



# O'Neal Law Office

## Law and Life Newsletter

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#### STATEWIDE COVERAGE.....

John O'Neal has handled cases in [Guilford](#), [Forsyth](#), [Randolph](#), [Rockingham](#), [Caswell](#), [Davidson](#), [Rowan](#), [Mecklenburg](#), [Alamance](#), [Nash](#), [Wilson](#), [Greene](#), [Pitt](#), [Richmond](#), [Craven](#) and other counties. If you would like a consultation on your legal matter, please contact the O'Neal Law Office.

## Legal Lead Story—Sue Happy? Who's Happy? The “Lawsuit Explosion”

I hear people say that they are “not the suing type” or that they are “not sue happy”. What does this really mean? There is nothing wrong with pursuing your legal rights when the circumstances suggest it is warranted. You have the right to file a lawsuit if you cannot resolve your civil dispute. This right allows you to seek protection of the law and the compensation to which you are entitled. You usually have the right to a trial before a jury of your peers. What good are the law and rights if they are not exercised?

To be clear, there are lawsuits that may appear to lack merit or that would seem trivial in nature. However, there are many factors or reasons that weigh against people filing such lawsuits. In North Carolina and many other states, plaintiffs (persons filing lawsuits) are ultimately responsible for payment of all expenses incurred in the handling of a case regardless of whether any settlement or jury verdict is received. In certain types of cases, attorneys require prospective plaintiffs to pay a certain portion of money in advance to defray these expenses which can run into the thousands of dollars. Lawsuits can drag on for years and require a substantial investment of time by the plaintiff. When faced with these facts and factors, many persons decide not to sue.

Please see *Legal Lead Story* on page 2

Coming Soon!

[www.oneallawoffice.com](http://www.oneallawoffice.com)

*Legal Lead Story* from page 1



If a lawsuit is filed, there are procedural and other safeguards to protect against unjustified and excessive jury verdicts. The Class Action Fairness Act of 2005, a federal law, limits the previous ability of plaintiffs to “forum shop” or hand-pick favorable judicial districts. The Act also makes it harder to keep class action lawsuits in state court as many of them are being “removed” to federal court which is a more challenging environment for plaintiffs. State and federal judges have become less willing to certify cases as class actions which results in some cases being voluntarily dismissed by the plaintiffs. In all cases the defendant can file motions to dismiss the plaintiff’s case at various stages of the litigation. Many times judges grant these motions. Under the Act, judges have been given more power to review and reject class action settlements. A procedural device called *remittitur* allows a judge to reduce a jury verdict that is deemed to be excessive.

Need a speaker? John O’Neal is available to speak to your group about the following topics:

- Pitfalls of personal injury
- The need for contracts
- Car law---how it affects you and protects you

The key safeguard against unwarranted, excessive verdicts is the collective decision of the individual jurors. They weigh the evidence, witnesses and arguments of the parties and their attorneys and, in the end, are charged with making a decision as to whether the plaintiff recovers and, if so, in what amount. It is meaningless and dangerous to gauge a jury verdict merely by looking at the dollar signs. If a company creates a product that it realizes is unreasonably dangerous but that can be made safe by the investment of a relatively small amount per item, why should it not pay for injuries or damage caused by a business decision? The fact of the matter is that lawsuits and jury verdicts are often more effective than laws and government agencies in changing the conduct and business practices of large companies. When valuing the life of a person and the permanent loss to her family, how much is really enough?

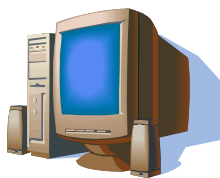
In the end, we are all one mistake, be it our own or someone else’s, away from being a plaintiff. What we must ask ourselves is do we want our recovery automatically limited before the facts of our case are even heard? The American jury system is not perfect but it is superior to other methods of jurisprudence. Companies have a right to do business and earn profits and this growth is the lifeblood of America but they, just like individuals, should be held accountable for the consequences of their mistakes. Fair enough? Fare thee well. -OLO

## Healthful Hints: Purge!

We are now approaching three months into a new year. I know some of you made resolutions or other goals relating to health and fitness and I hope you are well on your way to your desired destinations. I applaud all of you who are hard at work. Life is a constant journey and we should all be constantly improving ourselves so as to live life to the fullest. In line with the concept of living life to the fullest, I will share my five-step approach to changing your food and beverage habits, hopefully for life.

