

February 2026 MPT-1 Item

Otto v. Nolan

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FILE

Memorandum to examinee.....	1
File memorandum re: client meeting	2
Transcript of meeting with client's spouse.....	5
"Happy Anniversary" card	7
Assets and debts worksheet.....	8

LIBRARY

Excerpts from Franklin Family Code, Chapter 200.....	9
Schwartz v. Darrow , Franklin Court of Appeal (2022).....	10
Jones v. Cardiff , Franklin Supreme Court (2023)	13
Bower v. Bower , Franklin Court of Appeal (2014).....	14

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MEMORANDUM

To: Examinee
From: Beverly Garcia
Date: February 24, 2026
Re: Kari Otto matter

Our client Kari Otto wants to obtain a divorce from her husband, Eric Nolan. The parties' separation has been amicable, and they want to work together to reach a fair outcome in their divorce. I met with Kari last week. Eric, who intends to proceed pro se, consented to meet with me a few days after that. Kari and Eric are hoping to reach an agreement regarding their property before they initiate divorce proceedings. The parties do not have children.

The pivotal issue in this divorce is the question of when the parties were married. Kari believes that they were married in 2006. Eric believes that they were not married until 2019.

I would like you to prepare a memorandum to me analyzing the following:

1. Was the parties' marriage created in 2006 or 2019?
2. If the parties' marriage was created in 2006, which property is marital property and which is Eric's or Kari's separate property?
3. If the parties' marriage was created in 2019, what effect, if any, would that have on the characterization of property?

For each issue, be sure to explain your analysis, cite the relevant legal authority, and state your conclusion. Do not include a separate statement of facts, but be sure to incorporate the relevant facts, analyze the applicable legal authorities, and explain how the facts and law affect your analysis.

Do not address what percentage of the marital property should be awarded to Eric and what percentage of the marital property should be awarded to Kari. Also do not discuss any business interests of the parties.

Law Offices of Stapleton & Garcia LLP

FILE MEMORANDUM

From: Beverly Garcia
Date: February 16, 2026
Re: Kari Otto file—client interview notes

Today I met with client Kari Otto, who wants to divorce her husband, Eric Nolan.

Kari and Eric met in 2004 at a farmers' market. Kari was selling flowers at one booth, and Eric was selling his photographs at a neighboring booth. At that time, Eric was a burgeoning photographer who sold his photographs at farmers' markets, art fairs, and local galleries. Since before they met, Kari has been growing flowers on an acre of land that she owns located 20 miles outside Frankfurt City in Frankfurt Acres. On weekends, she sells her flowers at farmers' markets and to local grocery stores. During the week, she is an employee at a plant nursery.

Kari and Eric dated for about a year and then, in January 2005, began living together in the bungalow that Eric was renting at 1505 Clark Street in a vibrant part of Frankfurt City. Kari and Eric were content with their relationship. They regularly socialized with a small group of friends who got together for potluck dinners, parties, and hiking outings. Kari continued working at the plant nursery and selling flowers while Eric's photography career took off. Well-known magazines started commissioning Eric's work. His earnings greatly increased, and he bought \$50,000 worth of photography equipment in December 2005.

In August 2006, Eric gave Kari a diamond ring and asked her to marry him. Kari was very excited and said yes. On September 19, 2006, Eric and Kari obtained a marriage license. That night, they went out to a formal dinner with a few close friends to celebrate obtaining the marriage license. Shortly thereafter, Eric started referring to Kari as his "wife." While both Eric and Kari were excited about the marriage license, they did not have a wedding ceremony before the marriage license expired, nor did they file a marriage certificate with the county clerk's office. Nevertheless, Eric and Kari told their friends that they had gotten married, and their friends started referring to them as a married couple.

On September 19, 2007, Eric gave Kari an anniversary card, a copy of which is attached to this memorandum.

