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OPINION	:	No. 79-1001
	:	
of	:	<u>August 26, 1980</u>
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SUBJECT: CIVIL LIABILITY OF VOLUNTEER CPR—A volunteer rendering aid in an emergency without expectation of compensation is not liable in civil damages for terminating cardiopulmonary resuscitation (CPR) because of determination that continuing CPR would not help victim revive, unless such termination caused death or other injury and was not made in good faith. Liability would attach if rescuer was a fireman, local law enforcement officer, California Highway Patrol officer or mobile intensive care paramedic, except in certain circumstances.

The Honorable Jim Ellis, Assemblyman for the 77th Assembly District, has requested an opinion on the following question:

What is the civil liability of a volunteer rendering aid to a victim at the scene of an emergency without expectation of compensation for terminating cardiopulmonary resuscitation (CPR) because of his determination that continuing CPR would not help the victim revive?

CONCLUSION

A volunteer rendering aid to a victim at the scene of an emergency without expectation of compensation is not liable in civil damages for terminating cardiopulmonary resuscitation (CPR) because of his determination that continuing CPR would not help the victim revive unless such termination caused death or other injury and the determination to cease CPR was not made in good faith. Liability for gross negligence would also attach in such case if the rescuer was a fireman, local law enforcement officer, California Highway Patrol officer or mobile intensive care paramedic unless he was summoned as a volunteer on a search or rescue operation as provided in Government Code section 50086.

ANALYSIS

The opinion request concerns the administration of cardiopulmonary resuscitation (CPR) in a remote area where a physician may be several hours away. The request refers to the supplement to the February 18, 1974 issue of the Journal of the American Medical Association entitled, "Standards for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC)" (referred to herein as the "JAMA article") which indicates that where CPR is administered, it must continue until the victim is dead. The requestor further indicates his understanding that only a physician may declare a person dead and asks, under these circumstances, who has the legal right to declare the death of a person?

An adequate response to the request required refraining the question. The circumstances indicate a more fundamental concern than the right to articulate a declaration of death. We believe the real concern is the legal responsibility of the person administering CPR which arises out of his conduct based on a belief that the victim is dead. We refrained the question accordingly.

We commence the analysis with a brief description of CPR based on the JAMA article. "Basic life support is an emergency first aid procedure that consists of recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life until a victim recovers sufficiently to be transported or until advanced life support is available." (*Id.*, at p. 841.) When a person's heart action and breathing stops suddenly from such causes as heart attack, drowning, electrocution, choking, etc., a period of several minutes elapses before irreversible changes occur in the brain due to a lack of oxygenated blood supply. "CPR is most effective when started immediately after cardiac arrest. If cardiac arrest has persisted for more than ten minutes, cardiopulmonary resuscitation is unlikely to restore the victim to his prearrest central nervous system status." (*Id.*, at p. 849.)

If appropriate medical procedures can be administered during the period between “clinical death” (when breathing and heart action stops) and “biological death” (when irreversible brain damage results), the victim may often be revived. The basic purpose of CPR is to prolong this period of revivability until the necessary medical procedures may be performed. This is accomplished by providing the victim with a rudimentary blood oxygenation and circulation system artificially by CPR.

After verifying that the victim’s breathing and heart action has stopped the rescuer clears the victim’s air passages and positions him flat on his back on a firm surface. The rescuer then pinches the victim’s nose to block nasal air flow and then places his mouth directly over the victim’s open mouth with an airtight seal and then blows the air from his lungs into the victim’s lungs. The rescuer then removes his mouth and lets the air escape from the victim’s lungs naturally. The process is repeated providing a means of “artificial ventilation.” (*Id.*, at p. 843.) The rescuer then places the heel of his hands, one over the other, on the victim’s breastbone and with his arms straight applies his weight to force the breastbone down squeezing the heart between the breastbone and spine forcing blood into the arteries. The pressure is then released and the process is repeated providing a means of “artificial circulation.” (*Id.*, at p. 845.)

CPR is the application of these two techniques in an alternating sequence. Occasionally natural heart action and breathing are restored spontaneously during CPR, but the basic purpose of CPR is to prolong the victim’s revivability until appropriate medical procedures can be applied.

