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Corporation not person in carpool lanes

Justin Berton

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1 of 2

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Jonathan Frieman of San Rafael uses his case to highlight rulings that corporations can be considered people. Photo: Michael Short, Special To The Chronicle / SF



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Some people will do anything to get out of a traffic ticket.

It is the rare motorist, however, who hopes his explanation will overturn more than 100 years of Supreme Court rulings and challenge the legal notion of corporate personhood.

Jonathan Frieman, a 56-year-old San Rafael

resident and self-described social entrepreneur, failed to convince a Marin County Superior Court jurist Monday after he argued that he was not alone when a California Highway Patrol officer pulled him over in October while driving in the carpool lane.

Instead, Frieman admitted that he had reached onto the passenger's seat and handed the officer papers of incorporation connected to his family's charity foundation.

By Frieman's estimation, if corporations are indeed persons as was first established in the 1886 Supreme Court case Santa Clara County vs. Southern Pacific Railroad Co., and he offered evidence that a corporation was traveling inside his vehicle - riding shotgun, of course - then two people were in his car.

"The question of personhood is a very poignant one," Frieman said before he entered the courtroom. "This is designed to bring a very strong point to bear upon the legal system. Corporations have grown into large, huge, fictional entities. Now I am taking their power and using it in order to drive in the carpool."

Citizens United case

The issue of corporate personhood rocketed to public consciousness in 2010, when the U.S. Supreme Court ruled in the Citizens United case that the First Amendment barred the government from limiting companies' independent political expenditures. But Frieman says he's been driving stretches of carpool lanes along Highway 101 for the past decade with his papers in the front seat, waiting to get pulled over and set his legal battle in motion.

He noted, though, he had not buckled in the corporation papers.

"Would you buckle up your imaginary friend?" he asked. "That's what corporations are - they're not real, but they've been getting all this power."

Pointing to state law

Ford Greene, Frieman's attorney, pointed to California vehicle code section 470, which says the definition of a person includes "natural persons and corporations." The signs on the freeways ask carpoolers to carry "2 or more persons" which, Greene said, "is constitutionally vague."

Inside the courtroom, Greene questioned CHP Officer **Troy Dorn**, who ticketed Frieman on Highway 101 near Highway 37 and did not appear to share the same amusement Frieman's supporters had for the proceedings.

Before the hearing began, a television reporter called out to Dorn as he sat at the plaintiff's table: "Don't forget to smile!" The officer, dressed in a black leather motorcycle jacket and boots, smirked and appeared to chew at his bottom lip.

At the jurist's prompting, Dorn explained the October encounter with little enthusiasm.

"After I explained the reason I was citing him, he explained to me that he was exempt because he was in essence a corporation," Dorn testified. "I explained to him I was not sure about his standing as a corporation but he could explain it later in a Marin County court."

In his closing argument, Greene asked the court, "What's a person? Is a person a natural person? Is it a corporation? Or, is a person both?"

Jurist **Frank Drago**, a traffic referee, admired the unusual argument.

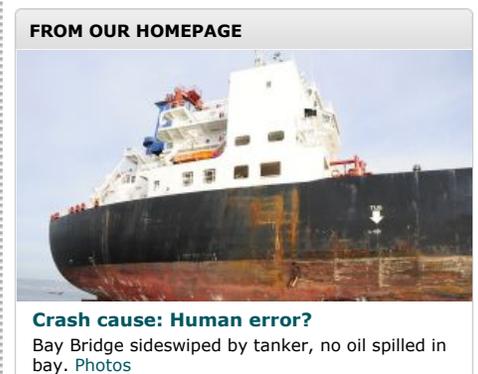


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"I must say it's a novel one," Drago said. "But I look at it a little differently."

'I expected to lose'

Drago directed Greene and Frieman to the vehicle code's subsection, which addresses the intent of the carpool lane - to relive traffic congestion.

"Common sense says carrying a sheath of papers in the front seat does not relieve traffic congestion," Drago said. "And so I'm finding you guilty."

Outside the courtroom, Frieman said he would appeal the ruling within 30 days.

"I expected to lose," Frieman said. "And I expected the judge to cite the reasons he did."

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