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# **GARDEN STATE CLE LESSON PLAN**

**A 1.0 credit course**

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LESSON PLAN AND EVALUATION**

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## **REPRESENTING AN AUTOMOBILE DEALERSHIP**

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**With**

**Robert Del Sordo, Esq.**  
*Mayor*

**And featuring**

**Robert Ramsey, Senior Instructor**

### **Program description**

Hey! Here's a good question. Since it is usually legal for lawyers to drive a car on a Sunday, why are they (and everyone else) absolutely forbidden from buying a new motor vehicle in New Jersey on Sundays? The answer to this and many other mysteries of the Garden State motor vehicle sales industry will be answered for you in "Representing an Automobile Dealership".

**I. Introduction**

- **Robert Del Sordo, Esq.**
- **Mayor**

**II. New Jersey Sales Model**

- **People go to salesroom, people look at model they want, paperwork is completed, financing may not be completed, but customer is able to take car home**
- **People get a chance to show the car to their family and friends with hopes that they will want to keep the car**
- **Called “spot delivery” – the nemesis of every dealer in NJ**
- **Customers sign a document that if cannot get financing then must return car – only works if they use the dealer plate**
- **Dealers don’t want to lose dealer plates for the weekend – so instead use private plates of customers and then put temporary registration on vehicle**
- **With temporary registration, in the eyes of NJ DMV that vehicle has been titled to that owner – cannot remove the temporary**
- **So if person does not get financing, person must return the car – person must turn over car – most people will return but some people will not and will force dealership to get financing from anywhere to complete the deal**
- **Title is considered passed even if it has not been paid for – temporary tag that vehicle is now property of person to whom registration was issued**

**III. Internet has changed business**

- **More savvy customers**
- **Internet has allowed people to be more informed consumers**
- **Dealerships must have to address these issues**
- **Certain people who dealers call “internet customers” – person has contacted all dealers in area and wants to pay \$X for this car and whoever gets closest to that price will get the sale**
- **Another type of internet customer: customer who has researched vehicle and knows cost and that you have the vehicle and is interested in that car**
- **Another type: “real internet customer” – comes in with Kellie bluebook value and wants that money for his trade in**

- **Most of people may have knowledge of your stock and what they think is the invoice on the vehicle and the price for your trade in**
- **Rebates are always possible – not something that internet customers will know**

#### IV. **Fundamental NJ law**

- **How many cars do you need to sell in order to be considered a car dealer?**
- **DMV says that if you transfer more than 5 cars per year then you are a car dealer and must have the requisite paperwork**
- **Avoid the DMV regulations then cars are in different family member's name, a number of cars less than the 5 to avoid DMV regulations**
- **“curb a car” – the “dealer” does not have a lot but will put the car at a gas station, or somewhere for sale as if the car was “their” car**
- **“jumping a title” – “dealers” will buy car from a person and have the seller sign the title over, but will not transfer title at DMV, then when they go to resell the car, the buyer signs and it looks as if the original seller sold to the current buyer and the “dealer” just has the money from the profit made**
- **Make sure you fill out the title because it is an “open title” – because the vehicle remains in the name of the seller and therefore that seller is liable for the vehicle until title is transferred**
- **When sell vehicle make a copy of front and back of title and be sure to complete in its entirety**
- **When not taking title, then not collecting sales tax**

#### V. **Consumers selling cars**

- **Complete full title, front and back and make a copy**
- **Put buyer's name and information on the back, all information, including driver's license, and personal information – protect yourself**
- **Real dealers will take sales tax and turn it over to DMV/State of NJ, while private sales you must go to DMV and pay sales tax**

- VI. **You want to become a dealer...now what?**
- **Location – restricted, most towns don’t allow used car dealers – must have physical location – cannot have internet/virtual company**
  - **DMV wants to be able to send inspectors to check paperwork on every car**
  - **Apply to DMV and complete application – simple application – must be signed by zoning officer or town clerk that it is an approved location – without signature you cannot go further**
  - **If you have a licensed dealership available, there are a number of people who are interested in purchasing – “a little nest egg”**
  - **Inventory must be on the premises – periodically send people to check inventory – “floor planning check” – person who is there to check inventory must complete by hand VIN numbers for various vehicles (like fill in the blank because some numbers are missing) – insures physical observation of the vehicles**
  - **Criteria for future success as a dealer:**
    - **Exposure to traffic**
    - **Nearness to places to dispose of vehicles (Bordentown)**
      - **NADE – National Auto Dealers Exchange – part of Manheim Auto Group – auto auction where a dealer can either dispose of inventory or can purchase inventory – mostly used cars, may be some instances of cars that are not titled – open only to dealers**
      - **Pay a fee at the auctions to register as seller and pay a fee to buy a car, at NADE pay additional amount for title insurance to insure good title**
      - **Cars sold in various conditions, from perfect to “as is”**
  - **Why do dealerships go out of business?**
    - **Marketing**
    - **Demographics change**
    - **Buildings get deteriorated – franchise dealers eventually have to spend money to upgrade the building**
    - **what products they are selling**
    - **poor management**

