Empire College School of Law
Professor Becky Rasmason
Community Property – Final
Monday, August 10, 2015

Student ID#_______________

Question 1 (30 points)

Wendy and Wilma entered into a Registered Domestic Partnership (RDP) on January 1, 2010. Wendy works as a pharmacist earning $200,000 per year. Wilma works as a waitress earning $8000 per year.

They purchased a home on January 1, 2011, the down payment of which came partly from funds they saved with their earnings during their RDP in the amount of $10,000 and partly from money that Wilma claims to have received from inheritance in the amount of $20,000. Wilma's inheritance was deposited into the parties' joint bank account.

They purchased 1000 shares of Apple stock on January 1, 2012 but neither Wendy or Wilma can recall the source of the funds used to purchase this stock.

They purchased a Honda vehicle January 1, 2013, taking title in joint names. Wilma used her inheritance for the $5000 down payment on the Honda.

Wendy purchased a BMW 325i vehicle, titled in her name only, on January 1, 2014. Wendy borrowed $5000 from her father which she used for the down payment on the BMW.

On January 1, 2015, Wendy's Citibank credit card had a balance owing of $20,000. All of the charges on this credit card were made during their RDP,
Wendy permanently vacated the residence they shared on January 2, 2015. As Wendy was leaving the residence, Wilma yelled, "good thing that credit card is in your name."

On June 1, 2012, Wilma and Wendy had a bad argument. During the argument, Wilma told Wendy she hated her, that she wished they never met, and that she wanted out of the relationship. Wilma moved her clothing and toiletries into the guest room of the home they both lived in. For the most part, Wilma slept in the guest room until Wendy vacated the residence on January 1, 2015. The parties do not dispute that there were approximately ten nights when Wilma got drunk, got into bed with Wendy, and they ended up having sexual contact.

On June 1, 2013, Wendy asked Wilma to go to couples counseling. Wilma said no but then changed her mind and agreed to go to couples counseling on December 31, 2013. Wilma and Wendy went to only one session with their counselor.

Wendy and Wilma attended monthly rotary meetings together for their entire RDP. The last meeting they attended together took place on December 31, 2014. Wendy and Wilma did not tell anyone, other than their counselor, that they were having trouble with their relationship.

What legal and factual arguments will Wendy and Wilma make regarding the characterization and disposition of the home, the Apple Stock, the Honda CRV, the BMW, and the credit card debt?

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Question 2 (50 points)

Hank and Wendy met in Country X (fictional country) while on vacation in 2012. They fell madly in love and decided to marry in Country X, after only knowing each other for one week. Hank, an attorney, handed Wendy a 10 page document, one hour before the wedding ceremony. The document was titled "Pre-Marital Agreement". When Wendy asked Hank about the document, he said, "It's a formality." Wendy was so excited about marrying Hank that she turned to the last page and signed. She did not read the document at all.

The Pre-Marital Agreement provided that each spouse's earnings during marriage are their separate property and that all assets and debts owned by each spouse prior to marriage will remain separate property.

The couple returned to California the day after the wedding ceremony and Wendy immediately moved into Hank's home. The same day, Wendy told Hank that she was not returning to her job as a waitress. Two weeks later, Wendy purchased a lottery ticket for $1.00 using change she found in the ashtray of Hank's car. The next day, Wendy learned that she had the winning ticket and that she won $5,000,000.

When Wendy received her check for $5,000,000, she signed it and gave it to Hank to invest as he saw fit. Hank immediately deposited the check into a checking account in his name only. Hank paid all of the household expenses from this account, including the mortgage payment on his home, the property taxes, and the home owner's insurance premiums.

In 2014, Hank wrote a check for $4,000,000 from this same checking account and invested it in his friend's business. In February 2015, the same checking account had a balance of only $50,000 and the business Hank invested in was bankrupt.

On February 1, 2015, the parties separated and Wendy filed for divorce the same day.
Hank provided the following information on his preliminary declaration of disclosure: (1) he originally purchased his home on January 1, 2010 for $500,000. He put $100,000 down as a down payment and financed the remainder of the purchase price and (2) The house was valued at $600,000 on the date of marriage and he owed $400,000 on the loan at that time.

On the date of separation, the house was worth $800,000 and the loan balance was $300,000. On the date of trial, the house was worth $800,000 and the loan balance was $250,000. All post-separation payments on the loan obligation were made with Hank's earnings which were acquired after the date of separation.

Lastly, Wendy entered the marriage with a BMW that was encumbered with an auto loan in the amount of $10,000. The BMW has always been titled in Wendy's sole name. During marriage, Hank paid off the BMW loan with his earnings.

1. You represent Hank. What legal and factual arguments will you make to get Hank the best possible financial result in this matter.

2. You represent Wendy. What legal and factual arguments will you make to get Wendy the best possible financial result in this matter.

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Question 3 (20 Points)

At the date of separation, Husband and Wife had been married for 15 years. They lived in California their entire marriage. Husband was an executive for Pacific Gas and Electric (PGE) and worked there for the entire marriage. Wife never worked outside the home. During marriage, Husband contributed to the PGE 401K plan. This plan is a defined contribution plan. Husband also had pre-marriage contributions in the PGE 401K plan in the amount of $100,000. After separation and before trial in this matter, Husband contributed another $25,000 to his PGE 401K using his post-separation earnings for these contributions. The balance in the PGE 401K at the date of separation was $250,000.

Husband's PGE pension is a defined benefit plan. Husband retired from PGE one week before the date of trial. Husband worked a total of 25 years with PGE. Husband's pension checks from PGE are estimated to be $3000 per month.

What rights does Wife have, if any, in Husband's 401K and pension plan with PGE?