- **P= Peruse** your refrigerator, counters, cabinets, pantry and other places you store food and drink at your home. Make notes as to which items are not conducive to your fitness goals and thus should not be replaced....at least for now.
- **U=Use** up the food and beverage you have. Eat and drink the things you found in Step 1 above. Go ahead and enjoy it. It may be a while before you have these items again. However, do not feel compelled to stuff yourself silly just for the sake of getting rid of these items. It's OK to give away or throw away some of these items. The key is to get rid of them so you can start from scratch.
- **R=Revamp** your usual shopping list and **review** your food choices. Choose fresh foods (fruits, veggies) over processed (canned, boxed, packaged, frozen). Opt for water and skim or low-fat milk over juices, coffee, and carbonated beverages. Ditch the alcohol. Drop the candy, cookies, cakes and other empty carbohydrates. For breakfast foods, dump the boxed cereals and opt for oatmeal in the box but not oatmeal in the packets. Do not buy flour, sugar, or salt. Flour you do not need. Sugar and salt are all around us in other foods that we consume. Substitute whole grain rice and bread for the usual white rice and bread. Replace ground beef and pork with lean but not frozen chicken and fish. Bag the bagged chips and opt for popcorn or nuts. Believe it or not, there are many foods that are good for you that taste good too.
- **G=Go** to the store. With your revamped shopping list you will have to get used to passing some of your old friends on the store shelves and aisle displays. Wave to them and keep on going. Better food and health is around the corner, literally and figuratively. Stick to your revamped list. Your body will thank you.
- **E=Eat** and drink healthier and **exercise**. As you adjust to eating better and exercising regularly you will get more restful sleep, have more energy during the day, and generally feel better. Eat at least 4 small meals per day and drink plenty of water---at least 64 ounces per day. You can have some of your old favorites but for the first 30-45 days of your program, try to relegate the not-as-nutritious foods to the weekend or only once per week. If you stick with your new food and exercise program, your body will develop a preference for good food and kick out the not-so-good.

PURGE for at least 60 days and see if it works. What do you have to lose? Perhaps a few pounds and some stress. Who knows...you may even realize what you've been missing all this time. -OLO



Check out these websites:

- [www.donatemycellphone.org](http://www.donatemycellphone.org) Donate your old cell phone to someone who can use it for 911 calls. You can download a free mailing label but before you mail your phone, be sure to erase your personal info. For info on how to do this visit [www.komando.com/tips/index.aspx?id=1513](http://www.komando.com/tips/index.aspx?id=1513).
- <http://maps.live.com/Default.aspx?where> Great place to go for detailed maps and directions. Maps are interactive and easy to use.
- <http://sportsillustrated.cnn.com/football/nfl/teams/> For all my football fans, go to this Web page where you can click on your favorite team and save the team page on your Favorites. Each team page has standings, current news stories, pictures and links to other websites about the team. SI team pages are available for other college and pro sports such as baseball, hockey, basketball, and NASCAR! Who knew?

- <http://www.tripadvisor.com> A great place to get tons of info on your travel destination. You can read honest reviews by everyday people of hotels, restaurants, and other travel-related items. The site even allows you to search for the best rates on lodging, airfare, and rental cars by comparing rates on sites including Travelocity, Expedia, Orbitz, Hotels.com.

NOTE: The information in this newsletter is not intended to be legal advice nor is it intended as a substitute for consultation with an attorney. Specific conditions always require consultation with the appropriate legal professionals.

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