

# OCTOBER 2019 NEWSLETTER

**POZZUOLO RODDEN, P.C.  
COUNSELORS AT LAW  
THE BYE-BENSON HOUSE  
2033 WALNUT STREET, PHILADELPHIA, PA 19103  
215-977-8200**

[www.pozzuolo.com](http://www.pozzuolo.com)



## CHILD CUSTODY RELOCATION RULES & REQUIREMENTS

### FIRM ANNOUNCEMENTS

#### A. AWARDS:

1. Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo has been named a 2019 Philadelphia Life Magazine and Suburban Life Magazine , Top Attorney for Business Law/Commercial Litigation and Estate Planning and Estate Administration.

#### B. UPCOMING/PAST SEMINARS:

1. Joseph R. Pozzuolo, Esquire will be presenting the following two continuing legal and accounting education (CLE/CPE) webinar seminars for Clear Law Institute:
  - A) Fundamental Estate Planning Techniques and Accessories For The 21<sup>st</sup> Century- An Overview For The Suburban General Practitioner And CPA Including Ethics: Wednesday, November 20, 2019 at 1pm; and,
  - B) The Fundamentals of Estate Administration for The Suburban General Practitioner, A Step By Step Procedure With Ethics: Wednesday, December 4, 2019 at 1pm.

2. Jeffrey S. Pozzuolo, Esquire presented a CLE/CPE webinar seminar for Clear Law Institute titled “Estate Planning for the Millennial Couple” on October 10, 2019.

Please contact Christine Wainwright at: [Chrissy@Pozzuolo.com](mailto:Chrissy@Pozzuolo.com) for details if you would like the online details to attend any of these CLE/CPE seminars.

C. BLOGS:

1. The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website [www.pozzuolo.com](http://www.pozzuolo.com) during the past month:

- a. Objector To Accounting of Power Of Attorney Agent Sanctioned For Dilatory, Obdurate And Vexations Conduct;
- b. Successor SPCA Had Standing on Its Claim It Is Intended Beneficiary Under Trust; and,
- c. Petitioner Failed To Establish A Breach of Fiduciary Duty By Trustee Sufficient To Require Removal.

**Please visit our website [www.pozzuolo.com](http://www.pozzuolo.com) for more information on these and other relevant business, tax, estates, business litigation and employment topics.**

2. The following are a few of the family law blogs posted on our family law website [www.pozzuolofamilylaw.com](http://www.pozzuolofamilylaw.com) during the past month:

- a. Mother’s Relocation to Another State With Minor Child Would Improve Child’s Quality Of Life;
- b. Court Denies Absent Father Money From Son’s Wrongful Death Case; and,
- c. Wife’s Survivor Benefit Should Have Been Included In The Equitable Distribution Of Marital Assets.

**Please visit our website [www.pozzuolofamilylaw.com](http://www.pozzuolofamilylaw.com) for more information on these and other relevant family law topics.**

---

## **CHILD CUSTODY RELOCATION RULES & REQUIREMENTS**

If you share custody of your child with the child’s other parent and intend to relocate, you need to read this newsletter if you intend to relocate with your child. “Relocation” is defined as a “change in residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights.” Pennsylvania has specific statutory steps which must be followed before you are permitted to relocate with a child of whom you have shared custody, which are enumerated at 23 Pa. C.S. § 5337.

First and foremost, you are not permitted to relocate with a child unless either: (a) every individual who has custody rights to the child, by Court Order (this sometimes can include other individuals in addition to a parent - i.e. grandparents), consents to the proposed

relocation; or, (b) the Court approves the relocation. If, as in most instances, the other individual(s) who have custody rights to your child do not consent to your relocation with the child, you must provide Notice of the proposed relocation to each individual who has custody rights to the child.

Notice of the proposed relocation to each party with custody rights to your child must be sent by certified mail, return receipt requested. The Notice must be mailed: i) no later than the sixtieth (60<sup>th</sup>) day before the date of the proposed relocation; or, ii) the tenth (10) day after the date you know of the relocation, if: a) you did not know or could not have reasonably known of the proposed relocation in enough time to comply with the sixty (60) days' notice requirement; and, b) it is not reasonably possible for you to delay the date of the proposed relocation in order to comply with the sixty (60) days' notice requirement.

