

1. Jurisdiction to determine divorce is based upon domicile, or residence with intent to remain. Britney is domiciled in CA, not in LA. Although B lived in LA during the couple's separation, she never intended to remain there permanently. When they reconciled, she returned to CA to live, illustrating the temporary nature of the LA residence.
2. Britney will respond that she was in fact domiciled in LA, and that the reconciliation in May 2005 actually proves the couple's intention to make LA their home. They bought a house and determined to live a simple life there, traveling to CA for business purposes.
3. Jurisdiction to determine custody is based on the UCCJEA, which places jurisdiction in the child's "home state" – the place where the child has lived with a parent, or one acting as a parent, for the last six months. If the child is under six months, it is where the child has lived since birth. Under the Act, Jayden's home state is clearly CA. With respect to Sean, he does not have a home state, because he has lived in two places in the last two years. So, the significant connections test should apply. Although both states have connections to the action, CA has more connections, so LA should defer to CA, particularly since jurisdiction with regard to J is clearly in CA.
4. Britney will respond that Sean's Home state is LA. At the time the suit was filed, he had been in CA for only a few months. He had been living in LA with either his mother or grandmother (person acting as a parent) for two years. With respect to J, her argument is more difficult. She can try to argue that when custody jurisdiction is split, and when a child is under six months, the court should place jurisdiction in the state with jurisdiction over the older child.
5. Kevin will argue that the LA court lacks personal jurisdiction to decide PD and A claims, because he is not a resident. However, he has visited recently in the state, has purchased property there, which meets the minimum contacts test for personal jurisdiction.
6. Britney's grounds:
Adultery with former girlfriend – condoned by resuming sexual relationship
HCI (partying, leaving her alone with newborn, drug use, adultery) – condonation by resuming cohabitation after separation
H Drug use – condonation by resuming cohabitation after separation
7. Kevin's grounds:
Adultery (Mario – opportunity)
HCI – partying, leaving him
8. Britney sought divorce in LA possibly to reduce media coverage, because she is a LA resident and the courts might be more sympathetic to her, and because it might be more difficult to get witnesses to court to testify regarding her recent behavior.

9. The legal disadvantage is that CA is a true no-fault divorce state, where she can unquestionably get a divorce. In LA (like MS) ID divorce is available only if both parties agree. Her fault-based grounds are questionable, so she may not be able to get a divorce in LA if Kevin does not agree.

10. Children's age (tender years doctrine) Both children are very young, and, although there is no longer a maternal preference, the children's young age is still a factor favoring the mother. Continuity of care – she has been the children's primary caretaker since their birth. Stability of environment – she will raise the children in LA with her mother nearby; it is unclear where Kevin will even live.

11. Moral fitness – while he has cleaned up his act and reformed, Britney has become unfit to be a mother. She is partying, exposing her self, had sex in a hotel room with her children present. Stability of home environment, for same reason.

12. Britney's mother will argue that the court should apply the Albright test to determine custody as between her and the parents, rather than the traditional test. She will argue that because B surrendered custody to her in a legal proceeding, she relinquished the right to claim the parental preference.

13. B and K will argue that the court should apply the traditional test – that custody should be awarded to the natural parents, unless they are shown to be unfit or to have abandoned the child. They will argue that (1) Kevin did not agree to the grant of custody to her mother (2) the custody was clearly for a temporary purpose and not a general grant of custody, and (3) it is not clear that the order was in a "legal proceeding."

14. She will have to prove that B unreasonably denied her access to her grandchild, and (using the *Martin v. Coop* factors) that visitation to her will not interfere with the parents' raising of the child or their discipline of the child. Courts require a stronger showing for grandparents to get visitation over their own child's objection.

15. Kevin will argue that he did not sign the agreement voluntarily, but under duress, because of the timing (3 wks before a \$1 million wedding); that she insisted she would call the wedding off otherwise, and that he was in an impaired state. He also may argue lack of capacity, because he was so intoxicated he had no idea what he was doing. Duress not likely to win, but lack of capacity might.

