

***Francisco Gutierrez v. Uriel Tostado, et al.***  
**No. H049983**

MICRA's one year statute of limitations applies if the plaintiff was injured due to negligence in the rendering of professional services, and their injuries were foreseeable.

**FACTS/PROCEDURE**

Plaintiff/Appellant Francisco Gutierrez was rear-ended by Defendant/Respondent Uriel Tostado who was driving an ambulance at the time of the incident. Tostado, employed by ProTransport-1, was driving while his partner attended to the patient in the rear of the ambulance. Almost two years after the collision, Gutierrez filed suit against Tostado and ProTransport-1 alleging various personal injury claims. The respondents filed a motion for summary judgment on the sole ground the Gutierrez's claims were time barred under MICRA's one-year statute of limitations. The trial court concluded that because Tostado was transporting a patient at the time of the accident, he was rendering professional services and thus, Gutierrez's claims against the defendants were time-barred under the statute. Gutierrez timely appealed from the judgment.

**HOLDING/DISCUSSION**

Holding: Affirmed. MICRA defines professional negligence as "a negligent act or omission to act by a health care provider in the rendering of professional services." (§ 340.5, subd. (2).) The parties did not dispute that an EMT transporting a patient in an ambulance is providing medical care to the patient for purposes of the statute. However, only actions "alleging injury suffered *as a result of* the provision of medical care to patients" are covered. The issue before the court was whether a driver in a separate vehicle, injured in a collision with an ambulance transporting a patient, was injured as a result of the provision of medical care such that MICRA would apply.

In considering Gutierrez's appeal, the appellate court held that because Tostado was providing professional medical services at the time of the incident, MICRA's one year statute of limitations applied, despite Gutierrez not being the recipient of those services. The court distinguished between a duty owed to the general public versus a duty owed to patients in the rendering of professional services. They held that Tostado was a medical provider providing medical care at the time of the accident, and thus Gutierrez was injured as a result of the provision of medical care. The court reasoned that the act of driving the ambulance was an integral part of the provision of medical care, and it was foreseeable that third parties could be injured during the provision of such care. The Court relied *on Lopez v. American Medical Response West* (2023) 89 Cal.App.5<sup>th</sup> 336 for the proposition that MICRA may be applied to a claim by a third party injured while the defendant was rendering professional services to another. The court rejected Gutierrez's argument that MICRA only applied where the defendant owed a professional duty to the plaintiff, holding instead that MICRA applied as long as the plaintiff was injured due to negligence in the rendering of professional services, and their injuries were foreseeable. Thus, the judgement was affirmed.