

SUPREME COURT OF NOVA SCOTIA

Citation: *Fralic v. Drouin Estate*, 2014 NSSC 344

Date: 20140912

Docket: Hfx. No. 416677

Registry: Halifax

Between:

Sharon Georgina Fralic

Applicant

v.

Colleen Pearl Graham, as Executrix of the Estate of Marco Joseph Robert Drouin
and Colleen Pearl Graham

Respondents

LIBRARY HEADING

Judge: The Honourable Justice Patrick J. Murray

Heard: February 19 and 20, 2014, in Halifax, Nova Scotia

**Final Written
Submissions:** April 3, 2014

Written Decision: September 12, 2014

Subject: Corollary Relief Judgment/Life Insurance clause. Obligation to maintain life insurance policy.

Summary: Separation Agreement, Corollary Relief Judgment required husband to maintain life insurance naming mother in trust for son. Father changing designation upon remarriage. Father became ill and passed away. Mother of child applied to have funds payable to her in trust for son. Court asked to rule on

advance given under the policy to husband prior to his death.

Issues: (1) Whether life insurance proceeds should be held by way of constructive trust following change in designation?

Result: Court ordered funds to be held by mother under a constructive trust. Court found that a portion of the advance to husband to be repayable by his wife on the second marriage. This is to be held by mother under a constructive trust for son.

Cases cited: **Estate of Brian Albert Schorlemer and Elaine Debaghi v. Paulette Schorlemer**, 2006 ONSC 42364; **Fitzpatrick v. Fitzpatrick**, [1985] B.C.J. No. 2768; **Mitchell v. Mitchell**, [1982] BCJ No. 1628; **Strecko v. Strecko**, 2014 NSCA 66; **Garland v. Consumers' Gas Co**, [2004] S.C.R. 629; **Pettkus v. Becker**, [1980] 2 S.C.R. 834; **Kerr v. Barinov**, [2011] 1 S.C.R. 269; **Richardson Estate v. Mew** (2008) 93 OR (3d) 537; **Soulos v. Korkontzilas**, 1997 CanLII 346; **Snider v. Mallon**, 2011 ONSC 4522; **Fraser v. Fraser**, 1995 CanLII 1594 (BCSC);

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