

Community Property

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Putative Spouse

- n **A defect that prevents a lawful marriage**
- n **One or both spouses have a good faith belief in the existence of a valid marriage**
 - n **Good faith is tested subjectively BUT**
 - n **Good faith must be objectively reasonable**
 - n **Putative status lost when spouse learns of invalidity**

/Distinguish non-marital cohabitation “Marvinizers”

Three “typical” putative scenarios

n **Deficiency**

- n **In the marriage**

- n **In the divorce**

n **Serial monogamy – *IRMO Hafner***

n **Blatant bigamy – *Estate of Vargas***

Property rights in a putative relationship

- n Decedent's sp – *Estate of Leslie*
- n Quasi-marital property
 - n Treated like community property EXCEPT
 - n Either spouse may seek a division of the QMP (nullity action)
 - n Only “putative spouse” entitled to ss or atty fees
 - n *Possibility of quantum meruit recovery if no QMP?*

Terminating the economic community

n Date of Separation

n The parties have come to a parting of the ways with no present intent to carry on a marital relationship

n Objective view

n Undisclosed intent not controlling

n Effect of reconciliation – *IRMO Jaschke*

Property Distribution at Disso

- n Family Code § 2550

- n Cases

 - n Robinson – p. 541

 - n Hebring – p. 543

 - n Marriage of McNeill n. 2 p. 545

The Equal Division Requirement

- n Family Code §§ 2600 and 2601

- n Cases

 - n Brigden – p. 547

 - n Connolly – p. 555

 - n Williams – p. 558

 - n Rossi – p. 560

Division of Liabilities

- n Family Code §§ 2620-2626

- n Time of Valuation

- n Tax Consequences

Omitted assets/liabilities

n *OLD LAW: Henn Motions*

n **NEW LAW: Family Code § 2556**

Setting Aside a Judgment

- n Family Code §§ 2120-2128

- n Cases

 - Varner – p. 585

 - Heggie – p. 597

 - n Alexander – p. 603

 - n Brockman – p. 607

/Compare CCP §473; equity: “intrinsic v. extrinsic”