Pages 864 and 865 of the JAMA article discuss medicolegal considerations of CPR and makes the following statement which prompted this opinion request:

“The nonphysician who initiates basic or advanced life support should continue his resuscitation efforts until one of the following: occurs:

“1. Effective spontaneous circulation and ventilation have been restored,

“2. Resuscitation efforts have been transferred to another responsible person who continues basic life support,

“3. A physician or a physician-directed individual or team assumes responsibility,

“4. The victim is transferred to properly trained and designated professional medical or allied health personnel charged with responsibilities

for emergency medical services, or

“5. The rescuer is exhausted and unable to continue resuscitation.”

This statement suggests that the rescuer may not stop CPR unless the victim revives, help arrives or he is exhausted, regardless of circumstances which may indicate his efforts are useless.

The statutory basis for civil liability for one’s noncontractual conduct is found in the following sections of the Civil Code:

“§ 1708. *Abstinence from injury.* Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his rights.”

“§ 1714. (a) Every one is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself. The extent of liability in such cases is defined by the Title on Compensatory Relief.”

“§ 3333. *Breach of obligation other than contract.* For the breach of an obligation not arising from contract, the measure of damages, except where otherwise expressly provided by this Code, is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not.”

“§ 3294. In an action for the breach of an obligation not arising from contract, where the defendant has been guilty of oppression, fraud, or malice, express or implied, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.”

Civil liability for injury to others caused by one’s intentional or negligent conduct is also established in the common law.

“Firmly rooted in the common law lies the concept that although one individual need do nothing to rescue another from peril not of that individual’s own making, nevertheless, ‘He who undertakes to do an act must do it with . . . care.’ [citations] ‘[I]f the defendant enters upon an affirmative

course of conduct affecting the interests of another, he is regarded as assuming a duty to act, and will thereafter be liable for negligent acts or omissions’ [citations]” (*Schwartz v. Helms Bakery Limited* (1967) 67 Cal. 2d 232, 238.)

The American Law Institute stated this rule in its Second Restatement of Torts as follows:

“§ 324. Duty of One Who Takes Charge of Another Who is Helpless

“One who, being under no duty to do so, takes charge of another who is helpless adequately to aid or protect himself is subject to liability to the other for any bodily harm caused to him by

“(a) the failure of the actor to exercise reasonable care to secure the safety of the other while within the actor’s charge, or

“(b) the actor’s discontinuing his aid or protection, if by so doing he leaves the other in a worse position than when the actor took charge of him.

“Caveat:

“**The Institute expresses** no opinion as to whether there may not be situations in which an actor who has taken charge of a helpless person may be subject to liability for harm resulting from his discontinuance of the aid or protection, where by doing so he leaves the other in no worse position than when the actor took charge of him.”

Since CPR is not initiated until after the victim’s heart action and breathing has stopped it is not likely that terminating CPR would leave the victim in a worse position than when the rescuer took charge of him making section 324(b) applicable. Instead, the Caveat poses essentially the same question presented in the opinion request, but leaves it unanswered.

We have found no cases applying the common law rule in a case in which the termination of CPR or other first aid efforts by one having no duty to act in the first place, caused death or injury. We assume, however, that the rule in the *Schwartz* case would apply to establish liability for ordinary negligence in the absence of statutory modification of such liability.

In the last few years a number of “Good Samaritan” statutes have been enacted which reduce the liability of one who, without any legal duty, undertakes to assist his fellow man in emergency circumstances. The avowed purpose of these statutes is to encourage such emergency assistance and to encourage the teaching and learning of first aid skills to make such efforts more effective. Three of these statutes would appear to be applicable to the circumstances presented in the request for this opinion.

The first of these statutes is chapter 1065, Statutes of 1975 which added section 50086 to the Government Code and reads as follows:

“50086. No person who is summoned by a county sheriff, city police department, fire department, park ranger, or other local agency to voluntarily assist in a search or rescue operation, who possesses first aid training equivalent to the Red Cross advanced first aid and emergency care training standards, and who in good faith renders emergency services to a victim prior to or during the evacuation or extrication of the victim, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering such emergency services.

“For the purposes of this section, ‘emergency services’ includes, but is not limited to, first aid and medical services, rescue procedures, and transportation or other related activities necessary to insure the safety of the victim who is the object of the search or rescue operation.”

This statute will be referred to as “Govt. 50086.”

The second statute is chapter 595, Statutes of 1977 which added section 1714.2 to the Civil Code and reads as follows:

“1714.2. (a) In order to encourage citizens to participate in emergency medical services training programs and to render emergency medical services to fellow citizens, no person who has completed a basic cardiopulmonary resuscitation course which complies with the standards adopted by the American Heart Association or the American Red Cross for cardiopulmonary resuscitation and emergency cardiac care, and who, in good faith, renders emergency cardiopulmonary resuscitation at the scene of an emergency, shall be liable for any civil damages as a result of any acts or omissions by such person rendering the emergency care.

