

## ESSAY #2

Topics: Maintenance, Domestic Violence, Dissolution, Parenting Plans

Josh and Amy have been married for 10 years and have three children: Bradley, age 8, Ansley, age 6, and Kara, age 4. Josh has severe anger management issues and has verbally abused his wife and children on a number of occasions, and has hit his wife several times. He has sought help to control his anger, but has made little progress. During his most recent episode, Josh pushed Amy so hard that she injured her tailbone in the fall. The police were not called, and no charges were filed.

After the incident, Amy rented an apartment and moved in with the children. The children have been visiting Josh every other weekend, and on occasion during the week. There are no court orders in place.

Josh works as a regional sales representative for a pharmaceutical company and travels often for work. He receives commission in addition to his annual salary of \$60,000. Josh used his commission bonus from the last two years to buy a new car, prior to the parties' separation. Amy works as an executive assistant for a marketing firm, earning \$50,000 annually. The family home was purchased at the beginning of their marriage with joint savings. Josh plans to keep the family home, and Amy plans to continue renting for the time being.

Recently when the kids were staying with Josh, Bradley reported to Amy that Josh had slapped him. Amy noticed a bruise on Bradley's wrist where he said he had been hit. Amy confronted Josh about the incident and he dismissed the accusation. Amy is scared for her own safety, and that of her children, and wants to petition for dissolution and custody of the children. She is concerned about Josh having decision-making power over the children and does not want them visiting him anymore. She also wants maintenance and child support. She has come to an LLLT for assistance and guidance.

1. What considerations apply to the request for maintenance and child support?
2. What are Amy's legal options for addressing Josh's domestic violence? What provisions should the parenting plan contain for the safety of the children in light of Josh's anger issues?
3. How will the Court characterize the property in this relationship?

**GRADING GUIDELINES**

Questions	Weight
<p>1. What considerations apply to the request for maintenance and child support?  <i>Candidate must mention 3 of following factors to receive full credit:</i></p> <ul style="list-style-type: none"> <li>A. Child support (if any) received by Amy and paid by Josh, because this affects her need and his ability to pay maintenance.</li> <li>B. The recipient’s need and the payor’s ability to pay, as well as the duration of the marriage.</li> <li>C. The ability of/time required for a party to become self-sufficient.</li> <li>D. The parties’ financial resources, including the award of property.</li> <li>E. The standard of living established during the marriage.</li> <li>F. Ages, health, emotional condition, and financial obligations of both parties.</li> </ul>	<p>30%                      (each factor mentioned is worth 10%)</p>
<p>2. What are Amy’s legal options for addressing Josh’s domestic violence? What provisions should the parenting plan contain for the safety of the children in light of Josh’s anger issues?</p> <ul style="list-style-type: none"> <li>a. (25%) Amy may obtain a DV Protection Order. <i>Candidates must mention a DVPO as a possible legal option to receive full points, but it is also valid to mention anti-harassment or other protective orders.</i></li> <li>b. (15%) Josh’s time with the children should be restricted due to his history of domestic violence.</li> <li>c. (10%) <i>Candidate must mention 1 of following factors to receive full credit:</i> <ul style="list-style-type: none"> <li>i. Josh’s restrictions could include being supervised, having reduced time with the children, and/or being required to complete additional anger management classes and/or parenting classes.</li> <li>ii. The parenting plan should include provisions regarding the exchange of the children to minimize contact between Amy and Josh.</li> <li>iii. The plan should also specify how the parents will communicate regarding the children (such as via email rather than in-person).</li> </ul> </li> </ul>	<p>50%</p>
<p>3. How will the Court characterize the property in this relationship?  <i>Candidate must correctly characterize 1 of the following.</i></p> <ul style="list-style-type: none"> <li>a. The car purchased by Josh should be characterized as community property, because it was purchased while the couple was still married.</li> <li>b. The family home will also be considered community property and this will factor into the overall distribution of property.</li> </ul>	<p>20%</p>