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This is a fictional upgrade of a real successful motion filed by Theo Deligiannis. After you win this or any motion in traffic court you should then file on behalf of all similarly situated defendants and win for them and then sue for compensation under the California and Federal theories of Private Attorney General. Email me for details: Lawyerdude1989@yahoo.com There is money to be made in the business of justice.

**Superior Court of California for Orange County
Santa Ana Courthouse**

A secretive court clerk dba under the false color of
an illegal fiction as "People",
Plaintiff

Case Number:
Ticket Number:

v
Dickie Delorean, one of the actual indigenous
people of California,
falsely accused defendant.

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**Motion/ Demand to Dismiss/ Quash for
lack of complaint and prosecutor
pursuant to PC 418.10 and 1000
years of Common Law.**

Date: Thursday 28 September, 2006.
Time: 1:30 pm
Place: Courtroom of Presiding Criminal Judge.

Notice of Motion

To the clerk of court who is the prosecutor: At the venue designated in the caption or at such other venue as the court shall designate, I will demand that you dismiss this case. You are not a prosecutor.
Signed _____ Dickie Delorean. Monday, September 4, 2006.

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1 prosecutor can prosecute a criminal offense. This is not an administrative tribunal. If it were, there would be
2 a hearing officer or administrative law judge.

3 The clerk may not prosecute. **People v Carlucci** 1979 <http://www.lawyerdude.8k.com/Carlucci.htm>
4 <http://www.lawyerdude.netfirms.com/carlucc.html> **People v Dragomir** Feb 14, 2006
5 <http://www.lawyerdude.netfirms.com/Dragomir.html>

6 **Declaration of Attorney Douglas Palaschak regarding Summonses**

7 I, Douglas Palaschak, declare the following under penalty of perjury: I am an Engineering Graduate
8 of the University of Illinois, Urbana, where I was an honors student. I marched in "The Marching Illini", the
9 world's undisputed Premiere Marching Band. I began my career as a Registered Professional Engineer
10 having consulted for the U.S. Navy, Mobil, and Exxon. I have testified as an expert witness in the catastrophic
11 failure of oil production machinery.

12 I have been a licensed lawyer for nearly a quarter century. I publish nearly 1200 legal articles on the
13 internet. My areas of expertise are:

14 Licenses, Rights, and Privileges, and their use as Instruments of Oppression,
15 Criminal Defense,
16 Internet-driven Improvements in the Efficiency of Litigation,
17 Empowerment of Pro Se Litigants,
18 Bankruptcy.

19 My most recent book is on the subject of Pre-trial Criminal Litigation of Malum Prohibitum Crimes.
20 It is available by mail order via the internet.

21 **A ticket can never be a summons.**

22 A summons is required for the court to gain jurisdiction. A summons is a notification from the court
23 addressed to the defendant in a pending case. A ticket is never a summons despite the intentions of the
24 legislature. When a person write a ticket there is no pending case. There will be no pending case until a
25 prosecutor has made a decision to prosecute. Then the prosecutor files a complaint. Only then is a summons
26 possible. There is then a pending case. I would then have the opportunity to settle the case with the
27 prosecutor. Most traffic courts today permit the clerk to prosecute the case. This practice is unconstitutional.
28 It is an example of denial of equal protection. I would like the clerk to be working on my side of the case. The
clerk has demonstrated a bias for the prosecution. Also, the clerk is paid by the money earned by the ticket
that she prosecutes. No. This will not stand.

Signed by permission _____ Douglas Palaschak

24 **A defendant may appear by motion.**

25 A defendant appears in an action when the defendant answers, demurs, files a notice of motion to
26 strike, files a notice of motion to transfer pursuant to Section 396b, moves for reclassification pursuant to
27 Section 403.040, gives the plaintiff written notice of appearance, or when an attorney gives notice of
28 appearance for the defendant.

I need not appear in person but may appear by motion because CCP § 1014 provides that a

1 defendant can appear by motion. This motion qualifies as an appearance as provided under CCP § 1014. 3.
2 I have appeared as agreed by my signature on the notice to appear by entering this motion to quash.

