

ST. MARY'S UNIVERSITY SCHOOL OF LAW

COMMUNITY PROPERTY
Spring Semester 1994

FINAL EXAMINATION
Professor Douglas R. Haddock

INSTRUCTIONS

1. There are nine problems on the following three pages. You will have three hours in which to complete the examination. Times suggested for each problem total two hours and forty minutes. You must turn in both your responses *and* all of the problems no later than three hours after you receive the examination problems.

2. All problems are based on a seven-page document labeled "Factual Information." That document, comprised of five pages (fourteen numbered paragraphs) containing alternative versions of the story of Wanda and Herbert, a one-page "Statutory Appendix," and a page of instructions, was distributed during the last two weeks of class. Additional information is included with some of the problems.

3. You are allowed to use any printed or written material you wish, including the text, your notes and your outlines. You are not allowed, of course, to get help from other persons during the examination; your responses to the examination problems must be your own work, composed and written during the examination period. Your answers will be graded according to how well you recognize and how thoroughly you analyze the issues raised by the problems, in light of assigned readings and class discussions.

4. St. Mary's University School of Law prohibits the disclosure of information that might aid a professor in identifying the author of an examination. Any attempt by a student to identify herself or himself in an examination is a violation of this policy and of the Code of Student Conduct.

5. When you have finished with the examination, no later than the end of the examination period, place the examination inside the bluebook and turn both in to the proctor. Before doing so, after reading the following oath, place your exam number in the designated space. If you are prevented by the oath from placing your exam number beneath the oath, notify the proctor of your reason when you turn in the examination.

*I HAVE NEITHER GIVEN NOR RECEIVED UNAUTHORIZED AID IN
TAKING THIS EXAMINATION, NOR HAVE I SEEN ANYONE ELSE DO SO.*

EXAM NUMBER

Community Property Final Examination Problems

Spring Semester 1994

Professor Douglas R. Haddock

Problem #1

(Suggested Time: 10 minutes)

Refer to Version A of the story of Herbert and Wanda, found in paragraph [2]. Assume that in 1988, after 20 years of service, Herbert retired from the Air Force and began to receive payments from the Air Force retirement plan. Assume also that their 1972 divorce decree made no mention of retirement benefits. Briefly discuss whether Wanda has any claim to these benefits.

Problem #2

(Suggested Time: 20 minutes)

Describe the ownership interests of Wanda and Herbert in each of the following assets, referred to in Version B of their story. Discuss all issues you believe are pertinent to your description and explain briefly the reasons for your conclusions.

- a. The home described in paragraph [4]
- b. The automobile titled in Wanda's name and described in paragraph [4]
- c. The funds now in the savings account described in paragraph [5]
- d. The life insurance policies described in paragraph [5]

Problem #3

(Suggested Time: 15 minutes)

Refer to Version B of the story of Wanda and Herbert (paragraphs [3]-[5]). Assume now that Herbert has recently committed suicide, leaving behind a note explaining that he was "sick and tired" of all the suffering he saw in the world. Several weeks before the suicide, without informing Wanda, he had changed the beneficiary of the insurance policy on his life (paragraph [5]) from Wanda to Harriet Holmes, Herbert's younger sister. Several months ago, Harriet had received word that she was seriously ill with a rare type of cancer. Her best chance for recovery involves expensive treatment that her health insurance company considers experimental and beyond the coverage limits of her health insurance. As between Harriet and Wanda, discuss all issues you see concerning entitlement to the \$300,000 death benefit from the contract of insurance on Herbert's life. Assume that the insurance company in this case does not contest liability.

Problem #4

(Suggested Time: 15 minutes)

With regard to the automobile titled in Herbert's name (paragraph [4]), briefly explain (a) whether one purchasing from Herbert could obtain a good title to the automobile from Herbert alone; and (b) whether a creditor might be able to use the automobile to satisfy a contractual obligation incurred by Wanda during the marriage.

Problem #5

(Suggested Time: 15 minutes)

Refer now to the savings account mentioned in paragraph [7]. We are told that Wanda deposited some money every month in that account during the time the couple resided in Texas. Assume that those deposits were made with money earned by Wanda from her service with the law firm. We are also told that Wanda occasionally mailed deposits from Herbert's earnings after they moved to Europe and that the account earned interest (see paragraph [8]). Briefly describe and discuss how you would characterize the funds in that account, in terms of both ownership and management.

Problem #6

(Suggested Time: 40 minutes)

Refer to Version C of the story of Wanda and Herbert. Assume now that after the family's return to Texas, the Air Force sent Herbert to Bosnia during an escalation in that country's civil war. He was part of a United Nations mission and his role was one of providing medical assistance. In a tragic turn of events, Herbert was killed in an attack on the hospital where he was stationed. Herbert is survived by Wanda and their two children. Their older child is 22 years old, married and living in Arkansas. The younger child is 16 years of age and still lives with her mother at the home in San Antonio, referred to in paragraph [10]. Herbert had not executed a will and thus died intestate. Based on these facts, and those stated in Version C, describe and discuss the present interests in the San Antonio home mentioned in paragraph [10].

Problem #7

(Suggested Time: 15 minutes)

Discuss whether your answer to Problem #6 would change under Version D of the story. In other words, given (a) the facts in Version C of the story, and those added in the statement of Problem #6, but (b) substituting Illinois for California, discuss how your analysis would differ from that in your response to Problem #6.

Problem #8

(Suggested Time: 15 minutes)

Refer again to Version D of the story of Wanda and Herbert, but without the additional facts added in Problem #6. Assume now that Herbert and Wanda have decided to divorce. They have agreed to sell the San Antonio home referred to in paragraph 10. Discuss how the proceeds of that sale should be divided.

Problem #9

(Suggested Time: 15 minutes)

Evaluate the contract discussed in Version E of the story (see paragraph [12]).