

Index

ABUSE

Succession to marital property, elder abuse, murderer-beneficiary rule, § 13:71

ACCOUNTING

Gifts, see index heading GIFTS

Management of community property during marriage, §§ 9:1, 9:4

Succession to marital property, § 13:51

ADMINISTRATORS

See index heading SUCCESSION TO MARITAL PROPERTY

ADMISSION OF WILL

Succession to marital property, § 13:55

ADOPTION

Domestic partners, § 2:22

AGENCY

Premarital debts, § 9:19

Spousal liability for tort injury or damage caused by agent, § 9:58

ALIMONY

Bankruptcy exemption, § 2:17

Putative spouse, § 2:6

Reimbursement alimony for increased earning capacity, § 3:19

Taxation, see index heading SPOUSAL SUPPORT

ANNUITIES

Generally, § 7:60

Division of property, see index heading PENSIONS AND RETIREMENT BENEFITS

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Taxation of spousal support, § 12:38

ANNULMENT OF MARRIAGE

Costs and fees, § 11:78

Joint tenancy, severance of, § 10:69

Jurisdiction

generally, §§ 10:1, 10:22

as surviving spouse's death, §§ 10:67, 10:68

Notice requirements on judgments, § 10:65

Relief granted limited to petition, § 10:27

Restraining orders, §§ 10:46, 10:47

APPEAL

Bankruptcy, excusable neglect extension, § 9:42

Dissolution, see index heading DISSOLUTION OF MARRIAGE

APPEAL—Cont'd

Sanctions for frivolous appeals, §§ 11:70, 11:80

ARBITRATION

Dissolution of marriage, §§ 10:4, 10:25

ARMED FORCES

See index heading MILITARY

ARREARAGES

Federal Uniformed Services Former Spouses Protection Act limitations, § 5:37

ASSET DISTRIBUTION

Burden of proof of disputed assets, § 10:42

Division of property, method for, §§ 1:19, 1:23

ASSIGNMENT

Causes of action, § 7:78

Costs and fees, see index heading COSTS AND FEES

Dissolution, see index heading DISSOLUTION OF MARRIAGE

ERISA anti-assignment provisions, waiver of, § 7:9

Inheritance, assignment or transfer of, § 4:10

Pensions, state civil service, § 7:36

Personal injury recoveries, §§ 7:84, 7:90

State pensions, § 7:36

Student loans assigned to spouse receiving education, §§ 3:9, 3:13

Taxation

appreciated property assigned to one spouse, § 12:16

income assignment, § 12:11

Will contest rights, § 13:10

ATTEMPTED MURDER

Tort liability for attempted murder of spouse, § 9:69

ATTORNEYS

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Dual representation

interspousal gifts and agreements, § 4:52

marital settlement agreements, § 10:85

Fees, see index heading COSTS AND FEES

Good and bad faith, § 9:45

Malpractice regarding premarital agreements, § 4:35

Marital settlements, see index heading MARITAL SETTLEMENT AGREEMENTS

Real property lien, §§ 8:42, 11:81, 11:82

Sanction by court, see index heading SANCTIONS

AUTOMOBILES

Permissive use statute, § 9:61

Uninsured motorist proceeds, § 7:90

AVOIDANCE

Dissolution, see index heading DISSOLUTION OF MARRIAGE

INDEX

AVOIDANCE—Cont'd

- Gifts, see index heading GIFTS
- Marriages, void and voidable
 - distinguished, § 2:2
 - estoppel to deny validity of marriage, § 2:18
- Real property, see index heading REAL PROPERTY CONVEYANCES

BAD FAITH

- See index heading GOOD OR BAD FAITH

BANK ACCOUNTS

- Commingling involving married persons' joint bank account, § 6:27
- Joint form presumption of, § 4:68
- Judgment debtor's spouse, levying on bank account of, § 9:7
- Multiple party accounts presumed community property, § 13:60
- Tort liability, satisfaction of, § 9:65

BANKRUPTCY

- Appeal, time of, excusable neglect extension, § 9:42
- Classification of marital property, § 9:35
- Discharge exceptions, §§ 9:38-9:40
- Excusable neglect extension for time of appeal, § 9:42
- Exemptions from bankruptcy estate, §§ 9:34, 9:37-9:40
- Filing by either spouse
 - generally, § 9:31
 - joint petitions, § 9:37
 - recourse of non-filing spouse, § 9:34
- Fraud or defalcation of debtor, § 9:28
- Fraudulent conveyances, §§ 9:28, 9:43
- Homestead exemption, §§ 9:50, 11:66
- Marital property law, interface with, § 9:30
- Partition of community property, § 9:32
- Preemptive effect of federal law, §§ 5:51, 9:32, 9:44
- Preferential transfers, § 9:41
- Property of bankruptcy estate, §§ 9:35-9:40
- Putative spouse's post-mortem succession, § 2:17
- Religious Liberty and Charitable Donation Protection Act, § 9:43
- Sanctions, § 9:45
- State court jurisdiction, § 9:33
- Unmarried cohabitants, § 2:36
- Voiding preferential transfers, § 9:41

BANKS

- See index heading Bank accounts

BIGAMY

- Equitable relief, § 2:12
- Putative and legitimate spouse, conflict between, §§ 2:11, 2:12
- Succession to marital property, § 13:23
- Void and voidable marriages, § 2:2

BOATS

Sale or encumbrance by one spouse of, §§ 8:23-8:27

BONA FIDE PURCHASERS

Real property, see index heading REAL PROPERTY CONVEYANCES

BONUSES

Executive retention incentives, shared property rights in, § 3:26

Financial services professions, account books, goodwill, § 3:5

BURDEN OF PROOF

Classification and time and source of acquisition, §§ 6:7-6:10

Commingle separate and community funds, § 6:23

Presumptions, see index heading PRESUMPTIONS

Separate property, §§ 4:15, 4:35

Successive marriages, § 2:2

Unmarried cohabitants, § 2:39

CAPACITY

Incompetence, see index heading INCOMPETENCE

Sexual relations, nullification of marriage for incapacity to have, § 2:2

Testamentary capacity, see index heading SUCCESSION TO MARITAL PROPERTY

CATASTROPHIC ILLNESS

Division of property for Medi-Cal eligibility purposes, § 1:7

CAUSES OF ACTION

Generally, § 7:74

Apportionment problems, § 7:79

Assignment, modification of common law rule against, § 7:78

Contingent future interests in, § 3:35

Dissolution of marriage

consolidation of action at dissolution, § 7:81

judgment, cause of action not reduced to, § 7:80

Domestic partners, § 2:22

Imputed negligence, abolition of, § 7:87

Interspousal tort recovery, § 7:91

Personal injury recoveries, § 7:76

Putative spouse's causes of action against third parties, generally, § 2:19

Survival of causes arising during marriage, § 7:77

Unmarried cohabitant's causes of action against third parties, § 2:28

CELEBRITIES

Shared property rights in fame and publicity, § 3:25

CHANGE OF FORM OF PROPERTY

Development of California's community law principles, § 1:11

Transmutation, see index heading TRANSMUTATION DOCTRINE

CHARITABLE DONATIONS

Bankruptcy, fraudulent or preferential transfers in, § 9:43

INDEX

CHILD SUPPORT

- Bifurcated trials, § 10:44
- Education
 - college expenses, tax deductibility of, § 12:46
 - prepaid tuition and college savings plans, taxation, § 12:47
- Premarital agreement, effect of, § 4:32
- Quasi-community property, § 5:9
- Satisfaction and reimbursement after remarriage, §§ 9:23, 9:26
- Security for support, court's forcing use of funds to provide, § 10:1
- Spendthrift trusts, § 9:46
- Taxation
 - generally, §§ 12:43-12:51
 - child care credit, § 12:51
 - college expenses, § 12:46
 - dependency exemptions, § 12:48
 - emancipation, §§ 12:45, 12:46
 - family support distinguished, § 12:44
 - head of household, § 12:50
 - income to recipient, support as, § 12:43
 - medical expenses, § 12:49
 - nondeductible to payor, § 12:43
 - tuition and college savings plans, prepaid, § 12:47
- Unmarried cohabitants, § 2:31

CHILDREN

- Generally, see index heading MINORS

CHOSES IN ACTION

- See index heading CAUSES OF ACTION

CIVIL SERVICE

- Preemptive effect of federal law, § 5:48
- Retirement
 - death benefits under Civil Service Retirement Spouse Equity Act, § 7:12
 - pensions, non-assignability, § 7:36
 - putative spouse, post-mortem succession by, §§ 2:16, 2:17

CLASSIFICATION OF PROPERTY

- Generally, §§ 6:1-6:11
- Acquisitions using both separate and community property, generally, §§ 6:42-6:59
- Bankruptcy court's classification, § 9:35
- Borrowed money acquisitions and lender's intent, §§ 6:12-6:17
- Commingleing, see index heading COMMINGLING SEPARATE AND COMMUNITY FUNDS
- Community property contributions to acquisition of separate property
 - generally, §§ 6:42, 6:53-6:59
 - apportionment formula, § 6:54
 - inception of right theory, § 6:57
 - insurance, §§ 6:55, 6:59
 - non-perfected rights, § 6:58

CLASSIFICATION OF PROPERTY—Cont'd

Community property contributions to acquisition of separate property—Cont'd
piecemeal acquisitions, § 6:55

proportionate, pro tanto interest, § 6:53

underlying property, classification of, §§ 6:56-6:59

Debts of community paid after separation with separate funds, see index heading

DEBTORS AND CREDITORS

Dissolution of marriage, § 10:1

Domicile, § 1:23

Family living expenses presumed paid from community earnings, §§ 6:18-6:20

Improvements, see index heading IMPROVEMENTS

Interspousal gifts and agreements, § 4:19

Management

enhancing separate property as community asset, see index heading MANAGE-

MENT AND CONTROL OF PROPERTY

of other spouse's separate property, § 6:70

Presumptions of time and source of acquisition, see index heading PRESUMPTIONS

Probate court's classification, § 13:4

Quasi-community property, § 6:51

Separate property contributions to acquisition of community property

generally, §§ 6:42-6:51

amount reimbursed, § 6:47

definition of "contribution," § 6:46

joint tenancy, conversion of property into, § 6:50

premarital property, § 6:50

presumptions, §§ 6:44, 6:45

statutory provision for direct reimbursement, §§ 6:43, 6:49

tracing, § 6:51

waiver, express written, §§ 6:48, 6:51

Separated spouses' earnings, retroactive application of statute providing for separate property classification of, § 5:12

Transmutation, see index heading TRANSMUTATION DOCTRINE

CLOTHING

Sale or encumbrance by one spouse of, §§ 8:23-8:27

COBRA

Health insurance, continuation of, § 7:52

COHABITATION

Validity of marriage, §§ 2:2, 2:5

COLLEGE

See index heading EDUCATION

COMMINGLING SEPARATE AND COMMUNITY FUNDS

Generally, §§ 6:21-6:29

Bank accounts, married persons' joint, § 6:27

Burden of proof, § 6:23

Co-signing notes, § 6:24

INDEX

COMMINGLING SEPARATE AND COMMUNITY FUNDS—Cont'd

- Family expense doctrine, §§ **6:18-6:20**
- Loss of separate funds by commingling, § **6:29**
- Personal injury recoveries, § **7:83**
- Presumption that not traceable funds are community property, §§ **6:23-6:27**
- Recapitulation method of tracing, § **6:22**
- Records, accuracy of, § **6:25**
- Restitution, generally, § **6:21**
- Separation, commingling after, § **6:29**
- Tracing, generally, § **6:22**
- Transmutation rules, § **6:26**

COMMON LAW

- Ancestral source rule, § **13:69**
- Full faith and credit, see index heading **FULL FAITH AND CREDIT**
- Joint tenancy, see index heading **JOINT TENANCY OR TENANCY IN COMMON**
- Marriage, §§ **2:3-2:5, 2:25**
- Premarital debts, § **9:14**
- Real property conveyance, voidance on common law grounds of, § **8:40**
- Separate property used to improve community property, § **6:60**
- Shared principles with community property states, § **1:32**
- Statutory nature of community property law, § **1:4**
- Tenancies, see index heading **JOINT TENANCY OR TENANCY IN COMMON**
- Title, community property statutes with regard to, § **1:13**
- Unmarried cohabitants, § **2:25**

COMPENSATION

- Earnings, see index heading **EARNINGS**
- Workers' compensation, see index heading **WORKERS' COMPENSATION**

COMPETENCE

- See index heading **INCOMPETENCE**

COMPROMISE

- See index heading **SETTLEMENTS**

CONCEALMENT

- Separate property, waiving fraudulent concealment, § **4:37**

CONCEPTION

- Children conceived postmortem by use of parental genetic material, § **13:63**

CONFIDENTIALITY

- Dissolution of marriage, mediation and statutory privilege, § **10:5**
- Goodwill, inspecting spouse's client or patient files, § **3:7**

CONFIRMATION

- Succession, see index heading **SUCCESSION TO MARITAL PROPERTY**

CONFLICT OF LAW

- Title issues, §§ **1:13, 1:14**

CONSANGUINITY

Void marriages, § 2:2

CONSENT

Bankruptcy filing by either spouse, § 9:31
Boats, sale or encumbrance by one spouse of, §§ 8:23-8:27
Clothing, sale or encumbrance by one spouse of, §§ 8:23-8:27
Death, consent of spouse to nonprobate transfers effective on, § 13:5
Division of community property, § 1:5
Furniture, sale or encumbrance by one spouse of, §§ 8:23-8:27
Gift, non-donor spouse's consent to, §§ 8:7, 8:15
Home furnishings, sale or encumbrance by one spouse of, §§ 8:23-8:27
Household items, sale or encumbrance by one spouse of, §§ 8:23-8:27
Improvements to separate property, implied consent to reimbursement of community for, § 6:63
Marital settlement agreement, attorney's consent to, § 10:70
Mobile homes, sale or encumbrance by one spouse of, §§ 8:23-8:27
Real estate conveyances
 bona fide purchasers' rights regarding, § 8:46
 joinder of both spouses, generally, §§ 8:28-8:32
Retirement Equity Act, § 7:13

CONSERVATORSHIP

Domestic partners, § 2:22
Managing spouse's incompetence, § 8:52
Succession to marital property, § 13:51

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT

Health insurance, continuation of, § 7:52

CONSTITUTIONAL LAW

Contempt power usage to enforce orders dividing property, §§ 5:23-5:25
Defense of Marriage Act, § 1:33
Family home awards, retroactivity of, § 11:48
Full faith and credit, see index heading FULL FAITH AND CREDIT
Marriage, right to, § 2:3
Origins of California's community property principles, § 1:3
Preemption, see index heading PREEMPTION BY FEDERAL LAW
Privacy interest, right to marriage as, § 2:3
Quasi-community property legislation, §§ 5:2-5:7
Retroactivity of legislative amendments to community property system
 generally, §§ 5:12-5:22
 creditors' rights, §§ 5:15, 5:21
 different meanings of retroactivity, § 5:14
 disclaimer in Addison decision, § 5:13
 due process, §§ 5:12, 5:18, 5:22
 Federal Uniformed Services Former Spouses Protection Act, § 5:20
 fiduciary duties, 1982 amendments to interspousal, § 5:19
 foreign state reforms in family law, § 5:22
 home awarded to custodial parent, § 5:20

INDEX

CONSTITUTIONAL LAW—Cont'd

- Retroactivity of legislative amendments to community property system—Cont'd
 - joint form ownership and separate property reimbursement, § 5:18
 - personal injury recoveries, § 5:16
 - takings clause, §§ 5:12, 5:15, 5:16, 5:22
- Same-sex marriages, Fourteenth Amendment protection, § 2:48
- Supremacy clause, see index heading PREEMPTION BY FEDERAL LAW

CONTEMPT

- Constitutionality of using contempt power to enforce orders dividing property, §§ 5:23-5:25

CONTINGENT FUTURE INTERESTS

- Generally, §§ 3:31-3:48
- Causes of action, contingent rights based on accrued, § 3:35
- Contract rights, contingent, § 3:34
- Covenant not to compete, § 3:44
- Employment related housing allowance, § 3:45
- Fee arrangements with clients, § 3:31
- Housing allowance, employment related, § 3:45
- Innocent spouse rules, §§ 3:47, 3:48
- Insurance
 - beneficiaries, §§ 3:37, 3:46
 - termination commissions of sales agent, § 3:42
- Lottery tickets, § 3:36
- Mere expectancy distinguished, § 3:32
- Pensions, non-vested, § 3:33
- Stock options, §§ 3:38-3:40
- Taxation, §§ 3:40, 3:46, 3:47
- Termination commissions, § 3:42
- Trust, legal title in, § 3:41
- Vacation pay accrued, § 3:43