- **Saturn – GM had to refine their business plan but Saturn (as well as Oldsmobile, Pontiac, and Hummer) did not fit into the new business plan**
- **Consumer trend**
  - **Car manufacturers are updating vehicles, i.e. trucks have more luxurious interiors**
  - **Used to be that pickup trucks were associated with farmers – now they are more acceptable as 2<sup>nd</sup> or 3<sup>rd</sup> vehicles in a household**
  - **SUVs have replaced station wagons**
- **Attorneys for dealerships must know various issues**
  - **Must discuss with dealers –**
    - **ordinance issues,**
    - **how receptive is the municipality,**
    - **is zoning there,**
    - **is planning there,**
    - **is location there,**
    - **financial stability**
    - **DMV wants to know if you have experience – simple experience (i.e. worked for dealer, been a mechanic) – appeal procedure if you are denied license – DMV does not want dealership to fail**
    - **Keeping proper records**
    - **Remitting sales tax, etc.**
- **Dealers who have license come to attorney’s office for advice**
  - **Should a dealer have their own inventory or have a “floor plan”**
    - **Floor plan – costs 1% of month but leaves you with capital to conduct your business**
    - **Unless you have \$\$ it is too expensive to have your own inventory**
    - **Floor plan – how does it work? – depends on bank, may be interest only, loan is secured by the dealer signature and real estate**
    - **“curtailment” – banks periodically look at performance and if there are no problems and paid debt, banks want financing paper to have customer come to their bank to finance the individual customer’s car – “working relationship” with this bank and those with prime credit scores are**



- **Within 10 days after filing a complaint you must notify Attorney General – most attorneys and most judges don't know this – but can dismiss treble damages if this step is not completed**
- **Under the law, attorneys fees and treble damages can be awarded**
- **Advise dealership/clients to have a 'war chest' available – budget item to draw from in order to pay a claim as opposed to risking a consumer fraud case**
- **Advise clients to do the following:**
  - **Check any vehicle and records of maintenance for each vehicle – to determine whether knew of deficiency in car, i.e. if had bad CarFax, have buyers sign bad CarFax so that people are aware, be upfront about car's issues**
  - **Tell people about financing and any hidden charges – be up front – go over contract line by line**
  - **Videotape "front end problems" – he didn't tell me claims**
  - **Training issue employee handbook prepared by the attorney**
  - **Careful about who you hire – no licensing for auto sales in NJ, but licensing does exist in PA**

**VIII. Lemon Law, NJS 56:12-29 through 49**

- **Not as bad for new car dealer and used car dealers – there are both types of lemon laws**
- **New car lemon law – if there are complaints, then manufacturer addresses these issues, complaints name dealer but dealer takes a back door and manufacturer usually deals with the complaint**
- **Used to have to go to arbitration, but not anymore – dealers liked arbitration because arbitrators knew a bit about cars and the business**
- **Used car lemon laws state that any vehicle under 60K miles falls within statute, therefore at auction 61K is advertised because then lemon laws do not apply**
- **Remedy to consumer – can return vehicle and all money returned plus attorney fees; complete fraud = treble damages, owner can keep vehicle, and attorney gets paid**



- **Attorneys who do this type of work have mechanics that work for law firm and mechanic will then determine if there is an issue with your car and now is the expert in the case**
- **Mentality that used car dealers are lying**

**IX. Car leases**

- **Big deposit up front and the limitations on mileage that you can drive**
- **Dealer is trying to create used car market**
- **Dealer makes money servicing and selling used cars**
- **When return the vehicle on a lease then there are all kinds of fees involved for minor damage and for mileage overages**
- **More people are leasing now – used to be the businesses were the only lessors**
- **Dealers are able to get the leasing companies to accept lesser quality creditors because they don't lose title to the vehicle – no repossession**
- **Financing companies are bundling their loans**

**X. Hybrid dealerships**

- **Motorcycle dealerships**
  - **Manufacturers are sometimes connected to automobile manufacturers – so quality of dealer is close or the same as new auto dealer**
  - **Same licensing**
  - **Issue of whether can sell used motorcycles if you are a car dealer, or vice versa**
  - **Their money is made in service department**
  - **“poker runs” – motorcycle rides to motorcycle shop – marketing**
- **Commercial trucking**
  - **Licensed as new car dealership**
  - **Dealer must be careful not putting intentionally dangerous vehicle on the road**
  - **Most very reputable because cannot afford to put bad truck on the road**
  - **Mostly dealing with big corporations – so not so much dealing with consumer fraud**
- **Pickup trucks, vans, buses**
  - **No different legal issues**

- **Pick up trucks and vans sold by regular dealerships**
  - **Larger vehicles for construction**
    - **GM will not sell anything directly – marketing dealers**
    - **Not applicable for NJ consumer fraud because usually a business to business transaction**
  - **Japanese commitment to total quality assurance**
    - **Limitation on importation – NO**
    - **If you have a truck that is not made in US, then 25% tariff put on the vehicle when imported**
    - **As long as 75% is assembled in US, then no tariff**
- XI. **Future for dealers??**
- **Virtual location v. physical location?**
  - **For a profit motive, least amount of money spent on location is greater amount of profit – but not a “complete” dealership**
  - **Location is needed – very difficult for DMV to let people be internet dealers**
- XII. **What is so wrong with the idea of buying a car at a dealership on a Sunday??**
- **Dealers want to be closed – have a day off**
  - **Dealers used to closed on Fridays at 5pm – then more aggressive dealers were staying open later**
  - **Most of new car dealers are closed on Sunday and as long as no one pushes for it, then it is not problematic**
  - **Blue laws prohibit but ultimately dealers are not pushing for it**
- XIII. **Important advice to those who want to be car dealers**
- **Be financially stable and have decent background to conduct business in profitable manner**
  - **Location**