STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Department
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STEVE WESTLY
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MICHAEL C. GENEST
Member

June 2006, Franchise Tax Board Litigation Roster

All currently active cases and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list of new cases that have been added to the roster for the month is also provided, as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: http://www.ftb.ca.gov/law/litrstr/index.html.

The Litigation Rosters for the last four years may be found on the Internet site.

FRANCHISE AND INCOME TAX
Closed Cases – June 2006

Case Name	**Court Number**
Galaski, Gregory John	San Diego Superior Court No. IC833950
Vertullo, John & Barbara	San Diego Superior Court No. GIC848577

FRANCHISE AND INCOME TAX
New Cases – June 2006

Case Name	**Court Number**
City National Corporation	Sacramento Superior Court No. 06AS02275
Delucchi, Mario and Kathleen, et al.	Sacramento Superior Court No. 06AS02661
Golden West Health Plan, Inc.	Los Angeles Superior Court No. BC353849
Hilton, Eric and Bitten	Los Angeles Superior Court No. BC354308

FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER

June 2006

CITY NATIONAL CORPORATION v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC334772 — Filed – 06/10/05
Court of Appeal, 2nd Appellate District No. B189240

Taxpayer's Counsel
Kenneth R. Chiate, Mary S. Thomas
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP

Sherrill Johnson
Offices of the General Counsel
City National Bank

FTB's Counsel
Donald R. Currier
Joseph M. O'Heron

Issues:
1. Whether Plaintiff improperly engaged in tax shelter transaction involving Regulated Investment Trusts (REITs) and Regulated Investment Companies (RICs) during the subject years.
2. Whether certain subsidiaries were exempt from California taxation as IRC 501(c)(15) entities.
3. Whether Plaintiff has satisfied the requirement of exhausting all administrative remedies in order to maintain a lawsuit.

Years: 1999 through 2003 — Amount $84,676,129.00

Status: **Plaintiff/Appellant's Opening Brief and Appendix Volume 2 filed on June 30, 2006.**

CITY NATIONAL CORPORATION & Subs. v. Franchise Tax Board
Sacramento Superior Court Docket No. 06AS02275 — **Filed – 06/06/06**

Taxpayer's Counsel
Kenneth R. Chiate
Quinn, Emanuel, Urquhart Oliver & Hedges, LLP

Sherrill Johnson
Offices of the General Counsel
City National Bank

FTB's Counsel
Michael J. Cornez

Issue: Whether Plaintiffs improperly engaged in tax shelter transaction involving Real Estate Investment Trusts (REITs).

Year: 2004 — **Amount $23,900,000.00**

Status: Plaintiffs' Summons and Complaint filed on June 6, 2006.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board
Sacramento Superior Court Docket No. 03AS00707 — Filed - 02/07/03

Taxpayer's Counsel	*FTB's Counsel*
Eric J. Coffill, Carley A. Roberts	Steven J. Green
Morrison & Foerster, LLP	

Issues: 1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years: 1974 through 1982, 1984 through 1987, 1989 through 1991 — Amount $2,912,696.00

Status: Order to Stay Proceeding signed by Judge Virga on November 29, 2004, until a decision is reached in the *General Motors v. FTB* case.

CRISA CORPORATION v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC345087 — Filed - 12/23/05

Taxpayer's Counsel	*FTB's Counsel*
Steven Toscher, Michel R. Stein	Donald Currier
Hochman Salkin, Rettig, Toscher & Perez, P.C.	

Issues: 1. Whether the Plaintiff's California income can be determined upon the basis of a combined report including its foreign parent.
2. Whether the amount of income allocated and apportioned to California was properly determined.
3. Whether regulation 25106.5-10 was properly applied to account for inflation experienced by the parent's company.
4. Whether the denial of the use of alternative allocation and applicant methods under section 25137 was an abuse of discretion.

