

THE FPTR NEWS

"... useful information for clients and prospective clients."

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Attorneys at Law

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2010 OFF TO A GOOD START

Focus on People

Last year was a year of challenges. While many of our clients experienced moderate growth or held the line, some did not. We regret to acknowledge that the economic circumstances forced a few of our clients into bankruptcy or out of business completely.

But what we have noticed is something good coming out of this. Namely, clients are more efficient and more attentive to customer service. Also, the management personnel of lost clients are now engaging in other entrepreneurial enterprises for other businesses or starting off on their own. Most impressive are the former owners who have pulled themselves up by the proverbial boot straps and are at it again. Our hats are off to this "can do" spirit!

We here at Fischer Porter Thomas & Reinfeld, P.C., like to think we are made of the same stern stuff. We tightened our belts and have insisted that we deliver even better service to our clients. "Clients Come First" is not just a slogan, it is a cultural environment, and the partners, associates, and staff are committed to meeting your needs in 2010.

In these newsletters, we usually feature the work of the firm and its partners. In this issue, we would like to focus on and celebrate our newest

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N.J. PROPERTY TAX APPEALS

April 1 Deadline Nears

As you are well aware, real estate values have been steadily declining Nationwide over the past year. Since your real estate taxes are based on the property's value, your property assessment may not reflect current market value. You may be paying more than your fair share of property taxes.

We at Fischer Porter Thomas & Reinfeld, P.C. may be able to assist you as a residential or commercial property owner to reduce your real estate taxes. If you own residential or commercial property and you believe that your real estate taxes are unfairly excessive, please contact Legal Assistant, Natasha Maldonado, to initiate a tax appeal. You can call 201-569-5959 or send Ms. Maldonado an e-mail at nmaldonado@fpmtlaw.com. Be sure to have your current tax bill available. You will only be required to pay the filing fees and the cost of the appraisal in advance, which you may do by credit card, and our legal fee will be only 25% of any tax savings over a three-year period we achieve for you.

*You may be paying
more than your fair share
of property taxes.*

To be eligible for real estate tax relief for this year, Appeals must be filed on or before April 1, 2010. Accordingly, time is of the essence. So do not delay. Contact Natasha. - JJR

Fischer Porter Thomas & Reinfeld, PC is a multi-service law firm dedicated to providing high quality legal services with offices in Bergen County, New Jersey; Rockland and Westchester Counties, New York; and New York City. Our attorneys' experience and ability to handle a broad range of legal matters enables us to offer comprehensive legal assistance to new and existing clients. Visit our web site to learn more.
www.fpmtlaw.com

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attorneys. Each of them bring something special to the firm and we are grateful for their talents and hard, dedicated work for our clients.

Melissa Suarez, of counsel to the firm, is a graduate of Kean University and the Benjamin N. Cardozo School of Law. Melissa has long had her own firm and joins with us to serve her growing client base and to complement our need to serve a diverse community of clients. She focuses her practice on real estate, municipal court, and matrimonial matters, including same-sex family matters. Melissa was honored with an appointment by the New Jersey Supreme Court to the Attorney District Ethics Committee for the 2007-2011 term. An emerging leader in the Bergen County community and fluent in Spanish, Melissa is active in the Hispanic Chamber of Commerce and the Rainbow Families of New Jersey. She is admitted to practice in New Jersey and New York.

Aaron E. Albert is a graduate of Columbia University and the Rutgers Law School-Newark where he received his law degree with Highest Honors (yep, number one in his class) and received a

number of awards for academic achievement. Practicing law is Aaron's second career. For many years, Aaron was a top executive with a software and systems engineering firm. Today -- it may come as no surprise -- Aaron focuses his legal practice on complex litigation, particularly those matters involving intellectual property and business operations. He is admitted to practice in New Jersey and New York.

We are particularly happy to welcome to the firm full-time two of our former law clerks. Law clerks are law students who work for the firm part-time learning the ins and outs of practicing law. Yes, you might say they do the grunt work, and you would be correct. Yet there is nothing more inspiring and invigorating for us veterans of the bar than to see bright-eyed law students discover the "real" practice of law (and not what they watch on television) and for them to come to realize that serving clients is the true calling for lawyers.