“(b) This section shall not be construed to grant immunity from civil damages to any person whose conduct in rendering such emergency care Constitutes gross negligence.

“(c) In order to encourage local agencies and other organizations to train citizens in cardiopulmonary resuscitation techniques, no local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of citizens in cardiopulmonary resuscitation shall be liable for any civil damages alleged to result from such training programs.

(d) In order to encourage qualified individuals to instruct citizens in cardiopulmonary resuscitation, no person who is certified to instruct in cardiopulmonary resuscitation by either the American Heart Association or the American Red Cross shall be liable for any civil damages alleged to result from the acts or omissions of an individual who received instruction on cardiopulmonary resuscitation by the certified instructor.

“(e) This section shall not be construed to grant immunity’ from civil damages to any person who renders such emergency care to an individual with the expectation of receiving compensation from the individual for providing the emergency care.”

This statute will be referred to as “CC 1714.2.”

The third statute is chapter 130, section 8, Statutes of 1973 which added article 4 to chapter 9, division 2 (§ 1765 *et seq.*) of the Health and Safety Code, the relevant portions of which provide:

“§ 1765. The State Department of Health Services shall promote the development of programs to train large numbers of people in cardiopulmonary resuscitation and lifesaving first aid techniques. Local agencies and other organizations desiring to establish such public training programs shall receive the full cooperation and assistance of the state department.”

“§ 1766. In order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, excluding physicians and surgeons, registered nurses, licensed vocational nurses, and

clinical laboratory technologists as defined in Section 1204 of the Business and Professions Code, in emergency medical services shall be liable for any civil damages alleged to result from such training programs.”

“§ 1767. In order to encourage people to participate in emergency medical services training programs and to render emergency medical services to others, no person who in good faith renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. This section shall not apply to any person who renders such emergency care to an individual with the expectation that such person or the person’s employer will receive compensation from the individual for providing the emergency care, other than as set forth in Section 1769. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.”

“§ 1769. In addition to the provisions of Section 1433 of this code and of Section 1714.2 of the Civil Code and in order to encourage the provision of emergency medical services by firemen, policemen, or other local law enforcement officers, and mobile intensive care paramedics, as defined in Section 1431 of this code, a fireman, policeman or other local law enforcement officer, or mobile intensive care paramedic who renders emergency medical services at the scene of an emergency shall only be liable in civil damages for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. A public agency employing such a fireman, policeman, or other local law enforcement officer, or mobile intensive care paramedic shall not be liable for civil damages if the fireman, policeman, or other local law enforcement officer, or mobile intensive care paramedic is not liable.”

“§ 1769.5. A member of the California Highway Patrol who renders emergency medical service at the scene of an emergency shall be liable in civil damages only for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith.”

The sections of this statute will be referred to as HS 1765, HS 1766, HS 1767, HS 1763, HS 1769 and HS 1769.5, respectively.

These statutes modify the liability of those instrumental in providing emergency medical care in emergency situations. Since the question presented is concerned only with the persons administering CPR at the scene of an emergency as a volunteer, this analysis will not consider liability of those having a duty to render aid, of employers of those

engaged in CPR training or of those administering CPR in hospitals or other places where medical care is usually offered. The statutes establish different standards of liability for different classes of persons who administer CPR at the scene of an emergency.

Neither CC 1714.2 nor HS 1767 provides any immunity from liability for willful or negligent conduct by a person administering CPR when he acts with the expectation of receiving compensation from the victim for providing the emergency care. For the purposes of this opinion we assume the person administering CPR at the scene of the emergency had no expectation of compensation from the victim which would make the immunity provisions of CC 1714.2 or HS 1767 inapplicable.

CC 1714.2, HS 1769 and HS 1769.5 limit the liability of specified classes of persons for administering CPR at the scene of an emergency to those acts or omissions which are not rendered in good faith or constitute gross negligence.

Govt. 50086 renders good faith assistance immune from liability and HS 1767 provides simply that “no person who in good faith renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission.” These sections make no reference to gross negligence. HS 1767 is not limited to a certain class of persons rendering the care (the only exception is where compensation is expected), and the section applies where any kind of emergency care is rendered, not just CPR as in the case of CC 1714.2. Thus, where Govt. 50086 and HS 1767 applies, there is no liability for gross negligence. The only basis for liability under these sections is lack of good faith in the rendering of the emergency care.

