





Table of contents

| | |
|---|----|
|  1. Recommendations | 2 |
| PRESUMPTIONS | 2 |
| Cases (3) | 2 |
| Briefs & Memoranda (2) | 4 |
| Secondary Sources (2) | 4 |
|  2. Warnings for cited authority | 5 |
| Cases (24) | 5 |
| Trial Court Orders (0) | 13 |
| Statutes (2) | 14 |
| Regulations (0) | 14 |
| Secondary Sources (0) | 14 |
| Administrative Decisions & Guidance (0) | 14 |
| Unverified citations (1) | 14 |
|  3. Quotation analysis | 15 |
| Quotations (3) | 15 |
| Unverified citations (1) | 17 |
|  4. Table of authorities | 18 |
| Cases (25) | 18 |
| Trial Court Orders (0) | 21 |
| Statutes (4) | 21 |
| Regulations (0) | 22 |
| Secondary Sources (0) | 22 |
| Administrative Decisions & Guidance (0) | 22 |
| Unverified citations (1) | 22 |

✓ 1. Recommendations

Quick Check uses Artificial Intelligence to analyze the document for arguments and facts to uncover relevant case law. Recommendations contains cases and other materials relevant to the issues in the analyzed document but that were not cited in it.

PRESUMPTIONS

Cases (3)


1. **Rueschenberg v. Rueschenberg**

Court of Appeals of Arizona, Division 1, Department B. • May 13, 2008 • 219 Ariz. 249 • 196 P.3d 852

Case details

Movant at trial level: Plaintiff

Appellate level outcome: Upheld trial court's decision

 **Outcome:** Husband failed to show that community received excess net distributable earnings for offset against profits or increased value.

In determining the community interest in a spouse's separate business, if the profits and/or increase result from the inherent qualities of the business, the profits and increase are separate property; if the profits and/or increase result from the individual toil and application of the spouse, they are community property.

Husband failed to show that marital community received more than its fair share of two-thirds of the total of net distributable earnings and increase in value for purposes of distribution of community property to wife in divorce proceedings, where he failed to present evidence to the trial court of the amount of distributable earnings received by the community during the marriage, and the trial court was not asked by husband to determine the amount.

This Recommendation relates to cases already cited in the analyzed document

 [Barr v. Petzhold 77 Ariz. 399](#)

 [Rundle v. Winters 38 Ariz. 239](#)


[Schickner v. Schickner 237 Ariz. 194](#)

[Nelson v. Nelson 114 Ariz. 369](#)

2. **Lawson v. Ridgeway**

Supreme Court of Arizona. • June 25, 1951 • 72 Ariz. 253 • 233 P.2d 459

 Frequently cited  High court

 **Outcome:** The Supreme Court, LaPrade, J., held that the evidence established that community funds had been used to improve the husband's separate property and that plaintiff was therefore entitled to reimbursement.

All profits from business operating on separate capital of spouse are cast into community or separate estates, depending upon whether profits are result in individual toil and application of spouse or inherent qualities of business itself.

In suit brought by daughter, as sole surviving heir and administratrix of the estate of her mother, against plaintiff's father's second wife, in her individual capacity and as administratrix of the estate of plaintiff's father, seeking reimbursement for a debt owed by the separate estate of her father to the estate of her mother on account of community funds of plaintiff's father and mother used by father to improve his separate property during existence of marriage, record established that community funds only had been used to improve husband's separate property, and therefore case was not one for application of rule creating presumption that where separate and community funds are commingled in one account payment out of that account for charges against separate property or for separate uses are deemed to be paid out of separate funds.

This Recommendation relates to cases already cited in the analyzed document

-  [Barr v. Petzhold 77 Ariz. 399](#)
-  [Rundle v. Winters 38 Ariz. 239](#)
-  [In re Marriage of Flower 223 Ariz. 531](#)
- [Nelson v. Nelson 114 Ariz. 369](#)

3. **Cockrill v. Cockrill**


Supreme Court of Arizona, In Banc. • October 02, 1979 • 124 Ariz. 50 • 601 P.2d 1334

 Frequently cited  High court

Case details

Movant at trial level: Plaintiff

Highest level outcome: Reversed appellate court's decision

 **Outcome:** The Supreme Court, Gordon, J., held that: (1) when value of separate property is increased, the burden is on the spouse who contends that the increase is also separate property to prove that the increase is the result of the inherent value of the property itself and is not the product of the work effort of the community; (2) the “all or none rule,” under which profits or increases in value of separate property are either all community or all separate property, is departed from and profits which result from combination of separate property and community labor must be apportioned accordingly.

Property acquired by either spouse during marriage is presumed to be community property, and the spouse seeking to overcome the presumption has the burden of establishing the separate character of the property by clear and convincing evidence.

