FAMILY LAW
PROFESSOR GOODMARK
LAW 716/321

FALL 2006 FINAL EXAMINATION

PLEASE NUMBER ALL BLUE BOOKS BY EXAMINATION NUMBER

HOURS PERMITTED TO COMPLETE THIS EXAMINATION: 3 HOURS

**General Instructions:** Print your examination number, the course subject, number and section and the instructor’s name on the cover of each blue book you use. Also, if you use more than one book, write the number of books you use, e.g. “1 of 3,” “2 of 3,” “3 of 3,” etc. If you are graduating, please indicate this fact on each blue book.

**Special Instructions:** THIS IS A CLOSED BOOK EXAM. The only outside source you may use is the statute attached to the exam questions.

Final grades will be posted on MyUB.

Good luck on the exam!
QUESTION 1 (30 points)

Glen is a rare book dealer who sells his merchandise on eBay and other websites and consults at estate sales. Most of his work is done from home and his hours are flexible. Glen is also an avid scuba diver, who has made more than two hundred dives and served as a scuba instructor. Barbara is the CEO of HamsterCare.com, a company devoted to marketing hamster related merchandise to pet stores and private owners. She works long hours and travels frequently on company business. Barbara and Glen met at an entrepreneurs’ convention and began dating in 2003.

Barbara and Glen’s relationship ended in early 2004. In June of 2004, Barbara learned that she was pregnant. The split was not amicable: when Barbara declared her desire to have children, Glen revealed that he found children repulsive and could not imagine being intimate with anyone who had given birth to a child. Given the circumstances surrounding their break-up, Barbara did not tell Glen that she was pregnant, though she knew that only Glen could be the child’s father.

Barbara’s son Cameron was born in February 2005. Barbara returned to work after three months. A full-time nanny moved in with Barbara and Cameron and cared for Cameron when Barbara traveled on business. On a business trip, Barbara met Ned, the CFO of GuineaPigsRUs.com, and fell madly in love. The two married in December 2005.

In October 2006, Barbara, while taking Cameron for a walk in his stroller, ran into Glen and his wife Ophelia at the local coffee shop. Ophelia, a stay-at-home mom with one child from a prior relationship, instantly began to coo over Cameron and remarked on his uncanny resemblance to Glen. Glen, uncomfortable around children,
didn’t pay much attention to Cameron. Barbara hurriedly paid for her grande decaf skim 2% mocha and left the store. The next day, Barbara and Ned consulted an attorney about having Ned adopt Cameron. Within the week, the attorney filed Ned’s petition for adoption of Cameron. Because Barbara did not disclose Glen’s name to the attorney, the petition did not include his name and he was not served with a copy.

Glen, curious about Barbara’s current life, googles her name and finds an adoption filing through the Maryland Judiciary Case Search website. He learns from the site that Ned has asked to adopt Cameron. At Ophelia’s urging, he files a notice of objection to the adoption, claiming he is the natural father. At the adoption hearing, Barbara concedes that Glen is Cameron’s father.

1. Using the attached statutes, analyze whether Ned will be permitted to adopt Cameron. (5 points)

2. Assume that Ned’s request to adopt Cameron is denied and Glen sues Barbara for custody of Cameron. What would be the result? Why? (10 points)

3. Assume that Ned’s request to adopt Cameron is denied. Ophelia decides to file for custody, citing her desire to foster a relationship between Cameron and her own child. What would be the result? Why? (10 points)

4. Assume that Barbara is awarded custody of Cameron and Glen receives visitation. When Cameron turns 5, Glen tells Barbara that he wants to share his love of scuba diving with Cameron. Barbara, concerned about the dangers of scuba diving given Steve Irwin’s recent death, asks the court to condition Glen’s visitation on his refraining from teaching Cameron to dive. How will the court decide? (5 points)
§ 5-3B-22. Nonconsensual adoption

Scope of section

(a) This section applies only if a parent affirmatively withholds consent by filing a notice of objection.

Custodian

(b)(1) A court may allow adoption, without parental consent otherwise required under this subtitle, by a petitioner who has exercised physical care, control, or custody over the prospective adoptee for at least 180 days, if the court finds by clear and convincing evidence that:

(i) the parent has not had custody of the prospective adoptee for at least 1 year;

(ii) the prospective adoptee has significant emotional ties to and feelings for the petitioner; and

(iii) the parent:

1. has not maintained meaningful contact with the prospective adoptee while the petitioner had custody, notwithstanding an opportunity to do so;

2. has failed to contribute to the prospective adoptee's physical care and support, notwithstanding the ability to do so;

3. has subjected the prospective adoptee to:

   A. chronic abuse;

   B. chronic and life-threatening neglect;

   C. sexual abuse; or

   D. torture;

4. has been convicted of abuse of any offspring;

5. has been convicted, in any state or any court of the United States, of:

   A. a crime of violence against:

      I. a minor offspring of the parent;

      II. the child; or

      III. another parent of the child; or

   B. aiding or abetting, conspiring, or soliciting to commit a crime described in subitem A of this item; or

6. has, other than by consent, lost parental rights to a sibling of the prospective adoptee.

