

ST. MARY'S UNIVERSITY SCHOOL OF LAW

COMMUNITY PROPERTY

Summer 1992

FINAL EXAMINATION

Professor Douglas R. Haddock

INSTRUCTIONS

1. Most, if not all, of the problems on your Final Examination will refer to the following Factual Information, consisting of five pages excluding this page of instructions. Some additional facts will be included with some of the problems, but the Factual Information gives you general background and numerous clues as to problems that might be presented in the Examination.

2. Prior to taking the Examination, you are allowed to get assistance from any and all resources, including the assigned problems and readings, your notes, and your colleagues, in studying and reviewing the Factual Information. You are encouraged to study the Factual Information thoroughly, individually and, if you desire, in groups, and to analyze questions you anticipate from reviewing the course.

3. During the two-hour Examination period, you will be allowed to use any printed or written material you wish, including the text, your notes and your outlines. You are advised, however, that this allowance will not necessarily help you. You are not allowed, of course, to get help from other persons during the Examination period and your responses to the problems must be your own work, composed and written during the Examination period.

Community Property Final Examination Factual Information

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The examination questions will be based on the following factual information concerning Grace and Gary Grant and their descendants.

Grace and Gary

[A] Grace and Gary Grant were born in 1920 and 1917, respectively. They were married to each other in 1940. Gary and Grace have three children, Patricia (born in 1943), Paul (born in 1947), and Philip (born in 1951) and five grandchildren. Grace and Gary were both born in Texas and have resided in several different locations within the state of Texas for all but a few years of their lives. For most of his adult life, Gary has been employed as an insurance agent for a major American insurance company. Except for occasional part-time employment, Grace has not worked outside of the home during their 52 years of marriage. At the present time, the assets of Grace and Gary include the following:

1. A three-bedroom home in Houston, purchased in 1970 for \$75,000, now valued at \$300,000. The purchase was financed with \$25,000 inherited by Grace in 1969 and a loan for \$50,000 from Houston Federal Savings and Loan. All of the loan documents were signed by both Gary and Grace and both are named as grantees in the deed to the property. One document signed by both was a "Deed of Trust," which is comparable to a mortgage, whereby Houston Federal was granted an interest in the home to secure the repayment of the indebtedness. At the present time, there is \$25,000 still due on the promissory note signed by the couple to obtain the loan.

2. Retirement benefits resulting from contributions made to a retirement fund established by Gary's employer. The contributions to Gary's account were made from 1947 to 1987 by both Gary and his employer. Gary retired in 1987 and he now receives \$3500 per month in benefits from the retirement plan.

3. Insurance policies on the lives of both Grace and Gary. The death benefit on the policy on Grace's life is \$100,000 and the death benefit on the policy on Gary's life is \$300,000. The policy on Grace's life has a present cash value of \$20,000 and the cash value of the policy on Gary's life is \$60,000. Both policies were procured by Gary from his employer in 1970, and the premiums have been paid out of Gary's monthly income. Primary beneficiary under each policy is the insured's spouse; secondary beneficiaries, in the event the primary beneficiary predeceases the insured, are the insured's children "share and share alike."

4. Two paintings, worth \$25,000 each, presented to them by their son Paul on their 50th wedding anniversary. Each painting was worth \$20,000 when presented to Gary and Grace, but both have appreciated in value since then.

Patricia and Pablo

[B] The oldest child of Grace and Gary is Patricia. She was born in 1943 and in 1963 married Pablo in 1964. Like Gary and Grace, Patricia and Pablo have spent virtually their entire lives in Texas, most of that time in San Antonio. Pablo and Patricia adopted a child, Carrie, in 1973. Carrie was four months of age when she first came to the home of Patricia and Pablo, in January of 1973. Carrie still resides at Patricia's home and is attending University of Texas at San Antonio. Earlier this year, Pablo was killed in a tragic automobile accident.

[C] Most of their married lives, Pablo and Patricia were both employed outside of the home. Patricia is an elementary school teacher and Pablo was a vice-president of a local bank. Income from Patricia's employment has always been much lower than the income from Pablo's employment. They have been careful with their money and, for the most part, wise in their investments. At the time Pablo was killed, their assets included the following:

1. A home in San Antonio, purchased in 1985 for \$140,000. They paid for the home with \$20,000 from a joint savings account and a \$120,000 loan from the bank for which Pablo worked. Pablo was the only one to sign the promissory note and the Deed of Trust to secure the loan. Property values plummeted in San Antonio not long after Pablo and Patricia purchased the house and it is now worth only \$105,000 according to real estate appraisers. The amount still outstanding on the loan is \$119,000.

2. A money market account valued at \$75,000. Funds from various sources have been placed in this account, including monthly deductions from Pablo's salary for the past ten years, proceeds from the sale of a Mercedes automobile received by Pablo pursuant to the will of his father, who died in 1985, and \$2,000 received by Patricia as a prize for being the "Texas Teacher of the Year."

3. A condominium in Colorado, worth \$80,000, purchased by Pablo in 1987 with savings he had accumulated from his income, including annual bonuses, from 1975 to 1986. The deed to the property named only Patricia as grantee, and Pablo presented the deed to her on her 44th birthday. There are no liens or encumbrances against the condominium.

Paul and Pauline

[D] Paul is the second oldest child of Grace and Gary. He was married in 1970 to Pauline. Unlike his older sister, Paul has made his home in several different places. In the late 1960's, Paul spent a year living and studying in France. During that year, he met Pauline, a French citizen. The two corresponded for a while after Paul's return to Texas and in 1970 they were married in a ceremony in Fort Worth, Texas. After the wedding, Pauline and Paul resided in Fort Worth for two years before moving to France. Pauline missed her homeland and Paul was interested in pursuing a career in art and thought that Paris would be an ideal place to promote that ambition. For several years, the couple struggled to get by on relatively little income. Paul pursued his painting, but made very little money, and Pauline worked in various restaurants, waiting on tables. They have one child, Charles, born in 1975.

[E] In the late 1970's Paul's work came to the attention of some influential critics who praised a number of his works. Very soon, Paul became a sensation in the world of art and he was offered large sums of money for almost every painting he had ever done. This success understandably altered the lifestyle of Paul and Pauline almost overnight. The couple bought an "estate" in the country not far from Paris and spent most of their time there from 1979 until 1982. In 1982, however, they moved to New York, where Paul purchased an apartment (a condominium) in a luxurious Manhattan apartment building. They resided in that apartment most of the time between 1982 and 1986, although they frequently traveled to Paris. By 1986, Paul had become more and more interested in the art of the southwest United States, and he and Pauline returned to Texas. They purchased a 300 acre ranch in the Hill Country west of Austin and built a beautiful and spacious home on the property. Since 1986, Paul and Pauline have spent most of their time at the Hill Country ranch. Their assets now include the following:

1. The Hill Country ranch, valued at \$1,500,000.

2. The country estate near Paris. It was purchased with the proceeds from the sale of several of Paul's early paintings, one completed in 1969, sold for \$30,000; another which he worked on from 1969 through 1973, sold for \$40,000; and a third painting started in 1975 and completed in 1976, also sold for \$30,000. The property, purchased in 1979 for \$100,000, is now valued at \$140,000. A home was on the property when they purchased it, and they have placed no additional improvements on the land. The title is in the names of both Pauline and Paul. The property is managed by a Paris real estate company, which sometimes leases it out to carefully selected clients for periods ranging from two weeks to nine months.

3. The New York condominium, purchased by Paul with a downpayment of

\$30,000 acquired through the sale of several paintings completed in 1968 and 1969. The purchase price of the condominium was \$150,000 and Paul borrowed \$120,000 from a New York bank to complete the purchase. For most of the time since Pauline and he moved to Texas, Paul has leased the condominium to other parties for one or two year periods. The monthly rental income has averaged about \$1,500, which is somewhat less than the sum of the monthly payments on the \$120,000 loan, maintenance expense, and property taxes.

4. Shares in a mutual fund, purchased with \$100,000 received from the sale of several paintings produced by Paul in the mid-1980's. The shares were purchased in Paul's name alone in New York City from a New York broker. The fund consists of various investments in the stock of different companies, incorporated and doing business in a number of states. The fund is managed and marketed by a New York firm. As a result of dividends from the fund, it has appreciated in value to \$125,000. Because of the transaction described in paragraph 4, however, the value of the fund is now only \$105,000.

5. In 1986, Paul sold \$20,000 worth of the shares in the mutual fund described in paragraph 2. This money was used to purchase two horses in Texas, for Pauline and Paul to use for pleasure riding on the Hill Country ranch.

6. Numerous paintings completed by Paul during the past 15 years. The paintings range in value from \$3,000 to \$100,000. Several of these paintings were presented by Paul to Pauline on special occasions such as her birthday.

Philip and Pamela and Phyllis

[F] Philip, the youngest child of Gary and Grace, showed great promise as a child, but eventually became a lawyer. In 1974, he left Texas and entered law school at Southwestern University in Los Angeles, California. During his first year of law school, Philip met Pamela and the two were married in California during the summer between Philip's first and second year of law school. During Philip's last two years of law school, Pamela continued an educational program leading to a Masters Degree in counseling, but also was employed full-time to support herself and Philip. During that period of time, her income was not sufficient to meet all of their expenses and Philip financed his legal education through student loans. Pamela and Philip both finished their schooling at about the same time and both found satisfactory employment in the Los Angeles area.

[G] Two children, Corinne and Colleen, were born in 1979 and 1981 respectively. The marriage was not, however, a blissful one, and in 1984 Pamela and Philip separated. Philip resigned his employment and returned to Texas, where he set up his own law practice and also started a restaurant business. Pamela and the children remained in California for a time, but in 1985 they too moved to Texas and Philip and Pamela made an attempt at reconciliation. The attempt failed and in 1987 Pamela obtained a divorce in a Texas court. Pamela and the children returned to California, but Philip still resides in Texas. In 1989, Philip married Phyllis and in 1991 Phyllis gave birth to a baby daughter, named Candice.

[H] Professionally, Philip has done very well. The restaurant business consumes more of his time than his law practice, and he has begun to cut back somewhat on the latter. He owns an expensive home in San Antonio, purchased in 1988, a vacation cottage in the mountains of Montana, purchased in 1990, the restaurant business, two expensive automobiles, and several valuable funds and accounts. Philip also purchased a policy of insurance on his life in 1980, naming Pamela as the beneficiary. The original death benefit under the policy was \$50,000, but he has increased the amount of coverage twice, once in 1985 and again in 1990. The death benefit is now \$300,000 and last year Philip named Phyllis as the beneficiary. Premiums have always been paid out of Philip's income.

[I] The following pedigree chart, with names and years of birth (and, in Pablo's case, death) may help you learn some of the relationships involved in the foregoing information.

