

**FAMILY LAW – FINAL EXAM**  
**SPRING 2015**

**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 to two bluebooks.

**PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE**

**ESSAY #1**

Steve and Linda married in 1998. They have two (2) children, Peter and Patty ages six (6) and fourteen (14). At the time of their marriage, Linda had 25K in savings which she had accumulated through her job and through gifts from her grandmother.

In 2005, Steve inherited 200K from his father. Steve is the owner of a restaurant valued at approximately \$750K. He takes \$150K each year from the business. Linda is a school teacher. She earns \$60K. The spouses have always pooled their incomes to pay for their living expenses. They own their home with a fair market value of \$500K. They have little debt apart from the mortgage on their home.

Steve works many hours in his restaurant. He typically returns from work at midnight and he usually works on Saturdays and Sundays. Linda assumes responsibility for all the childcare tasks, including doctor appointments, PTA meetings, the children's sports and recreational activities and homework assignments. Six (6) year old Peter has special needs, Linda arranged for special services for him. Patty is enrolled at a private high school. While their parents were living together, Linda's mother cared for the child while the parties were at work.

The parties' marriage has been failing for years. The parties have not been sleeping in the same bed for the past three (3) years. They separated three (3) months ago. When Linda informed Steve that she wanted a divorce, he stormed into her bedroom and dumped out the contents of her dresser and closet and threw her belongings onto the porch. Steve then carried Linda to the front porch and dropped her on the ground. Linda tried to regain entry to the house, but hearing Peter and Patty screaming, and crying inside, she decided it would be better to just walk to a neighbor's home and call her sister. She is presently living with her sister. The children are living with their father. Linda's sister has recommended that she contact you for legal representation. When Linda arrives at your office, she tells this story to you. After listening to Linda and considering all of the issues, how would you advise her of all of the issues and options as well as the parties' rights and responsibilities?

## ESSAY#2

Husband and wife have been separated for two (2) years. Because he wanted to avoid paying child support and because she wanted more time to spend with boyfriend, they agreed to shared physical custody with the following schedule:

Alternating weeks with their two (2) children, ages 7 and 9 with the father not required to pay child support. In the weeks that either parent has custody, the children are cared for by the children's paternal grandmother until the parent having custody returns from work.

Recently the wife has become concerned that their present shared physical custody arrangement upsets their children's routines. She wants to have sole physical custody, with father having visitation on alternating weekends. She wants him to pay child support and she does not want his mother to continue to provide daycare for the children until she returns from work. Instead, she will have her live-in boyfriend care for the kids. She does not want the children to continue to have any contact with their paternal grandmother or other members of the father's family.

The father has responded that he wants to ignore the child support guidelines and instead, the child support amount should be negotiated between the parties.

In the alternative, if they are not able to agree, the mother is willing to waive child support on condition that he waive any right to continue to have any visitation or contact with the children., except for their birthdays and 2 hours on Christmas eve. She will decide whether and when any additional visitation will take place with their father.

Today, the Wife will visit your office for legal advice. What will you advise her regarding the parents' rights, obligations and responsibilities as well as the likely outcome?

**DEFINITIONS:**

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

1. What are the eleven (11) factors to be considered in a custody case relating to the best interest and welfare of the child?

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2. What are the seven (7) statutory factors for Division of Marital Assets under M.G.L. C. 208 Sec. 34?

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3. In addition to the Mandatory Factors, what may the Judge in his or her discretion consider?

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4. What are the eight (8) factors to be considered by a Court in ordering alimony?

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**PLEASE CHECK THAT YOU HAVE PUT YOUR EXAM NUMBER ON YOUR EXAM AS WELL AS YOUR BLUEBOOK(s)!!!!!!!**

Have a great summer!

**FAMILY LAW – FINAL EXAM**

**SPRING 2013**

**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 to two bluebooks.**

**PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE**

**ESSAY QUESTION #1**

Joan, an administrative assistant, and Paul, a copywriter, met while working at a marketing firm in 2006. They began dating, and rented an apartment in Watertown together in the spring of 2008.

