

Vince Imhoff, Esteemed Criminal Attorney: "DMV Hearing Officer as Investigator, Prosecutor & Judge is Unconstitutional."

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Acclaimed criminal attorney [Vince Imhoff](#) expresses support and gratitude to both the California Association of DUI Lawyers ("CADL") and the Second Appellate District of California in CADL vs. DMV.

Background: When a California motorist is arrested on suspicion of drunken driving and challenges suspension of his or her driver's license, the Department of Motor Vehicles assigns an officer to preside over the hearing — and assigns the same officer, under longstanding DMV rules, to advocate for license suspension. That system, a state appeals court says, violates the driver's constitutional right to a fair and impartial hearing. "The irreconcilable conflict between advocating for the agency on one hand, and being an impartial decision-maker on the other" create "an unacceptable risk of bias," the Second District Court of Appeal in Los Angeles said last month.

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Imhoff agrees. "A big thank you to the California Association of DUI Lawyers ("CADL") for their novel and ingenious arguments to help drivers across California. The Second Appellate District of California in CADL vs. DMV, finally said what criminal defense attorneys have always known; allowing a DMV hearing officer to be the investigator, prosecutor and judge is unconstitutional."

A Los Angeles County judge upheld the rules allowing a single officer to act as both DMV advocate and hearing officer at the license-suspension hearing. The appeals court's reversal of

that decision, if it stands, will affect thousands of hearings each year, said Bob Gerstein, attorney for the California DUI Lawyers Association, which filed the suit.

Imhoff explains, "The Court believed the rule's violation of Due Process protections of both California and U.S. Constitution is so clear and obvious that it ordered the trial court to grant summary judgment in favor of the CADL. The summary judgment order is extraordinary because it means the court could not identify a single plausible defense to CADL's due process arguments."

Under the DMV's rules, Gerstein said, the only recourse for drivers who want to challenge a proposed suspension has been "to go before a hearing officer who was, at the same time, the judge between the DMV and the driver and, at the same time, advocates for the DMV against the driver."

Chris Orrock, a DMV spokesperson, said the department was reviewing the ruling and declined further comment. It could seek review in the state Supreme Court. A 2005 California law prohibited all state agencies — except the DMV — from assigning an employee to preside over a hearing if the same employee has acted as an advocate or investigator in the same case.

Defending its rules, the DMV contended there was no evidence of bias by its hearing officers, and noted that the department's manual directs those officers to be "fair and impartial." But the appeals court said the officers' dual roles stacked the deck against the driver. Imhoff adds, "While the DMV will no doubt appeal this ruling to the California State Supreme Court, drivers welcome the return of a fair hearing on the licensing issues."

Vince Imhoff

Vince Imhoff is an attorney licensed to practice in Illinois, California, and Pennsylvania. He graduated from Lewis University with a Bachelor's Degree in Political Science, and a law degree from the Illinois Institute of Technology/Chicago-Kent College of Law in 1989. Mr. Imhoff worked as a Public Defender in Cook County, Illinois, from 1990 to 1997 after getting his law degree. After that, he went into solitary practice. Imhoff joined the Cochran Firm's Criminal Defense Department as Managing Director in 2005. Following Mr. Cochran's death, Imhoff formed the criminal defense firm, [Imhoff and Associates, PC](#), which features top-caliber defense attorneys in 48 states.

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