

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

**Citation:** T. L. S v. D. J. M., 2009 NSSC 79

**Date:** 20090312

**Docket:** 1201-061923, SFHD-054046

**Registry:** Halifax

**Between:**

T. L. S.

Petitioner

v.

D. J. M.

Respondent

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice Beryl MacDonald

**Heard:** January 19 & 20, 2009, in Halifax, Nova Scotia

**Written Decision:** March 12, 2009

**Subject:** Family Law, *Divorce Act*, Child Support Guidelines, *Matrimonial Property Act*; debts, loans and resulting trusts, division of matrimonial property, retroactive and ongoing child and spousal support

**Summary:** The parties separated in 2006. They signed an Interim Separation Agreement in which the husband was to pay child and spousal support. The wife was to find employment, which she did for a short period of time, but then decided to return to university to pursue a professional career. During the marriage the wife's mother purchased a lot upon which the parties built a home, including a "granny suite", a residence for the

wife's mother, who also financially contributed to the construction of the home.

**Issue:**

Was there a debt owing to the wife's mother and, if not, was she entitled to compensation arising from the presumption of resulting trust?  
Should income be imputed to the wife?  
Should there be a retroactive award for child and spousal support?

**Result:**

The financial contribution of the wife's mother was a gift to the wife. It did not constitute a legally enforceable debt, nor create a resulting trust in her favour. The gift to the wife was taken into consideration when the matrimonial property was divided. Ongoing child and spousal support was ordered, as was retroactive support. No income was imputed to the wife.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***