A threshold question presented in interpreting these new statutes is whether the lesser standard of liability provided by HS 1767 is applicable to situations in which CC 1714.2 would otherwise apply. Every statute should be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect. (Select *Base Materials v. Board of Equalization* (1959) 51 Cal. 2d 640, 645.) There is a way in which the two statutes may be harmonized.

CC 1714.2 may be construed to constitute an exception to HS 1767 under the familiar rule of statutory construction that the special statute controls the general statute. (*People v. Gilbert* (1969) 1 Cal. 3d 475.) However, this rule of construction applies only in the absence of a clear intention of the Legislature to the contrary. (*Candlestick Properties, Inc. v. San Francisco Bay Conservation & Dev. Com.* (1970) 11 Cal. App. 3d 557.)

We believe that the interpretation to be given CC 1714.2 and MS 1767 is governed by a more fundamental rule of statutory construction which the California Supreme Court has stated as follows:

“It is a cardinal rule that statutes are construed according to the intention, or at least according to the apparent or evident intention or purpose, of the lawmakers. Such intention controls, if it can be reasonably ascertained from the language used. Indeed, it has been said that the legislative intent in enacting a law is the law itself. Accordingly, the primary rule of statutory construction, to which every other rule as to interpretation of particular terms must yield, is that the intention of the legislature must be ascertained if possible, and, when once ascertained, will be given effect, even though it may not be consistent with the strict letter of the statute. In other words, as is declared by the code, ‘in the construction of a statute the intention of the legislature . . . is to be pursued if possible.’ [Code Civ. Proc., § 1859.] Certainly the language of a statute should never be so construed as to nullify the will of the legislature, or to cause the law to conflict with the apparent purpose had in view by the lawmakers.” (*Dickey v. Raisin Proration Zone No. 1* (1944) 24 Cal. 2d 796, 802.)

If CC 1714.2 is construed to constitute an exception to HS 1767, the result would be that those who render CPR at the scene of an emergency who do not have the CPR training referred to in CC 1714.2 would not be liable for gross negligence while those who do have such training would be liable for gross negligence. This increase in liability would discourage rather than encourage persons from engaging in CPR training contrary to the legislative purpose, expressed not only in HS 1767 but in CC 1714.2 as well, “to encourage people to participate in emergency medical services training programs and to render emergency medical services to others” by reducing their civil liability for rendering such services. Accordingly, we must reject this construction because it would nullify the purpose of the Legislature specifically expressed in both statutes. (*Dickey v. Raisin Proration Zone No. 1*, *supra*, 24 Cal. 2d 796.)

Subdivision (b) of CC 1714.2 provides:

“This section shall not be construed to grant immunity from civil damages to any person whose conduct in rendering such emergency care constitutes gross negligence.”

While subdivision (b) does not grant immunity for gross negligence it is limited by its express terms to CC 1714.2 and, therefore, does not affect a grant of immunity from liability for gross negligence which may be provided by some other statute. CC 1767 is

another statute which provides such immunity. This construction implements the legislative purpose expressed in both statutes without doing violence to the language of either. We conclude that CC 1767 provides immunity from liability for gross negligence to a person with the requisite CPR training who renders CPR at the scene of an emergency in good faith, notwithstanding subdivision (b) of CC 1714.2.

HS 1769 and HS 1769.5 are special provisions which establish the civil liability for emergency medical care rendered by firemen, policemen, other local law enforcement officers, mobile intensive care paramedics and members of the California Highway Patrol. Such persons who render emergency medical services at the scene of an emergency are liable in civil damages only for injuries caused by their acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. Since HS 1769 and HS 1769.5 are special provisions following HS 1767 which is general in its language and purpose, they constitute exceptions to HS 1767. (*People v. Emeryville* (1968) 69 Cal. 2d 533.)

Govt. 10086 provides immunity from civil liability for emergency services rendered in good faith by one who:

1. was summoned as a volunteer on a search or rescue operation, and
2. has advanced first aid training.

Govt. 50086 is, therefore, an exception to the liability for gross negligence established by HS 1769 and HS 1769.5 in the special circumstances where its requirements are met.

In summary, the law establishes two categories of civil liability for persons who render emergency medical care at the scene of an emergency without expectation of compensation.

