

Now in its eighth edition, this book is intended to work on several levels. Most basically, it provides comprehensive coverage of California community property law, with a view toward preparation for the California bar examination and California practice, particularly in the areas of divorce, decedents' estates, and creditors' rights. Additionally, the scope and usefulness of the book extend beyond the borders of California. Every state now has some form of marital property system. California community property law, once viewed as an exotic and obscure area of local law, is currently considered one of the leading systems of marital property law. The book uses California law to examine the issues that face every marital property system. Because California community property law is more extensively developed than the marital property law of many other jurisdictions, it is a valuable aid for attorneys and legislators in sister states and other countries. Moreover, choice-of-law principles often require that sister-state probate and divorce practitioners have some familiarity with California community property law in order to serve clients formerly domiciled in California. Finally, because a law school course should focus on skills development as well as substantive law, the notes, questions, and problems that accompany the cases and text are intended to enable students to fully engage the material and to foster their professional development as attorneys, judges, and lawmakers.

The introductory chapter locates California community property law in the international and national landscape of marital property law. Throughout the book, the notes make comparative reference to the law of other jurisdictions, the Uniform Marital Property Act, and the American Law Institute's Principles of the Law of Family Dissolution. The introductory chapter also locates marital property law within the larger domain of family law. It explores the relationship between marital property law and support law, and surveys different approaches to family wealth allocation at the dissolution of a marriage, whether by divorce or death.

The development of California community property law provides abundant illustration of the interplay of social and legal change. Although the 1849 California Constitutional Convention adopted Spanish community property law principles in order to protect the interests of married women, the California legislature and courts initially constructed a marital property system as oppressive as the common law regime explicitly rejected by the constitutional convention. Women's progress toward formal, or de jure, sexual equality is reflected in a series of amendments from 1872 to

1975. Later, attention shifted from de jure equality to de facto equality, and the legislature sought to remedy de facto spousal inequality in a series of community property enactments that define the fiduciary responsibilities of a managing spouse and allow a non-managing spouse access to the community property.

Some of the most difficult marital property issues concern the classification of human capital and career assets. When community property law initially developed, personal wealth consisted largely of physical capital, usually agricultural land, which was made productive by relatively unskilled labor. Under such circumstances, a system that differentiated between earnings during marriage (community property) and earnings after dissolution (an earner's separate property) was conceptually sound and easy to administer. In more recent times, however, we tend increasingly to invest in ourselves and to rely on our human capital, usually in the form of education and vocational experience, to produce an ever-growing stream of income. To the extent that earnings after dissolution represent, in part, a return on human capital acquired during marriage (as contrasted with a return on postdissolution labor), the traditional classification rubric may seem inadequate. The issue is presented when, for example, a person acquires a professional education or business goodwill during marriage, but reaps the rewards of that acquisition after divorce. Closely related are the deferred compensation issues raised by pensions, disability benefits, severance pay, employee stock options, bonuses, and merit-based salary increases. The book closely and comprehensively examines the classification of career-related assets because they are the primary source of wealth for many persons and they pose a significant conceptual challenge for marital property law.

The study of community property law affords us an extended view of the most intimate relationship in American culture, the conjugal relationship. It is a subject to which we all bring personal experience, whether our own or that of our relatives and friends. Community property may cause us to reflect on how we might structure or restructure our present or future relationships. It also invites us to consider how we can best serve clients when their intimate relationships are terminated by separation, divorce, or death.

Readers familiar with the seventh edition will find that, in addition to updating all topics, the eighth edition adds a second prefatory note on the retroactive application of current community property legislation to events occurring before the effective date of that legislation. Wishing to make the text as readable as possible, I have re-edited cases to delete inessential material, multiple citations, and ellipsis marks that denote inconsequential omissions. In the light of electronic resources enjoyed by current law students, namely Westlaw and Lexis-Nexis, the rare student who wishes to read the entire case can readily do so.

Unlike prior revisions of the case book, preparation of the eighth edition has been difficult and vexing. The stumbling block has been a 2020 California Supreme Court decision, *In re Brace*, which upended more than half a century of community property law and left it in a state of disarray. The holding of *Brace* has created significant legal problems that require legislative repair. Besides the reparative issues, *Brace* destroys a premise of widely applicable current legislation, rendering it incoherent. From a pedagogical perspective, there are cautionary lessons to be drawn from the state in which *Brace* has left community property and real property law: namely, the value of adherence to stare decisis and the truth of the observation that the law is a seamless web.

*Grace Ganz Blumberg*

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