

# Supreme Court rules truck driver's medical condition may satisfy sudden emergency defense

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Based on a recent Supreme Court ruling, truck drivers and their employers involved in motor vehicle accident litigation may be granted summary disposition if the allegedly negligent truck driver's medical condition is sufficient to properly invoke the "sudden emergency" defense provided that the emergency was totally unexpected and not of the driver's own making.

In *White v. Taylor Distributing Co., Inc.*, No. 134751, the Michigan Supreme Court recently opined that genuine issues of material fact regarding the defendant's claim of a sudden emergency existed. Therefore, the trial court's granting of summary disposition to the defendant, on the ground that the sudden emergency doctrine applied to rebut the statutory presumption of negligence that exists when a driver strikes another vehicle from behind, was in error.

The case involved a rear-end collision between a truck and another vehicle that was stopped at a red light. The truck driver claimed to have suffered a syncopal episode, commonly referred to as passing out, before the impact and that he could not remember the events preceding the collision.

The passenger of the car that was struck from behind filed suit, claiming that the defendant was presumed negligent under MCL 257.402(a) because he struck the plaintiff from the rear. The defendant moved for summary disposition and argued that he was not negligent because illness created a sudden emergency. The trial court granted the defendant's motion. The plaintiff appealed.

The Michigan Court of Appeals reversed the trial court's grant of summary disposition to the defendant, holding that there were credibility issues to be determined that raised a question of fact for the jury and, therefore, summary disposition was improper. The court stated that when the trial court eliminates a statutory presumption from jury consideration, there must be clear, positive and credible evidence opposing the presumption.

The defendant argued that the sudden emergency doctrine applied to rebut this presumption because the defendant passed out just before the accident. The appellate court held that a jury should be permitted to assess the credibility of the defendant, given that the evidence presented by the defendant

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in his deposition testimony was subjective in character and primarily within the exclusive knowledge of the defendant. The defendant appealed.

The Michigan Supreme Court affirmed the lower appellate court's ruling that a blackout could be a sudden emergency sufficient to rebut the statutory presumption of negligence, but noted that such a sudden emergency must be totally unexpected. Given that the defendant had admitted to feeling ill and suffering a bout of severe diarrhea at a rest stop prior to the accident, the court held that a genuine issue of material fact existed as to whether the defendant's emergency was totally unexpected.

Furthermore, although the defendant maintained that he "felt great" while driving after his illness at the rest stop, the court held that the medical testimony called the defendant's testimony into question. The court then noted that based on the medical testimony, the time frame for how quickly the syncopal episode developed may have ranged from several seconds up to two minutes. The court stated that if the defendant felt dizzy for several minutes before blacking out, perhaps the emergency was not clearly sudden.

The court further stated that for the sudden emergency doctrine to apply, the emergency must not be of the defendant's own making. The court stated that if the defendant was aware that he felt ill while driving after leaving the rest area, but continued driving because he did not have far to travel, the emergency may have been of his own making.

The court also noted that the defendant had made conflicting statements as to the cause of his illness, thereby creating another issue of material fact, which precluded the granting of summary disposition.

The Michigan Supreme Court, therefore, affirmed the appellate court's decision reversing the trial court's order granting summary disposition to the defendant truck driver. The Supreme Court found that the questions regarding whether the truck driver experienced a sudden emergency and whether the truck driver was driving negligently, under the facts presented in this case, were proper questions for the jury.