

Let us All Stand Shoulder to Shoulder and Take Our Common Victory, In the Name of Vindicating the Supremacy of Our United States Constitution.

Rusty/RC Region 21,

Rusty was one of the very first here to recognize the importance of our litigation and send in a check to the Judicial Fund, I think possibly as long as a year ago. And then Rusty was one of the first, along with Girl Geek and her partner Chainsaw, to take up the California constitutional litigation to his Michigan ABATE Chapter, subsequently meeting and lobbying the ABATE of Michigan executive officers and governors, the persuasive force of his arguments ultimately effective in obtaining the second large state ABATE contribution after our good friends in Delaware. He later went back and obtained a second large contribution to the fund from his Michigan Local. Early on, others here, like Bruce Arnold also saw the potential of our California case and urged support to the biker rights advocates on his Long Distance Rider and Bikers Rights mailing lists.

The guys here at BOLT of California are very grateful because the truth is that we couldn't do this on our own, and if we succeed we will owe our success to all those who have contributed so generously. It will truly have been a joint effort with all of us taking our parts in carving out this historic constitutional achievement. The lead first of Delaware and Michigan led to the contribution of ABATE of Northern Nevada. With MRF's help now in circulating Don Blanscet's press release, speaking for ABATE of California, we hope to obtain all the funds we will need now to put on the very best case that our good evidence of illegal CHP helmet law enforcement policies and practices, our legal arguments based on the constitutional law we've created, and now, our healthy war chest can buy.

Rusty above described BOLT as the Spartans. Others have described us as a bunch of California pranksters and misfits, Don Quixotes tilting at windmills. I think maybe we fit both categories and the truth of the matter is that even to the extent that we may have identified the constitutional antidote to helmet laws, we don't hold the patent on civil disobedience or court challenge.

Quig's hope and our hope is that when we obtain the decision here that finally voids our California helmet law as unconstitutionally vague, that ABATE chapters or other SMROs will just adopt the same tactics as an adjunct or second front in their fight against the helmet laws. Nonviolent civil disobedience was Gandhi's means to free his people from imperialist oppression, as it was the tool of Martin Luther King, Jr. It wasn't all the kissing political ass or snitching out the loud bikers that led the idiot Mayor and City Council to back off their anti-Harley rider noise ordinances to keep the riff raff off their pathetic "upscale" stretch of Atlantic Avenue, Delray; it was the threat of civil disobedience and court challenge based on the doctrine of "preemption," the "no compromise" argument we recommended to ABATE of Florida, and which they ultimately adopted; the same legal argument that we had recommended a year earlier to ABATE of Utah when faced with idiot Mayor Rocky Anderson's threat of a Salt Lake City municipal helmet ordinance. These little dictators like the Delray and Salt Lake City Mayors think that they have all the power in the world to push us around, but the fact is they often don't have a clue how limited their power is. And for different reasons, United States Constitutional reasons, our state legislatures and Attorneys General don't appreciate how vulnerable they are to being hog tied by higher law. Sam was ready and chomping at the bit to run down Atlantic Avenue to pick up a ticket and bring the preemption challenge to court in Delray if it had been necessary. All it takes is one Richard Quigley in each state willing to break an oppressive law and challenge the law's constitutionality. It's better if you have 300 Spartans with modified pipes roaring down Atlantic Avenue, just because you can make a lot more noise. And it's more fun if you have the company of a bunch of merry pranksters to collaborate on the Zen of "DOT approved" motorcycle baseball cap helmet manufacturing. But all it takes is one to take down an oppressive law.

As I read the praise of BOLT above I also feel a little bit uncomfortable because it is the extraordinary sacrifice of our brothers at the ABATE's around the country who have contributed to keep the free states free, and like in Michigan, fight one hell of a fight only to have freedom snatched from their grasp by their petty state dictator, Governor Granholm, not to mention the guys at MRF are watching over our interests at the national level.

I guess, I also feel a little uncomfortable about the praise for BOLT just because we haven't placed that final nail in the coffin yet. But your words remind us of the enormous responsibility that is now on our shoulders. It won't alter how we go about challenging the helmet law. We still stand by our BOLT "DOT approved" baseball cap helmet and sunglasses helmets, the itsy bitsy teeny weenie helmet and our array of self manufactured hard shell helmets. The truth is the cops can't have a clue whether any of our helmets comply with FMVSS 218, and if they issue a ticket for any of our tickets they are engaging in what the United States Constitution prohibits. The reason why we were forced to such in-your-face police provocation is that following our previous constitutional cases the hands of the police were so tied that they essentially gave up enforcing the law so long as bikers put something on their heads that wasn't completely in-their-face. To play it responsibly we will also include as a part of our evidence scores of CHP citations of bikers for wearing those helmets that look like what some people call novelty helmets, but which couldn't be, because they have DOT stickers on them. Our previous due process constitutional victory in *Bianco v. CHP* holds that the cops can't consider helmet fabrication and we can't be cited for such helmets unless the biker has "actual knowledge" that the helmet has been recalled or determined by NHTSA to be noncompliant with FMVSS 218, and what biker would ever know that. Right? And then in *Easyriders v. Hannigan*, a case involving for the most part CHP citations for riding with novelty helmets, the United States Court of Appeals upheld a federal injunction against the CHP, to our knowledge the only federal injunction ever issued to the CHP, ordering the CHP to cease and desist issuing helmet tickets unless the officer has "probable cause" to believe the biker has "actual knowledge" that his helmet has been recalled or determined noncompliant.

