

COMMUNITY PROPERTY FINAL ESSAY EXAMINATION

(FIRST DRAFT)

Kern County School Of Law, Fall 2021

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ESSAY QUESTION NUMBER ONE

Prior to marriage, John and Glenda lived together for several years in a home owned by John. John purchased the property before meeting Glenda, and title was in his name. During the period John and Glenda lived together prior to marriage, John worked as a W-2 wage earner while Glenda stayed at home tending to their two children. One day, Glenda was recruited to start her own multi-level-marketing business selling diet supplements. She became very successful since she was one of the first marketers of this product. She was able to save approximately \$500,000 in a savings account in her name that was not commingled with community property. Sometime later, she and John got married. During marriage the house needed repairs, so Glenda invested \$200k in improvements to upgrade the home. A few years later John signed a transmutation agreement in favor of Glenda that met the statutory requirements of section 852 of the California Family Code. Under that agreement, John agreed to characterize the home as community property, and title was changed to joint tenancy.

What are the community and separate property interests that can be asserted by John and Glenda? Are there other interests that were created prior to marriage? If so, what are they? Answer according to California law.

Model Outline And Analysis of Essay Number One

1. *John's Separate Property Interest in His Home*
 - a. Property acquired during marriage is presumptively CP
 - b. Property acquired prior to marriage is SP and it retains its SP character even after marriage unless commingled with CP.
 - c. John acquired this home prior to marriage, and it retains its SP character even after he marries Glenda.
2. *Marvin Agreements*
 - a. Parties can enter verbal or written contractual agreements with each other at anytime.

- b. Agreements between non-marital partners can either express or implied in fact.
 - c. Although Glenda started her business prior to marriage and would presumptively be SP under the California Family Code, John may have a separate pre-marital *Marvin* claim against her business. This argument would rest on facts not present here, which are that he and Glenda entered an agreement whereby he would support her while she started the business and that it was agreed they would both have an interest in this business.
3. *Glenda's Claim That John's SP Home Was Transmuted To CP Based On John's Transmutation*
- a. Although a SP asset retains its SP character after marriage, a party's SP interest can be defeated if there is a valid transmutation of that asset by the party asserting a SP interest.
 - b. A valid transmutation occurs when there is a valid writing, signed by the party, clearly identifying the asset, in a single instrument transmuting that asset.
 - c. Here, there was a transmutation that met the requirements of section 852 of the California Family Code. However, if Glenda gained an economic advantage from John's transmutation, there is a presumption of undue influence.
 - d. Glenda will have the burden of proving the basis for the transmutation to overcome this presumption. If she cannot do that, the transmutation will be invalidated.
4. *Glenda's SP Reimbursement Claim To Improve The Home (Assuming the Home is John's SP)*
- a. If Glenda's business is assumed to be SP and John's home is assumed to be his SP, then Glenda may have a reimbursement claim for amounts she spent to improve the value of John's SP home under section 2640 of the California Family Code.
 - b. Glenda will only be entitled to a dollar-for-dollar reimbursement for amounts she spent to improve the home.
 - c. Glenda will also need to show that the amount she spent actually improved the home.
 - d. For Glenda to make her claim, she will need to trace the amounts she put into the improvement to a separate property source.
 - e. In this case, since she put all of her money into a bank account in her name that remained that way after marriage, she should be able to conduct a valid tracing.

5. *Waiver of 2640 Reimbursement Claim If Home Is CP*

- a. John may argue the transmutation means wife is not entitled to reimbursement of her \$200,00 since it is now her CP.
- b. His argument would rest on the premise that prior to the transmutation, arguably Glenda had a reimbursement right against the property for \$200,000 but that disappeared once he transmuted the property to her as CP.
- c. Glenda could successfully respond that John cannot transmute property and then argue he intentionally defeated her reimbursement right since that would be something that she would equally have to transmute to him.
- d. John cannot transmute himself and then argue that his transmutation wiped out Glenda's right to reimbursement under section 2640. That would be a massive breach of fiduciary duty to Glenda to benefit himself and deprive her of the right to a \$200,000 claim.
- e. The transmutation under 2640(c) MUST be of the party who made the contribution. Here, W didn't transmute ANYTHING

Moore Marsden Analysis (Bonus points for this). However, John ALSO has a reimbursement right for his SP equity as of the date of the transmutation to CP. So, Glenda's reimbursement right survived HIS transmutation (and that HIS deed could not operate as a waiver of HER reimbursement right), but that her right attaches SOLELY to H's SP interest (not CP) in the property to reduce his reimbursement right under section 2640(b).