During the summer of 2008, Joan traveled to Las Vegas for the weekend for her friend's bachelorette party. While she was there, she unexpectedly ran into Greg, whom she had briefly dated in college. During her last night, she drank more than she could handle and ended up sleeping with Greg. Joan felt horrible and did not tell Paul what had happened.

Joan realized that she was pregnant in September 2008. She did not know whether Greg or Paul was the father, but couldn't bear the thought of ruining her relationship with Paul. When she announced to Paul that they were having a baby, he was overjoyed. Not knowing of the tryst between Joan and Greg, Paul attended the pre-natal doctor's appointments and helped Joan at every step through her pregnancy. However, the parties decided that they would not get married, as Paul felt strongly that matrimony is little more than a "fascist heterosexual orthodoxy".

In April 2009, Joan prematurely gave birth to a son, Samuel. Paul was in New York on business and was unable to get back to Boston in time to be present for the child's birth. Although Joan listed Paul as the father on Samuel's birth certificate, Paul did not sign a Voluntary Acknowledgement of Parentage form. However, he had no reason to think he was not the father and held out the child as his own.

Paul's parents, who resided in Milton, were also very involved with the family; they had "Sunday supper", together with Joan, Paul and baby Samuel nearly every week. Although Joan's parents lived in New Jersey, her brother resided in Cambridge and was close with both Joan and Paul.

Because Paul primarily worked from home, the parties initially shared all parenting duties equally. However, Joan struggled with postpartum depression and began to drink problematically during the winter of 2010. Although she did not drink during the day, she would pour a glass of wine as soon as she arrived home. By spring of 2010, she was finishing a bottle every night. As a result, Paul slowly became the more primary caretaker. He would fix dinner for Samuel, feed him, bathe him, play with him and put him to bed at night.

Joan was laid off in April 2011. Her drinking spiraled out of control soon thereafter. The parties' relationship had been troubled for many months due to Joan's addiction. They fought non-stop.

After Joan had to be rushed to the emergency room twice in one month for alcohol poisoning, Paul felt that he had no choice but to enlist Joan's brother to have her involuntarily committed, pursuant to M.G.L. Chapter 123 § 35. In September 2011, the court entered an order committing Joan to an alcoholic treatment program for 30 days. Paul's parents, both of whom were retired, stayed with Paul and Samuel during this entire period.

Joan spoke with Paul once during her treatment. She was furious with him for committing her, and informed him that she had slept with someone else while she was in Las Vegas, and that person was Samuel's "real" father. She further stated that Paul had no legal rights, and threatened to move to New Jersey with Samuel, once she was released unless he told the judge he had "lied" and made arrangements to check her out of the center immediately.

Paul was devastated. He could not imagine life without Samuel, whom he had never questioned as his son. He immediately filed a complaint to establish paternity and filed motions for legal and physical custody of the child. He alleged that Joan was an alcoholic and unfit to care for the child.

Paul's parents were also very distressed.

Joan retained a lawyer while in the treatment center, who filed on Joan's behalf a motion to dismiss Paul's paternity complaint, alleging that Paul was not the father and had no standing to bring such an action. She also filed a complaint to establish paternity against Greg seeking sole legal and physical custody and child support.

Greg presently resides in New York and earns \$270,000.00 per year as a physician. He did not know about the pregnancy and is presently married. He wants nothing to do with Joan or Samuel.

Joan was released in October 2011 after completing the detox program. However, she did not come home for three days. When she finally returned home, she was visibly angry, and demanded that Paul release the child to her care. Paul called the police, who arrived at the home and informed Paul that there was nothing they could do as she was not intoxicated and Paul was not the legal custodian of the child. Joan left with Samuel and informed Paul that she had bought a one-way ticket to New Jersey and he would never see the child again.

