

left with Mr. Watson, leaving Ms. Torti to ride with Mr. Ofoegbu. Mr. Watson struck a curb and then a light pole whilst going 45 mph. After Mr. Watson crashed, both Mr. Ofoegbu and Ms. Torti stopped and got out of their car to render aid. Mr. Watson got out of the car by himself, Mr. Ofoegbu helped Ms. Torti out by opening a door for her, and Ms. Torti pulled Ms. Van Horn from the car. Ms. Van Horn said Ms. Torti pulled on her arm and dragged her from the car like a "rag doll."

Ms. Torti testified that the crashed car was smoking and that she felt she should save Ms. Van Horn before flames ensued. Emergency personnel arrived moments later. Ms. Van Horn had a lacerated liver and damaged vertebrae that rendered her paraplegic. Ms. Van Horn filed suit claiming that Ms. Torti's pulling her from the wreck contributed to her paralysis. Ms. Van Horn also filed suit against all other party animals riding along in the two vehicles for their negligence. Ms. Torti claimed immunity under California's Good Samaritan statute.

Ms. Van Horn alleged that Ms. Torti was negligent in pulling her from the car and not waiting for trained personnel. There were differing accounts on whether the car was smoking and if there were flames. In other words, the danger to Van Horn was not clear. In fact, given the evening's activities, not one of them was operating in anything less than a fog at the time of the accident.

The trial court granted summary judgment for Ms. Torti on the grounds that she enjoyed immunity from suit for negligence under the California Good Samaritan law. The Court of Appeal reversed, holding that the Good Samaritan law applied only to those rendering medical care, and that Torti had not provided medical care. Ms. Torti and the others appealed.

## JUDICIAL OPINION

MORENO, Justice

Section 1799.102 provides, "No person who in good faith, and not for compensation, renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered." The parties identify two possible constructions of this provision: Torti urges us to conclude that it broadly applies to both nonmedical and medical care rendered at the scene of any emergency; plaintiff, on the other hand, argues that section 1799.102 applies only to the rendering of emergency medical care at the scene of a medical emergency.

Although the phrase "emergency care" is not separately defined, section 1797.70's definition of "emergency" certainly supports the conclusion that the Legislature intended for "emergency care" to be construed as meaning emergency medical care. After

all, if the "scene of an emergency" (§ 1799.102) means a scene where "an individual has a need for immediate medical attention" (§ 1797.70), it logically follows that the Legislature intended for the phrase "emergency care" in section 1799.102 to refer to the medical attention given to the individual who needs it.

This construction also comports with the second sentence of section 1799.102, which reads: "The scene of an emergency shall not include emergency departments and other places where medical care is usually offered." While this sentence does not directly shed light on the intended meaning of the phrase "emergency care" in the previous sentence of section 1799.102, the fact that the Legislature excluded "emergency departments and other places where medical care is usually offered" from section 1799.102's immunity supports construing "emergency care" as meaning emergency medical care—the exclusion suggests that "emergency departments and other places where medical care is usually offered" are locations where the Legislature did not need (or want) to encourage ordinary citizens to provide emergency medical care because trained medical personnel are available to better render such care.

Torti's expansive interpretation of section 1799.102 would undermine long-standing common law principles. As we previously noted, the general rule is that "one has no duty to come to the aid of another." "The origin of the rule lay in the early common law distinction between action and inaction, or 'misfeasance' and 'non-feasance.'" (Rest.2d Torts, § 314, com. c, p. 116.) Courts were more concerned with affirmative acts of misbehavior than they were with an individual "who merely did nothing, even though another might suffer serious harm because of his omission to act."

While there is no general duty to help, a good Samaritan who nonetheless "undertakes to come to the aid of another . . . is under a duty to exercise due care in performance . . ." "[i]t is ancient learning that one who assumes to act, even though gratuitously, may thereby become subject to a duty of acting carefully, if he acts at all."

The broad construction urged by Torti—that section 1799.102 immunizes any person who provides any emergency care at the scene of any emergency—would largely gut this well-established common law rule. As we recently noted, "[w]e do not presume that the Legislature intends, when it enacts a statute, to overthrow long-established principles of law unless such intention is clearly expressed or necessarily implied." Torti does not identify anything that would overcome the presumption that the Legislature did not intend to work such a radical departure.

As the Court of Appeal points out, Torti's sweeping construction of section 1799.102 would render other