Robert W. Ratish is a graduate of New York University and the Rutgers Law School-Newark where he served as Editor-in-Chief of the Rutgers Computer & Technology Law Journal. After getting his law degree, Rob clerked for the Honorable Edith Payne of the New Jersey Appellate Division. Rob, too, is on his second career having worked as a newspaper reporter out of college, including a stint with The Record, one of New Jersey's largest newspapers. Rob uses all of his talents for clients, such as discovering the important details while staying focused on the client's big picture. Rob is admitted to practice in New Jersey and New York.

Albert Kwon is a graduate of Boston College and the Rutgers Law School-Newark. Albert clerked for us during his second and third years of law school and proved to us many times he has the tireless dedication needed to get the job done for our clients. Born of Korean immigrants, Albert was educated both here in the United States and Korea and thus brings a varied perspective unlike any other. Fluent in Korean, he remains active in the Korean community. Brilliant, sharp, and possessed with the driest wit, Albert tackles client's legal problems with relish. He is admitted to practice in New Jersey; he passed the New York bar exam and now awaits admission in that State. -ALP

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For more information or to learn about Fischer Porter Thomas & Reinfeld, P.C., and our firm's services and experience, see our website at www.fpmtlaw.com or call telephone number (201) 569-5959 and ask to speak with one of our partners:

Arthur "Scott" L. Porter, Jr.
aporter@fpmtlaw.com

Alan C. Thomas
athomas@fpmtlaw.com

Joel J. Reinfeld
jreinfeld@fpmtlaw.com

Jay D. Fischer
jfischer@fpmtlaw.com

Our address in New Jersey is 180 Sylvan Avenue (Route 9W), Englewood Cliffs, NJ 07632.

Shameless Plug

Will This Happen to You?

With all of the economic challenges we face, businesses and individuals make painful cuts in spending, whether it is in the employee ranks, employee and executive perks, marketing, and technology or product development. It comes as no surprise that legal services are often relegated to the back burner. Experience teaches that some of these cuts are penny-wise and pound-foolish, especially when faced with intrinsically legal situations and when the time comes to execute important legal documents.

Two litigation cases we recently handled illustrate the point – both involve clients who asked us after it was all over, “how could we have avoided this law suit?” In one case, the clients had been general partners in a limited partnership. Significant changes in their personal lives opened up the opportunity for their third partner to wrest total control of the partnership and its valuable property. Our clients were convinced to amend the partnership and become limited partners. They did this without first seeking the advice of their own attorneys because they wanted to save money. Instead, they relied on the long-time attorney for the partnership without realizing this attorney’s loyalties resided elsewhere. Acrimony quickly ensued as the third partner, now the sole general partner, began making decisions that general partners are entitled to make, including compensation for services rendered by the general partner (above and beyond his share of the partnership income). Our clients were mystified about how the other guy “could get away with this.”

Who knows? Maybe even with their own attorneys the clients would have signed that amendment due to the changes in their personal lives or because they were willing to accept the risk. But if they had hired us back then, they would not have agreed to it without first being advised of the ramifications and the fundamental changes afoot. In other words, they would not have been surprised by the totally expected. In the end, we were able to wrest significant sums for our clients, but not as much as we would have liked.

In another case, a successful national corporate client was signing up customers in New Jersey using

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CASE REPORT AND OPINION

Searching Your Kid’s Car at School

The New Jersey Supreme Court ruled that a public school may search a student’s car when the car is parked on school property. This decision is the latest expansion of a school’s powers to conduct police work under the guise of maintaining the safety and security of all students.

In State v. Best, the school investigated whether Best sold a green pill to another student who appeared ill. Although suspecting criminal activity, the school did not call the police or tell Best he had the right to remain silent or of his right to a lawyer. Best was physically searched and only white pills were found. Nutritional supplements, Best claimed, and he admitted to selling one to the ill student. From there, the school official searched Best’s backpack and locker but found nothing. Recalling that Best had checked his car into the school’s auto shop for service, the school searched the car and found drugs and paraphernalia. The police were called and Best was arrested. His pre-trial motion to suppress the seized evidence at trial was denied.