The next day, Joan sent Paul a series of text messages that led him to believe she was drinking. Paul immediately filed papers with the court seeking an emergency appointment as a Guardian and orders that Joan return the child to Massachusetts forthwith.

**Paul comes to your office. What are the issues? Identify the rules, factors or standards that apply to the facts; discuss the arguments that support the Mother's position and Father's position. What additional information is needed and what would you advise Paul as to his rights, responsibilities and obligations as well as likely outcomes?**

## ESSAY QUESTION #2

Cynthia (Neill) Clark married Henry on May 1st, 1999 at Salem, Rockingham County, N.H. They have three (3) children of the marriage. Their eldest son, Thomas Clark, age 14 told a teacher at school that on the morning of November 13th, he, his mother, Cynthia Clark and his two siblings, Wendy (age 10 and Peter (age 4) left their home in Methuen, MA and moved in with his aunt Lucy. That morning, Cynthia Clark had called her sister, Lucy Neill, to come and rescue her and her children. Thomas said that his mother was crying on the telephone, saying that she could not take it anymore. While they got into Aunt Lucy's car, Thomas said his dad sat inside their house weeping. According to Thomas, Henry Clark recently hit him two, sometimes three times per week. He was hit with an open hand, a closed fist, and a plastic baseball bat. Once, his father hit Thomas with a piece of wood. Thomas admitted that these incidents were prompted by Thomas' disrespectful comments to his father. They happened more frequently when Henry had consumed some alcoholic beverage. Thomas described that on the day before they fled from their home, Henry had thrown Cynthia on the floor and began punching her in the back. All of the children were present. Thomas tried to protect his mother, but he was unable to stop his father. Instead, Henry turned on Thomas and chased him outside into the yard with threats that he'd kill Thomas yet. Thomas says that the younger children were witnesses to this incident and others. He also stated that his mother planned to stay with Aunt Lucy for a few days, before moving to a battered women's shelter somewhere in the area.

What are the issues and options facing this family?



**DEFINITIONS:**

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

**1. What are the statutory factors for division of marital assets under MGL c208 Sec 34?**

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**2. In addition to the mandatory factors, what may the Judge, in his or her discretion, consider?**

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**3. What are the factors to be considered by a Court in ordering Alimony?**

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**4. Define and explain the doctrines of incorporation and merger as applied to a Judgment of dissolution of a marriage.**

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**5. What are the 11 factors to be considered in a custody case relating to the best interest of the child?**

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**6. In a removal case, what must the custodial parent establish? What is the standard that the Court will apply?**

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**FAMILY LAW – FINAL EXAM**  
**SPRING 2012**

**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 to two bluebooks.**

**PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE**

**ESSAY #1**

Joanna and Cathy, both born and raised in Austin, Texas, first met during their junior year of high school. While Joanna was an honors student, Cathy suffered from severe dyslexia and struggled to make passing grades. After the parties graduated in 2003, Joanna enrolled in college at the University of Texas. Cathy took a job as a nanny.

The parties began dating seriously in 2004, and when Massachusetts legalized same-sex marriage in 2004, they decided to move to the state in order to get married. Joanna, who wanted to get her MBA, did well on the GMAT and was accepted in Boston University Graduate School. After Joanna graduated in 2008, they both relocated to Boston, where they rented a small, two bedroom apartment in Allston. They were married that same year.

During the first two years of the marriage, Joanna attended business school. Although she took several internships, they were all unpaid and she did not earn any income. Cathy took a job at Whole Foods because of the health benefits the company offered. She worked 35 hours per week and earned \$10.00 per hour. She also worked 15 hours per week as a nanny for a family in Newton for which she earned \$25.00 per hour. The parties had received \$50,000 from Cathy's grandparents as a wedding present, and they used this additional amount to supplement their income.

