). 10,000 0.5 1
* Only the “gratuitous” part ($10,000) would be FABed.
4) The donation of the check (to Our Lady). 10,000 0.5 1

| TOT FICT AGG. | 190,000 | 0.5 1 |
| TOT ACT MASS. | 200,000 | 0.5 1 |

3) Satisfaction of legitimes. ................................................................. 0.5 1

2) Apportionment of active mass. ................................................................. 0.5 1

a) Quotients
1) Number of FHs / FH successors: 2. ........................................... 0.5 1
  * Determined by number of forced heir representees. 0.5 1
  † Here, these are Beau & Cassie. 0.5 1

2) Division
  a) General rules:
     1) If there are 2 or more FHs, FP and DP are each 1/2. 0.5 1 1.5
     2) Legitimes: FP divided by heads. 0.5 1
  b) Special rule: If FH renounces, leg. is subtracted from FP & added to DP.. 0.5 1
* Not applicable here. 0.5 1

b) Calculation
1) FP (½ of 200,000). ................................................................. 100,000 0.5 1
  * Legitimes (100,000 / 2). .................................................... 50,000 0.5 1
2) DP (1/2 of 200,000). ................................................................. 100,000 0.5 1

3) Satisfaction by “free” assets / intestate succession: none. .................. 0.5 1 1.5
* From net assets left at death, all $10K worth are tentatively awarded to A per DMC... 0.5 1

b) Satisfaction by imputation. ................................................................. 0.5 1

  a) General rules: only collatable liberalities to FHs are imputable. 1 1.5 2

  1) Not the timber estate (to A). ........................................... 0.5 1
  * Not an FH; assumed to be AAD. 0.5 1

  2) Not the cash (to A). ......................................................... 0.5 1
  * Not an FH; assumed to be AAD. 0.5 1

  3) Not the mineral servitude (to B). 0.5 1
  * Assumed to be AAD. 0.5

  4) Not the race horse (to E). .................................................. 0.5 1
  * Assumed to be AAD. 0.5

  5) Not the renounced share of Madgalene’s estate. 0.5 1
  * Not an FH. 0.5

  6) Cash (to victim of B’s tort): imputed to E’s account. 40,000 1 1.5
  * Subject to collation. ......................................................... 0.5 1
  † Not exempted by will or by law. ....................................... 0.5 1 1.5
  ‡ Not too old. 0.5 1
  † Here, these are Beau & Cassie. 0.5 1

  E’s LEG BAL. ................................................................. 10,000 1 1.5

7) Not the predial servitude (to R). ............................................... 0.5 1
  * Not an FH. 0.5 1

8) Not the check (to Our Lady). .................................................. 0.5 1
  * Not an FH. 0.5 1

9) Not the cash to Vitter. ........................................................... 0.5 1
  * Not an FH; assumed to be AAD. 0.5 1

10) The proceeds of the pension plan (to E) ............................................. 20,000 1 1.5
  * Imputation required by CC art. 1505.C. 0.5 1
  † Excess $10,000 – taken from “tort payment” – is imputed to DP. 0.5 1 1.5
  ‡ Can’t be taken from pension proceeds b/c they are non-reducible, 0.5 1 1.5

  E’s LEG BAL. ................................................................. 0 1 1.5
  F’s LEG BAL. ................................................................. 50,000 0.5 1
  GLOB FP BAL. ................................................................. 50,000 0.5 1

iii
c Satisfaction by reduction. .............................................. 0.5 1
  * Description.................................................................................. 0.5 1
  * Ordre † Donations MC before donations IV........................................ 0.5 1
    † Among donations MC, proportionally............................................. 0.5 1
    † Among donations IV, in reverse chron’l order, up to 3 yrs back... 0.5 1 1.5
  * Exemption: can’t reduce what’s already been imputed....................... 0.5 1

1) Donations MC. ........................................................................ 0.5 1
  a) Legacy to A................................................................................. 10,000 | 1 1.5
* Because legacy to A insufficient to satisfy F’s LEG BAL, it must be
  integrally reduced................................................................. 0.5 1
  F’s LEG BAL............................................................................. 40,000 | 1 1.5
  b) Not pension proceeds to E......................................................... 1
* Exempt from reduction under special state legislation........................ 0.5 1

2) Donations IV. ............................................................................. 0.5 1
  a) Check (Our Lady). ...................................................................... 10,000 | 1 1.5
  F’s LEG BAL............................................................................... 30,000 | 1 1.5
  b) Predial servitude (to R). ............................................................. 10,000 | 1 1.5
* Only the gratuitous portion is reducible......................................... 0.5 1
  F’s LEG BAL............................................................................... 20,000 | 1 1.5
  c) Cash (to victim of Beau’s tort). .................................................. 10,000 | 1 1.5
* Only excess above imputation is reducible...................................... 0.5 1
  F’s LEG BAL............................................................................... 10,000 | 1 1.5
  d) Renounced share of Magdalene’s estate....................................... 10,000 | 1 1.5
* Reduced by only so much as is necessary to satisfy legitime............. 0.5 1
  F’s LEG BAL............................................................................... 0 | 1 1.5
--------------- The 3 DIVs reduced above were made w/in 3 yrs of death........ 0.5 1
  e) Not other, older donations IV..................................................... 0.5 1
  1) Not needed: FP already satisfied thanks to imputation & reduction. 0.5 1
  2) Those made before Dec. 1, 2000 are too old anyway: > 3 years. 0.5 1 1.5