

LEXSEE 186 CAL APP 3D 479

**CITY OF LOMITA et al., Petitioners, v. THE SUPERIOR COURT OF LOS ANGELES
COUNTY, Respondent; COUNTY OF LOS ANGELES, Real Party in Interest**

No. B020914

Court of Appeal of California, Second Appellate District, Division Four

186 Cal. App. 3d 479; 230 Cal. Rptr. 790; 1986 Cal. App. LEXIS 2125

October 16, 1986

SUBSEQUENT HISTORY: [***1]

A Petition for a Rehearing was Denied November 14, 1986, and the Petition of Real Party in Interest for Review by the Supreme Court was Denied December 30, 1986.

DISPOSITION:

Therefore, let writs of mandate issue: (1) To the County of Los Angeles as real party in interest requiring it to comply with this opinion, construing its terms liberally; and (2) Directing respondent court to issue such orders as it may deem necessary directing the real party in interest to see that it carries out the duties hereinabove outlined. The costs in this court shall be paid by the county for the benefit of the various complaining cities in such amount and proportion as the trial court may direct.

SUMMARY: CALIFORNIA OFFICIAL REPORTS SUMMARY

Several cities in Los Angeles County applied for a writ of mandate to enforce the duty of Los Angeles County to provide emergency ambulance service for its residents as set forth in an earlier decision of the Court of Appeal. The Court of Appeal granted the writ. The court held that its earlier decision was the law of California, that the term "residents" as used in the cases and applicable statutes discussed in its earlier opinion was used broadly to include any person found in the county in need of emergency ambulance service, and that the county could fulfill its duty to such persons in any of the four ways specified by the court. The court also held that while the county was required to provide immediate emergency service to all those found in the county who needed it without inquiry as to financial status, the county was entitled, but not required, to seek reimbursement by such means as it found desirable from nonindigent persons transported in emergencies, including litigation in a court with subject matter and personal jurisdiction. (Opinion by Kingsley, Acting

P. J., with McClosky and Arguelles, JJ., concurring.)

HEADNOTES: CALIFORNIA OFFICIAL REPORTS HEADNOTES

Classified to California Digest of Official Reports, 3d Series

(1) Courts § 32 — Decisions and Orders — Power and Duty of Courts. —In an application for a writ of mandate following an earlier decision by the Court of Appeal regarding the duty of Los Angeles County to provide emergency ambulance service for its residents, the Court of Appeal did not have the power to upset its earlier decision which was concurred in by three justices, denied rehearing, and denied review by the California Supreme Court.

(2) Public Aid and Welfare § 4 — County's Duty to Provide Emergency Ambulance Service to Residents — Definition of "Residents." —In regard to the duty of Los Angeles County to provide emergency ambulance service for all "residents" of the county in need of medical care, the term "residents" is used broadly in the cases and applicable statutes to include not only permanent county residents but any person found in the county in need of emergency ambulance care.

(3) Public Aid and Welfare § 4 — County's Duty to Provide Emergency Ambulance Service to Residents — Alternative Methods. —Los Angeles County's duty to provide emergency ambulance service for its residents could be fulfilled by creating, equipping, and manning a separate county department to provide emergency ambulance service, by assigning the duty to such existing county department as it might choose and providing that department with the necessary equipment and trained personnel, by contracting with cities or local agencies located within the county to provide necessary emergency ambulance service to the residents of the

county found within the city or cities, or by contracting with private ambulance companies.

(4) Public Aid and Welfare § 4 — County's Duty to Provide Emergency Ambulance Service to Residents — Reimbursement by Nonindigents. —

Although Los Angeles County was required to provide immediate emergency service to all those found in the county who need it without inquiry as to financial status, since under a court's former decision the duty of the county to bear the costs of this service applies only to "indigent residents," the county was authorized, but not required, to seek reimbursement from or on behalf of nonindigent persons transported in emergencies by such means as it found desirable, including, if such reimbursement cannot be secured amicably, litigation in a court with subject matter and personal jurisdiction.