In January 2008, the landlord told Eric that he was going to put the bungalow on the market. Eric asked the landlord to sell the bungalow to him, and after negotiating a price of \$400,000, purchased it in February 2008. Using money that he had earned as a photographer, Eric made a 20% down payment on the house. He took out a 15-year mortgage in his name alone for the remaining purchase price.

In late May 2019, Kari told Eric that she was disappointed that they had not had a wedding ceremony back in 2006. As a result, they went to the county clerk's office and obtained a new marriage license. They then had a small wedding ceremony with a few close friends on June 8, 2019, on Kari's land in Frankfurt Acres. Kari wore a wedding gown, and Eric wore a tuxedo. A wedding photographer took pictures at the ceremony. The day after the wedding, Kari and Eric filed a marriage certificate with the county clerk.

In 2022, Kari made significant improvements to the land in Frankfurt Acres. With funds she had received as a gift from her mother, Kari hired a local contractor to build a large gardening shed so that she could store equipment.

Kari and Eric have grown apart and have decided to divorce. She says that she believes that they became married in 2006. Kari is upset that Eric is alleging that they were not married until 2019. She describes the ring that Eric gave her as an "engagement ring."

Kari reports that friends and family also believe that they were married in 2006. She showed me a cross-stitch wall hanging that Eric's grandmother had hand-stitched and given to her. The cross-stitch depicts a man and a woman, bears the names "Eric" and "Kari," and includes the words "United in Love" and the date "September 19, 2006." The woman depicted is wearing a wedding gown and veil and is holding a bouquet of flowers. The man is formally dressed. Kari said that Eric's mother and grandmother were upset because they felt that Kari and Eric had deprived them of being there for the wedding in 2006.

Kari and Eric still have a joint bank account that they opened in December 2006, to which they both have contributed funds and from which they have paid their bills,

including the mortgage on the bungalow, since 2006. They filed joint tax returns every year starting in 2007. They also sent annual Christmas cards with their photos that were signed "Love, Mr. and Mrs. Nolan."

Kari describes the wedding ceremony on June 8, 2019, as a renewal of vows and an opportunity for her to finally wear a wedding dress. However, apart from the Christmas cards, she has never used Eric's last name and only began using "Otto-Nolan" as her last name after the 2019 wedding ceremony.

Transcript of Meeting with Eric Nolan
February 19, 2026

Att'y Garcia: Thanks for agreeing to meet with me today. Just to confirm, I am representing Kari Otto-Nolan in this matter. I am not your attorney, and it is my understanding that you are currently unrepresented and are agreeing to meet with me without an attorney present.

Eric Nolan: That's right. Kari and I want to resolve this as peacefully and easily as we can.

Garcia: Great. We are trying to figure out when you and Kari got married, so I'm going to ask you some questions about that. Did you ask Kari to marry you in September 2006?

Nolan: I did. We were in love, and it seemed like the right thing to do.

Garcia: And what did she say when you asked her to marry you?

Nolan: She said yes. I was thrilled.

Garcia: And did you give her a ring in September 2006?

Nolan: Yeah, but it was just a promise ring. It wasn't an engagement ring or anything.

Garcia: So why didn't you and Kari have a marriage ceremony after you asked her to marry you?

Nolan: I guess I was nervous about making a lifelong commitment.

Garcia: Were you intending to officially marry Kari in September 2006 when you asked her to marry you?

Nolan: Yeah, I intended to marry her, but we just didn't get around to it until 2019. We were already living together, so there wasn't a lot of pressure for us to get married.

Garcia: But did you begin calling Kari your wife after September 2006?

Nolan: Yes, I did that. But only once in a while.

Garcia: So why did you end up having the marriage ceremony in June 2019?

Nolan: We had been going through some problems. Kari always wanted a wedding ceremony—a white dress and all that. I thought that having a ceremony would make the relationship stronger.

...

Garcia: What property are you hoping to keep in the divorce?

Nolan: Well, of course I want to keep the house. I also want to keep all my photography equipment. Kari can keep her acreage, but she should pay me for my share of the shed on that property.

Garcia: What kind of camera equipment do you have?