The central issue in school cases is whether a “reasonable search and seizure” by a school of a student on school grounds must satisfy the warrant requirement and meet the probable cause standard outlined in our Federal and State Constitutions. Both the U.S. and NJ Supreme Courts have carved out exceptions to allow warrantless searches when there is probable cause and an emergency (danger to officers or others, flight of the suspect, etc.).

In the 1980’s case, In the Matter of TLO, the New Jersey Supreme Court and the U.S. Supreme Court ruled that the school setting justifies an exception to both the warrant requirement AND the probable cause requirement. They ruled that so long as a school official has “reasonable suspicion” of improper activity and the scope of the search is reasonable under the circumstances, the search is proper and the evidence discovered is admissible at trial. The Courts justify this extraordinary exception because of the responsibility of school officials to maintain safety on school property. In other words, just because the suspicious activity occurs on school grounds, schools have MORE power to invade the privacy of students than the police.

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Shameless Plug *(continued from page 3)*

the same contract forms they used in other states. They declined to seek advice from New Jersey lawyers about this State's requirements for commercial and consumer contracts. We recognized the problem as soon as the paperwork hit our desks yet pressed forward on all contract terms as a matter of litigation strategy. As expected, enforcing the form contract terms and conditions - which were in a document separate from the contract form signed by the customers - was problematic. Despite what the court described as strong and "nearly convincing" arguments, the court ruled the client's records were insufficient to prove the terms and conditions were part of the contract. While we prevailed on the main claims the client was unable to collect on almost \$50,000 in the interest charges and other costs (including attorneys' fees) the terms and conditions might have allowed.

In this latter case, it can be said that when deciding to enter the New Jersey market the client made a calculated risk assessment and decided the cost of seeking advice from New Jersey lawyers and changing their contract forms was not worth the cost. You decide for yourself, was it worth not investing in attorneys and printing costs and at the risk of forfeiting tens of thousands of dollars in one case and with many more cases with bigger stakes yet to litigate? You can bet the client is making that investment now.

If you are facing legal issues, but doubt you have the money to invest in attorney fees, give us a call anyway. We can highlight issues and give you some ideas to think about. At least then you will be able to make an educated choice about whether to invest in attorney time and get comprehensive advice before you make a really big decision that can make or break your future. All it takes is a telephone call. -ACT

CASE REPORT *(cont'd from page 3)*

The TLO decision was wrongly decided for two basic reasons: (1) it permits schools to act as agents of law enforcement, something of which school officials are ill-equipped and untrained to be and fraught with the danger of rogue conduct; and (2) the Court fails to appreciate the damage to the academic environment by school officials acting as law enforcement officers, which is greater than the supposed threat to school safety posed by requiring the same probable cause standard required of real law enforcement officers.

A school should be a refuge for enlightenment, and having school officials who inspire and mentor is of paramount importance. Such an environment cannot exist unless the rights of all actors - teachers, administrators, AND students - are given utmost protection, including the right to be safe and secure in one's person and with one's possessions. If a school reasonably suspects foul play, the school should call upon the police to do what the police do best and leave for the school what it does best.

The Best case is just another in the erosion of the principle first announced in Tinker v. Des Moines School District by the U.S. Supreme Court in 1969. Back then the high court said a student does not lose his constitutional rights just because he steps through the school house door. Yet, in reality, they do. Since TLO, schools have been permitted to search a student's clothing, backpack, and locker without a warrant and without probable cause. Searching a student's automobile parked on school property, therefore, was of little moment.

Finally, in this era of suspicion and distrust of just about all that government does, and the inherent belief that most government is corrupt or inefficient, it is incredible that we feel secure enough to entrust one agency of government - the local school district - with the power to invade the privacy and property of those whom we hold most dear, our children. -ACT

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