Years: 1987 through 1989 — Amount $622,800.00

Status: **Case Management Conference held on June 6, 2006. Mandatory Settlement Conference scheduled for February 22, 2007, and Trial scheduled for March 5, 2007.**

DELUCCHI, MARIO & KATHLEEN, et al v. Franchise Tax Board
Sacramento Superior Court Docket No. 06AS02661 — **Filed -**

Taxpayer's Counsel	***FTB's Counsel***
Harry Gordon Oliver II	**Michael J. Cornez**
Attorney at Law	

Issues: 1. Whether Plaintiffs properly computed income on an installment sale.
2. Whether Plaintiffs may be deemed to have elected out of the installment method.
3. Whether Plaintiffs' gain on the sale of a stock qualified for exemption as Small Business Stock in 1995.

Years: 1995 — **Amount $988,900.00**

Status: Plaintiffs' Summons and Complaint served on the Franchise Tax Board on June 23, 2006.

DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC04436496 — Filed - 11/19/04

Taxpayer's Counsel	*FTB's Counsel*
R. Todd Luoma	Anne Michelle Burr
Law Office of Richard Todd Luoma	

Issue: Whether Plaintiffs ceased to be California residents as of December 16, 1994.

Years: 1994 and 1995 — Amount $973,101.00

Status: **Order to Show Cause scheduled for June 08, 2006, is off calendar and Continued to January 8, 2008, Notice sent by the Court on June 20, 2006.**

GARCIA, W. ROCKE AND GLENDA L. v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC 06452218 — Filed – 05/12/06

Taxpayer's Counsel	*FTB's Counsel*
William J. McLean	Kristian Whitten
Thoits, Love, Hershberger & McLean	

Issues:
1. Whether Plaintiffs exhausted administrative remedies prior to filing suit.
2. Whether Plaintiffs timely acquired a replacement property for property involuntarily converted so as to defer recognition of gain pursuant to IRC §1033.
3. Whether penalties authorized by section 19777.5(a) were properly imposed.

Year: 1992 — Amount $616,076.00

Status: **Defendant's Demurrer to Complaint, Points and Authorities and Declaration filed on June 19, 2006, Hearing on Demurrer scheduled for July 13, 2006.**

GENERAL ELECTRIC COMPANY AND SUBSIDIRIES v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC06-449157 — Filed – 02/03/06

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silvertein	David Lew
Silverstein & Pomerantz, LLP	
Jeffrey M. Vesely	
Pillsbury, Winthrop, Shaw, Pittman, LLP	

Issues:
1. Whether the penalty imposed by section 19777.5(a) on amounts due and payable on March 31, 2005, for years beginning before January 31, 2003, violates the Due Process Clause of the United States Constitution.
2. What is the meaning of "due and payable" for purposes of section 19777.5(a) of the Revenue and Taxation Code?

Years: (None) — Amount $0.00

Status: **Defendant's Notice of Demurrer and Demurrer to Verified First Amended Complaint for Declaratory Relief was filed on June 9, 2006. Plaintiffs' Opposition to Notice of Demurrer and Demurrer filed on June 28, 2006.**

GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC05-439929 — Filed – 03/29/05

Taxpayer's Counsel
Thomas H. Steele
Andres Vallejo, Jeffrey S. Terraciano
Morrison & Foerster LLP

FTB's Counsel
Marguerite Stricklin

Issues:
1. Whether the Plaintiffs' payroll factor was properly computed by excluding foreign employee stock options.
2. Whether the Plaintiffs' sales factor was properly calculated by excluding receipts from commodities transactions and short-term financial instruments.
3. Whether federal RAR adjustments were properly taken into account.

