

to the Consolidated Police and Firemen's Pension Fund. Further, Section 7 of the same statute (R. S. 43:16-7) states that "all pensions granted under this chapter shall be exempt from execution, garnishment, attachment, sequestration or other legal process."

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: DANIEL DE BRIER,
Deputy Attorney General.

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Authorities

Statutes:

Chapter 253, P. L. 1944
Chapter 358, P. L. 1952

Cases:

Passaic Bank vs. Eelman, 116 L. 279
Newark vs. American Realty Co., 26 Misc. 240
Mechanics Finance Co. vs. Austin, 8 N. J. Misc. 582
Finnegan vs. State Board of Tax Appeals, 131 L. 276
Sganga vs. Police & Firemen's Pension Fund Commission, 2 N. J. Super. 575

APRIL 29, 1953.

HON. WILLIAM J. DEARDEN, *Director,*
Division of Motor Vehicles
State House, Trenton, N. J.

FORMAL OPINION—1953. No. 13

DEAR MR. DEARDEN:

Reference is made to your request for a formal opinion concerning the application of the provisions of Chap. 343, Laws of 1952 (R. S. 39:3-79.1).

This law provides generally for the use of mud flaps on any bus, truck, full trailer or semi-trailer of a registered gross weight exceeding three tons. The law contains the following proviso:

"This act shall not apply to pole trailers, dump trucks, tanks, or other vehicles where the construction thereof is such that complete freedom around the wheel area is necessary to secure the designed use of the vehicle."

You desire to know whether or not all the enumerated vehicles are required to have mud flaps unless they come within the provisions of the above-quoted exception.

The answer to your question is, "Yes."

It is my opinion that pole trailers, dump trucks and tanks are joined in a general classification with such other vehicles to be determined by you, the construction of

which require complete freedom around the wheel area. Pole trailers, dump trucks and tanks must also be of the type which necessitates such complete freedom as specified in the act; otherwise, they are required to be equipped with mud flaps on the rearmost wheels.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOHN J. KITCHEN,
Deputy Attorney General.

MAY 4, 1953.

HON. J. LINDSAY DEVALLIERE,
Director, Division of Budget and Accounting,
Department of the Treasury,
State House, Trenton, N. J.

FORMAL OPINION—1953. No. 14.

DEAR MR. DEVALLIERE:

Receipt is acknowledged of your request for my opinion concerning the claim submitted to you by Messrs. James M. Davis, Jr., John A. Mathews and Milton M. Conford, in the sum of \$22,500, for services rendered in connection with litigation instituted by the State of New Jersey, resulting in the voiding of the sale of the Burlington-Bristol bridge and the Tacony-Palmyra bridge.

This claim was the subject of litigation in the case of *Haines vs. Burlington County Bridge Commission*, 8 N. J. 539 (Supreme Court, 1952). There an action was instituted by Henry S. Haines and others against the Burlington County Bridge Commission and others for injunctive relief. The Superior Court, Chancery Division, allowed counsel fees to these attorneys in the sum of \$22,500 and directed payment out of the general bridge fund, and defendants appealed. The Superior Court, Appellate Division, affirmed the decree, and certification was thereupon had to the Supreme Court. The Supreme Court, Vanderbilt, C. J., held that there was no "fund in court" within the meaning of the court rule permitting allowance of fee for legal services from such fund, notwithstanding fact that property which was subject to litigation was under control of court through issuance of temporary restraints.

The claim was next discussed in the case of *Driscoll vs. Burlington-Bristol Bridge Co.*, 8 N. J. 433, 494 (Supreme Court, 1952) wherein the court held that special counsel in this litigation could not be compensated from the "bridge fund" and indicated that compensation of such a nature could be paid only by legislative appropriation.

In summarizing its conclusions on this point the Court held:

"It is apparent from the foregoing that the Legislature contemplated that special counsel for the State, its agencies or officers should be compensated out of funds appropriated by it and not by the court in a particular proceeding in which special counsel might be appearing." (page 494.)