

**NJ LAWS EMAIL
NEWSLETTER E471
Kenneth Vercammen,
Attorney at Law**

June 17, 2015 ☐☐ **Greetings!** ☐☐ **In this Issue:**

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2. Police needed warrant for blood taking after DWI event in 2010 case, no good faith exception for police actions.
3. Ten year step down in DWI also applies to refusal.
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5. Upcoming Community Events
6. For Rent Coffee Shop/Deli- 2045 Woodbridge Avenue, Edison, NJ 08817 Available Immediately... Price Reduced

E471

**1. Clients, Friends, Professionals, 5k runners,
Attorneys, Law Enforcement invited to Happy
Hour & Networking Social**

July 17, 2015 Friday
at Bar Anticipation

703 16th Avenue Lake Como/ Belmar, NJ 07719
Free !

5:30-7:55PM Hot & Cold Buffet

The reduced price Happy Hour is 6-7PM
with \$1.50 House Drink, Bud/BudLt draft & House
Wine Special

Please bring a canned food donation for a
community food bank, continuing to provide food
and help to individuals in need.

Email Ken Vercammen's Law Office so we can
put your name on the VIP list for
wristbands. VercammenLaw@Njlaws.com

This event will also be the Kenneth Vercammen
Law Office

30th Anniversary Party

"Celebrating 30 years of providing excellent service
to clients and the community"

1985-2015

Co-Sponsors are Greater Monmouth Chamber
of Commerce, Monmouth County Bar

Association, NJAWBO (NJ Association of Women Business Owners) Retired Police & Fire Middlesex Monmouth Local 9, NJ State Bar Association Criminal Law Section, Young Lawyers Division, Elder and Disability Law Section, Real Property, Trust and Estate Law Section, Minorities in the Profession Section MIPS, Women in the Profession Section WIPS, LGBT Rights Section, Special Civil Part Special Committee, Lakewood Chamber of Commerce, and 8 other sections and committees

If your group, non-profit or organization wishes to co-sponsor the next networking happy hour, please contact:

KENNETH VERCAMMEN, Esq.

2053 Woodbridge Ave. Edison, NJ 08817732-572-0500

VercammenLaw@Njlaws.com

2. Police needed warrant for blood taking after DWI event in 2010 case, no good faith exception for police actions. State v. Adkins ___ NJ ___ (2015) (A-91-13).

In this appeal of a 2010 ticket, the Court considers the application of the United States Supreme Court's decision in Missouri v. McNeely,

___ U.S. ___, 133 S. Ct. 1552, 185 L. Ed. 2d 696 (2013), to a case involving a blood draw, for purposes of determining blood alcohol content (BAC), that took place before the McNeely decision was issued.

McNeely's pronouncement on the [Fourth Amendment's](#) requirements must apply retroactively to cases that were in the pipeline when McNeely was issued. Accordingly, the Appellate Division's judgment is reversed. The matter is remanded to allow the State and defendant the opportunity to re-present their respective positions on exigency in a hearing on defendant's motion to suppress the admissibility of the blood test results. In that hearing, potential dissipation of the evidence may be given substantial weight as a factor to be considered in the totality of the circumstances. The reviewing court must focus on the objective exigency of the circumstances faced by the officers.

3. Ten year step down in DWI also applies to refusal. State v Taylor ___ NJ Super. ___ (App. Div. 2015) (A-3923-13T2).

In 2013, defendant Thomas Taylor entered a conditional guilty plea to refusal to submit to a

breath test, N.J.S.A. 39:4-50.2, reserving the right "to appeal [] any and all issues, including sentencing." Although defendant had no prior convictions for refusal, he had two prior convictions for driving while intoxicated (DWI), N.J.S.A. 39-4-50, in 1985 and 1996. The trial court sentenced defendant as a "third offender," using his DWI convictions to enhance the penalty for his refusal conviction.

On appeal, defendant argues that the "step-down" provision of the DWI statute, N.J.S.A. 39:4-50(a)(3), should apply so as to reduce his refusal conviction from a third to a second offense for sentencing purposes since it followed more than ten years after his second DWI conviction. The court agreed and held that where the penalty attendant to a driver's refusal conviction is enhanced by a prior conviction under the DWI statute, fairness dictates that it be similarly reduced by the sentencing leniency accorded a driver under the "step-down" provision of that statute when there is a hiatus of ten years or more between offenses.

4. 6/21 Happy Father's Dad to my Dad, Al Vercammen, veteran of Korean War, past president Metuchen First Aid, and a volunteer

leader of the YMCA Indian Guides. As a kid one of my highlights was to sit in the Metuchen First Aid ambulance and hit the siren as we rode in the Metuchen Memorial Day parade. Dad was selected as Man of the Year by the Metuchen Jaycees for his volunteer work. Dad and mom traveled to Scranton while I was in college to see Mike Brennan and I win a race for the University of Scranton Varsity Cross-Country team. We enjoy spending time every Memorial Day, 4th of July and Labor Day at their Poconos Lake house, plus their Active Adult Community Pool in Jackson on Father's Day.

5. Upcoming Events:

6/27 Union Beach 5k

6/28 Lager Run 5k Glen Ridge 5pm free beer

6. For Rent Coffee Shop/Deli- 2045 Woodbridge Avenue, Edison, NJ 08817 Available Immediately... Price Reduced

Great Store Front On Corner Lot. Great Location For A New Deli, Coffee Shop Or other Personal Service Business. New tile floor, freshly painted, and other recent remodeling. Approximately 700 Sq. Ft. Reduced to \$1500 per month. For more

information or to schedule a time to see space please contact:

<http://michaelmcdonaldrealestateblog.blogspot.com/2015/04/for-commercial-lease-2045-woodbridge.html>

Listed by:

Michael McDonald, Realtor

Keller Williams Elite

481 Memorial Parkway

Metuchen, NJ 08840

732-429-8707 □ □ □ □ Editor's Note and Disclaimer:

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KENNETH VERCAMMEN & ASSOCIATES, PC

ATTORNEY AT LAW

2053 Woodbridge Ave.

Edison, NJ 08817

(Phone) 732-572-0500

(Fax) 732-572-0030

website: www.njlaws.com