

Take Home Assignment #1 (25 points)

Civil Law of Persons

Professor Monica Hof Wallace

Bob and Carol were married in New Orleans in 2005. One year later they bought a house and moved in together immediately. The act of sale listed Bob and Carol as purchasers and stated that they had been married but once and then to each other. That same year, Bob secured a job managing a hotel in the French Quarter. Carol teaches English at a local high school.

Bob did very well in his position and in 2009, he received a promotion appointing him as manager of a resort hotel in Lake Charles. However, Bob and Carol did not want to sell their house and move to Lake Charles. Consequently, Bob rented an apartment in Lake Charles and stayed there during the week, and would return to New Orleans on Friday evenings, spending the weekends with Carol. While not ideal, Carol tolerated this arrangement so that Bob could advance his career.

Two months after Bob began working in Lake Charles, he met Dana, who managed a local restaurant. In derogation of his marriage to Carol, Bob began dating Dana, but never told her that he was already married. He also told Dana that both his parents were dead and that he had no brothers or sisters. He also explained to Dana that he had a weekend job selling real estate in New Orleans. The couple's relationship continued and they were married on September 1, 2011, in a very small ceremony attended only by their friends in Lake Charles and members of Dana's family.

After the wedding, Dana moved into Bob's apartment. Bob continued to spend his weekends in New Orleans with Carol, but Carol was growing increasingly dissatisfied with Bob's absence during the week. Dana was very happy to be with Bob and never suspected anything about his life in New Orleans. Bob kept all his business records in a locked file cabinet in his office at the hotel. He also suggested that they file separate tax returns.

In January 2013, Bob and Dana purchased a piece of rental property in Denham Springs for the price of \$200,000. The act of sale indicates that the property was acquired by Bob alone and it was purchased with his earnings from the resort casino. In July 2013, Dana became pregnant. Unfortunately, in January, 2014, Dana was injured in an automobile accident and her doctor has told her that her unborn child was also injured and would be born deaf. Meanwhile, Carol decided to pay Bob a surprise visit during the week, went to the apartment and learned about Dana. Likewise, Dana learned about Bob's marriage to Carol.

Dana was shocked to learn of Bob's prior marriage to Carol and she wants to terminate the marriage immediately. She also wants to go back to using her maiden name. Dana has engaged you to represent her. In evaluating this case, respond to the following questions, giving full reasons for your answers. **You must give full reasons for your answers in order to receive credit.**



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1. Is Dana's marriage to Bob valid? **(5 points)**.
2. What are Dana's rights, if any, as a result of her marriage to Bob, including her right to the rental property in Denham Springs? **(8 points)**.
3. Can Dana sue Bob for divorce based on the fact that he was already married to Carol when he married Dana? **(2 points)**.
4. What action, if any, is required, in order for Dana to change her surname back to her maiden name? **(2 points)**.
5. Assume you no longer represent Dana and Carol has come to your office seeking advice. What type of divorce action would you recommend that Carol file? Explain your answer. **(8 points)**.

