

MORNING SESSION

Tuesday, July 25, 2023

QUESTION NUMBER 1

(Use bright blue booklet for essay answer)

Daughter and Son are half-siblings who are Mother's children. Daughter is 11 years old, and Son is 18 years old. Son's father is deceased. Daughter's father ("Father") is named on Daughter's birth certificate, but never married Mother.

Grandma is Mother's mother and is a widow. Daughter and Son have resided at Grandma's house throughout their lives. During that time, Grandma had sufficient income to meet the children's needs. Grandma remains in good physical health and can continue to provide for Son and Daughter financially.

Mother occasionally lives at Grandma's house, but has left Daughter and Son with Grandma during long stays with friends, stints in jail, and a trip to a rehabilitation center. Mother finally has told Grandma that she agrees to Grandma's request to adopt Daughter and Son, who are both in favor of the adoption.

Father did not assist Mother financially during her pregnancy with Daughter. Father has been incarcerated since Daughter was 2 years old, and Father is not anticipated to be released for another 3 years. Grandma doubts that he would agree to her adopting Daughter, as Grandma has had a contentious relationship with Father. Father was ordered to pay child support after Daughter's birth but made payments sporadically, even though he was employed full-time before his incarceration and had the ability to pay. He is currently in arrears and has never tried to communicate with Daughter while in prison.

Father's parents buy Daughter birthday and holiday gifts, but they rarely spend time with her. Grandma is not aware of their expressing an interest in adopting Daughter and is unsure whether they would consent to her adopting Daughter. Grandma would like your law firm to represent her in connection with adopting Daughter and Son. As a gift to her, Grandma's boyfriend has offered to pay her legal fees.

Grandma also would like to know the impact of adoption on Father's child support order.

Draft a memorandum that addresses the following:

Question 1 continues on next page

- A. Discuss whether Grandma is likely to succeed in adopting Daughter and Son under these facts, including whether Grandma is qualified to adopt and whether Mother, Father, and Father's parents must receive notice or consent to the adoptions.
- B. Discuss the impact, if any, an adoption would have on Father's child support arrearage and his obligation to pay child support.
- C. Discuss any ethical considerations raised by Grandma's boyfriend's offer to pay her legal fees.

END OF QUESTION NUMBER 1

QUESTION NUMBER 2

(Use bright green booklet for essay answer)

Jason owned Ajani Fields, a 20-acre property situated in Marion County, Florida, in fee simple. In his will, Jason left Ajani Fields to Lily, and upon her death, to Kyle.

Jason died, and Lily received her interest in the property in a properly recorded deed that was consistent with the devise in Jason's will. Unaware of her actual interest in the property or its value, she decided to sell it. On September 13, Lily posted an advertisement indicating she would sell the property for \$300,000.

On September 17, Gideon told Lily that he owned property next door and was interested in purchasing Ajani Fields, but needed some time to decide. Lily said she would give Gideon a week to decide.

Gideon intended to use Ajani Fields and his adjacent 20-acre property for farming. He put out an advertisement for a farmhand. Luke responded and met with Gideon on September 19. Gideon drafted and presented Luke with a written employment agreement that said Luke would work on "all of Gideon's property" with a yearly salary of \$50,000 over two years. Gideon told Luke he did not own Ajani Fields yet, but the sale would be happening soon, so Luke would be working on a total of 40 acres of property. Gideon also said he did not own a tractor for Luke to use. Luke accepted, and both parties signed the employment agreement. Later that day, Luke purchased a tractor for \$25,000 to do the farm work.

On September 20, Sandra offered Lily \$500,000 for the property. Sandra believed that the property was worth far more than Lily's advertised price and wanted to strike a deal quickly. Lily immediately accepted. That day, the two executed a written agreement containing all essential terms, Sandra paid Lily \$500,000, and Lily executed a quitclaim deed conveying her interest in the property to Sandra.

On September 21, Gideon called Lily and said that he was accepting her offer to sell Ajani Fields for \$300,000. Lily said she sold the property. Gideon promised to sue, saying the property was his because a week had not passed since his prior conversation with Lily.

Gideon immediately called Luke to cancel their agreement. Luke told Gideon he already purchased a tractor and demanded that Gideon honor their deal. Gideon said that he could not afford to pay Luke and make a profit from the farm with half the property size. Luke vowed to sue.

Question 2 continues on next page

A week later, Luke was able to find another job as a farmhand in the same county making \$22,000 per year for a two-year term. Luke was able to return the tractor but lost \$2,000 in return fees.

Gideon has retained your law firm and you have been asked to prepare a memorandum as set forth below. For this memorandum, you should assume that there were no legal issues with Jason's ownership or will regarding Ajani Fields.

- A. Discuss the merits of any claims that Gideon may assert against Lily with respect to the sale of Ajani Fields.
- B. Identify and explain the possessory interests, if any, that Lily, Kyle, Sandra, and Gideon previously had, currently have, or will have in Ajani Fields.
- C. Discuss the merits of any claims that Luke may assert against Gideon, including any remedies that Luke may seek and defenses that Gideon may assert.

END OF QUESTION NUMBER 2

QUESTION NUMBER 3

(Use bright orange booklet for essay answer)

Amy and Bob own a truck and a sports car. The vehicles are titled in both Amy's and Bob's names, but Bob has never driven the sports car.

Amy and Bob live with their 16-year-old son, Sonny. Sonny is a licensed driver and can drive both vehicles. When Sonny received his driver's license, Bob gave Sonny his key to the sports car.

Amy took the sports car to a mechanic for an oil change. The mechanic noticed that the car's tires were extremely worn. He told Amy that the tires needed to be replaced as soon as possible. He explained that the right size tires were out of stock, but would arrive in three days. Amy made an appointment to have the tires replaced later that week and drove the car home.

That night, Sonny told Amy that he was picking up his friend in the sports car to go to the movies. Amy told Sonny to be careful while driving because it was raining.

While driving to his friend's house, Sonny pulled out his phone to play music. As Sonny approached an intersection with a green light and no traffic, he looked down at the phone and scrolled through a list of available songs.

Sonny did not look up at the road until he selected a song. The traffic light was now red. Sonny hit the brakes and lost control of the car on the wet road. The car skidded out of its lane and into a crosswalk at the intersection, where it struck Parker. Parker had the right of way when she was in the crosswalk. Parker died from the collision before emergency personnel arrived.

Parker was a student in her final year of medical school. She was on track to finish near the top of her class, and she planned to become a surgeon. She was survived by her husband, Henry, and her mother, Maria.

Maria is the personal representative for Parker's estate. One week after the accident, Maria received a phone call from a number that she did not recognize. About 10 minutes later, she received an email from Lawyer. In the email, Lawyer introduced himself, explained that a mutual friend had given him Maria's contact information, and stated that he was emailing after he could not reach her by phone. He expressed his sympathies and explained that he read about Parker's accident in the news. Lawyer told Maria that he had handled similar cases and said: "Based on my experience, I will get you a significant recovery. In fact, you should get punitive damages."

Question 3 continues on next page

Maria has approached your law firm for assistance with the matter. Prepare a memorandum as follows:

- A. Analyze any claims that Maria and Henry could assert against Sonny, Amy, and Bob. Your analysis should address any defenses that may be raised and available remedies.
- B. Evaluate the merits of Lawyer's statement about punitive damages.
- C. Discuss any ethical issues raised by Lawyer's conduct.

END OF QUESTION NUMBER 3

END OF MORNING SESSION