Preface Acknowledgments		xvii xix
Chapter I	Introduction	1
	How Did We Get to Where We Are Today? Community Property and Common Law Concepts Converge Common Law Ideas Dominate Let's Get to the Basics Consequences of Characterization Only Two Categories Does It FIT?	1 2 3 4 4 5 6
Chapter 2	The Community Chameleon: How Property Can Be Changed by Agreement	11
	Premarital Agreements: Purpose and Background Premarital Agreements in California, 1986 to the Present The 1986 Premarital Agreement Act General Requirements Subjects of Premarital Agreements 1986 Act Defenses to Enforceability The 2002 Premarital Agreement Act Amendments Seven-Day Waiting Period: Case Law 2020 Amendment Seven-Day Rule Subject Matter of Premarital Agreements Spousal Support Voluntariness and Legal Representation Provisions Concerning Infidelity or Spousal Misconduct Retroactivity of Family Code Amendments Transmutation: Prior to 1985 Transmutation: 1985 to the Present How to Transmute: Estate of MacDonald Extrinsic Evidence Marriage of Valli: Rule and Application	11 13 13 13 15 16 18 19 20 20 20 21 22 32 34 36 39
	Gift Exception "Commingled or Otherwise Combined" "Statement in a Will"	40 42 43

Chapter 3	Evidentiary Presumptions	53
	The General Community Property Presumption	53
	Acquired or Possessed?	55
	Short Marriages/Burden of Proof	56
	Presumption When Title Is in One Spouse's Name	57
	Apportionment	60
	The Married Woman's Special Presumption	62
Chapter 4	Let Me Call It Mine, Yours, or Ours:	
	The Role of Title in Characterization	
	of Property	71
	Joint Tenancy Deeds and Titles	72
	The Title or the Funds?	72
	Reimbursement of Separate Property	74
	The Two-Step Analysis: Characterization and	
	Reimbursement	74
	Oral or Written Agreement for Rebuttal?	76
	Oral Agreement Prior to 1984	76
	No Agreement Prior to 1984	78
	Summary	79
	Community Property Deeds and Titles	86
	The 1987 Amendments	87
	Two Sets of Rules?	89
	Community Property with Right of Survivorship	96
	Tenancy in Common	98
	Spotlight on Reimbursement	102
	Improvements: Selfish or Selfless?	107
	Separate Property Funds Improve Other Spouse's	
	Separate Property	108
	Community Property Funds Improve Other	
	Spouse's Separate Property	110
	Community Property Funds Improve His or Her	
	Own Separate Property	112
	Amount of Reimbursement	114
Chapter 5	The Tangible and the Intangible:	
	Classification of Specific Types of Property	121
	Commingled Bank Accounts	121
	Family Expense Presumptions: Community Property First	121
	Presumptions and Tracing Rules	123
	Exhaustion Method: See v. See	123

	Direct tracing Method: Marriage of Mix/Estate of Murphy	125
	Keeping Adequate Records	126
	Joint Bank Accounts	127
	Community Businesses, Professional Practices, and Goodwill	132
	What Is Goodwill?	132
	How to Value Goodwill?	135
	Educational Degrees	144
	The Debate	144
	The Problem	144
	The Solution	145
	Who Receives the Reimbursement?	145
	Loan Incurred Prior to Marriage	146
	Education: Enhancement of Earning Capacity	147
	Pensions	155
	Pension Vocabulary	155
	Vested/Unvested Pensions: Marriage of Brown	156
	Matured/Unmatured Pensions: Marriage of Gillmore	157
	Enhanced Retirement Benefits: Marriage of Green	158
	Disability Benefits	159
	Marriage of Stenquist	160
	Marriage of Saslow/Elfmont	161
	Severance Pay/Early Retirement Benefits	163
	Severance Pay	163
	Early Retirement Benefits	165
	Separate Property Businesses	175
	The Formulas: Pereira/Van Camp	176
	Which Approach to Use?	178
	Credit Acquisitions	183
	Intent of Seller/Lender Test	183
	Primarily or Solely Is the Test?	185
	Separate Property Loan/Community Property Repayment	186
	Marriage of Moore	187
	Marriage of Marsden	190
	Do Time and Title Change the Outcome?	192
Chapter 6	Who Has the Power? Management and	
-	Control of Community Property	203
	Community Personal Property	203
	Gifts	204
	Community Businesses	206
	Fiduciary Duty	207
	Community Real Property	214

	Restraints During Divorce Proceedings Remedies	219 222
Chapter 7	What if We Have Debts? Creditors' Rights and the Community	235
	Liability for Marital and Premarital Debts Exceptions to Liability Rules Child and Spousal Support Obligations Tort Obligations Living Separate and Apart Summary	235 236 238 239 240 241
Chapter 8	How Do I Leave Thee? Division at Divorce	247
	Separate and Apart Marriage of Baragry Look at All the Conduct Separate and Apart Under One Roof? The Legislature Abrogates Davis and Sets a New Standard Date of Separation and Reconciliation Division of Assets and Liabilities at Divorce Characterizing Debts What if Debts Exceed Assets? Debts After Separation	247 248 249 250 251 252 257 257 260
Chapter 9	Until Death Do Us Part? Division at Death	269
	Joint Tenancy Compared to Community Property Presumptions re Joint Tenancy Oral or Written Agreement? Divorce/Death Scenario Estate of Blair Marriage of Hilke Community Property with Right of Survivorship	269 270 271 272 272 273 274
Chapter 10	Quasi-Community Property	281
•	What Does "Quasi" Mean? Is Quasi-Community Property Constitutional?	281 285
Chapter I I	Putative or Partners: Problems That Arise When Couples Are Not Married	293
	Unmarried Cohabitants Marvin v. Marvin	293 294

	Implied Contracts to Share Property	295
	Putative Spouse Doctrine	299
	Defects in Marriage	299
	Property Rights When Marriage Is Void or Voidable	300
	Good Faith Belief Requirement in a Valid Marriage	302
	Only One in Good Faith?	305
	Putative Spouse Doctrine at Death	307
Chapter 12	Domestic Partnerships	315
	History of Domestic Partnerships in California	315
	Domestic Partners Act as of January 1, 2005: Rights as	
	if Married	316
	Domestic Partners Act Effective January 1, 2020	317
	Non-California Residents	318
	Domestic Partnership Plus Marriage	319
	Federal Law Application	320
	Full Faith and Credit	320
Table of Cases		329
Table of Statutes		331
Index		333