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## CLE On-Demand

**View and record the “Secret Words”**

**Print this form and write down all the “secret Words” during the program:**

**(Reporting the words is a required step in getting CLE Credit)**

**Word #1 was:** \_\_\_\_\_

**Word #2 was:** \_\_\_\_\_

**Word #3 was:** \_\_\_\_\_

**Word #4 was:** \_\_\_\_\_

# **GARDEN STATE CLE LESSON PLAN**

**A 1.0 credit course**

**FREE DOWNLOAD  
LESSON PLAN AND EVALUATION**

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## **VINCE AUGUST – THE POWER OF COLLEGIALITY**

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**Featuring**

**Vincent “August” Sicari**  
*Attorney and Comedian*

**Special Guest**

**Joel Gertner**

### **Program description**

We all have to make choices in life in order to pursue our passion. Vince Sicari's choice was: You can be a Judge or a professional comedian, but you can't be both. Now choose and do it quickly.

During the 4th Annual 12 Angry Credits event Vince told his story of professionalism, collegiality and important decisions.

## **I. Introduction**

- **There is a learning curve for all new attorneys**
- **The learning curve can be shortened by embracing collegiality in the practice of law**
- **Similarities between professional wrestling and the practice of law**
  - **2 men**
  - **Plan what they are going to do**
  - **Discuss what they are going to say**
  - **Then perform**
- **Advocate for clients**
- **Sense of professionalism which lawyers and wrestlers are committed**
- **Professionalism among lawyers in the form of zealous advocacy, collegiality, civility, and commitment to the judicial process**
- **Professionalism among wrestlers is a commitment to entertain fans**
- **Lawyers committed to best results for their clients**
- **Wrestlers committed to the best entertainment results for fans**
- **As lawyer and entertainer – called upon to make a monumental choice – respected judge by day and at night pursued a calling to be a standup comedian and TV star**
- **Supreme Court said he could not do both – cannot simultaneously be a judge and an entertainer**
- **Choices and Professionalism**
- **Headliner at Caroline’s on Broadway and Laugh Factory in Times Square**

## **II. In re Advisory Letter No. 3-11, 215 N.J. 49 (2013)**

- **<http://law.justia.com/cases/new-jersey/supreme-court/2013/a-23-10.html>**
- **“This appeal explores the limitations on extrajudicial activities of judges. A part-time municipal court judge has been advised by the Advisory Committee on Extrajudicial Activities...that his judicial position and his acting and comedy career are not compatible with the Code of Judicial Conduct.”**
- **Advisory letter “expressed concern that if a member of the public made the association between Vince August and Judge Sicari, then he or she might believe that Judge Sicari shares the same views as the characters he portrays.”**

- “[E]nsuring both conflict-free, fair hearings and the appearance of impartiality in municipal court is vital to maintaining public confidence in our system of justice.” *Citing State v. McCabe*, 201 NJ 34, 42 (2010)
- Municipal court judges, even part time municipal court judges, are still bound to uphold the Code of Judicial Conduct
- Canons of Judicial Conduct are not only “rules to be enforced, they also exhibit an aspirational and hortatory character.”
- Canon 1
  - “a bedrock principle that sets forth the underlying framework of a judge’s ethical requirements”
  - “requires judges to uphold the integrity and independence of the judiciary and to adhere to high standards of conduct”
- Canon 2
  - “requires judges to avoid impropriety and the appearance of impropriety in all activities”
  - “judges must respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary”
  - “judges [must] guard against the appearance of bias or partiality or the perception of prejudgment of issues likely to come before them”
- Canon 2A
  - “judges must expect to be the subject of constant public scrutiny”
  - “judges must freely and willingly accept restrictions on personal conduct that might be viewed as burdensome by the ordinary citizen”
- Canon 5
  - Judges must “conduct any extrajudicial activities in a manner to avoid cast[ing] reasonable doubt on the judge’s capacity to act impartially”
  - “a judge shall so conduct the judge’s extrajudicial activities as to minimize the risk of conflict with judicial obligations”
- Don’t represent yourself in an ethics case
- Received a great deal of support from lawyers and judges
- Remained on the bench during pendency of case because he received so much support
- Supreme Court left the decision in the hands of Sicari:

