

**Guardianship Issues
for the
Impaired Divorce Client**

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The Basics

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Marital Property

- ❖ **Separate Property:**
 - Pre-marriage
 - Gift
 - Inheritance
 - Personal injuries other than settlement for loss of earnings
 - Mutation of separate property
- TEX. FAM. CODE § 3.101
- ❖ **Burden: Clear and convincing evidence**

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Marital Property

- ❖ Community Property:
 - All property that is not separate property
 - Includes income from separate property
 - ❖ Presumption of Community Property
 - ❖ Types of Community Property:
 - Sole management
 - Joint management
- TEX. FAM. CODE § 3.101

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Separate Property Liabilities

- ❖ Generally: Spouse's separate property is not liable for debts of other spouse
 - ❖ Exceptions:
 - If other spouse acts as agent for spouse
 - If other spouse incurred debt for necessities for spouse
- TEX. FAM. CODE § 3.201

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First appeared as part of the conference materials for the
17th Annual Estate Planning, Guardianship and Elder Law Conference session
"Guardianship Issues for the Impaired Divorce Client"