FAMILY LAW FINAL EXAMINATION Professor Ann Britton December 18, 2012 Three Hours

John and Connie met Aug 1, 2002. After only one month, they got engaged; on November 1, 2002, John moved into Connie's house that she shared with her 2-year-old Scott (from a previous non-marital relationship). The house had cost \$ 75,000, of which Connie had paid off \$ 5,000. They married in January 2003 after John indifferently signed an agreement that any children would be raised Catholic. The newly-weds went on a honeymoon to the Virgin Islands.

After six months of marriage, John and Connie each filed for divorce. Although their sex had been satisfactory prior to and during the honeymoon, the day after their return and for the remainder of the brief marriage, John was either impotent or ejaculated prematurely. Connie asked John to see his doctor. John reported that the doctor said nothing was wrong physically, that it was "in his head." John's medical records during that time period reflect "John feels well and has no particular concerns or questions today." However, one record dated two months before the divorce petition reflects that John had contracted a type of genital warts, usually transmitted via homosexual contact. John declared this to be a surprise to him, and that he must have gotten it from a toilet seat. His doctor warned him to take precaution to protect himself and his partners.

Another bizarre problem that John developed rather abruptly at the end of the honeymoon was incessant and inappropriate passing of gas. John said he controlled it as best he could, but it often came on him too quickly. When Connie asked him to please be considerate, especially at the dinner table, John felt that he was being belittled.

Connie suggested they go to marriage counseling. John said he would go on the condition that, if the counseling were unsuccessful, Connie would agree to an uncontested

divorce. No evidence reflects whether they ever attended marriage counseling, so, at best, it was very briefly, if at all.

Approximately six weeks after the marriage (early March), John suddenly moved out of the house without prior warning or explanation. After a week, he returned, only to move out again in the latter part of May (about 10 weeks after moving back in).

John had insisted that Scott call him "Daddy." Connie was distressed when Scott kept asking, "When will Daddy be home?" and Connie had no answer.

John claims extreme cruelty that forced him to leave based on Connie's "constant verbal abuse" and that she spoke to him in a "very sharp fashion." John gave two examples in his testimony. One was her displeasure about his passing gas. The other was that she told him to put the Brillo® pad in a plastic cup so it would not leave rust stains on the kitchen counter. Connie claims desertion.

John has a college education and is working on a master's degree and is employed as a civil engineer with an annual income of about \$65,000. Connie has a high school diploma and works as a teller in a bank; she makes \$18,000 per year, plus she gets a preferred interest rate on her credit card. At the beginning of the relationship (October), Connie had a balance on her credit card of \$330. After the marriage the following January, the balance was \$6,300, the bulk of which were wedding and honeymoon expenses.

Before they were married, Connie supplemented her income by cleaning houses, running errands, and other miscellaneous jobs for professionals too busy to do them. She was able to make about \$ 650 per month. In addition, she worked the night shift at the bank for an additional \$400 per month. John asked her to quit the night shift and stop her supplemental jobs when they were married. Connie had also managed to put \$ 6,750 into an IRA, from which she withdrew, with penalties, \$ 1,500 for her attorney's fees. Connie

will need time to rebuild her customer base for the odd jobs she did, and she must wait until the night shift has an opening before she can return to the night shift.

John claimed most of the wedding presents because they had come from friends of his. In addition, he wants to be reimbursed \$ 4,750 for the wedding and engagement rings, plus \$ 950 wedding expenses (such as music, use of church, and limousine). When he first moved out, John sent her \$ 900 per month, but he stopped paying after three months. In other words, he has paid a total of \$ 2,700 to her.

Because John was so adamant about being reimbursed for the rings and the few wedding expenses not put on Connie's credit card, the case went to trial instead of settling. As a result the legal fees and court costs were about \$ 2,500 higher than had they settled. John and Connie each want the other one to pay the entire attorneys' fees and costs.

The parties have stipulated to financial figures set out in a table at the end of the exam (to make it all fit on one page). Suggestions concerning the financial arrangements are with the table.

While all this was going on, something else was happening. Powell, the biological father of Scott, had had no contact with Connie since the pregnancy had begun to show. He was, however, unbeknownst to Connie or Scott, still in the area. Powell heard that Connie was about to get married; he thought it would be funny to show up at the wedding to see the looks on their faces.

To plan his surprise for the biggest impact, he hid himself to watch the rehearsal.

The surprise turned out to be on him. When he saw Scott (his first view!), his heart melted.

When he heard Scott call John "Daddy," it completely broke his heart.

Powell decided not to pull off his planned surprise. Instead, he began watching Connie's house surreptitiously to be able to see Scott play. In this way, Powell learned about John's leaving, returning, then leaving again.

With a deep breath to fix his courage, he approached Connie & Scott one day. Redfaced, he apologized to Connie & Scott for his irresponsibility, begged forgiveness from both of them, and asked to be allowed to assume his proper place as Scott's father.

Connie was skeptical and, furthermore, was no longer in love with Powell. However, she was polite and said, "Your proper place begins with acknowledging paternity and paying child support." He nodded and walked away. Connie assumed this was the end of it.

To Connie's amazement, a few weeks later, Powell showed up at the front door with roses for Connie, a big red ball for Scott, and court papers acknowledging his paternity; he also had papers he wanted Connie to complete so that the court could use the guidelines to determine child support and set visitation.

Having been so deeply hurt by Powell once, and still amidst the disappointment and confusion about John, Connie doesn't know where to turn. You handled a credit card problem for Connie's sister, who says you are very nice.

What will you tell Connie about her options, your recommendations, likely outcomes, and likely trouble spots along the way. Remember to limit your discussion to issues from this course, even though you may know more to say from your other experience.

MORE MATERIAL ON THE NEXT PAGE

	Before Marriage	After Marriage	NOTES
Connie house	\$ 75,000	\$ 75,000	
Connie mortgage	(\$ 70,000)	(\$ 70,000)	
Connie IRA	\$ 6,750	\$ 5,200	
Connie credit card			
/ wedding	(\$ 330)	(\$ 6,300)	
expenses			
Connie rec'd from		\$ 2,700	
John			
Connie net	\$ 11,420	\$ 6,600	
assets			
Connie total	\$ 30,600 / yr	\$ 18,000 / yr	
income			
John tuition debt	(\$ 25,000)	(\$ 25,000)	
Wedding presents		\$ 5,000	
John wedding exp.		(\$ 4,750)	
John unnecessary			
legal expense		(\$ 2,500)	
John net assets	(\$ 25,000)	(\$ 27,250)	
John total		soon to be \$	
income	\$ 65,000 / yr	80,000 / yr	
COMBINED			
INCOME	\$ 95,600 /yr	\$ 98,000	
Connie income	32 %	18%	
John income	68 %	82 %	

NOTE: Very many families, especially in a poor economy like the present one, have more debts than they have assets. Remember ALL the ways financial arrangements can be made, even if they have some drawbacks.