



Garden State CLE
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Video Course Evaluation Form

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Required: When you hear the bell sound, write down the secret word that appears on your screen on this form.

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What did you like most about the seminar?

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I Certify that I watched, in its entirety, the above-listed CLE Course

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GARDEN STATE CLE LESSON PLAN

A 3.0 CLE CREDIT COURSE

FREE DOWNLOAD LESSON PLAN AND EVALUTION

PLEA ENTRY PROCEDURES

WITH

**HON. PAUL CATANESE (RET.)
PRESIDING JUDGE
MERCER COUNTY VICINAGE**

AND FEATURING

ROBERT RAMSEY, SENIOR INSTRUCTOR

Program Description

The vast majority of dispositions in municipal court are guilty pleas. As a result of this fact, judges spend most of their time on the bench taking guilty pleas and imposing sentences. Given the critical importance of these functions, judges have got to get it right every time. This 3.0 credit CLE class will provide instruction to new judges on how to properly conduct a plea entry hearing in municipal court.

I. INTRODUCTION

- **Garden State CLE**
- **Panelists**
[Hon. Paul Catanese, PJMC (ret.)
(Mercer Vicinage)
and Robert Ramsey, Senior Instructor]

II. SENTENCING: A SACRED RESPONSIBILITY

- **Rules, statutes, cases all establish the requirements of how to sentence**
- **Knowing and willing pleas are the key to a system that needs to move along**
- **Doing individual justice is the objective despite the need to move cases**
- **Strict adherence to policies are not for the Court to engage in**
- **Presentence investigations are a rarity in MC so the Judge must engage in**

III. THE PLEA PROCESS

- **The Judge is not a party to the negotiation**
- **Prosecutor should not request the Judge to participate in the process**
- **Per the Court Rules, during pretrial conferences, the Judge can inquire as to sentencing discussions**
- **The Court should not be making recommendations to the parties**
- **Understand that pleas are all or nothing propositions. The Judge cannot pick and choose parts of the sentence that he/she wants to choose and change it on the fly**

IV. THE IMPOSITION OF SENTENCE

- **Defense counsel retains the right to argue for less than the maximum but the Prosecutor may not argue for anything different than the bargain engaged in by the Prosecution**
- **Can the Court hint at the problems with the plea?**

- **Judges can mention the area of concern without saying what she wants to see done**

V. USE OF THE AUTHORIZED PLEA FORM

- **The Rules require that the DEFENDANT sign the form, not the attorney to the Defendant**
- **In certain cases, the Court may NOT need the Prosecutor: routine traffic cases without accidents or personal injuries, speeding downgrades**
- **BUT, with respect to a serious cases or those with personal injuries, the Court requires the attendance of the Prosecutor**
- **The Prosecutor must talk to the victim**
- **Prosecutor in Court for the plea: always in leaving the scene cases, drug offenses (because no Plea Bargaining is permitted), alcohol offenses, extent of injuries and PD is important for the Prosecutor to pass upon, cases involving victims, Domestic Violence cases**

VI. PLEA COLLOQUY

- **Collateral consequences: if you are aware of them, spend the time and discuss them. With respect to those of which you are generally aware, allow the Defendant time to confer with counsel. Permit the Defendant to understand that, for example, this is a second offense and you may want counsel because of mandatory jail, suspension or fine.**
- **Insurance premium increase**
- **Public office forfeiture**
- **Immigration and deportation, seeking an attorney in this area is possible**
- **Defense attorney has a role in the plea colloquy**
- **Professionalism is the rule of the day**
- **The Judge MUST participate in the colloquy to assure that all elements are included, missed elements may result in vacating the plea on appeal**
- ***State v. Smullen*, 118 N.J. 408, 571 A.2d 1305 (1990) regarding factual basis**

VII. DRIVING ABSTRACT AND

CCH PRINTOUTS

- **Required for sentencing, how can a jurist know the level of offense for sentencing without examining the history? It is impossible.**
- **AOC requirement for cases of magnitude**
- **By practice and training, CCH for criminal cases**
- **Impossible to sentence per the Court Rules without knowing the criminal case history**
- **Every case requires the history, every case**
- **HOW can a Judge sentence individually and fairly without knowing criminal history or driving history?**

VIII. ABSTRACT AND CCH, WHEN?

- **After the plea is taken but before sentencing**
- **Patel issue:**
- **Before the Defendant/Victim addresses the Court is a good time to review the information**

IX. VICTIMS AND DEFENDANTS

- **Make sure that the parties feel as though they have had their day in court by hearing them out and thanking them, etc.**

X. PLEAS AND CIVIL RESERVATIONS

- **Generally, the civil reservation is freely given**
- **Cases which deserve more careful thought about contravening the generally granted reservation include: reckless cases, careless with serious injury or death, perhaps downgraded and returned to the MC, etc.**

XI. SENTENCING A CASE ALREADY PLEADED

- **Aggravating and mitigating circumstances**
- **List them by using the words in the statute and state “why” you arrived at your conclusion as a Judge**
- **Why have you found a rebuttal against the presumption of non-incarceration and sentenced the defendant to probation or county jail time or split sentence? Spread it upon the record.**

- **Moran factors, aggravating factors, have reached from 2C violations and are now often employed in the “consequence of magnitude cases” in traffic cases**
- **State v. Moran,**
- **Anytime discretion is involved, the court needs to consider the aggravating and mitigating circumstances**