3)

California is a community property state. There is a general presumption that property acquired during marriage is community property. Property acquired before marriage and after separation is separate property. The profits and earning from separate property is considered separate property. Property acquired as gifts, by devise or bequest is separate property. Community property is divided in half (50/50) upon divorce.

Quasi-Community property is property that would have been community property if the spouse was domiciled in California when the property was acquired.

The marital community ends at the date of separation. Here, W and H separated in 2014 and ended their marital economic community. Therefore, the valuation of the business will be determined up to 2014.

BOOK BUSINESS

The character of a property can be determined by the source of the property. Here, Wendy's (W) business was established and owned by her father before her 1990 marriage to Hal (H) and is therefore separate property. Although the business was not owned by W as separate property prior to marriage, W's father gave a a gift to Wendy 1/2 of the interest in the business in 1995 and that was W's separate property. By 1999, the business became 100% the separate property of W as it was willed to W by her father. The business is therefore W's separate property.

VALUE OF COMMUNITY PROPERTY

Community property value ends after separation. To determine the amount of community property from the business, it must be measured from the date it was entered into during the marriage up to the date of separation which is from 1995 to 2014.

PERREIRA valuation of community property

If a business is the separate property of the spouse and the spouse worked in the business during the marriage, and the business grew because of the work and time put in by the spouse, the community is entitled to the business earnings because the time and work of the spouse is community property. The facts indicate that Wend's exceptional talent for buying antiques was the reason for the increase in business earnings. Under Perreira, the calculation would be to take the present value of the business multiplied by the interest rate which is about 10% and multiply the number by the years of marriage. The amount will be community property and the rest is separate property.

Red: issue. Yellow: rule. Green: application. Blue: conclusion

Van Camp valuation

Keep these in separate pars.

If a business is the separate property of the spouse and the spouse worked in the business during the marriage, the community must have a share of the business earnings. Van Camp is used if the spouse who own the business and worked in the business was not the source or reason for the success of the business. Instead, it was the character and timing of the business that made it successful. The facts indicate that the business doubled in value from 1995 to 2000 and although W worked in the business prior to 1990, the business did not become successful until 1995 to 2000 which could only mean that it was the right time for this kind of business and therefore it only increased in revenue during these years. Under Van Camp, the calculation would be to determine the salary a person in W's position makes, multiply it by the number of years of marriage; add the family expenses during marriage and deduct it from the total amount W earned which is W's separate property. The rest is community property.

1990-1995 Wendy's salary

Wendy was working from 1990-1995 and did not own the business. A spouse's work/employment is community property. Therefore, the salary that W earned during this time is community property.

Question #3 Final Word Count = 603

END OF EXAM