



GOOD LUCK TEAM USA!



If you haven't been watching, then you should be! The Summer Olympics in London are in full swing and all of us at the Knox Law Center are proud to support Team USA. Medal or no medal, you are all winners in our eyes. Visit www.london2012.com for event information.

[Charlotte Office closed during DNC](#)

In anticipation of all the hassles flowing from being inside the security perimeter, our Charlotte office will be CLOSED during the week of September 3 for the Convention. The Mecklenburg County trial courts will also be closed, however, our Denver office, 704-827-6667, will be open and available to help.



Its Almost DNC Time! September 3rd – 6th

The DNC is almost here! Regardless of your political views, you have to be ready. It is expected that tens of thousands will be visiting Charlotte that week because, unlike conventions of the past where only media and delegates were invited, the 2012 DNC is open to the general public. It is also estimated that over 10,000 locals will be volunteering, including students from area colleges and universities who have been given the opportunity to work with the Charlotte Observer and ABC News. For more information about volunteering for the DNC, you can visit www.charlottein2012.com/involved/volunteer/.

CarolinaFest 2012, the festival which will kick off the Convention, will be held on Labor Day, September 3rd, and begin at 10am with Charlotte's Labor Day parade. Speakers will take the stage on both Trade Street and at the on Levine Avenue of the Arts. There will be plenty of activities for children and adults, including games, entertainment, interactive exhibits, and art & crafts activities.

In addition, CarolinaFest will have food vendors, music, and other forms of entertainment. Museums such as, the Bechtler Museum of Modern Art, the Gantt Center and the Mint Museum Uptown will be free of charge during CarolinaFest while others, such as the Nascar Hall of Fame, will discount their normal entry rates.

President Obama's formal acceptance speech will be held on September 6th at Bank of America Stadium.

For more information on the DNC and CarolinaFest 2012, visit www.charlottein2012.com and www.demconvention.com.



Latest Epidemic: “Distracted Walking” and Its Sister Offense: Jaywalking

Everyone at some point is probably is guilty of this act. What you may not realize is that now there is a term to describe it: “Distracted Walking.”

“Distracted Walking” is a new term that you have probably already heard being used. What is it? Metaphorically, it is the equivalent of looking in the opposite direction while walking; however, the term is used to describe the act of someone focusing their attention on their personal electronic device, i.e. IPOD or SmartPhone, and ignoring their immediate surroundings.

If you are not guilty of this act, then you have certainly come across someone in your daily routine that is. If you are walking and someone crosses your path nearly bumping into you because they are texting on their phone, you have become a “victim” of distracted walking! Other than a minor annoyance, these incidents routinely happen and are of no significance; however, this loss of awareness by distracted walkers is beginning to result in pedestrians jaywalking, stepping into traffic and being struck by oncoming vehicles, falling off curbs into traffic, etc.

It is the combination of “Distracted Driving” and “Distracted Walking” that should scare everyone. A driver texting while driving through an intersection while a pedestrian is texting while walking through the same intersection. Because neither party is aware of the other, neither looks up until it’s too late. The Charlotte Observer reports a total of 11 fatal pedestrian related accidents that have resulted in Charlotte this year and it is believed that some or even all of them may have been the result of distracted walking and/or distracted driving,

The Charlotte Mecklenburg Police Department has decided to address this issue head-on. Through August 17th, the following six locations will each have four officers assigned during the morning and evening commutes to cite drivers AND pedestrians who break the law:

1. Fourth Street at College
2. Trade Street at College
3. Fourth Street at McDowell
4. Morehead at Tryon
5. Sixth Street at Tryon

On Monday, July 30th, CMPD reportedly handed out over 40 tickets for jaywalking. Jaywalking is defined by [North Carolina General Statute §20-174](#) and tickets will cost offenders \$213 which covers court costs and fines; citations for drivers failing to yield to pedestrians will cost offenders \$223. CMPD hopes that the threat of a fine will cause people to put their smartphones and IPODS away while they are walking in the city and focus on their surroundings while moving around the city.



