

FAMILY LAW – FINAL EXAM
SPRING 2009

TUESDAYS & THURSDAYS 4:30 P.M.
PROFESSOR RICHARD P. CONSOLI

DIRECTIONS: Write your Exam Number on your blue book **AND YOUR EXAM.** Read the following fact pattern carefully. Take time to organize your answer. Respond in essay form using only one (1) bluebook.

PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE

PROBLEM #1 – ESSAY = 75% (approximately 2 hours)

Patty and Mike were married in 1993 in the State of Ford. They were high-school sweethearts and married right out of college. Both are 42 years old and in good health. Since college, Mike has worked as a salesman for his Father's insurance agency. He has no ownership interest in the business but it has always been understood and agreed that Mike's Father would pass the business along to him.

The parties' marriage has been failing for years. The parties have not been sleeping in the same bed for the past three years prior to their separation. They separated three months ago. Patty has remained in the marital home with the children and Mike is renting an apartment a few blocks away from the marital home so he can remain close to the children. Mike's Father's health is deteriorating drastically and Patty believes that the transition of ownership of the company to Mike is being purposely delayed by Mike because of the divorce.

Mike earns approximately \$150,000.00 a year. In addition to his earned income he also receives a car and a gas credit card, reimbursement for meals and entertainment and a company matching contribution of \$6,000 annually to his 401k plan. Mike pays \$500 per month for family medical insurance with the balance paid by the business. Mike also receives vacations and expensive gifts from companies that the business represents.

Mike and Patty have two children ages 10 and 12. Both parties are very involved with their children and have co-parented throughout the marriage, sharing child rearing responsibilities. Mike is the soccer and baseball coach for both of his kid's teams. Patty is a college graduate with a BA in business administration but stopped working outside the home after the birth of her first child. The parties agreed that after Patty gave birth she would not work but would volunteer her time to a local child welfare agency. Patty volunteers about 30 hours a week. Two years before the parties separated, Patty was involved in a serious auto accident. She suffered a concussion and several broken bones. It took her three

months to recover. She expects to receive a significant personal injury settlement. Mike has filed a loss of consortium claim.

The parties' marital estate consists of the marital home, owned jointly, which has a fair market value of \$480,000.00, with an outstanding mortgage of \$60,000.00. Mike's 401k is worth \$180,000.00. The parties also have \$30,000.00 in joint savings, funded solely by Mike's income. In addition, Mike owns a lake front cottage with his two brothers. Mike and his brothers purchased this cottage 5 years ago as a "man retreat".

Patti comes to your office for help. Discuss your advice to her concerning her rights, options and responsibilities and likely outcomes.

PROBLEM #2 – SHORT ANSWERS = 25% (combined with Problem #3)
(approximately 30 minutes)

Directions: Please read the fact pattern below then refer to the instructions following the text.

Husband and Wife were married in and resided in the State of Hammersmith for 10 years. They had two children: Chrissy age 9 and Sammy age 8. The Wife was frequently terrorized by the Husband. The Wife contends that as their marriage deteriorated, the Husband's terror intensified that at one point he broke her collarbone in a rage. On April 1st, 2007 he came home from work and informed the Wife that he had joined the Army and would be deployed to Iraq. When the Husband left the Wife allowed the Children to move in with her Brother John and his Wife Amy so that the Wife could seek work and support herself. The Wife formalized the arrangement by assenting to Jason and Amy's legal guardianship of both Children. The Wife gave money to ~~John~~ Jason and Amy for the care of her Children when she could and she visited as much as she could. In December of 2008, the Wife filed for Divorce against the Husband in the State of Hammersmith. Meanwhile, in January 2009, while the Wife's divorce against the Husband was pending, the Husband obtained a divorce from the Wife in Iraq. The Wife was aware that the Husband was seeking a divorce and had signed papers sent to her assenting to the divorce. Last month the Husband passed away as a result of injuries sustained from a roadside bomb in Iraq. There are now surviving spouse benefits available through the VA. The Wife wishes to obtain these benefits and take both her Children back from her brother and his Wife. John objects to this and feels that his niece and nephew have flourished while living with him and his Wife and that it would not be in the children's best interest. The Wife files to terminate John's guardianship and to obtain benefits, she will argue that the Iraqi divorce is invalid.

4. Estoppel:

5. Ex-Parte Divorce:

PROBLEM #3 – DEFINITIONS = 25% combined with Problem #2
(approximately 30 minutes)

Directions: Please read each question and provide a definition for each.
Please write you answers on the spaces provided.

- 1. What is the standard and what are the factors the Court must consider on a Complaint for Modification regarding Child Support?**

2. What are the factors to be considered when the Court examines the “Child’s Best Interest”?

3. In a removal case, what must the custodial parent establish? What is the standard that the Court would apply?

4. In an adoption case, where race is relevant, what are the factors the Court must consider?

5. Explain the Doctrines of Incorporation and Merger as applied to a Judgment of Dissolution of a marriage.

PLEASE CHECK THAT YOU HAVE PUT YOUR EXAM NUMBER ON YOUR EXAM AS WELL AS YOUR BLUEBOOK!!!!!!!!!!

Have a great summer!