

## Question MPT-1 - February 2026 - Selected Answer 1

\*\*\*\*\* MPT 1 STARTS HERE \*\*\*\*\*

MPT 1: *Otto v. Nolan*

1. It is likely that parties' marriage was created in 2006 because they meet the majority of factors that are used to determine common-law marriage.

Fr. Fam. Code §211(a) states that "common-law marriage shall be recognized as a valid marriage in this state . . . ." Therefore, if Eric and Kari meet the factors for common-law marriage, they should be deemed to have been married.

In *Schwartz v. Darrow*, when determining whether a couple were common-law married, the court looked at factors such as, but not limited to "cohabitation; reputation in the community as spouses; maintenance of joint banking and credit accounts; purchase and joint ownership of property; filing of joint tax returns; evidence of shared financial responsibility, such as . . . joint bills or other payment records; symbols of commitment, such as ceremonies, anniversaries, cards and gifts; and the couple's references to or labels for one another" (*Fr. Ct. App. 2022*).

Here, Kari and Eric have cohabitated since 2005, when they moved into 1505 Clark Street. Further, although the bungalow was purchased in Eric's name only, and only Eric's name is on the mortgage, Eric and Kari have been making payments on the mortgage from their joint bank account, that they have both been contributing funds to since December of 2006. This evidence supports the factor of joint bills. In opposition to the couple in *Schwartz v. Darrow* that was found to not be common-law married, based largely on the fact that the couple did not file joint taxes or own joint property, Kari and Eric have filed joint taxes since 2007.

Further the court in *Schwartz v. Darrow* stated that the key question of common-law marriage is "whether the parties mutually intended to enter a *marital* relationship" (*Fr. Ct. App. 2022*). Evidence for why the couple in that case could be considered to be common-law married is because the man asked the woman to be his wife, she accepted, and he provided her with a ring. The court said that such actions could "be evidence of the couple's express agreement to marry even without a formal ceremony . . ." (*Fr. Ct. App. 2022*). In August 2006, Eric gave Kari a diamond ring, asked her to marry him, and Kari accepted. Although Eric argued that the ring was merely a promise ring during his meeting with Kari's attorney, the fact that the following month, Eric and Kari obtained a marriage license supports the conclusion that the ring was considered an engagement ring by both parties at the time. Additionally, the fact that Eric wrote an anniversary card on the one year anniversary of obtaining the marriage license, in which he referred to himself as Kari's "husband" supports that Eric intended that the ring be an engagement ring, rather than a promise ring. The ring, the marriage license, and the card are all symbols of commitment. The cross-stitch that was gifted to Kari that was made by Eric's grandmother and depicts a man and a woman in wedding attire with the words "United in Love" and the date "September 19, 2006" is yet another symbol of commitment.

In *Ridley v. Brooks* (*Fr. Ct. App. 2008*) the couples' family knew they were not ceremonially married, and that fact was used to show that there was no common-law marriage. Here, Eric and Kari went out to a formal dinner with friends to celebrate the obtaining of their marriage license, which could arguably found to be a symbol of commitment. Eric also started referring to Kari as his "wife" shortly thereafter. Eric and Kari told their friends that they had gotten married, and their friends referred to them as a married couple. Although Kari did not formally use Nolan in her last name until 2019, they sent annual Christmas cards that referred to them as "My. and Mrs. Nolan" starting in 2007. And again, the cross-stitch made by Eric's grandmother suggests that she viewed Eric and Kari as married.

Finally, another distinction between this case and *Ridley v. Brooks* (*Fr. Ct. App. 2008*), is that no common law marriage was found in *Ridley* because the couple only indicated that they were husband and wife on health insurance to save money, rather than because they wanted to represent themselves as husband and wife (*Fr. Ct. App. 2022*). Here, there is no evidence that Kari and Eric held themselves out as husband and wife to ease financial burdens. There is,

however, substantial evidence to support that Kari and Eric wanted to be married, and took steps to hold themselves out to the community as a married couple.

