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**533 Family Law  
Spring Semester 2001**

**UNM School of Law  
Final Examination  
Three Credits**

**Professor Sheryl Wolf  
Wednesday, May 2, 2001  
9:00 a.m. to Noon**

***INSTRUCTIONS***

1. Please be certain that your exam consists of three (3) pages, plus this cover sheet.
2. This exam consists of 5 short essay questions, at 15 points each, and 5 short answer questions, at 5 points each; totaling 100 points. (Approximate time allocation: 27 minutes for each 15 point question, 9 minutes for each 5 point question.)
2. Please write your answers in blue books, as neatly as possible under the circumstances, using alternate lines and one side of the paper only, or type. Be sure to place your exam number on each blue book or each type written page.
3. It is not necessary to turn in the exam or your scratch paper with your answers.
4. This is a limited open book exam. You may use your casebook, New Mexico statutes, class supplement and handouts, and your own work product, such as class notes and outlines that you prepared individually or as an active member of a study group. You may not use hornbooks, treatises, commercial outlines or the like.
5. Please remember that the Honor Code is in effect.

**(Short Essay Questions 1-5: 15 points each)**

1. Harry and Wilma were ceremonially married in the state of Chaos, which recognizes both formal and common law marriages. Five years later they were divorced in Chaos, but shortly thereafter they began living together again. During their post-divorce cohabitation period, Harry and Wilma used different last names. They pooled some of their earnings to pay living expenses, although they each purchased some property separately, and they executed various legal documents as single individuals. However, they purchased two insurance policies as husband and wife. Wilma told various neighbors that she was Harry's wife, but their old friends still knew her as Harry's girlfriend. Most of their neighbors considered them married, but not Harry's family. Last year Harry and Wilma moved to New Mexico. Because of they were uncertain about their legal status, Harry and Wilma planned a second formal marriage ceremony in June, but Harry died unexpectedly in early May. Harry died intestate, never having had children. Wilma has claimed the right to Harry's estate, but Harry's widowed mother asserts that Harry's assets belong to her. Please discuss Wilma's rights, if any.

2. Abby's mother Melissa married Fred several years ago, and Fred legally adopted Abby. Fred had a son, Brett, from his previous marriage. They have all lived together as a family since Melissa and Fred's marriage. Brett and Abby, now age 15 and 17 respectively, want to marry each other. Melissa and Fred approve of their plans, and have procured an affidavit from their church stating that the church has no objections to the marriage. However, the court clerk has refused to issue a marriage license to Abby and Brett. They have appealed to the court, requesting that a marriage license be issued to them. How should the court decide?

3. Chris and Pat, a same-sex couple, plan to spend their lives together, but New Mexico has not recognized marriages between parties of the same sex. They have received conflicting advise from their friends. One friend has told them that they should visit a state that does authorize same-sex marriages, get married, return home, and they will be recognized in New Mexico as a married couple. Another has assured them not to worry, that they can privately contract for all the benefits and rights afforded married couples without their being legally married. Chris and Pat have sought your advise regarding their situation. Without addressing any constitutional issues, how will you advise Chris and Pat?

4. Herb and Willow lived in New Mexico during their entire marriage until recently Herb packed his suitcase and told Willow he was leaving for Nevada to get a divorce and would never return. Herb spent the requisite six weeks in Nevada, which is Nevada's requirement for granting a divorce, living at the Shady Grove Motel and eating at cheap casino buffets. At the end of six weeks, Herb filed for divorce in Nevada, giving Willow proper due process notice of the Nevada proceedings. When Willow received the notice of Herb's pending divorce action, she went to an attorney in New Mexico, who told Willow, "Don't worry. We'll deal with that

miscreant later.” Herb’s divorce in Nevada became final, and the Nevada divorce decree made a finding that Herb is a bona fide resident and domiciliary of Nevada. The divorce decree also stated that all the property acquired from Herb’s earnings during the marriage was assigned to Herb, and that Willow was not entitled to any spousal support. Four days after the divorce, Herb moves to New Hampshire “to start a new life.” Willow subsequently filed a divorce action in New Mexico, alleging that the Nevada divorce decree is invalid, and seeking a divorce on the ground of abandonment, division of community property, and alimony. Herb was duly served with notice of Willow’s action, but did not answer or appear in the New Mexico proceeding. The New Mexico court granted Willow a divorce, property division, and alimony. Willow hired an attorney in New Hampshire, where Herb currently resides, to enforce the New Mexico divorce decree. Assuming that New Hampshire will apply general legal principles (*i.e.*, disregarding any possible unique aspects of New Hampshire law), to what extent, if any, will the New Hampshire court enforce Willow’s New Mexico divorce decree?

