

Excerpted from the prepared statements of Frank Melton before the N.C. General Assembly.

## *Telling the Story: Jared Lee Melton and the Case Against the Doctrine of Contributory Negligence*

I experienced the most horrifying time of my life when my son, Jared Lee Melton, was hit by an automobile while crossing Monroe Road on his bicycle in April 2001. Jared died approximately four hours later at the Carolinas Medical Center.

This horror is something you never think will happen to your family. We are still suffering the anguish and pain of losing our 10-year-old son. We lost the light, joy, and love of our lives.

As if that mental anguish were not enough, we were also blindsided by a harsh and unjust law—Contributory Negligence. North Carolina in one of only four states in which the outdated doctrine of Contributory Negligence is still the law.

This doctrine states that a person injured as a result of his or her own negligence (fault) cannot recover damages from another negligent party *regardless of the relative fault of either party*. Under this law, another party could be 99 percent at fault in causing injury to you, and you would have no right to recover damages to person or property if you had contributed the other one percent of fault.

For instance, if you were driving 40 mph in a 35 mph speed zone, and another car ran a stop sign and collided with you, you would not be able to recover even the cost of car repairs from that driver—even though the collision was obviously the other driver's fault!

The doctrine of Contributory Negligence is an abomination. Contributory negligence insulates one party from any responsibility for his actions and places the entire burden on the shoulders of the injured party. It shields not only individuals, but also powerful corporations that may profit from their wrongdoing. And because the law operates to shield wrongdoers, it does nothing to discourage careless and irresponsible behavior.



Jared Lee Melton's fifth grade school picture.

The law of contributory negligence has even more unjust results in today's society than in earlier years. The impact of contributory negligence on people and families who are underemployed or unemployed is even harsher. If you have no job, you more than likely have no insurance. Even with a job, you may only be able to afford the minimum amount of insurance for you and your family.

This is part of the tragedy of this law. I was between jobs when Jared was killed; therefore, I had no insurance coverage on him. Because this antiquated law said my 10-year-old son contributed to his own death, I was stuck with the full amount of \$40,000 in medical bills.

There is no justice in losing your child to an automobile and then having to pay astronomical medical bills on top of that. No one should ever have to go through this ordeal. Unfortunately, many others do. ■