Unless otherwise restricted by the relocation statute, the Notice must include the following information, if available:

- (1) The address of the intended new residence;
- (2) The mailing address, if not the same as the address of the intended new residence;
- (3) Names and ages of the individuals in the new residence, including individuals who intend to live in the new residence;
- (4) The home telephone number of the intended new residence, if available;
- (5) The name of the new school district and school;
- (6) The date of the proposed relocation;
- (7) The reasons for the proposed relocation;
- (8) A proposal for a revised custody schedule;
- (9) Any other information which the party proposing the relocation deems appropriate;
- (10) A counter-affidavit which can be used to object to the proposed relocation and the modification of a custody order; and
- (11) A warning to the non-relocating party that if the non-relocating party does not file with the court an objection to the proposed relocation within thirty (30) days after receipt of the notice, that party will be prevented from objecting to the relocation.

If any of the above information is not known at the time you send the Notice but later becomes available, you must then promptly inform every individual who received the Notice of the newly available information.

It is important to note that the Court can consider your failure to provide proper Notice as a factor in: (1) making a determination regarding the proposed relocation; (2) in

determining whether custody rights should be modified; (3) as a basis for ordering the return of the child to the non-relocating party if the relocation occurred without reasonable Notice; (4) to order the party proposing relocation to pay reasonable attorneys' fees and expenses incurred in objecting to the relocation; and/or, (5) as a grounds for contempt and the imposition of sanctions.

Any individual(s) who receive the Notice must file an objection to the proposed relocation with the Court within thirty (30) days of receipt of the Notice, namely by completing the above-noted counter-affidavit. If any non-relocating party objects, the Court will schedule a hearing on the proposed relocation.<sup>1</sup>

During a hearing on the proposed relocation, you, as the party proposing the relocation, have the burden of proof to establish that the relocation is in the "best interest" of your child. The Court will decide on the proposed relocation based on the following ten factors which affect your child:

- (1) The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the non-relocating party, siblings and other significant persons in the child's life;
- (2) The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child;
- (3) The feasibility of preserving the relationship between the non-relocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties;
- (4) The child's preference, taking into consideration the age and maturity of the child;
- (5) Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party;
- (6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity;
- (7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity;
- (8) The reasons and motivation of each party for seeking or opposing the relocation;
- (9) The present and past abuse committed by a party or member of the party's

---

<sup>1</sup> If no objections to the proposed relocation are filed, among other documentation, you must file an affidavit with the Court stating that all individuals with custodial rights were provided Notice and none of the individuals filed an objection. You must also provide proof that proper Notice was given and file a Petition, with proposed order, to confirm the relocation and modify any existing custody order.

household and whether there is a continued risk of harm to the child or an abused party;

(10) Any other factor affecting the best interest of the child.

If you are considering relocating with your child, an experienced family law attorney can provide invaluable assistance in presenting your case to the Court. Contact our Philadelphia, PA Child Relocation Attorneys at Pozzuolo Rodden, P.C. to discuss your legal options.

---

## PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: [http://pozzuolo.com/Pubs\\_Articles.shtml](http://pozzuolo.com/Pubs_Articles.shtml)

### Corporate/Tax Articles

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

### Estate Planning Articles

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning

- Divorce Raises The Need For Performing An Estate Planning Review
  - Drafting The Durable Power Of Attorney For Wealth Protection Purposes
  - Estate Planning For Pet Owners
  - Remarriage Situations Can Raise Special Estate Planning Considerations
  - Six Proven Estate Planning Techniques
  - Special Needs Trust - An Estate Planning Tool For The Disabled
  - The Limited Liability Company -A Sophisticated Tool For Estate Planning
  - Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at [INFO@POZZUOLO.COM](mailto:INFO@POZZUOLO.COM).