

The Sudden Emergency Doctrine as a Defense to Negligence in Motor Vehicle Accidents

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Has an emergency situation ever arisen while you were driving, such as another vehicle or object suddenly swerving into your path or a sudden coughing fit or other medical emergency? Almost everyone has had situations like this occur to them while driving, but they usually do not result in an accident. However, if an accident does occur in this emergency situation, are you liable or negligent even though the accident was due to an emergency? How do you protect yourself and your rights when an emergency situation occurs while driving?

A person can protect themselves when an emergency situation occurs while driving by using the sudden emergency doctrine. The doctrine is a defense to negligence in the subsequent case arising out of the accident. The sudden emergency doctrine may be applicable in cases of sudden illness, such as a heart attack, due to driving conditions, or due to a sudden mechanical defect, such as brake failure.

The “sudden emergency doctrine” is a defense to negligence when there is an emergency on the road that occurs suddenly, without warning, and that does not provide the driver with an opportunity to properly respond. *McKee v. Evans*, 551 A.2d 260, 273 (Pa. Super. Ct. 1988). “[T]he sudden emergency doctrine applies only to moving instrumentalities thrust into a driver’s path of travel.” *Cunningham v. Byers*, 732 A.2d 655, 658 (Pa. Super. Ct. 1999) (citing *Elder v. Orluck*, 483 A.2d 474, 482 (Pa. Super. Ct. 1984)).

The person applying the doctrine could not have created the emergency by driving carelessly or recklessly. *Lockhart v. List*, 665 A.2d 1176, 1180 (Pa. 1995) (citing *Chadwick v. Popadick*, 159 A.2d 907 (Pa. 1960)). The doctrine applies when the “defendant proves that he did not create the emergency, and where he responded in a reasonable fashion.” *Grochowalski v. Young*, 1994 U.S. Dist. LEXIS 7993, *7 (E.D. Pa. June 13, 1994) (citing *McKee*, 551 A.2d at 272-73). Examples “include a dust cloud, a moving object, a sudden blocking of the road, the sudden swerving of another vehicle, blinding lights, and a dense patch of fog.” *Cunningham*, 732 A.2d at 658 (citing *Levey v. DeNardo*, 725 A.2d 733 (Pa. 1999); *Dickens v. Barnhart*, 711 A.2d 513, 517 (Pa. Super. Ct. 1998)). If the sudden emergency doctrine is found to apply, the driver will not be held to the reasonable standard of care and will be found not to be negligent in causing the accident.

If something comes into the path of a driver, and a quick, spontaneous response is required by the driver, the sudden emergency doctrine may apply as a defense. It can be used as a defense as long as the driver did not create the emergency situation and acted reasonably in responding. For example, a sudden emergency may occur when another vehicle comes into the driver’s lane, requiring the driver to swerve to avoid the vehicle, and causing an accident. As long as the driver did not do anything to create the emergency

situation and acted reasonably by swerving, there will be a defense to negligence.

A sudden unexpected medical condition may also be a defense in a negligence action. A driver that is suddenly stricken with an illness that is not reasonably anticipated is not negligent if the illness is the only cause of the accident and there is no other lack of due care on the part of the driver. *Freifield v. Hennessy*, 353 F.2d 97, 98 (3d Cir. 1965); *Lobert v. Pack*, 9 A.2d 365, 367 (Pa. 1939); *Norvell License*, 85 Pa. D. & C. 385, 387 (Ct. Com. Pl. Lycoming County 1952). The cases where the sudden emergency doctrine is applied for unexpected medical conditions usually deal with a major medical condition, such as death, heart attack, stroke, or seizure. This defense can also apply when a driver has a coughing spell that is the sole cause of the accident. See *Norvell License*, 85 Pa. D. & C. at 387. In a case where a sudden unexpected medical condition occurred, the defendant will need evidence, usually testimony and medical records, to prove that the medical condition occurred and that the medical condition was unforeseeable.

For example, if a driver has a seizure and the seizure causes the driver to get into an accident, the sudden emergency doctrine may be a defense in a negligence action against the driver. In order for the doctrine to apply, the driver will have to prove by testimony and medical records that he suffered a seizure at the time of the accident, which was the cause of the accident. The driver will then have to prove that the seizure was unforeseeable. He can prove this by

showing that he does not have any previous history of seizures. If he did have previous history of seizures, he can show evidence that he was on medication and cleared for driving by a doctor and that it was not foreseeable that he would have a seizure on that day while he was driving. If the defendant can prove that the seizure was an unexpected medical condition, then the sudden emergency doctrine will apply and will act as a defense to the driver's negligence.

If you or one of your driver's is involved in a rear-end accident or other accident involving an emergency, you may be able to use this defense to preclude liability. Right after the accident occurs there should be an investigation. One thing to look for is whether the sudden emergency doctrine may be an applicable defense. If the doctrine could potentially be applicable, evidence should be gathered to prove that a sudden emergency occurred. Furthermore, the defendant will need testimony or other evidence to prove that the doctrine applies. If the emergency that occurred was a medical emergency, the defendant will need medical records to prove that a sudden unexpected medical condition occurred. While accidents are rarely caused by sudden emergencies, this doctrine is important because it is a defense that can eliminate a finding of negligence when there was no other way to avoid the accident.

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