CONTRACTS

- Common law marriage not accepted, § 2:2
- Contingent future interests, § 3:34
- Creditors' rights, see index heading DEBTORS AND CREDITORS
- Division of property, see index heading DIVISION OF PROPERTY
- Educational reimbursement statute, agreement of parties contrary to, § 3:21
- Endowment contracts, § 7:59
- Interspousal gifts and agreements, see index heading SEPARATE PROPERTY
- Marital settlements, see index heading MARITAL SETTLEMENT AGREEMENTS
- Marriage as valid civil contract, § 2:2
- Merger of marital settlement agreement into judgment of dissolution, § 5:25
- Real property conveyance, voidance on common law grounds of, § 8:40
- Security devices to protect property division agreement, § 11:64
- Separate property, see index heading SEPARATE PROPERTY
- Sexual services, contracts for, § 2:26
- Unmarried cohabitants, §§ 2:23, 2:26

CONTRACTS—Cont'd

Will, contract to make, §§ 11:65, 13:66

COPYRIGHTS

Preemptive effect of federal law, § 5:49

Shared property rights in, § 3:30

CORPORATIONS

Separate property business, incorporation of, § 4:9

CORRECTIONS

Dissolution of marriage, inherent power of court to correct erroneous ruling on its own motion, § 10:94

COSTS AND FEES

Generally, §§ 11:68-11:83

Action by attorney to recover, § 11:75

Appeals, sanctions for frivolous, §§ 11:70, 11:80

Assignment

as sanction, § 11:70

to party most able to bear expense, § 11:68

Capability of bearing expenses, §§ 1:26, 11:68

Contempt to enforce payment, § 11:77

Discretion of court

third party, recovery from, § 11:76

to assign, § 11:68

to award, § 11:69

Division of property, award as independent of, § 11:68

ERISA, fees and costs under, § 11:79

Fee-shifting in probate and trust cases, § 13:39

Fiduciary duties, imposition of fees and costs against the party breaching, § 11:71

Income

basis for award, § 11:75

filing and service of income and expense statement, § 11:68

Jurisdiction, reservation of, § 11:82

Just and reasonable attorney fees, § 11:69

Marital debts, attorney fees as, § 11:72

Marital settlement agreements, § 11:69

Need and ability to pay

as basis for award, §§ 11:68, 11:75

ownership of separate property as not negating need, § 11:69

Nullification of marriage actions, § 11:78

Pendent lite awards, § 11:75

Post-judgment litigation, § 11:75

Prevailing party, irrelevance of, § 11:68

Property declaration, filing and service of, § 11:68

Real property lien, §§ 8:42, 11:81, 11:82

Revised Uniform Reciprocal Enforcement of Support Act, attorney fees under, § 11:73

INDEX

COSTS AND FEES—Cont'd

- Sale of family home, costs of, § 11:46
- Sanctions
 - award as sanction, §§ 11:70, 11:71
 - frivolous appeals, §§ 11:70, 11:80
 - notice to attorney, § 11:76
- Setting attorney fees, § 11:69
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Taxation, §§ 11:83, 12:52, 12:53
- Third parties, recovery from, § 11:76
- Uniform Foreign Money Judgments Recognition Act, attorney fees under, § 11:74
- Written fee agreement and billing requirements for attorneys, § 11:68

COVENANT NOT TO COMPETE

- Contingent future interests, § 3:44

CREDIT

- Military service credit purchased during marriage, § 5:42

CREDITORS

- Generally, see index heading DEBTORS AND CREDITORS
- Bankruptcy, see index heading BANKRUPTCY

DAMAGES

- Community estate personal injury, § 10:1
- Domestic violence, §§ 9:68, 10:60
- Insurance, procedures to pay for tort, § 9:66
- Uninsured motorist proceeds, community property, § 7:90

DATE

- See index heading TIME OR DATE

DEATH

- Alimony ceasing at death of payee, § 12:27
- Classifying property, presumptions and time and source of acquisition, § 6:3
- Community property with right of survivorship, § 1:31
- Dissolution jurisdiction as affected by spouse's death, §§ 10:67, 10:68
- Division of community property without parties' consent, § 1:5
- Domestic partnership, termination of, § 2:22
- Equal division of property, § 1:22
- Gifts, see index heading GIFTS
- Jones Act, § 5:53
- Nonprobate transfers, payable on death account, § 13:59
- Nullification of marriage, § 2:2
- Pensions, see index heading PENSIONS AND RETIREMENT BENEFITS
- Putative spouse's post-mortem succession, §§ 2:15-2:17
- Quasi-community property, §§ 5:2, 5:9, 5:10
- Real property conveyances, avoidance of, § 8:33
- Simultaneous death of spouses, § 13:62
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY

DEATH—Cont'd

- Survival of causes of action arising during marriage, § 7:77
- Terminable interest rule, §§ 7:28, 7:30
- Widow or widower with dependent children, tax status for, § 12:2
- Wrongful death, see index heading WRONGFUL DEATH

DEBTORS AND CREDITORS

- Agency, premarital debts, § 9:19
- Attorney fees as marital debts, § 11:72
- Bank account of judgment debtor's spouse, levying on, § 9:7
- Bankruptcy, see index heading BANKRUPTCY
- Boats, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Classification of property acquired with borrowed money, lender's intent and, §§ 6:12-6:17
- Clothing, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Community debts paid after separation with separate funds
 - generally, §§ 6:66-6:69
 - credits, § 6:67
 - presumption of gift, rebutting, §§ 6:67, 6:69
 - support, payments not to be in lieu of, § 6:68
 - taxes on income used to pay debts, § 6:66
- Contract rights of creditors
 - generally, §§ 9:5-9:54
 - general rules of liability, §§ 9:5-9:13
 - other contractual obligations, §§ 9:22-9:54
 - premarital debts, §§ 9:14-9:21
 - time of property division, § 9:12
- Co-signing notes, commingled funds and, § 6:24
- "Debt" defined, § 9:5
- Dissolution, see index heading DISSOLUTION OF MARRIAGE
- Domestic partnership registration, § 2:22
- Equal Credit Opportunity Act, § 9:53
- Exemption of personal injury recoveries from execution, § 7:89
- Fraud of creditors, conveyances in, §§ 4:45, 9:28
- Furniture, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Home furnishings, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Homestead, see index heading HOMESTEAD
- Indian Gaming Regulatory Act, § 9:54
- Management liability principle, § 9:5
- Marriage
 - credit applicant's marital status, § 1:16
 - debts contracted during, § 9:22
 - judgments filed against one spouse during, § 9:25
- Mobile homes, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Necessaries of life, personal liability for, §§ 9:10, 9:29
- Noncollectible debts, payment of, § 9:16
- Overpayment of premarital debts, § 9:16
- Ownership liability principle, § 9:5

INDEX

DEBTORS AND CREDITORS—Cont'd

Premarital debts

- generally, §§ 9:14-9:21
- agency, § 9:19
- overpayment of debts, § 9:16
- quasi-community property, liability of, § 9:15
- reimbursement, §§ 9:17, 9:18
- segregated earnings of non-debtor spouse, § 9:21
- surety on debt, § 9:20

Quasi-community property, §§ 9:8, 9:15

Reimbursement rights, §§ 9:13, 9:17, 9:18

Restraining creditors during pendency of dissolution proceedings, § 9:51

Retroactivity of legislative amendments to community property system, §§ 5:15, 5:21

Segregated earnings of non-debtor spouse, § 9:21

Separate property, § 9:9

“Separate” and “community” debts, § 9:27

Separation, liability of spouses after, § 9:11

Signature

- co-signing notes, commingled funds and, § 6:24
- one or both spouses, § 9:53

Spendthrift trusts, see index heading SPENDTHRIFT TRUSTS

Student loans assigned to spouse receiving education, §§ 3:9, 3:13

Surety on debt, § 9:20

Taxation

- assigning tax consequences, § 11:17
- community debts paid after separation with separate funds, § 6:66
- interest on promissory notes, § 12:7

Timing of division of community property, § 9:12

Tort liability, see index heading TORTS

Trusts

- ERISA-regulated pension trusts, § 9:49
- other creditors, § 9:48
- spendthrift, see index heading SPENDTHRIFT TRUSTS

DEBTS

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

DEEDS OF TRUST

Avoidance of unilateral conveyances, § 8:35

Sale of family home, § 11:43

Security devices to protect property division agreement, §§ 11:64, 11:65

DEFAULT JUDGMENT

Dissolution of marriage, §§ 10:8, 10:27

Relief from, § 10:77

DEFENSE OF MARRIAGE ACT

Same sex marriages, § 2:47

DEFERRING SALE OF FAMILY HOME

- Generally, §§ 11:38-11:51
- Buyout, § 11:45
- Costs of sale, § 11:46
- Cotenancy, § 11:44
- Deeds of trust, use of, § 11:43
- Disabled children, deferral to benefit, § 11:39
- Discretion of court, § 11:49
- Interest on delayed sale, accrued, § 11:47
- Jurisdiction over future sale, retention of, § 11:40
- Minor children
 - deferral to benefit, § 11:39
 - needs of minor and dependent children, § 11:41
 - preferred asset status absent children or dependents, § 11:42
- Needs of minor and dependent children, § 11:41
- Notes, use of, § 11:43
- Preferred asset status absent children or dependents, § 11:42
- Refinancing, § 11:45
- Retroactivity of family home award, § 11:48
- Taxation, § 11:51
- Termination of award, § 11:50

DEVISE OR DESCENT

- Separate property, §§ 4:2, 4:10
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY

DISABILITY AND DISABILITY PAYMENTS

- Age of retirement, § 7:39
- Amount of payments, § 7:44
- Assets acquired by disability payments, § 7:40
- Choosing disability rather than retirement pay, § 7:41
- Civil Service disability retirement, § 5:48
- Classification as controversial issue, § 7:37
- COBRA continuation of health insurance, § 7:52
- Continuing Veterans Administration disability pay, § 5:38
- Deferring sale of family home to benefit disabled children, § 11:39
- Direct payment for marriages of 10 years duration, § 7:45
- Dissolution of marriage, division of payments on, § 7:53
- Domestic partners, § 2:22
- Foreign service retirement and disability benefits, § 5:52
- Health insurance, continuation of, § 7:52
- Military disability pay, §§ 5:35, 5:38, 5:39, 7:43-7:48
- Non-preemption of Veterans Administration disability pay, § 5:39
- Payments, generally, §§ 7:37-7:55
- Personal injury disability recovery that later becomes retirement income, § 7:85
- Receipt of payments before retirement, § 7:38
- Retirement pay
 - choosing disability rather than, § 7:41

INDEX

DISABILITY AND DISABILITY PAYMENTS—Cont'd

- Retirement pay—Cont'd
 - disability pay turning into, §§ 7:50-7:53
- Separation, division of payments on, § 7:53
- Social Security Disability Insurance (SSDI), § 7:55
- SSDI (Social Security Disability Insurance), § 7:55
- Stenquist decision, §§ 7:37, 7:38, 7:48
- Survivorship benefits, §§ 7:46-7:48
- Taxation
 - compensation for injuries or sickness, § 7:54
 - savings, distributing tax, § 7:49
- Termination of long-term disability benefits not preempted by ERISA, § 5:47
- Time of retirement, § 7:39
- Veterans Administration disability pay, §§ 5:38, 5:39
- Workers' compensation, § 7:42

DISCLOSURE

- Dissolution, see index heading DISSOLUTION OF MARRIAGE
- Premarital agreements, §§ 4:35, 4:36

DISINHERITANCE

- See index heading SUCCESSION TO MARITAL PROPERTY

DISSOLUTION OF MARRIAGE

- Appeal
 - division of property, § 10:6
 - finality of judgment. Judgment, below
 - notice of appeal, § 10:95
 - summary procedure, § 10:6
- Arbitration, §§ 10:4, 10:25
- Armed forces, see index heading MILITARY
- Assignment. Division of property, below
- Attorneys
 - attorney-client privilege, disclosure as affected by, § 10:38
 - failure to make adequate discovery, § 10:38
 - fees, assignment of outstanding, § 10:62
- Bifurcated trials, § 10:44
- Burden of proof of disputed assets and liabilities, § 10:42
- Causes of action, see index heading CAUSES OF ACTION
- Child support
 - court's forcing use of funds to provide security for, § 10:1
 - equalize division, prohibition against using support payments to, § 10:50
 - relief granted limited to petition, § 10:27
- Classification of property, § 10:1
- Closing proceedings, § 10:11
- Commissioners, use of, §§ 10:25, 10:26
- Community property presumed for property division on dissolution or separation
 - generally, §§ 4:54-4:69
 - incompatibility, joint tenancy and community property, § 4:57

DISSOLUTION OF MARRIAGE—Cont'd

Community property presumed for property division on dissolution or separation

—Cont'd

partnership property, § 4:60

property in wife's name alone, § 4:59

quasi-community property, § 4:61

state of title cedes to time, source, and agreement presumptions, § 4:56

third parties, § 4:58

Conciliation court, § 10:3

Concurrently-held separate property, division of, § 10:10

Confidentiality, mediation and statutory privilege, § 10:5

Consent to arbitration, § 10:4

Corrections, inherent power of court to correct erroneous ruling on its own motion, § 10:94

Costs, see index heading COSTS AND FEES

Course of business, division of property, § 10:47

Creditors' rights

after-divorce liability for debt contracted by other spouse during marriage, § 9:52

restraining creditors during pendency of dissolution proceedings, § 9:51

Death of spouse, jurisdictional effect of, §§ 10:67, 10:68

Debts

after division of property, liability of non-debtor's property for, § 9:22

before division of property. Division of property, below

creditors' rights, above

Default, §§ 10:8, 10:27

Disability payments, division on dissolution of payments, § 7:53

Discovery and disclosure of assets

generally, §§ 10:31-10:38

assets and liabilities disclosure, § 10:31

attorney's failure to make adequate discovery, § 10:38

business and professional records, § 10:36

compelling discovery, § 10:34

income and expense declaration, § 10:31

limitations on discovery, § 10:32

new assets not in existence at time of separation, § 10:37

privileges, § 10:32

procedures, § 10:35

sanctions, § 10:34

Divisible divorce and jurisdiction, § 10:21

Division of property

generally, §§ 10:1, 10:2, 10:39-10:69

appeal, § 10:43

assignment. Debts, assignment of outstanding, below this group

bifurcated trials, § 10:44

burden of proof, § 10:42

concurrently-held separate property, § 10:10

consent, division of community property without parties', § 1:5

INDEX

DISSOLUTION OF MARRIAGE—Cont'd

Division of property—Cont'd

- court itself to make division, § 10:40
- creditor protection, § 10:56
- debts, assignment of outstanding
 - generally, §§ 10:52-10:66
 - ability to pay, § 10:53
 - attorney fees and costs, § 10:62
 - civil damages for domestic violence, § 10:60
 - creditor protection, § 10:56
 - educational loans, § 10:58
 - equalizing debts and assets, § 10:54
 - jurisdiction, continuing, § 10:63
 - liability of debtor spouse after assignment to other spouse, § 10:57
 - notice requirements on judgments, § 10:65
 - post assignment liability, § 10:57
 - post-separation debts, § 10:55
 - reimbursement, § 10:66
 - separate debts, § 10:61
 - tort liability, § 10:59
- direct jurisdiction over community property only, §§ 10:22-10:26
- discretion of court, §§ 10:24, 10:43
- equal division. Substantial equity requirement, below
- findings of fact, § 10:41
- necessities of life, § 10:47
- offset of property, § 10:1
- out-of-state property, below
- punishment by unequal division, § 10:1
- relief granted limited to petition, § 10:27
- restraining orders, §§ 10:46, 10:47
- separate property, § 10:23
- “single” asset provision, § 10:51
- standard of review, § 10:43
- substantial equity requirement, below
- third parties, community property held by, § 10:45
- unadjudicated community property, form of action to settle claims regarding,
§ 10:91
- usual course of business, § 10:47

Domicile for jurisdiction purposes, §§ 10:12, 10:13, 10:18, 10:19

Earliest California dissolution statute, § 1:3

Education

- assignment of outstanding educational loans on division of property, § 10:58
- reimbursement statute applicable only on dissolution or separation, §§ 3:20,
10:66

Equal division of property, § 1:22

Equality of spousal rights, § 1:18

Error, inherent power of court to correct erroneous ruling on its own motion,
§ 10:94

DISSOLUTION OF MARRIAGE—Cont'd

Estoppel as defense to retrospective enforcement of claim, § 10:92

Evaluation, see index heading EVALUATION OF COMMUNITY ASSETS

Family conciliation court, § 10:3

Fees, see index heading COSTS AND FEES

Finality of judgment

generally, §§ 10:2, 10:29, 10:90-10:103

agreement not to submit property to court's jurisdiction, § 10:96

appeal, time of, §§ 10:90, 10:95

death as not abating action, § 10:68

military pension exception, § 10:102

nunc pro tunc judgment, § 10:103

oral settlement reached in chambers, § 10:100

post-judgment proceedings, personal jurisdiction in, § 10:101

property mentioned but not adjudicated, § 10:93

retrospective enforcement of claim, defenses to, § 10:92

stipulations in open court, §§ 10:98, 10:99

unadjudicated community property, form of action to settle claims regarding,
§ 10:91