The parties decided to have a baby and originally considered both adoption and artificial insemination. Mark, a fellow business student and close friend to both women, agreed to serve as a donor. However, after many discussions, they decided that Joanna and Mark should try to conceive a child naturally. With Cathy's consent, Joanna and Mark conceived a child. Joanna was pregnant during her second year of business school and had the baby, Ruth, in January 2010. They informed the hospital that Ruth had been conceived via artificial insemination and both Joanna and Cathy's names were placed on the birth certificate. Mark did not sign an acknowledgement of parentage and adoption surrender form.

Although the parties had agreed that Joanna would handle most of the caretaking responsibilities until she graduated, she insisted that she was too busy with studying. Cathy thus gave up her nannying position and arranged her schedule so she could work evenings and weekends. Cathy was primarily responsible for the day to day care of the child as well as for maintaining the household.

Mark adored the child and was also involved with her care. He frequently babysat Ruth when Cathy was unable to get off from work and Joanna had class.

Joanna graduated from business school in May 2010 but was not immediately employed. She spent the summer studying for Level 1 of CFA and trying to find a job. In October 2010, she was offered and accepted a position with an investment firm earning \$100,000 per year. However, she decided that she would only contribute to the marriage the amount that Cathy earned at Whole Foods (which by that point was \$15.00 per hour or \$525.00 per week before taxes). She used most of the remainder of her salary to pay down her significant business school loans.

Cathy became increasingly unhappy in the marriage and the parties began to fight frequently. Joanna's new job required her to work 70-80 hours per week, which caused additional stress on the family. Joanna became verbally and emotionally abusive to Cathy, and in 2011 it began to escalate into physical violence. On at least four occasions Joanna slapped or pushed Cathy. In July 2011, Joanna threw a cell phone at Cathy when she was holding Ruth; the phone almost hit the baby. Cathy called the police and subsequently obtained a 209A abuse prevention order against Joanna. Cathy left the home a few days later and returned to Austin, Texas with Ruth. She filed the pending complaint for divorce in September 2011 seeking full legal and physical custody and child support and permission to remove the child to Texas. She also sought alimony in an amount that would allow her to maintain the standard of living the parties would have achieved had Joanna not sequestered her income. Cathy also maintained that she should be reimbursed for the financial support she provided during the marriage, particularly the \$50,000.00 from her grandparents.

In response, Joanna filed a counterclaim for divorce. She also sought sole legal and physical custody of Ruth, alleging that she was the only biological parent of Ruth and Cathy had no rights to the child due to the fact that she had not adopted her. She argued that because Texas does not recognize same sex marriage, Cathy would have no legal status as Ruth's parent in Texas. She also asserted that based on the length of the marriage (four years) this was not a case in which alimony was warranted, particularly since Joanna's recent salary did not affect their standard of living.

When Mark found out that Cathy had returned to Texas and was trying to move there permanently, he filed an action to establish his paternity under the general equity jurisdiction of the Probate and Family Court, pursuant to G.L. c. 215 § 6. He also filed an action to establish visitation rights.

The parties have no assets. The only debt owned by either party is \$70,000 in business school loans incurred by Joanna. Joanna paid \$40,000 towards her business school loans from October 2010 through August, 2011.

## **ESSAY#2**

Tony and Robin married in a church ceremony in 1987 in the State of Euphoria but they failed to obtain a marriage license. In the last two years, Robin has been spending a lot of time with the Pastor of the Church. When Tony questioned Robin about her frequent trips to the Pastor's residence. Robin explained that she was engaged in Bible Study groups. However, Tony has become more and more concerned about Robin. She has been frequently forgetful and unfocused. Last week, she forgot to pick up the parties' son, Sam, at school. Sam called Tony at work to come and get him after waiting for Robin for one hour. When Tony and his son arrived home, Robin was not home but there was a message on the answering service that Robin's prescription was ready. Tony was unaware that Robin was being treated for anything. Robin did not return to prepare dinner for the family. In fact she did not return until 11:00 p.m. At that time, Tony confronted Robin with his concerns. He was angry at her when she arrived singing and whistling. He had been sick with worry wondering where she could have been or what could have happened to her. The following day, while Tony was seeing a client in town, he noticed Robin's car at a nearby motel. Because he was with a business associate, he does not leave the meeting to investigate, but later saw Robin get into a car and depart.