6. *Severance of Tenancy.* During the pendency of a dissolution proceeding, and before a judgment, if a party dies, the family court loses jurisdiction, which will then resolve to Probate Court. Since Probate rules differ from those in the California Family Code, and rely more heavily on the title presumptions, a party who claims an interest in a property, which is subject to a joint tenancy, can send notice to sever the joint tenancy. Doing so will create a tenancy in common.

ESSAY QUESTION NUMBER TWO

Wanda is a California resident and was a labor attorney for the county in which she worked for many years. She retired in 2010, which included a hefty county pension and a defined benefit plan. As part of her retirement plan, Wanda received her pension in both a lump sum and in monthly installments. She had these payments deposited into an account, which she opened in her name at Lucky Strike Bank with the lump sum payment (herein "Wanda's Account"). In 2015, Wanda met Harry, also a California resident. Harry worked in a local hardware store. Prior to marriage, Harry contributed to a 401(k) plan. Wanda and Harry married two years later, in 2017. During marriage, Harry opened an account at Lucky Strike Bank in his name and deposited his salary from the store into this account (herein "Harry's Account"). Wanda and Harry paid all their household expenses from Wanda's Account. These expenses included the outright cash purchase of a \$50,000 Mercedes from Wanda's Account. In 2019, Wanda filed for divorce from Harry, and they separated. Harry is still working at the hardware store and contributing to his 401(k). The Mercedes is now worth \$35,000. What are Wanda's and Harry's rights and liabilities, if any, regarding their separate property and reimbursement claims? Answer according to California law.

Model Outline And Analysis of Essay Number Two

1. *Community Property Presumptions*
 - a. California is a community property (CP) state.
 - b. All property acquired during marriage is CP.
 - i. Wages
 - ii. Labor of either spouse during marriage.
 - c. Separate property
 - i. Property acquired before or after marriage,
 - ii. Property acquired during marriage by either spouse through gift, will, or inheritance, (
 - iii. Property acquired from SP funds, and
 - iv. Profits, rents, and issue of SP.
 - v. The burden is on the spouse opposing SP to defeat the CP presumption.
2. *Division of the Retirement Plans*

- a. General Rule
 - i. SP and CP aspects of retirement for contributions made before and during marriage
 - ii. Courts
 - 1. Apply the time Rule (amount in plan divided by years of marriage to come to a percentage), or
 - 2. Divided in kind with the receiving party charged with the CP value
- b. Determine value
 - i. Wanda's Pension
 - 1. Entitled to her SP contributions prior to marriage plus any interest she is entitled to received
 - 2. Value is based on the actuarial value as determined by a pension expert
 - 3. The entirety should be confirmed to her as her SP because she earned all of it prior to marriage.
 - ii. Harry's 401(k):
 - 1. CP gets amount between date of marriage and date of separation
 - 2. Determine any SP or CP interest on amount (expert needed)
 - 3. Use percentage from Time Rule to apportion CP amount
- c. *Reimbursement for the Mercedes*
 - i. Parties are entitled to reimbursements under section 2640 for SP contributions during marriage
 - ii. The party claiming the SP reimbursement under section 2640 must properly trace the SP funds used
 - 1. Tracing Rules
 - a. Direct Tracing
 - b. Exhaustion Method (family expense rule)
 - c. Recapitulation (not-preferred)
 - 2. Documentary evidence needed
 - 3. SP claimant gets value of SP claim up to the value of the asset
 - 4. Application of tracing rules to facts
 - a. Direct Tracing is most appropriate method because of discreteness of transaction
 - b. Assuming Wanda can trace the \$50,000 to her SP source, he is only entitled to \$35,000.

d. Division of Community Property Expenses

- i. CP expenses made during marriage with SP are presumed to be a gift unless there is a written agreement stating otherwise
- ii. Even if Wanda could properly trace expenses paid from her SP account, there is no separate writing by Harry allowing her reimbursement.