Foreign states

division of property, above

jurisdiction based on out-of-state respondent notice, § 10:16

Formal court procedure, generally, §§ 10:2, 10:7

Fraudulently concealed or misappropriated property, division of, § 10:1

Gifts, see index heading GIFTS

Improvement of community property by one spouse, § 6:65

Inherent power of court to correct erroneous ruling on its own motion, § 10:94

Joint tenancy, severance of, § 10:69

Judgment

Generally, § 10:2

arbitration, § 10:4

cause of action not reduced to judgment, § 7:80

default judgment, §§ 10:8, 10:27

finality of judgment, above

lien, § 10:64

notice requirements, § 10:65

nunc pro tunc judgment, § 10:103

post-judgment proceedings, personal jurisdiction in, § 10:101

property settlement merged in decree, § 11:67

setting aside of decree, § 10:15

statement of decision regarding division of property, § 10:41

Judgment nunc pro tunc, § 10:103

Judicial review. Appeal, above

Jurisdiction

generally, §§ 10:1, 10:2

agreement not to submit property to court's jurisdiction, § 10:96

assignment of outstanding debts, § 10:63

beneficial contacts, § 10:14

INDEX

DISSOLUTION OF MARRIAGE—Cont'd

Jurisdiction—Cont'd

- concurrently-held separate property, division of, § **10:10**
- direct jurisdiction over community property only, §§ **10:22-10:26**
- divisible jurisdiction, § **10:21**
- domicile, generally, §§ **10:12, 10:13, 10:18, 10:19**
- family conciliation court, § **10:3**
- in rem jurisdiction, § **10:12**
- length of residence, §§ **10:12, 10:15**
- military service, respondents in, § **10:17**
- minimum contacts, § **10:14**
- out-of-state respondent notice, § **10:16**
- personal jurisdiction, generally, §§ **10:12-10:21**
- physical presence, § **10:14**
- post-judgment proceedings, personal jurisdiction in, § **10:101**
- prior court's retention of, § **10:20**
- quasi-community property, § **10:19**
- six months' continuous residency, § **10:15**
- survival of spouse's death, §§ **10:67, 10:68**
- Laches as defense to retrospective enforcement of claim, § **10:92**
- Mediation and statutory privilege of confidentiality, § **10:5**
- Military service, see index heading **MILITARY**
- Motions, inherent power of court to correct erroneous ruling on its own motion, § **10:94**
- Necessities of life, division of property, § **10:47**
- No-fault, § **10:2**
- Notice
 - judgment requirements, § **10:65**
 - out-of-state respondent, § **10:16**
- Offset in making division of property, § **10:1**
- Oral settlement reached in chambers, § **10:100**
- Oral stipulations in open court, §§ **10:98, 10:99**
- Out-of-state property, division of property
 - generally, § **10:9**
 - offset, § **10:1**
- Personal injury recoveries, see index heading **PERSONAL INJURY RECOVERIES**
- Premarital agreements, § **4:25**
- Quasi-community property, §§ **5:2, 5:9, 5:10, 10:1**
- Real property conveyances, see index heading **REAL PROPERTY CONVEYANCES**
- Referees, use of, § **10:25**
- Reimbursement of contributions to separate property of other spouse, § **6:65**
- Relief granted limited to petition, §§ **10:27-10:30**
- Restraining orders, §§ **9:51, 10:46, 10:47**
- Retrospective enforcement of claim, defenses to, § **10:92**
- Sealing file, § **10:11**
- Separate property used to improve community property, § **6:65**
- Setting aside of decree, § **10:15**

DISSOLUTION OF MARRIAGE—Cont'd

Settlement

marital settlement agreements, see index heading MARITAL SETTLEMENT AGREEMENTS

reached in chambers, oral settlement, § 10:100

Spousal support

court's forcing use of funds to provide security for, § 10:1

equalizing property division, support payments as way of, § 10:50

relief granted limited to petition, § 10:27

Staying effect of dissolution, § 10:2

Stipulations in open court, §§ 10:97, 10:98, 10:99

Substantial equity requirement, division of property

generally, §§ 10:48-10:51

meaning of substantial equity, § 10:49

“single” asset provision, § 10:51

spousal support payments as way of equalizing, § 10:50

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Summary procedure, §§ 10:2, 10:6

Taxation, §§ 10:30, 12:6

Time or date

appeal, notice of, § 10:95

default, § 10:8

finality of judgment. Judgment, above

judgment, finality of, § 10:2

jurisdiction based on length of residence, §§ 10:12, 10:15

nunc pro tunc judgment, § 10:103

setting aside of decree, § 10:15

summary procedure, duration of marriage eligible for, § 10:6

Torts

assignment of outstanding tort liability, § 10:59

consolidation of tort action, § 9:68

domestic violence damages, § 9:68

Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

Void and voidable marriages distinguished, § 2:2

Waiver

appeal, right to, § 10:92

arbitration, § 10:4

disclosure of assets, § 10:31

retrospective enforcement of claim, defense to, § 10:92

summary procedure, eligibility to use, § 10:6

DIVISION OF PROPERTY

Agreements

marital settlement agreements, see index heading MARITAL SETTLEMENT AGREEMENTS

security devices to protect property division agreements, below

Asset distribution method, §§ 1:19, 1:23

Bankruptcy court's partition of community property, § 9:32

INDEX

DIVISION OF PROPERTY—Cont'd

- “Community estate” terminology in Family Code, § **5:10**
- Consent of parties absent, § **1:5**
- Constitutionality of using contempt power to enforce orders dividing property, §§ **5:23-5:25**
- Contracts. Agreements, above
- Costs and fees awarded independent of, § **11:68**
- Deferred sale, see index heading DEFERRING SALE OF FAMILY HOME
- Dissolution, see index heading DISSOLUTION OF MARRIAGE
- Equal division, § **1:22**
- Evaluation
 - community assets, see index heading EVALUATION OF COMMUNITY ASSETS
 - marital assets, § **1:20**
- Exceptions permitting partition during continuance of marriage, §§ **1:5-1:7**
- Family home, see index heading DEFERRING SALE OF FAMILY HOME
- Fiduciary responsibility continuing until, § **1:28**
- Jurisdiction, §§ **4:69, 5:9, 5:10**
- Legal incapacity and support, § **1:6**
- Medi-Cal eligibility purposes, § **1:7**
- Military pensions, § **7:26**
- Motive or reason of spouse for retaining particular asset, § **1:21**
- Offset for fraud or deliberate misappropriation, §§ **11:35-11:37**
- Pensions, see index heading PENSIONS AND RETIREMENT BENEFITS
- Presumption of community property status for property division on dissolution or separation, §§ **4:54-4:69**
- Problems of division of property, generally, §§ **11:35-11:63**
- Quasi-marital property, § **2:6**
- Request of either party for, §§ **4:66, 4:68**
- Restitution for innocent misappropriation, § **11:36**
- Sale of family home, see index heading DEFERRING SALE OF FAMILY HOME
- Security devices to protect property division agreements
 - generally, §§ **11:64-11:67**
 - discharge in bankruptcy, § **11:66**
 - marital settlement agreements, § **11:65**
 - merger in court decree, § **11:67**
- Shared property rights, see index heading SHARED PROPERTY RIGHTS
- Taxation
 - assumption of liabilities on, § **12:10**
 - installment payments, § **12:18**
 - pension plans or tax-deferred retirement accounts, § **12:12**
- Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

DIVORCE

- See index heading DISSOLUTION OF MARRIAGE

DNA

- Succession to marital property, children conceived postmortem by use of parental genetic material, § **13:63**

DOMESTIC PARTNERSHIPS

- Generally, § 2:22
- Registration, rights and obligations, § 2:22
- Statutory share, intestate share of registered surviving domestic partner, § 13:58
- Tax advice, deductibility of fees and expenses for, § 12:53
- Termination of, § 2:22

DOMESTIC RELATIONS TAX REFORM ACT

- Generally, § 12:1
- Full faith and credit, § 5:67

DOMESTIC VIOLENCE

- Dissolution of marriage, damages, §§ 9:68, 10:60

DOMICILE

- Classification of spouse's property, § 1:23
- Dissolution of marriage, see index heading DISSOLUTION OF MARRIAGE
- Foreign states, out-of-state rather than location of property controlling quasi-community property, § 5:4
- Full faith and credit, § 5:65
- New domicile in California, see index heading QUASI-COMMUNITY PROPERTY
- Words and phrases, § 10:13

DONATIVE TRANSFERS

- Succession to marital property, donative transfers to drafters of wills and their relatives, § 13:65

DUE PROCESS

- Contempt power usage to enforce orders dividing property, § 5:24
- Retroactivity of legislative amendments to community property system, §§ 5:12, 5:18, 5:22

DURABLE POWER OF ATTORNEY

- Managing spouse's incompetence, § 8:52

DURESS

- Marital settlement agreements, relief from, § 10:77

EARNINGS

- After separation, § 1:12
- Classifying property and presumptions regarding time and source of acquisition, § 6:5
- "Community estate" terminology in Family Code, § 5:10
- Development of California's community law principles, §§ 1:8, 1:9, 1:12
- During marriage, §§ 1:8, 1:9
- Equality of spousal rights, § 1:18
- Executive compensation, § 6:9
- Family living expenses presumed paid from community earnings, §§ 6:18-6:20
- Goodwill
 - distinguishing goodwill value of a business or profession from increased earning capacity of individual, § 3:4
 - valuation, § 11:20

INDEX

EARNINGS—Cont'd

- Income, see index heading **INCOME**
- Increased earning capacity, see index heading **INCREASED EARNING CAPACITY**
- Premarital debts, segregated earnings of non-debtor spouse, § **9:21**
- Retroactive application of statutes, §§ **5:12, 5:15**
- Separate property, see index heading **SEPARATE PROPERTY**
- Separated spouses' earnings, retroactive application of statute providing for separate property classification of, § **5:12**

EDUCATION

- Child support, taxation. See index heading **CHILD SUPPORT**
- Dissolution, see index heading **DISSOLUTION OF MARRIAGE**
- Increased earning capacity, see index heading **INCREASED EARNING CAPACITY**
- IRA, taxation of education, § **7:18**
- Post-retirement educational benefits, § **7:27**

EDUCATION IRA

- Taxation, § **7:18**

ELDER ABUSE

- Succession to marital property, murderer-beneficiary rule, § **13:71**

ELECTION AGAINST WILL

- See index heading **SUCCESSION TO MARITAL PROPERTY**

EMOTIONAL ILLNESS

- See index heading **INCOMPETENCE**

EMPLOYER AND EMPLOYEE

- Contingent future interest, housing allowance, § **3:45**
- Employee Retirement Income Security Act. See index heading **ERISA**
- Housing allowance, contingent future interest, § **3:45**
- Termination benefits, shared property rights in, § **3:28**

ENDOWMENT CONTRACTS

- Generally, § **7:59**

ENHANCEMENT

- Equal right to enhance community, § **1:30**

EQUAL CREDIT OPPORTUNITY ACT

- Generally, § **9:53**

EQUITABLE RELIEF

- Putative spouse, § **2:12**
- Unmarried cohabitants, §§ **2:23, 2:29**

ERISA

- Generally, §§ **7:9-7:11**
- Control of pension benefits during marriage, § **11:56**
- Costs and fees under, § **11:79**
- Death benefits and REACT, § **7:10**

ERISA—Cont'd

- Preemptive effect of federal law
 - generally, § 5:45
 - exception, victim's restitution orders, § 5:46
 - termination of long-term disability benefits not preempted, § 5:47
- Premarital agreements, § 4:33
- Qualified domestic relations orders, §§ 7:10, 7:11
- Terminable interest rule, statute abolishing, § 7:35
- Trusts, ERISA-regulated pension, § 9:49
- Waiver of anti-assignment provisions, § 7:9

ERROR

- Dissolution of marriage, inherent power of court to correct erroneous ruling on its own motion, § 10:94

ESTOPPEL

- Dissolution claim, estoppel as defense to retrospective enforcement of, § 10:92
- Invalid divorce followed by second marriage, § 5:63
- Marriage, estoppel to deny validity of, § 2:18
- Premarital agreements, § 4:38
- Real property conveyance, estoppel to deny validity of, § 8:30
- Voidance of community property gifts, § 8:15

EVALUATING COMMUNITY ASSETS

- Generally, §§ 11:1-11:34
- Appraisal experts, § 11:11
- Changing values during separation, § 11:10
- Corporate status, ignoring, § 11:32
- Encumbered property, dividing, § 11:31
- Family businesses, generally, § 11:29
- Good cause exception regarding time of evaluation, §§ 11:2, 11:8
- Goodwill
 - generally, §§ 11:20-11:26
 - agreement affecting principal's or partner's share on withdrawal, § 11:21
 - capitalized "excess earnings" method, § 11:23
 - comparable prior sales, § 11:24
 - earnings
 - distinguishing goodwill value of business or profession from increased earning capacity of individual, § 3:4
 - prospect of future, § 11:20
 - gross income multiplier method, § 11:22
 - opinion of party, § 11:25
 - personal goodwill, § 11:21
 - rarity of high valuations, § 11:26
 - tax law, § 11:26
- Increase in value between separation and time of trial, §§ 11:8, 11:9
- Intentional damaging or mismanagement of asset, § 11:8
- Notice requirement for alternative valuation date, § 11:7

INDEX

EVALUATING COMMUNITY ASSETS—Cont'd

Offsetting use value where asset enjoyed by one spouse alone after separation,

§ 11:2

Operation of business, award to spouse most capable of, § 11:30

Opinion of value

appraisal experts, § 11:11

goodwill value, § 11:25

spouse's opinion, § 11:12

Personal preferences, respecting, § 11:34

Professional practices, generally, § 11:27

Real property evaluations, § 11:33

Risk of future liability, sharing, § 11:28

Separation

changing values during separation, § 11:10

increase in value between separation and time of trial, § 11:9

offsetting use value where asset enjoyed by one spouse alone after separation,

§ 11:2

Stipulating to value, § 11:13

Tax considerations

generally, §§ 11:14-11:19

assigning tax liability, § 11:17

goodwill valuations, § 11:26

hypothetical considerations, § 11:15

immediate and specific considerations, §§ 11:16-11:19

interspousal property transactions not taxable events, § 11:18

vesting, method of evaluation on unrestricted, § 11:19

Time of evaluation

generally, § 11:2

different assets valued at different times, § 11:6

family court delays, § 11:3

good cause exception, §§ 11:2, 11:8

judgment set aside, valuation date where, § 11:4

notice requirement for alternative valuation date, § 11:7

EVIDENCE

Succession to marital property, admitting evidence to reform a will, § 13:54

EXECUTIVE COMPENSATION

Classification of property and presumptions of time and source of acquisition,

§ 6:9

EXECUTIVE RETENTION INCENTIVES

Shared property rights in, § 3:26

EXECUTORS OR ADMINISTRATORS

See index heading SUCCESSION TO MARITAL PROPERTY

EXEMPTIONS FROM EXECUTION

Personal injury recoveries, § 7:89

EXPECTANCIES

Contingent future interests distinguished, § 3:32

FAME

Shared property rights in, § 3:25

FAMILY ALLOWANCE

See index heading SUCCESSION TO MARITAL PROPERTY

FAMILY HOME

Deferred sale, see index heading DEFERRING SALE OF FAMILY HOME

FAMOUS SPOUSES

Shared property rights in fame and publicity, § 3:25

FEDERAL EMPLOYERS' LIABILITY ACT

Preemptive effect of federal law, § 5:53

FEDERAL LAW

Constitutional law, see index heading CONSTITUTIONAL LAW

Preemption, see index heading PREEMPTION BY FEDERAL LAW

Putative spouse, post-mortem succession by, §§ 2:16, 2:17

Same sex marriages, § 2:47

FEDERAL UNIFORMED SERVICES FORMER SPOUSES PROTECTION ACT

Disability pay, §§ 7:43-7:47

Federal preemption, §§ 5:31-5:43

Retroactivity of legislative amendments to community property system, § 5:20

FEES

See index heading COSTS AND FEES

FIDUCIARY RESPONSIBILITY

Costs and fees imposed against party breaching fiduciary duties, § 11:71

Gifts, § 8:2

Retroactivity of legislative amendments to community property system, § 5:19

Separation, fiduciary responsibility continuing after, § 1:28

Spousal rights over marital property, §§ 1:24, 1:28

FILM RIGHTS

Shared property rights in, § 3:30

FIRST-TIME HOMEBUYERS

IRA withdrawals for, § 7:18

FOREIGN MONEY JUDGMENT

Attorney fees under Uniform Foreign Money Judgments Recognition Act, § 11:74

FOREIGN SERVICE

Preemptive effect of retirement and disability benefit provisions, § 5:52

FOREIGN STATES

Dissolution, see index heading DISSOLUTION OF MARRIAGE

INDEX

FOREIGN STATES—Cont'd

- Domicile out-of-state rather than location of property controlling quasi-community property, § 5:4
- Full faith and credit, see index heading FULL FAITH AND CREDIT
- Judgment, collateral attack on foreign, § 5:64
- Money judgment, attorney fees, § 11:74
- Presumptions as to party seeking foreign divorce, § 5:63
- Retroactivity of legislative amendments to community property system, § 5:22

FORFEITURE

- Assets, § 9:70

FRANKIE VALLI'S RULE

- Life insurance, interspousal transmutation, written expression of intent, § 4:71