5. Wilhemina, a promising young opera singer, married Hector, her voice teacher at New Mexico College of the Arts, when she was a junior in college. After Wilma’s graduation from college, she began performing minor roles at the Santa Fe Opera, earning an annual income of approximately \$3000 a year. During the course of their fifteen year marriage, Wilhelmina achieved international fame, and her income rose spectacularly. In the year prior to divorce, she earned over \$600,000. Through much of the marriage, Hector, having left his position at the college, served as her voice coach and teacher, traveled with her on tour, critiqued her rehearsals and performances, and photographed her for magazines and album covers. He also assumed primary responsibility for raising the couple’s two children. Hector claims that he sacrificed his own career as a singer and teacher to devote himself to Wilhelmina’s career and that his efforts contributed greatly to Wilhelmina’s success. In their divorce action, Hector is seeks an interest in the increase in value of Wilhelmina’s career. Please discuss the extent, if any, of Hector’s rights, and the theories on which his claims should be based.

#### **Short Answer Questions 6 - 10: 5 points each**

6. On a television game show, “Who Wants to Marry a Hunk?,” several hundred women interviewed and competed for the opportunity to marry Arnold, a good-looking bachelor who announced that he had recently won a \$6 million dollar lottery. In the final round of the contest, Brenda was declared the winner and Brenda and Arnold were married on tv that same night, with millions of viewers watching. During their honeymoon cruise, paid for by the network, Brenda found out that Arnold had not, in fact, won the lottery, and worked as a personal trainer at a gym. Although Brenda and Arnold slept together on the cruise, Brenda concluded that they were not sexually compatible. Brenda also decided that Arnold was shallow and boring. After the two week cruise, Brenda seeks to have the marriage annulled, although Arnold would rather stay married. Should the court grant Brenda an annulment?

7. During marriage, Walenda received a sizable gift of stock from her mother, after Walenda cared for her mother during a lengthy illness. By close and careful management during her marriage to Harry, Walenda was able to double the value of her stock. Walenda and Harry are now divorcing. Walenda is in precarious health, and she is in need of additional funds to pay for her medical care. In addition, Harry has been both physically and mentally abusive to Walenda and to Walenda's mother. You are representing Harry in the couple's divorce action, and Harry insists he is entitled to a portion of the stock. What reasonable legal arguments can you make on Harry's behalf and what reasonable legal arguments do you anticipate Walenda's attorney will make?

8. Hank and Wendy are negotiating an amicable divorce. Hank has agreed that he will pay Wendy a monthly sum of \$4000 per month, which will represent all his obligations for property division, spousal support, and child support for the next ten years. By the end of that time, Wendy will have finished her education and will be established in a new career, and their two children will be grown and away from home. Hank is in a high income tax bracket, and Wendy is currently not employed. They would like to structure their settlement agreement to maximize the tax benefits to both parties. How do you advise them?

9. The Center for Family Fairness has concluded that women are not receiving adequate property and compensation on divorce and has decided to lobby the New Mexico Legislature for passage of a bill that would enact an equitable distribution law. You are a legislative analyst for Senator Loba, who has been asked to sponsor the bill. Senator Loba wants to know how this proposal would affect current New Mexico law and whether she should sponsor it. Please advise the Senator.

10. Winona is the store manager for the local Fuzzy's Grocery, one of a large national supermarket chain. Winona worked for Fuzzy's for 5 years as a cashier before her marriage to Henry and was promoted to assistant manager, and recently to manager, after their marriage ten years ago. Fuzzy's has a generous retirement plan, to which it contributes twice the monthly amount that each employee contributes directly. Winona's retirement plan is partially vested, and on her retirement, which she anticipates will be many years from now, she will receive a monthly retirement benefit calculated by a formula based on her years of service, her age, and her average salary during her last three years of employment with Fuzzy's. Henry is self-employed and has no retirement plan. You are representing Henry in their pending divorce action. The couple has few assets and Henry wants a portion of Winona's retirement plan. Please advise Henry as to what portion, if any, of Winona's retirement plan he is entitled to, and what procedures you will need to follow to procure it for him.

**END OF EXAM--Have a good summer!**