(a) Firemen, local law enforcement officers, California Highway Patrol officers and mobile intensive care paramedics (except when summoned as a volunteer on a search or rescue operation and have advanced first aid training as provided by Govt. 50086) are liable for injuries caused by their gross negligence or conduct not performed in good faith.

(b) All other persons are liable only for injuries caused by their conduct which is not performed in good faith.

Before discussing gross negligence and good faith a brief discussion of causation is necessary:

“In order to maintain an action for damages based on wrongful conduct or neglect of another, it must be alleged and proved that such act was a direct and proximate cause of the injury. In determining the question of proximate cause there are two separate and distinct elements that must not be confused: (1) That which causes the injury, and (2) that without which the injury would not have happened. For the former the defendant may be liable, but for the latter he may not.” (*Weck v. L. A. County Flood Control Dist.* (1947) 80 Cal. App. 2d 182, 189; *Johnson v. Union Furniture Co.* (1939) 31 Cal. App. 2d 234, 237.)

The Supreme Court has stated this cause in fact requirement as follows:

“In order to hold defendants liable it was necessary for plaintiff to show that the negligence of defendants, or either of them, contributed in some way to plaintiff’s injury, ‘so that “but for” the defendant’s negligence the injury would not have been sustained.’” (*Akins v. County of Sonoma* (1967) 67 Cal. 2d 185, 198–199.)

Since CPR is not commenced until it is determined that heart action and breathing has stopped, death will be the result if no one acts to prevent it. Administering CPR may succeed in preventing death but even the best efforts may fail. If death would result in spite of the rescuer’s action, there is no liability for the rescuer’s actions, no matter how wrong they are, because his actions are not a cause of the death. More specifically, there is no liability for terminating CPR unless the victim could be revived and the necessary means for such revival can be provided in time to effect such revival, no matter how wrong the termination of CPR may have been, because such termination would not be a cause of the victim’s death. To establish liability for terminating CPR, the plaintiff must prove that it was the terminating of CPR that caused the death or other injury, i.e., that the death or injury would not have occurred but for such termination. (*Akins v. County of Sonoma*, *supra*, 67 Cal. 2d 185.)

“... Gross negligence has been repeatedly defined in the California cases as ‘the want of slight diligence,’ an entire failure to exercise care, or the exercise of so slight a degree of care as to justify the belief that there was an indifference to the things and welfare of ‘others,’ and ‘that want of care which would raise a presumption of the conscious indifference to consequences’” (*People v. Costa* (1953) 40 Cal. 2d 160, 166.)

“The phrase ‘good faith’ in common usage has a well-defined and generally understood meaning, being ordinarily used to describe that state of mind denoting honesty of purpose, freedom from intention to defraud, and,

generally speaking, means being faithful to one's duty or obligation.”
(*People v. Nunn* (1956) 46 Cal. 2d 460, 463.)

In *Nunn* the Supreme Court held that the words “good faith” in the statute which provided that “the physician shall prescribe, furnish, or administer narcotics only when in good faith he believes the disease, ailment, injury or infirmity, requires such treatment” has a definite and well-understood meaning free from ambiguity and did not violate the due process clause of the federal constitution. We believe that “good faith” has the same meaning in Govt. 50036, CC 1714.2, HS 1767, HS 1769, and HS 1769.5.

Acting without good faith and gross negligence are two different things and thus provide two different standards of liability under California's Good Samaritan statutes. Good faith requires ascertaining the person's state of mind which provides a subjective test. It is what the person actually knows, thinks and believes that is the test of liability. On the other hand, negligence is conduct, and not a state of mind. (Prosser, Torts, 4th ed., p. 145.) Negligence is an unintentional tort, a failure to exercise the degree of care in a given situation that a reasonable man under similar circumstances would exercise to protect others from harm. (*Donnelly v. Southern Pacific Co.* (1941) 18 Cal. 2d 363, 369.) Gross negligence has been said to mean the want of slight care or diligence (*Walther v. Southern Pacific Co.* (1911) 159 Cal. 769, 775) or the want of even scant care or an extreme departure from the ordinary standard of conduct. (*Van Meter v. Bent Construction Co.* (1956) 46 Cal. 2d 588, 594.) In either case the conduct is judged by an objective standard, that of the reasonably prudent man under similar circumstances.

