**Generative AI at Carolina Law**

 **Instructions:** The two memos that follow are from a Single-Case Analysis that I assign my students in their first semester of law school. One was written by a student and one was written by ChatGPT (with some light editing by me). Please read the two memos and answer the questions that follow.

1. Which of the two memos do you think was written by ChatGPT?
2. Why did you choose the memo you did in response to Question #1?
3. What does the ChatGPT memo do well? What does it not do well?
4. The single-case analysis was an ungraded assignment. If the assignment had been graded and you were the professor, what grades would you give these papers?
5. [OPTIONAL] What other reactions do you have to the two memos?

**Memo #1**

To: Professor Nemerovski

From: Anonymous

Date: 8/27/2023

Re: Single-Case Analysis, Ledbetter and Skylar v. Sunflower Resort

In the case of Ledbetter and Skylar v. Sunflower Resort, Austin and Ashly do not meet the standard of holding each other out as husband and wife to the public.

In *Sullivan v. Sullivan*, 196 Kan. 705 (1966), the court determined that Hazel Sullivan (formerly Hazel Walden) and Henry Sullivan did not sufficiently hold themselves out to the public as husband and wife. In the *Sullivan* court’s analysis of the “holding out” issue,the courtnoted that Henry only held himself out as Hazel’s husband “when it suited his convenience,” such as while staying in hotels, patronizing taverns, or spending time with Hazel’s relatives and friends. *Id.* at 708.

*Sullivan* also noted many other instances in which the couple failed to publicly hold themselves out as married. For example, Henry’s children asked if he was married to Hazel and he responded emphatically to the negative. *Id.* at 706-707.A neighbor involved in a car accident with the couple noted that all accident-related documentation referred to Hazel by her legal surname of Walden. *Id.* at 707. The same neighbor also testified that she didn’t get the impression the couple was married or that they held themselves out as husband and wife in public. *Id.* She also testified it was her belief that the community knew Hazel as Walden, rather than Sullivan. *Id.* Further, Henry introduced Hazel by her legal surname to his attorney. *Id.* Henry also incorporated her into his will as his “housekeeper,” Hazel Walden. *Id.* The Court also noted several other official documents such as tax statements and checks that denoted the couple by their respective legal names. *Id.* at 707-08.For these reasons, the Court determined that there was no holding out in *Sullivan.*

Here, Austin and Ashly were similarly inconsistent in how they presented the nature of their relationship publicly. As in *Sullivan*, Austin and Ashly would refer to themselves as married when it was convenient. Austin and Ashly would tell their friends they were married but would tell their parents they were engaged. In the context of her job as a realtor, Ashly referred to Austin as her fiancé when showing homes to unmarried people, and as her husband when with her clients.

While Austin and Ashly frequently used the surname Skybetter, a combination of their individual surnames, for unofficial items like Christmas cards, they never legally changed their surnames. As in *Sullivan*, they continued utilizing their legal surnames for official purposes such as medical and financial documents. The couple also did not exchange wedding bands, and Austin never discussed their relationship at work.

While the couple has occasionally demonstrated publicly that they consider themselves married, including entering contests for married couples, referring to themselves as married amongst friends, and sometimes using the Skybetter name, they have not demonstrated the consistency in holding themselves out that *Sullivan* deemed relevant.

For these reasons, Ashly and Austin have not met the requirement of holding themselves out to the public as married.

**Memo #2**

To: Professor Nemerovski

From: Anonymous

Date: 8/27/2023

Re: Single-Case Analysis, Ledbetter and Skylar v. Sunflower Resort

Under *Sullivan v. Sullivan*, Austin and Ashly satisfy the mutual holding out requirement for a common law marriage.

*Sullivan v. Sullivan*, 196 Kan. 705 (1966), centered on the contentious issue of whether Hazel and Henry Sullivan had entered into a common-law marriage while residing in Kansas. The core consideration for the Kansas Supreme Court was the "mutual holding out" requirement, one of the three criteria needed to establish a common-law marriage in the state. *Id.* at 709. The evidence suggested a convoluted picture. On one hand, Hazel consistently used Henry's last name after moving in with him, and the two lived together in a manner typical of a married couple. *Id.* at 706. Additionally, there were instances where they introduced themselves or were introduced as husband and wife. *See id.* However, on the flip side, the court was troubled by Henry's occasional introduction of Hazel as "Hazel Walden" and, notably, his evasive responses when family members directly inquired about their marital status. *Id.* at 706-07. When asked if they were married, Henry would often respond cryptically, "What do you think?" *Id.* These inconsistencies ultimately led the court to conclude that Hazel and Henry did not satisfy the "mutual holding out" requirement and, as a result, had not established a common-law marriage. *Id.* at 707.

In analyzing the circumstances surrounding Austin and Ashly within the framework of *Sullivan v. Sullivan*, the mutual holding out requirement becomes central. Austin and Ashly's behavior exhibits a somewhat bifurcated approach to their relationship status. On one hand, their usage of the combined surname "Skybetter" for casual affairs, sending out holiday cards signed as “The Skybetter Family,” and Ashly's reference to Austin as her “husband” when building rapport with married clients are indicative of a couple who consider themselves as married in social contexts. They've consistently referred to themselves as married to close friends and new acquaintances, emphasizing their commitment to one another and even considering themselves "more married" than some legally wedded pairs.

However, much like Henry's hesitations in the Sullivan case, Austin and Ashly display inconsistencies in how they project their marital status, especially in more formal settings. They have chosen not to legally change their surnames and utilize their birth names for "important stuff" like medical and financial matters. Furthermore, their selective approach—referring to themselves as "engaged" around their parents and Ashly mentioning her “fiancé Austin” to unmarried clients—might raise questions about the clarity and consistency of their mutual holding out. While they don't overtly contradict their marital status in the way Henry did in the Sullivan case, the fact that they change how they refer to each other based on their audience could be viewed as not meeting the clear and consistent "mutual holding out" requirement as emphasized in the Sullivan decision.

For these reasons, Austin and Ashly do not satisfy the holding out requirement.