

**IN THE SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)**

Citation: Westcott v. Dumont, 2009 NSSC 22

Date: 20090127

Docket: 41933

Registry: Sydney, Nova Scotia

Between:

Marilyn Westcott

Plaintiff

v.

Jean-Yves Dumont

Defendant

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Judge: The Honourable Justice Theresa M. Forgeron

Heard: November 10, 12, 13, 2008 and January 20, 2009

Decision: January 27, 2009

Subject: Family Law

Issue: Burden of Proof, Unjust Enrichment, Constructive Trust, and Resulting Trust claims.

Result: The civil burden of proof was applied to the various allegations raised by each party. The court held that both parties successfully proved a case of unjust enrichment against the other. The restitutionary relief of a constructive trust was not

made out. A monetary award was granted and when netted out required Ms. Westcott to pay Mr. Dumont approximately \$26,000 which would form a first charge against the fire insurance proceeds on the property. The claim for resulting trust was likewise dismissed.

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