

Community Property

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Class 13 [611-699]

Four kinds of relationships

- n **Lawful marriage**

 - n **In California**

 - n **Outside of California**

- n **Putative Relationship**

 - n **Good faith belief in existence of a valid marriage**

- n **Nonmarital relationship**

- n **Registered Domestic Partners**

/No “common law marriage” in CAL but Full Faith & Credit

Five characterizations of property

- n **Separate property**
- n **Community property**
- n **Community Estate Personal Injury Damages**
- n **Quasi-marital property**
- n **Quasi-community property**

Quasi-community property

- n Property that would have been community property if acquired during marriage while domiciled in California
- n Constitutional and statutory limitations on QCP
 - n On disso: *Fam Code § 125*
 - n On death: *Probate Code § 66*

QCP – case law & handout

- n Thornton – p. 643 QCP statute unconstitutional
- n Addison – p. 650 Current statute is constitutional
- n Roesch – p. 657
 - n But see Martin (an Arizona case) – p. 660
- n Jacobsen – p. 666
- n Fransen – p. 669
- n Ben-Yehoshua – p. 675

/Discussion notes

Turn the tables

- n California spouses acquire out-of- state property
 - n Property is characterized at time of acquisition based on the law of the parties' domicile
- n California spouses move to a common law state and choose to divorce or die there
 - n How should a common law court treat property acquired in a community property state by domiciliaries
 - n See note 2, p. 680

Distribution on death

- n Recapture of unauthorized gifts

 - n **Dargie v Patterson – p. 611**

- n Widow's election

 - n **Estate of Prager – p. 616**

 - n **Estate of Wolfe – p. 618**

/Apportionment of debts [626-630]

/Ancestral Property Succession Statute [630-634]