

The Law at Work: Employee as a Good Samaritan

By Dan Eaton

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In this season of goodwill toward all comes a timely ruling addressing the scope of California's Good Samaritan law, Health and Safety Code section 1799.102. In *Valdez v. Costco Wholesale Corp.*, the California Court of Appeal concluded the Good Samaritan law protects an employee from liability for his good faith actions in intervening to stop a fistfight between two customers at his worksite.

Background

On Jan. 19, 2018, Mark Valdez was in his car at a Costco gas station. Joseph Lizarraga, a neighbor with whom Valdez had an ongoing feud, approached Valdez's car, opened Valdez's car door, and began punching Valdez. Valdez fought back. Costco gas station attendant Daniel Terrones yelled at the men to stop fighting, but they ignored him.



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Fearing the men would hurt each other, Terrones intervened to stop the fight. Terrones pulled on Valdez until Valdez released Lizarraga from a headlock. That ended the fight. Lizarraga drove away and Valdez drove off after him. Valdez later sued Terrones and Costco, claiming that when Terrones pried Valdez away from Lizarraga, Terrones aggravated Valdez's preexisting shoulder injury.

The trial court summarily dismissed Valdez's action, ruling that California's Good Samaritan law made Terrones immune from liability for his actions. Costco could not be vicariously liable for Terrones's immunized actions. The trial court ruled Costco could not be directly liable for Valdez's alleged injuries because the company did not breach its duty of care toward Valdez because Lizarraga's attack was not sufficiently foreseeable; Costco was unaware of the men's ongoing feud that led to the attack.

Valdez argued on appeal only that Terrones was not a Good Samaritan within the meaning of the California statute.

California's Good Samaritan law

Health and Safety Code section 1799.102(b)(2) reads in relevant part: "Except for those persons specified in subdivision (a), [medical, law enforcement, and emergency personnel] no person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall be liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct."

Section 1797.70 defines the term "emergency" in part as "a condition or situation in which an individual has a need for immediate medical attention. . . ."

Was Terrones acting as a “Good Samaritan” in ending the customers’ fight?

Valdez contended his fistfight with Lizarraga did not constitute an “emergency” because neither he nor Lizarraga needed “immediate medical attention” when Terrones intervened. The court of appeal disagreed.

Lizarraga hit Valdez in the head repeatedly. The men ignored Terrones’s demand that they stop. Valdez placed Lizarraga in a headlock and would not release him. The fight only ended when Terrones separated the men. That, said the court, meant (1) when Terrones intervened, both men needed medical attention and (2) the way Terrones intervened constituted rendering emergency nonmedical assistance to the men.

“When Terrones saw the fistfight, it was reasonable for him to believe he had to stop it because one or both combatants ‘had a need for immediate medical attention.’ First, common knowledge dictates that the use of hands or fists can cause great bodily injury. . . . Second, Valdez placed Lizarraga in a headlock, tightening his grip in response to Terrones attempt to separate him from Lizarraga. Again, based on common knowledge, headlocks can, at the very least, cause pain and injuries to the neck, shoulders, and back” and sometimes can cause “a loss of consciousness or even death.”

The court concluded the fistfight was an “emergency” as defined. Had Terrones not intervened, the fight would have continued. Therefore, by intervening to end the fight when and how he did, Terrones was rendering emergency nonmedical assistance while at the scene of an emergency. And there was no question Terrones acted in good faith. Consequently, he was “shielded from liability as a Good Samaritan.”

Employees have no duty to rush in when they see violence on their employer’s property. But generally, if they do intervene in good faith to stop it, neither they nor their employer will be held liable for injuries resulting from such assistance.

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