

SUPREME COURT OF NOVA SCOTIA

Citation: Dolphin Estate, 2004 NSSC 226

Date: 20041108
Docket: S.H. 175706
Registry: Halifax

IN THE MATTER OF: An application of **The Maritime Life Assurance Company**, in relation to the Estate of the late **Peter Dolphin**

IN THE MATTER OF: *Insurance Act*, R.S.N.S. 1989, c. 231.

IN THE MATTER OF: An application of Helen Dolphin for a declaration that the proceeds of the group life insurance policy on the life of Peter James Dolphin, issued to Dalhousie University by the Maritime Life Assurance Company, paid into court herein, are impressed with a trust in favour of Helen Dolphin and for an order that the funds paid into court herein are to be paid out to the Applicant, Helen Dolphin

IN THE MATTER OF: An application of Helen Dolphin for directions further to Rule 25.01(d) and leave to complete necessary discovery procedures further to Rule 37.09(5) prior to the scheduling of a hearing date for her above application respecting the insurance proceeds paid into court herein.

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Judge: The Honourable Justice Walter R. E. Goodfellow

Heard: October 26, 2004 (Chambers), in Halifax, Nova Scotia

Subject: INTERPRETATION OF SEPARATION AGREEMENT

Summary: Peter and Helen Dolphin married August 31, 1969, one child. Peter Dolphin enrolled in Dalhousie Group Life Insurance Plan, two policies. They separated and executed a Separation Agreement May 1980; divorced 1982 and subsequently, Order granted terminating maintenance for Helen Dolphin. Peter Dolphin remarries, names new wife as beneficiary of Mandatory Policy and leaves Optional Policy with Helen Dolphin as named beneficiary. Subsequently changes beneficiary to two children but again, leaves Optional Policy with Helen Dolphin as named beneficiary. Application by Helen Dolphin for declaration proceeds of policies approximately \$400,000.00 to be impressed with a trust in her favour.

Issue: Separation Agreement required continuance of life insurance but subject to clause that addressed termination in the event of remarriage or determination of maintenance in divorce proceeding. Rationale for retention or acquisition of life insurance is normally directly related to maintenance obligation; however, no evidence by way of correspondence or from previous solicitors.

Result: Words providing linkage between insurance obligation and spousal maintenance obligation are not superfluous and are clearly tied together. Group Life Policy with children as named beneficiary stands and Optional Life Policy in the amount of \$100,000.00 with Applicant as named beneficiary stands and order accordingly.

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