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COLORADO LEGAL UPDATE

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### Colorado Supreme Court Abolishes "Sudden Emergency Doctrine" in Driver Negligence Cases

January 24, 2013

On January 22, 2013, a divided Colorado Supreme Court overturned 50 years of precedent and abolished the "sudden emergency doctrine," a long-established principle allowing a trial court to instruct the jury that no negligence can be charged to a driver who finds him or herself faced with a sudden emergency that refocuses their attention from other driving duties.

In its opinion the Court abolished the sudden emergency doctrine, citing the doctrine's potential to mislead the jury greatly outweighing its minimal utility. In holding so, the Court abrogated *Young v. Clark*, 814 P.2d 364, and *Davis v. Cline*, 493 P.2d 362, and joined numerous jurisdictions (including Arkansas, Nebraska, New Mexico, Alaska, Hawaii, Montana, and Oregon) that have abolished the sudden emergency doctrine.

The Court discussed the history of the sudden emergency doctrine in Colorado and the subsequent effects of its use. The Court reasoned that the evolution of Colorado law no longer necessitates the use of the sudden emergency instruction. The instruction was originally implemented to overcome the harshness of Colorado's former contributory negligence defense. As Colorado has adopted the modern comparative negligence statute, the Court held that the sudden emergency instruction is now one of diminished utility. Similarly, upon analyzing the instruction itself the Court held that it is minimally useful because it is duplicative of other negligence instructions and does not "enrich the body" of those instructions.

The Court further opined that this minimal utility was greatly outweighed by the serious risk of misleading the jury. Specifically, the Court held the instruction: (1) fails to properly instruct the jury to find important facts before applying the doctrine; (2) does not define the term "sudden emergency"; (3) can lead the jury to improperly apply a different or less stringent standard of care; and (4) can cause the jury to lose sight of the negligence that caused the emergency in the first place. The Court concluded that these potentially misleading characteristics of the instruction, along with its minimal utility, were sound reasons to abolish the doctrine in Colorado.

The case is *Bedor v. Johnson*, Colorado Supreme Court Case No. 10SC65, Opinion and Order dated January 22, 2013. A full copy of the opinion [can be found here](#).

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