The Clock is Ticking--Don't Wait--Call Us Today

Written By Elizabeth Wilson, NCCP

Every day we receive phone calls or walk-in inquiries by individuals who have put off getting legal advice for their particular issue. Whether it is a criminal matter, separation/divorce, or a motor vehicle accident, all legal matters are best handled at the earliest possible opportunity.

Statutes of limitations (SOL) set time limits on your case. As a general rule of thumb, your deadline begins to run on the date your claim happens. There are specific types of cases whose SOL is defined by the date of the negligent act being discovered instead. This is an important distinction and we can help you make the determination. Once you let SOL expire or run, you can no longer file a lawsuit.

North Carolina General Statutes cover the types of cases we handle and the time period that governs them. Several examples involving civil cases include:

- **Contracts in Writing** --- 3 years from date of breach.
- **Legal Malpractice** --- depends on when malpractice is discovered, but generally 3 years
- **Personal Injury Claims** --- 3 years, but only 2 for wrongful death claims

Although you may already realize when your claim may expire, that does not mean it is wise to wait close to that date to talk with us. By waiting, it becomes more difficult to back track if you did not know the importance of documenting your claim early on. For example, taking photos of your bruises and damaged car after your wreck. Pictures add great value to your claim because they personalize your injuries in a way that documents cannot. It is more powerful to have a photo to go with your doctor's report to tell your story.

Many assume it does not require much time on our part to get the paperwork ready and file a lawsuit before your time expires. Our firm prides itself on being completely thorough in handling your case and that takes time in doing the necessary background work so that we are fully aware and prepared. We will ask many questions for needed information from you, much of which cannot be produced if too much time has passed.

We understand everyone is busy working, going to school, caring for aging parents, and raising children. You may think you will have more time tomorrow or next week to handle legal problems. We urge you to contact us early so that we can begin together to first define exactly which statute of limitations governs your case and then to start all of the necessary work to protect you and your claim.

Don't wait! Don't procrastinate! Call us today!

How do Insurance Points Affect your Auto Insurance Premiums?

Insurance Points Will Cost You Money					
Points	% of Rate Increase	Cost if Basic Rate is \$300	Points	% of Rate Increase	Cost if Basic Rate is \$300
1	25%	\$375	7	160%	\$780
2	45%	\$435	8	190%	\$870
3	60%	\$480	9	225%	\$975
4	80%	\$540	10	260%	\$1,080
5	105%	\$615	11	300%	\$1,200
6	130%	\$690	12	340%	\$1,320

The North Carolina Safe Driver Incentive Plan (SDIP) chart above says it all. These staggering percentages speak for themselves. Some drivers are simply not aware that by paying off a citation you are entering a guilty plea, accepting a conviction on your driving record.



Attorney Allen Brotherton advises that is never wise to simply pay off a ticket. “In most situations, I can negotiate a way to either completely eliminate or at least decrease the insurance points assessed for moving violations. Also, if someone has unwittingly paid off a ticket that has now caused an unexpected problem, it may not be too late for me to re-open the case and change the result.”

Please call and speak with Allen the next time you receive a traffic citation. If your ticket is in a county that Allen does not travel to, then we will refer you to someone who can help you.

For a list of moving violations and their respective insurance points and additional information regarding insurance regulations follow this link brought to you by the NC Department of Insurance: [“A Consumer’s Guide to Insurance Points from YOUR North Carolina Department of Insurance”](#).



Recently Decided Cases in N.C. That May Interest You

Two times a year, Lawyers Weekly provides a list of the most important opinions that have come down from the NC Court of Appeals and the NC Supreme Court. We review cases as they are announced on a weekly basis at our office. In reviewing this extensive list of decided opinions, we have chosen a few to pass on to our special clients that we feel impact the areas of law that would be most important to you.

Civil Practice

Dominion Radio Supply, Inc. v. Colclough

This matter dealt with the Statute of Limitations on Embezzlement and Deferred Prosecution.

Even though the defendant was not convicted of embezzling from the plaintiff, the SOL on the plaintiff’s civil claim was tolled (held open) while the defendant was placed on probation and ordered to pay restitution to plaintiff as a condition of probation. The trial court had granted the defendant’s motion to dismiss plaintiff’s claim as untimely and the Appeals court reversed the trial court.

