

**Final Examination**  
**Community Property**  
**Professor Chang**  
**Fall 2005**

1. You have **2 hours and 30 minutes** to answer 2 essay questions and 1 optional bonus question.
2. This exam is **CLOSED BOOK**. No materials of any kind are allowed. You may not confer or discuss this exam prior to writing your answer.
3. Each essay question is worth 50 points. The optional bonus question is worth 5 points.
4. Your answer should demonstrate your ability to analyze the facts under California community property law. Conclusions without analysis will not receive credit.
5. All facts and events take place in California unless otherwise stated.
6. At the conclusion of the exam, return all test materials, including blue books, scratch paper, and this exam packet to the envelope and submit it to the proctor. **DO NOT** seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

**GOOD LUCK!!!**

**Community Property Final Exam Essay Question One Fall 2005**

All events take place in California unless otherwise stated.

Harvey and Antonia believed they were legally married under Texas law since Texas recognizes common law marriages. They cohabitated for fifteen years, filed joint income tax returns, held joint bank accounts, and told family and friends that they were married. In fact, they never went through any formal ceremony or applied for a marriage license. Although they purchased their Houston house during their relationship, title to the house was held in Antonia's name only.

In 1974, Harvey and Antonia moved to California and purchased a house in Piedmont for \$250,000, as husband and wife. Antonia used \$100,000 from her inheritance as a down payment on the Piedmont house. When they signed the final purchase papers, Harvey promised Antonia, The down payment will always be yours, darling. You never have to worry.

With a small investment of \$20,000 from her inheritance, Antonia began business as a food photographer. Antonia enjoyed great success and purchased a \$100,000 Porsche sports car from her earnings. Title to the Porsche was in Antonia's name only. The following year (1976), Antonia crashed the Porsche and was paid \$75,000 from the auto insurer for its value. The insurance premiums were paid from their joint bank account. Antonia used the insurance proceeds to purchase a vacation home in Napa Valley, taking title as Harvey as a 25% tenant in common and Antonia as a 75% tenant in common.

Harvey enjoyed his work as a federal government relief worker and frequently traveled with his assistant, Betty. Harvey told Betty that he and Antonia were divorced. Harvey and Betty married in 1980. Harvey continued to maintain residences with both Antonia and Betty.

In 1982, the government mistakenly sent Harvey into a war zone and Harvey was killed by enemy gunfire. Harvey died intestate, survived by (1) Antonia, (2) Betty, and (3) Carla, his daughter with Betty. Both Antonia and Betty have filed wrongful death claims against the government.

How should the following property be divided?

- (1) The Texas house;
- (2) The Piedmont house;
- (3) The Napa Valley house;
- (4) Harvey's federal retirement and death benefits;
- (5) Antonia's business;

Who has standing to sue for Harvey's wrongful death?

## **Community Property Final Exam Essay Question Two Fall 2005**

All events take place in California unless otherwise stated.

When Harry met Wallis, Wallis was an aspiring opera singer. Harry gladly gave up his fledgling career as a writer and became Wallis' manager. Soon after their marriage in 1983, Harry and Wallis purchased a home in Manhattan Beach for \$1 million, using \$500,000 from Wallis' savings as a down payment. Title to the house was taken as, Harry as a 25% tenant in common and Wallis as a 75% tenant in common. Wallis' earnings were used to pay the mortgage.

In 1985, Harry inherited \$100,000 from his grandmother. Harry used \$25,000 from the inheritance to remodel the kitchen in the Manhattan Beach house. ♦ Harry used another

\$25,000 from the inheritance to buy a diamond necklace for Wallis. Harry wrote on the gift card that accompanied the jewelry for Wallis, For yours to have forever, to match my forever love for you. Wallis loved the necklace and saved the card. Harry invested the \$50,000 balance from his inheritance in a \$500,000 apartment building in Santa Monica. Title to the apartment building was taken as, Harry and Wallis, as joint tenants with right of survivorship. The apartment building generated a monthly rental income of \$10,000, which was used to pay for the mortgage.

Harry began spending more time at the race track and lost money, gambling on slow horses. He borrowed \$30,000 from his friend Carmine to recoup his losses. Harry gave Carmine a promissory note and a security interest in the apartment building. He also forged Wallis' signature on the deed of trust to Carmine. Harry defaulted on the promissory note and Carmine proceeded to force a sale of the apartment building.

Wallis has filed a petition for dissolution. She seeks an adjudication of her property rights and has filed for temporary use of the Manhattan Beach house for the sake of their three minor children, ages 7, 5, and 2 who all attend nearby schools.

(1) How should the court classify and divide the assets? Please include whether Wallis is entitled to temporary use of the Manhattan Beach house.

(2) What rights does Carmine have as a creditor and what property can he reach to satisfy the debt?

(3) Does Wallis have any rights or remedies against Carmine? Against Harry?

### **Community Property Final Exam Optional Bonus Question Fall 2005**

Is a term life insurance policy a divisible asset at divorce?

Explain your answer.