

LOUISIANA PERRUARY 2015 BAR EXAM MODEL ANSWERS

Code I Model Answer February 2015 Exam

Orași Ban One

1.1 Yes, the contract the couple signed the marriag of their wedding is an enforceable equirenously agreement. A presuptial matrimonial agreement is enforcable without requirement of court appeared, and there is no requirement of execution a specified period in advance of the marriage centrature. A contract signed any time is advance of the marriage coremony will still be classified as a propoptial matrice exist agreement. Such an appropriate treat he made by authorite act or act under private signature duly acknowledged. Here, Henry and Wendy signed the agreement before a noticy and two winnesses. That the nevery and winnesses were friends and family of one of the parties to the approximent is internaterial. There is no requirement that notation and witnesses to an authoritie act be "strangers" to the parties. Wends may attempt to have the agreement declared a relative nuffity, claiming duress, since she "refurcatefy" signed it. She is not likely to succeed on this claim. The receive one facts to sixt an acreement due to a planned marriage concreons has never been held to give rise to duness, rather, a court would weed to find that Wendy's will was absolutely overcome such that she was faced to signan agreement against her will. Those facts are not present here.

One portion of the agreement, however, will be us fi. Henry and Wendy attempted to varive both interim and final periodic support through this restrinonial agreement. Waivers of final periodic support, when executed in proper form, are perfectly permissible. But waivers of interim spound support have been held by the Louisians Supreme Court or violate public policy. As a result, the provision attempting to waive interim spound support tand that purvision only) will be an enforceable.

(It should be noted, for the purposes of an evening the puris below, that the parties did not attempt to develop a separate property regime through this agreement, nor did they attempt to modify Louisiana's default constrainty property regime in any way.)

1.2 The New Orleans family house will be Henry's separate property. Because the parties passessed the home during the course of their maniage, it will be presumed community property, but Henry can easily overcome that presumption. Wondy did not sign the act of sale, nor does her name appear on the title, but those facts are wholly incleant to classification of property in Louisians. Rather, the home will be classified in accordance with the sensue of the funds used to acquire it. Here, the couple used \$10,000 of community property. The menry given by Weady's parents after the wedding is community property because it was given by joint donation. The intent of the donor in the controlling test. Wendy's parents may testify that they intended to give the money to their doughter alone, but a judge is not likely to be persuaded that this was their intent at the time of the donation. A gift given to the couple just after the wedding covernous is likely intended as a joint gift.

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Louisiana Bar Association. Committee on Uniform State Laws

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