

**Community Property
Final Exam
Spring 2007
Professor Helen Chang**

INSTRUCTIONS

1. This exam is CLOSED BOOK. No outside materials of any kind may be used.
2. You have 3 hours to complete this exam.
3. There are 2 essay questions and 1 bonus optional short answer question. Each essay question is worth 50 points. The optional bonus question is worth 5 points.
4. Your answer should demonstrate your understanding of California community property laws as applied to the facts presented. Conclusions without analysis will not be given credit.
5. Return all materials at the end of the exam. Failure to do so will result in the student receiving no credit for the course.
6. Use your exam number on all bluebooks and/or Examsoft answers.
7. All events take place in California unless otherwise stated.

GOOD LUCK!!! ☺

Community Property – Final Exam – Essay Question One – 50 Points

In 2003, Hayden (male) and Alan (male) began living together and registered as domestic partners in California. Such registration entitled them to all of the state benefits of a legally married couple. Although Alan's parents did not approve of his relationship with Hayden, Alan was financially independent as the sole beneficiary of his grandmother's trust.

Hayden and Alan moved to southern California to pursue acting careers. Using his trust fund monies, Alan purchased a \$3 million home in Malibu. Against the advice of his attorneys, title to the property was taken as, "Alan, a 90 percent tenant in common, and Hayden, a 10 percent tenant in common." Hayden told Alan, "Don't worry. If we break up, I'll give everything back." Later that year, Hayden and Alan entered into a contract with a surrogate mother who later gave birth to a little girl, Violet. Alan was the biological father, so Hayden legally adopted Violet.

Hayden got lucky with a part in a reality television series and began spending more of his time with another contestant, Beatrice (female). After Hayden moved in with Beatrice, they got "married". Hayden used \$750,000 from his reality show earnings and Beatrice used \$250,000 from her reality show earnings to buy a home in the Los Angeles Hills for \$1 million. Title to the property was taken as, "Hayden and Beatrice, as husband and wife." Hayden invested \$500,000 from his reality show earnings in a various stocks and bonds. He also purchased a life insurance policy naming Violet as the sole beneficiary.

Hayden soon tired of Beatrice and moved to San Francisco where he met Carla (female), an art student. In 2005, Hayden and Carla "married" and started a knitting business called KnitWit. Hayden used \$100,000 from his stock dividends to invest in the knitting studio. KnitWit was an instant success.

Hayden became obsessed with Tak (male), one of the knitters at the studio. Hayden followed him, phoned him everyday, and sent gifts and letters. Tak sued Hayden for infliction of emotional distress and recovered a \$25,000 judgment against him. Carla threw Hayden out of the house and filed for divorce. In an effort to cheer himself, Hayden went to Las Vegas. Hayden volunteered in the tiger show and ruptured a major artery when a tiger accidentally slashed his neck. Hayden died from blood loss.

Who are Hayden's intestate heirs and how should his estate be distributed?

Who is entitled to sue for Hayden's wrongful death?

What property can Tara reach to satisfy her judgment?

Community Property – Final Exam – Essay Question Two – 50 Points

In 1973, Wisteria graduated at the top of her class from a prestigious business school and began a financial consulting business providing advice to small businesses. She started her business with a small investment of \$25,000 which she earned as a nude model. In 1974, Wisteria married Holden, one of her business clients. They entered into a prenuptial agreement which Holden signed without advice of counsel. The agreement provided that all of Wisteria's business earnings would remain her separate property.

After their marriage, Holden sold his film production business for \$5 million. He used \$2 million from the proceeds to purchase a home for cash in Ross, California (Marin County). The remainder of the business sale proceeds was invested in stocks. Title to the property was taken as, "Holden and Wisteria, as joint tenants."

In 1974, Wisteria purchased a vacation home in Cabo San Lucas (CSL) for \$750,000. Title to the property was taken in Wisteria's name only. Holden and Wisteria extensively refurbished and remodeled the CSL home using Holden's stock investment income, spending approximately \$500,000. Holden paid for the property insurance on the CSL home with his stock dividends.

In 1983, the CSL home was destroyed by a hurricane. Wisteria deposited the \$1 million insurance proceeds into a joint account with Holden. They immediately used the insurance monies to purchase a small vineyard in Napa County. Title to the vineyard was taken as, "Wisteria, a 60 percent tenant in common, and Holden, a 40 percent tenant in common."

Wisteria wrote and published a series of business self-help books based on her early experiences as a consultant. She used the book royalties to purchase a beach house in South Hampton, New York. Title to the property was taken in Wisteria's name only. Wisteria's fame prompted her former photographer to sell her nude photos to a national magazine. Wisteria sued the photographer and recovered a \$150,000 judgment against him. She then used those monies to purchase an original Andy Warhol painting.

In 1995, Holden was sued for paternity arising out of an extra-marital affair with Judy. Wisteria filed for divorce and then discovered that Holden had withdrawn monies from their joint bank account to establish various bank accounts in his name only in Switzerland and the Bahamas. Holden had also borrowed monies from the Bank secured by the Ross home.

How should the property be divided at divorce?

What remedies should Wisteria pursue?

If Judy is successful in establishing paternity, what property can she reach as a judgment creditor?

Community Property – Final Exam – Bonus Question – 5 Points

Harold and Wendy legally married in the state of Idaho. After their marriage, they purchased a home in Idaho, using Harold's inheritance of \$100,000. Title to the property was taken in Harold's name only.

If they move to California and then divorce, how should the Idaho property be classified and divided? Explain your answer specifically addressing any potential constitutional arguments.

As Wendy's attorney, what if anything, can you ask the California court to do regarding any interest she has in the Idaho property? Explain your answer.