



GO DIVORCE CLINIC[®]
THE END OF THE UGLY DIVORCE

Community Property

There may be no two words more capable of bringing a productive divorce conversation to a screeching halt than:

“It’s mine.”

My paycheck.

My retirement.

My house.

My business.

My inheritance.

My savings.

My car.

My boat.

Sometimes I’ve even heard “my children.”

The children? That one hurts my heart every time I hear it. So first off, let’s keep the conversation about possession where it belongs: with things, not people.

And with regard to things...

If I didn’t intervene, I could watch two intelligent adults spend hours fighting over the “Mine” without either one really understanding—or sometimes even caring—what community property means in the State of California.

So even if you don’t care about community property, it’s worth understanding what you’re dealing with before you start dividing it.

Marriage Is Like a Business Merger Few Recognize at the Altar

Most people don’t get married thinking they have just created a financial partnership.

They get married because they’re in love.

But marriage creates a financial relationship few people are contemplating when they say “I do.” In California, much of what is earned, acquired, and accumulated during a marriage may become part of the financial community created by that marriage. It is a legal feature of marriage with very real consequences when the marriage ends.

Money gets earned. Bills get paid. Houses get bought. Retirement accounts grow. Businesses get built. Debt gets accumulated. One person may earn more while the other contributes differently. Property gets refinanced. Accounts move around.

All of this happens without much review while the marriage is viable. Nobody stands in the kitchen every Thursday evening announcing:

“For the record, I would like to establish the characterization of the funds we just used to purchase this dishwasher.”

That team spirit can result in even significant assets getting tossed into the marital melting pot. No spouse I am aware of has ever turned to the other and said:

“Hey honey, you just won the lotto!”

It’s much more likely to be:

“We just won the lotto, baby!”

Years later, at the end of the marriage, divorce asks you to look backward at a financial life that was never organized in anticipation of being dismantled and portioned out. Give yourselves some grace. It’s a tough assignment.

I Should Have Hired a Private Eye

Sometimes the difficult part isn’t figuring out what exists. It’s figuring out what happened to it.

I have seen occasions where money intended for a child’s college education was instead used to fund one spouse’s secret gambling addiction—and there was still gambling debt remaining when the marriage ended.

How does a couple even begin talking about that kind of debt? It’s painful because that’s a very different conversation from simply looking at the balance on a credit card statement for groceries.

Over the years, we have seen couples confront all kinds of difficult financial circumstances: secret spending, gambling, failed high-risk investments, DUIs, inheritances received during the marriage, complex businesses that are in the red or difficult to value, complex retirement and pension accounts that existed before and during the marriage, and money that was converted into multiple asset holdings that evolved and changed considerably in character and form during the marriage.

And inevitably we hear:

“I earned it.”

“I bought it for me.”

“I paid the mortgage, you enjoyed the home for free.”

“You ran up the card, I didn’t even know what you were buying.”

“I am leaving you for this very reason, I can’t trust you financially.”

“You never put a dime into that account.”

“You spent our savings on risky investments that failed that I didn’t want to do.”

“Money never mattered to you until now”

Behind those statements is often years of resentment.

Who worked harder?

Who spent more?

Who sacrificed more?

Who behaved badly?
Who paid for what?
Who deserves these resources more?
Somebody has been keeping a moral score.

When “Yours,” “Mine,” and “Ours” Get Blurry

Community property can sound remarkably black and white until you start talking about an actual marriage.

California’s community property system includes concepts of both community property and separate property, but real marital finances don’t always fall neatly into obvious categories. What happened to property, money, or debt during the marriage can raise more complicated questions. If the two of you cannot reach an agreement—or don’t understand the legal significance of what happened—you may need professional legal advice before deciding what to do.

For example:

What if one spouse entered the marriage owning an asset separately, but put the other spouse on title?

What if one spouse received an inheritance that got used for the marital estate?

What if money from different sources became mixed together over many years and is hard to track?

What if one spouse repeatedly spent substantial marital funds irresponsibly?

What if a secret significant debt was incurred by one spouse that the other spouse knew nothing about?

What if a spouse owned a business that existed before the marriage but continued operating throughout it?

These aren’t hypothetical curiosities. They are the kinds of circumstances real couples we work with encounter—and the answers aren’t always obvious.

They also illustrate why simply saying “mine” or “ours” may not settle the question in certain situations.

Some circumstances can raise important legal questions about how a particular asset or debt is characterized or treated. GDC cannot answer those legal questions for you or determine how California law applies to the particular facts of your marriage.

The important thing is recognizing when the question exists, and getting the proper information from the right people.

If the two of you don’t understand what you’re looking at, get the appropriate professional advice you need before making the decision.

When “Separate” Means Separate

Sometimes “mine” is mine. Sometimes it isn’t.

California recognizes the concept of separate property owned prior to the marriage, and an inheritance is one circumstance that may also raise separate-property considerations.

But even here, the history of the asset can matter. What happened to it during the marriage? Was it kept separate? Did anything else happen involving those funds or that property? Were there later transactions or decisions involving the inherited money that may matter?

Those are the kinds of facts that can become important when separate property is involved. If you don't know what questions need to be asked, get appropriate professional help. Understanding the questions—and getting the information you need to answer them—puts you in a much better position to begin discussing your agreement.

Get the Facts on the Table

Abstraction is where arguments breed. Learn the questions. Ask them of the right people. Get informed. Then make your choices together out of clarity.

We have watched couples passionately argue about values, balances, ownership, and debt when neither person had the information necessary to know what they were actually arguing about.

There is enough difficulty in divorce without arguing over imaginary math driven by emotion.

Turning “Ours” Back Into “Yours” and “Mine”

During a marriage, finances accumulate through thousands of ordinary decisions. Paychecks arrive. Mortgages get paid. Cars are purchased. Credit cards get used. Retirement accounts grow. Money gets saved, spent, invested, borrowed, inherited, lost, and occasionally stuffed into places nobody remembers until divorce.

Then one day the two of you have to sit down and begin separating it. That time is now.

The decisions remain yours. GDC provides the structure for recording them.

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