FAMILY LAW
Fall 2008 - FINAL EXAM
Mondays and On-Line - Condurelli

Students: Read the following carefully. Take the time to organize your answer. Then respond in essay form, within the page limitations indicated.

PLEASE WRITE LEGIBLY.

Problem 1 (Approx. 2 hours) 75% (No more than one blue book, double spaced.)

Linda Lindsay (wife) and Larry Lindsay (husband), were married in 1988 in State A. This was the first marriage for both parties. During the marriage they had three children: Evelyn, born March 16, 1991; Timothy, born October 5, 1994; and Lucy, born, September 4, 2000.

Larry is a tenured, full professor at the Massachusetts Institute of Technology (MIT). His total wages from MIT were $179,000 last year. Larry’s health is also excellent. Linda worked part-time as a teacher’s aide earning $8,000 in 2007. Although her physical health is fine, her mental health is "fragile." In August, 2004, she was committed for a time to a psychiatric hospital because of a suicide attempt and severe depression. Her physician still prescribes two kinds of antidepressants for her treatment.

Larry’s brilliance and diligence has made the family financially secure. He purchased a home in Brookway, in State A prior to the marriage, using a down payment given to him by his grandmother. The purchase price of the home was $100,000 in 1983. There is currently $500,000 in equity in this home, which is in his sole name. Linda lived in the Brookway home with Larry and the children continuously during the marriage. Larry also has a retirement/pension through his current employer, worth approximately $180,000, which has been accruing since his employment with MIT began in 1992. Linda has her own bank account with $100,000 currently on deposit. These funds originated from an inheritance from her grandfather two years ago. There is $60,000 in joint funds in Enterprise Bank. Larry also has a collection of antique guns.

During the marriage, Linda’s commitment to child rearing and home making permitted the Larry to pursue his profession which involved long hours at the University. However, the last several years of the marriage were characterized by marital discord.

In June of 2007, Linda and Larry locked into a dispute over Linda’s use of joint funds for $15,000 in purchases on E-bay. Larry insisted that Linda restore the funds to the joint
account from her inheritance. Linda maintained that Larry had permitted himself to use his earnings, which she characterized as joint funds, for any purchases he pleased throughout the marriage. The argument escalated to physical proportions in the presence of Lucy, the parties’ youngest child, wherein Linda found herself on the floor after she threw a book at Larry.

In July of 2008, Larry asked Linda to move out of “his house” and told her to send someone for her belongings. He reminded Linda that she had signed an antenuptial agreement waiving any interest she had in the Brookway home and waiving her rights to any pension funds he acquired during the marriage. Linda left the marital home with eight-year-old Lucy to move in with her mother in State B. Despite the fact that Larry works such long hours, Evelyn and Timothy both asked to remain in the marital home. It is Evelyn’s senior year in high school and she didn’t want to leave her friends and school. The seventeen year-old has agreed to accept some babysitting responsibilities for her younger brother so that he may remain with his father. Linda tore up the pre-nuptial agreement prior to her departure. On her way out the door, she told Larry, “I’ll see you in court and I’m going to make your life miserable.”

Linda has needed to increase her appointments with her psychiatrist since the separation.

If Linda comes to your office seeking information and advice about divorce and her domestic situation, what will you tell her about the issues confronting her?

Problem 2 (Short Answer Essay- Approx. 1 hour) 25% (Please write your answers in the spaces provided below.)

Toni married Andrew in the State of Gordon (G) in December of 2005. Andrew was a wealthy stockbroker, while Toni was a beautician. At the time of the marriage, Toni was pregnant. In June of 2006, Maura was born. Unbeknownst to Andrew, Toni had an ongoing extra-marital affair with James from September of 2005 until April of 2006. In February of 2008, Toni left the marital home in (G) and rekindled her relationship with James. Shortly thereafter, she moved in with James in the State of Marge (M). Andrew was surprised by his wife’s departure, but in some respects, he was relieved because the marriage was troubled from the start. Toni told Andrew that she wanted an immediate divorce, since she was pregnant again. To get a quick divorce, Toni rented an apartment in the State of Ford (F) for four months. After three months, she filed for divorce in Ford.

Andrew learns of the pending divorce in Ford, and he also learns that Toni had been unfaithful to him at the time of the marriage. Andrew is desirous of breaking off all ties with Toni with a minimum of responsibility because he believes that he was a victim of Toni’s fraud. He does not want to go to Ford to defend himself in Toni’s divorce action.

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


Ratification:


Alimony:


Have a great holiday break!