

Living Together but not Married: Do you have a Non-Marital Cohabitation Claim?

The following is a check list of possible evidence to consider as to whether you have a winning “Marvin Action” claim. There are no absolute answers as to whether or not you have a good case; you must weigh the evidence just like the jury. The following is a check list of some items of evidence to look for in weighing the strengths and weaknesses of your case.

1. Living with Partner and Never been Married
 - A Marvin Action is a lawsuit for support (often called “Palimony”) and/or for the division of property accumulated while two parties lived together but were never married. The longer you have lived together, the stronger your claim is likely to be.
2. Did you have an “Express Contract” or an “Implied Contract”?
 - An express contract is where the parties made an agreement in words, either orally, or in writing, to share property and/or support one another in some way.
 - An implied contract is where the parties’ agreement to share property and/or to support one another was not articulated in words but was expressed and shown by their conduct.
3. Did you Raise or have Children Together?
 - Children tend to show a more interdependent relationship between couples.
4. One Spouse has given up a Job/Career for Mutual Benefit of your Partner and Yourself.
 - Did one party give up a job to take care of children or to run a household so the other partner could focus on their career goals?
 - Did one party work for no or decreased compensation in a joint business so as to increase the value of the business, maximize tax benefits and/or parties’ shared income?
5. Evidence of Agreement
 - Cards, letters, emails etc., that show an agreement to share property and/or provide for one another’s support.
 - Shared title to any real estate, business or other property.
 - Joint bank accounts, credit cards or retirement accounts.
 - Both parties possess the same health, dental or other type of wills, trusts, estate plans, or life insurance policies.
6. Documentation Showing Marital Status
 - Although you were never married you have indicated to others that you are by:
 - Implicitly using the same last name as partner on any documents or forms.
 - Documents to review:

- Children's birth certificates
 - Tax documents
 - Emergency notification forms
 - Grant deeds
 - Wills, trusts and tax returns
7. Joint Title is Evidence of an Agreement to Share Ownership
- Types of documents evidencing joint ownership:
 - Deeds to real property
 - Persons listed on the mortgage/equity line(s)
 - Vehicle registration
 - Corporate documents:
 - Shareholder certificates
 - By-laws
 - Articles of Incorporation
 - Shareholder agreements
 - Statement of information
 - Corporate minutes
 - Joint Financial Accounts such as:
 - Joint checking or savings
 - Retirement accounts
 - Investment accounts
 - A revocable or irrevocable trust
8. These Documents are also Evidence of a "Marvin" Type Agreement
- Life insurance policies
 - Joint credit cards
 - Both parties on the mortgage to real property
 - Parties jointly listed on insurance (e.g., joint auto, medical, dental insurance)
 - In such cases, parties are usually listed as married, or as domestic partners on the insurance
9. Holding Yourself Out to the World as Married
- This may be evidence that the parties agreed to treat each other as if married.
 - What witnesses can testify to this?
 - Documents:
 - Birthday cards, greeting cards, anniversary cards, announcements, love letters, etc.
 - Insurance applications
 - Tax returns
 - The parties using the same last name in written documents
10. An Explanation Why the Parties were not Married or Registered Domestic Partners

- It can be relatively quick and inexpensive to get married. Successful Marvin Action plaintiffs will usually have a logical explanation as to why they did not get married even though the parties agreed they would have marriage-like rights. Some examples include:
 - The other party claimed getting married would destroy his/her credit and would prevent the parties from purchasing real property or other investments.
 - To shield assets from being seized by creditors.
 - To prevent the termination of spousal support received from a prior divorce.
 - Because both parties had a prior bad experience with marriage.