Nolan: I have a lot of it. I bought about 10 cameras the year we moved in together—probably worth about \$50,000. I've probably acquired another \$150,000 in photography equipment since then. Some of it has depreciated in value.

* * *

Happy Anniversary to My Love

Dear Kari,

Happy First Anniversary! This has been such a wonderful year together. Thanks for all your patience with me as I have learned to be a good husband to you. To many more happy times.

Love,

Eric

Assets and Debts Worksheet

Asset	Date Acquired	Value
House at 1505 Clark Street	2/2008	\$400,000 (in 2008) \$800,000 (in 2026)
Tract of land in Frankfurt Acres	9/2001	\$ 70,000 (in 2001) \$150,000 (in 2026)
Photography equipment	12/2005	\$ 50,000 (in 2005)
Additional photography equipment (reflecting depreciation from initial purchase price of \$150,000)	10/2006–2025	\$120,000 (in 2026)
2024 Toyota Tundra pickup truck (Kari's vehicle; paid off)	5/2024	\$ 40,000 (in 2024) \$ 32,000 (in 2026)
2024 Nissan Altima sedan (Eric's vehicle; paid off)	1/2024	\$ 30,000 (in 2024) \$ 22,000 (in 2026)

Bank Accounts

First Bank joint checking account in the name of Kari Otto-Nolan and Eric Nolan	12/2006	\$120,000 (in 2026)
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Debts & Liabilities

Credit card debt: none

Balance on mortgage for 1505 Clark Street: \$50,000

Retirement Accounts or Pension Plans

None

Excerpts from Franklin Family Code

§ 200 Definitions

. . .

(c) The term "marital property" shall mean all property acquired by either or both spouses during the marriage except as specified in subsection (d)

(d) The term "separate property" shall mean

- (1) property acquired before marriage or property acquired by bequest, devise, or descent, or gift from a party other than the spouse;
- (2) compensation for personal injuries;
- (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;
- (4) property described as separate property by written agreement.

§ 211 Common-law marriage

(a) A common-law marriage shall be recognized as a valid marriage in this state. . . .

. . .

§ 215 Disposition of property in divorce actions

(a) Except when the parties have a valid prenuptial or postnuptial agreement resolving all issues related to the parties, the court shall determine the respective rights of the parties in their separate or marital property.

- (1) Separate property shall remain such.
- (2) Marital property shall be distributed equitably between the parties, considering the circumstances of the case and of the respective parties.
- (3) In determining an equitable disposition of property under paragraph (2), the court shall consider [factors omitted].

Schwartz v. Darrow
Franklin Court of Appeal (2022)

When Robert Cohn died intestate, his ex-wife, Susan Schwartz, was appointed personal representative of his estate. Teresa Darrow sought Schwartz's removal, asserting that she (Darrow) should have had priority for that appointment as Cohn's common-law wife. A probate court magistrate found that although Cohn and Darrow cohabited for eight years and held themselves out to their community as married, other factors weighed against a finding of common-law marriage, including the facts that the couple did not file joint tax returns, own joint property or accounts, or share a last name. Darrow appealed.

At a hearing to determine whether a common-law marriage existed between Cohn and Darrow, Darrow testified that six years before his death, Cohn presented her with a wedding ring and told her they could be husband and wife if she agreed; that she did agree; and that after that day she wore the ring and the couple held themselves out as married. The magistrate also considered testimony from Schwartz and from many of Darrow's and Cohn's family members, friends, acquaintances, neighbors, and coworkers. Except for Cohn's father and Schwartz, all witnesses stated that they thought Cohn and Darrow were spouses, and some said that they were surprised by this litigation. Some witnesses testified that the couple wore what the witnesses assumed were wedding rings.