The difference between reasonableness, the standard used in negligence cases, and good faith was explained in *Guntert v. City of Stockton* (1974) 43 Cal. App. 3d 203, 210–211 as follows:

“Reasonableness and good faith are dissimilar qualities. Reasonableness does not lend itself to formulary definition; in most legal contexts, it is discoverable by reference to the common experiences of mankind as perceived by the factfinder. (See *Seligman v. Tucker*, 6 Cal. App. 3d 691, 697–699.) In applying this standard to a deliberate choice, a negative formulation is available by equating lack of reasonableness with arbitrariness. Action is arbitrary not only when it is capricious, but when it lacks substantial support in the evidence, when the facts do not reasonably justify the conclusion. (*Hollon v. Pierce*, 251 Cal. App. 2d 468, 478.)

“Good faith, in contrast, suggests a moral quality; its absence is equated with dishonesty, deceit or unfaithfulness to duty. (*People v. Nunn*, 46 Cal. 2d 460, 468.) The lack of synonymity between reasonableness and

good faith entails a distinction between unreasonableness and bad faith. The two qualities may exist in parallel, but the latter is not the necessary product of the former.”

In *Barkis v. Scott* (1949) 34 Cal. 2d 116, 123, defendants paid their house payment with a worthless check and plaintiff obtained judgment quieting title to the house. The Supreme Court reversed stating:

“The issue is not, however, whether defendants voluntarily failed to investigate whether the June check had been honored but whether they willfully or as a result of gross negligence breached their contract. (Citations.) That defendants in good faith believed they had sufficient funds to cover the checks prevents their breach from being willful, and their failure fully to investigate the implications of their June bank statement at most amounts to simple negligence. It does not evidence that ‘entire want of care which would raise a presumption of the conscious indifference to consequences’ necessary to constitute gross negligence [citations].”

The existence or lack of good faith and gross negligence is normally a question of fact to be determined by the jury or other trier of the facts. (*Mitchell v. County Sanitation District* (1958) 164 Cal. App. 2d 133, 145; *Munoz v. Olin* (1979) 24 Cal. 3d 629, 637.)

Only one reported decision has been found which has applied the new Good Samaritan statutes. In *Wallace v. Hall* (1978) 244 S.E.2d 129, the Georgia statute provided that any person who in good faith renders emergency care at the scene of an accident without making any charge therefor was not liable for any act or omission in rendering such care. Mr. Wallace fell off a ladder and hurt his back. Mrs. Hall helped put him in her car and drove him home. Wallace sued Mrs. Hall claiming negligence in failing to call an ambulance to take him to the hospital. Summary judgment for Mrs. Hall was affirmed. The court noted that the statute had changed the old law and since she had rendered aid in good faith without charge, Mrs. Hall was exempt from civil liability as a “Good Samaritan.”

Applying California’s Good Samaritan statutes to the conduct of a person who administers CPR at the scene of an emergency must proceed without the aid of any judicial interpretation of these new laws upon the basis of the plain meaning of the language used and the judicial interpretation of some of the words used in other contexts. Accordingly, our efforts at this point must be considered speculative at best.

First, we note that there is no liability for civil damages where a rescuer terminates CPR unless such termination caused the victim’s death or injury. Next we apply the good faith standard since there is no exemption from civil liability for one whose conduct is not

rendered in good faith under any of California's Good Samaritan statutes. There is no civil liability under this test if the rescuer terminates CPR in the good faith belief that his efforts are no longer effective toward the revival of the victim. If he honestly believes that further CPR effort is useless the good faith test is met. The good faith and honesty of that belief will depend upon the rescuer's knowledge at the time he terminates CPR and will be determined by the trier of facts from the evidence of all relevant facts and circumstances. The rescuer's knowledge of the cause and time of the cessation of the victim's heart and lung action will be important factors as will his knowledge of the likelihood and time that expert medical assistance will arrive. The rescuer's knowledge of the nature and purpose of CPR and the effects of his CPR efforts upon the victim will also be very significant factors.

Finally, we apply the gross negligence standard if the rescuer is a fireman, local law enforcement officer, California Highway Patrol officer or mobile intensive care paramedic, unless Govt. 50086 is applicable. In this test we do not probe the state of mind of the rescuer. Instead we view his conduct and all of the surrounding facts and circumstances from the viewpoint of a reasonably prudent man. If a reasonably prudent man exercising a slight amount of care and diligence would have terminated CPR under the same circumstances, there is no gross negligence. On the other hand, if a reasonably prudent man under the same circumstances, by the exercise of slight care and diligence, would have continued his CPR efforts, liability for resulting injuries based on gross negligence is established.
