

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Hood Estate v. Young, 2008 NSSC 146

Date: 20080523

Docket: SN 249572

Registry: Sydney

Between:

Margaret Hood, Executrix of the Estate
of Robert Wilson Hood, Deceased

Plaintiff

v.

Melvin Young

Defendant

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- Judge:** The Honourable Justice Frank Edwards
- Heard:** February 13, May 1 and 2, 2008, in Sydney, Nova Scotia
- Subject:** Joint chequing account; Presumption of resulting trust; undue influence.
- Summary:** The widow challenged the alleged gift of the proceeds of a chequing account by her late husband to his biological son. She asserted that there was no gift and, alternatively, if there was, that the son had exerted undue influence.
- Issues:**
- 1) Whether the son had rebutted the presumption of a resulting trust.
 - 2) Whether the plaintiff had triggered a presumption of undue influence.
- Result:**
- 1) The son rebutted the presumption of a resulting trust. The testator had given the son the money to prevent it from benefiting the wife's family by her first marriage.

2) The plaintiff failed to trigger a presumption of undue influence. Even if she had succeeded, there was ample evidence presented by the son to rebut any such presumption.

Cases Noted: *Niles v. Lake* (1947), 2 D.L.R. 248; and
Harold Edward O'Legg and Lillian Melina Nicholson, (2002)
208 N.S.R. (2d) 142

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