

MORNING SESSION

Tuesday, July 28, 2009

QUESTION NUMBER 1

(Use bright blue booklet for essay answer)

One week before her 18th birthday, Mary saw the following ad in the prior week's local newspaper:

"Owner of Red Model T Sports Car Interested in Selling
\$300
Contact Seller c/o ABC Food Co., Main Street, Anytown, Florida"

Mary, who always wanted that particular car, told her Dad about the ad. Dad, although hesitant, told Mary that he is a customer of ABC Food Co. (Company), that the Company is reliable and because Dad enjoys fixing cars as a hobby, he would be willing to help Mary fix up the car, if necessary. Because the ad is a week old, Mary convinced Dad that they must send in the purchase price immediately. Dad then gave Mary a check in the amount of \$300, payable to Company, to buy the car. In her excitement, Mary simply mailed Dad's check, without any explanatory notation, directly to Company.

The Company's bookkeeper received the check in the mail with Dad's name. The bookkeeper deposited the check and credited the amount against Dad's overdue outstanding balance due the Company.

Two weeks later, Mary contacted Seller about the car. Seller told Mary he has no record of her responding to the ad and that in any event the ad was incorrect and the purchase price was \$3,000. Seller told Mary that she can have the car for \$3,000, and that he will ask his boss if the Company would return the \$300 to Dad. In addition, Seller told Mary that Mary must pay for and pick up the car by the end of the following week. Mary said "ok." A day later Seller turned down an offer to sell the car for \$2,500 from a third party.

Two days later, Dad and Mary phoned Seller and told Seller that they want the car for the \$300 already paid. Seller told Dad and Mary that a deal is a deal and that he expected Mary to pay him the \$3,000 for the car. Mary replied, "good luck" and hung up the phone. A week later Seller sold the car to another buyer for \$2,000.

Question 1 continued on next page

In the meantime, Dad contacted Attorney, a sole practitioner, about the car transaction with Seller. Attorney indicated that she knows the Company well because her previous law firm represented the Company, and Attorney had worked on collection matters on behalf of the Company. Dad is impressed with Attorney and retained her.

Please discuss:

1. The validity of the contract to purchase the car.
2. Claims of Mary and Dad; and counterclaims of Seller.
3. Any ethical issues concerning Attorney.

END OF QUESTION NUMBER 1

QUESTION NUMBER 2

(Use bright green booklet for essay answer)

Husband, a salaried executive, married Wife, an hourly worker. Before their marriage, Husband owned a home in New York. Days before their wedding, Husband gave Wife a prenuptial agreement stating that Wife would waive alimony and any interest in his home. After reviewing the document, Wife signed it.

After 17 years of marriage, Husband, who was 70, decided to retire to Florida. Husband sold his New York home for \$750,000.00, and terminated his 26 years of employment with Work, Inc. Wife, who was 45, was able to immediately find a similar job in Florida making \$13.00 per hour, and allowing her to contribute to a 401K Plan.

The parties purchased a home in Florida for \$1,000,000.00 using their joint savings, which included the proceeds from the sale of Husband's home. The home was titled jointly to the parties as husband and wife.

After living in Florida for 9 months, Husband filed for divorce when he learned Wife was unfaithful. Husband sought a special equity in the parties' home, all of his 401k through Work, Inc., and half of all other assets. After filing the petition, Husband moved into a nursing home in Florida.

Wife suspects that Husband has dementia. She comes to you seeking advice regarding the following issues:

1. Can the dissolution action be suspended or dismissed?
2. Can the prenuptial agreement be set aside?
3. Does Wife have any rights with respect to the marital home, taking into account Husband's claim of special equity?
4. Does Wife have any rights with respect to her 401K and the Husband's 401K? and
5. Does Wife have any rights to alimony, should the prenuptial agreement be set aside by the court?

Discuss fully each issue including Wife's likelihood of success as to each issue. Assume Florida law applies.

END OF QUESTION NUMBER 2

QUESTION NUMBER 3

(Use bright orange booklet for essay answer)

Wanda Woods comes to your office for help with her debts. After an interview and review of public records you discover the following:

Wanda Woods lives in a mobile home on six acres of property in rural Citrus County. The recorded deed to the property is in the name of Wanda's father, Frank Woods. Frank Woods died in 1990 without a will, leaving behind his wife, Molly Woods, and their two minor daughters, Wanda, age 10, and Sally, age 8, at the time. When Molly died intestate in 2001, Wanda had already moved out, but Sally still lived at home. Molly had health care bills totaling \$10,000 when she died. Sally moved out shortly after her mother died. Wanda was living in an apartment at the time, but was evicted for non-payment of rent and a judgment for \$3000 was entered against her and recorded in 2003. Wanda then moved into the mobile home by herself.

In 2004, Wanda married Howard who moved into the mobile home with Wanda. Wanda went to Banking Company in 2005, borrowed \$20,000 secured by a mortgage on the property, and used the proceeds to make repairs to the home. Although Howard never signed the mortgage, both Wanda and Howard paid on the mortgage until 2006 when Wanda and Howard got a divorce. Wanda still lives on the property with their two-year-old son, Sammy.

Banking Company has now filed a foreclosure complaint against Wanda. Wanda has someone who is willing to buy the property for \$150,000. She offered to give your law firm a mortgage on her interest in the property in lieu of a cash payment for her legal fees.

Please prepare a legal memorandum discussing the interests each party holds in the subject property. In your memo, include an evaluation of the title, possible claims against the property, and her offer to pay your firm.

END OF QUESTION NUMBER 3

END OF MORNING SESSION