

Western State University College of Law
Community Property
Fall 2016
Syllabus & Policies
Professor Cheyana L. Jaffke

Office Location: Second floor faculty suites Room 221S
E-mail: chjaffke@wsulaw.edu AND taxprof920@yahoo.com
Phone Number: (714) 459-1138
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 (6th 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 AND 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 or the document camera. 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.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The **Disabilities** Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

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)

ABA Standard 310. DETERMINATION OF CREDIT HOURS FOR COURSEWORK

(a) A law school shall adopt, publish, and adhere to written policies and procedures for determining the credit hours that it awards for coursework.

(b) A “credit hour” is an amount of work that reasonably approximates:

(1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time; or

(2) at least an equivalent amount of work as required in subparagraph (1) of this definition for other academic activities as established by the institution, including simulation, field placement, clinical, co-curricular, and other academic work leading to the award of credit hours.

Interpretation 310-1

For purposes of this Standard, fifty minutes suffices for one hour of classroom or direct faculty instruction. An “hour” for out-of-class student work is sixty minutes. The fifteen-week period may include one week for a final examination.

Interpretation 310-2

A school may award credit hours for coursework that extends over any period of time, if the coursework entails no less than the minimum total amounts of classroom or direct faculty instruction and of out-of-class student work specified in Standard 310(b).

This standard requires for every one hour in the classroom, you must spend at least two (2) hours of out of classroom preparation. For a two (2) unit course, you should expect to spend four (4) hours a week at a minimum preparing for class. This preparation includes reading and briefing cases, preparing written answers to the problems, working within your law firms on assignments and any additional assigned work: such as memorizing the definition of a gift. Please note that you do not need to spend all four hours at once. You can spend two hours with your law firm and another two hours reading and briefing cases. This standard is the ABA minimum, it is NOT the Professor Jaffke minimum. Given my experience teaching this class, please expect to take about 8 hours a week.

Argosy University**Institutional Learning Outcomes:****1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

2. Effective Communication

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

3. Information Competency

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

4. Interpersonal Effectiveness

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

5. Personal and Professional Integrity and Ethical Behavior

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

6. Professional Competence

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

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?