

## FAMILY LAW FINAL EXAMINATION

May 9, 2012

Total Time: 3 hours

You may divide your time however you like. Suggested times are given for each question just to guide you as to the relative importance of the question.

Assume that everything takes place in a marital property jurisdiction. Be sure to cover the issues covered in the Family Law course that are raised on these facts. Do not include family law that you may know from elsewhere.

Good luck!

Question I (suggested time 2:15 – 2:45)

Doris was always an excellent cook, and all her life she dreamed of owning her own restaurant. One night at a dance, Doris met Jimmy, who was a small-time thug (but he described his work as “investments”). However, Jimmy relished the little bit of power he had and liked to show it off. Doris told Jimmy of her dream. Not imagining that Doris was really serious about her dream, he played the “Big Shot,” and told her he would be her business manager.

Jimmy promptly used his power to intimidate, um, er, that is, his influence to make it appear that he had purchased a restaurant for what he believed was one night. He “gave” it to Doris, who had, what she believed, been a glorious opening night. During the evening, Jimmy realized that the restaurant really could be a money-maker, but not without her cooking.

Jimmy began to buy up the property he had originally borrowed for the restaurant. After a few months, when he owned about 25% of the realty and tangible property, he persuaded Doris to marry him. As a wedding present, he

confessed that, initially, his intentions had been the worst, but now he was convinced of the value of the restaurant. To prove to Doris that this was not just a gold-plated pick-up line, he gave her half of the 25% property he already owned. Beyond that, Jimmy tightly controlled all of the money & income.

Doris continued running the restaurant and continued getting rave reviews by the critics. She made good friends with Max, the *maitre d*, and she kept a cheerful outward appearance. Sometimes a prestigious restaurant would make her an attractive offer, but Jimmy always stepped in as her business manager and vetoed any advancement for her.

Several years into the marriage, a son, Sam, was born. Although they could well afford child care, Doris did not know that; Jimmy always told her that the restaurant was losing money & if not for his other investments they would be homeless.

When Doris left for the restaurant mid-morning, Jimmy always insisted he had to “look out for” his investments, so he left as well. Doris took Sam, from his earliest years, to work with her. Doris (& so Sam) normally got home about midnight or 1:00 AM, when Jimmy was usually already asleep.

One night Jimmy drove by the restaurant at almost midnight. He saw through the window that Doris & Max were laughing and standing, Jimmy thought, just a bit too close. He was enraged with jealousy. He pretended to be asleep when Doris & Sam got home. When Doris got into bed, he pretended to be having a nightmare, and flailed his arms & legs around, being sure to hit & kick Doris in the process.

Doris has come to you, in tears, saying she can no longer tolerate the “fake marriage.” She says the marriage was always a cold-hearted business deal, with perfunctory sex. Frankly, she tells you, she fears violence from him if she files for divorce. On the other hand, she does appreciate it that he allowed her to have her dream of a restaurant. She also believes the restaurant has lasted because of her recipes, cooking, good management, and good relationships with the staff; if she left, it would leave both of them in financial ruin.

When you uncovered the records that showed the restaurant was in Jimmy’s name and its fair market value was \$2,000,000, Doris was shocked & very angry. The restaurant clears \$20,000 per month above expenses.

What will you tell Doris about her prospects for the outcome? Keep it realistic. As part of getting her informed consent, be sure to also discuss with her the main obstacles that will have to be dealt with.

Question II (suggested time 5-10 minutes)

Explain to Doris the similarities and differences between alimony and property division.

Question III (suggested time 15-25 minutes)

Your client, Carl, tells you he is about to propose to a woman. However, his best friend is a law student taking Family Law; some things his friend told him have him a bit worried. Carl asks you to explain covenant marriage and when a premarital agreement would be advisable.