

## DIVORCE SCENARIO

### General Facts

1. John and Jane have been married for 24 years. They have lived together in a small town in the middle of Wisconsin. Their marriage has had its ups and downs, but John moved out of the house when Jane discovered that he was having an affair. Since then, Jane has remained in the home.

2. They have three children:

- A. Charles, age 26
- B. Henry, age 19
- C. Lucy, age 14

3. Charles graduated from Marquette law school about a year ago and joined his father in practice as an associate. While his parents paid for his undergraduate education, he has approximately \$75,000 in debt from law school. He married a young lady he met in law school, but she is not working (despite quite a bit of debt of her own) as she is taking care of their new baby.

4. Henry just completed his freshman year at Arizona State where he is majoring in partying, er, I mean he is undecided. His first year grades were, to put it mildly, not particularly good and it is not clear if he will remain in school. His parents paid for his first year, but have told him that they will not pay for his remaining years unless he spends more time with his books and less with his beer.

5. Lucy is a bright, precocious young lady whose interests seem to be migrating from school and books to boys and drinking and possibly weed. While she lives primarily with mom, there have been a few occasions where she has gotten angry at mom due to her "ridiculous" rules (worst mother ever!) she has gone to live with dad, but she always returns after a few days. Her grades have significantly deteriorated following her parents' separating. While she is clearly bright enough to go to college, there is little money saved for that purpose.

6. John is 59 years old and in good health. He traditionally worked 60-70 hours per week. During at least one of his extended work days, a female client remained in his office late which resulted in sex. When he refused to leave his wife, the now ex-client called Jane and told her and later filed a grievance with OLR which is still being investigated. Since he has only one other OLR grievance that went further than an exchange of letters (that one resulted in a private reprimand), he will probably get a public reprimand. Jane suspects other affairs without proof. John's taxable income in recent years has been:

3 years ago:	\$220,000
2 years ago:	\$180,000
Last year:	\$100,000
This year:	Pro-rated to be \$60,000.

John claims his income is down partly because he has reduced his work hours to about 45-50 hours per week (with no female clients after hours) and due to absorbing Charles into his practice. He plans to retire in 3-4 years and let Charles take over his practice. His plans are to stay involved, with reduced pay, until Charles can be successful on his own.

7. While Jane has a bachelor's degree in literature, she has not worked outside the home full time since before having babies. Given John's income, there was no reason to do so and John was fine with that. Instead, she has volunteered at the childrens' schools and at numerous community events and charities. She is in good health.

8. Jane inherited \$5m about ten years ago from her mother (her father died earlier). John was responsible for making investment decisions, for which he dedicated substantial hours. As a result (or perhaps it was the luck of market timing?), the inheritance is now worth about \$10m. In addition, at some point the title to the inheritance (which was always invested at a securities institution) was changed from Jane's name to joint name. John claimed that he transferred ownership with Jane's permission (what appears to be her signature is on the necessary forms) to make it easier for him to make the investment decisions. Jane denies any consent, says her name was forged, undoubtably by John, on the transfer documents.

#### ISSUES:

1. Should John pay spousal support (maintenance) to Jane?
2. If so, how much (as a percentage of income) and for how long?
3. What orders should be made regarding placement for Lucy?
4. Should either party pay child support for Lucy?
5. Should either party be ordered to pay for Lucy's college
6. Should Jane be awarded her inheritance or should it be divided with John? If divided, should it be divided equally or otherwise?

#### APPLICABLE LAW

1. Typically in a long term marriage, a court will divide income equally or close to equally, but it is very much in the discretion of the court.
2. Typically in a long term marriage, a court will not put a term limit on maintenance.
3. Child support is based on (to the extent relevant here) the placement schedule and relative income of the parties.
4. A court cannot order either party to pay for post high school expenses, but if the parties agree to do so, an order adopting such agreement would be enforceable.
5. Inheritances are usually separate property, but if title is changed from single to joint, there is a rebuttable presumption of "donative intent".
6. Infidelity is not relevant as Wisconsin is a no-fault state, but it can be an issue if it affects any financial issue including ability to produce income or the value of an asset (like John's law practice).