



LOUISIANA FEBRUARY 2015 BAR EXAM MODEL ANSWERS

Code I Model Answer
February 2015 Exam

Question One

- 1.1 Yes, the contract the couple signed the morning of their wedding is an enforceable matrimonial agreement. A prenuptial matrimonial agreement is enforceable without requirement of court approval, and there is no requirement of execution a specified period in advance of the marriage ceremony. A contract signed any time in advance of the marriage ceremony will still be classified as a prenuptial matrimonial agreement. Such an agreement must be made by authentic act or act under private signature duly acknowledged. Here, Henry and Wendy signed the agreement before a notary and two witnesses. That the notary and witnesses were friends and family of one of the parties to the agreement is immaterial. There is no requirement that notaries and witnesses to an authentic act be "strangers" to the parties. Wendy may attempt to have the agreement declared a relative nullity, claiming duress, since she "reluctantly" signed it. She is not likely to succeed on this claim. The pressure one feels to sign an agreement due to a planned marriage ceremony has never been held to give rise to duress; rather, a court would need to find that Wendy's will was absolutely overborne such that she was forced to sign an agreement against her will. Those facts are not present here.

One portion of the agreement, however, will be null. Henry and Wendy attempted to waive both interim and final periodic support through this matrimonial agreement. Waivers of final periodic support, when executed in proper form, are perfectly permissible. But waivers of interim spousal support have been held by the Louisiana Supreme Court to violate public policy. As a result, the provision attempting to waive interim spousal support (and that provision only) will be unenforceable.

(It should be noted, for the purposes of answering the parts 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 community property regime in any way.)

- 1.2 The New Orleans family home will be Henry's separate property. Because the parties possessed the home during the course of their marriage, it will be presumed community property, but Henry can easily overcome that presumption. Wendy did not sign the act of sale, nor does her name appear on the title, but those facts are wholly irrelevant to classification of property in Louisiana. Rather, the home will be classified in accordance with the source of the funds used to acquire it. Here, the couple used \$10,000 of community property. The money given by Wendy's parents after the wedding is community property because it was given by joint donation. The intent of the donor is the controlling test. Wendy's parents may testify that they intended to give the money to their daughter 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 ceremony is likely intended as a joint gift.

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R. Robert Rackley, Roberta F. Green

A red circular graphic with a gradient, appearing as a partial circle or a stylized 'C' shape, located to the right of the authors' names.

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Congressional Record United States. Congress, 2013 *On Sex and Gender* Doriane Lambelet Coleman, 2024-05-21 An eye opening account about what we get wrong on sex and gender and how we can be both sex smart and thoughtful Doriane Coleman presents a serious blueprint for common ground on matters of sex and gender bringing compassion and intelligence to one of our most difficult cultural collisions Guy Uriel Charles Harvard Law School On Sex and Gender focuses on three sequential and consequential questions What is sex as opposed to gender How does sex matter in our everyday lives And how should it be reflected in law and policy All three have been front and center in American life and politics since the rise of the trans right movement They are included in both major parties political platforms They are the subject of ongoing litigation in the federal courts and of highly contentious legislation on Capitol Hill And they are a pivotal issue in the culture wars between left and right playing out around the dinner tables on campuses and school boards on op ed pages and in corporate handbooks Doriane Coleman challenges both sides to chart a better way In a book that is equal parts scientific explanation historical examination and personal reflection she argues that denying biological sex and focusing only on gender would have detrimental effects on women s equal opportunity on men s future prospects and on the health and welfare of society Structural sexism needed to be dismantled a true achievement of feminism and an ongoing fight but going forward we should be sex smart not sex blind This seminal book the science the law the politics all explained so clearly Edwin Moses two time Olympic gold medalist is a clear guide for reasonable Americans on sex and gender something everyone wants to understand but is terrified to discuss Coleman shows that the science is settled but equally there is a middle ground where common sense reigns and we can support transgender people without denying the facts of human biology She livens her narrative with a sequence of portraits of exceptional human beings from legal pioneers like Myra Bradwell and Ketanji Brown Jackson to champion athletes like Caster Semenya and Cate Campbell to civil rights giants like Ruth Bader Ginsburg and Pauli Murray Above all Coleman reminds us that sex not only exists but is also good and she shows how we can get both sex and gender right for society American Book Publishing Record , 1985 **Louisiana Bar Exams** Louisiana. Supreme Court. Committee on Bar Admissions, 1997 **Examination Questions by Supreme Court Examining Committee for Admission to the Bar of the State of Louisiana** Louisiana. Supreme Court, 1925 **Synopsis of Louisiana Law and Practice** R. Robert Rackley, Roberta F. Green, 1985

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