

102.15 NEGLIGENCE ISSUE—DOCTRINE OF SUDDEN EMERGENCY.¹

Persons who, through no negligence of *their* own, are suddenly and unexpectedly confronted with imminent danger² to themselves or to others, whether actual or apparent, are not required to use the same judgment that would be required if there were more time to make a decision. A 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, in a moment of sudden emergency, a person makes a decision that a reasonable and prudent person would make under the same or similar circumstances, *they* do all that the law requires, even if in hindsight some different decision would have been better or safer.³

1. The doctrine of sudden emergency is not applicable to one who by his own negligence has brought about or contributed to the emergency. *See Hairston v. Alexander Tank and Equipment Co.*, 310 N.C. 227, 239, 311 S.E.2d 559, 568 (1984) ("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.") (citing *Foy v. Bremson*, 286 N.C. 108, 209 S.E.2d 439 (1974).); *Bumgarner v. Southern R.R.*, 247 N.C. 374, 100 S.E.2d 830 (1957) (explaining the situation of one who attempts to rescue a person placed in peril by another's negligence).

2. Consistently wet road conditions are insufficient for the sudden emergency exception to apply for a car accident. *Allen v. Efird*, 123 N.C. App. 701, 704, 474 S.E.2d 141, 143 (1996) ("The mere fact that defendant lost control under static conditions does not merit a sudden emergency instruction.").

3. "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, 763, 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).