



Mason, Griffin & Pierson, P.C.
Counsellors at Law • Since 1955

Estate Planning Seminar

Valerie L. Howe, Esq., L.L.M., and J. George Reilly, Associate Financial Planner with MetLife, will present a seminar addressing estate tax planning and financial planning under the new tax laws. The free seminar will be held on Wednesday, July 23 at 6:30 pm at the Nassau Club in Princeton and is open to the public. Call 609-436-1205 or email Leslie@mgplaw.com to register.

Safe Summer Driving

by Kevin P. McManimon, Esq.

Now that the winter weather has lifted, many drivers will respond with a wide smile and a heavy foot. It is almost unavoidable - even the best and most cautious drivers among us, finally finding open roads, cannot help themselves. Such drivers may also be looking forward to something unfamiliar - a date in Municipal Court to face a ticket for speeding or a related traffic offense. Inexperience may lead many such drivers to do the only thing they think possible - plead guilty, pay a fine and take the points and insurance surcharge that accompany the violation.

If you find yourself in this situation, however, there is an alternative. In 2000, the New Jersey Legislature enacted N.J.S.A. 39:4-97.2, entitled "Operating a Motor Vehicle in an Unsafe Manner." Municipal prosecutors often allow drivers with little or no history of moving violations to plead guilty to this offense rather than the violation with which they were charged. The advantage to the

continued on back

SUMMER 2003



Counsellor

Timely News and Information from Mason, Griffin & Pierson, P.C.

BUYING OR SELLING A HOME: THE BENEFITS OF LEGAL REPRESENTATION

by Allison S. Zangrilli, Esq.

When buying or selling a home, the benefits of legal representation are well worth the cost. Considering the potential pitfalls, the federal and state laws involved, and the strict legal and contractual obligations placed on the parties, one of the wisest decisions a party to a real estate transaction can make is to seek competent legal representation prior to or, if an attorney review provision is included, immediately upon the signing of the contract of sale. This ensures that you have an experienced professional representing your interests, negotiating on your behalf, explaining the many documents involved in the transaction, working to keep the transaction on track, and avoiding unnecessary delay of the closing.

• Your Attorney Represents Your Interests

The attorney you retain to represent you will be the only professional involved in the transaction whose sole purpose is to protect your interests. Neither your real estate agent nor a title agency can offer you legal advice. If a title company closes your real estate transaction, you pay for that service and do not receive the benefit of legal counsel. Also, when refinancing an existing home, legal representation will simplify the transaction, and ensure that you are fully informed regarding the loan documents you will be signing.

• Your Attorney Negotiates on Your Behalf

A party who retains an attorney prior to the effective date of a contract of sale will be at an advantage throughout the transaction. The contract of sale sets forth the rights and obligations of the parties and is the most important document in the real estate transaction. An attorney will propose changes to the contract in the interests of the client, readily identify potential

problems with the transaction, and know how to respond to changes requested by the other party. The advice of counsel at the contract negotiation stage will save you from being surprised by obligations the contract places on you, from missing important deadlines, and from being subject to any provisions which might be potentially costly or unfair to you. The attorney review period, if included, begins from the date the fully signed contract is delivered to both parties. Your attorney will have three days from that date, not counting weekends and legal holidays, to approve it (possibly subject to required changes), or disapprove it. If changes are made, the contract will become final when an agreed upon addendum is signed by both parties. Once the contract is finalized, the buyer will obtain inspections of the property, including building, radon, termite and possibly septic, lead paint, and private well testing, if applicable. Whether you are in the position of buying or selling, your attorney will assist you in negotiating items of concern revealed by the inspections and offer suggestions as to how to arrive at an agreement should any problems arise.

