

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

GEORGE A. HENDERSON v. MARILYN JO TUCKER HENDERSON

**Appeal from the Chancery Court for Williamson County
No. 24601, Donald P. Harris, Judge**

No. M1999-00912-COA-R3-CV - Filed September 14, 2000

CONCURRING AND DISSENTING OPINION

I concur with the majority opinion, except on the issue of the wife's alimony.

I agree with the majority's finding that "the Trial Court should have awarded alimony". I disagree with the Court's remanding the case to the Trial Court to determine the nature and the extent of the alimony award.

On appeal to this Court, the parties are entitled to a trial *de novo* upon the issues presented, T.R.A.P. Rule 13. In my view, this includes deciding all issues properly before us. In the interest of avoiding needless litigation and judicial economy, I would not remand but would hold that the wife is entitled to rehabilitative alimony for a period of four years at \$2,000.00 per month. If her health does not improve to the point where she is employable, the Court may reconsider her need and the husband's ability to pay during that time period. *See* Tennessee Code Annotated §36-5-101(d)(2).

HERSCHEL PICKENS FRANKS, J.