

**DURING THE DISASTER:
STATUTORY IMMUNITIES; TOLLING
AGREEMENTS; AND ENTRY ONTO
PRIVATE PROPERTY**

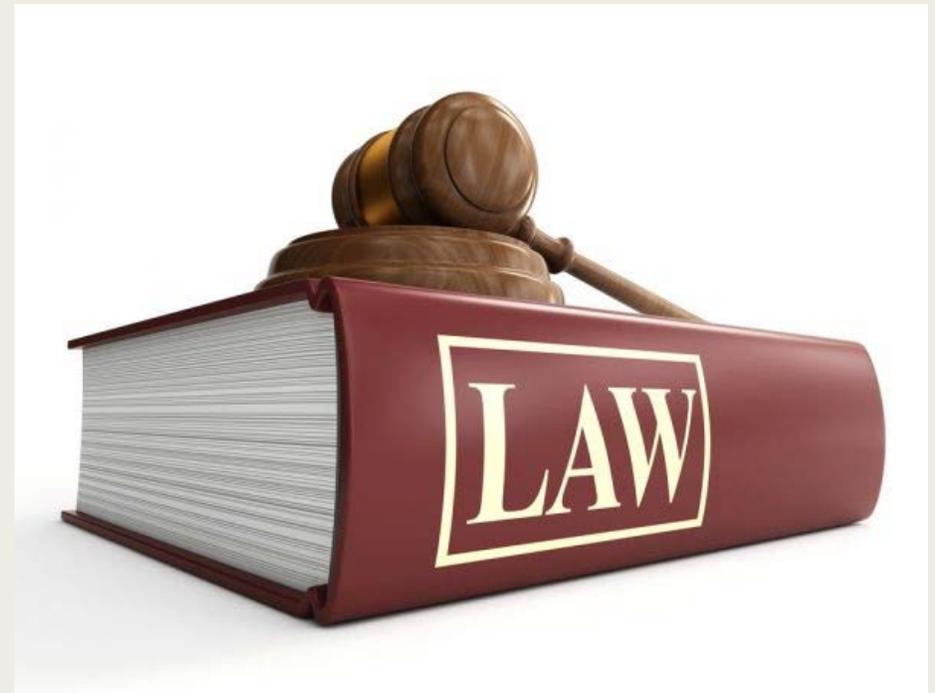
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It's an Emergency! Aren't We Immune?



Overview

- California Claims Act
- Other Statutes
- Emergency Services Act



Who cares about immunities?

- Attorneys and judges
- Staff responding to the emergency
- NOT
 - *The public*
 - *The media*



California Claims Act

- Discretionary immunity
 - *Discretionary vs. ministerial*
 - *Case law*
 - *Entity and employees*
- Health and safety inspections of property
 - *Compliance with or violation of enactment, or constitute hazard*
 - *Absolute*
 - BUT: limited to adequacy of inspection or failure to inspect
 - *Entity and employees*



California Claims Act (cont.)

- Entry on private property
 - *If expressly or impliedly authorized by law*
 - *Employees only*
 - *Only entry, not negligent activities while on property*
- Prevent impending peril from gradual earth movement
 - *Need expert opinion*
 - *Halt, stabilize, abate, remedy*
 - *Entity and employees*



California Claims Act (cont.)

- Issuance or non-issuance of volcanic warnings
 - *Includes preparatory acts (maps, plans) or failure to do so*
 - *Entity and employees*
- Transporting injured persons to doctor or hospital
 - *Except for willful misconduct*
 - *Entity and employees*
- Firefighting activities
 - *Driving to, arrival time, operation of equipment, water*
 - *Before, during, after*
 - *Entity and employees*



Other statutes



- List in summary
- Some overlap with other immunities
 - *Providing emergency medical care; 911 calls; CPR; first aid stations; emergency vehicle operators*
 - *Nuisance abatement*
 - *Communications*

Emergency Services Act



- Discretionary Immunity
 - *Broader than Claims Act*
 - Any claim based on exercise or performance or failure to perform any discretionary function or duty
 - Employees, volunteers, medical providers
 - Extraterritorial
 - *Applies to state and all political subdivisions*

Emergency Services Act (cont.)

- The quote to remember:

The purpose of the [California Emergency Services] Act is self-explanatory. In situations in which the state must take steps necessary to quell an emergency, it must be able to act with speed and confidence, unhampered by fear of tort liability. A state of emergency imposes severe time constraints, forcing decisions to be made quickly and often without sufficient time to carefully analyze all potential repercussions. Therefore, the immunity granted by the Act is broad and specifically extended to encompass not only discretionary actions, but also the performance of or failure to perform those discretionary actions. (*LaBadie v. State of California* (1989) 208 Cal.App.3d 1366)