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8 LAS VEGAS METROPOLITAN POLICE DEPARTMENT,
SHERIFF BILL YOUNG and ASSISTANT
9 SHERIFF MICHAEL ZAGORSKI

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 BIKERS OF LESSER TOLERANCE)
(BOLT), STEVE BIANCO, RICHARD)
13 QUIGLEY,)
14 Plaintiffs,)
15 vs.)
16 LAS VEGAS METROPOLITAN POLICE)
DEPARTMENT; SHERIFF BILL YOUNG;)
17 ASSISTANT SHERIFF MICHAEL)
ZAGORSKI,)
18 Defendants.)
19

Case No: CV-S-04-1144-KJD (PAL)

20 DEFENDANTS' ANSWERS TO PLAINTIFFS' SPECIALLY PREPARED
21 INTERROGATORIES (SET ONE)

22 COME NOW, Defendants LAS VEGAS METROPOLITAN POLICE
23 DEPARTMENT, SHERIFF BILL YOUNG and ASSISTANT SHERIFF MICHAEL
24 ZAGORSKI, by and through their attorneys DAVID ROGER, District Attorney, by
25 MITCHELL M. COHEN, Deputy District Attorney and Answers Plaintiffs' Specially
26 Prepared Interrogatories to Defendants pursuant to Rule 33 of the Federal Rules of Civil
27 Procedure as follows:

28

1 **Interrogatory No. 1:**

2 Please identify all persons who participated in the preparation of your responses to
3 these interrogatories.

4 **Answer to Interrogatory No. 1:**

5 Sergeant Steven V. Wholey, P#4926
6 Administrative Sergeant
7 Transportation Safety Bureau
8 Las Vegas Metropolitan Police Department
9 2300 East St. Louis Avenue
10 Las Vegas, Nevada 89104
11 (702) 828-3540

12 Toni Pond
13 Crime Analyst II
14 Transportation Safety Bureau
15 Las Vegas Metropolitan Police Department
16 2300 East St. Louis Avenue
17 Las Vegas, Nevada 89104
18 (702) 828-5784

19 **Interrogatory No. 2:**

20 Please describe in detail any and all training you have received regarding the
21 fabrication of motorcycle safety headgear.

22 **Answer to Interrogatory No. 2:**

23 The Las Vegas Metropolitan Police Department ("LVMPD") does not provide
24 officers with training specifically regarding the fabrication of motorcycle safety helmet gear.

25 **Interrogatory No. 3:**

26 Please describe in detail any and all training, you, or anyone else, provide to LVMPD
27 officers regarding the fabrication of motorcycle safety headgear.

28 **Answer to Interrogatory No. 3:**

See answer to Interrogatory No. 2.

Interrogatory No. 4:

Is the training described in your response to interrogatory No 3 required of all
LVMPD officers?

Answer to Interrogatory No. 4:

See answer to Interrogatory No. 2.

1 **Interrogatory No. 5:**

2 Does the law in Nevada require that motorcyclists wear D.O.T. approved headgear?

3 **Answer to Interrogatory No. 5:**

4 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
5 itself. See, NRS 486.231; NRS 486.381; NAC 486.015; 49 C.F.R. § 571.218; and 49 C.F.R.
6 § 571.218 (S5.6.1.e) (manufacturer's certification that the helmet conforms to Federal motor
7 vehicle safety standards).

8 **Interrogatory No. 6:**

9 Describe in detail what is D.O.T. approved headgear.

10 **Answer to Interrogatory No. 6:**

11 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
12 itself. See, 49 C.F.R. § 571.218; and 49 C.F.R. § 571.218 (S5.6.1.e) (manufacturer's
13 certification that the helmet conforms to Federal motor vehicle law).

14 **Interrogatory No. 7:**

15 Describe in detail how an LVMPD officer determines, at the scene of a traffic stop,
16 whether or not motorcycle headgear is D.O.T. approved.