The magistrate found that "Cohn and Darrow agreed to and did hold themselves out to be married to the community of their coworkers, friends, and neighbors. However, their family members knew they were not ceremonially married." The magistrate concluded that the evidence weighed against a finding that a common-law marriage existed. For example, although the couple paid bills jointly, they maintained separate bank accounts. There was no evidence that the couple had joint ownership of any vehicles, real estate, or credit accounts. Notably, the magistrate "gave tremendous weight" to the fact that Cohn and Darrow had filed their taxes separately in every year of their purported common-law marriage, despite the fact that the Internal Revenue Service permits common-law spouses to file jointly. Ultimately, the magistrate concluded that Darrow had not proven that a common-law marriage existed.

We review the magistrate's factual findings for clear error and his common-law marriage finding for an abuse of discretion.

A common-law marriage may be established by clear and convincing evidence showing 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 burden of proving common-law marriage lies with the person claiming its existence. *Id.*

The key question is whether the parties mutually intended to enter a *marital* relationship—that is, to share a life together as spouses in a committed, intimate relationship of mutual support and mutual obligation. *Id.* Ultimately, a common-law marriage finding depends on the totality of the circumstances. Relevant 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, such as leases in both parties' names, joint bills, or other payment records; evidence of joint estate planning, including wills, powers of attorney, and beneficiary designations; symbols of commitment, such as ceremonies, anniversaries, cards, and gifts; and the couple's references to or labels for one another.

Thus, in *Ridley v. Brooks* (Fr. Ct. App. 2008) there was no common-law marriage even though the parties lived together, shared living expenses, and indicated that they were husband and wife on a health insurance form and their apartment lease. The evidence established that the health insurance designation was done as a convenience to save money on premiums, and Brooks, who had been through an acrimonious divorce years before, often stated to friends that she had no intention to remarry.

Here, based on the hearing testimony, the magistrate found that Cohn and Darrow "*agreed to and did hold themselves out to be married* to the community of their coworkers, friends, and neighbors. However, their family members knew they were not ceremonially married." (Emphasis added.) It is unclear from this phrasing whether the magistrate separately concluded that Cohn and Darrow agreed to *be* married. On remand, the district court must determine whether Cohn and Darrow in fact agreed to be married.

Darrow's testimony that Cohn asked her to be his wife, that she accepted, and that he provided her with a ring could be evidence of the couple's express agreement to marry even without a formal ceremony or the presence of some of the other supporting

factors. Although a couple's decision to maintain separate finances remains relevant, it is not necessarily indicative of the lack of the parties' intent to be married.

We vacate the order appointing Schwartz as the personal representative and remand to the probate court with instructions to reconsider whether a common-law marriage existed.

Jones v. Cardiff
Franklin Supreme Court (2023)

Samuel Cardiff and Megan Jones were married in May 2018 and have one child. When they married, both spouses were working attorneys. Megan stopped working outside the home when their son was three years old. Samuel was an associate at a law firm from 2012 until 2018 and has been a partner at that law firm since 2018.

Prior to the marriage, Samuel acquired a house situated on 20 acres of land in Cottonwood, Franklin. During the marriage, the parties spent approximately \$500,000 to renovate and improve the property. While Samuel played a larger role in these improvements, Megan also participated in some of the project's details.

In March 2021, Megan filed for divorce. A trial ensued on the issues of equitable distribution, maintenance, and child support. The district court recognized that the Cottonwood property was Samuel's separate property but held that funds spent on renovations were marital property subject to equitable distribution. The court awarded 50% of the appreciation of the Cottonwood estate to Megan. The Franklin Court of Appeal modified the judgment on both the law and the facts by, among other things, reducing Megan's share of the enhanced value of the Cottonwood property to 25%.

Separate property is defined to include an 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. See FR. FAM. CODE § 200(d)(3). Thus, any appreciation in the value of separate property due to the contributions or efforts of the nontitled spouse will be considered marital property. *Price v. Price* (Fr. Sup. Ct. 2001). This includes any direct contributions to the appreciation, such as when the nontitled spouse makes financial contributions to the property, as well as when the nontitled spouse makes direct nonfinancial contributions, such as by personally maintaining, making improvements to, or renovating a marital residence. *Id.*

Here, the district court properly held that the improvements were marital property because the increase in the property's value was a result of both parties' efforts. We find that the court of appeal did not abuse its discretion in reducing the award to Megan from 50% to 25% of the property appreciation. Samuel's income was the sole source of the funds expended on the property, and his involvement in the renovations was far more extensive than Megan's.

