

**RESOLUTION 03-04-2015**

**DIGEST**

Disaster Relief: Civil Immunity for Negligence of Uncompensated Good Faith Providers  
Adds Civil Code section 1714.51 to provide civil immunity for providers of disaster or emergency relief supplies, food, and/or water if in good faith and not for compensation.

**TEXT OF RESOLUTION**

**RESOLVED** that the Conference of California Bar Association recommends that legislation be sponsored to add California Civil Code section 1714.51 to read as follows:

§1714.51

1           (a) There shall be no liability for civil damages on account of personal injury to or death  
2 of any person or damages to property resulting from one, including any person, volunteer  
3 organization, or non-governmental organization, who provides to another, in good faith and not  
4 for compensation, disaster or emergency relief supplies, food and/or water in the event of a  
5 disaster or emergency, as defined in Section 8558 of the Government Code.

6           (b) Notwithstanding any other provision of law, no disaster service worker who is  
7 performing disaster services during a state of war emergency, a state of emergency, or a local  
8 emergency, as such emergencies are defined in Section 8558 of the Government Code, shall be  
9 liable for civil damages on account of personal injury to or death of any person or damages to  
10 property resulting from providing to another, in good faith, disaster or emergency relief supplies,  
11 food and/or water. For purposes of this subdivision, a disaster services worker shall be  
12 performing disaster services when acting within the scope of the disaster service worker’s  
13 responsibilities under the authority of the governmental emergency organization. For purposes  
14 of this subdivision, “governmental emergency organization” shall mean the emergency  
15 organization of any state, city, city and county, county, district, or other local governmental  
16 agency or public agency, which is authorized pursuant to the California Emergency Services Act  
17 (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

18           (c) This section shall not be construed to grant immunity from civil damages to any  
19 person, entity or agency who provides such disaster or emergency relief supplies, food and/or  
20 water, to an individual with the expectation of receiving compensation from the individual for  
21 providing such supplies, food and/or water.

22           (d) This section shall not be construed to grant immunity from civil damages to any  
23 person, entity or agency whose conduct in providing such disaster or emergency relief supplies,  
24 food and/or water constitutes gross negligence or willful misconduct.

25           (e) Nothing in this section shall be construed to alter any existing legal duties or  
26 obligations.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Los Angeles County Bar Association

**STATEMENT OF REASONS**

The Problem: It is not a question of whether a community or region in the State of California will suffer a catastrophic disaster or emergency, be it earthquake, flood, terroristic attack or a war emergency, but rather when. Despite ongoing efforts to prepare California, an earthquake along the San Andreas fault-line is capable of disrupting food and water supplies and existing emergencies services for weeks, and commerce, transportation and utilities for months. There are a large cadre of lay disaster relief workers and non-governmental organizations and volunteers who are poised to help in the event of a city-wide or regional emergency, with stockpiles of food, water and disaster supplies. Many work as an adjunct to the different governmental agencies, such as the fire department and emergency medical services. However, those governmental agencies and attorneys are understandably reticent to authorizing distribution by these volunteers if not NGOs of these critically needed supplies to needing neighbors and stricken members of the community out of fear of civil liability, and the unfortunate but true recognition that oftentimes no good deed goes unpunished. Similarly, in the event of a wide-spread disaster, optimally obtaining, maintaining and distributing to multitudes massive quantities of needed relief supplies, food and water, will be difficult in this markedly disrupted situation. In the event of a true emergency, distributing disaster relief supplies and services, well-intended responders and providers of aid should be encouraged to provide their assistance, in good faith, and without fear of liability concerning those efforts and necessities provided.

The Solution: This provision takes Civil Code section 1714.5 to the next logical and needed step. In a catastrophic wide-spread state or local emergency, we cannot rely on Government services alone, particularly in the early days following the event. And even Government should not fear in its attempt to timely meet the massive needs of the public coping with a major disaster and disruption of basic living supplies and sustenance. When a proclaimed state of emergency is declared, it actually takes more than a village—particularly in the days and weeks after disaster strikes. This resolution will encourage neighbor and community to timely assist one another when it counts most. It fosters both a pragmatic understanding of the challenges presented in the availability and provision of needed materials, while encouraging civic responsibility, assistance and good turns in a nightmarishly tapped, chaotic and dire situation.

### **IMPACT STATEMENT**

The proposed resolution does not affect any other law, statute or rule, but would be part of the legislation scheme concerning emergency preparedness and response in a proclaimed disaster.

### **CURRENT OR PRIOR RELATED LEGISLATION**

Not known.

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**RESPONSIBLE FLOOR DELEGATE:** Joel Douglas

**RESOLUTIONS COMMITTEE RECOMMENDATION**  
**APPROVE IN PRINCIPLE**

History:

No similar resolutions found.

Reasons:

This resolution adds Civil Code section 1714.51 to provide civil immunity for providers of disaster or emergency relief supplies, food, and/or water if in good faith and not for compensation. This resolution should be approved in principle for the same reasons that Civil Code section 1714.5 was amended in 2009 to eliminate the restriction of immunity to medical services only, to avoid deterring persons and organizations from offering disaster and other emergency relief assistance for fear of tort liability.

The Senate Rules Committee Floor Analysis for Senate Bill No. 39 (2008-2009 Reg. Sess.) (“SB 39”), which enacted Civil Code section 1714.5, noted that prior to its enactment, a person had no duty to come to the aid of another, but if one did so, reasonable care was required and California’s “good Samaritan” law provided immunity from civil liability only for providers of emergency medical care at the scene of a medical emergency. (Sen. Rules Com. Off. of Sen. Floor Analyses, Rep. on Sen. Bill No. 39 (2008-2009 Reg. Sess.), p. 2.)

SB 39 revised the then existing immunity provided in Civil Code section 1714.5 for disaster service workers to clarify that they are not liable for civil damages resulting from any act or omission while performing disaster services anywhere within any jurisdiction covered by the emergency, other than one that is willful, by eliminating the requirement that the aid be “in the line of duty.”

This resolution is the next logical step, as it would broaden the scope of the immunity to encompass non-governmental personnel who are acting in good faith, while maintaining liability for situations of gross negligence or willful misconduct.