17 **Answer to Interrogatory No. 7:**

18 LVMPD officers do not determine if motorcycle headgear is D.O.T. approved.
19 Officers examine motorcycle headgear to identify helmets that do not meet the federal safety
20 standards adopted by the State of Nevada. Officers look at safety stickers, manufacturer's
21 labeling, and construction and design of the helmet, as more fully set forth in US D.O.T.
22 brochure, "How to Identify Unsafe Motorcycle Helmets" and Nev. Atty. Gen. Op. 2002-41
23 (November 5, 2002). See, Response to Request for Production of Documents No. 6.

24 **Interrogatory No. 8:**

25 Is it sufficient to comply with the Nevada helmet law if a motorcyclist wears headgear
26 bearing a D.O.T. sticker?

27

28

1 **Answer to Interrogatory No. 8:**

2 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
3 itself. See, NRS 486.231; NRS 486.381; NAC 486.015; 49 C.F.R. § 571.218. I have seen
4 incidents where stickers were purchased and placed on non-compliant helmets.

5 **Interrogatory No. 9:**

6 Has an LVMPD officer ever cited a motorcyclist for violation of the helmet law even
7 though the rider wore headgear bearing a D.O.T. sticker?

8 **Answer to Interrogatory No. 9:**

9 The Respondent has insufficient knowledge or information to answer this
10 interrogatory.

11 **Interrogatory No. 10:**

12 If your response to interrogatory No. 9 is in the affirmative, please describe in detail
13 each such citation and the reason for the issuance.

14 **Answer to Interrogatory No. 10:**

15 See answer to Interrogatory No. 9.

16 **Interrogatory No. 11:**

17 Do you maintain a list of Nevada helmet law compliant headgear by manufacturer
18 and model number?

19 **Answer to Interrogatory No. 11:**

20 No. The LVMPD does not maintain annual federal lists of helmet test data. See,
21 Response to Request for Production of Documents, No. 3. (FMVSS 218 Helmet Test Data
22 for FY 2005; FMVSS 218 Helmet Test Data for FY 2004; FMVSS 218 Helmet Test Data for
23 FY 2003. A list is available on the Internet at the federal site. (NHTSA.dot.gov).

24 **Interrogatory No. 12:**

25 Do you maintain a list of Nevada helmet law non-compliant headgear by
26 manufacturer and model number?

27 **Answer to Interrogatory No. 12:**

28 See answer to Interrogatory No. 11.

1 **Interrogatory No. 13:**

2 Are the lists described in your responses to interrogatories No. 11 and 12 available to
3 the public?

4 **Answer to Interrogatory No. 13:**

5 Yes.

6 **Interrogatory No. 14:**

7 What is the maximum fine and penalty for violating Nevada's helmet law?

8 **Answer to Interrogatory No. 14:**

9 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
10 itself. See, NRS 486.231; NRS 486.381; NRS 193.150.

11 **Interrogatory No. 15:**

12 Describe in detail how an LVMPD officer determines, at the scene of a traffic stop,
13 whether or not a motorcyclist's headgear complies with the Nevada helmet law?

14 **Answer to Interrogatory No. 15:**

15 See answer to Interrogatory No. 7.

16 **Interrogatory No. 16:**

17 Identify fully every expert whom you anticipate calling as a witness in this case,
18 including the substance of the facts and opinions to which the expert is expected to testify.

19 **Answer to Interrogatory No. 16:**

20 The LVMPD has not identified an expert witness at this time.

21 **Interrogatory No. 17:**

22 Describe in detail your response to a motorcyclist who inquires how to comply with
23 certainty with the Nevada helmet law.

24 **Answer to Interrogatory No. 17:**

25 See answer to Interrogatory No. 7.

26 **Interrogatory No. 18:**

27 If a motorcyclist is wearing headgear that they assert is a helmet, what criteria is used
28 by an LVMPD officer to decide if that rider can be cited for violating Nevada's helmet law?

1 **Answer to Interrogatory No. 18:**

2 See answer to Interrogatory No. 7.

3 **Interrogatory No. 19:**

4 Does any Nevada law empower an LVMPD officer to take into custodial arrest a
5 motorcyclist who, in his judgment, is not wearing headgear that complies with the law?

6 **Answer to Interrogatory No. 19:**

7 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
8 itself. See, NRS 486.231; NRS 486.381; NAC 486.015; 49 C.F.R. § 571.218; NRS 193.150.