Because Kari and Eric cohabitated, paid bills jointly from a joint bank account, Eric effectively proposed, they obtained a marriage license, had a formal dinner (i.e., a ceremony) to celebrate obtaining such license, referred to themselves as husband and wife, filed joint tax returns, and had multiple symbols of commitment prior to 2019, it is likely that Eric and Kari meet the factors necessary for a finding of common-law marriage, and that their marriage would be deemed to have been created in 2006.

2. If the marriage was created in 2006, it is likely that at least some of the additional photography equipment obtained by Eric, the joint bank account, the bungalow, and the vehicles are marital property, the photography equipment purchased by Eric in 2005 is his separate property, and Frankfurt Acres is Kari's separate property.

### **Marital Property**

Fr. Fam. Code §200(c) of the Franklin Family Code defines marital property as "all property acquired by either or both spouses during the marriage.

Here, Eric purchased additional photography equipment worth for \$150,000 since he moved in with Kari in 2005. Although there is not an exact timeline on when such additional photography equipment was purchased, it is possible that at least some of it was purchased after 2006. Any equipment purchased after 2006 could fall into the category of marital property as defined by Fr. Fam. Code §200(c). However, Eric could argue that the additional photography equipment was property that replaced depreciated premarital property. Although such property in *Bower v. Bower* was deemed to be marital property still, that is because the replacements were largely "produced or paid for through the activities of the marital economic partnership." Here, there is not evidence to support that the funds Eric used to purchase the additional photography equipment were "produced or paid for through the activities of the marital economic partnership" (Fr. Ct. App. 2014). Therefore, the additional photography equipment could be marital property or Eric's separate property.

Further, Eric and Kari opened a joint bank account in December of 2006. Not only was the account opened after the marriage, but it is in both Eric and Kari's name, which further shows that it should be considered marital property. Additionally, both Eric and Kari continued to contribute funds to the joint account throughout the marriage.

Eric purchased the bungalow in 2008, which is after the marriage in 2006, so it should be considered marital property. Although Eric is the one who made the down payment and his name is the only name of the lease, Fr. Fam. Code §200(c) specifically includes property obtained by "either . . . spouse" in marital property. Further, it can be shown that both Eric and Kari contributed to financially to the property since the mortgage was paid out of their joint account.

Finally, although the Toyota Tundra pickup truck is held solely in Kari's name and the 2024 Nissan Altima sedan is held solely in Eric's name, both vehicles were purchased during the course of the marriage, so would be considered marital property under Fr. Fam. Code §200(c).

### **Separate Property**

Fr. Fam. Code §200(d) lists that the following types of property are still considered separate property: "(1) property acquired before marriage or property acquired by bequest, devise, or descent, or gift from a party other than the spouse," and (3) property acquired in exchange for or the increase in value of separate property, except to the extent that such appreciation is due in part to the contributions or efforts of the other spouse."

Here, the photography equipment purchased by Eric for \$10,000 was purchased in 2005. That is before the marriage, so under Fr. Fam. Code §200(d)(1), such equipment is Eric's separate property.

Kari owned Frankfurt Acres before she even met Eric, so it would certainly be considered separate property under Fr. Fam. Code §200(d)(1). Although the improvements made to Frankfurt Acres were made during the course of their marriage, the value of the improvements

should still be considered Kari's separate property because the funds she used to make improvements to the land were funds that she had received as a gift from her mother (*File Memorandum*). Although in *Jones v. Cardiff*, the court ruled that funds spent on renovations were marital property, that case differs from the present case in that in *Jones*, both spouses contributed funds to the properties improvement. Here, Eric did not contribute any funds to the improvement of Frankfurt Acres. Rather, Kari only used funds she received as a gift from her mother. This supports a finding that the improvement to the property, namely the shed, would fall under Fr. Fam. Code §200(d)(1), as a "gift from a party other than the spouse."

