

Otto v. Nolan (February 2026, MPT-1) The examinee’s law firm in this performance test represents Kari Otto, who seeks assistance in obtaining a divorce from her husband, Eric Nolan. Ms. Otto’s situation presents a question regarding when exactly the parties married—whether they created a common-law marriage in 2006 or whether they were not married until they had a ceremonial wedding in 2019 and then filed a marriage certificate with the county clerk. The examinee’s task is to prepare an objective memorandum addressing when the parties likely became married under Franklin law. The memorandum should also discuss how the parties’ assets would be characterized as either separate or marital property under the two possible marriage timelines. The File consists of the instructional memorandum from the supervising attorney, a file memorandum summarizing the client meeting, a transcript of a meeting with Eric Nolan, a “Happy Anniversary” card given to Kari by Eric, and a worksheet that lists the parties’ various assets and debts. The Library contains selected excerpts from the Franklin Family Code and three Franklin appellate cases.

In re Franklin Defenders of the Earth (February 2026, MPT-2) In this performance test, the examinee works in the City Attorney’s Office for the City of Whitney. Recently, a not-for-profit organization, Franklin Defenders of the Earth (FDE), promoted a successful ballot initiative, which would require the City Council to adopt a local ordinance. Under the new ordinance, the City would have to fly the “Earth Flag” above the US flag on the center flagpole atop the City Hall building every year on Earth Day (April 22). The City Council has asked for an opinion from the City Attorney regarding whether it must adopt the new ordinance as described in the ballot initiative. The examinee is asked to draft a memorandum addressing whether the US Flag Code or Franklin state law would bar the flying of the Earth Flag above the US flag. In addition, the examinee is asked to determine whether the First Amendment to the US Constitution would require the City to permit FDE to fly the Earth Flag above the US flag on City Hall. The File contains the instructional memorandum, the regulations for events on City Hall Plaza, and the text of the ballot initiative. The Library contains excerpts from a treatise on statutory construction, selected provisions of the US Flag code, the Franklin state constitution, and Franklin statutes, as well as a Franklin Court of Appeal case, *Mastai v. Ross*, and excerpts from the US Supreme Court’s 2022 opinion in *Shurtleff v. City of Boston*.