



WESTERN STATE COLLEGE OF LAW  
— AT ARGOSY UNIVERSITY —

## Community Property Syllabus

Professor Monica Todd

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Summer 2014

### 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 students' 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.
4. To effectively understand community property principles so you can advise future clients of their rights and responsibilities under California law. Even if you don't practice family law, many of your clients will be married, so this is important information to know. That's why community property is bar tested.

### Required Texts

Casebook: Grace Ganz Blumberg's Community Property in California, Aspen Law & Business (6th Edition).

### Attendance

Attendance is required for all classes. Any student with more than four 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. Because this course is bar-tested, I cannot waive or excuse any absences, however, your courtesy in informing the instructor of an upcoming absence is appreciated.

Please be punctual. We will start class promptly at 4:15 p.m.

### Methodology

This course will use the case method of learning:

*The case method:* Your textbook contains cases, notes and questions. You are responsible for reading and briefing all assigned material.

## Participation and Professionalism

Participation and Professionalism will be worth 20% of the course grade. Participation and professionalism is expected of all of the following and includes but is not limited to:

- Attending class consistently
- Being prepared when called upon
- Bringing the casebook to class
- Courtesy toward others
- Good-faith effort at all times

## Quizzes and Assignments

From time-to-time there may be unannounced quizzes, in-class or outside-of-class assignments. These activities will be worth up to 10% of the course grade.

## Examinations and Grading

All students will receive a numeric grade for the course. Course grades will be based upon a point system.

There will be a mid-term examination on July 1, 2014 that will be worth 20% of the course grade. This exam will largely consist of multiple-choice questions and may consist of a short essay question.

The final exam will be worth 50% of the course grade. 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, a regular calculator, and a ruler. 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 past California Bar Examinations. As we near the end of the semester, we will discuss effective approaches to spotting issues and preparing for the final examination.

## Course Web Page

All students will be expected to enroll in the course web page on Lexis. Please check the course web page regularly for announcements and additional information such as handouts.

## Reading Assignments

Our goal is to cover the material in our Community Property in California textbook as set forth below. You should always be at least 10 pages ahead of where we left off from the last class to be considered prepared. There may be times when we do not cover the entirety of the assigned reading. Nevertheless, you will be responsible for information contained within all reading assignments. Please read the relevant statute sections listed within your assigned reading.

**Class One: Tuesday, June 3, 2014**

Introduction: History of Community Property (CP) and Basic CP Principles

Chapter 1, pages 1-13 only

Chapter 2, the complete chapter

**Class Two: Thursday, June 5, 2014**

Variations of the Statutory Scheme: Premarital Contracts and Transmutation of Property During Marriage

- Premarital Agreements - Chapter 3, pages 67-106

**Class Three: June 10, 2014**

Variations of the Statutory Scheme: Premarital Contracts and Transmutation of Property During Marriage

- Transmutations - Chapter 3, pages 107-138

**Class Four: June 12, 2014**

Definitional and Tracing Issues

- Characterizing CP, Tracing – Chapter 4, pages 139-156  
(skipping the Andrews case)

Evidentiary Presumptions

- Framework and Presumptions During Marriage – Chapter 5, pages 157-173

**Class Five: June 17, 2014**

Evidentiary Presumptions in California Community Property Law

- Title Presumptions and Joint Title – Chapter 5, pages 175-193

Property Distribution at Divorce

- Timing, Jurisdiction, Equal Division – Chapter 9, pages 537-553

**Class Six: June 19, 2014**

Evidentiary Presumptions in California Community Property Law

- Lucas and anti-Lucas – Chapter 5, pages 196-230

Property Distribution at Divorce

- Deviation from in-kind division – Chapter 9, pages 553-563

**Class Seven: June 24, 2014**

Evidentiary Presumptions in California Community Property Law

- Common Law Title Presumption, improvements, family expense presumption, improvements and gifts - Chapter 5, pages 231-248

Classification of Property

- Credit acquisitions, lender's intent – Chapter 6, 279-291

Property Distribution at Divorce

- Misappropriation – Chapter 9, pages 564-573

**Class Eight: June 26, 2014**

Classification of Property

- Tracing, commingled funds, apportionment – Chapter 6, pages 249-278
- Reimbursement, tort recoveries, insurance proceeds – pages 291-320

**Class Nine: July 1, 2014 - *Take home mid-term examination***

Classification of Property

- Employee benefits, retirement plans – Chapter 6, pages 321-345

Property Distribution at Divorce

- Liabilities, timing – Chapter 9, pages 574-591

**Class Ten: July 3, 2014**

Classification of Property

- Disability payments, severance pay, early retirement, health insurance, stock options – Chapter 6, pages 346-371

#### Property Distribution at Divorce

- Set Asides – Chapter 6, pages 592-612

### **Class Eleven: July 8, 2014**

#### Classification of Property

- Business and professional goodwill, degrees and licenses - Chapter 6, pages 372-404

### **Class Twelve: July 10, 2014**

#### Management and Creditor's Rights

- Management of CP, real property, personal property – Chapter 7, pages 407-430

### **Class Thirteen: July 15, 2014**

#### Management and Creditor's Rights

- Limits on managerial power, gifts of CP, fiduciary duties, creditor's rights – Chapter 7, pages 430-467

### **Class Fourteen: July 17, 2014**

#### Inception and Termination of the Economic Community

- Lawful marriage, putative spouses, non-marital cohabitation, end of marital community – Chapter 8 (do not read pages 488-499)