

Law and Life Newsletter

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Legal Lead Story: Comparative Fault Comes to North Carolina? A Move to Balance the Scales of Justice but Your Help is Needed!

When most of us were growing up, our parents taught us to take responsibility for our actions. Unfortunately, one key aspect of North Carolina law does not reflect this lesson.

Imagine a scenario where Jimmy is driving 60 mph in a 55 mph zone but has a green light and proceeds through a four-way intersection. Imagine at that same moment Kasey is driving under the influence of alcohol and runs the red light smashing into Jimmy's vehicle and seriously injuring Jimmy. In North Carolina, despite the fact Jimmy had the green light he will not recover anything because he was speeding. This is a simplistic but realistic example of how *contributory negligence* works. He who is injured must not be negligent in any way lest he recover nothing. This legal principle deviates sharply from the theory that when an incident occurs everyone should bear some responsibility for the consequences of their actions.

North Carolina is one of only four states that still

apply contributory negligence. The other 46 states apply the doctrine of *comparative fault* which allows a judge or jury to assign fault to both parties and reduce (or possibly deny) the recovery of the injured party based on the injured party's proportion of fault in causing the incident which led to the injury. Going back to our Jimmy and Kasey example but reviewing it in a pure comparative fault context, if a jury was to find Jimmy 20% at fault and Kasey 80% at fault in causing the vehicle collision, Jimmy's jury verdict would be reduced by 20%. This would seem to be a fair method of compensating Jimmy yet reducing his compensation due to his own negligence.

A group of lawyers in North Carolina is working to change the antiquated contributory negligence system. The North Carolina Advocates of Justice, of which I am a long-time active member, is lobbying the NC General Assembly to pass House Bill 813/Senate Bill 679. On May 13th, the bill

passed the House and moved to the Senate for review and an eventual vote. Your help is needed to convince our Senators to pass this bill and do away with the outdated and unfair doctrine of contributory negligence. Please contact your Senator and tell them to vote in favor of Senate Bill 679. To find your local senator go to <http://www.ncleg.net/gascripts/members/memberList.pl?sChamber=Senate> or <http://capwiz.com/ncat/directory/statedir.tt?state=NC&lvl=state>

It is our hope that the people of North Carolina and our lawmakers are ready for a system of justice that places fault where it belongs and avoids the current system of claims denial by insurance companies for parties who bear blame for causing injury and damages. Thanks in advance for your help and we will all await the outcome!
-OLO

Referrals Welcomed!

Some of the best new clients are those referred by former or current clients. All referrals of your family, friends, colleagues, and acquaintances are very much welcome. Attorney John O'Neal has experience in various legal areas and can often provide referrals to attorneys who practice in legal areas and geographical areas in which he does not practice. The O'Neal Law Office sincerely appreciates all referrals you provide.



Lawsuit

In North Carolina state court, a lawsuit (also called a complaint) will often state the plaintiff is seeking an amount more than or less than \$10,000.00. This is due to a general rule that, in some types of lawsuits, you are not allowed to state the amount of compensation sought. Also, the amount sought plays a role in determining in which court your case belongs.

Often a lawsuit will not

contain every factual detail involved in the dispute or the case. This omission is usually a strategic decision. The more specific your lawsuit, the more you are "locking yourself" in to certain facts and claims. The majority of states, including North Carolina, only require a lawsuit to contain the facts and information reasonably necessary to put the defendant(s) on notice of your claims and damages you are seeking.

Each defendant (the person or party you are suing) must be served with the lawsuit and a summons. Once the defendant is served, he or she has a legally prescribed time to respond to the lawsuit. A defendant's response to your lawsuit is your first formal look into how the case will be defended and what issues may be raised. The next phase of the case is the discovery phase which we will cover later. -OLO

UNCG Spartan Spotlight---Giving Back

UNCG means many things to many people. If you received a degree from UNCG you received a valuable education and other benefits/resources. To repay this debt and maintain the cycle, you must adhere to the University's motto of "service". While donating money is the most commonly realized

means of giving back or serving, there are many other ways to support one's alma mater. Here are some other ways to support UNCG:

- Mentor a current Spartan student
- Contact the department from which you received your degree and volunteer your time and resources as a speaker or point of

contact

- Notify the [UNCG Dept. of Advancement Services](#) of fellow alums who may be in a position to make gifts to UNCG

- [Share your UNCG story](#)

For other ways to support your alma mater, visit http://www.freewebs.com/uncg_famjam/howtostayconnected.htm. Thanks for your help. Go Spartans! -OLO

No Smoking...Coming to a Restaurant or Bar Near You in NC!

