

QUESTION 9 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK III

Pat the lawyer's client, Gertrude Guard, explained to Pat that she was thinking of divorcing her husband, Gary Guard, but she needed some advice. She and Gary, both prison guards in Ionia, Michigan, earning approximately the same salary, had lived together for nearly 10 years before they decided to marry. They lived in an apartment to save money because they planned to build a home on 5 acres of land that Gary's father deeded to him during the eighth year they lived together.

The land was given free of any encumbrances. For tax purposes, Gary quit claimed the property to himself and Gertrude after they were married. After 10 years of cohabitating and 5 years of marriage (without having children), the couple's joint bank account, which they had agreed to use for the construction of the home, was worth approximately \$60,000. However, explained Gertrude, she was sure that Gary was having an affair. In addition, she was worried about her future because she had slipped on a grape at the local supermarket and injured her leg, making it difficult for her to effectively perform her guard duties. In fact, she had settled the case and received a \$5,000 settlement check from the supermarket that was specifically designated for her pain and suffering, although she had not yet cashed the check. Three questions are raised:

1. The market value of the 5 acres is less now than it was when the property was transferred to Gary. Will Gertrude receive anything in a divorce for the 5 acres of land?

2. Will Gertrude be awarded spousal support?

3. Should Gertrude cash the settlement check from the supermarket now or should she wait until she files for divorce, or even wait until the divorce is final?

How should Pat respond to Gertrude's questions? Identify the issue(s) presented and explain your answers.

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