

ESSAY QUESTION NO. 6

Answer this question in booklet No. 6

Wanda and Harold married in Alaska in 1998 and separated in August 2002. Prior to the marriage Wanda opened a savings account that she called her “vacation fund.” She contributed \$500 a month to the account from her earnings and \$10,000 was in the account by the time she married Harold. She stopped contributing to the account after the wedding. During the marriage, she used half of the money from the “vacation fund” to pay for two Hawaiian vacations that she and Harold took together. When Harold offered to chip in on the vacation cost, Wanda refused and said, “Oh no, I decided this account is to be for our fun.”

Prior to the marriage Harold bought a ten percent interest in a sports shop. As a part owner he was expected to, and did, spend four unpaid evenings a month at the shop. Even though he worked full time at another job, Harold did not mind working at the shop because he loved talking to people about the latest sports equipment. Harold also attended monthly day-long partnership meetings with the two other owners who held larger interests. At the meetings, they made decisions about how the shop should be run. He continued spending evenings at the shop and attending the meetings during the marriage. In 1999, he and the other owners hired an experienced manager and the shop became very successful. The value of Harold’s ten percent interest doubled during the marriage.

During the marriage, Harold purchased a kayak with money from the parties’ joint checking account. Wanda never used the kayak. After they decided to divorce, Harold found a new apartment and moved out. He took the kayak with him and sold it a month later for \$500, a fair price. He used the money to throw a “house warming” party at his new apartment.

The divorce of Wanda and Harold comes to trial and there are numerous property division issues.

1. Harold claims the money remaining in Wanda’s “vacation fund” is marital property. Fully discuss the arguments the parties can make and how the court will analyze this issue.
2. Wanda concedes that Harold’s original ten percent interest in the sports shop is not marital property, but claims that the increase in value of his interest during the marriage is marital property. Fully discuss the arguments the parties can make and how the court will analyze this issue.

3. At trial the parties agree that the date they separated is the day Harold moved out. Wanda claims that when determining the property division the court should “credit” Harold as receiving the \$500 he was paid for the kayak. Fully discuss what arguments the parties can make and how the court will analyze this issue.