

# **GARDEN STATE CLE LESSON PLAN**

A 1.5 CLE CREDIT COURSE

## **FREE DOWNLOAD LESSON PLAN AND EVALUATION**

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### **FINE PAYMENTS AND COLLECTIONS**

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WITH

**HON. PAUL CATANESE, PJMC (RET.)**

AND FEATURING

**ROBERT RAMSEY, SENIOR INSTRUCTOR**

#### **Program Description**

This one credit CLE addresses issues related to the collection of fines and other sanctions in the municipal court as well as the tools available for judges to enforce their judgments and orders.

## **I. INTRODUCTION**

- **Garden State CLE**
- **Panelists**  
**[Hon. Paul Catanese, PJMC (ret.)/Robert Ramsey]**
- **Scope of Topic**  
**[1:11 duration and 8 pages of materials]**

## **II. JUDGES AND THE TOWNSHIPS**

- **Courts are not in the revenue production business**
- **A Judge may be called to the Township meetings regarding revenue**
- **Stand tall and maintain integrity**
- **Earn respect**
- **The new culture is slanted toward justice and not fund-raising**

### **III. DRAMATIC CHANGES IN PAST 5 YEARS**

- **Higher number of applications for Public Defenders and for time to pay fines**
- **The change is a reflection of the financial collapse in the U.S.**
- **Example: \$500 fine on first offense of Driving While Suspended. Payable irrespective of income and assets.**
- **Regressive effect**
- **Payments and payment plans should reflect both what the offense is and the ability to pay**
- **Community service may be a good alternative to non mandatory fines. Why not explore a mix of an affordable fine and service?**

#### IV. **FINE COLLECTION OPTIONS**

- **Initial threats to put defendants in jail are violations of the Rules of Judicial Conduct**
- **Time payments**
- **The Court uses the 5A Form to determine eligibility of the Defendant for time payments**
- **Avoid defendant embarrassment**
- **Payments in a day, week, month for good cause are NOT inappropriate**
- **Some Judges have a percentage policy which is acceptable, but the Court needs to let the public know that they may not have that amount of money and to either raise it or request waiver from the policy**

## **V. AUTHORITY**

- **Why not allow the deputy court administrator to work out these payment issues? That saves time and doesn't demean the court's time dealing with what amounts to nickels and dimes.**
- **It can be done. But .....some Defendants don't take it as seriously as when the judge makes the determination**
- **Judges need to sign off on each scheduled payment arrangement**
- **If greater than six months is needed, have your defendants back to Court to review the arrangements**
- **There is no magic formula: review the income and other issues**

## **VI. WHAT CAN A JUDGE DO?**

- **Allow the defendant to get a job and pay their fines. As a Judge, you will feel as though you have done some good.**
- **Due to allocation issues, the first (roughly) half goes to the State for programs like VCCA etc.**

## **VII. COLLECTION**

- **Fine the defendant**
- **Convert to Community Service**
- **Grant Jail Credits for Fines Costs and Assessments**
- **The Legislature finally granted the authority to vacate all money charges to the Defendant. NOT INITIALLY, but after given a chance to pay**
- **Look at the history of fine payments; example of 2004 offense, 2006 appearance, 2008 and 2010, same results. Now comes 2012 and the defendant is homeless and no income. That person may be an appropriate person for which to vacate the charges**
- **Decide the option of conversion to community service**

## VIII. GUIDELINES?

- **None for Municipal Court. But there are Superior Court guidelines.**
- **Fines are punishment. \$20 per day for jail time is onerous.**
- **\$20 in 1965 buys \$81 in 2007.**
- **Bearden v. Georgia, 461 U.S. 660 (1983)  
A sentencing court cannot properly revoke a defendant's probation for failure to pay a fine and make restitution, absent evidence and findings that he was responsible for the failure or that alternative forms of punishment were inadequate to meet the State's interest in punishment and deterrence. The trial court erred in automatically revoking petitioner's probation and turning the fine into a prison sentence without making such a determination.**
- **The Public Defender: there are rights to a counsel that attach to proceedings with a consequence of magnitude**

- **Some defendants have served ENOUGH time and can get time served sentences.**

#### **IX. ADVICE FOR NEW JUDGES**

- **Know your case file**
- **Watch for Superior Court sentences that you cannot change to TIME SERVED status while granting “time served” on a MC charge**
- **State v. De Bonis, 58 N.J. 182, 199-200 (1971) is critical to read. The Assignment Judges are requested, not only to see that appropriate action is taken promptly with regard to all defendants committed by the Superior Court in their county or counties, but also to follow-up to make certain that appropriate action is taken promptly by all Municipal Courts within their county or counties.**  
[http://www.judiciary.state.nj.us/directive/criminal/dir\\_10\\_70.pdf](http://www.judiciary.state.nj.us/directive/criminal/dir_10_70.pdf)
- **N.J.S.A. 2C:46-2 is like a procedural checklist for a Judge**