**UNEQUAL DIVISION THEORIES**

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| **Fam. Code § 2602**  Deliberate Misappropriation | **Fam. Code §2625**  Separate Debts | **Family Code § 1100 (b)**  Consent to Dispose of Personal Property | **Fam. Code § 1100 (e)**  Management Duty |
| *In re Marriage of Schultz* (1980) 105 Cal.App.3d 846.  (negligence was not deliberate)  *In re Marriage of Partridge*, (1990) 226 Cal.App.3d 120, 127.  (Husband avoided paying taxes was not deliberate misappropriation)  *In re Marriage of Moore* (1980) 28 Cal.3d 366, 364. (Court never reached whether alcohol was)  *In re Marriage of Economou* (1990) 224 C.A.3d 1466, 1483. (Husband’s removal of assets to Greece was a deliberate and misappropriation)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  The misappropriation cases defy rigid analysis or classification, as the determination in each is “made on a case-by-case basis. . . .” (Cal. Practice Guide: Family Law (TRG 1988) § 8:220, p. 8–177.) | *In re Marriage of Mahone* (1981) 123 Cal.App.3d 17.  (Airplane case, contemplation of divorce)  *In re Marriage of Stitt* (1983) 147 Cal.App.3d 579.  (Embezzlement)  *In re Marriage of Munguia* (1983) 146 Cal.App.3d 853.  (Private eye to follow wife was separate)  *In re Marriage of Cairo* (1988) 204 Cal.App.3d 1255.  (Gambling debts were separate)  *In re Marriage of Hirsch* (1989) 211 Cal.App.3d 104, 110-111.  (Negligent tort that benefits the community is not a separate debt)  *In re Marriage of Bell* (1996) 49 Cal.App.4th 300.  (Embezzlement attorney’s fees were separate even though there was a benefit to the community) | Fam. Code § 1100 (b) – Gift of *personal property* for less than fair and reasonable value requires consent.  Civ. Code § 14: “The words ‘personal property’ include money, goods, chattels, things in action, and evidences of debt.”  Funds obtained from CP loan are personal property. (*Knego v. Grover* (1962) 208 Cal.App.2d 134, 148.)  No exception exists for gifts to children. (*In re Marriage of Stephenson* (1984) 162 Cal.App.3d 1057.)    Rutter suggests “fair and reasonable value” is consideration of “substantially equal” value. (Hogoboom & King, Cal. Practice Guide: Family Law (The RutterGroup 2001) ¶ 8:669.) | Under Fam. Code § 1100 (e), each spouse shall act with respect to the other spouse in the management and control of the community assets and liabilities.  *In re Marriage of Lister* (1984) 152 Cal.App.3d 411, 416-19. (Husband mismanaged when he paid a debt without disclosure and the debt may not have existed)  *In re Marriage of Czapar* (1991) 232 Cal.App.3d 1308.  (Husband mismanaged when CP company he had control of bought him a Porsche and hired his girlfriend) |