

2)

California (CA) is a Community Property (CP) state all property acquired by labour and income of either spouse during marriage is CP. All property acquired before marriage, after separation, by will, devise or as gift is Separate Property (SP) and all property acquired from income of those property is also SP. Martial Economic Community is a community of married people CP acquired during this time. Quasi Community Property (QCP) is property acquired by either spouse that would be CP is they were living in CA.

Will requires testator with capacity (18+ and sound mind), testamentary intent, and compliance with state formalities. The testator must understand the extend of his property and his natural bounty, the relatives in order to have proper intent.

Formal Will - Document 1

A formal will requires writing, signed by testator while witnessed by two disinterest witness, signed by witness while the testator was alive, who were aware that they are signing a will. Here, the formal will is signed by Hari and two witness during Hari's life, who were disinterested. However it is unclear if they witnessed Hari's signature to the will.

A CA court will probate any will that is valid under CA law, law of state where it was executed or where the Testator domiciled. Further if Clear and Convincing evidence is shown that the testator intended to make a will, the witness requirements are waived in CA.

Here, Hari and Wanda were married for 20 yrs and for last 5 years of their marriage they are residing in CA. So if Hai died in 2020, they are residing in CA since 2015 and the Formal will could have prepared in CA. Because there are no contrary facts and no circumstances indicate otherwise further the fact that Hari had full mental capacity, it is assumed that the Formal will was validly executed. Hari left all of this CP to Wanda through his will. Thus if the probate court finds evidence of testator intent this will be valid.

Holographic Will - Document 2

A holographic requires intent, testator hand write the material provisions of the will and sign, there are no witness requirements to a Holographic will. They are valid in CA.

Here, Hari undated form is signed by him and he hand wrote the material provision of the

---

---

his will describing property to be devised and the beneficiary and there doesn't seem to be any unnatural result. Thus Hari executed a valid Holographic Will. The Holographic will seems to be an proforma will that Hari downloaded from the internet and decided to fill with hand. There are not enough facts to attack the will on basis of Undue Influence and Hari had full mental capacity.

### Revocation

It is not clear if the Holographic will prior in time or later in time. If the Holographic Will is prior in time then Formal will effectively revokes the Devise to Samir of 25% of CP due to inconsistency. However the way around an Holographic will completely revoke the Formal Will. As the Holographic will is undated we would have analyze effect of both options on eventual distribution. As such Hari could devise under a valid will half of this CP and all of his SP. Wanda then has an option to elect either to take her share from the will or clawback to take her share as per rules of CP. Court will have to admit extrinsic evidence clarify the said ambiguities.

### Dependent Relative Revocation

If the testator made another devise under a mistaken belief that the subsequent will be valid, otherwise he would not have done so then the prior will can be revived.

Here, if Holographic will was subsequent to the Formal will, then Hari effectually revoked the devise to Wanda and when the testator reduces the amount of devise Court will find that the testator intended to not give any devise. Here, as the holographic will reduced the devise to Wanda, if the Court finds that the Holographic will was a subsequent will she will not take form Hari's formal will. However she can still elects and take back her share under CP rules.

In keeping with of the above mentioned rules, I will analyze the distribution of Hari's property to Wanda, Samir and Deepa.

Hari is left with a Spouse and Two Children, if the wills due to inconsistency are held to be invalid, this property will divided through Intestacy with Wanda getting all of CP and 1/3 of SP and two children receiving their 1/3 each. However the Court might held the wills to be valid.

### A. Wanda

---

At death the title of the SP retains its forms. There seems to be valid will. Further as per the rules of CP, at death the Surviving Spouse receives half of the CP which makes her share 100% of CP and at-least 1/3 of the SP.

Here, Hari though his will has devised all of this CP to Wanda and through holographic will all of SP and 25% of his CP to his Son Samir. If Holographic will revoked the formal will due to inconsistency, Wanda will take intestate share in the property. She is entitled to half of CP that is \$50,000 and 1/3 of SP of Hari of 100,000 that is 33,334 and as the CA land that Hari brought while he was married to Wanda will go back to CP. If the court finds that Hari breached the Fiduciary duty court could also award damages to Wanda from Hari's SP. If court uses doctrine of DRR and revives the Formal Will then Wanda get all of CP as devised and she can take under the will.

B. Samir

Samir will get 1/3 of SP that is 33,333 and if the Holographic will is later in time then he could get all of SP and 25% of CP. However this is unlikely as due to consistency in both the will court will hold both the will as invalid or at-least revive the formal will.

C. Deepa

Hari brought land in CA while he was married to Wanda which will be categorized as QCP, as the property was brought will earnings during the marriage, it was CP and Hari breach the Fiduciary Duty of Trust and Confidence and transferred it to Deepa his daughter as Joint Tenant on her Birthday. This property will go back to CP and Wanda will get this property . In that case Deepa will get the reaming 1/3 share of the SP of Hari that is 33,333.

Question #2 Final Word Count = 1094

**END OF EXAM**