Years: 1992 through 1997 — Amount $3,550,367.00

Status: **Minute Order, Case Management Conference held on June 21, 2006, and continued to October 25, 2006, Trial scheduled for February 20, 2007.**

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC269404 — Filed - 03/06/02
Court of Appeal, 2nd Appellate District No. B165665
California Supreme Court No. S127086

Taxpayer's Counsel
Charles R. Ajalat
Law Office of Ajalat, Polley & Ayoob

FTB's Counsel
Stephen Lew
Donald Currier
Joseph O'Heron

Issues:
1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
2. Whether interest income was properly characterized as business income.
3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
5. Whether various receipts from intangible assets were properly excluded from the sales factor.
6. Whether research tax credits were properly limited to the entity incurring the expense.
7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years: 1986 through 1988 — Amount $10,692,755.00

Status: **Oral Argument held on June 2, 2006.**

GOLDEN WEST HEALTH PLAN, INC. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC353849 **Filed – 06/15/06**

Taxpayer's Counsel	***FTB's Counsel***
Alan R. Maler	**Marla Markman**
Greenberg Traurig, LLP	

Issue: Whether Plaintiff made a valid S Corporation election for California purposes.

Year: 04/01/03 - 06/01/03 **Amount $669,045.00**

Status: Plaintiff's Summons and Complaint was served personally on the Franchise Tax Board on June 19, 2006.

HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC 305968 Filed - 11/12/03
Court of Appeal, 2nd Appellate District No. B187278

Taxpayer's Counsel	*FTB's Counsel*
Eric L. Troff, Esq.	Donald Currier
Gibbs, Giden, Locher & Turner, LLP	

Issue: Whether Plaintiffs were entitled to a business bad debt reduction.

Years: 1990 and 1993 Amount $65,738.00

Status: **Defendant/Respondent's Stipulation of Extension of Time filed on June 19, 2006, to File Reply Brief, on July 26, 2006.**

HILTON, ERIC & BITTEN v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC354308 **Filed – 06/21/06**

Taxpayer's Counsel	***FTB's Counsel***
Richard K. Semeta	**Anthony Sgherzi**
A Professional Law Corporation	

Issue: Whether a portion of the gain realized on the exercise of stock options by a non-resident was California source income.

Year 1997 **Amount $27,346.98**

Status: Plaintiffs' Summons and Complaint served by mail on the Franchise Tax Board on June 23, 2006.

HYATT, GILBERT P. v. Franchise Tax Board
Clark County Nevada District Court No. A382999 — Filed - 01/06/98
Nevada Supreme Court No. 47141

Taxpayer's Counsel	*FTB's Counsel*
Thomas L. Steffen & Mark A. Hutchison	James W. Bradshaw
Hutchison & Steffen, H. Bartow Farr III	McDonald, Carano, Wilson LLP
	Las Vegas, Nevada

Issues: 1. Whether Plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years: 1991 and 1992 — Amount: $7,545492.00 Tax, $5,659,119.00 Penalty

Status: **Nevada Supreme Court**
Plaintiff Hyatt's Petition for Writ of Mandamus filed on April 4, 2006. Trial Court Order vacating trial date of August 15, 2006, for Stay of All Proceedings Pending Action by Nevada Supreme Court on June 19, 2006. Defendant FTB's Answer to Petition for Writ of Mandamus filed on June 20, 2006.

JIBILIAN, TONY & DOROTHY v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC298685 — Filed – 07/09/03
Court of Appeal 2nd Appellate District Court No. B175952
California Supreme Court No. S142011

Taxpayer's Counsel	*FTB's Counsel*
Derek L. Tabone, Esq.	Brian Wesley
Law Offices of Tabone, APC	Elisa Wolfe-Donato

Issue: Whether Plaintiffs have taxable income for the years involved.

Years: 1999 through 2001 — Amount: $208,742.00

Status: Petitioners' Petition for Review denied on May 10, 2006.

KIM, PAUL M. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC333465 — Filed – 05/13/05

Taxpayer's Counsel	*FTB's Counsel*
Yoon Han Kim	Donald R. Currier
Law Offices of Yoon Han Kim & Assoc.	

Issues: 1. Whether Plaintiff had income from payments received as the result of a lawsuit.
2. Whether Plaintiff had a loss arising from foreclosure of property.
3. Whether Plaintiff filed a claim for refund.

