

MORNING SESSION

Tuesday, July 25, 2017

QUESTION NUMBER 1

(Use bright blue booklet for essay answer)

Molly was nineteen-years-old and single while living in Orlando when she gave birth to a baby boy named Sonny on April 1 of last year. Five days later, she decided that being a nineteen-year-old single mother was too much to handle so she left Sonny at a fire station along with Sonny's birth certificate and a blanket. The birth certificate listed the baby's name and listed Molly as the mother; it did not have any entry in the father section.

Nine months before Sonny's birth, Molly was having sexual relations with Fred and her ex-boyfriend, Xavier. Fred was also nineteen-years-old at the time of Sonny's birth. Molly was positive that Fred was the father and informed him accordingly before taking Sonny to the fire station. However, Fred refused to believe that he fathered Sonny. Fred believed that Xavier was the father. Accordingly, Fred made no attempt to look for Sonny after Molly took him to the fire station.

Proceedings to terminate parental rights pending adoption commenced last year with the filing of a petition to terminate parental rights in Orange County Circuit Court. The Circuit Court thereafter granted the petition and entered an order terminating the parental rights of Sonny's biological parents. Neither Fred nor Molly received any notice of the proceedings to terminate their parental rights. Fred's parents also did not receive any notice. Thirteen months have now passed since the Circuit Court entered the order terminating the parental rights of Sonny's biological parents.

Terry and Pat, a same-sex couple from Orlando, are petitioning to adopt Sonny. Sonny has been living with the couple for the last six months. Fred and Molly are now married. After entry of the court order, Fred and Molly decided to search for Sonny and found where he was living. They went to see him at Terry and Pat's home. Fred sees that Sonny resembles him and is now sure that he is Sonny's father.

Both Fred and Molly fell in love with Sonny. They want to become a family with Sonny. Both are willing to do whatever is necessary to contest the termination of parental rights. Fred's parents, who have never seen Sonny, would also like to be a part of Sonny's life and would also like to contest the termination of parental rights. Fred, Molly, and Fred's parents have come to your law office requesting advice. Please write a memo discussing the legality of the order terminating parental rights in relation to the following issues:

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1. Molly's lack of notice and her likely success in contesting the termination of parental rights.
2. Fred's lack of notice and his likely success in contesting the termination of parental rights. Do not discuss any issues associated with the Putative Father Registry.
3. The lack of notice to Fred's parents and their success in contesting the termination of parental rights.
4. Whether Terry and Pat can adopt Sonny.

Do not discuss any potential rights that Xavier may have.

END OF QUESTION NUMBER 1

QUESTION NUMBER 2

(Use bright green booklet for essay answer)

For the last few years the downtown area of the City of Metro has been a popular location for juveniles to congregate, especially during late evening and early morning hours. Over the prior six months Metro experienced a significant increase in residential and commercial burglaries in its downtown area, and a large percentage of the individuals who were arrested for these crimes were juveniles. Ann, who is mayor of Metro and a member of the Metro City Council, asked Bob, a member of the Metro City Council, to a social gathering at her house to celebrate her son's high school graduation. During this event Ann took Bob aside and privately mentioned to him that she was concerned about the recent downtown crime activity. Ann and Bob then excused themselves from the graduation celebration and privately discussed this matter. During this discussion Ann and Bob agreed that the crimes were likely the result of too many juveniles congregating in the downtown area with nothing to do and this situation could improve with the imposition of a curfew on juveniles who gather in the downtown area. The following day Bob instructed City Council staff to prepare a draft of a new juvenile curfew ordinance for ratification at the upcoming City Council meeting.

During the next duly noticed City Council meeting staff presented the new juvenile curfew ordinance to the City Council members. The legislative findings of this proposed ordinance read:

- (1) The City of Metro hereby finds and determines as a matter of fact that the City of Metro's downtown area remains faced with an unacceptable level of crime caused by juveniles which threatens its peaceful residents, visitors, and its businesses.

- (2) The City of Metro finds that fighting crime effectively requires an effort to focus on those age groups that are committing, or that are susceptible to being induced into committing, such crime. Consequently, it is the intent of the City of Metro to create and implement a juvenile curfew ordinance aimed at reducing juvenile crime and the direct and indirect consequences thereof.