Separate property brought into the marriage by a spouse remains separate and it is merely the profits or the increase in value of that property during marriage which may become community property as a result of the work effort of the community. A.R.S. S 25-213.

This Recommendation relates to cases already cited in the analyzed document

-  [Barr v. Petzhold 77 Ariz. 399](#)
-  [Rundle v. Winters 38 Ariz. 239](#)
- [Nelson v. Nelson 114 Ariz. 369](#)

Briefs & Memoranda (2)

1. [Pabst Appellees' Answering Brief](#)

Court of Appeals of Arizona, Division 1. • October 23, 2006 • 2006 WL 4807059

2. [Response to Petition for Review](#)

Supreme Court of Arizona. • September 15, 2008 • 2008 WL 5006912

Secondary Sources (2)

1. [§ 25-211. Property Acquired During Marriage As Community Property; Exceptions](#)

October 29, 2024 • 11 AZPRAC A.R.S. § 25-211





2. [§ 8.2. Separate property and community effort](#)

September 09, 2024 • 4 AZPRAC § 8.2

2. Warnings for cited authority

Verify that the authority cited within the analyzed document are still good law. Quick Check runs a full KeyCite check on all the citations imported from the document and displays any potential issues.


Summary

| Treatment |  Severely negative |  Overruling risk |  Negative |  Pending appeal | No KeyCite treatment |
|--|---|---|--|--|----------------------|
| Cases (24) | 3 | 0 | 16 | 0 | 5 |
| Regulations (0) | 0 | 0 | 0 | 0 | 0 |
| Statutes (2) | 1 | 0 | 0 | 0 | 1 |
| Trial Court Orders (0) | 0 | 0 | 0 | 0 | 0 |
| Secondary Sources (0) | 0 | 0 | 0 | 0 | 0 |
| Administrative Decisions & Guidance (0) | 0 | 0 | 0 | 0 | 0 |

Cases (24)

1. Carpenter v. Carpenter

Court of Appeals of Arizona, Division 1, Department D. • February 14, 1985 • 150 Ariz. 130 • 722 P.2d 298

 10+ years

Depth of discussion  Cited

Approved in Part, Vacated in Part by [Carpenter v. Carpenter](#) Ariz. June 2, 1986
 ...life.The Superior Court, Maricopa County, Cause No. C-437055, William T. Moroney, J., on cross motions for summary judgment, awarded former wife one-half value of retirement account as of date of decree of dissolution and entire proceeds of group policy, and decedent's wife appealed. The Court of Appeals, **150 Ariz. 130, 722 P.2d 298**, reversed judgment to extent it awarded former wife any interest in retirement fund death benefit, affirmed judgment with regard to disposition of insurance proceeds, and reversed and remanded award of attorney fees for reconsideration, and former wife petitioned for review. The Supreme Court, Holohan...

Negative treatment: [Most recent](#) [Distinguished \(0\)](#) [All \(2\)](#)



2. Mezey v. Fioramonti

Court of Appeals of Arizona, Division 1, Department C. • April 03, 2003 • 204 Ariz. 599 • 65 P.3d 980



10+ years

Depth of discussion Cited

Disapproved of by [Bilke v. State](#) Ariz. December 4, 2003

Accordingly, we hold that under A.R.S. S 12-2101(G), "an interlocutory judgment which determines the rights of the parties and directs (a) proceeding to determine the amount of the recovery" can be appealed if the trial court, in the exercise of its sound discretion, expressly directs that the only issue remaining is the amount of recovery. We further hold that an appeal can be taken from such a judgment even if the proceeding to determine the amount of recovery is not an equitable proceeding. Consequently, we disapprove of Mezey's limitation on the type of appeals that can be brought under S 12-2101(G).

Negative treatment: [Most recent](#) [Distinguished \(1\)](#) [All \(14\)](#)



3. Guerrero v. Guerrero

Court of Appeals of Arizona, Division 2. • November 16, 1972 • 18 Ariz.App. 400 • 502 P.2d 1077



10+ years

Depth of discussion Cited

Abrogation Recognized by [In re Estate of Kirkes](#) Ariz.App. Div. 2 March 8, 2012

...re Estate of Alarcon, 149 Ariz. 336, 339, 718 P.2d 989, 992 (1986) And this court repeatedly has cited the approach in Gaethje in subsequent cases concerning life-insurance proceeds. See, e.g., [In re Estate of Agans](#), 196 Ariz. 367, ¶ 4, 998 P.2d 449, 450 (App.1999) **Guerrero v. Guerrero, 18 Ariz.App. 400, 402, 502 P.2d 1077, 1079 (1972)** abrogated by § 14–6101 [Carpenter v. Carpenter](#), 150 Ariz. 130, 135, 722 P.2d 298, 303 (App.1985) vacated in part on other grounds by [Carpenter v. Carpenter](#), 150 Ariz. 62, 63, 722 P.2d 230, 231...

