

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

CALIFORNIA HIGHWAY PATROL,

Petitioner,

H029406

v.

**SUPERIOR COURT OF THE STATE OF
CALIFORNIA, COUNTY OF SANTA CRUZ,**

Respondent.

RICHARD J. QUIGLEY,

Real Party in Interest and Defendant.

Santa Cruz County Superior Court Nos. 4SM21812;4WM023363
4SM023894; 4SM028271 and 4SM044470
The Honorable Michael Barton, Judge

**NOTICE OF IMPENDING WRIT PETITION AND REQUEST FOR
CONSOLIDATION AND REQUEST FOR DEFERRAL OF RULING
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9 **IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**
10 **SIXTH APPELLATE DISTRICT**
11

12 **CALIFORNIA HIGHWAY PATROL,**

Petitioner,

14 v.

15 **SUPERIOR COURT OF THE STATE OF**
16 **CALIFORNIA, COUNTY OF SANTA CRUZ,**

17 Respondent,

18 **RICHARD J. QUIGLEY,**

19 Real Party in Interest and Plaintiff.
20

CASE NO: H029406

**NOTICE OF IMPENDING
WRIT PETITION AND
REQUEST FOR
CONSOLIDATION AND
REQUEST FOR
DEFERRAL OF RULING**

21 **TO THIS HONORABLE COURT, TO ALL PARTIES AND THEIR ATTORNEYS OF**
22 **RECORD:**

23 The California Highway Patrol ("CHP") hereby provides notice that it will soon be filing
24 a writ petition, and a request for a stay of trial-court proceedings, related to the issues in this case
25 and, if review is granted, will seek consolidation with this pending writ proceeding.

26 On November 9, 2006, plaintiff Richard Quigley filed an action in Santa Cruz County
27 Superior Court, Case No. CV 155682, seeking solely declaratory and injunctive relief. Plaintiff
28 contends in that action that the California Helmet Law (Vehicle Code sections 27802 and 27803)

1 and the regulations the CHP has adopted in furtherance of those statutes "are void for vagueness,
2 as they do not provide a reasonable person an objective means of knowing whether a given
3 motorcycle helmet does or does not comply with the law." Plaintiff's action is simply another
4 attack on the constitutionality of the Helmet Law.

5 On January 12, 2007, the CHP brought a demurrer based on the fact that plaintiff's action
6 was barred as a matter of law because courts have upheld the Helmet Law on numerous
7 occasions. Furthermore, plaintiff admitted in action no. CV 155682, that the CHP has
8 regulations in place governing enforcement of the Helmet Law.

9 On February 13, 2007, the Santa Cruz Superior Court denied the CHP's demurrer finding
10 that plaintiff alleged he was cited despite wearing a helmet that bore a DOT designation. The
11 court felt that such allegations were sufficient to support a claim for declaratory and injunctive
12 relief based on an "as applied" challenge to the Helmet Law. The Superior Court's ruling is
13 erroneous as a matter of law because it permits yet another facial challenge to the Helmet Law.
14 The purpose of the suit against the CHP is simply to render the law unenforceable through the
15 improper use of declaratory and injunctive relief.

16 Accordingly, the CHP asks that this court refrain from issuing a ruling in this action until
17 it reviews the impending writ petition, which will be filed shortly in this court.

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2 Respectfully submitted,

3 EDMUND G. BROWN JR.
4 Attorney General of the State of California

5 MIGUEL A. NERI
6 FIEL D. TIGNO
7 Supervising Deputy Attorneys General

8 

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KAREN KIYO HUSTER
10 Deputy Attorney General
11 Attorneys for Petitioner California Highway
12 Patrol

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **California Highway Patrol v. Superior Court of the State of California,
County of Santa Cruz, et al.**

Court of Appeal of the State of California, Sixth Appellate District

Case No.: **H029406 (Santa Cruz County Superior Court Nos.: 4SM21812; 4WM023363
4SM023894; 4SM028271 and 4SM044470)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

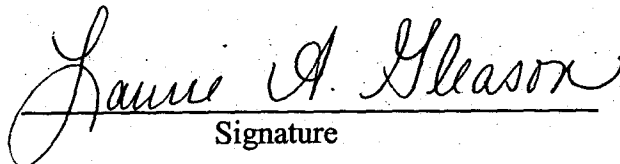
On February 16, 2007, I served the attached **NOTICE OF IMPENDING WRIT PETITION AND REQUEST FOR CONSOLIDATION AND REQUEST FOR DEFERRAL OF RULING** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at P.O. Box 70550, Oakland, CA 94612-0550, addressed as follows:

SEE ATTACHMENT OF PARTIES BEING SERVED

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 16, 2007, at Oakland, California.

Laurie A. Gleason

Declarant


Signature

ATTACHMENT - DECLARATION OF SERVICE BY U.S. MAIL

California Highway Patrol v. Superior Court of the State of California, County of Santa Cruz, et al.

Court of Appeal of the State of California, Sixth Appellate District

Case No.: **H029406 (Santa Cruz County Superior Court Nos.: 4SM21812; 4WM023363
4SM023894; 4SM028271 and 4SM044470)**

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