On May 19, 2009, North Carolina Governor Beverly Perdue signed [House Bill 2](#) which prohibits smoking in all restaurants and public bars in NC. The law becomes effective on Jan 2, 2010 which gives smokers time to strongly consider quitting (and actually quit) the harmful habit. The ability to eat and drink in a smoke-free environment will be a breath of fresh air indeed!

Healthful Hints: Lighten Your Load for Summer

Here are a few tips to lighten your load so you can make the most of your summer and beyond:

- Sharply limit your big, stuff-yourself, snooze-inducing meals. Eating small meals every 4-5 hours helps your metabolism and the consistency of your energy throughout the day.
- Limit your consumption of fried foods. Opt for grilled, baked, or steamed foods.
- Substitute fruit ices, sherbet, and frozen yogurt for ice cream and heavy desserts.
- Choose lean meats such as chicken and fish over beef, lamb, and pork.
- Eat more fruit especially citrus fruit (ex: oranges, grapefruit).

□ Eat more vegetables and drink plenty of water. Salads are great but substitute iceberg lettuce with other more flavorful and nutritious leaves like Boston lettuce, spinach, endive, Romaine lettuce, etc.

□ Limit your intake of coffee, soft drinks, and alcohol--they dehydrate you.

□ Limit your intake of junk food and sugary foods--they provide inconsistent, short-term energy not to mention empty calories.

□ Limit your salt intake. If your food needs flavor be creative and use spices or veggies or other healthy twists. Your goal should be to reduce your usage of salt to the point where you don't even buy salt.

You will not find any salt, sugar, butter, flour, or bread in my house

and I have not bought any of these items in many years. We get enough of these items—especially salt and sugar—in our food so there is no need to add more. Your body will appreciate the consideration.

Applying these tips will improve your overall health and energy level. You can use the extra energy to go for a run, take a walk, ride a bike, take a swim, play tennis or golf, or otherwise be active. The energy can also afford you more quality time with family and friends. If nothing else, you should feel lighter and maybe even be lighter (in pounds). Who says you have to limit your lightened load to the summer? Do it for the long-term and live a fuller, healthier life. -OLO



Join the UNCG license plate campaign! Download your application now: <http://www.uncg.edu/ala/downloads/applicationforuncglicenseplate.pdf>.

Check This Out! Websites for you...

www.thesimpledollar.com Great short articles and links to other information on earning, saving, and spending money. In today's challenging financial times who can't use this?

<http://feedsifter.com/create.php> This site lets you further refine the information you get via RSS feeds. Simply copy the URL for your RSS feed and place into the feedsifter. Then in the "search" box below, type your desired search terms. If you want to learn more about RSS feeds and how they can dramatically streamline your reading of Internet content, visit <http://www.whatisrss.com/> or <http://rss.softwaregarden.com/aboutrss.html>.

www.smartmoney.com Great easy-to-read and practical financial information. Advice and articles on saving, spending, and watching your money in addition to keeping up with the financial markets and latest financial news. Includes links to other financial sites such as the Wall Street Journal and Barron's. -OLO

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Consumer Law

As purchasers of goods and services, we are all consumers. Warranties are meant to provide protection for the consumer. Businesses sometimes make mistakes and seek to hold you, the customer, responsible. A dream home can turn into a house of horrors due to construction defects or structural problems. Our vehicles can drive us crazy when we experience costly problems or hidden details.

Companies and businesses can be unfair and arbitrary in their handling of consumer issues and having an experienced attorney on your side can help. For over a decade, I have represented persons across North Carolina in a [variety of legal situations and cases](#). Allow me to put my experience and resources to work for you as I have done for the following clients:

- An elderly woman is sued by credit card company---on two occasions---for over \$10,000.00 in debt she said she did not accumulate. The O'Neal Law Office is able to get the case dismissed due to insufficient evidence.
- An owner of crash-damaged vehicle takes it to a local repair shop where substandard, incomplete, and dangerous repairs are performed. The O'Neal Law Office secures a settlement shortly after a lawsuit is filed.
- A man trades in his used vehicle as part of the transaction to purchase a new vehicle. Later, the dealership pressures the man to sign several purchase documents on multiple occasions. When the man finally refuses to sign any further documents, his new vehicle is repossessed and no payoff is made on his trade-in. The man's attorney associates the O'Neal Law Office and a lawsuit is filed. Midway through the discovery process, a settlement was reached for an amount more than the cost of the vehicle the man sought to purchase.

As a consumer, you deserve to know your rights. Whether it is a contract dispute, vehicle/car problem, consumer debt issue, homeowner issue, or other situation involving a good or service you purchased contact the [O'Neal Law Office](#) for a free consultation to discuss your situation. It could be the best call you make. -OLO