Negative treatment: [Most recent](#) [Distinguished \(1\)](#) [All \(4\)](#)



4. In re Harber's Estate

Supreme Court of Arizona, In Banc. • January 02, 1969 • 104 Ariz. 79 • 449 P.2d 7



10+ years

Depth of discussion Cited

Superseded by Rule as Stated in [Hutki v. Hutki](#) Ariz.App. Div. 1 April 24, 2018

...it is fair and equitable" We conclude, in this case, the issue of burden is collateral, and not material, as evidence supporting the trial court's fairness determination was already in the record.[3]¶ 18 Even if the burden issue was material to this appeal, we note Sharp relies on **In re Estate of Harber, 104 Ariz. 79, 88, 449 P.2d 7, 16 (1969)**, for the burden proposition Wife cites. See Sharp, 179 Ariz. at 210, 877 P.2d at 309 However, **Harber** involved a post-nuptial agreement between married persons who were not "contemplating separation or divorce." **104 Ariz...**

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(6\)](#)

5. Austin v. Austin

Court of Appeals of Arizona, Division 2. • April 30, 2015 • 237 Ariz. 201 • 348 P.3d 897



Depth of discussion Cited

Declined to Extend by **Saba v. Khoury** Ariz.App. Div. 1 January 21, 2021
 ...or her] rights therein, and was fair and equitable."See id. Further, the burden is on the party seeking to enforce the postnuptial agreement "to prove by clear and convincing evidence that the agreement was not fraudulent or coerced, or that it was not unfair or inequitable."Id. Husband cites **Austin v. Austin, 237 Ariz. 201, 208, ¶ 20, 348 P.3d 897, 904 (App. 2015)**, in which we applied that rule when a wife challenged a joint operating agreement of a limited liability company the couple formed to hold and manage her property. The superior court in **Austin** found the...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(3\)](#)

6. Bilke v. State

Supreme Court of Arizona, En Banc. • December 04, 2003 • 206 Ariz. 462 • 80 P.3d 269

10+ years

Depth of discussion Cited

Declined to Extend by **La Cebadilla Estates Corp. v. Sisneros** Ariz.App. Div. 2 December 18, 2007
 ...91, ¶ 9, 139 P.3d 609, 611 (2006)O'Brien v. Superior Court, 102 Ariz. 570, 572, 435 P.2d 44, 46 (1967)In re Paternity of Gloria, 194 Ariz. 201, ¶ 25, 979 P.2d 529, 533-34 (App.1998)¶ 19 At oral argument, the Sisneroses relied on **Bilke v. State, 206 Ariz. 462, ¶ 5, 80 P.3d 269, 270 (2003)** But that case has no bearing on the situation here. In **Bilke**, the trial court had entered a final judgment "resolv[ing] the parties' rights as to liability" at the request of one party "so that it..."

Negative treatment: [Most recent](#) [Distinguished \(1\)](#) [All \(2\)](#)

7. Muchesko v. Muchesko

Court of Appeals of Arizona, Division 1, Department E. • September 30, 1997 • 191 Ariz. 265 • 955 P.2d 21



📅 10+ years

Depth of discussion Mentioned

Declined to Extend by [Viands v. Viands](#) Ariz.App. Div. 1 September 26, 2017
...party's subjective intent and pro se status in deciding that her legal positions were reasonable. Id. at 548–49, ¶¶ 10, 13 Williams analyzed the reasonableness component of § 25–324(A) and did not address what constitutes a legal position. Id. at ¶¶ 10–13 Wife also relies on **Muchesko v. Muchesko, 191 Ariz. 265, 273 n.4 (App. 1997)**, which also did not address what constitutes a legal position, but merely noted that § 25–324"allow[s] courts to consider the reasonableness of a party's legal position."¶ 8 Nothing in the statute or common law supports Wife's...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(3\)](#)

8. In re Estate of Kirkes

Supreme Court of Arizona, En Banc. • March 01, 2013 • 231 Ariz. 334 • 295 P.3d 432

📅 10+ years

Depth of discussion Cited

Distinguished by [Matter of Estate of Fairbanks](#) Ariz.App. Div. 1 February 19, 2019
...by awarding the full annuity proceeds to Eva.III. Community Property¶12 Appellants also contend that "community property concepts should govern the terms of distribution."Appellants rely upon the language in Prudential's notice to Decedent that it could not change his beneficiary designations without Eva's signature. Appellants also rely on **In re Estate of Kirkes, 231 Ariz. 334, 335 (2013)**, to argue that "community property law has to be considered when determining who the rightful beneficiaries are."Further, they assert that Eva waived her rights to the annuity when she did not list the annuity account in the community property declaration...

