

Bond Case Briefs

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LIABILITY - CALIFORNIA

State ex rel. Dept. of California Highway Patrol v. Superior Court of Orange County

Supreme Court of California - February 26, 2015 - P.3d - 15 Cal. Daily Op. Serv. 1932 - 2015 Daily Journal D.A.R. 2241

Motorist brought personal injury action against California Highway Patrol (CHP) after a collision with a tow truck in CHP's Freeway Service Patrol (FSP) program. The Superior Court denied summary judgment for CHP. CHP petitioned for writ of mandate. The Court of Appeal granted petition.

The Supreme Court of California held that:

- FSP program did not give rise to a special employment relationship between CHP and tow truck driver, but
- FSP statutes do not prohibit CHP from acting as special employer of tow truck drivers.

California Highway Patrol's (CHP) Freeway Service Patrol (FSP) program did not give rise to a special employment relationship between CHP and tow truck driver sufficient to make driver an "employee" of CHP under the vicarious liability provisions of the Government Claims Act, since CHP was not an "employer" of the driver under the FSP statutes, even though the FSP service provider's contract with county transportation authority provided that CHP officers could direct tow truck drivers when an officer was present while roadside assistance was provided, even though FSP tow trucks were required to bear a CHP logo, where CHP did not select drivers or even service providers to participate in an FSP program, and tow truck driver was employed by the service provider.