

State ex rel. Dept. of California Highway Patrol v. Superior Court (2013) 220 Cal. App. 4th 612

The CHP is not a special employer of Freeway Service Patrol program tow truck drivers.

FACTS AND PROCEDURAL POSTURE

A tow truck on I-5 rear-ended a car driven by Antonia Alvarado. She suffered catastrophic brain injuries, and her infant son was also injured. The tow truck was part of the CHP's Freeway Service Patrol (FSP) program. The driver of the tow truck was employed by California Coach Orange, Inc. California Coach contracted with the Orange County Transportation Authority (OCTA) to participate in the FSP program. OCTA contracted with the CHP to provide funding for the program within Orange County. The CHP supervised the FSP program. The CHP conducted background checks, driver training, vehicle inspections, dispatching operations, and investigated complaints.

The plaintiffs' suit against the CHP eventually came down to a single issue: whether the CHP was the tow truck driver's special employer. The CHP moved for summary judgment on the grounds that it was not the tow truck driver's employer. The trial court denied the motion, and the CHP petitioned for a writ of mandate to reverse the trial court.

DISCUSSION

The court of appeal explained that the issue was a matter of legislative intent. The CHP could only be liable if the legislature intended that the CHP and FSP drivers have an employment relationship. The court noted that the statutory definition of employer in unhelpful in that it is essentially circular. However, throughout the vehicle code there is a clear distinction drawn between the CHP and the "employer." The CHP can contract with employers, is required to train employers, is responsible for establishing minimum training standards for employers, etc. The court found that these distinctions demonstrated a clear legislative intent that the CHP is not the employer of FSP tow truck drivers. Accordingly, the court held that the CHP could not be liable as a matter of law.

Held: Reversed.