9. In re Marriage of Flower

Court of Appeals of Arizona, Division 1, Department C. • February 25, 2010 • 223 Ariz. 531 • 225 P.3d 588

📅 10+ years

Depth of discussion Mentioned

Distinguished by [In re Matter of Gonzalez v. Arrellano](#) Ariz.App. Div. 1 May 30, 2024
...the retainer agreement, which did not create a debt to the community. And regardless of how Husband secured his disability settlement, it is personal to him because it results from his own injuries and the payment entirely represents post-dissolution wages and medical expenses.¶17 Though the superior court

cited **In re Marriage of Flower, 223 Ariz. 531, 537–38, ¶¶ 24–29 (App. 2010)**, which held unequal division of property was appropriate because the parties incurred substantial community debt to benefit one spouse's separate property, that case is irrelevant here. That case applies only to dividing community assets. As noted...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(2\)](#)

10. Bell-Kilbourn v. Bell-Kilbourn

Court of Appeals of Arizona, Division 1, Department B. • October 23, 2007 • 216 Ariz. 521 • 169 P.3d 111



10+ years

Depth of discussion Cited

Distinguished by [In re Marriage of Simmons v. Dudley](#) Ariz.App. Div. 1 April 7, 2009
...trial court regarding the nature of the property as community or separate."Thomas v. Thomas, 142 Ariz. 386, 392, 690 P.2d 105, 111 (App.1984) (citation omitted).¶ 22'Property takes its character as separate or community at the time [of acquisition] and retains [that] character' throughout the marriage."
Bell-Kilbourn v. Bell-Kilbourn, 216 Ariz. 521, 523, ¶ 5, 169 P.3d 111, 113 (App.2007) (citation omitted). Property acquired during the marriage is presumed to be community, "and the spouse seeking to overcome the presumption has the burden of establishing a separate character of the property by clear...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(2\)](#)

11. In re Estate of Agans

Court of Appeals of Arizona, Division 1, Department C. • October 12, 1999 • 196 Ariz. 367 • 998 P.2d 449

10+ years

Depth of discussion Cited

Distinguished by [In re Estate of Fishman](#) Ariz.App. Div. 2 August 30, 2001
...personal representative amended the complaint to add Carol as a defendant, alleging claims of conversion and constructive trust against her. Carol and the personal representative then filed cross-motions for summary judgment. In her motion, Carol contended the estate had no interest in the insurance proceeds she had received, citing **In re Estate of Agans, 196 Ariz. 367, 998 P.2d 449 (App. 1999)**
In her motion, the personal representative argued, in part, that Carol understood she had received the \$250,000 to purchase the 10,000 shares of stock, that "she had no power or authority" to assign the estate's shares to...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(2\)](#)

12. Gerow v. Covill

Court of Appeals of Arizona, Division 1, Department C. • April 09, 1998 • 192 Ariz. 9 • 960 P.2d 55

📅 10+ years

Depth of discussion Cited

Distinguished by [Skoglund v. Barbour](#) Ariz.App. Div. 1 August 27, 2024

...nearly all of the changes requested by [Wife's] attorney."However, Wife did not sign the 2018 agreement with these changes.¶11 The superior court held that if a transfer of community property occurred without Wife's express consent, that transfer would "constitute a breach of that [fiduciary] duty" to Wife under **Gerow v. Covill, 192 Ariz. 9, 960 P.2d 55 (App. 1998)**, and *Mezey v. Fioramonti*, 204 Ariz. 599, 65 P.3d 980 (App. 2003) The court then found Husband transferred the shares to Teegardin without Wife's consent, which it ruled was a fiduciary breach under those cases. The court also...

Negative treatment: [Most recent](#) [Distinguished \(2\)](#) [All \(2\)](#)

13. Carpenter v. Carpenter

Supreme Court of Arizona, In Banc. • June 02, 1986 • 150 Ariz. 62 • 722 P.2d 230

📅 10+ years

Depth of discussion Cited

Distinguished by [Boncoskey v. Boncoskey](#) Ariz.App. Div. 1 February 11, 2010

...not control who receives death benefits. Id. at ¶¶ 18-19, 999 P.2d 184. Thus, first wife was unable to receive any death benefits. Id. at ¶ 25, 999 P.2d 184. We do not believe that Parada controls the issues in the present case.¶ 26 Finally, in **Carpenter v. Carpenter, 150 Ariz. 62, 63, 722 P.2d 230, 231 (1986)**, the court addressed whether husband's first wife had a community property interest in husband's ASRS death benefit. There, husband's retirement plan was omitted from the dissolution decree. **Id.** Husband remarried approximately three months before his death. **Id. at...**