Therefore, any photography equipment purchased after 2006, the joint bank account, and the bungalow should be considered marital property, as such property was acquired after the marriage, and Kari contributed financially to the bungalow. Eric's ten cameras that were purchased in 2005 should be categorized as his separate property because he purchased them prior to the marriage. Frankfurt Acres should be categorized as Kari's separate property because she purchased it prior to the marriage, and all improvements were made using funds she received as a gift from her mother, not any funds from Eric.

3. If the marriage was created in 2019, it is likely that at least some of the additional photography equipment obtained by Eric, the joint bank account, the increase in value of the bungalow, and the vehicles are marital property, the photography equipment purchased by Eric in 2005 is his separate property, and Frankfurt Acres is Kari's separate property.

### **Marital Property**

Again, Eric told Kari's attorney that he purchased additional photography equipment worth for \$150,000 since he moved in with Kari in 2005. Although there is not an exact timeline on when such additional photography equipment was purchased, it is possible that at least some of it was purchased after 2019. Any equipment purchased after 2019 would fall into the category of marital property as defined by Fr. Fam. Code §200(c). However, Eric could argue that the additional photography equipment was property that replaced depreciated premarital property. Although such property in *Bower v. Bower* was deemed to be marital property still, that is because the replacements were largely "produced or paid for through the activities of the marital economic partnership." Here, there is not evidence to support that the funds Eric used to purchase the additional photography equipment were "produced or paid for through the activities of the marital economic partnership" (Fr. Ct. App. 2014).

Although Kari and Eric opened the joint account prior to 2019, any funds contributed to the account after 2019 should be considered marital property, since such funds were "acquired by either or both spouses during the marriage" Fr. Fam. Code §200(c).

The improvements to the bungalow should be considered marital property, even though Eric purchased the bungalow prior to 2019. In *Jones v. Cardiff*, the court found that although real estate was purchased by the husband only, because both the husband and wife spent funds to improve the property, the "funds spent on renovations were marital property" (*Fr. Sup. Ct. 2023*). The court further clarified that by stating that when a nontitled spouse makes "financial contributions" to the property, it could be considered "contributions or efforts of the other spouse" as defined in Fr. Fam. Code §200(d)(3). Here, funds that were paid from Kari and Eric's joint bank account were used on the property's mortgage. This supports a finding that Kari made at least some type of direct financial contribution to the property, as she contributed funds to such joint account.

Finally, although the Toyota Tundra pickup truck is held solely in Kari's name and the 2024 Nissan Altima sedan is held solely in Eric's name, both vehicles were purchased during the course of the marriage, so would be considered marital property under Fr. Fam. Code §200(c).

### **Separate Property**

Frankfurt Acres should still be considered Kari's separate property. In contrast, to the bungalow, Kari has not only owned her property at Frankfurt Acres since before 2019, but the funds she used to make improvements to the land were funds that she had received as a gift from her mother (*File Memorandum*). Although in *Jones v. Cardiff*, the court ruled that funds spent on renovations were marital property, that case differs from the present case in that in *Jones*, both spouses contributed funds to the properties improvement. Here, Eric did not contribute any funds to the improvement of Frankfurt Acres. Rather, Kari only used funds she received as a gift

from her mother. This supports a finding that the improvement to the property, namely the shed, would fall under Fr. Fam. Code §200(d)(1), as a "gift from a party other than the spouse."

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## Question MPT-1 - February 2026 - Selected Answer 2

\*\*\*\*\* MPT 1 STARTS HERE \*\*\*\*\*

### MEMORANDUM

**To:** Beverly Garcia, Partner  
**From:** Examinee, Associate  
**Date:** February 24, 2026  
**RE:** *Otto v. Nolan* - Common Law Marriage and Marital Property

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#### ISSUES

The issues that are currently being faced in this case is whether the parties, Kari Otto ("Kari") and Eric Nolan ("Eric"), were married in 2006 or 2019, and whether the marital and separate property are affected by the difference in the date of marriage.

