

NJ LAWS EMAIL NEWSLETTER E498

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Greetings!

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Recent cases

1. No Jury trial for DWI.

State v. Denelsbeck ___ NJ ___ (2016) (A-42-14)

Third or subsequent DWI offenders are not entitled to a jury trial, and defendant's conviction procured by a bench trial did not violate his Sixth Amendment right to a jury trial.

2. Police can stop on broken taillight.

State v. Sutherland ___ NJ Super. ___ (App. Div. 2016) A-5432-14T3

A police officer stopped defendant's car because one of the four taillights was not illuminated. The Law Division granted defendant's motion to suppress finding that N.J.S.A. 39:3-61(a) and -66 only required one functioning tail light on each side and the officer's mistake rendered the stop unreasonable.

The court reversed, noting the confusing state of Title 39 and concluding that the officer had reasonable and articulable suspicion of a motor vehicle violation.

3. Handle your Estate Plan before Vacation

What has happened since you created or updated your estate plan? Consider how your priorities may have changed since any of these events may have occurred: marriage, children, death of a loved one, divorce/separation, relocation, and tax law changes. By revisiting your estate

plan you can ensure that there are no errors and that your wishes are known. Is it time to take a fresh look at your estate plan?

Together, we can discuss your current situation and determine what may need updating. Call today to schedule an appointment.

Termination of Child Support after High School Graduation and Upon Emancipation.

Child support is usually paid through a wage withholding garnishment at the parent's job. Child support orders and wage withholding continue forever against you until a Superior Court Judge signs a Formal Court Order terminating or modifying support. It is not sufficient for the payor to simply wait for a child to finish school. Many Divorce decrees and Property Settlement Agreements state that child support will end upon emancipation.

For example, the term "emancipation" is sometimes defined as follows:

1. The completion of the child's formal education on a matriculated basis, whether it be graduation from a four year undergraduate school or high school, it being understood that so long as the child is diligently pursuing his formal education through a four year undergraduate college education and obtaining passing grades the child shall not be considered emancipated.
2. Upon the completion of any of the aforesaid segments of the child's education, and upon the failure to commence the next segment of his education, or upon leaving school, the child shall be deemed emancipated unless failure to continue on with his education has resulted from injury or illness or some other cause beyond the child's control.
3. The marriage of the child.
4. Entry into the military or armed forces by the child.

This office's minimum fee for a Motion for Emancipation is \$1,500.

Your attorney can draft the appropriate Motion to terminate child support if the child is emancipated. You will need to provide your attorney with relevant papers including a copy of the Final Judgment for Divorce, any other Child Support Orders, copy of birth certificate if available, proof of graduation from school or working full time, etc.

Sometimes the child support recipient, usually the mother, will sign a Consent Order, which your attorney can file without the need for a lengthy Motion. However, generally a Formal written Notice of Motion must be filed in the County Superior Court where the child support Order was entered.

The requirements of the Motion are detailed and must include the correct filing fees. Child support does not end merely if the child reaches 18 and graduates high school. Most child support Order continue child support if the child is in college full time.

4. **Next Community events we participate in**

7/27 Hailey's Harp and Pub I

Metuchen join us for a drink after we finish Metuchen Court approx 7:45pm at the outdoor tables.

8/6 Sea Girt 5k 8:30 am Wakefern Shoprite co-sponsor FB

8/7 Belmar Tri 7am \$\$ FB

8/13/16 Asbury Sheehan 5k Asbury Park, N.J. 8:30am Wakefern ShopRite co-sponsor FB

8/20 Bradley Beach 5k 8:30 Wakefern Shoprite co-sponsor FB

8/21/16 Jersey City Triathlon or

8/21Ray Licata Long Branch Ocean Mile Swim 1 mile 8am

5. **Recent Youtube links**



Objecting to consent forms in DWI blood cases




Objections to blood tests in DWI





Driving while suspended defenses
39:3-40

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Editorial Assistance Provided by DeVante Crews. Mr. Crews is participating in Ken Vercammen's Summer Internship Program and currently a student at Rutgers University New Brunswick.

Editor's Note and Disclaimer:

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