Essay Question Number Three

Wendy and Huey married. After 15 years of marriage, Huey was injured when a driver, Sonic, negligently struck him with his car causing serious injuries. Huey is not expected to fully recover until he undergoes several more surgeries. After the injury to Huey, Wendy immediately filed for divorce. After the date of separation, Huey also settled his claim against Sonic for \$3,000,000, most of it revolving around a life care plan for his future medical expenses based on numerous surgeries he is expected to have. A judgment for dissolution was entered. Several years after their divorce judgment was final, Wendy discovered that Huey had failed to disclose a life insurance policy having a cash value of \$100,000. Huey claims that Wendy knew about this policy because they both discussed it, although he admitted that he was the one who would normally keep the records related to this and other assets they had. How should the court have divided the personal injury settlement? What are Wendy's remedies, if any, because of the failure by Huey to disclose the life insurance policy. Answer according to California law.

Model Outline And Analysis of Essay Number Three

1. The Division Of The Personal Injury Settlement

- a. Damages resulting from injuries suffered during marriage are CP
- b. Presumptively awarded to the injured party
- c. Based on facts and circumstances, court has discretion to award a portion to non-injured spouse
- d. But no less than half to the injured spouse
- e. Even though the settlement was made post-separation, this does not defeat the presumptively CP nature of any damages

- f. Analysis of facts to law. The disability here suggests the injury was severe indicating that all or most of the award should go to Huey.
 - g. Equitable Division. A court has discretion to make an equitable division of personal injury damages, but with Huey receiving no less than half the value of the settlement.
2. *Wendy's Post-Judgment Remedy Asking The Court To Divide An Undisclosed Marital Asset*
- a. By statute, the family law court retains jurisdiction over an undisclosed marital asset.
 - b. Normal post-judgment relief is 6 months to set aside a judgment under section 473(b) of the California Code of Civil Procedure.
 - c. Section 2120 of the California Family Code allows a party additional time to set aside a judgment.
 - i. One year (Actual fraud, Perjury, Mistake, Failure to disclose – under discovery rule)
 - ii. Two years After judgment (Duress and mental incapacity)
 - d. Huey has a fiduciary duty to disclose
 - i. Section 721
 - ii. Section 1100
 - iii. Section 2100, et seq.
 - iv. Claiming that the other party knew about the asset is not an excuse not to disclose.
 - v. Here, even though Wendy presumably knew about the asset, this was not an excuse for Huey failing to disclose it and, all other things being equal, the court should divide it evenly between the parties pursuant to section 2551 of the California Family Code.
 - e. *Whether Huey's Breach Warrants An Unequal Division*
 - i. Typically, marital assets are divided evenly between the parties.
 - ii. However, if one party breaches his or duty to disclose an asset, then the non-breaching party can ask the court to award half the asset and for an award of attorney's fees if they have been impaired by the breach.
 - iii. Further, if the breaching party intentionally failed to disclose by hiding an asset, then the court can award the entire asset to the non-breaching party and also award him or her attorney's fees.

- iv. In this case, there are no facts to suggest that Huey intentionally breached and so Wendy can ask that Huey pay her attorney's fees for having to litigate this issue.
- v. Huey can counter-argue that Wendy has not been impaired since she does ultimately get half the asset but she can counter this by arguing, successfully, that she was deprived of amounts that she could have invested in the years since the judgment was entered.

1)

California is a community property state. Under section 760 of the California Family Code all property acquired during marriage is presumed to be community property. This includes quasi-community property which is property acquired while a spouse is domiciled in another state that would be community property if they were domiciled in California. Under section 770 separate property retains its character as a separate property. Separate property includes all property acquired before marriage, any property acquired by gift, bequest, devise, or descent, and the rents issues and profits from such separate property. Separate property that has been comingled with community property will remain separate property if it can be traced to its separate property source. Under Family Code at the time of judgment regarding property in a dissolution proceeding a court will divide community property equally between the two spouses.

Whether John and Glenda have a premarital under section 1611 or a *Marvin* agreement within the meaning of the California Family Code and caselaw

Before marriage there are two types of agreements that spouses may make with each other. The first is a premarital which is an agreement made in contemplation of marriage. Pre-marital agreements are required to be in express, in writing, signed by both parties, and do not require consideration. In this case, the facts do not indicate that John and Glenda had any signed agreement in writing regarding any rights or privileges that would arise from their marriage.

