



Complex Issues in California Family Law - Volume C: Transmutations

Dawn Gray, Stephen James Wagner

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Transmutations: Understanding, Defending and Challenging Changes in Property Ownership Between Spouses

Identify changes in important property rights between spouses, perhaps as a result of mortgage refinancing, then determine whether change is valid and finally if reimbursement is legally required. Delivers the reasoning to help resolve issues such as, for example, when analyzing a transmutation to always use this 3-part test:

1. *Is it Valid as to Form?* Application of FC § 852(a) and *MacDonald*; because parole evidence not allowed, must look to "four corners of document."
2. *Is it Free of Fraud?* How to scrutinize for constructive fraud—if it advantages a spouse it is presumed a result of undue influence and invalid.
3. *Was There a Waiver of FC § 2640 Reimbursement?* Without an express waiver, reimbursement may negate "victory" of proving otherwise valid transmutation.

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