

Western State University College of Law
Community Property
Fall 2014
Syllabus & Policies
Professor Cheyana L. Jaffke

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Office Hours: I will have NO office hours after the last day of class.

Course Objectives:

1. To introduce students to the substantive legal rules that courts and legislatures have developed in identifying, valuing, managing, and distributing property acquired during marriage.
2. To enhance the student's analytical skills through the use of cases and problems.
3. To enhance the student's statutory interpretation skills through the use of various community property statutes.

This class is not a bar preparation course. However, I expect that you will gain sufficient knowledge that when it comes to bar preparation for this topic, it should be easy for you.

Required Texts:

Casebook: Grace Ganz Blumberg's Community Property in California, Aspen Law & Business (latest Edition).

You should have access to the California Family Code during class either online or in paper format.

Attendance

Attendance is required for all classes. Any student with more than **two (2)** absences will be academically disenrolled from the course and will receive a grade of "W" or "F" on their transcript as provided under the applicable attendance policies in your Student Handbook. It is your responsibility to keep track of the number of your absences, so don't ask my secretary, the Records Office or me how many absences you have. Because this course is bar-tested, I will not waive or excuse any absences.

The courts, employers, clients and I expect punctuality. Students who arrive after class has begun will be responsible for the oral presentation of that day's lesson. If you are both tardy and unprepared, you will be dismissed from class and your dismissal will count as an absence.

Class Participation:

Class participation is required of all students. Your preparation and participation is necessary to advance the discussion. Class participation consists of being prepared when called upon, and bringing the casebook to class.

For each day's materials, I will call on law firms randomly, but starting with those students who were tardy. The managing partner that week will identify who in the law firm will You will receive points over the course of the semester for your class participation. It is possible to have **NEGATIVE** points for class participation.

A student who is called upon may receive 1 point (+1) for adequately briefing the case or answering the problems. To be adequate, the student must be able to answer all questions without prompting or assistance from either me or co-counsel (your classmates). A student who requires minimal prompting or assistance will get 0 points. A student who requires more than minimal prompting or assistance will lose 1 point (-1). Also a student who is unable to define a term in the case or fails to pull and brief the case(s) attached to the problem will also lose 1 (-1) point. If after briefing a case or answering a problem, you would like to know what you received, you may ask immediately after class or send me an e-mail within 24 hours of the class.

Students who are unprepared when called upon will lose 10 points (-10) in class participation for the first instance during the semester. A student who is called on and is unprepared more than once in a semester will receive an absence for each time the student is not prepared after the first time in addition to the loss of 10 (-10) points each time. This absence counts towards your total number of absences and may result in your academic dismissal from the course.

You may also receive one point (+1) for participating in classroom discussion by regularly answering questions that are open for the entire class. You may also lose one point (-1) if your participation is disruptive and not helpful, such as wisecracking.

Much to the disappointment of many people, I am not able to read minds. That means that if you do not understand the material it is YOUR responsibility to ask questions. You should not wait until the end of the semester to tie all of your loose ends together. If you have question(s), are unclear on something in class, you may contact me via e-mail at chjaffke@wsulaw.edu or taxprof920@yahoo.com. Or you can schedule an appointment with me. I am on campus frequently, so you should stop by and see if I am in. Please knock, because a closed door does not always mean I am not here.

Law Firms

At the first class, every student will be placed into a law firm. Each week, the managing partner of the law firm will assign the responsibilities of the reading and problems among the law firm's partners. The managing partner's responsibilities rotate on a weekly basis in alphabetical order within the law firm.

Managing partner's responsibilities include but are not limited to:

- Assigning who briefs which case in class
- Assigning who presents which problems in class
- Assigning responsibility for typing up of assignments that will be turned in
- Turning in any assignments **BEFORE** class starts
- Making sure an absent partner is informed about what he or she missed in class
- Collecting handouts for the entire law firm and distributing them within the law firm
- Assuring that each present partner signs in on the sign-in sheet
- Informs Prof. Jaffke of a partner absent without notice to the law firm
- Communicating with Prof. Jaffke about problems within the law firm

Associate partner's responsibilities include but are not limited to:

- Satisfactorily completing work assigned by the managing partner
- Communicating with the managing partner regarding your absence and solution to who will participate in class on your behalf

LAW FIRM POINTS DO IMPACT YOUR GRADE.

