

FAMILY LAW - FINAL EXAM

Fall 2006

On-Line and 1:00 Tuesday/Thursday - Condurelli

Directions: Write your social security number on your blue book and on your exam. Then, read the following problem carefully. Take the time to organize your answer. Finally, respond in essay form, using only one (1) blue book .

PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE.

Problem 1 (Approx. 2 2 hours) 75% - (limit: one double-spaced blue book)

Tom is married to Karen. They were married in the State of McEvoy four years ago. However, they have been residing in the State of Howie since January of 2006.

Tom is a physician with a lucrative medical practice. Karen is a nurse's aid. The parties jointly own the marital residence in Howie, which is worth approximately 700K, acquired mainly from the sale of the parties' former, jointly-owned home in McEvoy. That former home, in McEvoy, home was purchased in 2004 primarily with savings funded by Tom's income. The parties also enjoy a lakefront cottage in Howie which Tom inherited from his grandfather prior to the parties' marriage. Title to this home is in Tom's sole name.

Prior to the parties' marriage, Tom and Karen signed an ante-nuptial agreement which provided that in the event the parties were to divorce, Tom would be entitled to the lakefront home and the marital home. Karen would be given 75K and custody of any children born of the marriage. Prior to signing the agreement, both parties consulted with counsel and they exchanged tax returns from the prior year.

In February of 2006, the Tom and Karen welcomed a baby daughter, Angelina.

Tom fathered a son during a non-marital affair a few years before the marriage. From the beginning of the marriage, Tom continued to see the woman with whom he had the affair, much to Karen's dismay. Her name is Cherie. On Tuesdays, Tom has dinner with Cherie. They usually go to Vincenzo's Restaurant. Some nights Tom returns from his dinners with Cherie very late at night. Karen has asked Tom to stop seeing Cherie, but Tom has refused. He has told Karen that Cherie is his child's mother and he and Cherie need to discuss the child's progress and well-being.

As a result of Tom's continuing relationship with Cherie, Karen has taken to abusing drugs. Since this past summer, Karen's drug use has cost \$200 per week. Karen also has missed 20 days of work since August 2006 because she could not get up and out to work

or bring baby Angelina to day care.

About 2 months ago, Tom informed Karen that he wants his seven (7) year-old child, Russ, to move with him and Karen. Karen objected to this, but Russ moved in with Tom and Karen anyway. Over the course of the next few months, Tom began to exclude Karen from weekend outings with Russ. He began to prepare food at suppertime for just him and Russ. One night, while Karen was slicing carrots, she cut her finger, partially severing it. She asked Tom for a ride to the hospital, because she was feeling faint from the bleeding. He refused and instead took Russ bowling.

Karen has now recovered from the finger incident and her doctor has referred her for counseling and drug treatment. Today she arrives at your office for a consultation. Discuss your advice to her concerning her rights, options, responsibilities and responsibilities.

Problem 2 (Short Answers- Approx. 30 min.) 25%

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

Husband & Wife were married in and resided in the State of Ford for 15 years. They had one child of the marriage, Christa, age 8. During the marriage, Wife was frequently terrorized by Husband. At one point he choked her to the point of unconsciousness. On March 3, 2005, W came home from work to find a note from H that he had joined the military. When H left home, W allowed 8 year-old Christa to move in with her brother, Jason, so that W could work and support herself. Wife formalized this arrangement by assenting to Jason's legal guardianship of Christa. Wife visited with Christa and gave money to Jason for Christa's care. In August of 2006, W commenced divorce proceedings against H in the State of Ford. Meanwhile, in September of 2006, while W's divorce was still pending, but not decreed in Ford, H obtained a divorce from W in Afghanistan. W was aware of H's attempts to obtain a divorce abroad and had signed papers to indicate her consent thereto. Last month H died. There are benefits to be provided to Husband's surviving spouse. Wife wants to obtain those benefits and she wants to take Christa back to live with her. Jason objects to this and feels this would not be in Christa's best interests. W files to terminate Jason's guardianship and to obtain benefits, she will argue that the Afghan divorce is invalid.

Define the following terms and explain their application, if any, to the fact pattern above:

(Please write your answers in the spaces provided on the next pages.)

1. Desertion:

2. Abuse:

3. Doctrine of Comity:

4. Estoppel:

5. Condonation:

6. Ex-Parte Divorce:

7. Parental Preference Doctrine:

8. Domicile:

9. De Facto Parent:

10. Jurisdiction:
