

**TEXAS SOUTHERN UNIVERSITY  
THURGOOD MARSHALL SCHOOL OF LAW**

**TEXAS MARITAL PROPERTY  
SPRING 2018**

**Professor Anna Taylor James**

**Required Texts**

**George, Pamela, Texas Marital Property Rights, 2017-2018 Edition**  
Texas Family Code, Latest Edition  
Texas Probate Code/Property Code (Sections of the Code as assigned)

**Scope**

The contents of Law 784, Texas Marital Property, will:

- Identify and define the Texas marital estates.
- Classify the property within the various estates.
- Discuss jurisdiction/venue; time limits/procedural devices/steps for filling documents.
- Analyze and compare the estates as they may be affected by ownership, management functions, liabilities, divorce and death.
- Divide the estate in accordance with the state and federal laws (where applicable).
- Discuss recent legislation and legislative amendments (state and federal)
- Discuss the marital property laws of other community property jurisdictions.

**Students should develop the following competencies from the textual materials:**

- Define, describe and distinguish terms and words of art.
- Define and distinguish the rules and principles related to the subject matter.
- Analyze the facts and data of the cases and statutes.
- Classify the elements of the subject matter outlined in the rules and principles of the specific topic.
- Determine the criteria utilized for the decision making process.
- Determine the policies and rationales established by the rules, cases and statutes.
- Identify the trends or evolving directions of specific rules and principles.

**Materials Needed for Class**

Textbook, Texas Family Code and notes for the daily assignments. Occasionally, additional reading materials and problems will be assigned. **Read concurring and dissenting opinions** if they are included in the assigned reading. **Do not bring commercial case briefs, outlines and other study aids to class.**

### Examination

Mid-term examination—25%

**Mid-term examination—March 6, 2018**

Final examination—75%

### Attendance

The Student Rules of Matriculation regarding attendance will be enforced. There are **no** excused absences.

**Arrive on time for the class and remain until it is dismissed unless there is an emergency.**

### Accommodations

If you require accommodations, complete the proper forms in Dean Mouton's office. Your application and documentation will remain confidential. Your prompt attention to this matter will allow the law school to accommodate you as soon as it has been made aware of your needs. Refer to the Student Accommodations Handbook in Dean Mouton's office.

**Place all computers in the "off" position during class.**

**Electronic communications devices must be placed in the "off" position during class. Secure the devices so that you will not have immediate access to them in class. If a student's cell phone or other communications device disrupts class, the student must leave class and will be marked absent.**

When the schools are not in session, make arrangements for child care instead of bringing the children to class.

### Office Hours

Monday, Wednesday	1-5
Tuesday, Thursday	12-2; 4-5
Friday	By appointment

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**Marital Property**  
**Spring 2018**  
**Professor Anna Taylor James**

Text

George, Texas Marital Property Rights, 2017-2018 Edition

**Chapter 1 The Marital Property System**

**Assignment 1**

**Pages 1-20**

Introduction

The Constitution of 1876

DeBlane v. Hugh Lynch Co; Stringfellow v. Sorrells

Kellet v. Trice; Arnold v. Leonard; Northern Texas Traction Co. v. Hill

**Texas Family Code Section \_\_\_\_\_**

**Assignment 2**

**Pages 20-47**

The Constitution as Amended in 1948

Few v. Charter Oak Fire Ins. Co.

Graham v. Franco; Williams. v. Williams;

Constitution as Amended in 1980, 1987 and 1999

Bradley v. Bradley

**Texas Family Code Section \_\_\_\_\_**

**Assignment 3**

**Pages 47-71**

The Constitution as Amended in 1980, 1987 and 1999

Dewey v. Dewey; Beck v. Beck

Fanning v. Fanning; Fanning v. Fanning; Sheshunoff v. Sheshunoff;

**Texas Family Code Section \_\_\_\_\_**

**Assignment 4**

**Pages 72-88**

Izzo v. Izzo; Moore v. Moore; Holmes v. Beatty

**Texas Family Code Section \_\_\_\_\_**

**Chapter 2 Characterization of Marital Property**

**Assignment 5**

**Pages 89-114**

The Community Presumption and Its Rebuttal; The Doctrine of Inception of Title

Foster v. Christensen; Maples v. Nimitz;

Pearson v. Fillingim; Welder v. Lambert;

Carter v. Carter; Brown v. Foster Lumber Co.; McCurdy v. McCurdy

Parson v. United States

**Texas Family Code Section \_\_\_\_\_**

**Assignment 6****Pages 115-134**

## Tracing

Hardy v. Vincent; Norris v. Vaughn; McKinley v. McKinley;  
Gibson v. Gibson; Snider v. Snider; Bakken v. Bakken

**Texas Family Code Section** \_\_\_\_\_**Assignment 7****Pages 134-158**

## Tracing

Carter v. Carter

Presumptions Arising from Conveyances—Acquisition of Title

Resulting Trust: Bybee v. Bybee; Peterson v. Peterson; Whorrall v. Whorrall

Conveyance Containing Significant Recital

Messer v. Johnson; Raymond v. Raymond; Stearns v. Martens and Stearns Pools...

**Assignment 8****Pages 158-194**

## Refinance

Rivera v. Hernandez

## Credit Transactions

Broussard v. Tian

**Texas Family Code Section** \_\_\_\_\_

## Credit Transactions

Ray v. United States; Ray v. United States

Personal Injury Recoveries—Which Presumption or Rule Controls?

Kyle v. Kyle; Osborn v. Osborn; Lewis v. Lewis; Licata v. Licata;  
Harrell v. Hochderffer

**Texas Family Code Section** \_\_\_\_\_**Chapter 3 Reimbursement****Assignment 9****Pages 195-223**

Reimbursement for Time, Toil, Talent, and Effort

Vallone v. Vallone; Jensen v. Jensen; Trawick v. Trawick

Beginning Balance Reimbursement

Horlock v. Horlock

**Assignment 10****Pages 224-255**

Reimbursement for Improvements

Anderson v. Gilliland

Purchase Money Reimbursement—Equitable Offsets: Penick v. Penick

Availability of Reimbursement for Retained Earnings, Reimbursement  
for use of Community Credit

Thomas v. Thomas

**Texas Family Code Section \_\_\_\_\_**

## **Chapter 4 Management and Liability of Property During Marriage**

General Concepts

Cockerham v. Cockerham

### **Assignment 11**

**Pages 258-288**

Background Information

General Concepts

Cooper v. Texas Gulf Industries; Stewart Title v. Huddleston;

Stewart Title v. Huddleston; Providian Nat'l Bank v. Ebard;

Drake Interiors, v. Thomas; Tedder v. Gardner Aldrich, LLP

Aldrich, LLP v. Tedder

Management Rights

Jamail v. Thomas

**Texas Family Code Section \_\_\_\_\_**

Fraudulent Conveyances and Death

Givens v. Girard Life Ins. Co. of America

Murphy v. Metropolitan Life Ins.;

### **Assignment 12**

**Pages 288-316**

Fraudulent conveyances and Divorce

Schuleter v. Schuleter; Loiaza v. Loiaza; Slicker v. Slicker

**Texas Family Code Section \_\_\_\_\_**

Liability of Marital Property

Brodway v. United States

LeBlanc v. Waller

Protection of Third Parties

Sanburn v. Schuler; Williams v. Portland State Bank

**Texas Family Code Section \_\_\_\_\_**

## **Chapter 5 Dissolution of the Marriage by Divorce**

### **Assignment 13**

**Pages 317-347**

Just and Right Division; Divestiture of Separate Property; Quasi-Community

Murff v. Murff; Eggemeyer v. Eggemeyer; McLemore v. Lemore

**Texas Family Code Section \_\_\_\_\_**

Quasi-Community Property  
Cameron v. Cameron; Estate of Hanau v. Hanau  
**Texas Family Code Section** \_\_\_\_\_

**Assignment 14** **Pages 347-376**  
Valuation for Division; Partnership Distributions  
Finn v. Finn

Partnership Distributions  
Marshall v. Marshall  
**Texas Family Code Section** \_\_\_\_\_

Partnership Distributions  
Lifshutz v. Lifshutz

**Assignment 15** **Pages 376-414**  
Retirement and Other Employee Benefits  
Cearley v. Cearley, 544 SW 2d 661 (Tex. 1976); Taggart v. Taggart;  
Berry v. Berry; May v. May; Howell v. Howell; Hagen v. Hagen;  
Pigeon v. Turner  
**Texas Family Code Section** \_\_\_\_\_

**Assignment 16** **Pages 414-459**  
Alimony or Maintenance;  
In re Marriage of Hale  
Tome v. Tome  
Appellate Review of Property Division  
McKnight v. McKnight; Jacobs v. Jacobs McElwee v. McElwee;  
Kramer v. Kastleman  
Other Post-Judgment Actions  
Ex parte McKinley; Shanks v. Treadway; Miller v. Miller  
**Texas Family Code Section** \_\_\_\_\_

## **Chapter 6 Interspousal Torts**

**Assignment 17** **Pages 461-475**  
Bounds v. Caudle, 560 SW 2d 925 (Tex. 1977); Mogford v. Mogford; Price v. Price;  
Twyman v. Twyman  
**Texas Family Code Section** \_\_\_\_\_

## **Chapter 7 Property Rights that Arise When There is No Formal Marriage**

**Assignment 18** **Pages 477-509**  
Meretricious Relations

Hayworth v. Williams; Harrington v. Harrington  
Putative Spouse

Davis v. Davis; Davis v. Davis  
Common Law Marriage  
Claveria v. Claveria; Russell v. Russell  
**Texas Family Code Section** \_\_\_\_\_

## **Chapter 8 Homestead**

### **Assignment 19** **Pages 511-543**

Background Information  
    In re Reed  
Establishing the Homestead Claim  
    Land and improvements: Norris v. Thomas  
    Minimum interest in land: In re Perry  
    Rural v. urban homestead: In re Bouchie; Majeski v. Estate of Majeski  
    In re Perry

### **Assignment 20** **Pages 543-570**

    In re Mitchell  
Occupancy and use: AG Acceptance Corporation v. Veigel  
Estoppel: Estate of Montague v. National Loan Investors, LP  
**Texas Family/Probate/Property Code Section** \_\_\_\_\_

Abandonment and Transfer of the Homestead  
    Abandonment  
    Florey v. Estate of McConnell

### **Assignment 21** **Pages 571-583**

Abandonment  
    Kendall Builders, Inc. v. Chesson

Conveyance  
    Consent of spouse: Geldard v. Watson  
    Pretended sales: In re Perry

**Texas Family/Probate/Property Code Section** \_\_\_\_\_

### **Assignment 22** **Pages 583-604**

Debt Enforceable Against the Homestead  
    Heggen v. Pemelton; McGoodwin v. McGoodwin; Spradlin v. Jim Walter Homes;  
    CVN Group, Inc. v. Delgado; Denmon v. Atlas Leasing, LLC.

**Texas Family/Probate/Property Code** \_\_\_\_\_

## MARITAL PROPERTY TERMS AND TOPICS

Adultery  
Affinity  
Alternative dispute resolution procedures  
Annulment  
Arbitration  
Breach of promise  
Ceremonial marriage  
Cohabitation  
Common law marriage  
Community property  
Community property presumption  
Connivance  
Consanguinity  
Divorce—grounds  
Divorce petition  
Economic contribution  
Family and Medical Leave Act  
Family violence  
Gender discrimination  
Homesteads—rural/urban  
Inception of title doctrine  
Incest  
Informal marriage  
Joint property  
Jurisdiction—divorce  
Loss of consortium  
Marital privacy  
Marital property  
Marriage  
Mediation  
Meretricious relationship  
Miscegenation  
No-fault divorce  
Non-conjugal  
Polygamy  
Prenuptial agreement  
Putative spouse  
Reimbursement--property  
Separate property  
Spousal maintenance  
Tracing--property  
Uniform Services Former Spouses  
Protection Act  
Unmarried partners  
Void marriage  
Voidable marriage

**Review and prepare for your study the following documents: divorce petition and prenuptial agreement.**