The case going to trial in May will not be our first victory in this constitutional war, but we hope and trust that it will be the last that we will require to put the helmet law to bed. This will be the third time we've taken the CHP to Court to demonstrate that it is engaged in illegal police tactics pursuant to CHP policy to enforce the helmet law illegally. The CHP can't comply with the stringent limitations placed upon their ability to issue helmet tickets, and what is important for everyone else to know is that those limitations were required by the due process clause and the 4th and 14th Amendments of our United States Constitution applicable in every state.

The road to overcoming the helmet law in other states could be much shorter than it has been here in California, for a couple of reasons. One reason is that our original argument that the California helmet law was unconstitutionally vague "as written" was incorrectly rejected by the California Court of Appeals. In other states we would hope that the courts would come to the correct decision right off the bat and hold that the helmet laws are a violation of due process. What the California Court of Appeals did when the issue was first raised was to say yeah, the law can't be understood by the bikers and it certainly can't be understood or applied except arbitrarily by the cops, which usually is enough to get a law stricken as unconstitutionally vague, but the Court of Appeals instead "reinterpreted" the law to comply with the constitutional requisites, first holding that the bikers and cops need look no further than whether the helmets are adorned with "DOT" stickers, then leading up to the additional constitutional restrictions described above.

But even if the courts in other states are not inclined right off the bat to void your helmet law as unconstitutionally vague "as written," our hope is that this California case will force them to do so. And the reason for that is that our case will demonstrate that your helmet law can't be reinterpreted to comply with constitutional requisites without rendering the law incapable of being enforced constitutionally.

When our Court of Appeals decides the case, assuming that it decides it in our favor, then all you Richard Quigleys in every other state can put together your own band of misfits, or Spartans, or Don Quixotes, walk into court with your tickets and your photocopy of the United States Constitution, along with the final nail opinion of the California Court of Appeals, and say "Hey Judge, this law sucks, and besides which, its unconstitutional, look here..." Whenever a trial court or appellate court is faced with an "issue of first impression," meaning an issue that the courts of that state haven't yet faced, they ALWAYS expect that the parties will supply them with briefs on how the Courts of other states have ruled on the issue, and on the issue of due process and 4th and 14th Amendment helmet law challenge, our California precedent will be the only precedent in point.

Our victory in California, assuming we are blessed with this heretofore illusive definitive nail in the coffin victory this time around, will be our BOLT victory, but it will also be ABATE of Delaware's victory and Girl Geek's and Chainsaw's and Hildy's and RC's victory and Rusty's victory and ABATE of Michigan's victory, and Bruce Arnold's victory, and ABATE of Northern Nevada's victory and Farmboy's victory and MRF's victory, and the victory of everyone else who contributed to this historic vindication of Constitutional rights.

We've seen a lot of dissension in our bikers rights movement, bikers rights advocates pitted against freedom fighters, on the issue of the validity of our BOLT approach to things as well as on just about every other strategy and approach, each organization consumed in its self interest or the self interest of its leaders, pointing the finger and bringing the others down, and here I am definitely NOT talking about anyone in particular, so please don't read anything between these lines. Maybe some of it serves a purpose if we are capable of looking at ourselves when criticized and ask whether maybe we are on the exact right track. And then there are big differences of opinion, some of them legitimate differences of opinion, that should be aired, and fought out, so that our ideas can be tested, just as we test our constitutional arguments in the courts. Some of us are real ass-holes, and I think that I am the biggest ass-holes of them all when I am angry, and you don't have to scroll down very far on this page to find me venting my anger at some sport rider prick who accused our Harley tribe of being the ones who the public hates, accusing Sam of all people of looking like Richard Quigley after she and RC and the President of ABATE Florida had appeared at a hearing to protest this absurd law that would have taken the sport bikes from our two-wheeled brothers who get a kick out of pulling wheelies at a hundred miles an hour on the Florida freeways. Yeah, I called him a prick, and told him to send in a picture of himself so we could all ridicule it after he'd attacked Sam. But I guess what I'd like to say is that hopefully this case will provide the opportunity for bikers rights advocates and freedom fighters of all persuasions to get together and throw our combined weight behind the United States Constitution -- one statement of principles about which I would hope that we would all want to call our own.

Hey, I've never been a joiner. BOLT is the only "club" I've ever joined -- until our Richard Quigley Memorial and Judicial Fund Rally down in San Diego last weekend. I hooked up with this guy Gill, who is the President of California ABATE Local 20, Orange County, and I guess I was inspired by his generosity along with that of the ABATE Locals 11 and 6 which put on the rally. Gill just "happened" to have a worn out and bent up application form, so I guess I can now call myself a misfit private in the California battalion of the greater army of biker rights advocates that Rusty described in his post.

God bless the diversity of our greater tribe, because while at times it seems to threaten to pull us all apart, it also constitutes our greatest strength.

Ray Henke
Bikers of Lesser Tolerance, California
New Member, ABATE of California, Local 20