#### RULE

The Franklin Family Code states that "[a] common-law marriage shall be recognized as a valid marriage in this state." FFC §211(a). The disposition of property in divorce actions are subject to equitable distribution under the Franklin Family Code §215(a).

A court may determine that a common law marriage is valid by determining the mutual assent of entering into a marriage, intent of the parties, and the mutual agreement "...of the couple to enter the legal and social institution of marriage, followed by conduct manifesting that mutual agreement, often referred to as 'holding out'." *Howard v. Howard* (Fr. Sup. Ct. 2015). The standard that must be met by the party claiming existence of the common law marriage is that of clear and convincing evidence.

In regards to separate property, absent a written agreement, a court will look to "...any appreciation in the value of separate property due to the contributions or efforts of the nontitled spouse will be considered marital property. (Fr. Sup. Ct. 2001).

A court can also look to the deprecation of separate property at the time of marriage. "This is not the situation presented here, where depreciated premarital property (i.e., the original 32 head of cattle and related equipment) was *replaced* by property greater in quantity and value... that was largely produced or paid for through the activities of the marital economic partnership." *Bower v. Bower* (Fr. App. Ct. 2014).

#### ANALYSIS

The parties have been together since 2004, with the intention of marriage being present in 2006. The parties have never entered into a prenuptial or postnuptial agreement.

##### **A. DATE OF MARRIAGE**

The first issue is whether the date of marriage is 2006 or 2019. Common law marriage is valid in the State of Franklin. The party claiming the existence of the common law marriage must prove through clear and convincing evidence that the parties married via the common law. There must be mutual asset, intent to marry, and parties held out themselves as married.

The parties began living together in 2005. In August of 2006, Eric asked Kari to marry him, which she said yes. On September 19, 2006, the parties obtained a marriage license and celebrated them obtaining the marriage license to close friends. While the parties did not file the marriage license or hold a ceremonial marriage before the expiration, Eric called Kari his wife and the parties told their friends that they married. According to *Schwartz v. Darrow*, a common law marriage is ultimately depends on the totality of the circumstances. In this case, the district found that the parties were not in a common law

marriage because their family knew they were not ceremonially married and practiced separate finances. The district court put majority weight on the fact that the parties had filed separate tax filings, held separate bank accounts, and did not own any property jointly. However, the appellate court found that, "[r]elevant conduct includes, but is not limited to, cohabitation; reputation in the community as spouses; maintenance of joint banking and credit accounts; purchase and joint ownership of property; filing of joint tax returns; evidence of shared financial responsibility... symbols of commitment..." *Schwartz v. Dower* (Fr. App. Ct 2022). The Court clearly indicates that the mutual agreement and manifesting of mutual agreement by their conduct are the determinable in a common law marriage.

In contrast to *Schwartz*, the parties did have a joint bank account and filed their tax returns jointly every year since 2007. A court would find evidence that Kari and Eric held themselves out as a married couple, because the expressed to their friends that they had married in September 2006, their respective parents and grandparents believed they were married, Eric would call Kari his "wife", and Kari wore the engagement ring that Eric proposed with in 2006, which is similar to how the parties in *Schwartz* held themselves out. However, unlike *Schwartz*, Kari's and Eric's family also believed that they were married. *Schwartz* demonstrates that alongside the financial between the parties, conduct of symbols of commitment may be considered. Eric presented Kari with an engagement ring - which she wore consistently and presented her with an anniversary card on September 19, 2007 stating, "Thanks for all your patience with me as I have learned to be a good husband to you." The card was signed by Eric. The Court in *Schwartz* states that anniversary cards, like the one Eric provided, would be evidence towards a common-law marriage. Pertaining the test found in *Schwartz*, there was a mutual assent by Kari and Eric to be married and conducted themselves (held out) as husband and wife. There was a valid common-law marriage in 2006.

