

# Demise of Ken & Barbie: Is divorce on the horizon?

**H**ollywood breakups occur at a lightning pace these days. There's Ben and Jen, Uma and Ethan, Meg and Dennis, and, of course, Justin and Brittany. The public seems to have become numb to, yet fascinated by, celebrity splits. But the recent announcement of the split between Ken and Barbie

has caught even the most hard-hearted by surprise. Barbie Millicent Roberts, simply known as Barbie, entered the scene in 1959. Shortly thereafter, in 1961, Ken appeared and the two became an almost inseparable couple. Until recently, Ken and Barbie were perhaps the longest-lasting couple in the public spotlight, and seemingly the most stable. Now, they face what many other famous couples face -- an unhappy breakup and the unfortunate gossip associated with it.



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In Texas, they face one other question—can they simply part ways or do they have to seek an official divorce? The answer to that question may, on its face, seem obvious -- they can merely part ways. They were simply dating, nothing more. A closer look points to a question that many other not-so-famous Texas couples face -- was a common-law marriage established?

Certainly, Ken will argue that there was. After all, Barbie has a wealth of real and personal property (e.g. the Dream House, Malibu beach house, etc.), not to mention the vast sums of money she has

amassed from the interests in all of her business ventures. Surely, Ken will want a piece of the pie after 40 years of devotion.

Texas is one of the few states that recognizes common-law marriage. In order to establish a common-law marriage, the following must exist: (1) the man and woman must agree to be married; (2) following the agreement to be married, the parties must live together; and (3) the parties must represent to others that they are married. All of the requirements must be met in the State of Texas. The Texas Family Code prohibits proof of a common-law marriage when the required acts occurred in a state other than Texas.

So, how does one prove that he or she intended to be married? There are a variety of ways. One, the woman can take and use the man's surname. We don't know if Barbie has used Ken's name, but if she did, that would be evidence Ken might use to prove that they intended to be married. Second, the parties can file joint income tax returns. Third, the parties can acquire utilities, household expenses and other debts together using the same name.

Fourth, if Barbie has Ken insured on her health insurance plan as a spouse, Ken may use that as evidence of intent to be married. Finally, Ken might testify that he and Barbie professed their intent to be married in a private ceremony, per-

haps while floating about on Barbie's Dream Boat. Ken can also use circumstantial evidence of an agreement to be married. Direct evidence of an agreement to be married is unnecessary as long as the evidence presented demonstrates that the parties had a present, immediate and permanent marital relationship and that they did intend to be married.

Cohabitation following the express intent to be married is the second prong necessary to establish a common-law marriage. If Barbie's Dream House is located in Texas, Ken may show that they resided together in an effort to prove their marriage. Ken will have to demonstrate that they actually resided in the Dream House, rather than Ken merely having frequent overnight stays with Barbie at the house. There is no "bright-line" rule regarding the length of time Ken would have needed to reside in the Dream House to actually establish residence. However, it is essential that their primary residence be in Texas to satisfy their second prong, but they certainly may stay, at other times, at Barbie's various properties. The element of cohabitation is determined on a case-by-case basis.

Finally, Ken will need to have witnesses to testify that they held themselves out as a married couple. The "holding out" test can be shown by the actions or words of the couple. Various appellate courts have determined that, in some instances, even when couples only occasionally refer to each other as husband and wife, a common-law marriage exists.

Without a doubt, there are a number of close friends of Barbie and Ken who might come forward. For example, Barbie's sister, Skipper, might testify that the couple had a private wedding ceremony attended by only a few intimate friends and family. After all, Skipper had a bridesmaid's outfit that she surely wore during the wedding. And, we all remember the fabulous Barbie wedding gowns. Ken might also call Midge, Barbie's best friend since 1963, to testify as to what she witnessed over the years regarding Barbie and Ken referring to each other as husband and wife.

The outcome of whether Ken and Barbie were legally married under the common-law doctrine is undetermined. However, the elements of common-law marriage apply to anyone residing in Texas, whether they're celebrities, non-celebrities, or action figures. Couples should be mindful of the elements and how their actions and comments can transform a casual relationship into a binding legal union.

As for Barbie and Ken.... Barbie's new paramour Blaine, an Australian, should be mindful that Barbie's fortune may be equally divisible between Barbie and her former boyfriend.

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