

# **NJ LAWS EMAIL NEWSLETTER**

## **Kenneth Vercammen, Attorney at Law**

December 2014

### **Greetings!**

#### **In this issue:**

1. Ken Vercammen, family & dog wish you Happy Holidays & Christmas.
2. New Rule: Mandatory Electronic Filing in Criminal Matters Criminal.
3. No Automatic Rejection for PTI. State v Rizzitello.
4. Expert should not be permitted to testify on ultimate issue. Simms.
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  1. **Ken Vercammen, family & dog wish you Happy Holidays & Merry Christmas**



## SEASON'S GREETINGS!

In the true spirit of the Holiday and Christmas season, may we be thankful and share in the hope for peace on earth and goodwill toward all.

One of the pleasures of this holiday season is to thank many of our friends for their friendship, goodwill and the pleasant associations we have enjoyed with the hundreds of friends and professional people.

dealt with over the past several years. We sincerely appreciate relationships and are thankful for the confidence many people have shown in us. I again want to take the time to extend to these friends sincere gratitude because it is friends and new clients that help our business grow. Client recommendation is a very important way to get new clients to us.

### Recent Cases

## **2. New Rule: MANDATORY ELECTRONIC FILING IN CRIMINAL MATTERS - ECOURTS CRIMINAL**

NOTICE TO THE BAR from the Supreme Court  
This notice is to inform the bar that the Court has determined that electronic filing in Criminal matters using eCourts Criminal is mandatory effective December 15, 2016, with certain exceptions. Attached is the Court's December 5, 2016 order for effect.

As set forth in the Court's order, as of December 15, 2016, attorneys and law firms seeking to file documents in criminal matters must do so electronically through eCourts, except in the following limited instances: (1) cases not tracked in PROMIS/GaPAC; (2) expungements, gun permit filings, municipal appeals; (3) filings not part of the court's official case file, e.g., prosecutor filings pursuant to Rule 3:13-3(b)(1); (4) filings where a fee is still required, e.g., municipal appeals, expungements; and (5) Meigs County filings.

Other than in those specified limited instances, any document filing not submitted through eCourts Criminal will be returned to the filing attorney marked as "received but not filed," with notice that the document must be filed electronically within ten days of being returned in order to preserve the original received date as the filed date.

Questions regarding this notice and the Supreme Court's order should be directed to Superior Court Clerk Michelle M. Smith by email at [michelle.smith@njcourts.gov](mailto:michelle.smith@njcourts.gov) or by telephone at 609-421-6100.

Dated: December 5, 2016

Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts

### SUPREME COURT OF NEW JERSEY

Pursuant to N.J. Const. Art. VI., sec. 2 par. 3, it is ORDERED that the Rules Governing the Courts of the State of New Jersey, as amended and supplemented so as to require that effective December 1, 2016, all documents filed by attorneys in New Jersey criminal matters must be submitted electronically through eCourts Criminal, with limited exceptions as set forth in this order.

The four limited exceptions to the requirement to file all documents in Criminal matters electronically are as follows: (1) cases not filed through PROMIS/Gavel, e.g., expungements, gun permit filings, appeals; (2) filings that are not part of the court's official case file, e.g., prosecutor discovery pursuant to Rule 3:13-3(b)(1); (3) filings where a filing fee is specifically required, e.g., municipal appeals, expungements; (4) Megan's Law filings.

It is FURTHER ORDERED that effective December 15, 2016 further order, the provisions of Court Rule 1:5-6 ("Filing of Pleadings") be supplemented and relaxed so as to permit the Superior Court to return pleadings received other than electronically through e-filing by the filing party as "received but not filed" where those documents are required to be electronically filed. Those returned documents thereafter be electronically filed within 10 days of being received in order to preserve the original received date as the filed date.

Dated: December 5, 2016

Chief Justice  
For the Court

### **3. No Automatic Rejection for PTI. State v Rizzitello.**

Defendant was indicted on a single count of fourth-degree driving on a motor vehicle during the period of license suspension for a subsequent conviction for driving while intoxicated, in violation of N.J.S.A. 2C:40-26(b). The State appeals from the order of the trial court which admitted defendant into PTI over the prosecution's objection. The court reversed. The prosecutor's decision to reject defendant's application for admission into PTI did not constitute "a patent abuse of discretion" as defined by the Supreme Court in *Roseman*, 221 N.J. 611, 625 (2015).

The court rejects the prosecutor's characterization of defendant's

degree offense under N.J.S.A. 2C:40-26(b) as falling within t  
that by their very nature carry a presumption against admi  
PTI. A-0536-15T2

#### **4. Expert should not be permitted to testify on ultimate State v. Simms 224 NJ 393 (2016)**

Expert testimony that "embraces an ultimate issue to be d  
the trier of fact," N.J.R.E. 704, is not admissible unless th  
matter is beyond the ken of the average juror. State v. Nesbit  
504, 515-16, 519 (2006). Expert testimony is not necessary  
jury the "obvious" or to resolve issues that the jury can figure  
own. In addition, a prosecutor may not "summarize straightfo  
disputed evidence in the form of a hypothetical and then elicit  
opinion about what happened." State v. Sowell, 213 N.J  
(2013).

The erroneously assumed fact in the hypothetical questio  
object in defendant's hand was a bundle of heroin packe  
buttressed the State's case. It was for the jury to decide the  
the object based on an examination of the totality of the evid  
ultimate-issue testimony on conspiracy, moreover, imp  
intruded into the jury's singular role as trier of fact.

#### **5. Next events:**

**January 7, 2017**

**Secret Mystery Winter Trail Run 2.5 Mile & 5 Mile Gr**

**10:17am**

New Start Location: Secret Mystery wooded area  
North Brunswick

ONLY \$20.00 via:

<https://runsignup.com/Race/NJ/NorthBrunswick/SecretMyst>

OR

<http://www.active.com/north-brunswick-nj/running/trail-heads/mystery-winter-trail-run-2017>

**2017 update Wills and Estate Planning- Free Seminar  
Wednesday January 11, 2017  
12:15-1:00 PM and again 5:15pm-6pm**

**Law Office of Kenneth Vercammen,  
2053 Woodbridge Ave, Edison, NJ 08817**

COST: Free if you pre-register by email. Complimentary lunch provided at 12:00 sharp. We previously held this seminar at Metuchen and Edison Adult schools. This program is limited to 50 people. Please bring a canned food donation, which will be accepted at the community food bank. Please email us if you plan on attending. We would like us to email the materials.

SPEAKER: Kenneth Vercammen, Esq.

(Author- Answers to Questions About Probate)

The new NJ Probate Law made a number of substantial changes to the Probate and the Administration of Estates and Trusts in New Jersey.

Main Topics:

1. The New Probate Law and preparation of Wills
2. Increase in Federal Estate and Gift Tax exemption
3. Major changes to NJ Estate Tax & changes to taxes on effective Jan 1
4. Power of Attorney
5. Living Will
6. Administering the Estate & Probate

COMPLIMENTARY MATERIAL: Brochures on Wills, "Ar Questions about Probate" and Administration of an Estate, Attorney, Living Wills, Real Estate Sales for Seniors, and Tru

<https://www.facebook.com/events/1830658827153972/>

Co-Sponsor: Middlesex County Estate Planning Council

To attend send an email to: [VercammenLaw@Njlaws.com](mailto:VercammenLaw@Njlaws.com)