

Understanding California Community Property Law

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Understanding California Community Property Law

SECOND EDITION

Jo Carrillo

PROFESSOR OF LAW

UNIVERSITY OF CALIFORNIA HASTINGS COLLEGE OF LAW



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*For my beloved parents on
their 68th wedding anniversary.*

Contents

Preface	xvii
Acknowledgments	xix
Disclaimer	xxi

PART I INTRODUCTION

Chapter 1 · The California Community Property System in Context	3
§ 1.01 What Is a Marital Property System?	4
§ 1.02 Community Property Systems: Some Similarities and Differences	6
§ 1.03 The California Community Property System	7
[A] Three Guiding Principles	7
[B] Marriage as a Partnership	8
[C] California's Unique History	10
§ 1.04 The California Family Code	13
§ 1.05 California Courts	14
§ 1.06 Overview of This Text	17

PART II THE IMPORTANCE OF CHARACTERIZATION

Chapter 2 · An Overview of Community Property	21
§ 2.01 Timing: Ownership and Partition of Property	
Acquired during Marriage	22
[A] The Community Property Principle	23
[B] Quasi-Community Property	26
[C] Quasi-Marital Property	27
[D] Money and Property Received from a Third Party for a Personal Injury Claim that Arose during Marriage	28
[E] Exemptions	31
§ 2.02 The Equality of Interest Principle	32
§ 2.03 Community Property Presumptions: An Overview	34
[A] The General Community Property Presumption	35
[1] Date of Acquisition	36
[2] Form of Title	37
[3] Rebuttal by Tracing or by Agreement	37

[B] The Special Family Code Presumption for Assets in Joint Form Title	39
[1] Applies in a Dissolution Proceeding Only	40
[2] Rebuttal by Agreement Only	41
[3] Retroactivity Issues	44
[4] Different Outcome If the Marriage Terminates at Death	45
[C] A Special Probate Code Presumption for Sums on Deposit in an Account	45
[1] Bank Accounts	45
[2] Rebuttal by Tracing or by Agreement	47
[D] Funds Obtained on Credit	49
[1] Loan Proceeds for a Credit Acquisition	49
[2] Rebuttal by the Lender's Intent Test	49
§ 2.04 Onerous Acquisition: The Labor Principle	50
§ 2.05 Property Inventories	52
§ 2.06 Summary	53
Chapter 3 • Separate Property	55
§ 3.01 State Protections for the Separate Property Owner	56
§ 3.02 The Basic Statute	57
[A] Time and Manner of Acquisition	57
[1] Before Marriage	57
[2] By Gift	58
[a] Gifts from Third Parties	58
[b] Engagement and Wedding Gifts Made by a Third-Party Donor	59
[c] Gifts Made by a Donor Who Is a Party to a Contemplated Marriage	63
[3] During Marriage: Separate Property Rents, Issues, and Profits	69
[4] From a Date of Separation to Divorce	71
[a] After a Date of Separation	71
[b] After Entry of a Judgment of Legal Separation	75
[B] By Lucrative Acquisition	77
[C] Separate Property Inventories	77
§ 3.03 Personal Injury Claims against a Third Party That Arose after Separation	78
§ 3.04 Personal Injury Claims against a Spouse	80
§ 3.05 By Contract	81
[A] By Premarital Agreement	81
[B] By Marital Agreement	82
§ 3.06 By Common Law Joint Title Forms at the Death of a Spouse	82
[A] Types of Joint Form Titles	82
[B] Common Law Joint Title Forms	83
[1] Tenancy in Common	83
[2] Joint Tenancy with the Right of Survivorship	84

[C] Community Property Title Forms	85
[1] Community Property	85
[2] Community Property with the Right of Survivorship	86
§ 3.07 Summary	88