FRAUD

- Conveyances in fraud of creditors, §§ 4:45, 9:28
- Interspousal transfers in fraud of creditors, §§ 4:45, 9:28
- Marital settlement agreements
 - relief from, § 10:77
 - statute of limitations regarding, § 10:7
- Nullification of marriage, § 2:2
- Offset for fraud or deliberate misappropriation, §§ 11:35-11:37
- Premarital agreements, § 4:30
- Real property conveyances, see index heading REAL PROPERTY CONVEYANCES
- Separate property, waiving fraudulent concealment, § 4:37

FULL FAITH AND CREDIT

- Generally, §§ 5:54-5:67
- California's recognition of out-of-state divorces, § 5:55
- Choice of law problems
 - generally, §§ 5:57-5:65
 - enforcing foreign decrees and orders in California, § 5:64
 - foreign domiciliaries dying owning land in California, § 5:60
 - interfamilial suits and domicile, § 5:65
 - local law not always controlling, § 5:62
 - marital property settlements made in another state, § 5:61
 - quasi-community property, § 5:58
 - recognition of out-of-state divorces, § 5:63
 - taking of community property assets to common law state, § 5:59
 - three general approaches used, § 5:57
- Jurisdiction
 - collateral attack on foreign judgment, § 5:64
 - diversity jurisdiction, §§ 5:54, 5:66
 - federal jurisdiction, § 5:66
 - lack of personal, §§ 5:54, 5:56
- Limitations on, § 5:54
- Taxation, § 5:67
- Validity of marriage, § 2:2

FUNERAL EXPENSES

Charges and expenses of administration, § 13:40

FURNITURE

Sale or encumbrance by one spouse of, §§ 8:23-8:27

FUTURE INTERESTS

See index heading CONTINGENT FUTURE INTERESTS

GAMBLING

Debts as separate obligation, § 4:17

Proceeds as separate property, § 4:17

GENETICS

Succession to marital property, children conceived postmortem by use of
parental genetic material, § 13:63

GIFTS

Accounting

community property given to third parties, burden of proof regarding, § 8:4
disclosure, accounting and general fiduciary rules, § 8:2

Avoidance. Voiding community property gifts, below

Community property given to third parties

generally, §§ 8:2-8:6

burden of proof on accounting issues, § 8:4

managing property for benefit of community, §§ 8:3-8:6

restraining and protective orders, § 8:5

standard of care in managing community property, §§ 8:3-8:6

voiding community property gifts, below

“Community estate” terminology in Family Code, § 5:10

Consent of non-donor spouse, §§ 8:7, 8:15

Death

survival of right to avoid gift, below

voiding community property gifts after donor spouse’s, §§ 8:2, 8:12

Defined, § 8:2

Disclosure, accounting and general fiduciary rules, § 8:2

Dissolution of marriage

burden of proof as to existence of community property, § 8:4

restraining and protective orders, § 8:5

voiding community property gifts after donor spouse’s, §§ 8:2, 8:13

Estoppel precluding avoidance of community property gifts, § 8:15

Executors and administrators, duties as to avoidance of gifts, § 8:20

Incompetence. Survival of right to avoid gift, below

Marital status of donor, § 1:16

Minors, avoidance of gifts to, § 8:18

Ratification precluding avoidance of community property gifts, § 8:15

Recipient

spouse, generally. See index heading SEPARATE PROPERTY

third parties, generally, §§ 8:1-8:22

Restitutionary remedy, avoidance of community property gifts as, § 8:10

INDEX

GIFTS—Cont'd

Separate property, see index heading **SEPARATE PROPERTY**

Separation

burden of proof as to existence of community property, § 8:4

restraining and protective orders, § 8:5

Standard of proof as to use of community property, § 8:4

Statute of limitations on action to void community property gifts, §§ 8:9, 8:19, 8:28

Succession, see index heading **SUCCESSION TO MARITAL PROPERTY**

Survival of right to avoid gift

generally, §§ 8:16-8:21

executor's and administrator's duties, § 8:20

protective causes of action, survival of, § 8:17

statute of limitations, §§ 8:19, 8:28

Uniform Transfers to Minors Act, § 8:18

Taxation

community property gifts, §§ 8:21, 8:22

interspousal transfers as gifts rather than sales, § 12:5

return as transmuting separate property classification of gift property, § 4:16

Tips and gratuities for service, §§ 3:24, 4:14

Voiding by non-consenting spouse, §§ 1:8, 1:14, 1:15

Voiding community property gifts

generally, §§ 8:7-8:15

cause of action against donor, § 8:2

consent of non-donor spouse, §§ 8:7, 8:15

death, voiding after donor spouse's, §§ 8:2, 8:12

divorce, voiding after donor spouse's, §§ 8:2, 8:13

estoppel, § 8:15

fair and reasonable value, §§ 8:7, 8:14

mesne profits, disgorging of, § 8:11

non-consenting spouse, avoidance remedy available only to, § 8:2

ratification, waiver and estoppel, § 8:15

real and personal property, same principles applicable to gifts of, § 8:2

restitution, § 8:10

statute of limitations, § 8:9

survival of right to avoid gift, above

voidable rather than void nature of gifts, §§ 8:2, 8:8

waiver, § 8:15

Waiver precluding avoidance of community property gifts, § 8:15

GOLDEN HANDCUFFS

Executive retention incentives, shared property rights in, § 3:26

GOOD OR BAD FAITH

Attorney conduct in bankruptcy court, § 9:45

Misappropriation, award or offset for deliberate, § 11:37

Premarital debt reimbursement, § 9:17

Putative marriage, § 2:9

Putative spouse, §§ 2:6, 2:8, 2:10

GOOD OR BAD FAITH—Cont'd

Real property, see index heading REAL PROPERTY CONVEYANCES

GOODWILL

Generally, §§ 3:1-3:8

Account books, financial services professions, bonuses, § 3:5

Attorney's practice, sale of, § 3:6

Bonuses, account books, financial services professions, § 3:5

Defining "goodwill," § 3:3

Disguised earnings, financial services professions, account books, § 3:5

Earnings, distinguishing goodwill value of a business or profession from increased earning capacity of individual, § 3:4

Evaluation, see index heading EVALUATING COMMUNITY ASSETS

Excess earnings method of valuation, § 3:3

Factors affecting value of professional goodwill, § 3:2

Financial services professions, account books, bonuses, § 3:5

Individual, distinguishing goodwill value of a business or profession from increased earning capacity of, § 3:4

Inspecting spouse's confidential client or patient files, § 3:7

License to practice distinguished, § 3:8

Market and marital dissolution value, § 3:2

Valuation, see index heading EVALUATING COMMUNITY ASSETS

GOVERNING LAW

Federal law, see index heading FEDERAL LAW

Full faith and credit, see index heading FULL FAITH AND CREDIT

Preemption, see index heading PREEMPTION BY FEDERAL LAW

Spanish-Mexican law, see index heading SPANISH-MEXICAN LAW

GRATUITIES

See index heading TIPS AND GRATUITIES

HEAD OF HOUSEHOLD

Taxation, §§ 12:2, 12:50

HEALTH CARE DECISIONS

Domestic partners, § 2:22

HEALTH INSURANCE

COBRA continuation of, § 7:52

Domestic partnerships, § 2:22

Retiree's continuing right to coverage, § 3:46

HISTORICAL DEVELOPMENT

Generally, §§ 1:1-1:34

Quasi-community property, § 5:2

Spanish-Mexican law, see index heading SPANISH-MEXICAN LAW

HOME FURNISHINGS

Sale or encumbrance by one spouse of, §§ 8:23-8:27

INDEX

HOMESTEAD

- Avoidance of unilateral conveyances, see index heading REAL PROPERTY CONVEYANCES
- Bankruptcy exemption, §§ 9:50, 11:66
- Fraudulent conveyance, § 9:28
- Quasi-community property, § 5:9
- Real property conveyances, see index heading REAL PROPERTY CONVEYANCES
- Statutory homestead, § 9:50
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY

HOMOSEXUALITY

- See index heading SAME-SEX RELATIONSHIPS AND MARRIAGES

HOUSEHOLD AND HOUSEHOLDER

- Allowance, contingent future interest, § 3:45
- Items, sale or encumbrance by one spouse of, §§ 8:23-8:27

ILLNESS

- Division of property for Medi-Cal eligibility purposes, § 1:7

IMPROVEMENTS

- Gifts, improvements on property given, § 4:13
- Separate property used to improve community property
 - generally, §§ 4:70, 6:60-6:64
 - business property, allocating proportionate shares of, § 6:61
 - common law doctrines, § 6:60
 - contributions to separate property of other spouse reimbursable on dissolution, § 6:65
 - implied consent to reimbursement of community, § 6:63
 - non-monetary contributions, § 6:62
 - statute of limitations tolled during marriage, § 6:64
 - waiver of right to reimbursement, § 6:63

IMPUTED NEGLIGENCE

- Abolition of, § 7:87

INCAPACITY

- See index heading INCOMPETENCE

INCOME

- Costs and fees, see index heading COSTS AND FEES
- Increased earning capacity, see index heading INCREASED EARNING CAPACITY
- Stock options as income, § 3:39
- Taxation, see index heading TAXATION

INCOMPETENCE

- Division of community property upon legal incapacity of one spouse, § 1:6
- Gift avoidance, see index heading GIFTS
- Managing spouse's incompetence
 - generally, § 8:51
 - conservatorship, § 8:53
 - durable power of attorney, § 8:52

INCOMPETENCE—Cont'd

Marital settlement agreements, relief from, § 10:77

INCREASED EARNING CAPACITY

Generally, §§ 3:9-3:23

Agreement of parties contrary to statute, § 3:21

Assignment of student loans to spouse receiving education, §§ 3:9, 3:13

Discretion of court to adjust reimbursement of community, § 3:14

Dissolution or separation, educational reimbursement statute applicable only on, § 3:20

Exclusive remedy, reimbursement to community as, § 3:16

Interest on amount reimbursed to community, § 3:12

License to practice profession as property, § 3:9

Quasi-community property, § 3:9

Reimbursement alimony, § 3:19

Reimbursement to community, generally, §§ 3:9, 3:10

Retroactive application of educational reimbursement statute, §§ 3:17, 5:20

Scope of contributions reimbursed, § 3:15

Student loans assigned to spouse receiving education, §§ 3:9, 3:13

Substantial enhancement to earning capacity required for reimbursement of community, §§ 3:11, 3:22

Value of education, generally, § 3:18

INDIAN GAMING REGULATORY ACT

Generally, § 9:54

INDIVIDUAL RETIREMENT ACCOUNTS

Succession rights, renunciation or disclaimer of, § 13:22

Taxation, § 7:18

INFANTS

Generally, see index heading MINORS

Child support, see index heading CHILD SUPPORT

INFIRM PARENTS

Satisfaction and reimbursement after remarriage, duty to support infirm parents, § 9:24

INHERENT POWERS OF COURT

Dissolution of marriage, inherent power of court to correct erroneous ruling on its own motion, § 10:94

INNOCENT SPOUSE RULES

Contingent future interests, §§ 3:47, 3:48

INSURANCE

Casualty insurance, § 7:70

Contingent future interests, see index heading CONTINGENT FUTURE INTERESTS

Dissolution court's forcing use of funds to provide insurance for children, § 10:1

Health insurance, see index heading HEALTH INSURANCE

Life insurance, see index heading LIFE INSURANCE

Quasi-community property, limitations on, § 5:10

INDEX

INSURANCE—Cont'd

- Security devices to protect property division agreement, § 11:64
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Tort damages, procedures to pay, § 9:66
- Unemployment insurance, see index heading UNEMPLOYMENT INSURANCE AND BENEFITS

INTELLECTUAL PROPERTY

- Preemptive effect of federal law, § 5:49
- Shared property rights in, § 3:30

INTENT

- Classification of property acquired with borrowed money, lender's intent and, §§ 6:12-6:17
- Intestate success, see SUCCESSION TO MARITAL PROPERTY
- Separate property, see index heading SEPARATE PROPERTY

INTEREST ON MONEY

- Deferring sale of family home, § 11:47
- Life insurance interest payment option, § 7:63
- Premarital debt reimbursement, § 9:17
- Reimbursement to community for increased earning capacity, § 3:12
- Taxability of interest on promissory notes, § 12:7

INTERFERENCE

- Intestate succession, expected inheritance, § 13:67

INTERSPOUSAL GIFTS AND AGREEMENTS

- Minors, welfare of, § 4:53
- Quasi-community property, § 5:11
- Separate property, see index heading SEPARATE PROPERTY
- Taxation
 - gifts rather than sales, interspousal transfers as, §§ 5:11, 12:5
 - termination of marriage, transfers on, § 12:3

INTESTACY

- See index heading SUCCESSION TO MARITAL PROPERTY

JOINT TENANCY OR TENANCY IN COMMON

- Division of property, §§ 4:67, 4:69, 10:1
- Incompatibility with community property status, § 4:52
- Presumption of severance by dissolution, separation or declaration of nullity, § 10:69
- Quasi-community property, joint tenancy in, § 4:61
- Sale of family home, deferring, § 11:44
- Separate property contributions to acquisition of community property, § 6:50
- Severance by dissolution, separation or declaration of nullity, § 10:69
- State of title not conclusive as to community or common law status, §§ 4:54-4:72
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Taxation, § 4:72

JOINT TENANCY OR TENANCY IN COMMON—Cont'd

Third party, joint tenancy with, § 4:58

Unadjudicated community property held as tenancy in common, § 10:97

JONES ACT

Preemptive effect of federal law, § 5:53

JUDGMENTS

Bank account of judgment debtor's spouse, levying on, § 9:7

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Dissolution of marriage, judgment nunc pro tunc, § 10:103

Evaluation when judgment set aside, time of, § 11:4

Foreign judgment, collateral attack on, § 5:64

Foreign money judgment, attorney fees, § 11:74

Homestead, see index heading HOMESTEAD

Marriage, judgments filed against one spouse during, § 9:25

Merger of marital settlement agreement into judgment of dissolution, § 5:25

Separation, earnings after judgment of legal separation, § 4:7

Tort judgment creditor, property reachable by, § 9:62

JUDGMENTS NUNC PRO TUNC

Dissolution of marriage, § 10:103

JUDICIAL REVIEW

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Sanctions for frivolous appeals, §§ 11:70, 11:80

JURISDICTION

Annulment, see index heading ANNULMENT OF MARRIAGE

Bankruptcy and state court jurisdiction, § 9:33

Costs and fees, § 11:82

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Division of property, §§ 4:69, 5:9, 5:10

ERISA provisions, § 4:33

Family home, future sale of, § 11:40

Full faith and credit, see index heading FULL FAITH AND CREDIT

Pension plans, §§ 11:53, 11:54

Preemption by federal law, § 5:40

Quasi-community property, §§ 5:9, 5:10

Separation, see index heading SEPARATION

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Unmarried cohabitants, § 2:32

JURY TRIAL

Contempt power usage to enforce orders dividing property, § 5:24

KNOWLEDGE

Premarital agreements, § 4:35

LAWYERS

See index heading ATTORNEYS

INDEX

LAYOFF BENEFITS

Shared property rights in, § 3:28

LEASES

Avoidance of unilateral conveyances, §§ 8:28, 8:29

Surviving spouse's power to lease community property, § 13:2

LEGAL MALPRACTICE

Premarital agreements, § 4:35

LICENSES

Goodwill distinguished, § 3:8

Increased earning capacity, § 3:9

LIENS

Attorney's real property lien, §§ 8:42, 11:81, 11:82

Avoidance of unilateral conveyances, §§ 8:39, 8:42

Dissolution judgment lien, § 10:64

Security devices to protect property division agreement, § 11:65

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

LIFE INSURANCE

Generally, §§ 7:56-7:73

Annuities, § 7:60

Cash surrender value, §§ 7:56, 7:58

Casualty insurance, § 7:70

Categories of life insurance, §§ 7:57-7:60

Community interest in insurance, generally, §§ 7:67-7:72

Community property contributions to acquisition of separate property, §§ 6:55, 6:59

Endowment contracts, § 7:59

Federal employees' group life insurance, §§ 5:50, 7:69

Federal Uniformed Services Former Spouses Protection Act, § 5:34

Group life insurance for federal employees, §§ 5:50, 7:69

National service life insurance, § 7:68

Ordinary life insurance, § 7:58

Payment options

generally, §§ 7:61-7:66

annuity option, § 7:66

fixed payment option, § 7:64

fixed period option, § 7:65

interest option, § 7:63

outright payment to beneficiary, § 7:62

Presumptions, § 4:71

Quasi-community property, §§ 5:10, 7:72

Restitution under the Victims' Bill of Rights Act, § 7:92

Settlement options. Payment options, above

Spousal support, insurance to secure, § 12:40

Taxation, §§ 7:73, 12:40

Term insurance, §§ 7:57, 7:71

LIFE INSURANCE—Cont'd

Victims' Bill of Rights Act, restitution under, § 7:92

LIMITATION OF ACTIONS

See index heading STATUTE OF LIMITATIONS

LIS PENDENS

Security devices to protect property division agreement, § 11:64

LIVING EXPENSES

Community asset, management enhancing separate property as, § 6:30

Necessaries, see index heading NECESSARIES

Presumption that family living expenses paid from community earnings,
§§ 6:18-6:20