Affirmed.

Bower v. Bower
Franklin Court of Appeal (2014)

The parties were married on May 16, 1998. Soon after the marriage, they purchased and moved to Happy Dairy Farm. The husband brought 32 head of cattle and farming equipment to Happy Dairy Farm from Fairdale Dairy, a dairy farm that he had been operating but sold right before the marriage. For the first two years of the marriage, the wife actively assisted on the Happy Dairy Farm but thereafter was devoted almost exclusively to raising the parties' children and household responsibilities. In 2013, the wife filed for divorce.

Following a bench trial, the district court found that the farm was marital property subject to equitable distribution. The parties stipulated that the total value of the marital property, including marital property not at issue on appeal, was \$2 million. Of this amount, the court awarded \$800,000 to the wife, representing 40% of the parties' marital property. The court found that the husband's separate property included 107 head of cattle valued at \$80,000 and related equipment worth \$500,000. The wife appealed.

We conclude that several errors were committed in the district court's disposition of the parties' property. First, the record was insufficient to support the finding that the value of the present 107 head of cattle and farm equipment constituted the husband's separate property. Undeniably, the cattle and equipment in question were either produced or purchased *during* the marriage, and thus fell squarely within the statutory definition of marital property. See FR. FAMILY CODE § 200(c). Moreover, since the cattle and equipment did not predate the marriage and were not acquired by gift or inheritance, they could not be excluded from equitable distribution under the statutory definition of separate property in § 200(d). Rather, the court determined that the cattle and equipment were the husband's separate property because they were "an outgrowth of the cattle and equipment owned by the husband before the marriage" and therefore were covered by the statutory definition of separate property as "property acquired in exchange for or the increase in value of separate property" under § 200(d)(3).

However, we note that the husband testified that the productive life and marketable value of the 32 cattle he brought to the marriage in 1998 had been totally dissipated within a relatively short period of time, coinciding with the period of the wife's active participation in the farming operations. Likewise, the equipment owned by the husband before marriage

had worn out and had been replaced by other equipment, paid for with postmarital profits or loans that the wife cosigned. The size of the present herd demonstrates that the farm experienced a manifold expansion beyond the initial cattle and equipment. These facts render inappropriate any equating of the entire current herd and equipment with "property acquired in exchange for or the increase in value of" the comparatively modest assets the husband brought to the marriage.

Defining separate property to include acquisitions during the marriage in *exchange* for the premarital or gift property of one of the spouses or an *appreciation* in the value of such property would generally presume some rough equivalency in value at the time between the premarital property and that which was acquired in exchange. That 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 (i.e., the current, larger herd of cattle and equipment) that was largely produced or paid for through the activities of the marital economic partnership. Nor could the district court properly exclude the wife from sharing in the current herd and equipment by deeming these items merely an increase in value of the husband's original separate property. The significant expansion in the farming operation here was not due to unrelated market factors or inflation. Instead, prosperity and growth occurred through the parties' mutual marital efforts, during which the wife initially directly benefited the business, pledged her personal credit for its debts, and contributed indirectly to its success through her services as a homemaker and mother. Certainly, if the parties' dairy farm had been started *after* the parties married and the wife only indirectly contributed to it, she still would have been entitled to some share of the appreciation of the dairy farm's value. See *Litman v. Litman* (Fr. Ct. App. 2010) (spouse entitled to appreciation of other spouse's separate property asset even if spouse's contributions were indirect).

While it was improper for the district court to have excluded the total value of the present herd and equipment from equitable distribution, we think the husband is entitled to be credited with the value of his initial contribution of his premarital cattle and equipment. A further determination must be made of the value of the original 32 head of cattle and equipment when the parties married in 1998.

Reversed and remanded.