Marvin agreements are agreements made between two non-marital business parents are not made in contemplation of marriage. These agreements are governed by traditional contract principles and any fiduciary duties. Since Marvin agreements are not look at under traditional contract principles they can arise from an express agreement or can be implied by conduct. In this case, the conduct of John and Glenda imply that they had a Marvin-Agreement because John worked W-2 job while Glenda stayed at home to care for their two children. It is implied by their conduct that John would work and pay the bills for the home while Glenda looked after the kids. In this case, there is an offer, acceptance of the offer, and consideration. The consideration arises from John paying for Glenda's expenses in exchange for Glenda taking care of the children.

Whether John has a separate property interest in his home purchased before marriage under the California Family Code section 852 and 721

While spouses have the ability to contract with each other post marriage, post-marital agreements are treated differently than agreements prior to marriage because section 721 imposes a fiduciary

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duty between spouses. This duty requires that spouses use the highest good faith and fair dealings with each other and that neither spouse takes unfair advantage of another spouse. Under section 852 separate property may be transmuted into community property if there is a written agreement contained in a single document, expressing the separate property holders intent to transmute the property, language transmuting the property from separate to community (or vice versa).

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Transmutations are presumptively invalid, however, the facts tell us that this agreement is valid under section 852. Despite a valid 852 agreement separate property will not be transmuted unless the person who economically advantaged rebuts the presumption that the agreement arose from undue influence and it the burden is on Glenda to prove that she did not exert any undue influence. Given that the facts do not indicate what discussions happened between Glenda and John, the court will presume that the transmutation is the result of undue influence unless Glenda can provide sufficient evidence to the contrary. Therefore, on these facts John has a separate property interest in the home he purchased before marriage.

Whether John has a community property interest in Glenda's savings account within the meaning of section 770

Since Glenda's \$500,000 was earned before marriage and was not comingled with community property it will be characterized as separate property and would be confirmed as such for Glenda. John does not have an interest in her savings account

Whether John has an interest in Glenda's separate property business within the meaning of Vancamp or Pereria *is it a default to be the SP?*

Under Vancamp, a the community has an interest in the increased value of a separate property business during a marriage if the spouse claiming the separate property was not the genius behind the increase in value or it was not a professional practice. In this case, Glenda may be considered the genius behind the separate property business because generally most multi-level marketing business do not increase in value. If she is then John will get a reimbursement interest that is the increase in value from the date of marriage to the to the date of valuation date which would be the date of separation under Pereria minus the reasonable rate of return which the court will set based upon expert testimony. This assumes of course that the rate of return was more than the value at the date of separation minute it's value at the date of marriage.

If the court determines that Glenda was not the genius behind the increase in value, then John will have an interest under Vancamp. The Vancamp interest for a separate property business that increases in value the fair value paid for services times the length of marriage, minus the community

expenses paid through the business earnings times the length of marriage. If that number is not a negative number the remainder is a community property interest which will be divided equally.

Whether Glenda has a reimbursement interest in \$200,000 she spent on improvements

The Family Expense rule provides that community property expenses are presumed to be paid for by community property and similarly that separate property used to pay for community property is presumed to be a gift to the community. However, in this case the \$200,000 was spent before the signing of the transmutation agreement making it potentially a community property investment in separate property. If Glenda can provide documentary evidence tracing the \$200,000 spent to separate property then she absent a written waiver she will be entitled to received a dollar for dollar reimbursement for the money invested. However, if she cannot trace it back to separate property then she will receive a pro tanto interest in the increase in value of the home based upon her \$200,000 investment. If the community receives a pro tanto interest in the increase in value the court will apply the Marsden test because John owned the home several year before marriage. Under Marsden, the court would take the amount paid towards the invest, the \$200,000 and divide that by the value of the home at the date of marriage. Whatever percentage that that derives would be the percentage of the increase in value of the home during the marriage that the community would be entitled to receive. Likely, since Glenda did not comingle her separate property earnings with the community property funds she would be able to trace back any separate property funds to their source. The facts do not indicate that the \$200,000 was separate property but it is reasonable to infer from the fact pattern that she used separate property funds and thus she will likely get a dollar for dollar reimbursement up to the \$200,000 or the value of the home.

