

# FINAL EXAMINATION

COMMUNITY PROPERTY

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## Fall 2006

### Instructions

1. This is a **closed book** examination. No materials are allowed.
2. You have **two (2) hours** to complete this exam.
3. This exam consists of 30 multiple-choice questions and one essay question. The multiple-choice section will account for one-half of your exam grade. The essay question will also account for one-half of your exam grade.
4. Use only your **exam number** on the ParSCORE answer sheet and on the blue books. **Do not use your name, social security number or student ID number on any exam materials.**
5. Apply California law in answering the multiple-choice questions, **unless the question asks otherwise.** Devote no more than one hour in answering the multiple-choice questions. If you have time, you can go back to the multiple-choice section after answering the essay question. Mark your answers to the multiple-choice section of the exam on the ParSCORE answer sheet provided - **not on the exam itself.**
6. In grading the essay question considerable weight is given to the organization of your answer. I therefore suggest that you devote time to **outlining** and analyzing your answer **before you begin writing.** Your answer should be directed to an intelligent person who is NOT expert in the area of community property.
7. In answering the essay questions, if you believe that any material fact is lacking, state explicitly the assumption of fact you are making in answering the question and why it is necessary to make such an assumption. Do not assume facts that will preclude the discussion of possible issues.
8. Assume all parties resided in California, unless the question provides otherwise.
9. If you are writing your exam, use dark ink (black or blue) and write on every other line. Use only one side of each sheet of paper.

10. At the conclusion of the exam, return all test materials, including blue books, scratch paper, the ParSCORE answer sheet and this exam question packet to the envelope and submit it to the proctor.

### **ESSAY QUESTION** (one hour)

Herb, who began working as a firefighter in 1985, and Willa, an accountant, married in 1990, both for the second time.

As part of Willa's divorce settlement with her first husband, she received a large stock portfolio. One of the activities that she enjoys daily is actively managing her portfolio as an on-line day trader. All of the income from her investments is automatically reinvested. Her portfolio of securities has greatly increased in value during the time she has been married to Herb.

In 1992 Willa's father died and she inherited the family home in Oakland. The home was worth \$900,000 but was subject to a \$500,000 deed of trust (mortgage). The couple moved into the home and used Willa's earnings to make the mortgage payments. The home has more than doubled in value since she inherited it.

In 2000 Herb developed a serious lung condition and has been unable to work since then. The condition was deemed to be partially work related and as a result Herb began receiving a disability pension of \$7,000 per month for life. Had he not become disabled he would have been eligible for normal retirement of \$5,000 per month beginning in 2010. Herb has used all of his pension payments for living expenses, other than mortgage payments, and for medical treatments. Herb has been unable to pay the full amount of his uninsured but necessary medical care and the bills have mounted.

In 2001, Herb's first wife, Fran, lost her job and she sued Herb for child support, obtaining an order for both back child support and for on-going child support. Herb has made no child support payments.

Herb's medical creditors and Fran are trying to recover their respective claims from Willa's securities and from the home she inherited from her father, title to which is in her name alone.

The strain of these debts and Herb's medical condition has brought disharmony to Herb and Willa. As a result, last year Willa asked Herb to leave the Oakland home, which he did. She has not filed for dissolution of their marriage. Herb's medical debts and unpaid child support claims continued to mount after their separation.

Can Fran and/or Herb's medical creditors enforce their respective judgments against Willa's home and securities?

At divorce, how should court distribute the above mentioned assets?