14. Potthoff v. Potthoff

Court of Appeals of Arizona, Division 1, Department B. • January 29, 1981 • 128 Ariz. 557 • 627 P.2d 708



📅 10+ years

Depth of discussion Mentioned

Distinguished by [Mason v. Mason](#) Ariz.App. Div. 1 May 20, 2008

...with Wife.¶ 13 "Property takes its character as separate or community at the time it is acquired *Honnas v. Honnas*, 133 Ariz. 39, 40, 648 P.2d 1045, 1046 (1982) The property retains that characterization throughout marriage "until changed by agreement of the parties or by operation of law." **Potthoff v. Potthoff, 128 Ariz. 557, 561, 627 P.2d 708, 712 (App.1981)** Property acquired by either spouse during

marriage is presumed to be community property. *Bender v. Bender*, 123 Ariz. 90, 92-93, 597 P.2d 993, 995-96 (App.1979) This presumption may be rebutted by clear and...

15. *Bender v. Bender*

Court of Appeals of Arizona, Division 1, Department C. • April 17, 1979 • 123 Ariz. 90 • 597 P.2d 993



10+ years

Depth of discussion Cited

Distinguished by *State ex rel. Indus. Com'n of Arizona v. Wright* Ariz.App. Div. 1 April 2, 2002
...a number of cases supporting the premise that marital agreements are generally binding on creditors. See, e.g., *Elia v. Pifer*, 194 Ariz. 74, 84, 977 P.2d 796, 806 (App.1998) *Schlaefer v. Fin. Mgmt. Serv., Inc.*, 196 Ariz. 336, 339, ¶ 10, 996 P.2d 745, 748 (App.2000) ***Bender v. Bender*, 123 Ariz. 90, 93, 597 P.2d 993, 996 (App.1979)** However, in each of the cases cited, the marital agreement had been entered into before the creditor acquired an interest. Appellants fail to cite, and we are unable to find in our case law, precedent in which...

Negative treatment: [Most recent](#) [Distinguished \(3\)](#) [All \(3\)](#)

16. *Armer v. Armer*

Supreme Court of Arizona, In Banc. • January 15, 1970 • 105 Ariz. 284 • 463 P.2d 818



10+ years

Depth of discussion Mentioned

Distinguished by *Thomas v. Thomas* Ariz.App. Div. 1 March 17, 2009
...and Wife intentionally omitted the property from the dissolution decree and the condo's character was subsequently transmuted by operation of law from community to separate property. Thus, as in *McCready*, the subject property in this case was not a marital asset subject to a post-decree reallocation. ¶ 13 Citing ***Armer v. Armer*, 105 Ariz. 284, 463 P.2d 818 (1970)**, for the proposition that the fraudulent procurement of a quitclaim deed from one spouse cannot be used to divest that spouse of her community property interest in a marital asset, Husband contends that Wife violated the parties' agreement when she...

17. Gaethje v. Gaethje

Court of Appeals of Arizona. • June 05, 1968 • 7 Ariz.App. 544 • 441 P.2d 579

📅 10+ years

Depth of discussion Cited

Distinguished by [Carpenter v. Carpenter](#) Ariz.App. Div. 1 February 14, 1985
...and too little on basic equitable principles."Simmonds v. Simmonds, 45 N.Y.2d 233, 239, 408 N.Y.S.2d 359, 365, 380 N.E.2d 189, 195 (1978)[3] Sandra further argues she was entitled at least to a one-half community interest in the proceeds of John's group insurance policy under **Gaethje v. Gaethje, 7 Ariz.App. 544, 441 P.2d 579 (1968)**Gaethje is inapposite. There the parties were married at the time of the husband's death, and the issue was whether the husband's naming of his son by a previous marriage as the beneficiary of a term life insurance policy, on...

18. Barr v. Petzhold

Supreme Court of Arizona. • July 12, 1954 • 77 Ariz. 399 • 273 P.2d 161

📅 10+ years

Depth of discussion Cited

Distinguished by [Tovrea Land & Cattle Co. v. Linsenmeyer](#) Ariz. March 11, 1966
...a case, the stockholder is not barred by virtue of any limitation upon the corporation, although he may be barred if he fails to bring suit within the statutory period after acquiring knowledge of the wrong.Alger v. Brighter Days Min. Corp., 63 Ariz. 135, 160 P.2d 346 and **Barr v. Petzhold, 77 Ariz. 399, 273 P.2d 161** were laches cases and the former held a minority stockholder guilty of laches though the suit was brought within the statute of limitations.Hammons v. National Surety Co., 36 Ariz. 459, 287 P. 292 and City of Bisbee v. Cochise County...

