



Garden State CLE  
 21 Winthrop Road • Lawrenceville, New Jersey 08648  
 (609) 895-0046 fax- 609-895-1899  
[Atty2starz@aol.com](mailto:Atty2starz@aol.com)

## Video Course Evaluation Form

Attorney Name \_\_\_\_\_

Atty ID number for Pennsylvania: \_\_\_\_\_

Name of Course You Just Watched \_\_\_\_\_

### Please Circle the Appropriate Answer

Instructors:      Poor              Satisfactory              Good              Excellent

Materials:        Poor              Satisfactory              Good              Excellent

CLE Rating:      Poor              Satisfactory              Good              Excellent

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

Word #1 was: \_\_\_\_\_ Word #2 was: \_\_\_\_\_

Word #3 was: \_\_\_\_\_ Word #4 was: \_\_\_\_\_

What did you like most about the seminar?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

What criticisms, if any, do you have?

\_\_\_\_\_  
 \_\_\_\_\_

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

Signature \_\_\_\_\_ Date \_\_\_\_\_

# **GARDEN STATE CLE LESSON PLAN**

A 1.0 CLE CREDIT COURSE

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

---

### **THE NEW JERSEY SPILL ACT**

---

WITH

**R. KEVIN McGRORY, ESQ.  
AND MARYLOU DELAHANTY, ESQ.**

AND FEATURING

**ROBERT RAMSEY, SENIOR INSTRUCTOR**

#### **Program Description**

This 1 credit course provides the CLE student with all of the basics you need when confronted with an underground storage tank issue and other environmental problems as provided by two seasoned practitioners from the environmental arena.

## **I. INTRODUCTION**

**CITATION: N.J.S.A. § 58:10-23.11(f)(2)**

## **II. UNDERGROUND STORAGE TANKS AND LIABILITY OF THE PURCHASER: BUYER BEWARE**

- a. Oil and petroleum products, most commonly underground storage tanks for residential fuel oil
- b. Septic
- c. Other conditions can impact the residential real estate closing. Example: lead paint, asbestos,
- d. Statute imposes a due diligence requirement on Buyer that extends to the hiring of environmental experts for inspection, testing and certification
- e. Testing: is there water in tank, pressure testing, asking the age (20 year maximum give or take), soil bores,
- f. Leaching can affect a property

### **III. TESTING COST ISSUES AND ALLOCATION OF COST ISSUES**

### **IV. THE PROCESS**

- a. Notification requirement: immediately to Spill Hotline at NJ DEP
- b. Testing company and others have obligations to report
- c. Spill Act number assigned
- d. UHOT (Unregulated Heating Oil Tank) Rules, N.J.A.C. 7:14B
- e. CERCLA (Comprehensive Environmental Response, Compensation and Liability Act), 42 U.S.C. § 960
- f. Costs to remediate soil contamination
- g. Passive migration to neighbor property and ground water contamination can be a good thing: insurance covers impact to third parties and NJ groundwater is owned by the State of New Jersey

h. Policies of Insurance

i. Coverage Issues

**V. CASE HANDLING**

a. Duration

b. Litigation or settlement

c. Cooperative insurance carrier?

d. Litigation for years?

e. The Absolute Pollution Clause (exclusion) in insurance policies

f. Dry cleaner e.g.

g. Landfill e.g.

h. Stacking of policies

- i. Public funds procedure
- j. The Spill Fund
- k. Dept. of Community Affairs v. Wertheimer, 177 N.J. Super. 595 (App. Div. 1980) and deadline enlargement

## **VI. BAD FAITH CASE AGAINST INSURANCE COMPANY**

- a. Pickett v. Lloyds of London, 131 N.J. 457 (1993) allowed consequential damages. No exemplary or punitive damages.
- b. Pickett differs from Rova Farms.  
Rova Farms v. Investors Insurance of America ,  
65 N.J. 474 (1974)
- c. Universal-Rundle v. Commercial Ins. Co., 319 N.J. Super. 223 (App. Div. 1999) if the insurers decision was fairly debatable, the insurer will not be exposed to claims of bad faith, etc.
- d. Morton International v. General Accident, 134 N.J. 1 (1993), cert. denied, 114 S. Ct. 2764(1994).

Regulatory estoppel case. No coverage for intent to pollute per usual insurance law coverage decisions.