Year: 1993 — Amount: $16,098.46

Status: Notice of Continuance of Trial to July 25, 2006.

KUHN, DAVID & ELIZABETH v. Franchise Tax Board
Alameda Superior Court Docket No. WG05212795 — Filed – 05/13/05

Taxpayer's Counsel	*FTB's Counsel*
David N. Kuhn	David Lew
Attorney at Law	

Issues: 1. Whether Plaintiffs timely filed claims for refund.
2. Whether estoppel should lie against the Board for failing to notify Plaintiffs of the statute of limitations.

Years: 1994 through 1996 — Amount $18,090.48

Status: Discovery proceeding.

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board
Alameda Superior Court Docket No. 837723-0 — Filed - 04/09/01
Court of Appeal, 1st Appellate District Court No. A102915
California Supreme Court No. S136922

Taxpayer's Counsel	*FTB's Counsel*
Edwin P. Antolin	Joyce Hee
Morrison & Foerster, LLP	

Issues: 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years: 1993 and 1994 — Amount $2,185,718.00

Status: Petition for Review granted on October 26, 2005. Further action in this matter is deferred pending consideration and disposition of a related issued in General Motors and Microsoft or pending further order of the court.

LUCAS, LADONNA v. Franchise Tax Board
Los Angeles Superior Court Docket No. BS102039 — Filed – 03/08/06

Taxpayer's Counsel	*FTB's Counsel*
LaDonna Lucas, In Pro Per	Felix Leatherwood

Issues: 1. Whether the Superior Court has jurisdiction to consider the action filed by the Plaintiff.
2. Whether Appellant qualifies as a head of household for the year 2002 and 2003.

Years: 2002 and 2003 — Amount Unknown

Status: **Minute Order filed on June 22, 2006; Hearing on Respondent's Demurrer and Hearing on Petition for Writ of Mandate scheduled for July 3, 2006, and continued to July 21, 2006.**

MARKEN, DONALD W. & CLAUDINE H. v. Franchise Tax Board
San Francisco Superior Court Docket No. 302520 — Filed - 04/05/99
Court of Appeal, 1st Appellate Dist. No. A091644
California Supreme Court No. S 104529
Court of Appeal, 1st Appellate Dis. No. A109715
Court of Appeal, 1st Appellate District No. A110668 (Attorneys' Fees)

Taxpayer's Counsel	*FTB's Counsel*
William E. Taggart, Jr.	Marguerite Stricklin
Taggart & Hawkins	

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993 — Amount $244,012.00

Status: **Plaintiffs/Appellants' Reply Brief filed under A109715 on June 22, 2006.**

THE MCGRAW-HILL COMPANIES, INC., a New York Corporation v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC 03424737 — Filed - 09/24/03
Court of Appeal, 1st Appellate Dist. Div. One No. A109907
California Supreme Court No. S143330

Taxpayer's Counsel	*FTB's Counsel*
Jeffrey M. Vesely, Richard E. Nielsen & Annie H. Huang	Anne Michelle Burr
Pillsbury Winthrop, LLP	

Issues:
1. Whether Plaintiff was entitled to use Marked-to-Market accounting allowed under the Internal Revenue Code when those provisions had not been adopted by California.
2. Whether other adjustments made or allowed by the Internal Revenue Service should be allowed by California.

Years: 1993 and 1994 — Amount $606,744.00

Status: **Plaintiff/Appellant's Reply to Defendant/Respondent's Answer to Petition for Review filed in the Supreme Court on June 7, 2006.**

MICROSOFT CORPORATION v. Franchise Tax Board
San Francisco Superior Court Docket No. 400444 — Filed - 10/19/01
Court of Appeal, 1st Appellate Dist. Div. 3 No. A105312
California Supreme Court No. S133343

Taxpayer's Counsel	*FTB's Counsel*
James P. Kleier, Esq.	Julian O. Standen
Reed Smith LLP	
Joseph Patton Powers	
Baker & McKenzie	

Issues: 1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year: 1991 Amount $1,879,809.00

Status: **Oral Argument held on June 2, 2006.**

MONTGOMERY WARD LLC v. Franchise Tax Board v. Franchise Tax Board
San Diego Superior Court Docket No. GIC802767 Filed - 12/30/02

Taxpayer's Counsel	*FTB's Counsel*
Antolin, Pilar M. Sansone, Amy Silverstein	Domini Pham
Silverstein & Pomerantz, LLP	

Issues: 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years: 1989 through 1994 Amount $2,694,192.00

Status: Status Conference held on March 17, 2006, and continued to September 15, 2006.

NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board
Sacramento Superior Court Docket No. 03AS05705 Filed - 10/10/03

Taxpayer's Counsel	*FTB's Counsel*
Spencer T. Malysiak	Michael Cornez
Spencer T. Malysiak Law Corp.	

Issues: 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
2. Whether a declaratory relief action can be brought to prevent the collection of tax.
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years: 1996 and 1997 Amount $90,773.05

Status: Trial Setting Conference rescheduled to May 15, 2006.

NEWS AMERICA INCORPORATED (FOX, INC.) v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC350576 — Filed – 04/12/06

Taxpayer's Counsel	*FTB's Counsel*
Neil R. O'Hanlon	Felix E. Leatherwood
Hogan & Hartson, LLP	

Issues:
1. Whether the Franchise Tax Board properly classified gain realized on the sale of an interest in a partnership as nonbusiness income.
2. If the gain on the sale of the interest in a partnership was nonbusiness income, whether it should be allocated to New York.
3. Whether the assignment to California of the gain realized on the sale of the partnership fairly reflects the activities of the taxpayer in this state.

Year: 1989 — Amount $1,726,405.00

Status: **Hearing on Order to Show Cause off calendar on June 21, 2006.**

NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board
San Francisco Superior Court Docket No.CGC05-437721 — Filed – 01/15/05

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz	

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clauses.

Years: 12/31/97 through 12/31/01 — Amount $25,067.00 Tax
$ 3,764.29 Penalty

Status: Judgment entered in favor of Plaintiff on May 4, 2006.

ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board
Los Angeles Superior Court Case No. BC278386 — Filed - 07/25/02
Court of Appeal, 2nd Appellate Dist. No. B169465
California Supreme Court No. S127649

Taxpayer's Counsel	*FTB's Counsel*
Clayton Vreeland	Amy J. Winn
Bingham McCutchen LLP	

Issue: Whether the tax involved was timely assessed.

Year: 1983 — Amount $12,350.00

Status: **Opinion filed on June 8, 2006, Judgment is reversed in favor of Defendant/Respondent FTB. Plaintiffs/Appellants' Petition for Rehearing filed in the California Supreme Court on June 23, 2006.**

PLAYMATES TOYS, INC. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC344785 — Filed – 12/19/05

Taxpayer's Counsel	*FTB's Counsel*
Craig J. Stein	Joseph M. O'Heron
Gelfand, Stein & Wasson, LLP	

Issue: Whether Defendant Franchise Tax Board properly computed the numerator of the taxpayer's California sales factor by assigning sales made from Hong Kong to California.

Years: 1988 through 1990 — Amount $1,582,288.00

Status: **Defendant's Demurrer filed on June 28, 2006.**

SHAFRAN, ALLEN J. & TOBY v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC 316070 — Filed – 05/25/04
Court of Appeal, 2nd Appellate Dist. No.B186947

Taxpayer's Counsel	*FTB's Counsel*
W. Patrick O'Keefe, Jr.	Anthony F. Sgherzi
W. Patrick O'Keefe, Jr. Incorporated	

Issue: Whether the denial of a deduction for depreciation based upon a federal adjustment was proper.