(2) If a court finds that an act or circumstance listed in paragraph (1)(iii)3 or 5 of this subsection exists, the court shall make a specific finding, based on facts in the record, whether return of the prospective adoptee to the custody of the parent poses an unacceptable risk to the prospective adoptee's safety.

(3) In determining whether it is in the best interests of a prospective adoptee to terminate a parent's rights
under this subsection, a court shall:

(i) give primary consideration to the health and safety of the prospective adoptee; and

(ii) consider the report required under § 5-3B-16 of this subtitle.

§ 5-3B-23. Custody

A court may not grant a petition under § 5-3B-22 of this subtitle solely because a parent:

(1) does not have legal custody of a prospective adoptee by reason of a divorce or legal separation; or

(2) has been deprived of custody of a prospective adoptee by an act of the other parent.
QUESTION 2 (50 points)

Harry and Winnie married in a civil ceremony in Harford County in June 1993. At the time that they married, Harry was 19 and Winnie was 17. They do not have any children. Winnie was initially drawn to Harry’s brooding good looks and Goth style, but over time, Harry’s behavior has grown increasingly erratic. Harry wanders around the house muttering that he wishes God would kill Winnie and, since June 2005, has refused to share a bedroom with Winnie because he believes that she is a minion of Satan and will kill him in his sleep.

In October 2006, the situation reached a crisis, when Harry chased Winnie around their home with a butcher knife screaming, “Get thee behind me, Satan!” Winnie, fearing for her life, ran out of the home, which they purchased as tenants by the entireties in 1998 after Harry’s Uncle John left them a sizeable amount of money for the down payment. Winnie climbed into one of the couple’s two cars, both of which were titled in Harry’s name, went to the bank, made a withdrawal from the couple’s joint checking account, and drove to her mother’s home in Alexandria, Virginia to stay until the situation calmed down. Winnie, concerned about leaving the house and its furnishings, particularly the doll collection given to her by her mother and the expensive appliances the couple purchased with their wedding money, wants to address the situation immediately. She consults you, a Maryland attorney, about her options.

1. Are Harry and Winnie validly married? (10 points)

2. Is there any immediate action Winnie can take to protect herself from Harry? If so, what remedies are available to her? (10 points)

3. Winnie is interested in filing for an absolute divorce. What, if any, grounds for absolute divorce are available to Winnie, now or in the future? (15 points)
4. In the divorce, Winnie plans to ask for an equitable distribution of the marital property. How will the court resolve the property issues? (15 points)
Howard and Winona were married in September of 2000. They have two children: Jack, 3 years old, and Jill, 11 months. Both Howard and Winona are pilots for a major airline, and the couple has two homes: a large home in Annapolis, where Winona’s mother also lives, and a smaller home in Texas, where Howard’s father and mother also live and where the family stays when in Texas. Both parents travel frequently for work and have bank accounts in both Maryland and Texas. When Winona is not working, she spends the majority of her time in Annapolis; until August 2006, Howard split his time more evenly between the two homes and took his children to Texas to see their grandparents on a regular basis. Since Jack’s birth, Winona’s mother has been his primary care provider.

In 2004, Howard and Winona separated after Howard voted for George W. Bush in Texas. Winona obtained a child support order in Texas for Jack. The parties soon reunited, however, and Howard stopped paying the child support. The parties continued to travel between the two homes, with Jack staying with his grandmother in Maryland while his parents worked. In November 2005, after Jill was born, the whole family spent about four months together in Annapolis. Winona and Jill then traveled to Texas on March 18, 2006 so that Howard’s mother could care for Jill while Winona worked and so that Winona could continue to breast feed while being trained on a new plane in Texas. Jack remained in Annapolis with his grandmother, traveling to Texas occasionally to see his paternal grandparents, and Howard commuted between the two homes. Jack attended preschool one day per week in Annapolis; he and Jill have pediatricians in both Maryland and Texas. During the summer of 2006, Jack spent two months in Italy with his
grandmother while she took an Italian cooking course. Between March and August 2006, Winona and Jill spent about eighteen days per month in Texas while Winona worked, but returned to Annapolis on Winona’s days off. As the parties’ relationship grew more difficult, Howard spent more and more time in Texas, joining a gym and book group, although he frequently returned to Maryland to see the children.

On August 5, 2006, at 9:43 a.m., Winona filed for divorce, custody of the children and child support in Annapolis. On the same day, at 2:17 p.m., Howard filed for divorce, custody and modification of the existing child support order in Texas.

1. Which state has jurisdiction over the divorce? (5 points)

2. Which state has jurisdiction over the custody of Jack? Of Jill? (10 points)

3. Which state has jurisdiction over child support for Jack? (5 points)