Later that day, when Tony arrived home, he confronted Robin with his knowing about Robin's motel visit, Robin declared that Tony was an "insufferably boring man" and that she was sick of being married to him and has been for years. She picked up a potted plant and threw it at him. After 25 years of marriage and two children she declared that she has "had enough". Yesterday, Tony woke to find Robin gone. Her closet was empty.

Today, Tony visits your office for legal advice. What do you tell Tony about the domestic issues that he has presented for your consideration?

**DEFINITIONS:**

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

- 1. Explain Partnership Theory as it applies to the Division of Assets upon Dissolution of a Marriage:

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- 2. What are the statutory factors for Division of Marital Assets under M.G.L. C. 208 Sec. 34?

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**3. In addition to the Mandatory Factors, what may the Judge in his or her discretion consider?**

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**4. Define duress:**

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**5. Define annulment:**

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**6. Explain the Tender Years Doctrine:**

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**PLEASE CHECK THAT YOU HAVE PUT YOUR EXAM NUMBER ON  
YOUR EXAM AS WELL AS YOUR BLUEBOOK(S)!!!!!!!**

**Have a great summer!**

# FAMILY LAW - FINAL EXAM

SPRING 2010

*TUESDAYS & THURSDAYS 4:30 PM*

*PROFESSOR RICHARD P. CONSOLI*

**DIRECTIONS:** Write your Exam Number on your bluebook **AND YOUR EXAM.**  
Read the following fact patterns carefully. Take time to organize your answers.  
Respond in essay form using only one - two (1-2) bluebooks.

**PLEASE WRITE LEGIBLY AND DOUBLE SPACE YOUR RESPONSE.**

## I. ESSAY #1:

Polly and Max were married in 1995 in the state of Confusion. Both were 22 years old at the time of their marriage. Polly was a graduate student studying civil engineering. Her graduate studies were financed by both parties through their wages and loans. Max, a high school graduate, worked as a store clerk and Polly as a research librarian. They had twin girls in 1998. Soon after, Polly completed graduate school. Max stayed home to care for the children rather than place them in day care. Currently, Polly works full time as a civil engineer earning approximately \$350,000.00 a year. She has a company car and a company gas card. Max continues to care for the children. He goes to the gym daily and he is often seen at the local pub. He has had two OUI's in the past three years.

The Father transports the twins to and from school on a daily basis as well as to all their social events. The Mother has hired a woman to do the housekeeping and to prepare meals. She has also had to hire a part time nurse to attend to the needs of one of the twins whose diabetes requires daily monitoring and injections. The Wife does all of the shopping for the household; pays the bills; makes all of the investment decisions and arranges the twins doctors and dental appointments. The twins are very active in youth hockey. The Father attends all practices and games and any fund raising events. He also travels with the team

when they play games or tournaments out of state. Max has a very close relationship with the twins. The twins are also close to their extended paternal family who live in the same town. One of the twins is musically gifted and attends an exclusive school in the area. The Mother's employment allows her to work from home one day a week.

The parties acquired two homes during their marriage; the marital home (purchased in 1998) and a small condo on the beach in Fenwick (purchased in 2009). The marital home has a value of \$350,000.00 with an outstanding mortgage of \$150,000.00. The vacation condo has no mortgage as it was purchased for \$200,000.00 with the proceeds of an inheritance Max received when his Father passed away in 2009. Polly has managed to accumulate approximately \$500,000.00 in retirement savings. She has deposited \$10,000.00 in two 529B plans for the twins' college education. The vacation condo will gross approximately \$40,000.00 annually in rental income. Last year, Polly found out that Max has since placed a mortgage on the condo for \$30,000.00, without her being informed. Polly suspected that Max was having an affair and that he took out the loan in order to wine and dine his girlfriend. Max moved out of the marital home and now rents a small apartment nearby enabling to maintain a close relationship with his Children. Polly and the twins live in the marital home.

