

The Appellate Advocate:

A Recap of Recent Decisions by NJ's Appellate Courts



Mayers v. Mayers **No. A-0718-23**

At the halfway point in the year, we are as far from the holiday season as we ever get. So it makes sense to talk about a case that turns on the definition of “gift.” Or more specifically, whether a parent’s use of funds maintained in a child’s bank account must be reimbursed.

The case, *Mayers v. Mayers*, involved a dispute over a Uniform Transfers to Minors Act (UTMA) account originally set up in 2012 for Scott by his father, David. The elder Mayers also served as custodian for a separate account established for Scott’s younger brother, Eric. Between 2019 and 2021, David covered several expenses for Scott, including educational costs, a vehicle down payment, and electronics—totaling nearly \$25,000. But in March 2022, just one day before Scott turned 21—the legal age for assuming control over a UTMA account—David transferred the \$17,195.47 balance from Scott’s account into Eric’s.

Scott sued, arguing his father had no legal right to divert the money. David, in turn, claimed the transfer was justified: the funds served as reimbursement for his past out-of-pocket support. The trial court didn’t buy it—and neither did the Appellate Division.

In its decision, the appellate panel noted that the UTMA statute deems such accounts irrevocable gifts intended exclusively for the benefit of the minor, and that custodians must keep clear records and act in the minor’s best interest. “The one thing missing,” the trial court observed, was any contemporaneous documentation or record showing that the father’s payments were intended as loans. “At any time, [David] could have withdrawn the money from [the UTMA] account and reimbursed himself, but there’s no record of reimbursements,” the judge found.

Instead, the trial court ruled the payments were presumptively gifts, particularly given the parent-child relationship. New Jersey law places a high bar for rebutting that presumption: only clear, contemporaneous evidence can establish that a transfer was not a gift. David’s trial testimony, offered years after the transactions, did not meet that standard, the appellate court found, citing the New Jersey Supreme Court’s 2014 ruling in *Bhagat v. Bhagat*.

In his appeal, David argued he had no reason to know the funds were off-limits during a divorce and said his delay in seeking reimbursement stemmed from an intent to avoid violating equitable distribution rules. But the panel was unmoved. The transfer, they noted, occurred more than a year before the divorce judgment and conveniently just before Scott would have taken control of the account.

Ultimately, the court found David's explanations implausible and his actions inconsistent with his duties as a custodian. "We conclude there was ample evidence in the record to support the trial court's findings," the panel wrote, affirming the order to repay Scott in full.

At the conclusion of the classic film (and story) (and recent animated reboot), the Grinch decides largely on his own to return a sleigh of gifts to Whoville. Here, the parties needed a little help from a few New Jersey judges to determine what must be done with alleged gifts. Does Whoville have a judiciary? It's unclear. The mayor in the Jim Carrey version seemed all-powerful with no real electoral accountability . . . you know what, I'll stop before this blog goes truly sideways.

About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



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About Schenck Price

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