

Liability and the Driving Instructor



You Are The Only Driver



grizelda
"Ooh! Watch out! ... MIND THAT KERB!
... SLOW DOWN...."



3 Liability Scenarios

1. Working for a Public School
2. Working for a Private School
3. Working for Yourself

All controlled by one central premise:

YOU ARE IN CONTROL OF THE VEHICLE



Lawsuits Galore

- ▶ Negligence
- ▶ Negligent Entrustment
- ▶ Negligent Supervision
- ▶ Negligent Instruction



Elements of Negligence

- ▶ Duty
- ▶ Breach
- ▶ Causation
- ▶ Damages



“In the student driver situation, the passenger-instructor is responsible for the safe operation of the vehicle.” *Frye v. Baskin*



Fulfilling Your Legal Duty

- ▶ Your duty is assumed because you're the only licensed driver
 - You are directing the actual operation of the vehicle
- ▶ Causation begins shifting onto the unlicensed driver if they fail to listen to a proper instruction.
 - The driver is your “robot or automaton”



Working for a Public School

- ▶ Liability protected by Official Immunity
- ▶ IF working as an employee of the school district

AND in the normal course and scope of official duties



Working for a Private School

- ▶ Liability primarily on the driving instructor
- ▶ \$\$\$ on the school through *respondeat superior*
- ▶ Personal insurance excludes work activities
- ▶ Student's insurance may not cover the accident → because you're at fault...



Working for Yourself

- ▶ Liability primarily on the driving instructor
- ▶ \$\$\$ solely on you and your insurance
 - Normal auto insurance may not cover you (working)
 - Negligent entrustment if your vehicle
- ▶ Student's insurance probably not covering the accident
 - Students with disabilities (whether they told you)
 - Vehicle maintenance



Solutions

- ▶ Driving Instruction Insurance
 - Special rider on your personal policy
- ▶ Don't use your personal vehicle
- ▶ Camera (with audio) of interior and exterior

