

NJ Laws Email Newsletter E372

Kenneth Vercammen, Attorney at Law

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Greetings Kenneth Vercammen,

1. Recent Cases: Police Should Not Destroy Initial Notes. State v. W.B. 205 NJ 588 (2011)

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1. Recent Cases: Police Should Not Destroy Initial Notes. State v. W.B. 205 NJ 588 (2011)

2. Officer Not Always Permitted to Render Opinion. State v. McLean 205 NJ 438 (2011)

3. Spanish Refusal

After producing their final reports, law enforcement officers may not destroy contemporaneous notes of interviews and observations at the scene of a crime. Our criminal discovery rules provide for discovery of all statements of witnesses and police reports that are "in the possession, custody and control of the prosecutor." Rule 3:13-3 encompasses the writings of any police officer under the prosecutor's supervision as the chief law enforcement officer of the county. If a case is referred to the prosecutor following arrest by a police officer, or on a complaint by a police officer, local law enforcement is part of the prosecutor's office for discovery purposes. Implementation of this retention and disclosure requirement is deferred for thirty days to allow prosecutors sufficient time to educate police officers. Thereafter, if an officer's notes are lost or destroyed before trial, a defendant, upon request, may be entitled to an adverse inference charge molded to the facts of the case.

**Language
Required
Retroactively.**

**2. Officer Not Always Permitted to Render
Opinion. State v. McLean 205 NJ 438 (2011)**

The opinion offered by the officer does not meet the requirements needed to qualify it as a lay opinion and permitting the officer to testify about his opinion invaded the fact-finding province of the jury. This case involved a drug dealing conviction where a detective, after testifying about transactions seen from an unmarked car while on undercover drug surveillance, opined that they were narcotics sale.

**4. Thank you
to the Friends
and Clients who
attended our
Summer Happy
Hour.**

**5. Upcoming
Events.**

**3. Spanish Refusal Language Required
Retroactively. State v Rodriguez-Alejo 419
NJ Super. 33 (App. Div. 2011)**

The court afforded State v. Marquez, 202 N.J. 485 (2010) pipeline retroactivity and reversed a breathalyzer refusal conviction because the Spanish-speaking defendant was not read the standard form information in Spanish. Although not raised on appeal, the court also noted that the conviction was flawed pursuant to our recent holding in State v. Schmidt, 414 N.J. Super. 194 (App. Div.2010), because he was not read the second portion of the standard form when he did not produce a sufficient breath sample.

**4. Thank you to the Friends and Clients
who attended our Summer Happy Hour**

Friday, July 8. We plan on making this party down the shore an annual event.

5. Next Events:

7/23/11 Ocean Grove Biathlon 2M run, 300yd swim Ocean Grove fast short event. 9am

7/26/11 Tuesday night Raritan Valley Road Runners RVRR 5k summer series New Brunswick Buccleuch Park pizza

7/30/11 Sea Girt 1 mile swim

7/30/11 Parker House Fun Run & Beer Party Sea Girt, NJ July 24, 2010 2 mile 9:47 free beer

7/31/11 JFK Hospital Roosevelt Park 5k Edison 9am

8/13 Asbury Park 5k 8:30 jsrc.org [You can do both the Triathlon and 5k in same morning]

8/14/11 Ray Licata Long Branch Ocean Mile Swim 1 mile, & 100 yards for kids, 8am Long Branch NJ 8am

8/20 Bradley Beach 5k

8/28/11 CJRR Fall Classic 8:30 Cranford

Elder Law, Estate Planning & Probate- New ideas to expand & excel your practice

**Saturday, August 6, 2011 at 2:00pm -
3:30pm**

Metro Toronto Convention Centre

ABA Annual Meeting Toronto, Canada

Learn from nationally recognized experts on using new techniques to improve service to Elder Law & Estate clients. Forms & briefs will be provided to all attendees.

Tentative Speakers: Jay Foonberg, Esq. - Author of Best Sellers "How to Start and Build a Law Practice" and "How to get and keep good clients", Beverly Hills, CA

Kenneth A. Vercammen, Esq. - co-author "Nuts & Bolts of Elder Law", Edison, NJ

Parag Patel, Esq. Iselin, NJ

Elder Law program Primary Sponsors:
General Practice Section

Co-sponsors: ABA Commission on Law & Aging, Health Law Section, YLD,

Senior Lawyers Division, Real Probate & Trust Section, Tax Law Section

Topics:

Getting referrals from other professionals
The aftermath of the Terry Schiavo case
and Living Wills.
Forms you can use
Email newsletters
How to manage telephone conversations
with your clients
Marketing with written fee agreements
-Ethics and marketing without violating
the Rules of Professional Conduct

Elder Law may be the biggest
practice area of your career. There are
50,000 baby boomers/ day turning 60 and
soon to be on Social Security and will
need legal advise. Elder Law is one of the
biggest growth fields.

[Contact Kenneth Vercammen, Esq. for
program information 732-572-0500]

Contact American Bar Association's ITS
at 800-421-0459 for ABA meeting
registration

<http://kennethvercammen.com/toronto.htm>

Editorial Assistance provided by Katarina Kozakova. Ms. Kazakova will be entering her senior year at Rutgers University and is currently participating in Kenneth Vercammen's summer internship program.

Editor's Note and Disclaimer:

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