



**The University of New Mexico**

---

School of Law Library  
MSC11 6080  
1 University of New Mexico  
Albuquerque, NM 87131-0001  
Telephone (505) 277-0939  
FAX (505) 277-0068

This document was scanned pursuant to the express permission of its author and rights holder.

The purpose of scanning this document was to make it available to University of New Mexico law students to assist them in their preparation and study for Law School exams.

This document is the property of the University of New Mexico School of Law. Downloading and printing is restricted to UNM Law School students. Printing and file sharing outside of the UNM Law School is strictly prohibited.

**NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is no to be "used for any purpose other than private study, scholarship, or research." If the user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

## 524 COMMUNITY PROPERTY

UNM School of Law  
Final Examination, Part I  
Two Credits

Professor Sheryl Wolf  
Tuesday, November 4, 2003  
1:30 p.m. to 2:45 p.m.

**One Hour and 15 minutes**

### INSTRUCTIONS

1. This is Part I of the Final Exam, consisting of three short essay questions. The point allocation is indicated by each question.
2. Please write or type on one side of each page, skipping alternate lines or double spacing. Be sure to put your exam number on each Blue Book or typed page, and staple multiple Blue Books or pages at the upper left hand corner.
3. This is a limited open book exam. You may use your casebook, supplement, class handouts, and any material you prepared individually or as an active participant in a group, such as class notes or outlines. You may not consult outside references, such as treatises, commercial or bar review outlines, old exams, or other people.
4. You may use calculators. If you have trouble with any calculations, explain your answer the best you can without using numbers.
5. Unless the facts of a question indicate otherwise, assume that all relevant events and transactions take place in New Mexico, and all property is located in New Mexico. If there is no definitive New Mexico law on a question, apply general principles, discussing alternative approaches where applicable. Some events take place in the State of Harmony, which is a non-community property state. Harmony is a dual-property equitable distribution state. It has an elective share statute that allows a surviving spouse to take a one-third portion of a decedent spouse's estate.

**Good Luck!**

## **Part I**

### **1. (20 points)**

Wendy received her Ph.D. in Anthropology and began a teaching career at Humungus University as an assistant professor. She had been teaching for five years and was considered a rising star in the Anthropology department and had just been promoted to associate professor when she married Hank. After marriage, Wendy was unable to devote as much time to her research as she had previously, and her publications dwindled to nearly nothing. Hank didn't like her to leave home to conduct field studies or to attend conferences, and he refused to socialize with Wendy's colleagues, who he thought were arrogant pseudo-intellectuals, so Wendy became quite isolated professionally. Hank also insisted that Wendy turn down several attractive offers to teach at more prestigious universities. Hank's demands on Wendy increased over the years, and her career suffered. After ten years of marriage, Hank left Wendy for a young flight attendant, who Hank said was more fun. When Hank and Wendy divorced, the divorce decree reserved continuing jurisdiction over Wendy's retirement plan, in order to award Hank his community property share of each pension payment as Wendy received it. After their divorce, Wendy's academic career again flourished. She engaged in ground-breaking research and published several books and numerous articles. She was promoted to full professor and granted tenure. Later, she was appointed department chair, and eventually was named Dean of Arts and Science. For the past few years, Wendy has been Provost of the University. Now, after 30 years of service with the University, Wendy is eligible to retire. Her retirement benefits will be calculated by a formula based on her age, her years of service, and her average salary over the five years prior to retirement. Wendy has no desire to retire, but does plan to step down as Provost in the near future to return to full-time teaching in the Anthropology Department, although it will mean a large decrease in her salary. Hank is demanding that Wendy retire so that he can receive his share of her retirement benefits. He also wants to be sure that his current wife, Buffy, will get his share if he dies before Wendy. What rights, if any, does Hank have with respect to Wendy's retirement benefits?

### **2. (20 points)**

When Willow and Herb married, neither of them had any significant assets. They both developed successful careers during their marriage. Unknown to Herb, Willow began depositing significant amounts of her earnings in a bank account at Friendly Bank in her name alone. A few years ago, Willow withdrew some funds from her Friendly Bank account and purchased Highview, a cabin in the mountains in the State of Harmony. Willow took the deed to Highview in her name alone. Later, Willow withdrew \$10,000 from the Friendly Bank account and gave the money as a gift to her brother Bill, so that he could enroll in massage therapy school. Herb recently learned of Willow's Friendly Bank account and her use of those funds. When he confronted Willow about those transactions, she flew into a rage, and smashed several antique model trains which Herb had begun collecting a few years ago. Their marital situation has

become progressively worse, and Willow has filed for divorce. To retain a divorce lawyer, Willow executed a promissory note to the lawyer and secured the note with a lien on Highview. Herb has consulted your law firm to determine his rights with respect to the aforementioned assets. What rights, if any, does Herb have?