Elliott v. KB Home North Carolina, Inc.

In this case, the plaintiffs argued that their and other homes suffered water intrusion because the defendants failed to install a weather-restrictive barrier behind the outside veneer of the HandiPlank cement fiber on the homes. The Court certified this to be a class action so the plaintiffs could proceed.

Civil Rights

Chapman v Rhoney

Exculpatory Evidence withhold by police

North Carolina has a ten-year-statute of repose regarding personal injury claims, but this statute of response would not apply to Reconstruction-Era

civil rights claims. The Magistrate Judge had recommended and granted the defendants' motions to dismiss plaintiff's obstruction of justice claim, but had denied the motion for plaintiff's claim under 42 U.S.C. Section 1983 (Civil rights)

Contract

Topp v. Big Rock Foundation, Inc.

Despite a warning not to enter a fishing contest without a license, the first mate entered the contest anyway. When the \$1,000,000 prize was in jeopardy, the plaintiffs could not show that their disqualification was arbitrary, consisted of fraud or collusion. The trial court's decision to allow the defendant's summary judgment motion was upheld.

Corporate

T-WOL, Acquisition Co. v. ECDG South, LLC.

In this matter the defendant was the sole shareholder of the plaintiff's corporation. As such, he owed no fiduciary duty to the corporation or to any individual plaintiff who may have been an officer or director of the corporation.

Criminal Practice

U.S. v Carter

A marijuana user's firearms conviction was set aside, but the government gets another chance to prove the Second Amendment does not give him the right to possess firearms for his own protection in a dangerous neighborhood.

State v. King

The defendant had agreed to a plea deal and had completed nine months of her probation and complied with all the terms of the plea agreement – even paying in full fines and costs – but the state reneged on its agreement to return her seized property. The seized money had been turned over to other agencies, but the court found the state had to return to the defendant the seized funds. The court also vacated her judgment finding her guilty of trafficking an opiate, possession of drug paraphernalia and simple possession. The court reversed the trial court that had rescinded the plea agreement.

State v Lopez

This matter dealt with search and seizure, traffic stops, consent to search and an inside air filter compartment under the hood of the defendant's vehicle. The court found the defendant's consent to search included the air filter compartment.

Domestic Relations

In re J.K.C.

This case dealt with termination of parental rights, paternity, legitimation, an amended birth certificate, etc. When a child's father's name is on the amended birth certificate there is a rebuttable presumption that he has legitimated the child. The guardian ad litem had failed to rebut that presumption at trial, and the respondent's parental rights were not subject to termination based on a failure to legitimate.

MacMillan v. MacMillan

A deceased man's first wife can sue his widow for the money a family court had ordered the man to leave to his first wife.

Tort/Negligence

Jackson v. ES&J Enterprises

This case dealt with workers' compensation and wrongful death concerning a trench worker.

The defendant company was laying pipe. The company had a policy that required any worker in the trench to wait inside the pipe while the machinery was being operated in the trench. While most in the industry did not perform the work this way, the plaintiff in this case did not meet their burden to show that the company intentionally did the work that way with the knowledge that it was substantially certain to cause serious injury or death to the deceased. This case shows how hard it is to hold an employer responsible.

Kingsley v. Brenda & Gene Lummus, Inc.

The plaintiff had hired an expert that testified over four ways how a motorcycle tire could have been punctured. The expert testified that all four of these ways were in the control of the motorcycle dealership. The employee of the dealership had replaced the tire just before the driver's accident. The expert's testimony is admissible.

Mynhardt v. Elon University

This matter dealt with an off campus fraternity party that violated University and the national fraternity party rules. The court found that even with the knowledge of the violations, the school and the national fraternity owed no duty to the plaintiff, an uninvited guest to one of the parties.

Lampkin v. Housing Management Resources, Inc.

This is a premises liability case that involved an apartment complex with a playground. The playground had a hole in the fence and the child went through the hole and fell into a frozen pond on the neighboring property.

The court held the apartment complex was not liable for the injury the child sustained on someone's property.

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