The proposed ordinance made it unlawful for persons under the age of seventeen to remain in any public premises within the downtown area between the hours of 11:00 p.m. and 6:00 a.m. and a fine was assessed for violating this ordinance.

During the public comment portion of this City Council meeting many Metro residents objected to this proposed ordinance, including many juveniles who stated that they like to 'hang out' in the downtown area between 11:00 p.m. and

Question 2 continued on the next page

6:00 a.m. Many of these juveniles also said that they would spread the word among other juveniles and may even organize demonstrations and do “other stuff.” Cathy, a Metro resident, stated that she did not support the proposed ordinance and, as written, it was likely unlawful. Cathy operates a youth center in the downtown area that is open until 1:00 a.m. After this feedback, the City Council members collectively agreed to table a vote on the ordinance until the next scheduled meeting.

Ann sought advice from Dan, a senior partner at your law firm. Ann explained to Dan the circumstances that led to the idea of the juvenile curfew, including her conversation with Bob at her home. Ann also expressed concern regarding the legality of the ordinance based on Cathy’s comments during the last City Council meeting. Ann also stated to Dan that she is concerned that the juveniles who congregate in the downtown area are “planning something” and she wanted to know whether she could direct the Metro police department to intercept and listen to their wireless cellular telephone communications to “see what they are up to.”

Ann provided Dan with a copy of the proposed ordinance and the minutes of the last City Council meeting. Upon reading the minutes Dan realized that he had recently represented Cathy in transactions involving the operation of her youth center in downtown Metro.

Dan asks you to prepare a memorandum that discusses the legality of Ann’s actions and the proposed juvenile curfew ordinance under the Florida constitution. Dan advises that your memorandum should include suggestions for strategies of how to revise the legislative findings of the proposed ordinance so that it passes constitutional muster. Dan also asks you to address whether his prior representation of Cathy presents any issues associated with the representation of Ann.

END OF QUESTION NUMBER 2

QUESTION NUMBER 3

(Use bright orange booklet for essay answer)

Debbie owns ten antique cars and decides to open a car museum. Her uncle lends her \$10,000, and she gives him an antique car. They sign a promissory note for the loan, and it states that Uncle will hold the car as collateral. They mail the car's title to the Department of Highway Safety and Motor Vehicles, and Uncle receives a new title listing him as a lien holder.

Several months later, Debbie opens the Old Time Car Museum by getting a \$500,000 loan, this time from First Bank. Debbie signs a promissory note that says the loan is secured by all of her business and personal assets as described in a financing statement. Debbie files a financing statement naming herself as the debtor and listing as collateral all cars and all merchandise for sale in the museum, whether now owned or later acquired.

In the museum's gift shop, Debbie agrees to sell, on consignment, gas station antiques that are owned by Carlos. They execute a security agreement stating that the merchandise is owned by Carlos and only placed on consignment. Debbie will retain 25 percent of sales as her commission. Carlos files a financing statement naming Debbie as the debtor and describing the antiques on consignment. Debbie sells an antique gas pump for \$5000 and accepts a personal check made payable to "Debbie Debtor, Carlos Consignor." Debbie signs the check by herself and cashes it at First Bank. She never pays Carlos his 75 percent share.

With little money and loan payments due, Debbie advertises several cars for sale (not including the car used as collateral for the loan from Uncle). She sells one car for \$25,000. The buyer gives Debbie a cashier's check from First Bank. The cashier's check was purchased by William and payable to Car Buyer. Car Buyer endorses the cashier's check and makes it payable to Debbie. Debbie deposits the cashier's check and writes checks for her loan payments. But, due to an unrelated dispute with Car Buyer, William places a stop payment order on the cashier's check. First Bank then refuses to honor the cashier's check. Without these funds, Debbie's loan checks are returned. Debbie's loans with Uncle and First Bank are now in default.

Debbie has retained your firm, and a senior partner has asked you to prepare a legal memorandum addressing the following questions:

1. Describe the claims to the cars and antiques that can be made by Uncle, First Bank, and Consignor.
2. Describe any claims that either Debbie or Carlos have against First Bank.

END OF QUESTION NUMBER 3

END OF MORNING SESSION