

COMMUNITY PROPERTY

FINAL EXAMINATION

PROFESSOR KOSEL

SUMMER 2006

1. You have **two (2) hours** to complete this exam.
2. This is a **closed book** exam.
3. This exam consists of one part, an essay question. Please write your response in the blue books provided. Please write clearly. Write on every other line and every other page to permit instructor comments.
4. Write your exam number on your exam envelope. Put your correct class section and student exam number at the top of this page, each page of questions, and each blue book. **Do not** use your name, student ID number or Social Security number on any exam materials.
5. At the conclusion of the exam, return all test materials, including blue books, scratch paper, and this exam packet envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

ESSAY QUESTION

Harry and Wanda wed in 1996. It was a first marriage for Wanda but a second marriage for Harry. He had one child from his earlier marriage, Charlie, who was then fifteen years old.

The marriage seemed doomed from the beginning. Harry and Wanda found no shortage of things to fight about, most especially finances. What most disturbed Wanda was the exorbitant amount Harry paid for child support \$2,000 a month. Her anger increased when Charlie graduated high school in 1999 and Harry's child support obligation terminated. Harry volunteered to pay all of Charlie's college expenses some \$35,000 a year at Pomona College.

Harry and Wanda finally separated and divorced in 2001. Assume it is now 2001. At issue between them are the following assets:

- Harry's option to purchase 1,000 shares of his employer's stock. Harry began work for the company in 1993. The stock option was granted in

2000. It is exercisable in 2003 if Harry is still employed by the company. The option exercise price is \$10. At the time of divorce, the stock is trading at \$15.

- Harry's defined benefit pension plan. Harry is eligible for a pension equal to 2% multiplied by his highest annual salary multiplied by his years of employment (not to exceed twenty-five years). The pension is vested. An actuary has determined the present value of the pension is \$500,000.
- A house owned by Wanda prior to her marriage to Harry. The house is titled in Wanda's name alone. She bought it for \$100,000 in 1990. At the time of divorce it is worth \$400,000. A large part of the increased value is due to a \$100,000 addition made in 1996 - a bedroom and separate bath for Charlie when he came to visit.

A. Discuss the parties' ownership interests in these assets;

- any claims for reimbursement; and
- division of property.

To the extent you need additional factual information, please specify what that information is and how it will affect your answer.

In 2003, two years after the divorce, Harry's employer awarded him another option to purchase an additional 1,000 shares of company stock. It was exercisable in 2006 if Harry were still employed by the company. The option exercise price was \$45. Harry exercised the option in January 2006 when the stock was trading at \$85 a share

In December 2005, Harry's employer offered him an enhanced retirement benefit an additional \$1,000 a month if Harry voluntarily retired before January 31, 2006. Harry retired on January 28, 2006.

When Wanda learned of Harry's good fortune from mutual friends, Wanda filed a motion before the divorce court seeking her community property share of the latest stock option and Harry's enhanced retirement benefit. Before her motion could be heard, Harry suffered a stroke and died (he had a long history of very high blood pressure). Wanda amended her motion to claim her community property share of a \$500,000 term life insurance policy which Harry initially purchased in 1996. The designated beneficiary is Charlie. The marital settlement agreement did not mention Harry's life insurance.

B. How will the court rule on Wanda's motion? Discuss.

END OF EXAM