- **“Vincenzo A. Sicari, the lawyer, may be free to pursue a parallel career as an actor and comedian. Once he chose also to serve as a municipal court judge, however, he became subject to the Code of Judicial Conduct.”**
- **“He may not pursue any activity that has the capacity to demean his judicial office or causes anyone to question his impartiality.”**
- **“We...hold that Sicari may not serve as a municipal court judge while continuing his acting and comedy career.”**
- **AOC wanted him to resign**
- **Actually “won” at Supreme Court because they asked him to choose**
- **He told the truth from beginning to end**
- **Told AOC about himself – told them that he was a comedian**
- **Letter was sent from AOC for him to resign but no one ever saw the letter – years later another municipal court judge got in trouble and the letter was found and acted upon**
- **At Supreme Court – the court did not have a joke or video to make a decision – he gave them videos to Justices**
- **Nothing for him to hide – gave the Court the ammunition to make their decision**

### **III. Collegiality**

- **RPC 3.3 Candor Toward the Tribunal**
- **RPC 3.4 Fairness to Opposing Party and Counsel**
- **RPC 3.5 Impartiality and Decorum of the Tribunal**
- **RPC 3.8 Special Responsibilities of a Prosecutor**
- A. Worker’s Compensation Court**
  - **First job as an attorney**
  - **Sent to court but did not know how to handle cases**
  - **Sat in court and watched**
  - **Approached adversary at the end of the calendar and told him that he needed help and asked for help**
  - **Adversary explained how cases are worked out**
  - **Followed directions of adversary and moved over 100 cases in 6 months**
  - **Able to work things out with adversary**
  - **Honest with adversary**
- B. Bergen County Superior Court – Criminal Division**
  - **First appearance– arraignment**

- **Did not know what he needed to do**
- **Looked around courtroom and found another attorney to ask for help**
- **Told other attorney that it was his first day as a criminal defense attorney and did not know what he was supposed to do**
- **Followed directions of attorney – followed what attorney did on the record**
- **Taking notes about what to say**
- **Represented client in arraignment**
- C. First big case – road rage case**
  - **Sentencing argument**
  - **Judge screaming at him**
  - **Judge threw him out of the courtroom**
  - **Returns to the office**
  - **Judge calls him at the office that afternoon and summons him to chambers**
  - **Judge apologizes for getting too heated**
  - **Asked Judge to apologize in court, not in chambers**
  - **Next time before Judge and in court commended Judge for apologizing when he is wrong**
- D. Appearance before the Supreme Court**
  - **Tried to shake the hand of the DAG – she refused to shake his hand**
  - **Received support from the Bergen County bench**
  - **Justices wanted to hear what he had to say**
  - **DAG should give him the same respect**
  - **Unfortunate side of business**
  - **Collegiality in the practice of law – a brotherhood/fraternity – everyone trying to do something good**
  - **Lawyers want to help the client – even adversary should want the best for the client as well**
  - **Fraternity of lawyers**
  - **Relationships in business – people in business – phones are always on and people are always available**
  - **Should have camaraderie throughout the practice**
  - **Lack of collegiality should not be part of the business**

#### **IV. Supreme Court opinion**

- **Supreme Court quoted from his standup routine and pulled it out of context to make it sound like he was a bad person**
- **Supreme Court referenced his website – which was taken down when he was nominated and never went back up after he was appointed – referencing “Vinsanity” – “centerpiece of career” – Court wanted a copy of the video which he did not turn over for their review**
  - **Filmed in 2004 – 3 years before approached for being a judge and 4 years before appointed to the bench**
  - **Refused to provide because it predated when he was on the bench – where do we draw the line**
  - **Court concluded that he was hiding something because he did not want to turn over video**
  - **Did not want to be judged prior to the time he was on the bench**
  - **More than 7 years in the past**
  - **Court said that holding back video permits Court to infer that it is replete with humor befitting a judge**
  - **Capacity to demean his judicial office and not act impartially**
- **Ultimately – Court said that he should decide what do to**

#### **V. Final Thoughts on Collegiality**

- **Why are we bitter with each other? Everyone is doing a job – no reason to be nasty with adversaries**
- **He has been the benefactor of good people along the way**
- **Support from lawyers and judges across the country**
- **When decision came down – disappointed in rhetoric but has no regrets because he was honest**
- **Be honest and forthright with each other**
- **Be respectful to one another**
- **Open phone lines and open communications between attorneys**