

KENNETH VERCAMMEN & ASSOCIATES, PC
ATTORNEY AT LAW

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DATE

ADDRESS

att:

RE: Private prosecution

vs _____

D/O

Summons:

Offense:

Dear

Please be advised that I represent the defendant in the above entitled matter. Kindly enter my appearance for said defendant and a plea of "NOT GUILTY". If you have a private attorney handling this case, please forward this letter to your attorney for response and have your attorney contact me immediately upon receipt of this letter.

Cases are often resolved without a trial. We wish to resolve this matter without a full trial. If this matter can be resolved without a trial, please contact my office.

Under Rule 3:13-3, Rule 7:7-7(b) Demand is made that you and the complainant provide us with discovery. Please forward to me all documents which you have in your possession or which are in your possession or in the possession of any law enforcement agency involved in this case. This is your responsibility when you file a complaint. If full discovery is not received, we will make a motion under Rule 1:6-2 to have the complaint dismissed with prejudice.

The Court Rule 7:7-7(b) require that the complainant or prosecutor provide the defense with the following:

- (1) books, tangible objects, papers or documents obtained from or belonging to the defendant;
- (2) records of statements or confessions, signed or unsigned, by the defendant or copies thereof, and a summary of any admissions or declarations against penal interest made by the defendant that are known to the you but are not recorded;
- (3) grand jury proceedings recorded pursuant to R.3:6-6;

- (4) results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the matter or copies thereof, which are within the possession, custody or control of the prosecuting attorney [or you];
- (5) reports or records of defendant's prior convictions;
- (6) books, papers, documents, or copies thereof, or tangible objects, buildings or places which are within the possession, custody or control of the government;
- (7) **names and addresses of any persons whom the prosecuting attorney [or you] knows to have relevant evidence or information including a designation by prosecuting attorney [or you] as to which of those persons prosecuting attorney [or you] may call as witnesses;**
- (8) record of statements, signed or unsigned, by such persons described in subsection (7) above of this rule or by co-defendants which are within the possession, custody or control of prosecuting attorney [or you] and any relevant records of prior conviction of those persons;
- (9) police reports which are within the possession, custody, or control of prosecuting attorney [or you] ;
- (10) warrants, which have been completely executed, and the papers accompanying them including the affidavits, transcript or summary of any oral testimony, return and inventory;
- (11) names and addresses of each person whom prosecuting attorney [or you] expect to call to trial as an expert witness, his qualifications, the subject matter on which the expert is expected to testify, a copy of the report, if any, of such expert witness, or if no report is prepared, a statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. If this information is requested and not furnished, the expert witness may, upon application by the defendant, be barred from testifying at trial.

In addition, each request is specifically sought under the rule of Brady v Maryland, 373 U.S. 83 (1963) and its progeny, and State v Polasky 216 N.J. Super. 549 (Law Div. 1986). Unless all requested discovery is received, the defense will also object to any attempt to introduce documents at trial. If you will be serving as the private complainant/ prosecutor, State v Storm 141 N.J. 245 (1995) ; State v Imperiale 773 F. Supp. 747 (D. NJ 1991) and State v Cantor 221 NJ Super. 219 (App. Div. 1987) require you to follow all applicable ethical, procedural and constitutional rules, such as the duty to disclose exculpatory evidence and not pursue prosecutions lacking in cause. We reserve the right to seek attorneys fees against the complainant under 2A:15- 59.1.

Very truly yours,

KENNETH VERCAMMEN

KAV/
cc: client