

CONTRIBUTORY NEGLIGENCE--NO DUTY TO ANTICIPATE NEGLIGENCE OF OTHERS.¹

Ordinarily a person has no duty to anticipate negligence on the part of others. In the absence of anything which gives or should give notice to the contrary, *he* has the right to assume and to act on the assumption that others will observe the rules of the road and obey the law.

However, the right to rely on this assumption is not absolute,² and if the circumstances existing at the time are such as reasonably to put a person on notice that *he* cannot rely on the assumption, *he* is under a duty to exercise that care which a reasonably careful and prudent person would exercise under the same or similar circumstances.³

¹See N.C.P.I.--Civil 102.30, footnote 1.

²The defendant, who is alleged to be negligent, may rebut this assumption. Evidence in an action for damages for injuries sustained in a collision, tending to show that the collision occurred when defendant was driving to his left of the center of the highway makes out a prima facie case of actionable negligence. The defendant, of course, may rebut the inference arising from such evidence by showing that he was on the wrong side of the road from a cause other than his own negligence. Anderson v. Webb, 267 N.C. 745, 148 S.E.2d 846 (1966).

³See, generally, Wrenn v. Waters, 227 N.C. 337, 177 S.E.2d 284 (1970); Chaffin v. Brame, 233 N.C. 377, 64 S.E.2d 276 (1951).