16. First, she must prove the value of her property at the time of the marriage, to keep that portion separate. Then, she must prove that the \$50,000 increase was passive growth – not the result of her efforts during the marriage. (This will probably be difficult – it likely is partly passive and partly active). She must also be able to trace any commingled assets.

17. A lawsuit for invasion of privacy, or libel, represents damages to the individual, not to the marriage. By analogy to personal injury awards, damages for injury to the individual should be classified as her separate property, rather than as marital property.

18. If the book was written during the marriage, any income from the book will be property that was the result of efforts during the marriage. (Like passive income on marital assets). Future royalties on B's one-half interest in the project should be classified as marital.

19. The show was funded with B's separate, premarital property. However, both put active marital efforts into the production, making it at least partly marital. Possibly, Britney could trace her SP contribution to the joint venture, and any amount above that should be classified as marital.

20. B could attempt to have the marriage annulled or seek divorce. If she seeks divorce in CA, she may be able to get an ID divorce even if Mario objects. She could also seek either divorce or annulment based on bigamy in LA. If LA law on divorce grounds is the same as MS, an ID divorce cannot be granted before all property, support, and custody issues are decided. Therefore, she is not divorced from Kevin and the second marriage is bigamous.

21. Advise her to seek annulment, because Mario will not be entitled to property division or alimony if the marriage is annulled.

22. The gambling winnings will be classified based upon whether she used marital funds to play. Since they were just married the night before, it is likely that she used separate, premarital funds. In that case, the winnings are SP.

23. If the CA court awarded the divorce and addressed custody, no, because the parties have not all moved from CA. The issuing court maintains exclusive jurisdiction so long as one of the parties remains there. If the LA court awarded the divorce, it appears that both then moved to CA, at which time LA lost jurisdiction and CA gained jurisdiction. Britney could argue that she never really changed her domicile, or that because she moved back before CA ever officially took jurisdiction, it should be treated as though she remained in LA, so that LA retained jurisdiction.

24. Kevin will argue that the parties have joint physical custody, because if they do, the court must conduct an Albright-like analysis to determine which parent should have custody. He will argue that the phrase "primary physical" simply referred to the fact that the children spent slightly more time with B, or that in the event of deadlock on an issue, she was to resolve it.

25. Britney will argue that she has primary physical custody, and that, under LA (life MS) law, relocation is not a material change of circumstances. Thus, the court should not proceed to an Albright type analysis, but should simply continue custody in her.

26. Lindsay will argue that she is the child's birth mother, and therefore the child's legal mother. There is no evidence that she agreed to have the child as a surrogate for Paris.

Instead, Paris agreed to provide her with an egg in order to have a child that would be Lindsay's.

27. Paris will argue that the intention of the parties was that she would be the child's mother – in effect, Lindsay acted as a surrogate to give birth to a child that was intended to be Paris' child. Lindsay is only the birth, not the genetic mother, and the understanding between the parties should be enforced.

28. Matt will argue that the parties intended that he be the child's father, and that Andrew donated the sperm, Paris donated the egg, and Lindsay agreed to be the surrogate. In the alternative, he can argue that he is the child's "de facto" father – that he has acted as the child's father, provided more care than Andrew, and the child views him as a father. The fact that Andrew is the child's biological father does not necessarily mean that he should have custody or visitation. (*Griffith v. Pell*).

29. She may not have grounds to terminate. Failure to pay child support is not grounds for termination. Although he has not seen the children for 18 months, that may not be sufficient to constitute abandonment.

30. The agreement to waive child support will not be binding on June. As the custodial parent, she holds support as a trustee for the child and cannot agree to waive support. She will still be able to sue him for support years later.

31. \$10,800

32. \$720/month

33. Failure to exercise visitation imposes increased costs on the custodial parent, and is a reason to increase support above the guidelines.