

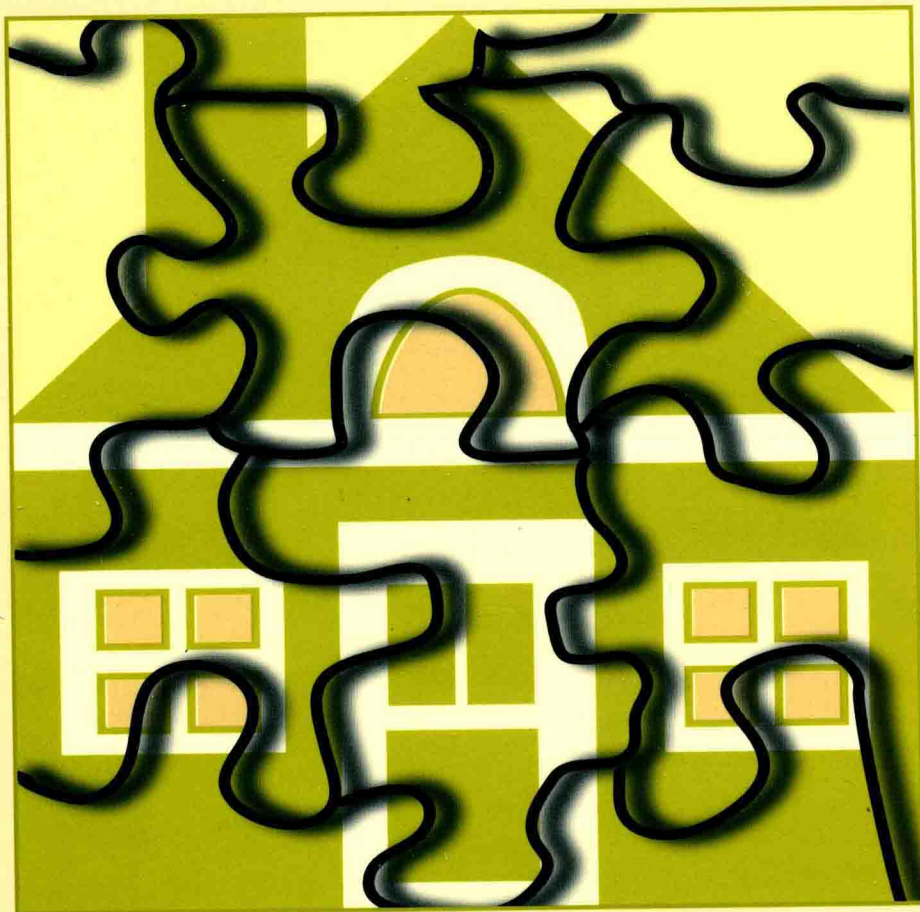
EXAMPLES & EXPLANATIONS

ASPEN PUBLISHERS

California Community Property

Third Edition

Charlotte K. Goldberg



Wolters Kluwer
Law & Business

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Professor of Law
Loyola Law School, Los Angeles



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Law & Business

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*To My Husband
Howard*

Preface

Over the years, students in my classes have frequently asked me for more examples so they can test their understanding of the complexities of California community property law. Although they find the community property concepts interesting, many students also struggle with their application. There are several reasons why California community property law is so challenging and why applying it can be so difficult. First, California law protects competing interests: community property that belongs to both spouses and separate property that belongs to each spouse. Second, the courts and the legislature have wrestled with how best to protect those competing interests. Third, changing perceptions of marriage and women's rights have provided another overlay to community property law. Finally, California community property law is often not retroactive, which means that for several topics it is necessary to learn two sets of law.

To help you master California community property law, this book presents a comprehensive framework for addressing the myriad characterization issues that arise at either divorce or death. That framework is called FIT and stands for "funds, intentions, and titles." It is explained in the Introduction and should be an aid in approaching characterization of property as either community or separate. Also, this book breaks down the topics into manageable chunks. This is necessary because there are technical rules that apply to each distinct topic. For instance, specific rules apply to bank accounts where both separate and community funds are commingled. Also, particular formulas determine whether the community has an interest in separate property businesses.

Since the publication of the Second Edition, California courts have decided several issues regarding community property law. For instance, courts examined whether the putative spouse doctrine was available to domestic partners and to a "bad faith spouse." Yes to both. Also, it was determined that an automobile was not a "tangible item of a personal nature" for the purpose of the transmutation statute "gift exception." Another transmutation issue was decided: that estate planning documents could control how property is characterized in divorce proceedings. See Chapter 2. Finally, one case created controversy when it held that a separate property presumption applied when title to a home was put in the wife's name. That case, *Marriage of Brooks and Robinson*, is discussed in Chapter 3 and 6.

Preface

This book covers most topics taught in a California Community Property course and should provide a useful way to test your mastery of those topics.

Charlotte K. Goldberg

May 2010

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California Community Property

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