Office Hours:

I am happy to meet with you at another time and location that it mutually acceptable.

My policy is an open-door policy even when the door is closed (Fiona may be hanging out in the office.) It is acceptable to interrupt my meals, class preparation, day dreaming, etc. If I am not available at that time, because of other faculty business, I will schedule something for you.

Methodology:

This course will use the case method of learning. Your textbook also contains cases, notes and questions. You are responsible for reading and briefing all assigned material.

Examinations and Grading:

All students will receive a numeric grade for the course. Course grades will be based upon a point system. Your grade will be based upon a final exam, which will be worth 100 points. See the Truth in Grading handout for more information.

The final exam will be a two-hour examination. The exam will be a closed book exam, which means that you will not be able to bring anything into the exam except a pen (NO CALCULATORS!). The exam is intended to mock a bar exam question or questions. To prepare for your exam, you should review sample community property questions that have been on the California Bar.

DropBox

I use drop box to upload the images displayed during class from my iPad. These things include any math we do in class or adjustments made to handouts. If you do not have an account with drop box, you can sign up for one free. You must then send me an e-mail requesting that I invite you to drop box. You will then receive an invitation to join in the community property folder of drop box.

Service Dog

Please be aware that I have a service dog. She may or may not come to class. Please do not attempt to feed or pet the dog if you see her without asking my permission. She is a working dog and not a family pet.

If you have a fear of dogs or are allergic, please make arrangements to speak with me so that we can find the best possible solution.

Reading Assignments:

We will cover the material in the following order. You should always be at least 60 pages ahead of where we left off from the last class to be considered prepared. The 60 pages are only a minimum and there will be times that we may go faster than 60 pages. You need to read the relevant statute sections listed within your assigned reading. For the first day of class, you will need to have read the first 60 pages assigned below (chapter 1 and 3).

Chapter 1 (pages 1 – 13 only)

Chapter 3

Chapter 4 (skipping the Andrews case)

Chapter 5

Chapter 6

Chapter 7 (starting at page 414)

Chapter 8

Chapter 9 (skipping pages 578-to end of chapter)

Chapter 11 (starting at page 646)

Community Property
Chapter 1
Study Guide

You should be able to define the following words and phrases:

1. Salient
2. Separate property
3. Community property
4. Elective share
5. Equitable distribution
6. Dower
7. Curtesy
8. Title jurisdiction
9. Dyad

You should be able to answer the following questions:

1. What are the only 2 ways a marriage can terminate?
2. How does community property arise?
3. What are the two systems of ownership for the husband-wife dyad?
4. Where did community property originate?
5. What states have a community property system or a community property like system?
6. What is the most salient characteristic of community property?
7. When does the non-earning spouse's interest attach under the community property system?
8. What was the purpose of the Married Women's Property Acts (MWPA)?
9. What was the effect of the MWPA?
10. What are the two redistributive mechanisms used in the common law system?
11. When would they be used?
12. How much is the elective share generally?
13. What is the purpose of equitable distribution?
14. What is the general rule of distribution in California in the case of divorce?
15. What is the main difference between the community property system and the common law system?
16. What was the purpose of the Uniform Marriage and Divorce Act (UMDA)?
17. What is the threshold requirement for support under UMDA?
18. How did California amend its spousal support law?
19. What must California courts consider?
20. In California, how long must a marriage last for the presumption of long duration to arise?

Community Property
Chapter 3
Study Guide

Define:

1. Patrimony
2. Ipso Facto
3. Kethuba
4. Anachronistic
5. Transmutation
6. Surplusage
7. Aphorism

Answer the following questions:

1. What is the presumption in California regarding property acquired during marriage?
2. How does §1500 affect that presumption?
3. What is the difference between a premarital agreement and an antenuptial contract?
4. Why didn't the California legislature adopt the version of the UPAA that allows enforcement of premarital contracts that waive or limit spousal support?
5. What are the requirements for transmutation after 1985?
6. What are the elements of §852(a)?
7. What is extrinsic evidence?
8. What is an express declaration?
9. What is parol evidence?