LIVING TOGETHER

See index heading UNMARRIED COHABITANTS

LOANS

Generally, see index heading DEBTORS AND CREDITORS

Bankruptcy, see index heading BANKRUPTCY

LONGSHOREMEN'S AND HARBOR WORKER'S COMPENSATION

Putative spouse, post-mortem succession by, §§ 2:16, 2:17

LONG-TERM ILLNESS

Division of property for Medi-Cal eligibility purposes, § 1:7

LOTTERY TICKETS

Contingent future interests in, § 3:36

MALPRACTICE

Premarital agreements, § 4:35

MANAGEMENT AND CONTROL OF PROPERTY

"Add-a-name" remedy, § 9:4

Accounting, §§ 9:1, 9:4

Business, spouse managing community, §§ 9:1, 9:2

Classification of property

community asset, management enhancing separate property as, below
other spouse's separate property managed, § 6:70

Community asset, management enhancing separate property as
generally, §§ 6:30-6:41

capital growth formula, § 6:31

community property standing to support shareholder derivative actions, § 6:39
fluctuating values, § 6:37

living expenses, deduction of, § 6:30

percentage recovery, § 6:35

salaried services formula, §§ 6:32-6:37

selection of formula, generally, § 6:33

shareholder derivative actions, community property standing to support,
§ 6:39

tax rule as to passive activity, § 6:37

INDEX

MANAGEMENT AND CONTROL OF PROPERTY—Cont'd

- Community asset, management enhancing separate property as—Cont'd
 - time and skills expended, §§ 6:38, 6:40
 - total compensation, salary not determinative of, § 6:34
- Contract liability principles, § 9:5
- Disclosure duties, interspousal, §§ 9:1, 9:3
- Equal rights of spouses, generally, § 1:29
- Fiduciary responsibility, §§ 1:24, 9:3
- Gifts, see index heading GIFTS
- Historic development of California's community property principles, generally, §§ 1:3, 1:8
- Incompetence of managing spouse, see index heading INCOMPETENCE
- Interference by spouse, § 1:24
- Interspousal management liability, § 1:25
- Mismanagement
 - generally, § 9:1
 - business, spouse managing community, §§ 9:1, 9:2
 - fiduciary responsibility, §§ 1:24, 9:3
 - interspousal liability, § 1:25
 - remedies, §§ 9:1, 9:4
- Other spouse's separate property, § 6:70
- Restitution, § 9:4
- Shareholder derivative actions, community property standing to support, § 6:39
- Tort liability, § 9:57

MARITAL SETTLEMENT AGREEMENTS

- Generally, §§ 10:70-10:89
- Attorneys
 - ratification of agreement, § 10:70
 - setting aside agreement, below
- Compromise offers, § 10:75
- Costs and fees, § 11:69
- Disclosure duty, §§ 10:71, 10:78
- Fraud
 - relief from, § 10:77
 - statute of limitations regarding, § 10:7
- Full faith and credit as to settlements made in another state, § 5:61
- Interpretation, § 10:73
- Merger of marital settlement agreement into judgment of dissolution, § 5:25
- Modification by court, § 10:74
- Rescission. Setting aside agreement, below
- Securing obligations under agreements, § 11:65
- Securities sales, § 10:76
- Setting aside agreement
 - generally, §§ 10:77-10:89
 - attorneys
 - dual representation, § 10:85
 - one-party only represented, § 10:84

MARITAL SETTLEMENT AGREEMENTS—Cont'd

Setting aside agreement—Cont'd
attorneys—Cont'd
 rescission for attorney misconduct, § 10:87
 court's partiality or lack of professional competency, § 10:88
 default judgment, relief from, § 10:77
 disability of parties, § 10:80
 disclosure duties, § 10:78
 due diligence in pursuing claim in dissolution cases, § 10:82
 duress, § 10:81
 fair trial, § 10:78
 inequitable division insufficient to set aside judgment, § 10:89
 lack of professional competency by court, § 10:88
 mistake, § 10:80
 opinion on value of asset, § 10:86
 partiality by court, § 10:88
 reconciliation before decree becomes final, § 10:83
 rescission for attorney misconduct, § 10:87
 warranty clauses, § 10:79
Statute of limitations, § 10:72
Tort claims outstanding, § 9:64
Writing requirement, § 10:70

MARRIAGE

Generally, §§ 2:1-2:48
Annulment, see index heading ANNULMENT OF MARRIAGE
As partnership, trust, or hybrid type of cotenancy, § 1:22
Bigamy, see index heading BIGAMY
Ceremonial, §§ 2:3-2:5, 2:7
Classifying property and presumptions regarding time and source of acquisition, § 6:3
Cohabitation
 generally, §§ 2:2, 2:5
 unmarried cohabitants, see index heading UNMARRIED COHABITANTS
Common law marriage, see index heading COMMON LAW
Constitutional law, Defense of Marriage Act, § 1:33
Contract, marriage as, § 2:2
Credit applicant's marital status, § 1:16
Creditors' rights, see index heading DEBTORS AND CREDITORS
Development of California's community property system, § 1:3
Economic partnership of marriage, §§ 1:13, 1:22
Familial relationship distinguished, § 2:1
Grantor's marital status, § 1:16
Military service credit purchased during marriage, § 5:42
Notification of, § 2:1
Nullification, see index heading ANNULMENT OF MARRIAGE
Putative marriage, see index heading PUTATIVE MARRIAGE
Putative spouse, see index heading PUTATIVE SPOUSE

INDEX

MARRIAGE—Cont'd

- Right to, § 2:3
- Same-sex marriages, see index heading SAME-SEX MARRIAGES
- Solemnization, §§ 2:3-2:5, 2:7
- Spousal support, termination upon remarriage, § 12:28
- Statutory requirements for valid marriage, § 2:2
- Termination of spousal support upon remarriage, § 12:28
- Unmarried cohabitants, see index heading UNMARRIED COHABITANTS
- Valid ceremonial marriage, §§ 2:3-2:5, 2:6
- Void and voidable marriages
 - distinguished, § 2:2
 - estoppel to deny validity of marriage, § 2:18
- Will, age requirement for executing, § 13:64

MECHANICS' LIENS

- Succession to marital property, § 13:49

MEDIATION

- Confidentiality, § 10:5

MEDI-CAL

- Division of property for eligibility purposes, § 1:7

MENTAL ILLNESS

- See index heading INCOMPETENCE

MERETRICIOUS RELATIONSHIPS

- Unmarried cohabitants, see index heading UNMARRIED COHABITANTS

MEXICAN LAW

- See index heading SPANISH-MEXICAN LAW

MILITARY

- Arrearages, limitations of Federal Uniformed Services Former Spouses Protection Act, § 5:37
- Continuing Veterans Administration disability pay, § 5:38
- Disability pay, §§ 5:35, 5:38, 7:43-7:48
- Dissolution of marriage
 - default judgment, § 10:8
 - finality of judgment, military pension exception to, § 10:102
 - jurisdiction over respondents in military service, § 10:17
- Limitations of Federal Uniformed Services Former Spouses Protection Act, §§ 5:36, 5:37
- Loss of retirement benefits by service member spouse, § 5:43
- National service life insurance, § 7:68
- Non-preemption of Veterans Administration disability pay, § 5:39
- Pensions, see index heading MILITARY PENSIONS
- Separation pay, §§ 5:41, 7:26
- Service credit purchased during marriage, § 5:42
- Veterans Administration disability pay, §§ 5:38, 5:39

MILITARY PENSIONS

- Division of property, § 7:26
- Finality of dissolution judgment, military pension exception to, § 10:102
- Quasi-community property, § 5:5
- Retroactivity of legislative amendments to community property system, §§ 5:17, 5:20

MINORS

- Conception, postmortem by use of parental genetic material, § 13:63
- Domestic partnerships, rights of children, § 2:22
- Family home, see index heading DEFERRING SALE OF FAMILY HOME
- Gifts to, voidance of, § 8:18
- Interspousal agreements affecting, § 4:53
- Separate property and public policy regarding children, § 4:32
- Support, see index heading CHILD SUPPORT
- Voidable marriages, § 2:2
- Will, omission from, § 13:45

MISAPPROPRIATION

- Recovery for deliberate misappropriation, § 1:27

MISREPRESENTATION

- Nullification of marriage, § 2:2

MISTAKES, ACCIDENTS, AND SURPRISES

- Dissolution of marriage, inherent power of court to correct erroneous ruling on its own motion, § 10:94
- Marital settlement agreements, setting aside agreement, § 10:80

MOBILE HOMES

- Sale or encumbrance by one spouse of, §§ 8:23-8:27

MOTIONS

- Dissolution of marriage, inherent power of court to correct erroneous ruling on its own motion, § 10:94

MOTOR VEHICLES

- Permissive use statute, § 9:61
- Uninsured motorist proceeds, § 7:90

MURDER

- Tort liability for attempted murder of spouse, § 9:69

MURDERER-BENEFICIARY RULE

- Succession to marital property, §§ 13:70, 13:71

NATIONAL SERVICE LIFE INSURANCE

- Generally, § 7:68

NECESSARIES

- Personal liability for, §§ 9:10, 9:29
- Reimbursement for, § 10:66
- Restraining orders, § 10:47

INDEX

NECESSARIES—Cont'd

Surviving spouse's personal responsibility for decedent's debts, § 13:32

NONPROBATE TRANSFERS

Succession to marital property, § 13:59

NOTICE

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Domestic partnership registration, § 2:22

NULLIFICATION OF MARRIAGE

See index heading ANNULMENT OF MARRIAGE

OFFSETS

Division of property on dissolution of marriage, § 10:1

Family home, award of, § 11:38

Fraud or deliberate misappropriation, offset for, §§ 11:35-11:37

Valuation where asset enjoyed by one spouse alone after separation, § 11:2

OMITTED SPOUSE

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

OPTIONS

Life insurance payment options, see index heading LIFE INSURANCE

Pension plans, employee's options regarding, § 7:24

Real property options, shared property rights in, § 3:29

Stock options, see index heading STOCK OPTIONS

ORIGINS

Community law principles, generally, §§ 1:1-1:34

OUT-OF-STATE

See index heading FOREIGN STATES

PARENTAL SUPPORT

Satisfaction and reimbursement after remarriage, § 9:24

PARTIAL PERFORMANCE

Premarital agreements, oral, § 4:38

PARTITION

See index heading DIVISION OF PROPERTY

PARTNERSHIPS

Community property, § 4:55

Domestic, see index heading DOMESTIC PARTNERSHIPS

Economic partnership of marriage, §§ 1:13, 1:22

Goodwill affecting principal's or partner's share on withdrawal, § 11:21

PATENTS

Preemptive effect of federal law, § 5:49

Shared property rights in, § 3:30

PAY

Earnings, see index heading EARNINGS

PAYABLE ON DEATH ACCOUNT

Nonprobate transfers, § 13:59

PENSIONS AND RETIREMENT BENEFITS

Generally, §§ 7:1-7:92

Arrearages, plan administrator's duty to pay out, § 11:62

Assignment, state pensions, § 7:36

Civil service, see index heading CIVIL SERVICE

Contingent future interests in non-vested, § 3:33

Control of benefits, division of property

after separation, § 11:57

during marriage, § 11:56

Death

benefits, § 7:7

terminable interest rule, §§ 7:28, 7:30

Defined benefit plans, § 7:4

Defined contribution plans, § 7:5

Disability payments, see index heading DISABILITY AND DISABILITY PAYMENTS

Division of property

generally, §§ 7:19-7:27, 11:52-11:63

administrator, joining and garnishing or attaching pension, §§ 11:61, 11:62

cashing out pension rights, § 11:59

claim against participant rather than plan, § 7:22

clashing rights of participant and non-participant spouses, §§ 11:53, 11:54

control of benefits, above

discretion of court in ordering payout, §§ 7:20, 11:54

educational benefits, post-retirement, § 7:27

increase in benefits, court's inability to order, § 7:23

joining plan administrator, § 7:25

jurisdiction, retention of, §§ 11:53, 11:54

non-employee's election to take share of matured pension, § 7:21

options of employee, § 7:24

plan administrator, joining and garnishing or attaching, §§ 11:61, 11:62

postponing enjoyment in dissolution case, § 10:1

present value, § 11:58

stock options, evaluation of, § 11:59

tax considerations, §§ 11:63, 12:12

"time rule," § 11:55

timing, §§ 7:19, 11:52

Equal division upon dissolution, § 7:2

ERISA, see index heading ERISA

Excise taxes, § 7:17

Individual retirement accounts, tax treatment of, § 7:18

Joining and garnishing or attaching pension administrator, §§ 11:61, 11:62

Jurisdiction to divide property, retention of, §§ 11:53, 11:54

Military pensions, see index heading MILITARY PENSIONS

Non-vested plans, §§ 3:33, 7:3, 7:8

Preemption of statutory abolition of terminable interest rule, §§ 7:34, 7:35

INDEX

PENSIONS AND RETIREMENT BENEFITS—Cont'd

Premarital agreements and ERISA, § 4:33

Qualified plans

generally, § 7:6

joint-and-survivor annuities, § 7:10

tax treatment, §§ 7:6, 7:14-7:18

Quasi-community property, §§ 5:5, 5:10

REACT, see index heading RETIREMENT EQUITY ACT

Retirement Equity Act, see index heading RETIREMENT EQUITY ACT

Retroactivity of legislative amendments to community property system, §§ 5:17, 5:20, 11:52

State pensions, non-assignability, § 7:36

Succession rights regarding pension plans with joint and survivor annuities, § 13:24

Taxation

distributions, § 7:16

dividing pension benefits, §§ 11:63, 12:12

excise taxes, § 7:17

individual retirement accounts, § 7:18

pension plans or tax-deferred retirement accounts, division of, § 12:12

qualified plans, §§ 7:6, 7:14-7:18

Terminable interest rule

generally, §§ 7:3, 7:28-7:34

contributory and non-contributory plans, coverage of, § 7:29

death of non-employee spouse, §§ 7:28, 7:30

inconsistency with community property law's philosophy, § 7:32

statutory abolition, §§ 7:34, 7:35, 11:52

survivorship designations, § 7:31

Time or date. Division of property, above

Vesting and maturing, generally, § 7:6

PERSONAL INJURY RECOVERIES

Generally, § 7:74

As to tort liability generally, see index heading TORTS

Assignment, §§ 7:84, 7:90

Causes of action, § 7:76

Causes of action, see index heading CAUSES OF ACTION

Commingling, § 7:83

Debts contracted during marriage, § 9:22

Disability recovery that later becomes retirement income, § 7:85

Dissolution of marriage

assigning recoveries of money or property on, § 7:84

awarding recovery to injured spouse on, §§ 7:82, 10:1

Exemption from execution, § 7:89

Interests of justice, §§ 7:86, 7:88

Interspousal liability, §§ 7:74, 7:91

Medical expenses paid, reimbursement for, § 7:88

Nonapportionment, § 7:75

PERSONAL INJURY RECOVERIES—Cont'd

- Retroactivity of legislative amendments to community property system, § 5:16
- Uninsured motorist proceeds, § 7:90
- Wrongful death of child, § 7:91

POWER OF APPOINTMENT

- Separate property, § 4:12

PREEMPTION BY FEDERAL LAW

- Generally, §§ 5:27-5:53
- Arrearages, limitations of Federal Uniformed Services Former Spouses Protection Act, § 5:37
- Bankruptcy Code, §§ 5:51, 9:32, 9:44
- Continuing Veterans Administration disability pay, § 5:38
- Copyright law, § 5:49
- ERISA
 - generally, § 5:45
 - exception, victim's restitution orders, § 5:46
 - termination of long-term disability benefits, § 5:47
- Federal civil service retirement, § 5:48
- Federal Employers' Liability Act, § 5:53
- Federal Uniformed Services Former Spouses Protection Act, §§ 5:31-5:43
- Foreign service retirement and disability benefits, § 5:52
- Group life insurance for federal employees, § 5:50
- Jones Act, § 5:53
- Jurisdiction, § 5:40
- Military disability pay, §§ 5:35, 5:38
- Military separation pay, § 5:41
- Military service credit purchased during marriage, § 5:42
- National service life insurance, § 7:68
- Non-preemption of Veterans Administration disability pay, § 5:39
- Personal jurisdiction, § 5:40
- Presumptions, § 5:26
- Railroad Retirement Act, §§ 5:26-5:29
- Railroad Retirement Solvency Act, § 5:28
- Social Security benefits, §§ 5:30, 5:44
- Terminable interest rule, statute abolishing, § 7:35
- Veterans Administration disability pay, §§ 5:38, 5:39