✓
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→ Show mention possible MIM if the transmutation was considered valid & no proposal of undue influence

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2)

California is a community property state. Under section 760 of the California Family Code all property acquired during marriage is presumed to be community property. This includes quasi-community property which is property acquired while a spouse is domiciled in another state that would be community property if they were domiciled in California. Under section 770 separate property retains its character as a separate property. Separate property includes all property acquired before marriage, any property acquired by gift, bequest, devise, or descent, and the rents issues and profits from such separate property. Separate property that has been comingled with community property will remain separate property if it can be traced to its separate property source. Under Family Code at the time or judgment regarding property in a dissolution proceeding a court will divide community property equally between the two spouses.

Whether Harry has an interest in the pension payments made to Wanda during their marriage

While it is presumed that property acquired during marriage is community property, separate property and any rents, issues, or profits from that separate property remain separate property. Since since the pension that Wanda earned was separate property from a defined benefit plan she will likely argue that even though she was paid in monthly installments it is separate property and therefore Harry does not have an interest in this property. Harry would likely argue that while he may not have an interest in amount collected before marriage that any monthly payments made during their marriage are presumptively community property and therefore the time rule should apply and Harry should receive the value of the plan for the two years that they were married.

Since Wanda would be the person making the claim that the pension plan is separate property the burden would be on her to trace it back to a separate property source. In this case, Wanda would likely be able to show documentary evidence that although the payments for the plan were paid out in monthly installments, since it was defined benefit plan the benefits had vested before marriage and therefore would the character of that money would not change due to her marriage. The court will likely agree that since Wanda has retired before her marriage to Harry and Harry that the money received during the their marriage was property acquired before marriage and thus separate property.

Whether Wanda has an interest in Harry's 401(k) under the time rule

Given that Harry was working for the Hardware store at the time of marriage his wages between 2017 and 2019 are presumptively and actually community property. Since Harry's retirement plan is a defined contribution plan and he presumably contributed to the 401(k) during marriage it is likely that the court will make an in-kind division of the portion of Harry's 401(k) that was earning during their marriage using the time rule. To establish what Wanda's interest in the 401(k) will be the court will take the amount of the contributions made during the two years of marriage plus any interest gained and split that amount equally between Harry and Wanda. While payments order by a divorce decree are not-taxable and taxes are generally not considered in this case the court likely may consider the tax burden placed on Harry because it will be an immediate tax burden if Harry is required to withdrawal the money. However, Harry and Wanda could reach a stipulated agreement that would all him to keep the money in his 401(k) until retirement and he could either make an equalization payment (if he has the funds) or postpone the payment until the funds are available for removal.

Whether Harry has a a separate property interest in the money in his Lucky Strike Bank Account

Since Harry did not open up his bank account at Lucky Strike until after he married Wanda and the account was funded by wages he earned during the marriage those funds would be characterized as community property and Harry would not have a separate property claim to any of the funds deposited in is account from the date of marriage up to the date of separation. Any funds deposited post separation would be considered Harry's separate property for the purposes of dividing and awarding of community property.

Whether Wanda has a separate property reimbursement interest for the of the \$50,000 spent on the Mercedes within the meaning of section 2640 or other relevant Family Code statutes

Under section 760, except as provided by statute any property acquired during marriage is presumptively community property. Under section 2640 a reimbursement for the use right for the use of separate property arises if that separate property is used as a down payment, improvement, or payments on the principal of a loan or there is a written agreement stating otherwise separate property used to acquire community property is presumed to be a gift to the community. Since the Mercedes was paid for in cash and was not financed and there does not appear to be a written

of substituted value
of payment
There was a *of payment* for an asset therefore there is reimbursement under 2640 of *of value of* vehicle or *of payment*

agreement stating anything to the contrary the purchases of the Mercedes with separate property from Wanda's account will be presumed to be a gift to the community and Wanda will not have any separate property interest in the car.

Whether Wanda has any separate property reimbursement claims for household expenses paid from her separate property account

Under section 2640, et. seq. of the Family Code community property expenses are presumed to be paid with community property funds. Further, as stated above without an express written agreement to the contrary any separate property funds used to pay for the community property expenses, except those listed under section 2640, are presumed to be a gift to the community. Since no express written agreement exists for the household expenses is purported to exist Wanda will not be able to make a claim for reimbursement of any expenses paid with separate property funds.

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You generally get the issues and your analysis needs work

3)

General Presumptions

California is a community property state. Under Family Code section 760, community property is property acquired, whether personal or real, wherever situated, by a married person during the marriage while domiciled in the state of California. Under Family Code section 2550, community property is to be divided equally among the parties unless a statute declares otherwise. Under Family Code section 770, separate property is property that was acquired prior to marriage, post-separation, or during marriage if by gift, bequest, devise, and the rents, issues, and profits of such property is considered separate property.

