



Big Fuss Over Passing the School Bus



Ronald E. Prusek, Esq. and Steven G. Mlenak

We've all been tempted to pass her. There she sits in the middle of the road in all of her yellow glory waiting ever so

patiently for all of the children to safely board while you are already ten minutes late to your important lunch meeting. Sure you see the red flashers pulsating and the stop arm (the large stop sign that protrudes from the side of the bus) extended but you still think to yourselves, "all the children are on the other side of the road, what would be the harm in passing the bus?" Well, it is a big deal, and one that comes with hefty penalties.

NJ State Police estimate that thousands of school bus stop arm violations occur each and every day. According to most experts, the problem begins with the fact that many drivers are simply unaware that stopping for the school bus is the law, not simply a community suggestion. Whether the bus is a full-size or a handicapped bus, passing a school bus while children are embarking or disembarking is illegal.

Here is the pertinent law that you need to know the next time you are stopped behind, or in front of, "big yellow." First off, never pass or approach a school bus with flashing red lights and the stop arm extended. State law requires that motorists stop at least 25 feet away if traveling on a two-lane road.

If you are traveling on a dual highway and you are on the opposite side of a raised median or safety island, you may pass the bus, but only if you slow down to 10 mph. If you are on the same side of the highway, you must stop not less than 25 feet from the bus when the bus has stopped to receive or discharge any passengers. The driver may not proceed until all children have entered the bus or have reached the side of the highway, or until the flashing red lights have stopped.

School buses are all equipped with amber and red flashing lights. Amber lights flash before the bus stops, and red lights flash when it has stopped. You shouldn't depend on these lights as they could be malfunctioning. Always follow the proper protocol described above.

The fines for the improper passing of a school bus can be hefty and include monetary fines, loss of license, points on your license, community service and even jail time or a combination of the above.

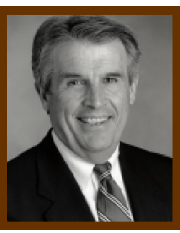
So as you can see, getting a violation for improper passing of a school bus can be a disaster. If you do find yourself charged with this offense, it is strongly advised that you seek legal counsel.

In the end, just as your mother used to tell you, the best way to get out of trouble is to never get into it in the first place. Obeying the proper procedure for passing school buses is the only way to ensure the safety of the school children using the buses, even if that means you being 10 minutes late to a meeting.



Message from the Managing Member

As the leaves start to fall from the trees and we begin to feel a chill in the air, the focus of our families shifts from summer camp and tee-ball practice (and, of course, sailing) to reading, writing and arithmetic (and, of course, skiing). The idea of back to school conjures images of teachers at the chalkboard, children waiting at bus stops and, for some, moving their young adults into dorm rooms at college. We, at CLDD&S, understand that the changing of the seasons also brings with it different questions and considerations associated with the legal issues of "Back to School." Contribution to college costs for children of divorced parents, grandparent giving to grandchildren, and school bus traffic rules are just some topics the attorneys and staff at CLDD&S have addressed here, for our clients, colleagues and friends.



Sincerely,

Edward J. Dimon

"Education's purpose is to replace an empty mind with an open one."
-Malcolm Forbes

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Giftgiving to Grandchildren

by Annemarie Schreiber, Esq.

Grandparents are always eager to help support their grandchildren in any way they can. What better way to help the grandchildren than by contributing to their education? Fortunately, there is an estate planning technique called gifting that enables grandparents to help their grandchildren and at the same time benefit themselves. The grandchild has the benefit of not being weighed down with excessive loans after graduation and the grandparent has the benefit of a reduced estate value that translates into less estate taxes. There are several ways to gift that help ease the burden of educational costs. Here are some examples:

1. Outright gifts. A monetary gift in the amount of up to \$13,000.00 can be given to a grandchild. This can be given each year without having to pay any gift taxes, so long as the amount gifted stays under the limit. In addition, the gift will not count as taxable income to the grandchild.
2. Direct payment for school. A grandparent can pay for education costs for their grandchild; however, the payment must be made directly to the school in order to get the tax benefit.
3. Custodial accounts. Contributions to custodial accounts that the parents have set up for the child is always a viable gifting option.
4. Trusts. A trust could be established to benefit a grandchild. The trust could be drafted to reflect your wishes about when the income and principal will be available to the grandchild and even how the funds will be spent, i.e.: for educational purposes.
5. 529 accounts. Such accounts earmark funds for the higher education expenses of a grandchild. Accounts are invested to pay for tuition, room and board and other expenses associated with the grandchild's educational needs.



Harvard v. Rutgers v. Ocean County College: College Contributions after Divorce

by Jonathan Z. Petro, Esq.

With the rising costs of secondary education and greater competition for acceptance to premier universities around the country, the question of where your children should go to college, and whether you can afford that college, presents significant challenge to families both intact and separated. Generally, if a divorce occurs while the children are not yet actively looking at college, the parties to divorce or their attorneys include in their Property Settlement Agreement the general language, "The parties recognize that they have a joint, but not necessarily equal, obligation to provide a college education for the unemancipated children of the marriage and the precise amount of their respective contributions shall be determined at the time the college expense is incurred." This recognition of an obligation does little to guide the parties in divorce towards resolving what each party must spend on their child's college education and also how much a parent's ability to pay will impact the choice of Harvard v. Rutgers v. Ocean County College.