Max has recently voluntarily completed an alcohol rehabilitation program and presently attends daily AA meetings. Polly is seeking full physical and legal custody of the twins as well as child support from Max, retention of the marital home, retention of the vacation home, the entire proceeds of the retirement account and full control of the 529B plans.

**Max comes to you for advice in answering the complaint for divorce. How would you advise him as to his rights, responsibilities, options and likely outcomes?**

## II. ESSAY #2:

Craig and Alexandria were divorced in 2008. They share physical custody of their Daughter, age 15 and their Son, age 13. The Daughter lives with the Father and the Son lives with the Mother. The parties Daughter refuses to have any contact with her Mother or her Mother's Fiance. She is angry at her Mother because she blames her Mother for breaking up the family. The Daughter is sensitive to her Father's anger over his Wife's affair. The parties Son has continued to live with the Mother and visit with his Father. The Mother was the primary homemaker and child rearing parent during the marriage. The Mother and her Fiancé reside in the former martial home with her Son. The parties presently actively co-parent. The Father lives ½ mile from the former marital home which allows him to participate in his Son's life on a regular basis through sports, school events and visits.

The Mother wants to relocate to New Mexico along with the Son and her Fiance. The Fiance's three Children from his previous marriage will join them in New Mexico and live with them as their Mother has recently passed away. The Mother has no family in New Mexico. The Mother claims that she would have greater employment opportunities there as she is not on a fast track career in her present employment situation and advancement is limited. She is looking for a fresh start away from her family. The Father claims that the move is inspired by the Mother's desire to separate the Children from their Father.

The Son has a close relationship with his Father and his Sister. The Son does not want to move to New Mexico because it would separate him from his Father and Sister. He is a happy, intelligent Child, well adjusted in his current setting. He has an extensive circle of friends, and attends a superior school, one of the best in the state. The Son has been living with his Mother primarily out of concern for her well being because the Mother is pregnant with her Fiance's Child.

The Daughter refuses to live with her Mother and her Mother's Fiancé, whether in Massachusetts or New Mexico. Therefore, the Daughter, if she chose to visit her Mother in New Mexico, would have to stay in a motel and the Son would have to travel to visit with his Sister.

The Mother's Fiancé is a very successful sales executive with a start-up international conglomerate based in China. He has recently been assigned to New Mexico, but is subject to being reassigned frequently throughout the world.

If Craig agrees to allow Alexandria to move to New Mexico, the Mother would not seek child support from the Father and would pay the costs of transporting their Children to and from visits as well as related expenses. Presently, the Father (the larger wage earner) pays the Mother \$300 weekly as child support. The Mother proposes a visitation schedule wherein the Children would spend 5 weeks of their summer vacation with each Parent and each Parent would have the Children for one of the Children's school vacation weeks.

**Craig comes to your office for advice. How would you advise him as to his rights, obligations and responsibilities as well as the likely outcomes?**

**III. DEFINITIONS:**

**DIRECTIONS:** Please read each question and provide a definition for each.  
**Please write your answers on the spaces provided.**

1. What are the 11 factors to be considered in a custody case relating to the best interest and welfare of the child?

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4. What are the two primary methods of valuing and dividing a pension?

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5. What are the two methods of compensating a non-student spouse for an interest in an advanced degree?

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**PLEASE CHECK THAT YOU HAVE PUT YOUR EXAM NUMBER ON YOUR  
EXAM AS WELL AS YOUR BLUEBOOK(S)!!!!!!**

*Have a great summer!*

**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 1<sup>st</sup>, 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 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.

**Define the following terms and explain their application, if any, to the fact pattern above: Please write you answers on the spaces provided.**

**1. Desertion:**

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**2. Defacto Parent:**

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**3. Abuse:**

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**4. Estoppel:**

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**5. Ex-Parte Divorce:**

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**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?**

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

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

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

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

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

Have a great summer!