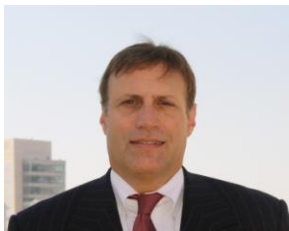




Time for another edition of the “**News You Can Use**”!
For all of those who have not received a copy of our newsletter in the past, welcome to our mailing list!

Please remember that if you would like to have your email address removed from our list, you may send an email in to knoxbrotherton@knoxlawcenter.com and we will promptly comply with your request. But we hope you choose to remain on our list so that you can benefit from the knowledge and expertise of our attorneys here at the Knox Law Center. Of course, we also include some non-legal topics of interest for your edification and reading enjoyment!

- **“I Do,” or “Do I?,”- Who Keeps the Ring if You “Don’t”**
Contributed by Michael G. Knox



We recently represented a client in resolving a dispute over a piece of jewelry that was not returned to them. We were successful in negotiating a settlement of that matter. Although it wasn't a marriage situation, it did bring up some interesting legal questions...

North Carolina still recognizes the "breach of promise to marry." Although there has not been an appellate decision on this topic since the late 60s, [see *Hutchins v. Day*, 269 NC 607 (1967)], it remains as reliable law even today. The “breach of promise” suit is based primarily on contract principles. There must be an exchange of promises and a basis for "promissory liability." Often this proof is solely from the party claiming that a promise was made and perhaps any witnesses who heard it. Often times it would be coupled with circumstantial evidence such as the parties' conduct. Is cohabitation enough? What about

sexual intimacy? As with all contracts, there must be "consideration" or something of value (the ring in this situation) —offered in exchange for an act, a service, etc. —typically, the mutual promise to marry would suffice. The church bell rings, the pews are full, and as Julia Roberts portrayed in *The Runaway Bride*, one of the key players is heading out of the church. The breach has occurred. Additionally, breaking off the engagement prior to the wedding date may be a breach as well. There are a number of defenses available. For instance, if conditions have been placed on the marriage, such as obtaining employment or graduating from school; if the parties attempted in good faith to do these things, there would be no breach if the conditions are not accomplished [see Lee's Family Law, section 1.4]. Other standard contract defenses are available as well, such as fraudulent misrepresentation, nondisclosure of serious health problems, infidelity, etc.

These types of actions are normally charged with a wide array of emotions on both sides. These cases are very complex and can take many twists and turns. If you have matters such as these that you would like to discuss with us, please do not hesitate to give us a call.

But who gets the ring!?! As you have likely discovered with most legal issues, there is no black and white- it truly just depends...

- **Good News for Car Insurance Customers-Score One for the Consumer!**

Insurance Commissioner Wayne Goodwin stepped up to the plate for all car insurance customers to protect their right to demand arbitration instead of instituting litigation under their un-underinsurance policies. The Rate Bureau had previously amended the standard personal car insurance policy to require **mutual** consent of both you, the insured, and your insurance company before a claim could proceed to arbitration. Without this provision, you would have been forced to incur filing and suit fees. Thanks to Commissioner Goodwin and the N.C. Advocates for Justice (plaintiff attorneys) for this victory for all of us.

- **Don't Neglect Your Dryer Ducts!**



According to Don Daugherty, President of Action Cleanup & Restoration, on occasion fires may occur in the home due to clogged up dryer duct lines. This is a result of lint build-up over time. According to the Consumer Safety Commission, this issue causes an estimated 16,000 homes fires each year. "If you have not had your dryer duct vent cleaned recently, then you could be at risk."

For more information, please call Action Cleanup & Restoration at 1-888-948-1933. You can also visit their website www.actionnc.com.

- **Watch for that Jury Summons!**

Contributed by Kathy Fain, NCCP, to Attorney Lisa Godfrey

Wow! Have things changed since my last Mecklenburg County jury summons experience! I reported for jury duty on Friday, February 24, 2012, in the new Mecklenburg County Courthouse. I had not received a summons since spending several hours at the old courthouse back in 1997 where I read magazines for most of the day and felt trapped until released. I was not expecting Friday's experience.