The New Jersey Supreme Court outlined in Newburgh v. Arrigo, 88 N.J. 529, 545 (1982), the factors that a judge must use in determining the contribution of each parent to the college costs of their child. The first factor, and arguably the most important, is "whether the parent, if still living with the child, would have contributed toward the costs of the requested higher education." The judge must consider what would have happened if the parties had remained in an intact family. Would the non-custodial parent feel differently about paying college costs if the child continued to live with him or her? Other factors to be considered by the judge are the amount of contribution sought by the child, the availability of financial aid for the child, the ability of the parent to pay the cost, among other factors.

In making the decision of whether the child should attend Harvard, Rutgers or Ocean County College, one factor looms large: the relationship of the requested contribution to the kind of school or course of study sought by the child. While most parents are not afforded the luxury of having a child who knows what they want to be when they grow up or what they want their major course of study to be, having an ability to match the career goals of a child to the institution of higher learning is helpful. Parents can prepare for court involvement as to college costs by addressing these issues in advance. Knowing your child's goals, examining the resources available to the child, and consulting with the other parent in the decision-making process will have a positive impact on any application for college contribution. A thorough examination of all the factors, beyond those outlined here, with a competent, experienced family law attorney, will give an application for college contribution the greatest likelihood of success.



News and Notes ...

We've been busy, but having fun too....

Edward J. Dimon, Esq. has the distinguished honor of becoming a Council Member at Georgian Court University. In addition to his involvement with Georgian Court University, Mr. Dimon was named to the Governance Committee for the Ocean Medical Center Foundation, a new committee charged with the responsibilities of Board composition, orientation, continuing education, leadership succession and evaluation.

Louis A. Felicetta, Esq. served on the OCC Foundation Auction Committee for the 2010 Summer Gala. This year the event set an all-time record by raising \$33,460 for the Foundation's General Scholarship Fund, which provides direct benefit to students in our community.

Matthew Carluccio, son of Senior Partner **Dan Carluccio, Esq.** has been awarded two Emmy Awards for his outstanding work as a Senior Producer for the wildly popular "The Today Show." The awards recognize Matt's writing and producing segments on the show's visit and tours of the White House, as well as interviews with President Barack Obama.



Maureen Schultze, the CLDD&S Office Manager and Mr. Leone's assistant became Mrs. Joseph DeRose on October 2, 2010. The happy couple was married and honeymooned in Long Beach Island, New Jersey.

After becoming an active member of the Toms River Kiwanis Club, **Annemarie Schreiber, Esq.**, she was joined by Diana L. Anderson, Esq. and Jonathan Z. Petro, Esq., in judging the Annual Kiwanis-sponsored Halloween window painting in Downtown Toms River. Annemarie has also stayed busy

dedicating her time and expertise to Somebody Cares, an organization which assists the elderly in Whiting, New Jersey.

Stephan and Judi Leone had the pleasure of spending two fun filled weeks in Istanbul, Turkey; Athens, Greece, and several Greek Islands including Mykonos, Crete, Rhodes, Delos and Santorini.

Diana L. Anderson, Esq. led a team of walkers in the Making Strides Against Breast Cancer walk through Point Pleasant Beach, New Jersey. Diana has also penned the feature article in the November issue of the Point Pleasant Chamber of Commerce Newsletter.

The firm has fostered a working relationship with the Macmillan Tax Advisory Group, LLC, which is instrumental in assisting businesses in Audit Defense, Sales Tax Review and Recovery and other tax compliance issues. Based in Brielle, New Jersey, Macmillan applies their 75 years of collective experience to provide invaluable service to their clients, and ours.

Jonathan Z. Petro, Esq. has been selected to become the Chairperson of the new Community Development Committee at the Ocean County Y, where he has served as a member of the Board of Directors for the past two years and also is a Co-Chairperson for the Golf Outing, which is the oldest golf outing in Ocean County.

Meet The Staff



We would like to welcome the newest members of our CLDD&S family, **Christopher J. Dasti, Esq.**, **Sandra Baldanza**, and **Tracy Garbacki**. Chris has just completed his clerkship with the Honorable Frank

A. Buczynski, Jr., Presiding Judge in the Chancery Part of the Ocean County Superior Court. He is a proud graduate of Barry University School of Law where he earned his Juris Doctor degree. He is a graduate of Hofstra University where he majored in Business Administration and played goalkeeper for the hockey team. Born and raised in Ocean County, Chris is a graduate of Monsignor Donovan High School in Toms River and lives in Forked River. He looks forward to a long and prosperous career at CLDD&S, with a practice on civil and criminal litigation.

Sandra has joined our real estate team where she has



been applying her many years of experience to our residential real estate closings and land use files. She and her husband, Ken, are very proud of their son, Vincent, who finished his first year at the University of Pennsylvania Veterinary School ranked #1 and is currently in his second year. Tracy brings to the firm significant knowledge and experience

as a litigation paralegal. She will be working with our prestigious litigation team, assisting Dan, Ron, and Chris. Tracy has acquired the endurance needed to keep pace with the hectic life of a litigation paralegal thanks to her 11-year-old son, Matthew and her 7-year-old daughter, Emma. When she's not chasing down our attorneys or her children, she loves to spend time with her husband, Greg, or relax with a good book.



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