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8 Mike Brown, Commissioner; and Christina
Manriquez, Commander
9

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SANTA CRUZ
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14 **RICHARD QUIGLEY, STEVE BLANCO, DON**
15 **BLANSCET, STEVE BARRON, PATRICK**
16 **HOLMES,**
Plaintiffs,
17
18 v.
19 **CALIFORNIA HIGHWAY PATROL; MIKE**
BROWN, Commissioner; CHRISTINA
20 **MANRIQUEZ, Commander; DOES 1 through 10,**
Defendants.
21

CASE NO: CV 155682

DEFENDANT
COMMISSIONER MIKE
BROWN'S ANSWER TO
COMPLAINT

22 Defendant Commissioner Mike Brown answers the Complaint in this action as follows:

- 23 1. In answer to paragraph 1, Defendant Brown is without knowledge of information
24 sufficient to form a belief as to the truth of the allegations contained therein, and
25 on that basis, denies them.
- 26 2. In answer to paragraph 2, Defendant Brown admits the allegations contained
27 therein.
- 28 3. In answer to paragraph 3, Defendant Brown admits that he is currently the

1 commissioner of the CHP. As the commissioner, Defendant Brown enforces
2 Vehicle Code sections 27802 and 27803. Except as so admitted, Defendant
3 Brown denies the remaining allegations contained in the said paragraph.

4 4. In answer to paragraph 4, Defendant Brown admits the allegations contained
5 therein.

6 5. In answer to paragraph 5, Defendant Brown is without knowledge of information
7 sufficient to form a belief as to the truth of the allegations contained therein, and
8 on that basis, denies them.

9 6. In answer to paragraph 6, Defendant Brown is without knowledge of information
10 sufficient to form a belief as to the truth of the allegations contained therein, and
11 on that basis, denies them. Except so admitted, Defendant Brown is without
12 knowledge of information sufficient to form a belief as to the truth of the
13 remaining allegations contained in this paragraph, and on that basis, denies them.

14 7. In answer to paragraph 7, Defendant Brown admits the allegations contained
15 therein.

16 8. In answer to paragraph 8, Defendant Brown admits that said paragraph contains a
17 block quote of Vehicle Code section 27802, which states requirements for persons
18 who sell or offer for sale motorcycle safety helmets. Except so admitted,
19 Defendant Brown denies the remaining allegations contained in said paragraph.

20 9. In answer to paragraph 9, Defendant Brown admits that the CHP has adopted 13
21 California Code of Regulations section 982 as a regulation pursuant to Vehicle
22 Code section 27802. Defendant Brown also admits that said paragraph quotes 13
23 California Code of Regulations section 982, which references Federal Motor
24 Vehicle Safety Standard No. 218 (49 C.F.R. § 571.218.) ("FMVSS 218").
25 Defendant Brown denies that a true copy of FMVSS 218 is attached to the
26 Complaint as Exhibit 1 to the extent that an incomplete copy of FMVSS 218 is
27 attached as Exhibit 1. Except so admitted, Defendant Brown denies the remaining
28 allegations contained in said paragraph.

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10. In answer to paragraph 10, Defendant Brown admits that said paragraph contains a quote from section S5 of FMVSS 218. However, FMVSS 218 also requires at section S5.6.1, that each motorcycle helmet be labeled permanently and legibly with the symbol DOT, which constitutes the manufacturer's certification that the helmet conforms to federal motor vehicle safety standards. Except as so admitted, Defendant Brown denies the remaining allegations contained in the said paragraph.

11. In answer to paragraph 11, Defendant Brown admits that Vehicle Code section 27802 requires manufacturers to certify compliance with FMVSS 218 by permanently and legibly labeling any motorcycle safety helmet sold or offered for sale with the symbol DOT on the outer surface of the helmet. Except as so admitted, Defendant Brown denies the remaining allegations contained in the said paragraph.

12. In answer to paragraph 12, Defendant Brown admits that Defendant CHP is the only state agency authorized by Vehicle Code section 27802 to adopt reasonable regulations establishing specification and standards for motorcycle safety helmets.

13. In answer to paragraph 13, Defendant Brown admits that Defendant CHP trains its officers, and has guidelines in its Highway Patrol Manual regarding the enforcement of the Helmet Law. To Defendant Brown's knowledge, Defendant CHP does not maintain a list of "approved" helmets. To Defendant Brown's knowledge, Defendant CHP does not certify or approve helmets for compliance with FMVSS 218. Defendant Brown admits that the phrase "approved helmet" does not appear in Vehicle Code sections 27802 and 27803. Except as so admitted, Defendant Brown denies the remaining allegations contained in the said paragraph.

14. In answer to paragraph 14, Defendant Brown denies the allegations contained therein.

15. In answer to paragraph 15, Defendant Brown denies the allegations contained

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therein.

