

**GARDEN STATE CLE LESSON PLAN**

**A 2.0 CLE CREDIT COURSE**

**FREE DOWNLOAD LESSON PLAN  
AND EVALUTION**

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**INITIAL CLIENT INTAKE INTERVIEW IN AN  
AUTOMOBILE PERSONAL INJURY CASE**

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**WITH KARL FRIEDRICHS, ESQ. AND  
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TRIAL ATTORNEY**

**AND FEATURING**

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## **I. INTRODUCTION**

## **II. ADVICE FOR THE YOUNG ATTORNEY**

### **a. The Process**

- i. Four things that happen:
  - (1) property damage (for the client to handle);
  - (2) tickets are issued (summons) and lawyers don't go to court for the traffic ticket in Municipal Court;
  - (3) Medical bills are paid by the car owned by the injured party/Plaintiff.;
  - (4) The personal injury case has possible limits with respect to verbal threshold selection made by the Plaintiff at the time they bought insurance.
- ii. Property Damage deductible of \$500 recoverable later in the process
- iii. Counsel is the filter for all things that happen related to the case

## **III. PITFALLS TO AVOID AT A MOTOR VEHICLE INTAKE**

- a. Determining what threshold applies
- b. Determining whose PIP applies
- c. Tort Claims Act Notice requirements
- d. Charitable Immunity
- e. Product Liability
- f. PLIGA issues
- g. UM/UIM issues
- h. Client intake and claims history
- i. Economic considerations in accepting a case
- j. Issues at trial-photos, expert requirements, etc
- k. Retainer Agreement (Expenses, Fee Sharing, etc.)
- l. Liens on me and your client

#### **IV. OTHER CONSIDERATIONS**

- a. The Deemer statute, N.J.S.A. 17:28-1.4, applies even if you are from Pennsylvania with a similar policy to the NJ Threshold, provided the out of state insurance company also writes policies in NJ. But similarly, a NJ accident in PA will NOT apply the NJ verbal threshold and you will have NO THRESHOLD: allowing plaintiff to bring suit irrespective of the policy limitation
- b. PLIGA, the unsatisfied claim and judgment fund.
- c. Certificate of Permanency, similar to the professional malpractice “Affidavit of Merit” requires physician’s permanency finding and meeting one of the six categories
- d. Even death and compound fractures require a Certificate of Permanency
- e. Portee v. Jaffee , 84 NJ 88 (1980) claims do not need to meet the threshold (witnessing the injury of a child resulting in parent psychological harm)

#### **V. DETERMINING WHOSE PIP APPLIES**

- a. Owner, residents, children, immediate family members,
- b. Default decision is: to a policy owned by you in the first instance
- c. Next to your household
- d. Then to the car you occupied at the time of the accident

**VI. TORT CLAIMS ACT NOTICE APPLICABILITY,  
N.J. S. A. 59:1-1 et seq.**

- 90 day notice requirement –file the claim as early as possible, make it part of your first inquiry whether the matter involved a public entity

**VII. CHARITABLE IMMUNITY**

- Non profits with a charitable function are entitled to immunity when a beneficiary is injured

**VIII. PRODUCTS LIABILITY**

- **Crashworthiness**
- **Cost factors**
- **Catastrophic injury is a necessity to take a Products case, smaller cases do not justify the investment into experts**
- **Ask yourself: what would I say to a jury about this case**

**IX. PLIGA**

- a. For unsatisfied claims: \$15,000 cap
- b. Nearly all cases are tried
- c. Example: uninsured passenger, in a car without insurance involved in an accident with another car ---which is also uninsured

## **X. UM/UIM ISSUES**

- a. Uninsured and under insured motorist coverage
- b. Covers your Plaintiff but the policyholder needs to make sure that they cover themselves to the same extent as they cover the stranger who may be in an accident with your client
- c. No stacking: anti-stacking provisions require that you compare your coverage with the other driver. You must have greater coverage than the other driver in order to recover under UIM . A Longworth letter is required under NJ law.

## **XI. CLIENT INTAKE AND CLAIMS HISTORY**

- a. Intake is a pitfall for all counsel
- b. See Davidson v. Slater, 189 N.J. 166 (2007) and Polk v. Caconceicao, 268 N.J. Super. 568 (App. Div. 1993) regarding prior injuries.
- c. Develop a good intake form
- d. Disorderly persons offenses and arrests as well as convictions
- e. Sports injuries, workers compensation claims, etc.
- f. Economic and non economic damages, lost wages, etc. Is an economist justified in this case?
- g. Limitation on Lawsuit Threshold and use of an executed disclosure form

## **XII. ECONOMIC CONSIDERATIONS IN ACCEPTING A CASE**

- a. Is there value? Is there enough value?
- b. Are you in for the long haul?
- c. Logistics
- d. Costs of Physicians

### **XIII. ISSUES AT TRIAL-PHOTOS AND EXPERT REQUIRMENTS**

### **XIV. RETAINER AGREEMENT (EXPENSES, FEE SHARING, ETC)**

- a. Who pays the costs: counsel or client? When do they pay?
- b. Referral fees are paid only if the payment is made by a Certified Civil Trial Attorney and the referral fee needs to be fully disclosed

### **XV. LIENS ON CLAIM AND YOUR CLIENT**

- a. Child Support Liens
- b. Medical liens for treatment related to the action
- c. Tax liens

### **XVI. ADVICE FOR YOUNG LAWYERS**

- a. Like your client, if you don't then the jury won't
- b. Don't accept the case unless you are ready to try it.

# Initial Client Intake Interview in an Automobile/Personal Injury Case

NJCLES.com

A whole lot can go wrong if you don't get it right during the initial client in-take interview process. An invaluable lesson for younger attorneys, learn about how to properly set your client's expectations. And in an area that is daunting and often confusing to clients, learn how to be well prepared to tell clients exactly what it means to be involved in an automobile P/I case and to deal with insurance companies.

*This program covers:*

- 1) Determining What Threshold Applies
- 2) Determining Whose PIP Applies
- 3) Tort Claims Act Notice Requirements
- 4) Charitable Immunity
- 5) Product Liability
- 6) PLIGA Issues

- 7) UM/UIM Issues
- 8) Client Intake and Claims History
- 9) Economic Consideration in Accepting a Case
- 10) Issues at Trial - Photos, Expert Requirements, Etc.
- 11) Retainer Agreement (Expenses, Fee Sharing, Etc.)
- 12) Liens on Me & Your Client