3 California Vehicle Code section § 40513(a) states as follow:

4 Whenever written notice to appear has been prepared, delivered, and filed
5 with the court, an exact and legible duplicate copy of the notice when filed
6 with the magistrate, in lieu of a verified complaint, shall constitute a
7 complaint to which the defendant **may** plead "guilty" or "nolo contendere."

8 This statute is inherently deceptive in that the another statute permits me to demand a complaint.
9 However, the more offensive practice is permitting a defendant to be summoned to court by somebody other
10 than a plaintiff or the court.

11 **Here is the definition of a summons.** Code of Civil Procedure § 412.20. 9.

12 Taken from <http://caselaw.lp.findlaw.com/cacodes/ccp/412.10-412.30.html>

13 Code of Civil Procedure § 412.20. (A) Except as otherwise required by
14 statute, a summons shall be directed to the defendant, signed by the clerk
15 and issued under the seal of the court in which the action is pending, and it
16 shall contain:

17 (1) The title of the court in which the action is pending.

18 (2) The names of the parties to the action.

19 (3) A direction that the defendant file with the court a written pleading in
20 response to the complaint.

21 (4) A notice that, unless the defendant so responds, his or her default will be
22 entered upon application
23 by the plaintiff.

24 (5) The following statement in boldface type: "You may seek the advice of
25 an attorney in any matter
26 connected with the complaint or this summons.

27 (6) The following introductory legend at the top of the summons above all
28 other matter, in boldface
29 type, in English and Spanish:

"Notice! You have been sued. The court may decide against you without
your being heard unless
you respond within 30 days. Read information below."

The ticket is no kind of summons. To call it a summons is to redefine fundamental terms in the
middle of the game. This denies me due process. Changing the terms is a common instrument of
oppression. See the entire list of Modern Day Instruments of Oppression at:

<http://www.lawyerdude.8k.com/5724.html>

Permitting Police to Summon denies Equal Protection Under the Law

1 When I want to sue the police I must jump through the hoops of a summons and complaint and filing
2 feed. Conversely when he wants to "sue" me he uses his ticket book. Then the clerk prosecutes for him.
3 Wow, I wish that lawsuit were that quick and easy. That difference denies me equal protection.

4 **The California Legislature may not give Police the Power to Summon and may not give Clerks the
5 power to prosecute.**

6 Penal Code § 740 states as follows:

7 Except as otherwise provided by law, all misdemeanors and infractions must
8 be prosecuted by written complaint under oath subscribed by the
9 complainant.

10 PC § 949 states as follows:

11 The first pleading on the part of the people in a misdemeanor or infraction case is the
12 complaint except as otherwise provided by law.

13 Penal Code § 950: states as follows:

14 The accusatory pleading must contain: 1. The title of the action, specifying the name of the
15 court to which the same is presented, and the names of the parties; 2. A statement of the
16 public offense or offenses charged therein.

17 Penal Code § 952 states as follows:

18 In charging an offense, each count shall contain, and shall be sufficient if it contains in
19 substance, a statement that the accused has committed some public offense therein
20 specified.

21 The notice to appear does not qualify as a complaint, because nowhere on the notice does the
22 following appear:

- 23 a. Whether this is a criminal or civil action.
- 24 b. The name of the plaintiff in this action.
- 25 c. The nature of the proceeding.
- 26 d. The signature of the District Attorney or Prosecutor (if it is a criminal action).

27 Therefore the notice to appear is not a complaint for the reasons aforementioned.

28 **Conclusion**

In accordance with the foregoing points and authorities, this Court, pursuant to California Code of
Civil Procedure § 418, should grant this motion to quash.

**Special Scrutiny and Prosecution for those who know the law denies equal
protection.**

In the case of Attorney Douglas Palaschak, the Ventura courts would send him to a different court
so that he could not complain of being prosecuted by the clerk. In fact he once asked "who accuses me" after
the judge read the traffic accusation. After a pause, the 20 year veteran clerk spoke up "The court accuses
you." Well, of course, the court is there to resolve disputes, not create them. When a court or lawyer stirs
up disputes this is called barratry which, by the way, is the only crime anywhere that is not a crime until you