COUNSEL:

Burke, Williams & Sorensen, Leland C. Dolley, J. Robert Flandrick and Virginia R. Pesola for Petitioners.

No appearance for Respondent.

De Witt Clinton, County Counsel, Daniel D. Mikesell, Jr., and Rafael A. Ongkeko, Deputy County Counsel, for Real Party in Interest.

Gerald J. Geerlings, County Counsel (Riverside), William C. Katzenstein and Joyce Manulis Reikes, Deputy County Counsel, as Amici Curiae on behalf of Real Party in Interest.

JUDGES:

Opinion by Kingsley, Acting P. J., with McClosky and Arguelles, [***2] JJ., concurring.

OPINIONBY:

KINGSLEY

OPINION:

[*481] [**791] In November 1983 this court rendered an opinion regarding the duty of the county to provide emergency ambulance service for its residents. We are advised in the present litigation that some substantial misunderstanding has arisen between the administration of Los Angeles County and various cities in said county with reference to the extent and nature of the duties so required. (1) That original case (*City of Lomita v. County of Los Angeles* (1983) 148 Cal.App.3d 671 [196 Cal.Rptr. 221]) was concurred in by three justices of this court. Petition for rehearing was denied and the petition to the Supreme Court of California for a review of that decision

was denied. We have no inclination, nor do we have the power, to upset that decision which is now the law of California. However, because of the problems disclosed by the record now before us in the present action, we shall proceed to set out in clearer detail what we thought was clear from our original opinion.

(2) *First*, it is the duty of the County of Los Angeles to provide emergency ambulance service for all "residents" of the county in need of medical care. As [***3] used in the cases and applicable statutes discussed in our earlier opinion, the word "resident" is used broadly to include not only permanent county residents but any person found in the county in need of emergency ambulance care. (3) The county's duty to such persons may be fulfilled in any one of four different ways or by any combination of such services.

(1) The county may create a separate county department to provide emergency ambulance service, equipping such department with the necessary vehicles and other equipment, as well as personnel in such department and pay the expenses of operating such department as it staffs and operates other county departments.

(2) It may assign the duty of providing emergency ambulance service to residents of the county to such existing county department as it may choose and provide that department with the necessary equipment and trained personnel.

[*482] (3) It may contract with the cities or local agencies located within the county to provide necessary emergency ambulance service to the residents of the county found within such city or cities; or,

(4) It may contract with private ambulance companies.

(4) *Second*, our previous decision requires [***4] the county to bear the costs of this service for whatever method the Board of Supervisors of Los Angeles County may select. That decision and the authorities relied on therein require the county to provide immediate emergency service to all those found in the county who need it, since, in the nature of things, emergency ambulance service cannot be delayed to inquire into the financial status of the person for whom transportation is to be furnished. However, since the duties outlined in our former decision apply only to "indigent" "residents" of the county, many people requiring immediate ambulance service will, on investigation, prove not to have been indigent. In such cases, the county [**792] may n1 seek (by such means as it finds desirable) reimbursement from (or on behalf of) the nonindigent person transported in emergencies. If such reimbursement cannot be secured amicably, the county may proceed to litigation in such court as has subject matter and personal jurisdiction.

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n1 We have used the word "may" because we recognize that in some cases litigation would be uneconomical or otherwise unnecessary and we do not intend to require the county, under the discretion of its governing authority, to undertake additional and nonprofitable expense.

[***5]

Therefore, let writs of mandate issue:

(1) To the County of Los Angeles as real party in interest requiring it to comply with this opinion, construing its terms liberally; and

(2) Directing respondent court to issue such orders as it may deem necessary directing the real party in interest to see that it carries out the duties hereinabove outlined.

The costs in this court shall be paid by the county for the benefit of the various complaining cities in such amount and proportion as the trial court may direct.