PART III

COMMINGLED PROPERTY

Chapter 4 · An Overview of Commingling	93
§ 4.01 Commingling	93
§ 4.02 The Tracing Principle	94
§ 4.03 Inception of Title	94
§ 4.04 Apportionment	95
§ 4.05 Acquisitions versus Family Expenses	96
Chapter 5 · Accounts and Purchases Made from a Commingled Bank Account	97
§ 5.01 The California Multiple-Party Accounts Law (CAMPAL)	98
[A] Type of Account: Ownership, Access, Inheritance	98
[B] Beneficial Ownership of Sums on Deposit in an Account	102
[C] Net <i>Character</i> Contributions	106
[D] Net <i>Character</i> Deposits: Deposits Less Withdrawals Plus Interest	108
[E] Right of Reimbursement for Excess Withdrawals	111
§ 5.02 Purchases Made from a Commingled Bank Account	115
[A] The Requirement of Specialized Rebuttal Records	116
[B] Applying the Family Expense Presumption	119
[C] Rebuttal Methods	119
[1] <i>See v. See</i> Exhaustion	120
[2] <i>Hicks-Mix</i> Direct Tracing	120
§ 5.03 Joint Safe-Deposit Boxes	125
§ 5.04 Summary	126
Chapter 6 · Credit Acquisitions	129
§ 6.01 A Secured Credit Purchase Made during Marriage	129
[A] A Purchase Made with Cash: The Basic Tracing Formula	130
[B] A Purchase Made with Borrowed Funds: The <i>Aufmuth</i> Modification of the Basic Tracing Formula	131
§ 6.02 A Secured Credit Purchase Made before Marriage	136
[A] A Premarital Purchase	137
[1] The Community Estate's Pro Tanto Interest: <i>Vieux</i>	137
[2] Commingled Appreciation: The <i>Moore</i> Formula	141
[3] Premarital Appreciation: The <i>Moore/Marsden</i> Formula	146
[B] Transmutation	150
[C] An Improvement Made with Community Funds	151
[1] Capital Improvements: The <i>Bono</i> Formula	151
[2] Maintenance and Noncapital Improvements	152

§ 6.03 A Right of Reimbursement for Separate Property Contributions to an Entirely Community Property Asset	153
§ 6.04 The Lender's Intent Test	157
§ 6.05 Summary	159
Chapter 7 • Separate Property Business Growth	161
§ 7.01 Conceptual Elements	161
§ 7.02 The Underlying Business	162
§ 7.03 The Community Property Labor Contribution to Business Growth	166
§ 7.04 Separate Property Business Appreciation, Rents, Issues, and Profits	167
[A] The <i>Pereira</i> Recap Formula	168
[B] The <i>Van Camp</i> Reimbursement Formula	171
[C] <i>Pereira</i> or <i>Van Camp</i> ? Additional Examples	173
[D] Salary	176
§ 7.05 Summary	176
Chapter 8 • Life Insurance	179
§ 8.01 Basic Terms	179
§ 8.02 Insurable Interest	180
§ 8.03 Term Life Insurance	182
[A] The Premium Payments	186
[B] The Policy	188
[C] The Proceeds	191
§ 8.04 Whole Life Insurance	194
§ 8.05 Summary	196
Chapter 9 • Work Life: From Training to Retirement	199
§ 9.01 Income-Enhancing Degrees and Licenses	199
[A] Property Outside of the California Community Property System	200
[B] The Community Reimbursement for Direct Contributions to Education	201
§ 9.02 Celebrity Identity	206
§ 9.03 Work Issues	207
[A] Defined Benefit Plans	209
[B] Defined Contribution Plans	212
§ 9.04 Summary	212

PART IV

DUTIES, RIGHTS, AND LIABILITIES

Chapter 10 • Management and Control of Community Property	217
§ 10.01 Management and Control: A Brief Timeline	217
§ 10.02 Community Personal Property	218
[A] Equal Management and Control	220
[B] Disclosure Obligations	226

[C] Impairment Claims and Remedies	230
§ 10.03 Community Real Property	232
[A] The Joinder Requirement	232
[B] Avoidance	232
[C] The House on Halm Avenue: The Limits of a § 1102 Avoidance Remedy	233
§ 10.04 Rights and Obligations Related to Any and All Community Property	236
[A] Section 721(b): Transactions with Each Other and Third Parties	236
[B] The Statutory Duty of the Highest Good Faith and Fair Dealing	236
[C] Disclosure	240
§ 10.05 Summary	242
Chapter 11 • Domestic Violence	243
§ 11.01 Historical Bases and General Procedure for Interspousal Tort Claims	244
§ 11.02 Domestic Violence Protective Orders and Monetary Claims	248
[A] The DVPA Temporary Restraining Order	249
[B] Intersection of DVPA Protective Orders and Property Management and Control	253
[C] Property Destruction during an Altercation	254
[D] Disturbing the Peace	257
§ 11.03 Related Wrongs: Restraining Orders, Torts, and Crimes	262
§ 11.04 Community Property Impairment Claims and Recoveries	267
§ 11.05 Remedies for Conviction for Attempted Murder of a Spouse, Wrongful Death, and Homicide	268
§ 11.06 Summary	269
Chapter 12 • General Principles of Community Property Liability	271
§ 12.01 General Principles of California Community Property Law	272
[A] Basic Terms and Concepts	273
[B] Contract Liabilities	275
[C] Tort Liabilities	276
[D] Other Obligations	277
§ 12.02 Support Obligations	279
[A] Child and Spousal Support Obligations	279
[B] Parental Support Obligations	280
§ 12.03 Exemptions for the Non-Obligor Spouse	283
[A] Community Property Earnings	283
[B] Separate Property	286
[C] Exceptions: The Necessaries Doctrine	287
[1] Necessaries of Life during Marriage	288
[2] Common Necessaries of Life after a Date of Separation	289
§ 12.04 Summary	292