PREFERENTIAL TRANSFERS

- Bankruptcy, § 9:41
- Voiding preferential transfers, § 9:41

PREMARITAL AGREEMENTS

- See index heading SEPARATE PROPERTY

PRESENT OWNERSHIP

- Spousal rights, § 1:17

PRESUMPTIONS

- Alimony ceasing at death of payee, § 12:27

INDEX

PRESUMPTIONS—Cont'd

- Bank accounts, joint form presumption of, § 4:68
- Child support, ability to pay, § 5:24
- Commingling separate and community funds, §§ 6:23-6:27
- Community debts paid after separation with separate funds, §§ 6:67, 6:69
- Community property presumed for property division on dissolution or separation, §§ 4:54-4:69
- Family home as community property, § 11:38
- Family living expenses presumed paid from community earnings, §§ 6:18-6:20
- Foreign divorce, party seeking, § 5:63
- Joint form, marital property held in, §§ 4:54-4:72
- Joint tenancy or tenancy in common, severance by dissolution, separation or declaration of nullity, § 10:69
- Life insurance, § 4:71
- Married woman, conveyance by written instrument to, § 4:54
- Real property conveyances, see index heading REAL PROPERTY CONVEYANCES
- Residence as community property, § 11:38
- Separate property, §§ 4:15, 4:18, 4:71, 6:4
- State of title as ceding to time, source and agreement presumptions, § 4:56
- Substantial enhancement to earning capacity required for reimbursement of community, § 3:22
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Successive marriages, § 2:2
- Time and source of acquisition
 - generally, §§ 6:2-6:11
 - death after dissolution of marriage, § 6:3
 - earnings and accumulations, § 6:5
 - establishing community property presumption, §§ 6:7-6:10
 - executive compensation, § 6:9
 - instrument in writing presumption abolished, § 6:6
 - marriage, acquisition during, § 6:3
 - rebuttal of presumption, § 6:2
 - separate property presumptions, § 6:4
 - third party standing to contest classification, § 6:11
- Unmarried cohabitants, § 2:39

PRETERMITTED SPOUSE

- Putative spouse's qualification as, § 2:20
- Quasi-community property, § 5:9

PRINCIPAL AND SURETY

- Premarital debts, § 9:20

PRIORITY OF COMMUNITY PROPERTY LAW

- Title issues, §§ 1:13, 1:14

PRIVACY

- Marriage, right to, § 2:3

PRIVILEGES AND IMMUNITIES CLAUSE

Quasi-community property, § 5:2

PUBLICITY

Shared property rights in, § 3:25

PUTATIVE MARRIAGE

Ceremony, necessity for establishing putative marriage of putative spouse, § 2:6

Good faith belief of one spouse, § 2:9

Putative spouse distinguished, § 2:8

PUTATIVE SPOUSE

Generally, §§ 2:6-2:21

Causes of action against third parties, generally, § 2:19

Ceremony, necessity for establishing putative marriage of, § 2:6

Equitable relief, § 2:12

Estoppel to deny validity of marriage, § 2:18

Post-mortem succession, §§ 2:15-2:17

Pretermitted spouse, qualification as, § 2:20

Proof of status, § 2:8

Putative marriage distinguished, § 2:8

Quasi-marital property, §§ 2:6, 2:11

Religious belief, § 2:10

Taxation, § 2:21

Workers' compensation, § 2:14

Wrongful death actions, § 2:13

QUALIFIED DOMESTIC RELATIONS ORDERS (DQROS)

Employee options, § 7:24

ERISA plans, assignment of, §§ 7:10, 7:11

QUANTUM MERUIT

Unmarried cohabitants, §§ 2:24, 2:38

QUASI-COMMUNITY PROPERTY

Generally, § 5:1

Classification of property, § 6:52

"Community estate" terminology used in Family Code, §§ 5:8-5:10

Constitutionality of legislation, §§ 5:2-5:7

Contract rights of creditors, §§ 9:8, 9:15

Defined, §§ 5:2, 5:7

Division of property, problems of, §§ 11:35-11:63

Doctrine of prior vested and acquired rights, § 5:2

Foreign domicile rather than location of property controlling, § 5:4

Full faith and credit, § 5:58

Homestead, § 5:9

Increased earning capacity, § 3:9

Interspousal transfers, § 5:11

Joint tenancy in, § 4:61

Life insurance, §§ 5:10, 7:72

INDEX

QUASI-COMMUNITY PROPERTY—Cont'd

- Limitations on, § 5:10
- Management of property, §§ 9:1, 9:4
- Military pensions, § 5:5
- Paramount state interest, § 5:3
- Pensions, §§ 5:5, 5:10
- Pretermitted spouse, § 5:9
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Support, child and spousal, § 5:9
- Taxation, §§ 5:11, 12:9
- Tracing, § 5:6

QUASI-MARITAL PROPERTY

- Generally, §§ 2:6, 2:11

RAILROAD RETIREMENT ACT

- Preemptive effect of federal law, §§ 5:26-5:29

RAILROAD RETIREMENT SOLVENCY ACT

- Preemptive effect of federal law, § 5:29

REACT

- See index heading RETIREMENT EQUITY ACT

REAL PROPERTY CONVEYANCES

- Avoidance of unilateral conveyances
 - generally, §§ 8:28-8:42
 - attorney's real property lien, § 8:42
 - contract grounds, voiding conveyances on common law, § 8:40
 - death of conveying spouse, § 8:33
 - deed of trust conveyed, § 8:35
 - dissolution of marriage, below
 - estoppel to deny validity of conveyance, § 8:30
 - fraud
 - creditors, conveyances in fraud of, § 8:41
 - interspousal conveyances, § 8:37
 - statute of limitations as affected by, § 8:36
 - homestead declaration not conveyance, § 8:37
 - interspousal conveyances, § 8:37
 - involuntary conveyances, § 8:39
 - leases, generally, §§ 8:28, 8:29
 - liens, §§ 8:39, 8:42
 - presumptions
 - community property status, § 8:37
 - validity of conveyance, § 8:30
 - specific performance, § 8:31
 - statute of limitations, below
 - third party avoidance of unilateral spousal transactions, § 8:32
- Bona fide purchasers' rights
 - generally, §§ 8:43-8:50

REAL PROPERTY CONVEYANCES—Cont'd

- Bona fide purchasers' rights—Cont'd
 - consent, dispensing with, § 8:46
 - felony, married person's selling lands under false representation as, § 8:50
 - homestead declaration, § 8:48
 - joint tenancy, severing of, § 8:47
 - remedies recapped, § 8:49
 - restoration of status quo ante, § 8:45
 - voidance of conveyance, effect of, § 8:44
- Consent
 - dispensing with, § 8:46
 - joinder of both spouses, generally, §§ 8:28-8:32
- Debts incurred prior to dissolution, use of sale proceeds to satisfy, § 9:22
- Dissolution of marriage, avoidance of unilateral conveyances
 - attorney's real property lien, § 8:42
 - one-half rule, § 8:34
- Fraud
 - avoidance of unilateral conveyances, above
 - interspousal transfers in fraud of creditors, §§ 4:45, 9:28
- Good faith. Bona fide purchasers' rights, above
- Homestead declaration
 - avoidance of unilateral conveyances, § 8:37
 - bona fide purchasers' rights, § 8:48
- Interspousal transfers in fraud of creditors, §§ 4:45, 9:28
- Limitation of actions. Bona fide purchasers' rights, above
- Presumptions
 - avoidance of unilateral conveyances, above
 - bona fide purchaser's rights, § 8:47
- Statute of limitations
 - commencement of running, § 8:38
 - fraud as affecting, § 8:36

REAL PROPERTY OPTIONS

- Shared property rights in, § 3:29

RECAPTURE

- Spousal support, see index heading SPOUSAL SUPPORT
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Taxation, see index heading TAXATION

RECORDS

- Commingle separate and community funds, § 6:25

REGISTRATION

- Domestic partnerships, § 2:22
- Nonprobate transfers, § 13:59

RELIGIOUS DONATIONS

- Bankruptcy, fraudulent or preferential transfers in, § 9:43

INDEX

REMARRIAGE

Child support, satisfaction and reimbursement, §§ 9:23, 9:26

Termination of spousal support, § 12:28

RENTS AND PROFITS

Separate property, § 4:2

Tracing from time of acquisition, § 1:10

RESIDENCE

Domicile

classification of spouse's property, § 1:23

new domicile in California, see index heading QUASI-COMMUNITY PROPERTY

Internal Revenue Code, residence exclusion under, § 12:14

Sale of family home, see index heading DEFERRING SALE OF FAMILY HOME

RESTITUTION

Commingle separate and community funds, § 6:21

Gifts as restitutionary remedy, avoidance of community property, § 8:10

Innocent misappropriation, § 11:36

Life insurance, Victims' Bill of Rights Act, § 7:92

Management and control of property, § 9:4

Premarital debt reimbursement, § 9:17

RETIREMENT

See index heading PENSIONS AND RETIREMENT BENEFITS

RETIREMENT EQUITY ACT

Control of benefits during marriage, § 11:56

Employee options, § 7:24

ERISA benefits, § 7:10

Spousal consent, § 7:13

Taxation, § 12:1

Terminable interest rule, § 7:35

ROTH IRA

Taxation, § 7:18

ROYALTIES

Shared property rights in, § 3:30

SALARY

Earnings, see index heading EARNINGS

SALES

Boats, sale or encumbrance by one spouse of, §§ 8:23-8:27

Clothing, sale or encumbrance by one spouse of, §§ 8:23-8:27

"Community estate" terminology in Family Code, § 5:10

Deferred sale, see index heading DEFERRING SALE OF FAMILY HOME

Furniture, sale or encumbrance by one spouse of, §§ 8:23-8:27

Home furnishings, sale or encumbrance by one spouse of, §§ 8:23-8:27

Homestead, see index heading HOMESTEAD

Household items, sale or encumbrance by one spouse of, §§ 8:23-8:27

SALES—Cont'd

- Marital settlement agreement not stock sale for purpose of securities laws,
§ 10:76
- Mobile homes, sale or encumbrance by one spouse of, §§ 8:23-8:27
- Real property, see index heading REAL PROPERTY CONVEYANCES
- Surviving spouse's power to sell community property, § 13:2

SAME-SEX RELATIONSHIPS AND MARRIAGES

- Generally, §§ 2:34, 2:47
- Constitutional rights, Fourteenth Amendment protection of constitutional right,
§ 2:48
- Domestic partnerships, see index heading DOMESTIC PARTNERSHIPS
- Tax advice, deductibility of fees and expenses, § 12:53

SANCTIONS

- Bankruptcy court, § 9:45
- Costs and fees, see index heading COSTS AND FEES
- Dissolution actions, discovery and disclosure of assets in, § 10:34

SCHOOLING

- See index heading EDUCATION

SEAMEN

- Jones Act, § 5:53

SECURITIES

- Marital settlement agreement not stock sale for purpose of securities laws,
§ 10:76
- Stock options, see index heading STOCK OPTIONS

SENILITY

- See index heading INCOMPETENCE

SEPARATE MAINTENANCE

- Taxation of spousal support, §§ 12:23, 12:41, 12:42

SEPARATE PROPERTY

- Generally, §§ 4:1-4:72
- Absolute right of disposition, § 4:2
- Assignment or transfer of inheritance, § 4:10
- Bequest, exclusion from community property system of, §§ 4:2, 4:10
- Burden of proof
 - gift, § 4:15
 - premarital agreements, enforceability of, § 4:35
- Children, public policy regarding, § 4:32
- Commingle, see index heading COMMINGLING SEPARATE AND COMMUNITY FUNDS
- Concealment, waiving, § 4:37
- Contract rights of creditors, § 9:9
- Debts contracted during marriage, liability for, § 9:22
- Defined, §§ 4:2, 8:43
- Devise or descent, exclusion from community property system of, §§ 4:2, 4:10
- Dissolution of marriage, division of property on, § 10:23

INDEX

SEPARATE PROPERTY—Cont'd

Domestic services and agreements regarding future earnings, § 4:23

Earnings

future earnings, agreements regarding, below

gifts distinguished, § 4:14

separation, below

Exchange, property taken in, § 4:11

Exclusion from community property system, §§ 4:1, 4:2

Fraud of creditors, interspousal transfers in, §§ 4:45, 9:28

Fraudulent concealment, waiving, § 4:37

Future earnings, agreements regarding

generally, §§ 4:20-4:24

domestic services, § 4:23

gift and agreement distinguished, § 4:22

setting aside agreements, § 4:24

standing to sue, § 4:21

Gambling proceeds, § 4:17

Gifts

burden of proof, § 4:15

donative intent, § 4:14

earnings distinguished, § 4:14

exclusion from community property system, generally, §§ 4:1, 4:2, 4:10

future earnings agreements distinguished, § 4:22

improvements on property given, § 4:13

interspousal gifts and agreements, below

third party gifts to spouse, generally, §§ 4:13-4:16

to both spouses, § 4:18

transmuting classification of separate property, § 4:16

written expression of intent, § 4:71

Improvements, see index heading IMPROVEMENTS

Incorporation of separate property business, § 4:9

Inheritance, exclusion from community property system of, §§ 4:2, 4:10

Intent

acquisition of community property, separate property contributions to,
§§ 6:45, 6:48

gifts and donative intent, § 4:14

joint tenancies, interspousal creation of, § 4:50

separation and intent no longer to be married, § 4:4

transmutation doctrine, § 4:40

Uniform Premarital Agreement Act, § 4:35

Interspousal gifts and agreements

generally, §§ 4:19-4:52

alteration of classification or management powers by parties, § 4:19

dual representation, § 4:52

fraudulent concealment, § 4:37

future earnings, agreements regarding, above

gifts remaining community property, § 4:47

joint tenancies, interspousal creation of, § 4:50

SEPARATE PROPERTY—Cont'd

Interspousal gifts and agreements—Cont'd

premarital agreements, below

representation, dual, § 4:52

transmutation doctrine

generally, §§ 4:19, 4:40, 4:43

change of mind, § 4:48

Fraudulent Transfers Act, §§ 4:45, 9:28

intent, mutuality of, § 4:40

1985 legislation, § 4:40

pre-1985 transmutation, § 4:44

third parties, effectiveness as to, § 4:46

writing, agreement to be in, §§ 4:40, 4:51

waiving fraudulent concealment, § 4:37

will, inadmissibility during testator's life of, § 4:49

writing, agreement to be in, §§ 4:19, 4:40, 4:51

Marriage, liability for debts contracted during, § 9:22

Origin of California's community property principles, generally, § 1:8

Ownership of property, § 4:12

Power of appointment, property subject to, § 4:12

Premarital agreements

generally, §§ 4:25-4:31

amendment or revocation, § 4:25

burden of proof regarding enforceability, § 4:35

children, public policy regarding, § 4:32

dissolution of marriage, § 4:25

enforceability, § 4:25

ERISA, § 4:33

estate tax, §§ 4:39, 4:42

estoppel regarding oral statements, § 4:38

gift tax, § 4:40

income tax, § 4:41

knowledge and disclosure, §§ 4:35, 4:36

law-imposed obligations, § 4:26

legal malpractice, § 4:35

oral agreements, enforceability of executed, § 4:38

partial performance of oral agreements, § 4:38

representation by counsel, § 4:27

standards, § 4:30

taxation, §§ 4:39-4:42

temporary marriage, § 4:29

unconscionability, § 4:28

Uniform Premarital Agreement Act, below

unmarried persons making no attempt to marry, § 4:31

voluntariness of, § 4:35

waiver, § 4:33

writing, agreements to be in, §§ 4:25, 4:38

INDEX

SEPARATE PROPERTY—Cont'd

- Pre-marriage, property acquired, § 4:8
- Presumptions, § 4:71
 - gifts by third party, §§ 4:15, 4:18
 - joint form, marital property held in, §§ 4:54-4:72
- Public policy regarding children, § 4:32
- Rents and profits, § 4:2
- Separation
 - attempts at reconciliation, § 4:4
 - development of California's community law principles, § 1:12
 - earnings of spouse after, §§ 1:12, 4:3-4:7
 - earnings of spouse during, § 4:6
 - intent no longer to be married, § 4:4
 - judgment of legal separation, earnings after, § 4:7
 - property acquired before marriage, § 4:8
 - retroactive application of statute providing for separate property classification of earnings, § 5:12
- Setting aside agreements regarding future earnings, § 4:24
- Spousal rights, § 4:71
- Standard of proof as to gift, § 4:15
- Standing to sue regarding agreements regarding future earnings, § 4:21
- Statute of frauds. Writing requirement, below
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Support obligations, effect of premarital agreements on, § 4:25
- Transmutation doctrine
 - commingling separate and community funds, § 6:26
 - interspousal gifts and agreements, above
 - third party gifts, § 4:16
- Trust property subject to power of appointment, § 4:12
- Uniform Premarital Agreement Act
 - intent of Legislature, § 4:35
 - prospective nature of act, § 4:34
- Waiver
 - contributions to acquisition of community property, §§ 6:48, 6:51
 - fraudulent concealment, § 4:37
 - premarital agreements, § 4:33
 - used to improve community property, reimbursement for, § 6:63
- Will, inadmissibility during testator's life of, § 4:49
- Writing requirement
 - interspousal gifts and agreements, §§ 4:19, 4:40, 4:51
 - joint form presumption, rebuttal of, § 4:62
 - joint tenancies, interspousal creation of, § 4:50
 - premarital agreements, §§ 4:25, 4:38
 - transmutation doctrine, §§ 4:40, 4:51