Eric will most likely argue that he was nervous for a lifelong commitment and that the ring was more of a promise ring rather than an engagement ring. However, Eric stated that when he presented the ring, he had asked Kari to marry him, to which she said yes. Eric also admitted that he intended to marry her and that there was no pressure to get married with the marriage license because they were already living together. Eric admits that they were in love and that he was thrilled when she accepted. His admissions contribute to the clear and convincing standard that the parties mutually assented to being married (they had the intent to be married) and they conducted themselves out to be married, as he did call her his wife and agreed that the ring was given when he asked for her hand in marriage.

While the parties did hold a ceremony and filed a marriage license in 2019, there is no law that a marriage license trumps that of the validity of a common law marriage in terms of when the parties were married. Kari's understanding and intent for the ceremony was used as a vow renewal, which Eric explained that they were having problems around that time and thought the ceremony would make the relationship stronger.

Both parties agree that in September 2006, there was a mutual assent to be married when Eric asked Kari to marry him. Through jointly held assets and conduct by the parties, a reasonable person would determine that the parties were married. The standard of clear and convincing evidence would be met that there is a valid common law marriage and that marriage took place in 2006.

Therefore, a court would find the date of marriage to be September 19, 2006.

## **B. MARITAL V. SEPARATE PROPERTY FOR 2006 MARRIAGE DATE**

The second issue is whether the current assets that Eric and Kari hold are subject to equitable distribution if their marriage date was in 2006.

### **a. 1505 Clark Street Bungalow**

The bungalow was purchased in 2008 by Eric - the bungalow was titled solely in his name and was financed solely under his name. However, under a marriage date of 2006, this property was purchased during the marriage. The Franklin

Family Code specifies in FCC §200(c) that marital property may be acquired by either or both spouses. Although the title and loan are solely under Eric's name, both parties contributed to the mortgage out of their joint checking account. Due to the contributions to the mortgage by both parties and property being acquired in 2008 (during the marriage), the bungalow is subject to equitable distribution.

#### **b. Frankfurt Acres**

Frankfurt Acres was acquired by Kari in 2001, which is prior to the marriage date of 2006. "[P]roperty acquired before marriage or property acquired by bequest..." is considered to be separate property. FCC §200(d)(1). However, if the appreciation in the property is "...due in part to the contributions of efforts of the other spouse," that appreciation may be considered marital property. FCC §200(d)(3). Eric claims that he is entitled to his share of the shed, however, there is no evidence provided to show that Eric contributed or put in effort to the Frankfurt Acres that furthered the appreciation of the value of the property. The Court in *Cardiff* stated that the appreciation "... includes any direct contributions to the appreciation, such when the nontitled spouse makes financial contributions to the property as well as when the nontitled spouse makes direct nonfinancial contributions..." *Jones v. Cardiff* (Fr. Sup. Ct. 2003). There is no evidence to suggest that Eric contributed financially nor non-financially. The improvements were the sole work by Kari and the direct contributions were from a gift of money from her mother that was put into her separate property. Therefore, the Frankfurt Acres is not subject to equitable distribution and is Kari's sole property.

#### **c. Photography Equipment**

Eric purchased equipment in 2005, prior to the marriage, therefore would be consider in separate property as pursuant to FCC §200(d)(1). There is no evidence to suggest that Kari contributed to that equipment. However, Eric made additional equipment purchases from 2006 to 2025. Eric states that there was a depreciation in value from the additional equipment from \$150k to \$120K. Since this additional equipment was purchased during the course of the marriage, the equipment would be deemed as marital property. Even though there is a depreciation in value, the Court in *Bower*, determined that depreciated premarital property should be considered when the it was replaced by greater in quantity and value during the marriage. In this case, a court would need to determine that value of the equipment prior to the marriage to that of the equipment purchased during the marriage and subject it to equitable distribution.