I spent my time surfing the web on one of several modern computers in the "Business Room", drinking a vanilla latte' from one of the many vending machines in the "Break Room", calling my office from the "Cell Phone Room", and watching a really good movie in the large, comfortable "Jury Gathering Room" (fresh, free popcorn is served during the afternoon movie). I did not take advantage of the game room (which, I was told, contained a foosball table and pool table along with various electronic games). If you get called for jury duty in Mecklenburg County, consider it a nice long break from your busy schedule. Anticipate that jury summons in your mailbox! Doing your civic duty has never been more relaxing and enjoyable!

- **NFL Players Sue for Damages**

Anyone catch the lawsuits filed in Ohio last week in which several former NFL players who sued the league seeking damages as a result of their alleged head injuries and concussions? The players have alleged that the league intentionally misrepresented evidence regarding the long-term consequences of concussions and head injuries. Click on the link below for more information.

<http://www.lawyersandsettlements.com/case/toradol-concussion-class-action-nfl-head-injury.html>

- **Summer Court Camp Anyone?**

The Mecklenburg County Office of the Trial Court Administrator (TCA) is accepting applications from anyone ages 14-18 to participate in their 2012 Summer Court Camp. This is a great opportunity for any young person who is considering a career in the legal field to see up close and personal how the judicial system in North Carolina works. But you had better hurry! Applications must be in no later than April 30th. For more information, please click on the link below:

www.nccourts.org/County/Mecklenburg/Community/CCamp.asp

- **Medical Malpractice Reform vs. Patients' Rights**

Contributed by Lisa Godfrey



Beginning October 1, 2011, North Carolina patients' rights to redress for negligence by physicians and other health care providers have changed substantially. S.L. 2011-400 makes sweeping changes in the law. All of these changes make it more difficult to make claims against physicians or other health care workers.

Here are some things you should know:

- Under the prior law, children who were injured had until their 19th birthday to file a claim- now most cases must be brought before a child reaches the age of 10
- The definition of health care provider has expanded to include administrators and others who do not render direct care
- Claims against ER physicians must be proven by clear and convincing evidence- this is a much more difficult burden on the patient

- Damages for suffering and permanent disability are limited to \$500,000
NO MATTER HOW SEVERE THE INJURY

These legislative reforms were passed despite evidence that in North Carolina:

- From 2007-2010, filing of medical malpractice claims decreased by 22%
- The population of doctors in North Carolina is increasing over 50% faster than the general population
- From 1999-2010, the median medical malpractice jury verdict in North Carolina was \$302,600

If you or a family member has been the victim of medical negligence since October 1, 2011, these changes WILL affect you. Let us know what you think:

lgodfrey@knoxlawcenter.com.

- **Check out what we have been doing around town ...**

We have decided each month to introduce you on a more personal level to our attorneys. This month, Frances Knox is our featured attorney. For those of you who have not had the pleasure of making her acquaintance, Frances began her career at the Knox Law Center in 1966 as a paralegal and later obtained her law degree from Wake Forest Law School. She is the wife and business partner of our Senior Managing Partner, Eddie Knox, with whom she has handled hundreds of personal injury cases over the years. But when she isn't hard at work on whatever case she may be working on for you, Frances enjoys spending time with her grandchildren and volunteering with the Cherub Choir (see below) at Bethel Presbyterian Church in Cornelius on Wednesday evenings.



Never a dull moment with Bethel Presbyterian's girls in the Cherub Choir!

Frances Knox is also a member of the Lincoln Chamber of Commerce's East Lincoln Area Council. The Council's purpose is to be aware of areas of interest for local businesses and local citizens. The group meets monthly.

And somewhere in between the practice of law and her many extra-curricular activities, she also helps organize functions hosted at the Verdict Ridge Country Club. One of the upcoming events she will be volunteering her time with is the Easter festivities at Verdict Ridge Country Club, including but not limited to the Verdict's annual Easter Egg Hunt.

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From all of us at Knox, Brotherton, Knox & Godfrey, thank you and Happy Spring!

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