The courts generally first characterize the property to determine whether such property shall be deemed community property or separate property.

The parties were married for 15 years but does not indicate when the specific date of marriage or the date of separation was.

The Personal Injury Settlement

Community Property

Under Family Code section 760, community property is property acquired, whether real or personal, wherever situated, by a married person during the marriage while domiciled in the state of California.

When it comes to personal injury settlements, the settlement is deemed community property when the injury occurred during the marriage. The settlement is deemed separate property when the injury occurred before the marriage, after divorce, or while the parties were living separate. Although an injury may occur during the marriage and the settlement will be deemed community property, the court still typically gives most of the settlement to the spouse that was injured. But it is important to note, that when a settlement is community property, the court has discretion to award any portion of the settlement to the non-injured spouse so long as at least ~~more than~~ half is awarded to the injured spouse. Thus, a sample award could be 49% to the non-injured spouse and 51% to the injured spouse.

Presumably

Here, Huey was injured when a driver negligently struck him with his car during the marriage. Huey has to undergo several surgeries to expect a full recovery. After the date of separation, Huey settled his claim against Sonic for \$3,000,000, most of it revolving around a life care plan for his future medical expenses. Since the injury occurred during the marriage, the fact that it was settled after the date of separation does not matter. The settlement will be deemed community property. However, the court is likely to award the whole settlement amount to Huey since it was revolving around a life care plan for him. This will cover his future surgeries. Also if there were surgeries performed during the marriage, the cost shall be paid by the settlement, as that is what the court will deem equitable.

Wendy's remedies

Wendy may attempt to seek remedies for the failure by Huey to disclose the life insurance policy. Wendy may seek these remedies through a breach of fiduciary duty or a motion to set aside the judgment.

Breach of Fiduciary Duty

Each spouse has the duty of the highest good faith and fair dealing with one another. Each spouse has a duty to disclose to the other spouse finances and property that the community has an interest in. However, no spouse is required to keep detailed books. When one spouse fails such a duty, this is called a breach of their fiduciary duty.

Here, Huey allegedly failed to disclose a life insurance policy that has a cash value of \$100,000. Wendy discovered this several years after the judgment was final. This would not matter much if it was a term life insurance policy, but since this policy is not a term policy and has cash value, it matters. Huey claims that Wendy knew about this policy because he had had discussions with her about it. If the court finds that Wendy knew about this policy, then Wendy is entitled to no remedy. If the court finds that she had no knowledge of such policy and could not reasonably have had knowledge, then this is a breach of fiduciary duty.

Remedies for Breach of Fiduciary Duty

Need to talk about defect types of breach
21/1100/ duty.
2100
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discuss

Not necessarily true

If the breach was unintentional, the remedy for the breach would be 50% of value of the property not disclosed or transferred. If the breach was found to be fraud, then the remedy to the injured spouse is 100% of that asset.

Here, Huey claims that Wendy knew about the policy. It is logical to assume from the facts that Huey made an unintentional breach, if any. There is no indication of fraud in the facts of the case. Thus, if the court finds that Wendy did not know about the policy, then she is entitled to 50% of the cash value of the policy. Wendy would be entitled to \$50,000 as a remedy.

Post Judgment Motion to Set-Aside

✓ Once there has been a final judgment in a dissolution, a party may bring a post judgment motion to set aside under circumstances. Some of the reasons include: fraud, mistake, failure to disclose, etc. When a party fails to disclose all of the known assets, debts, and income, this is grounds for a motion to set aside. The motion must be brought within one year of the injured party's discovery of the failure.

Here, several years after their divorce judgment was final, Wendy discovered that Huey had failed to disclose a life insurance policy having a cash value of \$100,000. Because this insurance policy is not a term one and is one of cash value, this failure is very important. If the court finds that Huey is right in his claim that Wendy knew about this policy because they both discussed it, and that Wendy had knowledge, then she may not be entitled to remedy. However, if the court finds that Huey's claim is false, then Wendy may bring a Motion to Set-Aside the Judgment on the grounds of failure to disclose as long as she brings this motion within 1 year of her discovery of the failure.

END OF EXAM