• Your Attorney Keeps You Informed and Facilitates Closing

Throughout the transaction, your attorney will answer your questions, offer legal advice, and keep you informed of any time frames, inspection obligations, problems with title, and any other issues which might affect closing. Your attorney will ensure that all open judgments and recorded liens are properly cancelled, including



continued on back

Buying or Selling a Home *continued from front*

home equity loans or lines of credit, which is required even if no money has been advanced. Your attorney will also explain the meaning of the lines on the property survey. In some cases, the survey might reveal an encroachment onto the property that the seller should remove, or a conservation easement or other restriction that the buyer should be familiar with before proceeding. At closing, your attorney will review and explain all of the relevant documents, including the deed of conveyance, affidavit of title, mortgage closing package, and the HUD-1 Settlement Statement setting forth the breakdown of closing costs. The attorney will also review and/or prepare any other documentation required to close the transaction, such as a use and occupancy agreement or escrow agreement, if needed. Your attorney will assist in negotiating any last minute items of concern revealed by the walk-through inspection, and ensure that all legally required certifications and approvals are produced. In addition, your attorney will attend to post-closing items such as the recording of the deed and mortgage, transmittal of loan pay-offs and release of any escrows held at closing. Finally, your attorney will make you aware of matters that will make a future sale or purchase go more smoothly.

• Your Attorney Keeps the Transaction on Track

Legal representation from the beginning of the transaction helps to ensure that deadlines will not be missed, laws will be complied with and the appropriate municipal inspections and certifications will be

obtained in a timely manner, such as private well testing, carbon monoxide and smoke alarm certifications. Disputes between the parties may arise after the contract is entered into but before the sale. Such disputes are more likely to occur when one or both parties is unrepresented. The parties may be then forced to obtain legal counsel in order to resolve the dispute, resulting in increased costs and extensive delays.

• The Cost of Legal Representation

Finally, buyers and sellers, and those refinancing an existing home, should remember the old adage "you get what you pay for." Attorney fees in a residential real estate transaction or refinance will vary widely, often by several hundred dollars. Considering the enormity and long-term financial effects of your transaction, engaging an experienced attorney with a reputable law firm to represent you will be money well spent and will give you peace of mind, protect your interests, avoid difficulties, delays, and expenses, and generally make your real estate transaction a more pleasant experience.

Allison S. Zangrilli, Esq. is an associate at Mason, Griffin & Pierson, P.C. She is a graduate of Rutgers Law School, Camden and is admitted to practice law in New Jersey, Pennsylvania and New York. She is a member of the Mercer County and New Jersey State Bar Associations. Ms. Zangrilli is a member of the firm's Real Estate and Land Use Practice Group and can be reached at 609-436-1214.

Safe Summer Driving *continued from front*

driver is that he or she will face much more tolerable penalties than those that accompany tickets for moving violations.

The penalty for a first violation of 39:4-97.2 is a fine that ranges from \$50-\$150 and, more importantly, no points. As with most statutes, the penalties increase with each successive violation, so it is not a bottomless pit of leniency. Nevertheless, if you have little or no history of moving violations, please consider this alternative before you throw yourself on the mercy of the Court. And remember – Drive Safely!

Kevin P. McManimon, Esq. is an associate at Mason, Griffin & Pierson, P.C. He is a graduate of Ralph R. Papitto School of Law at Roger Williams University, where he was Vice President of the Criminal Law Society. He was clerk to the

Honorable Alan J. Pogarsky, J.S.C., and the Honorable David J. Schroth, J.S.C. from 1996 to 1997; and was clerk to the Honorable John J. Hughes, U.S.M.J. from 1997 to 1998. Mr. McManimon served as Assistant Prosecutor of Mercer County from 1998 to 2003, during which time he earned the 2000 Mercer County Prosecutor's Office Assistant Prosecutor Recognition Award. Mr. McManimon is a member of the Criminal Justice Act Panel of the United States District Court, District of New Jersey, the Mercer County American Inn of Court, and the Mercer County Bar Association. He is a member of the firm's Litigation and Criminal Law Practice Groups.



Practice Groups

**Bankruptcy • Business & Banking • Criminal Law • Employment Law • Estates & Trusts
Family Law • Governmental Affairs • Litigation • Personal Injury • Real Estate & Land Use**



101 Poor Farm Road
Princeton, NJ 08540
609-921-6543

Mason, Griffin & Pierson, P.C.
Counsellors at Law • Since 1955

32 Church Street
Flemington, NJ 08822
908-782-2900

www.mgplaw.com