

When A Sudden Emergency Is a Defense: Court of Appeal Affirms Summary Judgment  
in Fatal Automobile Collision Based Upon Sudden Emergency Doctrine

By: Edward F. Morrison, Jr., Esq.  
Larry A. Schwartz, Esq.

Under California law, under the "Sudden Emergency" or "Imminent Peril" Doctrine, a person who, without negligence on his part, is suddenly and unexpectedly confronted with a peril arising from either the actual presence, or the appearance of imminent danger to himself or to others, is not expected nor required to use the same judgement and prudence that is required of him in the exercise of ordinary care in "calmer and more deliberate moments." [Leo v. Dunham (1953) 41 Cal.2<sup>nd</sup> 712, 714] However, a party will be denied the benefit of the Sudden Emergency Doctrine where the party's negligence causes or contributes to the creation of the alleged perilous situation. [Pittman v. Boiven (1967) 249 Cal.App.2<sup>nd</sup> 207, 216]

One question that has arisen, and may complicate the defense, is the application of the Sudden Emergency Doctrine when the defendant's actions are alleged to have caused an injury to a third party. The Court of Appeal has shed significant light on that question. In the case of Halah Jawad Abdulkadhim v. Tommy Wu (2020) Westlaw WL 4593704 ("Abdulkadhim case"), Jasim Al-Kuraishi was killed in a car accident in the early morning hours of October 11, 2014. The accident occurred when Al-Kuraishi was driving approximately 70 miles per hour westbound on California Interstate Freeway 10 near Rosemead (approximately 15 miles east of downtown Los Angeles). Ahead of Al-Kuraishi in the same lane was Tommy Wu who was driving an SUV between 60 and 70 miles per hour at the time. Wu saw a car stopped in the lane he was driving about 20-30 car lengths ahead of him and changed lanes (to the left) into one of two high occupancy vehicle (HOV) lanes, and passed the stopped vehicle driving between 40-50 miles per hour. Wu was about 300'-400' past the stopped car when he saw Al-Kuraishi's vehicle crash into the stopped vehicle. The impact caused Al-Kuraishi's vehicle to leave the lane it was in and it was hit by another car that had also been traveling about 70 miles per hour in an adjacent lane. After seeing the accident in his rear view mirror, Mr. Wu stopped and called 911. A paramedic pronounced Al-Kuraishi dead at the scene.

Halah Jawad Abdulkadhim, the decedent's spouse, filed a Complaint alleging a single cause of action against Manuel Mendez, the driver of the stopped vehicle, Lesley Chavarria, the driver of the vehicle that hit Al-Kuraishi after he hit Mendez' vehicle, and the owners of the two other vehicles. Abdulkadhim then amended her Complaint to substitute Wu for a DOE defendant Abdulkadhim was the spouse of the decedent.

Wu filed an Answer to the Abdulkadhim Complaint, and then filed a Motion for Summary Judgment based upon the Sudden Emergency Doctrine. After full briefing, the Trial Court granted the Motion finding that Wu was not liable under that Doctrine as it applied to the facts of that case. On appeal, the Court of Appeal ruled that the Sudden Emergency or Peril Doctrine only applied to Wu, and specifically ruled that an emergency or peril under the Sudden Emergency or Imminent Peril Doctrine only applies to "the person alleged to have been negligent," and that it is that actor's behavior that the Doctrine excuses. The Court ruled that it is irrelevant, for purposes of the Sudden Emergency Doctrine, whether Wu's sudden lane change itself created a dangerous condition for Al-Kuraishi or anyone else, and the only issue was whether Wu faced a relevant emergency – and found that Wu had.

The Abdulkadhim case is important in that it expresses that a defendant in a personal injury action who may have created a dangerous condition due to an emergency or peril, is not liable, under the Emergency or Imminent Peril Doctrine, if the defendant was in a position where he or she had to avoid the peril.

About the Authors: Edward F. Morrison, Jr. is the founding partner and Larry A. Schwartz is Of Counsel to The Morrison Law Group, a professional corporation. Their biographies can be viewed at .

Publication Note: The Morrison Law Group wishes to disseminate this publication to all clients and colleagues of the Firm who wish to receive it. Should any recipient desire to be removed from the distribution list, or wishes to have a colleague added, please contact Jim Van Dusen at The Morrison Law Group at 213 356-5504 or .

Disclaimer Note: The legal article presented above is intended to provide general information which may be of interest or use to clients and colleagues of The Morrison Law Group and should not be construed as legal advice on any matter.