Negative treatment: [Most recent](#) [Distinguished \(3\)](#) [All \(3\)](#)

19. Rundle v. Winters

Supreme Court of Arizona. • May 06, 1931 • 38 Ariz. 239 • 298 P. 929

📅 10+ years

Depth of discussion Cited

Distinguished by [Porter v. Porter](#) Ariz. February 16, 1948
...Sec. 63-302, A.C.A.1939. This has been the law of Arizona since the decision in the two Woffenden v. Charauleau cases, 1 Ariz. 346, 25 P. 662;Woffenden v. Charouleau, 2 Ariz. 91, 11 P. 117. However, the above rule may be qualified, as enunciated in the case of **Rundle v. Winters, 38 Ariz. 239, 298 P. 929, 931**, where the court stated: 'Where either spouse is engaged in a business whose capital is the separate

property of such spouse, the profits of the business are either community or separate in accordance with whether they are the result of the...

20. In re Marriage of Weinstein and Locke

Court of Appeals of Arizona, Division 2. • May 23, 2024 • Not Reported in Pac. Rptr. • 2024 WL 2354079



📅 Infrequently cited

Depth of discussion Cited

21. In re Marriage of Simmons v. Dudley

Court of Appeals of Arizona, Division 1, Department B. • April 07, 2009 • Not Reported in P.3d • 2009 WL 936886



📅 Infrequently cited 10+ years

Depth of discussion Cited

22. Pawlak v. Kortman

Court of Appeals of Arizona, Division 1, Department E. • October 04, 2007 • Not Reported in P.3d • 2007 WL 5448128



📅 Infrequently cited 10+ years

Depth of discussion Cited

23. Cooper v. Cooper

Supreme Court of Arizona, In Banc. • October 20, 1981 • 130 Ariz. 257 • 635 P.2d 850

10+ years

Depth of discussion Cited

24. Nelson v. Nelson

Court of Appeals of Arizona, Division 2. • January 28, 1977 • 114 Ariz. 369 • 560 P.2d 1276

10+ years

Depth of discussion Mentioned

Trial Court Orders (0)

Statutes (2)

1. § 14-2804. Termination of marriage; effect; revocation of probate and nonprobate transfers; federal law; definitions

AZ ST § 14-2804 • Arizona Revised Statutes Annotated • Title 14. Trusts, Estates and Protective Proceedings


Depth of discussion  Cited

Preempted by [Standard Insurance Company v. Corgill](#) N.D.Tex. July 23, 2013
...District Court, N.D. Texas, Dallas Division.STANDARD INSURANCE COMPANY, Plaintiff,v.Christine CORGILL and Teresa Corgill, Individually and as Independent Executrix of the Estate of James N. Corgill, Defendants.3:13-cv-00997 Signed 07/23/2013 West Codenotes Recognized as Preempted Tex. Fam. Code Ann. § 9.301 Preempted **Ariz. Rev. Stat. Ann. § 14-2804(A)(1)(a), (C)** Eric H. Marye, The Marye Firm, Karl G. Dial, Fulbright & Jaworski LLP, Dallas, TX, Robert Gilchrist Newman, Fulbright & Jaworski LLP, San Antonio, TX, for Defendants.ORDER JORGE A. SOLIS UNITED STATES DISTRICT JUDGE Now before the Court are Defendant Christine...

[See all history \(4\)](#)

2. § 25-211. Property acquired during marriage as community property; exceptions; effect of service of a petition

AZ ST § 25-211 • Effective: September 26, 2008 • Arizona Revised Statutes Annotated • Title 25. Marital and Domestic Relations

 10+ years

Depth of discussion  Cited

Regulations (0)

Secondary Sources (0)

Administrative Decisions & Guidance (0)

Unverified citations (1)

Below are items from your document that appear to be citations, but cannot be verified. The citations may contain potential errors or cite to something that cannot be found on Westlaw.

1. 3 Ariz. App. 215, 217, 475 P.2d 505, 507 (1970)

“ 3. Quotation analysis

Use Quotation analysis to compare quotations and surrounding context from the analyzed document to the language in the cited documents on Westlaw.

