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Family Law

Semester II, 2004

UNM School of Law
Final Examination
Three Credits

Professor Sedillo Lopez
May 7, 2004
May 12, 2004
9:00 a.m. – 12:00 p.m.

INSTRUCTIONS

YOU MAY TAKE A CALCULATOR INTO THE EXAM ROOM. YOU MAY NOT TAKE ANY OTHER MATERIAL WITH YOU INTO THE EXAM ROOM AND YOU MAY NOT CONSULT ANYTHING ELSE DURING THE EXAMINATION.

Answer each question fully. Use relevant statutes, case law and policy considerations to analyze each problem thoroughly. Do not simply express your opinion.

The time suggested for each question roughly reflects its weight in grading. Note that the time suggested adds up to three hours exactly.

Clearly identify your answers in your bluebooks. Please write neatly, in ink, and on only one side of each blue book page. Clarity of expression will improve your score.

GOOD LUCK!!!

END OF INSTRUCTIONS

[Exam begins on next page]

Question One (45 Minutes)

Henry and Jessica met in 1998, when he was 27 and she was 23. At the time, he was a successful young businessman who had already built up a business worth 1 million dollars. However, Jessica was unaware of the worth of the business. Jessica had just started to work in a public relations firm. After they had been seeing each other for a year, Jessica discovered that she was pregnant. They decided to marry, but Henry had reservations and insisted that they enter into a pre-nuptial agreement under which Jessica would receive no more than \$100,000 in the event of a divorce occurring within five years of the marriage. If the marriage lasted more than 5 years, regular principles of New Mexico community property law would apply. Jessica told him that she was not marrying him for the money and signed the agreement without reading it.

After the wedding, Jessica suffered a miscarriage. She became very depressed and began to drink heavily. She was fired from her job for being drunk and abusive to clients. Henry paid for alcohol and substance abuse counseling and she gradually recovered. However she still suffers from bouts of depression. She found it difficult to obtain a new job and spent a few months working for Henry. However, she did not enjoy the work and gave it up, although she did entertain Henry's business friends at home from time to time. She started to do voluntary work for a local children's charity. Henry belittled her and constantly told her that all she has is "a pretty face". He was very disappointed that she had decided not to become pregnant again until her mental health improved. On one occasion, when he was drinking, he slapped her so hard that two of her teeth were loosened and she required expensive dental care.

Two years after their marriage, Henry had an affair with his secretary, Georgina, a single mother with two children under 5, who lives in a rented apartment near their home. After 2 1/2 years of the affair, he has decided that his relationship with Jessica has no future and wants a divorce so he can marry Georgina. His business is now worth over 5 million dollars. Their home was purchased for 200,000 dollars shortly after the marriage and is now worth 300,000 dollars.

What are the issues raised by the foregoing and how are they likely to be resolved?

Question Two (45 minutes)

Bill and Mabel were divorced in Bernalillo County, Albuquerque, New Mexico, 2000. Under the terms of their separation agreement, which was incorporated into the divorce decree, Mabel was to have primary physical custody of their three-year old child Joseph. They were to have joint legal custody. Bill was entitled to visitation each Wednesday night and every other weekend. Under the agreement Mabel was to keep Joseph in "the Albuquerque geographical area" and would not move more than 20 miles without Bill's prior permission. Bill agreed to pay child support in the amount of \$350 a month and alimony in the amount of \$750 a month.

A few months after the divorce became final, Mabel met Sam, an accountant who lives in Las Cruces, New Mexico a city in the southern part of the state. In 2001 Mabel moved to Las Cruces and cohabited with Sam. She continued to be Joseph's primary caretaker. Bill objected to the move, saying it interferes with his mid-week visitation since it is too far for him to drive. He also claimed that the long drive to Las Cruces is a burden on the weekends although he is willing to do it to see Joseph. Because he objected to Mabel's move to Las Cruces and to her "living in sin with Sam" which he believes to be a bad example for Joseph, Bill stopped paying alimony to Mabel. When Bill stopped paying alimony Mabel cut off all visitation between Bill and Joseph, after which Bill also stopped paying child support.

Mabel recently told Sam that she is leaving and moving in with a woman friend she met in Las Cruces. She told Sam that she expects Sam to pay her support "for a few years since I gave you the best years of my life and moved out of Albuquerque just for you. You owe me that." Mabel told Sam she "will sue" if her refuses to pay.

If you were Bill's lawyer, how would you advise him of his rights and options in this matter?

If you were Mabel's lawyer how would you advise her of her rights and options in this matter?

If you were Sam's lawyer, how would you advise him of his rights and options in this matter?

Question Three (60 minutes)

In 1990 Jim enlisted in the United States Army and after basic training he was ordered to report to his unit in Saudi Arabia. After he entered the army Jim had no permanent address other than his current army base. While Jim was stationed in Saudi Arabia he met Fatima, a resident of that country. He converted from the Methodist faith to Islam and married Fatima in a Moslem ceremony which was conducted according to Saudi Arabian law. Under Saudi law a Moslem man can have up to four wives and must be a domiciliary of Saudi Arabia in order to marry in Saudi Arabia.

In 1992 Jim was rotated back to the United States and assigned to a base in the state of Maine. Fatima moved with him to Bethel, Maine, and in late 1992 gave birth to a baby girl named Melina Salem. Jim left the army at this time and settled in Portland, Maine, where he began to develop what became a successful wholesale lobster business. However, Fatima was unhappy in Maine, constantly complaining about the "horrible cold and snow" Fatima also found the "New England food terrible." While shopping in Portland in 1994 Fatima met a man named Mohammed Neisi, a Saudi businessman who worked in the oil business in New Mexico. At his invitation, Fatima went to New Mexico with Mohammed, taking Melina, without telling Jim she was leaving.

Jim continued to operate a profitable wholesale lobster business in Maine. He also reconverted to Methodism. He met a Methodist woman named Melba Snow in Portland and in early 1995 married her according to Maine law. In the application for a marriage license he stated that he had previously been involved in a void marriage but was now free to marry. The clerk expressed some doubts, but after questioning Jim the marriage license was issued.

Jim was recently served by certified mail with a complaint and summons for divorce in an action filed by Fatima. She seeks a divorce on grounds that Jim committed adultery with Melba. She also seeks alimony, child custody, child support and a property division judgment awarding her a one-half interest in Jim's business.

The complaint alleged that the parties were married under Saudi Arabian law while the wife was a domiciliary and citizen of that country and alleged that Jim committed adultery with Melba. Fatima seeks a one-half interest in Jim's business, or its dollar value. Fatima had earlier begun an action for child support in New Mexico court in which the court ordered Jim to pay \$200 a week for the support of Melina Salem. Jim received notice by mail of the child support order but never paid any amount, believing it was unfair of Fatima to expect him to pay support for a child she had "stolen" from him without even telling him she was leaving. A child support enforcement lawyer now has served Jim with a complaint seeking to register the New Mexico child support judgment in Maine and to hold Jim in contempt for failure to pay the child support arrearage.

When Jim explained all this to Melba, she said, "what kind of nut have I married?" Melba has now left Jim and filed an annulment action in the Maine court alleging that Jim is a bigamist. Jim has been personally served with the complaint and summons.

What are the issues raised by the foregoing?

Policy Question (30 minutes)

Please choose one:

1. Using examples from cases and statutes, discuss whether the law provides an adequate definition of 'family' to protect individuals' relationships and their consequences.
2. Using the material we studied this semester, select one or two family law principles that you believe are examples of bad public policy. Describe the principles and explain, in detail, your concerns.