9 **Interrogatory No. 20:**

10 Does any Nevada law empower an LVMPD officer to impound the motorcycle of a
11 rider who, in his judgment, is not wearing headgear that complies with the law?

12 **Answer to Interrogatory No. 20:**

13 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for itself.
14 See, NRS 484.397 (police officer authorized to remove certain vehicles).

15 **Interrogatory No. 21:**

16 Identify any and all agencies, other than the D.O.T., that approves motorcycle
17 helmets.

18 **Answer to Interrogatory No. 21:**

19 Respondent is aware of at least two private organizations which test motorcycle
20 headgear: the Snell Memorial Foundation (Snell) and the American National Standards
21 Institute (ANSI). See, Response to Request for Production of Documents, No. 6.

22 **Interrogatory No. 22:**

23 Does the Nevada helmet law empower an LVMPD officer to cite a motorcyclist
24 wearing a novelty helmet?

25 **Answer to Interrogatory No. 22:**

26 See answer to Interrogatory No. 19.

27 **Interrogatory No. 23:**

28 Describe in detail your criteria for determining what is a novelty helmet.

1 **Answer to Interrogatory No. 23:**

2 The LVMPD does not determine what is a novelty helmet. LVMPD officers examine
3 motorcycle headgear to identify helmets that do not meet the federal safety standards
4 adopted by the State of Nevada. See answer to Interrogatory No. 7.

5 **Interrogatory No. 24:**

6 Is it a violation of the Nevada helmet law to wear a helmet that does not bear a D.O.T.
7 sticker?

8 **Answer to Interrogatory No. 24:**

9 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
10 itself. See, NRS 486.231; NRS 486.381; NAC 486.015; 49 C.F.R. § 571.218.

11 **Interrogatory No. 25:**

12 Clearly define what a motorcyclist must wear in order to comply with the Nevada
13 helmet law.

14 **Answer to Interrogatory No. 25:**

15 Objection, the interrogatory calls for a legal conclusion as to which the law speaks for
16 itself. See, NRS 486.231; NRS 486.381; NAC 486.015; 49 C.F.R. § 571.218.

17 DATED this _____ day of November, 2006.

18 DAVID ROGER
19 DISTRICT ATTORNEY

20 By: _____
21 MITCHELL M. COHEN
22 Deputy District Attorney
23 CIVIL DIVISION
24 State Bar No. 001506
25 500 S. Grand Central Pkwy. 5th Flr.
26 P. O. Box 552215
27 Las Vegas, Nevada 89155-2215
28 Attorney for Defendants
Las Vegas Metropolitan Police
Department, Sheriff Bill Young and
Assistant Sheriff Michael Zagorski

VERIFICATION

STATE OF NEVADA)
COUNTY OF CLARK) ss.

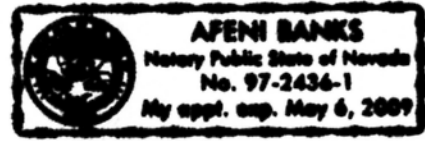
SERGEANT STEVEN J. WHOLEY, being first duly sworn, upon oath says:

I am the Administrative Sergeant for the Transportation Safety Bureau of the Las Vegas Metropolitan Police Department, in the above-entitled action;

I have read the foregoing **Defendants' Answers to Plaintiffs' Specially Prepared Interrogatories (Set One)** and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe it to be true.


SERGEANT STEVEN J. WHOLEY

SUBSCRIBED and SWORN to me before me this 16th day of November, 2006.





NOTARY PUBLIC

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of November, 2006, I deposited in the United States Mail, postage prepaid, at Las Vegas, Nevada, enclosed in a sealed envelope, a copy of the above and foregoing **Defendants' Answers to Plaintiffs' Specially Prepared Interrogatories to Defendants (Set One)** addressed as follows:

KATE WELLS
2600 FRESNO STREET
SANTA CRUZ CA 95062
Attorney for Plaintiffs
**Bikers of Less Tolerance (BOLT),
Steve Bianco, and Richard Quigley**


An Employee of the Clark County District Attorney's Office – Civil Division