

*In re Marriage of Bonvino*

Another Transmutation case. Ever since its opinion in *In re Marriage of Valli* was reversed by the Supreme Court, Division 5 of the Second District seems to be the preferred address for transmutation cases. Earlier this year, Division 5 handed down *In re Marriage of Lafkas*, which held that the requirements of section 852 must be met to transmute separate property to joint title before the joint title presumption of section 2581 applies [2015 Cal.Fam.Law Monthly 173 (August 2015)]. *Bonvino* is the latest “no transmutation” case, holding that if property is acquired during marriage with both separate and community funds, the transmutation requirements of section 852 must be satisfied before the reimbursement provisions of section 2640 apply. In reaching that conclusion, the extensive *Bonvino* opinion summarizes the parade of past no valid transmutation cases, including *Starkman* (2005), *Barneson* (1999), *Estate of Bibb* (2001), and *In re Marriage of Leni* (2006). Any community property interest in the *Bonvino* family home must be calculated according to the *Moore/Marsden* formula, not a 2640 reimbursement without a valid transmutation, which did not occur here.

The *Bonvino* treatise also contains a historical review of the evolution of transmutation issues, from the 1965 enactment of *Evidence Code* section 662, the threshold *Lucas* decision of the California Supreme Court in 1980, 1984 Law Revision Commission Recommendations re transmutation protections, and legislative enactment of transmutation requirements in former *Civil Code* sections 5110.710 through 5110.740 (now *Family Code* sections 850-853), *Estate of MacDonald* in 1990, and its requirement of requisite language of intent mandated by the Supreme Court, and on to the modern exposition set forth by the Supreme Court in *In re Marriage of Valli* in 2014.

*Bonvino* is lengthy, detailed, replete with citations of authority, the latest judicial interpretation of the oft-occurring transmutation scenario, and thus worthy of careful study and reference.

MARSHALL S. ZOLLA