Key: **differences**

- | | |
|---|--|
| <p>Quotation from the analyzed document Differences</p> <p>... TRANSMUTATION BY AGREEMENT: SPECIAL TEST FOR POSTNUPTIAL AGREEMENTS Spouses may agree to divide their property presently and prospectively via postnuptial agreement if: 1. The Agreement is free from any taint of fraud, coercion or undue influence; Each spouse acted with</p> <p>“full knowledge of the property involved and her rights therein ;”</p> <p>and The Agreement was fair and equitable. In re Harber's Estate, 104 Ariz. 79 (1969) , Austin v. Austin, 237 Ariz. 201 (App. 2015) . (Prenuptial Agreements, A.R.S. § 25-201 et seq.) L I BUT, WHAT IS A POSTNUPTIAL AGREEMENT? In re Harber's Estate, 104 Ariz. 79 (1969) (express ...</p> | <p>In re Harber's Estate Supreme Court of Arizona, In Banc. • January 02, 1969 • 104 Ariz. 79</p> <p>...and prospectively by a post-nuptial agreement, even without its being incident to a contemplated separation or divorce. We also feel that this rule should include the built-in safeguards that the agreement must be free from any taint of fraud, coercion or undue influence; that the wife acted with</p> <p>“ full knowledge of the property involved and her rights therein,</p> <p>and that the settlement was fair and equitable. Such is the rule which prevails in New Mexico, as set forth in Sande v. Sande, 83 Idaho 233, 360 P.2d 998 (1961); followed as recently as June 3, 1968, in the New Mexico Case of Trujillo v. Padilla, 79 N.M. 245, 442 P.2d 203 (1968).In the Sande case,...</p> |
|---|--|

2.

Quotation from the analyzed document

...597 P.2d 993, 996 (App. 1979) (disclaimer deed correctly reciting that property was sole and separate, purchased with sole and separate property, sufficiently rebutted community presumption) – a [Bell-Kilbourn v. Bell-Kilbourn, 216 Ariz. 521, 169 P.3d 111 \(App. 2007\)](#) (disclaimer deed that

“virtually identical to the one in Bender”

sufficiently rebutted community presumption) – Court does not have to accept disclaimer deed if fraud or other circumstances. In re Marriage of Simmons v. Dudley, 1 CA-CV 07-0586, [2009 WL 936886, at *5 \(App. Apr. 7, 2009\)](#) – Quit claim deed *** HANDLING OF COMMUNITY PROPERTY Each...

 **Bell-Kilbourn v. Bell-Kilbourn**

Court of Appeals of Arizona, Division 1, Department B. • October 23, 2007 • 216 Ariz. 521



...court was compelled to give the deed full effect. Id. at 94, 597 P.2d at 997. ¶ 10 In our view, this case is governed by Bender, and we reach the same result. At the time the house was acquired in Wife's name, Husband disclaimed any interest in the house, executing a disclaimer deed that is

“virtually identical to the one in Bender.

Husband does not claim that he executed the deed as a result of fraud or mistake. Although the parties indisputably elected to have Wife purchase the property in order to obtain financing, the reason for this election does not alter the character of the property established as Wife's separate...

3.

Quotation from the analyzed document

...v. Cooper, 130 Ariz. 257, 259, 635 P.2d 850, 852 (1981) – Separate funds to purchase jointly titled property is presumed community. Pawlak v. Kortman, 1 CA-CV 06- 0561, [2007 WL 5448128](#), at *3 (App. Oct. 4, 2007) . – Divorce (A.R.S. 14-2804) BERK LAW LJ DEEDS – Spouses

“may establish an intention to change the status of property by showing a conveyance to the other spouse coupled with contemporaneous conduct indicating an intention that the grantee-spouse should have the property”

In re Sims' Estate, 1 3 Ariz. App. 215, 217, 475 P.2d 505, 507 (1970) – [Bender v. Bender, 123 Ariz. 90, 93, 597 P.2d 993, 996 \(App. 1979\)](#) (disclaimer deed correctly reciting that property was sole and separate, purchased with sole nd separate property, sufficiently rebutted...



Quick Check was unable to match this quotation to authority on Westlaw.

Unverified citations (1)

Below are items from your document that appear to be citations, but cannot be verified. The citations may contain potential errors or cite to something that cannot be found on Westlaw.

1. 3 Ariz. App. 215, 217, 475 P.2d 505, 507 (1970)

☰ 4. Table of authorities

Table of authorities contains the full list of all the authority cited in the document. Use this to quickly review all the cited authority in a document.

Cases (25)



1. Armer v. Armer

Supreme Court of Arizona, In Banc. • January 15, 1970 • 105 Ariz. 284 • 463 P.2d 818



Depth of discussion Mentioned



2. Austin v. Austin

Court of Appeals of Arizona, Division 2. • April 30, 2015 • 237 Ariz. 201 • 348 P.3d 897



Depth of discussion Cited



3. Barr v. Petzhold

Supreme Court of Arizona. • July 12, 1954 • 77 Ariz. 399 • 273 P.2d 161

Depth of discussion Cited



4. Bell-Kilbourn v. Bell-Kilbourn

Court of Appeals of Arizona, Division 1, Department B. • October 23, 2007 • 216 Ariz. 521 • 169 P.3d 111