SEPARATION

- Commingling separate and community funds after, § 6:29

SEPARATION—Cont'd

Community property presumed for property division on dissolution or separation, §§ **4:54-4:69**

Contract liability of spouses after division of property, § **9:11**

Debt contracted by other spouse during marriage, post-separation liability for, § **9:52**

Debts of community paid after separation with separate funds, see index heading DEBTORS AND CREDITORS

Disability payments, division on separation of payments, § **7:53**

Educational reimbursement statute applicable only on dissolution or separation, § **3:20**

Evaluation, see index heading EVALUATION OF COMMUNITY ASSETS

Fiduciary responsibility continuing after, § **1:28**

Gifts, see index heading GIFTS

Joint tenancy, severance of, § **10:69**

Jurisdiction

generally, §§ **10:1, 10:22**

as surviving spouse's death, §§ **10:67, 10:68**

Notice requirements on judgments, § **10:65**

Offsetting use value where asset enjoyed by one spouse alone after separation, § **11:2**

Pension benefits after separation, control of, § **7:58**

Quasi-community property, §§ **5:2, 5:9, 5:10**

Relief granted limited by petition, § **10:27**

Restraining orders, §§ **10:46, 10:47**

Separate property, see index heading SEPARATE PROPERTY

Taxation

consequences, generally, § **12:1**

joint filing and contingent future interests, § **3:47**

Tort recovery, post-separation payments on property as affecting, § **9:63**

Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

SEPARATION PAY

Shared property rights in, § **3:28**

SETOFFS

See index heading OFFSETS

SETTLEMENTS

Life insurance settlement options, see index heading LIFE INSURANCE

Marital settlements, see index heading MARITAL SETTLEMENT AGREEMENTS

Oral settlement reached in chambers, § **10:100**

Probate, compromise and settlement to clear title without, § **13:16**

Stipulation in open court, §§ **10:97, 10:98, 10:99**

SEVERANCE PAY

Shared property rights in, § **3:28**

SEXUAL RELATIONS

Nullification of marriage for incapacity to have, § **2:2**

INDEX

SHARED PROPERTY RIGHTS

Generally, §§ 3:1-3:48

Appraisal, § 3:1

Contingent future interests, see index heading CONTINGENT FUTURE INTERESTS

Employee termination benefits, § 3:28

Executive retention incentives, § 3:26

Fame and publicity, § 3:25

Goodwill, see index heading GOODWILL

Increased earning capacity, see index heading INCREASED EARNING CAPACITY

Intellectual property rights, § 3:30

Real property options, § 3:29

Severance pay, § 3:27

Tips and gratuities for service, § 3:24

SHAREHOLDER DERIVATIVE ACTIONS

Management and control of property, § 6:39

SIGNATURE

See index heading DEBTORS AND CREDITORS

SIMULTANEOUS DEATH

Succession to marital property, § 13:62

SINGLE ASSET PROVISIO

Equality of spousal rights, § 1:18

SOCIAL SECURITY

Disability and disability payments, Social Security Disability Insurance (SSDI),
§ 7:55

Preemptive effect of federal law, §§ 5:30, 5:44

Putative spouse, post-mortem succession by, §§ 2:16, 2:17

Taxation of spousal support, § 12:35

SOURCE RULE

Development of California's community law principles, § 1:9

SPANISH-MEXICAN LAW

Origin of California's community property principles, generally, §§ 1:1-1:3

Ganancial system, §§ 1:3, 1:9

Management and control of community property, § 1:8

SPECIFIC PERFORMANCE

Avoidance of unilateral real property conveyances, § 8:31

SPEND-DOWN

Transfers to qualify for Medicaid, § 1:7

SPENDTHRIFT TRUSTS

Generally, §§ 9:46-9:49

ERISA-regulated pension trusts, § 9:49

Support obligations, § 9:47

Surplus income rule, §§ 9:46-9:49

SPOUSAL RIGHTS

Separate property, § 4:71

SPOUSAL SUPPORT

Alimony, taxation

generally, §§ 12:23, 12:41

gross income, § 12:42

trusts, § 12:39

Community debts paid after separation with separate funds, § 6:68

Division of community property upon nonsupport of incapacitated spouse, § 1:6

Educational reimbursement consideration, § 3:23

Income taxable to payee

generally, §§ 12:25-12:35

child support, payments of, § 12:30

children, payments contingent on, § 12:29

death of recipient spouse, § 12:27

family support payments, unallocated, § 12:31

living separately, § 12:33

returns, filing of separate, § 12:34

Social Security number, § 12:35

specification of non-deductibility, § 12:32

written instrument, payments pursuant to, § 12:26

year in which taxable, § 12:25

Marriage, termination upon remarriage, § 12:28

Premarital agreements, effect of, § 4:25

Putative spouse, § 2:6

Quasi-community property, § 5:9

Recapture, taxation

exceptions to, § 12:37

three-year recapture rule, § 12:36

Recapture. Taxation, below

Remarriage, termination of support upon, § 12:28

Satisfaction and reimbursement after remarriage, §§ 9:23, 9:26

Security for support, court's forcing use of funds as, § 10:1

Spendthrift trusts, § 9:46

Taxation

generally, §§ 12:22-12:42

alimony, above

annuities, § 12:38

deductibility requirements, § 12:24

income taxable to payee, above

life insurance to secure support, § 12:40

periodic payments, § 12:22

recapture, above

separate maintenance, §§ 12:23, 12:41, 12:42

10-year exception regarding periodic payments, § 12:22

three-year recapture rule, § 12:36

trusts, § 12:39

INDEX

SPOUSAL SUPPORT—Cont'd

- Termination upon remarriage, § 12:28
- Unmarried cohabitants, §§ 2:29, 2:36, 2:38

SSDI (SOCIAL SECURITY DISABILITY INSURANCE)

- Disability and disability payments, § 7:55

STANDARD OF PROOF

- Gifts of community property, § 8:4
- Presumption, rebuttal of, §§ 4:55, 6:2

STANDING

- Agreements regarding future earnings, suits regarding, § 4:21
- Classifying property and presumptions regarding time and source of acquisition, § 6:11

STATES

- Adoption of community property system, § 1:4
- Foreign, see index heading FOREIGN STATES

STATUTE OF FRAUDS

- Generally, see index heading WRITING REQUIREMENT
- Separate property, see index heading SEPARATE PROPERTY
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY

STATUTE OF LIMITATIONS

- Gifts, actions to void community property, §§ 8:9, 8:19, 8:28
- Marital settlement agreements, § 10:7
- Premarital debt reimbursement, § 9:17
- Real property conveyances, see index heading REAL PROPERTY CONVEYANCES
- Separate property used to improve community property, § 6:64
- Succession to marital property, § 13:36
- Unmarried cohabitants, § 2:30

STIPULATIONS

- Dissolution of marriage, §§ 10:97, 10:98, 10:99
- Evaluating community assets, § 11:13

STOCK OPTIONS

- Classification of property and presumptions of time and source of acquisition, § 6:9
- Contingent future interests, §§ 3:38-3:40
- Evaluation of, § 11:60
- Executive retention incentives, shared property rights in, § 3:26
- Taxation
 - generally, § 3:40
 - transfer of restricted, § 12:15

SUCCESSION TO MARITAL PROPERTY

- Generally, §§ 13:1-13:81
- Abolition of state gift and inheritance tax, § 13:31
- Accounting, § 13:51

SUCCESSION TO MARITAL PROPERTY—Cont'd

Administration

charges and expenses of administration, below

Independent Administration of Estates Act, § **13:1**

jurisdiction over administration controversies, § **13:16**

safe harbor provisions, § **13:11**

simplified procedure avoiding, § **13:2**

Administrator. Executor or administrator, below

Admission of will to probate jurisdiction, § **13:55**

Allocation of responsibility for debts

generally, §§ **13:29-13:52**

abolition of state gift and inheritance tax, § **13:31**

apportioning debts to separate and community property, §§ **13:29, 13:40**

charges and expenses of administration, below

exoneration of debt, § **13:33**

homestead, § **13:34**

lifetime, debts contracted during, § **13:30**

probate, administration and settling creditors' claims, § **13:36**

prorating debts between community and separate property, §§ **13:29, 13:40**

revocable trust, creditors' rights against property in, § **13:35**

surviving spouses

apportioning debt between surviving spouse and estate, § **13:30**

personal responsibility for debts, §§ **13:29, 13:32**

trust, creditors' rights against property in revocable, § **13:35**

American Taxpayer Relief Act of 2012, § **13:80**

Ancestral source rule, § **13:69**

Annuities

joint and survivor, § **13:24**

renunciation or disclaimer of rights under, § **13:22**

Assignability of right to contest will, § **13:10**

Attorney's services, compensation of, § **13:38**

Bank accounts presumed community property, multiple party, § **13:60**

Bigamous marriage, § **13:23**

Charges and expenses of administration

generally, §§ **13:37-13:52**

accounting, § **13:51**

apportioning debts to separate and community property, § **13:40**

attorney's services, § **13:38**

conservatorship, § **13:51**

death

joint tenant's death, effect on lien of, § **13:48**

judgment creditor's death, effect on judgment lien of, § **13:47**

distribution of separate property, § **13:41**

family allowance, §§ **13:43, 13:44**

fee-shifting, § **13:39**

funeral expenses, § **13:40**

judgment lien, §§ **13:47, 13:50**

INDEX

SUCCESSION TO MARITAL PROPERTY—Cont'd

Charges and expenses of administration—Cont'd

legal services, § **13:38**

liens

joint tenancy real estate, effect of joint tenant's death on lien on, § **13:48**

judgment lien, §§ **13:47, 13:50**

mechanics' and tax liens, § **13:49**

mechanics' liens, § **13:49**

omission of spouse or child, §§ **13:45, 13:46**

prorating costs between community and separate property, § **13:29**

revocation of will by dissolution of marriage, § **13:42**

survival of cause of action on death of joint tenant plaintiff, § **13:52**

tax liens, § **13:49**

Children conceived postmortem by use of parental genetic material, § **13:63**

Classification of property by probate court, § **13:4**

Clearing title without probate, §§ **13:15, 13:16**

Community property with right of survivorship, § **13:9**

Complications of successive relationships, §§ **13:23-13:28**

Compromise and settlement to clear title without probate, § **13:16**

Confirmation

generally, §§ **13:2, 13:15**

statute of limitations, absence of, § **13:36**

Consent of spouse to nonprobate transfers effective on death, § **13:5**

Conservatorship, § **13:51**

Contest will, standing to, § **13:10**

Contracts to make will, §§ **11:65, 13:64**

Costs. Charges and expenses of administration, above

Debts

allocation of responsibility for debts, above

exoneration of debt, § **13:33**

Definition of community property expanded, § **13:3**

Disclaimer of rights to succession, § **13:22**

Disinheritance. Omitted spouse or child, below

Dissolution of marriage

invalid dissolution, § **13:23**

revocation of will by, § **13:42**

Domestic registered partner, see index heading DOMESTIC PARTNERSHIPS

Donative transfers to drafters of wills and their relatives, § **13:65**

Elder abuse, murderer-beneficiary rule, § **13:71**

Election against will by surviving spouse

generally, §§ **13:17-13:22**

"all my property," interpretation of, § **13:21**

claiming both community interest and rights under will, § **13:20**

intestacy, rights in, § **13:18**

manner of making, § **13:18**

renunciation or disclaimer, § **13:22**

survival of right to elect, § **13:19**

SUCCESSION TO MARITAL PROPERTY—Cont'd

Election against will by surviving spouse—Cont'd

time of exercise, § 13:18

waiver of, § 13:6

Elections

against will. Election against will by surviving spouse, above
joint tendency survivorship rights vs. receiving under will, § 13:18
to probate or not to probate, § 13:15

Estate and gift taxes

generally, §§ 13:74-13:81

abolition of state gift and inheritance tax, § 13:31

American Taxpayer Relief Act of 2012, § 13:80

annual gift tax exclusions, § 13:77

Economic Growth and Tax Relief Reconciliation Act, § 13:74

elimination of federal estate taxes, planned, § 13:74

exemption amounts, increases in, § 13:78

marital deduction, § 13:76

prorating payment of estate taxes, § 13:73

quasi-community property, § 13:81

rates, decreases in tax, § 13:78

state gift and inheritance tax, abolition of, § 13:31

step-up in basis, § 13:81

Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act
of 2010, § 13:79

American Taxpayer Relief Act of 2012, § 13:80

unified system, § 13:75

Estate of decedent, what included in, § 13:15

Evaluation, see index heading EVALUATION OF COMMUNITY ASSETS

Evidence to reform a will, admission, § 13:54

Executor or administrator

allocation of debt to separate and community property, petition for, § 13:40

compensation, § 13:38

right of surviving spouse to serve as, § 13:13

waiver of appointment by surviving spouse, § 13:6

Exoneration of debt, § 13:33

Expenses. Charges and expenses of administration, above

Family allowance

charges and expenses of administration, §§ 13:43, 13:44

waiver of rights to, § 13:6

Fees. Charges and expenses of administration, above

Fee-shifting in probate and trust cases, § 13:39

Funeral expenses, § 13:40

Gift taxes

estate and gift taxes, above

state gift and inheritance tax, abolition of, § 13:31

Gifts

community property, recapture of gifts of, § 13:26

marital property, recapture of gifts of, § 13:25

INDEX

SUCCESSION TO MARITAL PROPERTY—Cont'd

Gifts—Cont'd

renunciation or disclaimer of rights under, § **13:22**

Homestead

generally, § **13:34**

waiver of rights to, § **13:6**

Independent Administration of Estates Act, § **13:1**

Inheritance tax, abolition of state, § **13:31**

Insurance

renunciation or disclaimer of rights, § **13:22**

simultaneous death of spouses, § **13:62**

Intent

interference with expected inheritance, § **13:67**

testator intent, admitting evidence to reform a will, § **13:54**

Interspousal transmutation agreements, § **13:5**

Intestacy

generally, § **13:57**

ancestral source rule, § **13:69**

election against will by surviving spouse, § **13:18**

interference with expected inheritance, § **13:67**

renunciation or disclaimer of rights under, § **13:22**

separate property, distribution of, § **13:41**

surviving spouse's intestate share, § **13:57**

IRA, renunciation or disclaimer of rights under, § **13:22**

Joint tenancy

community property presumption inapplicable on death of spouse, § **13:7**

lien as affected by joint tenant's death, § **13:48**

severing property, § **13:8**

survival of cause of action on death of joint tenant plaintiff, § **13:52**

Jurisdiction

administration controversies, § **13:16**

probate court, generally, § **13:4**

Lease of community property, surviving spouse's power to make, § **13:2**

Liens. Charges and expenses of administration, above

Mechanics' liens, § **13:49**

Multiple party accounts presumed community property, § **13:60**

Murderer-beneficiary rule, §§ **13:70, 13:71**

No contest clauses, § **13:12**

Nonprobate transfers, § **13:59**

Omitted spouse or child

generally, § **13:45**

statutory share of omitted spouse, § **13:46**

waiver of statutory share, § **13:6**

Partners, see index heading DOMESTIC PARTNERSHIPS

Payable on death account, § **13:59**

Pension plans with joint and survivor annuities, § **13:24**

Power of appointment, renunciation or disclaimer of rights under, § **13:22**

SUCCESSION TO MARITAL PROPERTY—Cont'd

Presumptions

joint form/community property presumption inapplicable on death of spouse,
§ 13:7

multiple party accounts presumed community property, § 13:60

Privity with decedent's estate, § 13:10

Probate court powers, generally, § 13:4

Probate jurisdiction, admission of will, § 13:55

Quasi-community property

ancestral source rule, § 13:69

estate and gift taxes, § 13:81

limitations on succession, generally, § 13:3

recapture of transfers of, § 13:27

testamentary capacity, §§ 13:61, 13:69

Quasi-marital property, testamentary capacity over, § 13:61

Recapture

community property, gifts of, § 13:26

generic vs. specific recapture, § 13:29

marital property, gifts of, § 13:25

quasi-community property, transfers of, § 13:27

Registered domestic partners, see index heading DOMESTIC PARTNERSHIPS

Renunciation of rights to succession, § 13:22

Retirement Equity Act, § 13:24

Safe harbor provisions, § 13:11

Sale of community property, surviving spouse's power to make, § 13:2

Separate property

apportioning debts to separate and community property, §§ 13:29, 13:40

distribution of, § 13:41

family allowance, property charged with, § 13:44

Severing joint tenancy property, § 13:8

Simplified procedure avoiding judicial process, § 13:2

Simultaneous death of spouses, § 13:62

Standing to contest will, § 13:10

Statute of frauds. Writing requirement, below

Statute of limitations on creditor claims, § 13:36

Statutory share

election against will by surviving spouse, above

intestate share of surviving

spouse, § 13:57

omitted spouse or child, above

Summary confirmation, § 13:15

Surviving spouse

compromise and settlement, § 13:16

debts. Allocation of responsibility for debts, above

debts for which community property is liable, claim for, § 13:40

election against will by surviving spouse, above

final judgment rule, § 13:14

intestate share, § 13:57

INDEX

SUCCESSION TO MARITAL PROPERTY—Cont'd

Surviving spouse—Cont'd

- management and control of community property, § **13:2**
- marital settlement agreement as waiver of rights, executed, § **13:14**
- representative of estate, right to serve as, § **13:13**
- summary confirmation, § **13:15**
- title without probate, clearing, §§ **13:15, 13:16**
- waiver of rights, §§ **13:6, 13:14**
- who qualifies as, § **13:14**

