

ELIZABETH MELANSON

v.

THOMAS MELANSON

Submitted on Briefs April 27, 2004
Decided May 13, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,
and LEVY, JJ.

MEMORANDUM OF DECISION

Thomas Melanson appeals from a divorce judgment entered in the District Court (Lewiston, *Cote, J.*). Contrary to Thomas's contentions, the District Court did not commit clear error when it concluded that a barn located on Thomas's nonmarital land is marital property. *See Murphy v. Murphy*, 2003 ME 17, ¶ 20, 816 A.2d 814, 820. Because Thomas claims that all or part of the barn is nonmarital, he bears the burden of overcoming the statutory presumption in 19-A M.R.S.A. § 953(3) (1998) that all property acquired during the marriage is marital property. *Bishop v. Bishop*, 541 A.2d 930, 931-32 (Me. 1988). Because

the parties specifically contracted that improvements to the land would be considered marital property, Thomas failed to overcome the presumption. *See Cloutier v. Cloutier*, 2003 ME 4, ¶¶ 9-10, 814 A.2d 979, 983 (stating that ordinarily, an agreement between divorcing parties, if fairly entered into, will be honored).

The entry is:

Judgment affirmed.

Attorneys for plaintiff:

Neil S. Shankman, Esq.
David J. Van Baars, Esq.
Shankman & Associates
11 Lisbon Street
Lewiston, ME 04240

Attorney for defendant:

Ron E. Hoffman, Esq.
21 Canal Street
Rumford, ME 04276-2001