Year: 1992 — Amount $45,415.00 Tax

Status: **Calendar Notice sent by the Court on June 29, 2006, scheduling hearing for July 26, 2006**

SQUARE D COMPANY v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC05442465 — Filed – 06/21/05

Taxpayer's Counsel	*FTB's Counsel*
Allan L. Schare, Kimberly M. Reeder	Paul Gifford
McDermott Will & Emery LLP	
Palo Alto, Ca.	
Richard A. Hanson	
McDermott Will & Emery LLP	
Chicago, IL	

Issues:
1. Whether Palatine Hills Leasing, which invested in leverage lease transactions, was part of the unitary business conducted by Square D Company.
2. Whether the income of Palatine Hills Leasing constituted business income of the unitary business conducted by Square D Company.
3. How the proceeds from the short-term investment of funds should be reflected in the sales factor of the apportionment formula.

Years: 1985 through 1990 — Amount $5,635,087.40

Status: Mandatory Settlement Conference advanced from September 5, 2006, to August 15, 2006. Trial scheduled for September 18, 2006. **Discovery proceeding.**

STAPLES, MARK A. v. Taxpayer Advocate Bureau, Franchise Tax Board, and State Board of Equalization
Sacramento Superior Court Docket No.04AS03598 — Filed – 09/03/04
Court of Appeal, 3rd Appellate Court No. 04AS03598

Taxpayer's Counsel	*FTB's Counsel*
Mark A. Staples, In Pro Per	Michael J. Cornez

Issues:
1. Whether the method used by California to compute the tax owed by part-year resident violates various provisions of the United States Constitution.
2. Whether the department's review and disposition of the plaintiff's objections to additional tax were properly handled.

Year: 1998 — Amount $1,141.00

Status: Judgment By Court Pursuant to Code of Civil Procedure Section 437c in favor of Defendant filed on April 5, 2006. **Plaintiff's Notice of Appeal filed on June 9, 2006.**

TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board
Sacramento Superior Court Docket No. 01AS04316 — Filed - 07/17/01
Court of Appeal, 4th Appellate Court No. C045386
California Supreme Court No. S143422

Taxpayer's Counsel	*FTB's Counsel*
Eric J. Coffill	Michael J. Cornez
Carley A. Roberts	
Morrison & Foerster, LLP	

Issue: Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years: 1991 through 1994 — Amount $5,342,122.00

Status: **Plaintiffs/Appellants' Reply to Answer to Petition for Review filed on June 8, 2006.**

UNION BANK OF CALIFORNIA v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC 05441957 — Filed – 06/06/05

Taxpayer's Counsel	*FTB's Counsel*
James P. Kleier, Brian Toman, John R. Messenger	Anne Michelle Burr
Reed Smith, LLP	

Issues:
1. Whether additions to the bad debt reserves of the taxpayer's unitary business were properly calculated.
2. Whether there were losses arising from the exchange of loans for bonds that are deductible as ordinary losses.

3. Whether the water's-edge election fee assessed violated the Commerce Clause of the United State Constitution.

Year: 1991 Amount $15,953,167.00

Status: Mandatory Settlement Conference rescheduled to October 26, 2006. Trial scheduled for November 13, 2006. **Discovery proceeding.**

VENTAS FINANCE I, LLC v. Franchise Tax Board
San Francisco Superior Court Docket No. 05-440001 Filed – 04/01/05

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz, LLP	

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax based upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clause.

Years: 2001 through 2003 Amount $29,580.00

Status: **Plaintiff's Opening Trial Brief filed on June 9, 2006. Defendant's Trial Brief filed on June 12, 2006.**

YOSHINOYA WEST, INC. v. Franchise Tax Board
Los Angeles Superior Court, Central District No. BC274343 Filed - 05/22/02
Court of Appeal, 2nd Appellate Dist. No. B178751

Taxpayer's Counsel	*FTB's Counsel*
Dwayne M. Horii,	Donald R. Currier
William C. Choi	
Rodriguez, Horii & Choi	

Issues: 1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

Years: 1986 and 1987 Amount $1,741,534.00

Status: **Opinion filed on June 26, 2006; Judgment is affirmed in favor of Defendant/Respondent**.