3. (10 points)

Harry worked for HiTek Engineering Co., a small local firm, during his marriage to Wanda. HiTek provides a \$200,000 face value group term life insurance policy for each of its employees, at no cost to the employee. HiTek pays a monthly premium to the insurance company on the first day of each month, for coverage during that month, on behalf of each employee. Harry designated his elderly mother, Marta, as the beneficiary of his policy. On October 3, 2003, Harry and Wanda divorced. Their divorce decree did not address the insurance policy. On October 28, Harry died unexpectedly. Wanda claims she has an interest in the proceeds of the insurance policy. To how much, if anything, is Wanda entitled?

**End of Part I**

## 524 COMMUNITY PROPERTY

UNM School of Law  
Final Examination, Part II  
Two Credits

Professor Sheryl Wolf  
Thursday, November 6, 2003  
1:30 p.m. to 2:45 p.m.

**One Hour and 15 minutes**

### INSTRUCTIONS

1. This is Part II of the Final Exam, consisting of three short essay questions. The point allocation is indicated by each question.
2. Please write or type on one side of each page, skipping alternate lines or double spacing. Be sure to put your exam number on each Blue Book or typed page, and staple multiple Blue Books or pages at the upper left hand corner.
3. This is a limited open book exam. You may use your casebook, supplement, class handouts, and any material you prepared individually or as an active participant in a group, such as class notes or outlines. You may not consult outside references, such as treatises, commercial or bar review outlines, old exams, or other people.
4. You may use calculators. If you have trouble with any calculations, explain your answer the best you can without using numbers.
5. Unless the facts of a question indicate otherwise, assume that all relevant events and transactions take place in New Mexico, and all property is located in New Mexico. If there is no definitive New Mexico law on a question, apply general principles, discussing alternative approaches where applicable. Some events take place in the State of Harmony, which is a non-community property state. Harmony is a dual-property equitable distribution state. It has an elective share statute that allows a surviving spouse to take a one-third portion of a decedent spouse's estate.

**Good Luck!**

## **Part II**

1. (30 points)

Shortly after college, Harley started up his own publishing company, Pixie Press. Immediately prior to his marriage to Wilma, Harley purchased a house for \$100,000, which he intended to be used as their marital residence. He made a \$20,000 down payment on the house and borrowed the remaining \$80,000, executing a note and mortgage. The house payments were \$1000 a month, including principal, interest, tax, and insurance. The house was deeded to Harley alone. At the time Harley and Wilma married, Pixie Press was worth \$100,000. Wilma did not work outside the home, and Harley supported the family from the profits of Pixie Press. Harley had the foresight to begin specializing in fantasy and science fiction right before they became very popular and profitable, and Pixie Press did very well. Now, after 20 years of marriage, Harley and Wilma are divorcing, and Pixie Press has been appraised at \$1 million. The house is now worth \$400,000, with \$20,000 left to be paid on the loan. What interest, if any, does Wilma have in Pixie Press and the house?

2. (10 points)

During their lengthy marriage, Hugh and Winona lived in the State of Harmony until they recently retired to New Mexico. Before his retirement, Hugh was a successful stockbroker. Winona never worked outside the home, but raised their three children. All the assets acquired during marriage were purchased from Hugh's earnings and were titled in Hugh's name. Since moving to New Mexico, Hugh and Winona's relationship has not been good. Winona says Hugh is driving her crazy by hanging around the house all day, doing nothing but watching television and playing computer games. Winona wants to travel, play tennis, and go dancing. She has recently met an attractive, much younger, but penniless, man, with whom she'd like to share these activities, and she's considering divorcing Hugh. She knows Hugh would be very opposed to a divorce and would attempt to prevent her from receiving any of the property acquired during marriage. (A) What property rights, if any, does Winona have if she divorces Hugh? (B) Would her rights be any different if Hugh should die?

3. (10 points)

Hal worked as a landscaper for Lana's Landscaping during Hal and Walinda's entire marriage. Hal and his boss Lana have never had a social relationship outside of work. Lana has never liked Walinda and has often told Hal that Walinda did not deserve a nice, hardworking guy like him. Each year during the holiday season, Lana has given Hal a small parcel of land, each one adjacent to the previous, and deeded to Hal alone, with a note stating that the land was a holiday gift. Walinda has recently decided to divorce Hal, and she claims she has an interest in all of the land Hal has received from Lana. What interest, if any, does Walinda have in the land?

**End of Part II**