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## Lawyers for victims' families scrutinize NTSB documents on Farmingdale High School band bus crash



The Regency Transportation charter bus that was transporting Farmingdale High School band members is removed after the crash in Orange County on Sept. 21, 2023. Credit: Howard Simmons

**By Nicholas Spangler and Robert Brodsky**

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Lawyers for families of the schoolchildren injured in the 2023 Farmingdale High School bus crash said Thursday that they were starting to comb through hundreds of pages of investigative material the National Transportation Safety Board released this week.

“There’s a tremendous amount of information in here,” said Manhattan-based lawyer Howard Raphaelson, representing the family of a Massapequa girl injured in the crash. They are suing Regency Transportation — the company that operated the bus — the school district, its board and the bus tire manufacturer. He described the documents as being "very powerful" in terms of their potential use in litigation.

The NTSB documents — 37 in all — include the agency’s "factual report" summarizing its investigation, transcribed testimony from survivors and rescuers and technical reports about the bus that on Sept. 21, 2023, was carrying 44 people from Long Island to band camp in Greeley, Pennsylvania, when it crashed on Interstate 84 in upstate Orange County. Two beloved educators, Gina Pellettiere and Beatrice Ferrari, were killed, and dozens of students were injured.

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The documents do not assign blame for the crash, which occurred after the bus’ left steering axle tire failed. The NTSB has said the crash remains under investigation while officials determine its probable cause with the intent of issuing safety recommendations to prevent similar events.

## WHAT TO KNOW

- **Lawyers for families suing over the Farmingdale band bus crash** said investigation documents released this week by the National Transportation Safety Board provided powerful information that relates to their cases.
- **A safety advocate said it was too soon to say** if seat belts — unused by almost all of the bus occupants — would have saved lives in this particular crash, though overall evidence supporting their use is strong.
- **A state bill mandating that most charter bus passengers use seat belts** passed the State Legislature in June, but Gov. Kathy Hochul has not signed it into law. A spokeswoman said the governor was reviewing the legislation.

Ronkonkoma-based Michael Della, representing a Farmingdale family suing Regency, bus driver Lisa Schaffer and the school district, homed in on references in the documents to "overdeflection" of the

steer axle tires, a phenomenon that occurs "when the tire does not have sufficient air pressure for the load that it is carrying," according to a vehicle factors report.

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He also called references in the NTSB material to the bus speed of 70.8 mph, in a 65 mph speed zone, "very significant."

For the lawyers behind roughly 30 and counting lawsuits filed in connection with the crash, "there can be multiple targets or entities that share responsibility ... NTSB can aid me in that with regard to their factual findings."

Lawyers for the defendants did not respond to requests for comment or declined to comment Thursday, but in court filings, they have generally argued that the lawsuits should be dismissed.

Manhattan-based lawyer Scott Harford, representing another Massapequa family, said the NTSB documents would be one resource among many as he and other lawyers work toward resolution of their cases, a process he estimated would take years.

Photographs of the badly damaged bus included in the documents could be powerful cues to explain to a jury "what it was like to go through this traumatic experience," and some factual details, such as a noted absence of protective caps on the valve stem of bus tires, could merit further attention by expert witnesses, Harford said. A protective cap prevents dirt and debris from accumulating and is recommended by the tire and wheel industry, according to the documents.

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Some documents, like a tire analysis by tiremaker Bridgestone that Harford said appeared to absolve the company of blame, would have to be scrutinized, Harford said. "We will have our own

people evaluate the veracity of that report," he said.

Some of the litigation will turn on matters not covered in this batch of technical documents, Harford said. "The district is a defendant, and the issue will be, what steps did the school district do to ensure they hired a safe bus company? How much did the school district research this company? Had they used this company before? How did they pick them?"

Some of the lawsuits assert that the district and the bus company should have required students to wear seat belts on the trip.

One expert focused on the apparent lack of seat belt use by almost all bus occupants, cited in the NTSB documents. The bus had seat belt signs, and in an interview with investigators Schaffer said she'd told passengers they were available but that she did not recall chaperones talking to the children about seat belts. In interviews, students told investigators they did not recall having those conversations either.

"Belts are the icons of safety," said Peter Kurdock, general counsel for the group Advocates for Highway and Auto Safety. "They save thousands of lives each year." But, he added, "We will certainly wait until NTSB issues its final report, so we can't definitely say if [Pellettiere and Ferrari], had they been wearing seat belts, their lives would have been saved."

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They are an occupant's best chance at staying inside what Kurdock called a "cocoon of safety" inside a vehicle during a crash. Without a seat belt, the chance of ejection from the vehicle, and of death, greatly increases, he said.

Alec Slatky, a spokesman for AAA Northeast, said there's "good evidence that seat belts keep people safe on charter buses, especially in rollover crashes."

He cited research, completed in 2009 from the National Highway Traffic Safety Administration, showing the installation of lap/shoulder belts on large buses "is practicable and effective and could reduce the risk of fatal injuries in rollover crashes by 77%, primarily by preventing occupant ejection."

A bill passed by state legislators in June requiring that most passengers use seat belts on charter buses has not been signed into law.

Gov. Kathy Hochul "will review the legislation," said Kara Fesolovich, a spokeswoman for the governor, in an emailed statement. She did not respond to questions about why Hochul had yet to sign the bill, nearly four months after its passage.

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"Seat belts save lives," said State Sen. Jeremy Cooney, one of the bill's sponsors, in a statement emailed by a spokesman. "In the wake of horrific accidents like the Farmingdale High School bus crash, it's our responsibility to make sure similar tragedies never occur in our state again."

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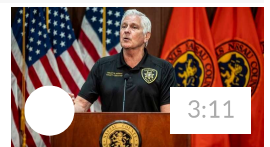
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