16. In answer to paragraph 16, Defendant Brown denies the allegations contained therein.

17. In answer to paragraph 17, Defendant Brown admits that according to Vehicle Code section 27803 and existing appellate cases, to cite a person for violating Vehicle Code section 27803, an officer must have probable cause that a motorcyclist or passenger: (1) was not wearing a safety helmet when riding a motorcycle, motor-driven cycle, or motorized bicycle; (2) was wearing a safety helmet that does not bear a certification of compliance by the manufacturer at the time of sale; or (3) was wearing a safety helmet that does bear a certification of compliance by the manufacturer at the time of sale but: (A) the helmet has been shown not to conform with federal safety standards, and (B) the person being cited has actual knowledge of a showing of non-conformity with federal standards. Except as so admitted, Defendant Brown denies the remaining allegations contained in the said paragraph.

18. In answer to paragraph 18, Defendant Brown denies the allegations contained therein.

19. In answer to paragraph 19, Defendant Brown denies the allegations contained therein.

20. In answer to paragraph 20, Defendant Brown denies the allegations contained therein.

21. In answer to paragraph 21, Defendant Brown incorporates its responses to paragraphs 1 through 19.

22. In answer to paragraph 22, at this time Defendant Brown is without knowledge of information sufficient to form a belief as to the truth of the allegations contained therein, and on that basis, denies them. The nine arrests and citations referenced in said paragraph, which Plaintiff Quigley received for violations of Vehicle Code section 27803, include arrests and citations issued by a law enforcement agency

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other than the CHP.

23. In answer to paragraph 23, at this time Defendant Brown is without knowledge of information sufficient to form a belief as to the truth of the allegations contained therein, and on that basis, denies them.

24. In answer to paragraph 24, Defendant Brown denies the allegations contained therein.

25. In answer to paragraph 25, Defendant Brown denies the allegations contained therein.

26. In answer to paragraph 26, Defendant Brown denies the allegations contained therein.

27. In answer to paragraph 27, Defendant Brown denies the allegations contained therein.

28. In answer to paragraph 28, at this time Defendant Brown is without knowledge of information sufficient to form a belief as to the truth of the allegations contained therein, and on that basis, denies them.

29. In answer to paragraph 29, Defendant Brown admits the allegations contained therein.

30. Defendant Brown denies all allegations in the Complaint not otherwise admitted in this Answer.

And for its affirmative defenses, Defendant Brown alleges:

FIRST AFFIRMATIVE DEFENSE

31. Plaintiffs' claims for declaratory and injunctive relief are barred by the doctrines of res judicata, estoppel, waiver, and laches.

SECOND AFFIRMATIVE DEFENSE

32. Plaintiffs' claims for declaratory and injunctive relief are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

33. With respect to Plaintiffs' claims for declaratory and injunctive relief, there are

1 adequate legal remedies at law and there is no danger of irreparable harm.

2 FOURTH AFFIRMATIVE DEFENSE

3 34. Each of the individual defendants acted in good faith and is immune from suit
4 under the doctrines of absolute and/or qualified immunity.

5 FIFTH AFFIRMATIVE DEFENSE

6 35. Plaintiffs' complaint presents no actual case or controversy for determination by
7 this Court.

8 SIXTH AFFIRMATIVE DEFENSE

9 36. Because Plaintiffs' complaint is couched in conclusory terms, Defendant Brown
10 cannot fully anticipate all affirmative defenses that may apply in this case.
11 Accordingly, Defendant reserves the right to assert additional affirmative defenses
12 in this litigation as warranted.

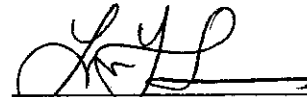
13 WHEREFORE, Defendant Brown prays that Plaintiffs take nothing by this action and for
14 judgment in Defendant Brown's favor on Plaintiffs' Complaint, and that Defendant Brown be
15 awarded costs, attorneys' fees, and such other relief as the Court may deem just and proper.

16 Dated: April 30, 2007

17 Respectfully submitted,

18 EDMUND G. BROWN JR.
Attorney General of the State of California

19 MIGUEL A. NERI
20 FIEL D. TIGNO
Supervising Deputy Attorneys General

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23 LILLIAN Y. TABE
24 Deputy Attorney General
25 Attorneys for Defendants California Highway
26 Patrol; Mike Brown, Commissioner; and
27 Christina Manriquez, Commander
28

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Quigley v. California Highway Patrol, et al.**

No.: **CV 155682**

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 April 30, 2007, I served the attached **DEFENDANT COMMISSIONER MIKE BROWN'S ANSWER TO COMPLAINT** 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:

Wendy Cole Lascher
Attorney at Law
LASCHER & LASCHER
605 Poli Street
P.O. Box 25540
Ventura, CA 93002-2285
Attorney for Plaintiffs

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 April 30, 2007, at Oakland, California.

Erica A. Panoringan

Declarant



Signature