

-----  
102.15 NEGLIGENCE ISSUE—DOCTRINE OF SUDDEN EMERGENCY.

A person who, through no negligence of [his] [her] own,<sup>1</sup> is suddenly and unexpectedly confronted<sup>2</sup> with imminent danger to [himself] [herself] or to others, whether actual or apparent, is not required to use the same judgment that would be required if there were more time to make a decision. The person's duty is to use that degree of care which a reasonable and prudent person would use under the same or similar circumstances. If, after perceiving a sudden emergency,<sup>3</sup> a person makes a decision that a reasonable and prudent person would make under the same or similar circumstances, that person has done all that the law requires, even if in hindsight some different decision would have been better or safer.<sup>4</sup>

---

1. The doctrine of sudden emergency is not applicable to one who by his own negligence has brought about or contributed to the emergency. "The sudden emergency must have been brought about by some agency over which he had no control and not by his own negligence or wrongful conduct." *Hairston v. Alexander Tank*, 310 N.C. 227, 239, 311 S.E.2d 559, 568 (1984).

As to the situation of one who attempts to rescue a person placed in peril by another's negligence, see *Bumgarner v. Southern R.R.*, 247 N.C. 374, 100 S.E.2d 830 (1957).

2. The doctrine of sudden emergency permits the jury to consider whether an emergency confronting the actor affected the reasonableness of specific conduct being analyzed. See *Rodgers v. Carter*, 266 N.C. 564, 568, 146 S.E.2d 806, 810 (1996) ("The doctrine of sudden emergency is simply that one confronted with an emergency is not liable for . . . acting as a reasonable man might act in such an emergency."). The doctrine applies "only to conduct, alleged to be negligent, that occurs *after* the emergency arises." *Goins v. Time Warner Cable Southeast, LLC*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 812 S.E.2d 723, 726 (2018) (emphasis in original).

3. See *Pinckney v. Baker*, 130 N.C. App. 670, 673, 504 S.E.2d 99, 102 (1998) ("It logically follows that in order for perception of an emergency to have affected the reasonableness of the actor's conduct, the [actor] must have perceived the emergency circumstance and reacted to it.").

-----

---

4. "In North Carolina, the sudden emergency doctrine has been applied only to ordinary negligence claims, mostly those arising out of motor vehicle collisions, and has never been used in a medical negligence case." *Wiggins v. E. Carolina Health-Chowan, Inc.*, 234 N.C. App. 759, 766, 760 S.E.2d 323, 325 (2014). See also *McDevitt v. Stacy*, 148 N.C. App. 448, 458, 559 S.E.2d 201, 209 (2002); *Ligon v. Matthew Allen Strickland*, 176 N.C. App. 132, 141, 625 S.E.2d 824, 831 (2006); *Long v. Harris*, 137 N.C. App. 461, 467, 528 S.E.2d 633, 637 (2000).