#### **d. First Bank Joint Account**

The bank account was jointly created and held in December 2006. Both parties contribute and use the account. It was acquired during the marriage, as the parties held themselves out to be married on September 19, 2006 and the account was created in December 2006. As pursuant to FCC §200(c), this is property acquired during the marriage that both parties contribute to. The property is also held in joint title. Therefore, the bank account is subject to equitable distribution.

#### **e. Vehicles**

As to the vehicles, both parties have their own vehicles that are paid off. Each party has their sole name on their respective vehicle, but the vehicles were purchased during the marriage. As pursuant to Franklin Family Code §200, "...marital property shall mean all property acquired by either or both spouses during the marriage." FFC §200(c). Since the vehicles were purchased during the marriage, they are subject to equitable distribution and subject to FFC §215(a)(2). It is likely a court shall reward each party their respective vehicle, however, it is still subject to equitable distribution as they would be founded to be marital property since they were acquired in 2024.

Therefore, it can be determined that the bungalow, the additional photography equipment, joint bank account, and vehicles are subject to equitable distribution.

## **C. MARITAL V. SEPARATE PROPERTY FOR 2019 MARRIAGE DATE**

The final issue is whether there is effect on the characterization of property if the marriage date was created 2019.

### **a. 1505 Clark Street Bungalow**

The bungalow would be effected if the marriage date was 2019, and the characterization of the property would be considered Eric's separate property. As discussed above, Eric purchased the bungalow in 2008, titled only in his name, and financed only in his name. While the mortgage was paid through the joint account, which both parties contributed money to, there is not enough evidence to suggest that Kari contributed or maintained effort to have the bungalow considered marital property. The only portion of the marital property that would be for equitable distribution would be the appreciation in value from 2019 to 2026, as pursuant to FFC §200(d)(3), however, there is no evidence that due to Kari's contributions or efforts that there was an appreciation in value. Therefore, the bungalow would be considered separate property.

### **b. Frankfurt Acres**

The Frankfurt Acres would not change in terms of the characterization of the property if the marriage date were to be in 2019. As discussed in the analysis under the marriage date of 2016, the land was acquired before the parties relationship in 2004, and the improvements made to the land was money gifted to Kari by her mother, which is considered separate property as pursuant to FFC §200(d)(1). While there is appreciation on the land from 2001 to 2026, Eric would still not be entitled to half of the appreciation of \$80k. There is no evidence to suggest that Eric contributed or maintain efforts to the shed and improvements of the land, therefore the characterization of the property would remain as Kari's separate property.

### **c. Photography Equipment**

The additional photography equipment value would be subject to change if the marriage date were to be determined to be 2019. As discussed prior, the equipment purchased in 2005 is Eric's sole separate property. However, he purchased additional equipment from 2006 to 2025. This would mean that any of the additional equipment purchased between 2006 to 2019 would not be subject to equitable distribution, as they would be considered his sole separate property, unless there is evidence that he used marital funds to purchase the equipment, which there is not at this time.

### **d. First Bank Joint Account**

The characterization of the joint bank account would not change if the marriage date was 2019. The parties are joint owners on the account, both contribute to the account, and use the account for shared expenses. Although the bank account would be considered acquired prior to the marriage, the contributions and efforts from both parties would satisfy that of the definition found in FFC §200(d)(3) and it is jointly owned. Therefore, the account would be subject to equitable distribution, as analyzed prior.

### **e. Vehicles**

In relation to the vehicles, the characterization of the property would not change and the analysis as provided under the 2006 marriage date analysis would still stand to be true. The vehicles were purchased both in 2024, which means they were acquired after the 2019 marriage date. Therefore, the vehicles would still be considered marital property and subject to equitable distribution.

## **CONCLUSION**

Therefore, a court would determine that the parties were married by common law marriage in 2006 by clear and convincing evidence. Due to there being no written agreement regarding separate property, the joint bank account, the bungalow, and the additional camera equipment are subject to equitable distribution.

**\*\*\*\*\* MPT 1 ENDS HERE \*\*\*\*\***