Depth of discussion Cited



5. Bender v. Bender

Court of Appeals of Arizona, Division 1, Department C. • April 17, 1979 • 123 Ariz. 90 • 597 P.2d 993



Depth of discussion Cited



6. Bilke v. State

Supreme Court of Arizona, En Banc. • December 04, 2003 • 206 Ariz. 462 • 80 P.3d 269

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7. Carpenter v. Carpenter

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8. Carpenter v. Carpenter

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Depth of discussion Cited

9. Cooper v. Cooper

Supreme Court of Arizona, In Banc. • October 20, 1981 • 130 Ariz. 257 • 635 P.2d 850

Depth of discussion Cited



10. Gaethje v. Gaethje

Court of Appeals of Arizona. • June 05, 1968 • 7 Ariz.App. 544 • 441 P.2d 579

Depth of discussion Cited



11. Gerow v. Covill

Court of Appeals of Arizona, Division 1, Department C. • April 09, 1998 • 192 Ariz. 9 • 960 P.2d 55

Depth of discussion Cited



12. Guerrero v. Guerrero

Court of Appeals of Arizona, Division 2. • November 16, 1972 • 18 Ariz.App. 400 • 502 P.2d 1077

Depth of discussion Cited



13. In re Estate of Agans

Court of Appeals of Arizona, Division 1, Department C. • October 12, 1999 • 196 Ariz. 367 • 998 P.2d 449

Depth of discussion Cited



14. In re Estate of Kirkes

Supreme Court of Arizona, En Banc. • March 01, 2013 • 231 Ariz. 334 • 295 P.3d 432

Depth of discussion Cited



15. In re Harber's Estate

Supreme Court of Arizona, In Banc. • January 02, 1969 • 104 Ariz. 79 • 449 P.2d 7



Depth of discussion Cited



16. In re Marriage of Flower

Court of Appeals of Arizona, Division 1, Department C. • February 25, 2010 • 223 Ariz. 531 • 225 P.3d 588

Depth of discussion Mentioned

17. In re Marriage of Simmons v. Dudley

Court of Appeals of Arizona, Division 1, Department B. • April 07, 2009 • Not Reported in P.3d • 2009 WL 936886



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18. In re Marriage of Weinstein and Locke

Court of Appeals of Arizona, Division 2. • May 23, 2024 • Not Reported in Pac. Rptr. • 2024 WL 2354079



Depth of discussion Cited



19. Mezey v. Fioramonti

Court of Appeals of Arizona, Division 1, Department C. • April 03, 2003 • 204 Ariz. 599 • 65 P.3d 980



Depth of discussion Cited



20. Muchesko v. Muchesko

Court of Appeals of Arizona, Division 1, Department E. • September 30, 1997 • 191 Ariz. 265 • 955 P.2d 21



Depth of discussion Mentioned

21. Nelson v. Nelson

Court of Appeals of Arizona, Division 2. • January 28, 1977 • 114 Ariz. 369 • 560 P.2d 1276

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22. Pawlak v. Kortman

Court of Appeals of Arizona, Division 1, Department E. • October 04, 2007 • Not Reported in P.3d • 2007 WL 5448128

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23. Potthoff v. Potthoff

Court of Appeals of Arizona, Division 1, Department B. • January 29, 1981 • 128 Ariz. 557 • 627 P.2d 708



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24. Rundle v. Winters

Supreme Court of Arizona. • May 06, 1931 • 38 Ariz. 239 • 298 P. 929

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25. Schickner v. Schickner

Court of Appeals of Arizona, Division 1. • April 16, 2015 • 237 Ariz. 194 • 348 P.3d 890

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Trial Court Orders (0)

Statutes (4)



1. § 14-2804. Termination of marriage; effect; revocation of probate and nonprobate transfers; federal law; definitions

AZ ST § 14-2804 • Arizona Revised Statutes Annotated • Title 14. Trusts, Estates and Protective Proceedings

Depth of discussion  Cited

2. § 14-6101. Nonprobate transfers on death; nontestamentary nature

AZ ST § 14-6101 • Arizona Revised Statutes Annotated • Title 14. Trusts, Estates and Protective Proceedings

Depth of discussion  Cited

3. § 25-201. Definitions

AZ ST § 25-201 • Arizona Revised Statutes Annotated • Title 25. Marital and Domestic Relations

Depth of discussion  Cited

4. § 25-211. Property acquired during marriage as community property; exceptions; effect of service of a petition

AZ ST § 25-211 • Effective: September 26, 2008 • Arizona Revised Statutes Annotated • Title 25. Marital and Domestic Relations

Depth of discussion  Cited

Regulations (0)

Secondary Sources (0)

Administrative Decisions & Guidance (0)

Unverified citations (1)

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1. 3 Ariz. App. 215, 217, 475 P.2d 505, 507 (1970)