Survivorship, community property with right of, § **13:9**

Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, § **13:79**

American Taxpayer Relief Act of 2012, § **13:80**

Taxation

- estate and gift taxes, above
- interspousal transfers taking effect on death, § **13:72**
- liens, § **13:49**

Testamentary capacity

- admission of will to probate jurisdiction, § **13:55**
- age requirement for executing will, § **13:64**
- ancestral source rule, § **13:69**
- care-givers and their relatives, donative transfers to, § **13:65**
- conditions in restraint of marriage, § **13:56**
- contracts to make will, § **13:64**
- custodians and their relatives, donative transfers to, § **13:65**
- donative transfers to drafters of wills and their relatives, § **13:65**
- elder abuse, murderer-beneficiary rule, § **13:71**
- interference with expected inheritance, § **13:67**
- multiple party accounts, will incapable of changing right of survivorship of, § **13:60**
- murderer-beneficiary rule, §§ **13:70, 13:71**
- probate jurisdiction, admission of will, § **13:55**
- property subject to disposition by will, § **13:53**
- quasi-community and quasi-marital property, § **13:61**
- simultaneous death of spouses, § **13:62**
- sound mind requirement, § **13:64**
- unmarried cohabitants, § **13:68**

Time or date

- election against will by surviving spouse, § **13:18**
- homestead exemption, duration of, § **13:34**
- renunciation or disclaimer of rights, § **13:22**
- simultaneous death of spouses, § **13:62**
- statute of limitations on creditor claims, § **13:36**

Title without probate, clearing, §§ **13:15, 13:16**

Transmutation agreements, interspousal, § **13:5**

Trusts

- conservatorship and accounting regarding inter vivos revocable trust, § **13:51**
- creditors' rights against property in revocable trust, § **13:35**

SUCCESSION TO MARITAL PROPERTY—Cont'd

Trusts—Cont'd

fee-shifting, § 13:39

renunciation or disclaimer of rights under, § 13:22

simultaneous death of spouses, § 13:62

unmarried cohabitants, testamentary capacity of, § 13:68

Uniform Transfer on Death Security Registration Act, § 13:59

Unmarried cohabitants, testamentary capacity of, § 13:68

Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

Waiver

pension plans with joint and survivor annuities, § 13:24

spousal rights, §§ 13:6, 13:14

Widow's election. Election against will by surviving spouse

Wills

assignability of right to contest will, § 13:10

contest will, standing to, § 13:10

election against will by surviving spouse, above

evidence to reform a will, admission, § 13:54

omitted spouse or child, above

renunciation or disclaimer of rights under, § 13:22

revocation of will by dissolution of marriage, § 13:42

testamentary capacity, above

Writing requirement

contracts to make will, § 13:64

election to probate or not to probate, § 13:15

renunciation or disclaimer of rights to property, § 13:15

SUPPORT

Child, see index heading CHILD SUPPORT

Family allowance for decedent's dependents, §§ 13:43, 13:44

Spousal, see index heading SPOUSAL SUPPORT

Waiver of family allowance, § 13:43

SUPREMACY CLAUSE

Preemption, see index heading PREEMPTION BY FEDERAL LAW

SURETIES

Premarital debts, § 9:20

SURPLUS INCOME RULE

Spendthrift trusts, §§ 9:46-9:49

SURVIVAL

Causes of action arising during marriage, § 7:77

Community property with right of survivorship, § 1:31

Gift avoidance right, see index heading GIFTS

Wrongful death action by surviving putative spouse, § 2:13

SURVIVING SPOUSES

See index heading SUCCESSION TO MARITAL PROPERTY

INDEX

TAKINGS CLAUSE

Retroactivity of legislative amendments to community property system, §§ 5:12, 5:15, 5:16, 5:22

TAXATION

Generally, §§ 12:1-12:53

Advice, deductibility of fees and expenses for, §§ 12:52, 12:53

Alimony, see index heading SPOUSAL SUPPORT

Appreciated property assigned to one spouse, § 12:16

Assignment, see index heading ASSIGNMENT

California state tax law, generally, § 12:4

Community asset, management enhancing separate property as, § 6:37

Community debts paid after separation with separate funds, § 6:66

Contingent future interests, §§ 3:40, 3:46, 3:47

Costs and fees, §§ 11:83, 12:52, 12:53

Death benefits, assuring, § 12:20

Debts, see index heading DEBTORS AND CREDITORS

Deductibility of fees and expenses for tax advice, §§ 12:52, 12:53

Dissolution of marriage, §§ 10:30, 12:6

Division of property, see index heading DIVISION OF PROPERTY

Domestic partners, §§ 2:22, 12:53

Domestic Relations Tax Reform Act

generally, § 12:1

full faith and credit, § 5:67

Evaluation, see index heading EVALUATION OF COMMUNITY ASSETS

Filing status, § 12:2

Full faith and credit, § 5:67

Gifts, see index heading GIFTS

Head of household, §§ 12:2, 12:50

Historic tax advantages of community property systems, § 1:34

Innocent spouse rules and contingent future interests, §§ 3:47, 3:48

Installment payment to discharge property division agreements or orders, § 12:18

Interest on promissory notes, taxability of, § 12:7

Interspousal, see index heading INTERSPOUSAL GIFTS AND AGREEMENTS

IRA, transfer of, § 12:19

Joint filing and contingent future interests, § 3:47

Joint tenancy, § 4:72

Life insurance, §§ 7:73, 12:40

Ownership changes, § 12:13

Passive activity rule, § 6:37

Pension plans or tax-deferred retirement accounts, division of, § 12:12

Property division agreements or orders, installment payment to discharge, § 12:18

Property tax implications, § 12:13

Putative spouse, § 2:21

Qualified domestic relations orders, § 7:11

Quasi-community property, § 12:9

TAXATION—Cont'd

Recapture

gift, survival of right to avoid, § 8:21

spousal support, see index heading SPOUSAL SUPPORT

Recognition, § 12:8

Residence exclusion under Internal Revenue Code, § 12:14

Retirement Equity Reform Act, § 12:1

Sale of family home, § 11:51

Same-sex marriages, deductibility of fees and expenses for tax advice, § 12:53

Separation, see index heading SEPARATION

Spousal support, see index heading SPOUSAL SUPPORT

Stock, see index heading STOCK OPTIONS

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Third party in benefit of spouse, transfer to, § 12:21

Trusts

exception for transferring to, § 12:17

spousal support, § 12:39

Unmarried cohabitants, see index heading UNMARRIED COHABITANTS

Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

Widow or widower with dependent children, § 12:2

TENANCIES

See index heading JOINT TENANCY OR TENANCY IN COMMON

TERM INSURANCE

Generally, §§ 7:57, 7:71

TERMINABLE INTEREST RULE

See index heading PENSIONS AND RETIREMENT BENEFITS

TERMINATION BENEFITS FOR EMPLOYEES

Shared property rights in, § 3:28

TESTAMENTARY CAPACITY

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

TIME OR DATE

Borrowed money acquisitions and lender's intent, §§ 6:14-6:17

Contested property judgment, relief from, § 10:77

Default judgment, relief from, § 10:77

Deferred sale, see index heading DEFERRING SALE OF FAMILY HOME

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Evaluation, see index heading EVALUATION OF COMMUNITY ASSETS

Family home, see index heading DEFERRING SALE OF FAMILY HOME

Limitation of actions, see index heading STATUTE OF LIMITATIONS

Pensions, see index heading PENSIONS AND RETIREMENT BENEFITS

Presumptions of time and source of acquisition, see index heading PRESUMPTIONS

Statute of limitations, see index heading STATUTE OF LIMITATIONS

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Tort judgment creditor, property reachable by, § 9:62

Tracing from time of acquisition, § 1:10

INDEX

TIME OR DATE—Cont'd

Valuation, see index heading EVALUATION OF COMMUNITY ASSETS

TIPS AND GRATUITIES

Pension plans not gratuities, §§ 3:33, 7:3

Remuneratory gifts, § 4:14

Shared property rights in, § 3:24

TITHES

Bankruptcy, fraudulent or preferential transfers in, § 9:43

TITLE

Common law and community property statutes with regard to, § 1:13

Marital status of grantor, § 1:16

Probate, clearing title without, §§ 13:15, 13:16

State of title not conclusive as to community or common law status, §§ 4:54-4:72

TORTS

Agency, § 9:58

Asset forfeiture, § 9:70

Attempted murder of spouse, § 9:69

Bank accounts, § 9:65

Benefit of estate, activity for, § 9:55

Causes of action, see index heading CAUSES OF ACTION

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Forfeiture of assets, § 9:69

Insurance proceeds used to pay damages, § 9:66

Interspousal tort

domestic violence damages, § 9:68

immunity, abolition of, § 7:74

liability, § 9:68

Management and control of property, § 9:57

Marital settlement agreements, § 9:64

Murder of spouse, attempted, § 9:69

Permissive use statute regarding automobiles, § 9:61

Personal injury recoveries, see index heading PERSONAL INJURY RECOVERIES

Separation, payments after, § 9:63

Seven-year rule for reimbursement, § 9:67

Spousal liability, generally, §§ 9:55-9:70

Third parties, liability to, § 9:56

Tracing recovery, § 9:59

Transmutations and creditors' rights, § 9:60

When liability set, § 9:62

Wrongful death, see index heading WRONGFUL DEATH

TRACING

Bank account funds, § 4:68

Commingled funds, see index heading COMMINGLING SEPARATE AND COMMUNITY FUNDS

TRACING—Cont'd

- Development of California's community law principles, § 1:10
- Family living expenses presumed paid from community earnings, § 6:18
- Quasi-community property, § 5:6
- Separate property contributions to acquisition of community property, §§ 6:47, 6:51
- Tort recovery, § 9:59
- Unmarried cohabitant's contributions to acquisition of property, § 2:27

TRANSMUTATION DOCTRINE

- Interspousal gifts and agreements, see index heading SEPARATE PROPERTY
- Separate funds, see index heading SEPARATE PROPERTY
- Succession to marital property, § 13:5
- Torts, creditors' rights regarding, § 9:60
- Written expression of intent, § 4:71

TREATY OF GUADALUPE HIDALGO

- Development of California's community property system, § 1:2
- Origins of California's community property principles, § 1:1

TRUST DEEDS

- See index heading DEEDS OF TRUST

TRUSTS

- Contingent future interests, § 3:41
- ERISA-regulated pension trusts, § 9:49
- Separate property and power of appointment, § 4:12
- Spendthrift trusts, see index heading SPENDTHRIFT TRUSTS
- Succession, see index heading SUCCESSION TO MARITAL PROPERTY
- Taxation
 - exception for transferring to trust, § 12:17
 - spousal support, § 12:39

UNCONSCIONABILITY

- Premarital agreements, § 4:28

UNDUE INFLUENCE

- Nullification of marriage, § 2:2
- Premarital agreements, § 4:30

UNEMPLOYMENT INSURANCE AND BENEFITS

- Domestic partners, § 2:22
- Unmarried cohabitants, § 2:41

UNIFORM DIVORCE RECOGNITION ACT

- Full faith and credit, § 5:63

UNIFORM FRAUDULENT CONVEYANCES ACT

- Interspousal transfers, badges of fraud, § 4:45

UNIFORM PREMARITAL AGREEMENT ACT

- See index heading SEPARATE PROPERTY

INDEX

UNINSURED MOTORIST PROCEEDS

Community property personal injury damages assignable to injured spouse,
§ 7:90

UNIVERSITIES

See index heading EDUCATION

UNMARRIED COHABITANTS

Generally, §§ 2:23-2:46

Burden of proof as to breach of contract, § 2:39

Child custody and support, §§ 2:29, 2:31

Common law marriage, § 2:25

Contract

between nonmarital partners, § 2:23

for sexual services, §§ 2:26, 2:38

Marvin decision's progeny, § 2:38

property agreements between cohabitants, tax consequences of, §§ 2:42, 2:43

same sex relationships, § 2:34

Domestic partnership registration, § 2:22

Educational reimbursement statute, agreement of parties contrary to, § 3:21

Equitable relief, §§ 2:23, 2:29

Estate tax consequences, § 2:46

Gift tax consequences, § 2:45

Heirship, generally, § 2:36

Marvin decision, generally, §§ 2:23-2:46

Meretricious relationships, generally, § 2:23

Personal jurisdiction, § 2:32

Premarital agreements, effect of, § 4:31

Quantum meruit, §§ 2:24, 2:38

Rehabilitation award, § 2:37

Reimbursement for contributions to acquisition of property, § 2:27

Same sex relationships, § 2:34

Statute of limitations, § 2:30

Support and dependency, §§ 2:29, 2:31, 2:38

Tacking of pre-marriage relationship to marriage, § 2:35

Taxation

deductibility of fees and expenses for tax advice, § 12:53

estate tax consequences, § 2:46

gift tax consequences, § 2:45

implied agreements, transfers pursuant to, § 2:44

privilege against discovery of returns, § 2:40

property agreements between cohabitants, §§ 2:42, 2:43

Third parties, suits against, § 2:28

Unemployment insurance, § 2:41

Wrongful death, § 2:33

UNSOUND MIND

Nullification of marriage, § 2:2

U.S. SUPREME COURT

The marriage cases, June 26, 2013, § **1:33**

VACATION PAY

Contingent future interests, § **3:43**

VALUATION OF COMMUNITY ASSETS

See index heading EVALUATION OF COMMUNITY ASSETS

VENDOR AND PURCHASER

Personal property, see index heading SALES

Real property, see index heading REAL PROPERTY CONVEYANCES

VICTIMS

ERISA exception, victim's restitution orders, § **5:46**

VICTIMS' BILL OF RIGHTS ACT

Life insurance, restitution under, § **7:92**

VISITATION

Domestic partner's rights, § **2:22**

WAGERING

See index heading GAMBLING

WAGES

Earnings, see index heading EARNINGS

WAIVER

Community property with right of survivorship, § **1:31**

Dissolution, see index heading DISSOLUTION OF MARRIAGE

Educational reimbursement statute, agreement of parties contrary to, § **3:21**

Premarital agreements, § **4:33**

Premarital debt reimbursement, § **9:17**

Separate property, see index heading SEPARATE PROPERTY

Spousal support, premarital waivers of, § **4:26**

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Voidance of community property gifts, § **8:15**

WASTE OF COMMUNITY PROPERTY

Fiduciary responsibility, § **1:24**

Interspousal liability, § **1:25**

WILLS

Contract to make, §§ **11:65, 13:64**

Furniture, furnishings and home fittings, testamentary disposition of, § **8:27**

Inadmissibility during testator's life of, § **4:49**

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

Testamentary capacity, see index heading SUCCESSION TO MARITAL PROPERTY

WINDOW'S ELECTION

Succession, see index heading SUCCESSION TO MARITAL PROPERTY

INDEX

WORDS AND PHRASES

Accumulations, § 4:2
Alimony or separate maintenance payment, § 12:23
Community contributions to education or training, § 3:9
Community estate personal injury damages, § 10:1
Community property, §§ 6:2, 13:4
Contributions to the acquisition of property, § 4:70
Custodial parent, § 11:39
Debt, § 9:5
Deferral sale of home order, § 11:39
Defined benefit plans, § 7:4
Defined contribution plans, § 7:5
Deposit account, § 9:6
Disposable retired or retainer pay, § 7:43
Divorce or separation instrument, § 12:23
Domestic partners, § 2:22
Domicile, § 10:13
During marriage, § 9:6
Earnings, § 9:6
Frivolous, § 11:70
Gift, § 8:2
Have a common residence, § 2:22
Premarital agreement, § 4:25
Property, § 4:25
Putative spouse, § 2:6
Qualified higher education expenses, § 7:18
Qualified joint custody head of household, § 12:50
Quasi-community property, §§ 5:2, 5:7
Quasi-marital property, § 2:11
Resident parent, § 11:39
Separate property, §§ 4:2, 8:43
Spouse, § 12:23
Term insurance, § 7:57
Vested, § 7:3

WORKERS' COMPENSATION

Generally, § 7:42
Putative spouse, § 2:14

WRITING REQUIREMENT

Attorney fee agreement and billing requirements, § 11:68
Interspousal transmutation agreements, § 13:5
Marital settlement agreements, § 10:70
Presumption regarding instrument in writing abolished, § 6:6
Retirement Equity Act, spousal consent, § 7:13
Separate property, see index heading SEPARATE PROPERTY
Succession, see index heading SUCCESSION TO MARITAL PROPERTY
Taxation of spousal support, § 12:26

WRONGFUL DEATH

Child, recovery for wrongful death of, § 7:91

Domestic partners, § 2:22

Putative spouse, action by, § 2:13

Unmarried cohabitants, § 2:33