

SECTION I
(40 Points - 80 Minutes)

Hal and Winnie met in early 1989. Hal was just finishing his residency for medical school. Hal had accumulated \$350,000 in student loans for his undergraduate degree and medical school. Wendy just finished her undergraduate degree and had \$100,000 in student loans.

Hal graduated in May, 1989. Hal specialized in cardiology and joined a local cardiology practice as an associate earning \$200,000 per year immediately following graduation. Wendy was not yet employed and the parties agreed that she would not work.

On August 1st, Hal's parents gave him a check in the amount of \$100,000 as a belated graduation gift. Hal and his parents immediately went out searching for houses for him to buy that afternoon. Hal placed an offer on a house the day before the wedding. Hal's mom expressed concern that he had not known Winnie for very long, and she was insistent that Hal should ask Winnie to sign a Premarital Agreement to protect the gift they had just given him. Hal was extremely reluctant to have this discussion with Winnie because the wedding was so close and he didn't want to upset her.

On the morning of the wedding, Hal sent Winnie a beautiful pair of diamond earrings to the hotel where she was getting ready with her bridesmaids. A large envelope accompanied the earrings which contained a card professing his undying love for her as well as a single page typed document entitled "Premarital Agreement". The typed document had a sticky note attached in Hal's handwriting that said, "This is just a formality at my mom's request because of the gift they gave me for graduation." The language on the document was as follows:

"If Hal and Winnie get a divorce, Winnie will not have any interest in the house Hal purchased before they were married because Hal's parents gave him the down payment for the house." Hal also texted, "I have to give the signed document back to my mom before the ceremony." It had a line for Winnie to sign and date the document.

Winnie has horrified and broke down in tears. She immediately texted Hal and asked, "Are you serious?" He responded via text, "I'm sorry, baby. My mom said she'll take the money back if you won't sign it. We won't be able to get a house without that money." Winnie was devastated and in a panic given that guests were already arriving at the venue. Also, her bridesmaids were all around her and were so envious of her wonderful soon to be husband and fairytale wedding. She would be humiliated if they found out about this request. Winnie quickly signed the document and had the document returned to Hal. The wedding went on as planned.

The Monday following the wedding Hal received a counter-offer on the house he had offered to purchase. After taking Winnie to look at the gorgeous home, they accepted the counter offer and opened escrow using the \$100,000 gift his parents had given him which he had briefly deposited in his personal account. Additionally, he and Winnie met with a mortgage broker and completed loan documents. After reviewing the completed loan application, the broker suggested that only Hal's information be included on the loan and that Hal take title to the property in his name alone because he was earning \$200,000 per year while Winnie was not yet earning a salary and had a \$100,000 student loan which may negatively impact their ability to qualify. They followed the advice of the mortgage broker.

Hal and Wendy separated in 2001 and began divorce proceedings. You are representing Wendy. Please advise Wendy on the following issues:

(For purposes of answering the questions, please assume that all property was purchased in California and that California community property laws apply.)

1. There is still \$50,000 owing on Hal's student loans from medical school. Is Wendy liable for any of that debt? Please give Wendy a detailed explanation for your response. (10 points)
2. Wendy has shown you a copy of the "Premarital Agreement" that she signed. Is this a binding agreement? Please provide the reasoning for your response. (10 points)
3. Hal is asserting that the house is his separate property. Please advise Wendy on Hal's position and his likelihood of prevailing. Please provide specific reasoning for your response. (20 Points)

SECTION II
(60 POINTS - 100 Minutes)

On January 5, 2013, Wendy and Hunter met at a jewelry store owned and operated by Wendy called Designs by Wendy. Hunter was shopping for a birthday gift for his girlfriend, but abandoned that idea (as well as his girlfriend) upon meeting Wendy and instead asked her out for drinks. Over drinks Wendy told him that she started her business last year with an initial investment of \$20,000, but had recently received an appraisal for insurance purposes indicating that her business was currently valued at \$200,000. She had taken her initial investment money out of an investment account where it was earning 4% interest. Wendy was extremely excited about the success of her new business. Jewelers working in the industry generally earn about \$100,000 a year, but she was hopeful that she would be much more successful given her unique designs.

On February 14, 2013, Wendy and Hunter went to the courthouse and got married.

Hunter invited Wendy to move into his house. Hunter had inherited a beautiful old house upon the death of his grandfather two years prior to meeting Wendy. Hunter held title to the property as “an unmarried man as his sole and separate property.” The value of the property at the time of the transfer to Hunter was \$500,000 and it was mortgage free. Most homes in that neighborhood are valued at approximately \$800,000, but the property was in desperate need of a remodel and maintenance. Wendy was excited to help in the design of the remodel and Hunter said it was important to him that she was involved in the remodel planning since this was “their home.” They did not discuss changing title to the property and the title remained in Hunter’s name throughout their marriage. They hired a contractor and got to work on the remodel.

During the remodel Hunter and Wendy had many disagreements about design choices. The marriage became so strained that on June 1, 2014, Wendy moved out of the main house and in to the fully equipped pool house that was unattached to the main house at the back of the property. She made all of her own meals in the kitchen of the pool house and did her laundry using the pool house facilities. The parties rarely saw each other after Wendy moved out of the main house. However, they were embarrassed to admit to their friends and family that their whirlwind romance and marriage was on rocky ground so they continued to attend all of their previously planned social events together. They went to a destination wedding in Maui together for a week in August, 2014 and shared a room although they did not have sexual relations on the trip. They did not discuss the status of their marriage during this trip.

The remodel project was finished on September 1, 2014. The remodel included a completely refurbished kitchen with all new flooring, cabinets, countertops and appliance. They also replaced the flooring throughout the house, repainted the entire house inside and outside, remodeled all three bathrooms and replaced the roof. The cost

of the remodel totaled \$200,000 and was paid from the joint account Hunter and Wendy opened immediately upon their marriage. Any money Wendy drew from her business as well as Hunter's salary from his employment was deposited into this account.

On September 15, 2014, Wendy and Hunter met to view the completed remodel. The contractor brought his real estate appraiser Wife with him to show her the beautifully completed project and she commented that the house was easily worth \$800,000 with the completed remodel and upgrades. Wendy and Hunter barely said anything to each other. Later that same night, Wendy texted a message to Hunter that read, "I don't see any point in us being married. I'm going to meet with a divorce attorney and start looking for somewhere else to live." On that same day, Wendy opened a new checking account in her name and began depositing her income into that account. Hunter's response to Wendy's text was "fine by me..." He also opened his own account and paid all of his household expenses from his account.

Wendy had a difficult time locating a new residence and did not move from the pool house until June 1, 2015. At the time that she moved from the house, the value of the property had increased to \$900,000. However, the housing market experienced a slight down turn and at the time of trial the property was valued at \$800,000.

Hunter received a bonus in the amount of \$25,000 from his employer on December 31, 2014.

Wendy's business had continued its success given her extremely unique designs. At the time of trial, her business was valued at \$1,000,000.

You represent Hunter. He is requesting advice on the following issues:

1. What interest, if any, does the community have in Designs by Wendy? If you determine the community does have an interest, please provide the theory that you would use to determine the interest and explain why you chose that theory. You may explain your answer using a formula without calculating a numerical answer. (30 points.)
2. What amount, if any, should Wendy receive for the improvements on the house? Please explain the reasoning for your response? (15 points)
3. What value should be attributed to the house and why? (5 points)
4. Is Wendy entitled to any of the bonus Hunter received on December 31, 2014? Please provide the reasoning for your advice. (10 points)