PART V

CONTRACTS BETWEEN PROSPECTIVE SPOUSES,
SPOUSES, AND NONMARRIED COHABITANTS

Chapter 13 • Premarital Agreements	297
§ 13.01 Premarital Agreements: An Overview	297
§ 13.02 Formalities	300
[A] The Writing Requirement	300
[B] Permissible Subject Matter	302
[1] Property Terms	302
[2] Non-Quantifiable Terms	303
[C] Amendments and Revocations	304
[D] Stale Premarital Contracts and Contract Terms	305
§ 13.03 Statutory Subject Matter Limitations	308
[A] Provisions in Violation of Public Policy	308
[B] Spousal Support Provisions	308
[1] Spousal Support during Marriage	309
[2] Spousal Support after Dissolution	311
§ 13.04 Post-Dissolution Spousal Support Waivers: Legal Transitions	311
[A] <i>Marriage of Higgason</i> : The Pre-CPAA 1985 Standard	311
[B] <i>Marriage of Pendleton & Fireman</i> : The CPAA 1985 Standard	311
[C] The CPAA 2001 Standard	312
[1] Represented by Independent Counsel at Execution	313
[2] Not Unconscionable at Enforcement	313
§ 13.05 General Contract Enforceability: Disclosure and Consent	315
[A] Consent: Disclosure/Unconscionability	316
[B] <i>Marriage of Bonds</i> : Consent, Voluntariness, Coercion	316
[C] Other Factors	320
§ 13.06 Amendments and Revocations	323
§ 13.07 Marital Contracts	324
§ 13.08 Summary	326
Chapter 14 • Transmutation	329
§ 14.01 The Statutory Framework	329
[A] Statutory Authority	329
[B] Methods of Transmutation: By Transfer or by Agreement	330
[1] Transmutation By Deed Transfer	331
[2] Transmutation by Agreement	331
[a] During Marriage: Revocations and Amendments to a Premarital Agreement	331
[b] During Marriage: A First-Time Agreement or a Reconciliation Agreement	332
§ 14.02 Family Code Formalities and Requirements	332
[A] The Express Declaration	332
[1] Required by Statute	332

[2] Express Declaration: Defined by Case Law	334
[B] Validity	343
§ 14.03 Exempt Interspousal Gifts	348
§ 14.04 Transmutation by Operation of Law	351
§ 14.05 Summary	352
Chapter 15 · Nonmarital Relationships	355
§ 15.01 Nullity	356
[A] Void Marriage	357
[B] Voidable Marriage	358
[1] Lack of Capacity	359
[2] Excusable Bigamy: Marriage “Suspension”	360
[3] Fraud	361
[4] Force	363
[5] Physical Incapacity	364
§ 15.02 Registered Domestic Partners	365
§ 15.03 Nonmarried Cohabitants	370
[A] The Right to Contract: <i>Marvin</i> Cohabitation Agreements	372
[B] Consideration	374
[C] Breach	376
[D] Remedies	377
[E] To Marry or Not	378
[F] Domestic Violence Issues	379
§ 15.04 Summary	380

PART VI

TERMINATION OF MARRIAGE

Chapter 16 · Judgments of Dissolution, Legal Separation, and Nullity	385
§ 16.01 Validity of Marriage	386
§ 16.02 Termination of Marriage	387
[A] Grounds for Dissolution or Legal Separation	387
[B] Residency Requirement for a Judgment of Dissolution	390
[1] General Rule	390
[2] Residency Exemption for Same Sex-Spouses	390
[3] Determining Residency	390
[C] The Petition for Dissolution: <i>In re the Marriage</i> <i>of _____ and _____</i>	391
[D] The Necessity of the Final Judgment of Dissolution	392
§ 16.03 The Summary Dissolution	394
§ 16.04 Spousal Support Rights	395
§ 16.05 Family Code Protections for a Putative Spouse	397
§ 16.06 The Judgment of Nullity	399
[A] Void Marriage	399
[B] Voidable Marriage	400

