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ARIZONA ATTORNEY GENERAL

May 28, 1986

The Honorable Don Aldridge
Arizona State Representative
State Capitol - House Wing
Phoenix, Arizona 85007

Re: I86-058 (R86-048)

Dear Representative Aldridge:

You have asked whether A.R.S. § 32-1471 applies to volunteer firefighter associations or similar organizations when they render emergency care in good faith at a public gathering or at the scene of an emergency. You have also inquired whether the statute would also apply to their efforts in responding to fires or search and rescue operations.

A.R.S. § 32-1471 provides as follows:

Any health care provider licensed or certified to practice as such in this state or elsewhere, or a licensed ambulance attendant, driver or pilot as defined in § 41-1831, or any other person who renders emergency care at a public gathering or at the scene of an emergency occurrence gratuitously and in good faith shall not be liable for any civil or emergency care, or as the result of any act or failure to act to provide or arrange for further medical treatment or care for the injured persons, unless such person, while rendering such emergency care, is guilty of gross negligence.

The term "person" includes a corporation, company, partnership, firm, association or society, as well as a natural

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person. A.R.S. § 1-215(24). Thus, a volunteer firefighters' association, or similar organization, would be included in the coverage of A.R.S. § 32-1471, if all of the other criteria of the statute are met. These criteria are set forth in the statute and include the following: (1) that the care being rendered be emergency care, (2) that the care be rendered at a public gathering or at the scene of an emergency, (3) that the efforts be gratuitous, and (4) that it be extended in good faith.

You also asked whether the coverage of A.R.S. § 32-1471 would extend to circumstances involving responding to fires or search and rescue operations.

The answer to your inquiry is that such circumstances must necessarily be judged on a case-by-case basis, but that coverage should apply if all of the criteria set out above are met. That is, each case will require a factual determination that the fire response or search and rescue operation involved emergency care, at a public gathering or scene of an emergency, that the efforts were gratuitous and that the care was extended in good faith.

Two Arizona cases have indicated in dicta that the coverage of A.R.S. § 32-1471 would be available in circumstances involving volunteer firefighters responding to a fire as well as search and rescue operations.

In Barnum v. Rural Fire Protection Co., 24 Ariz.App. 233, 537 P.2d 618 (1975) the court never directly reached the question of the availability of A.R.S. § 32-1471 since it was decided in favor of the volunteer fire fighters on other grounds. It did, however, comment in a footnote that the coverage afforded under the statute was "notably broad" and thus implied that the statute could have been applied if needed.

Likewise, the court has indicated the statute would be applicable in respect to search and rescue responses. In Miller v. Arnal Corporation, 129 Ariz. 484, 632 P.2d 987 (1981), the plaintiff sought to hold the defendant, the corporation operating the Snow Bowl Ski area, liable for failing to come to his rescue when he was stranded by a severe storm while hiking Humphrey's Peak. The court was not required to rely on A.R.S. § 32-1471 since there was another legal basis

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for deciding the case, but in dicta it referred to that statute and cited the language from the Barnum case, supra, that the coverage under the statutes was "notably broad." 129 Ariz. at 488, 632 P.2d at 991.

We conclude that the efforts of a volunteer firefighters association, or similar group, would be covered by A.R.S. § 32-1471 if, on a case-by-case basis, each of the criteria required by the statute is met.

Sincerely,



BOB CORBIN
Attorney General

BC:AGR:DDH:jaf