§ 16.07 Division of Assets and Liabilities	402
§ 16.08 Judgments Tainted by Fraud, Duress, and Undue Influence	405
§ 16.09 Marriage Settlement Agreements	406
[A] Collaborative Law	407
[B] Family Centered Case Resolution	407
[C] Mediation	408
§ 16.10 Summary	415
Chapter 17 • Death	417
§ 17.01 The Probate Estate	417
[A] Defining the Decedent Spouse's Probate Estate	418
[B] Options and Characterization of Property	419
§ 17.02 The Decedent Spouse's Community Property	422
§ 17.03 The Decedent Spouse's Separate Property	426
§ 17.04 The Putative Spouse and the Putative Registered Domestic Partner Fall under the Category of Surviving Spouse	429
§ 17.05 Elder Abuse and Dependent Care Abuse by Marriage	429
§ 17.06 The Need for Estate Planning	431
§ 17.07 Summary	432
Table of Cases	433
Index	441

Preface

This *Understanding* text recounts California community property law as it now exists. The reader is asked to understand that the law is dynamic. What the Legislature and courts set down today will change by tomorrow. Change is not a flaw. It is a sign of dynamism.

This *Understanding* text can be read alone or used in conjunction with class materials. Each chapter states the code and case law and sets out examples. The examples are a useful learning tool to help reinforce the basic concepts presented in the text. Each example presents a succinct problem and answer to help the reader gain practice in working through the issues.

Each chapter of this text corresponds to a chapter in the Carrillo community property casebook. Every chapter has a short introduction, issue by issue coverage, and a concise conclusion. Statutory language appears in bold face print, for ease of identification. Court approved formulas are fully laid out and applied. Basic property concepts are explained, where relevant.

I am pleased to report that this text extends the field in several ways. First, bank accounts are given far more extensive coverage than any other text has provided to date. Second, domestic violence and domestic violence prevention, which is fast becoming a core part of community property law practice, is explicitly covered. This text is the first of its kind to date to discuss and link domestic violence issues to the field of community property law. Third, basic topics related to elder abuse prevention and alternative dissolution processes are discussed where relevant.

I relied on traditional legal research tools to write this work. This is good news for students and bar takers who want a doctrinal recounting of California community property law. This *Understanding* text is very much for you.

At the same time, much pondering went into my effort to rethink the foundation of the law. This is good news for readers who are more interested in social and theoretical underpinnings of the law than in the doctrine itself. Community property law is (still) an under-theorized area of law. That said, it is my view — based on hours of legal and historical research — that theoretical accounts of this technically complex field fall flat if they are not based on an understanding of what the principles and rules are, and how they work in a specific case. In the field of community property law, in other words, principles, rules, facts, and history go hand in hand with theory, if one has an interest in understanding the connection.

All California statutes are available online, either through <http://legalinfo.legislature.ca.gov>.

There is a 24-hour National Domestic Violence Hotline. The Hotline is a confidential service created through the U.S. Violence Against Women Act. Advocates are available by phone at 1-800-799-SAFE (7233) and by online chat at www.TheHotline.org. All calls are free and confidential.

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Jo Carrillo
April 2022

Disclaimer

I am a law professor, who is also trained as a mediator. I teach community property law, and I teach or have taught (among other topics) property law, wills and trusts, consumer lending, Federal Indian Law, and mediation. The research herein stems from my interest in the intersection between property and family law. As I see it, each person and each relationship is unique, which is the main reason this material is not intended as, nor is it, a substitute for professional legal or financial advice.

If you are reading this book as a student, this volume was written with your needs in mind. Even so, please understand that the law of California is exceedingly dynamic. It changes daily. This volume is up to date as of 2022.

If you are reading this book because you are entering into or exiting from a marriage, it is my hope that you will find this volume useful. Information is a powerful tool. It can help us understand the past and present with an eye toward planning a future. It is my belief that this volume can help you ask better questions of the professionals you consult or hire to provide you with personalized legal advice, whether they be lawyers, mediators, therapists, clergy, or financial experts. Please understand, however, that in an actual life transition (such as, for example, a change in marital status) there is absolutely no substitute for individually delivered professional legal or financial advice.

The names in this book are street names taken from San Francisco. I intend them as an act of gender inclusion; it is my hope they will contribute, even if only in a small way, to the repair of the world.

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