State of California
Franchise Tax Board

Legal Division MS A390
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April 2013 Franchise Tax Board Public 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.shtml.

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

FRANCHISE AND INCOME TAX
Closed Cases –April 2013

Case Name	Court Number

FRANCHISE AND INCOME TAX
New Cases –April 2013

Case Name	Court Number

FRANCHISE AND INCOME TAX
MONTHLY PUBLIC LITIGATION ROSTER

April 2013

ABERCROMBIE & FITCH v. Franchise Tax Board	
Fresno Superior Court Case No. 12CECG03408	Filed – 10/22/12
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Tim Nadar
Silverstein & Pomerantz, LLP	

Issues: 1. Whether FTB improperly discriminates against multistate unity corporate Taxpayers by requiring them to compute their California taxable income by using the combined reporting method as opposed to letting them choose between the combined reporting method or the separate reporting method.

Years: 2000 Amount: $181,591.00 Tax

Status: **Summons and Complaint served October 23, 2012. On November 20, 2012, FTB's Answer to Complaint for Refund of Taxes was filed. On December 10, 2012, Plaintiffs' served the following Discovery Requests upon FTB: (1) First Set of Demands to FTB for Production, Inspection and Copying of Documents ; (2) Form Interrogatories; (3) Plaintiffs' First Set of Special Interrogatories to FTB; (4) Plaintiffs' First Set of Requests for Admission. FTB's Responses to Plaintiff's Form Interrogatories, Special Interrogatories, Production of Documents and Requests for Admissions were served on February 6, 2013. The Mandatory Settlement Conference is scheduled for May 2, 2014. The Trial Readiness Conference is scheduled for June 6, 2014. Trial is scheduled to commence June 9, 2014.**

BAKERSFIELD MALL, LLC v. Franchise Tax Board	
San Francisco Superior Court Case No. CGC07462728	Filed – 04/25/07
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz, LLP	

Issues:
1. Whether the LLC fee imposed on an LLC doing business entirely within California by Rev. Tax. Code §17942 is unconstitutional under the due process, equal protection and commerce clauses of the U.S. Constitution.
2. Whether Rev. Tax. Code §17942 violates Article XIII, section 26 of the California Constitution.
3. Whether Rev. Tax. Code §17942 constitutes an invalid exercise of state police power and is void.

Years: 2000 through 2004 Amount: $56,537.00 Tax

Status: **On June 26, 2012, FTB caused a Notice of Related Case to be filed in this action and also with the Fresno County Superior Court and Judicial Council advising that this case was**

substantially similar to CA-Centerside LLC v. Franchise Tax Board and proposing that the two cases be coordinated. A Hearing on the Motion to Coordinate the two cases was held on January 29, 2013, and the matter was taken under submission. On January 30, 2013, the Petition to Coordinate was granted. On March 18, 2013, Plaintiffs' Case Management Conference Statement was filed. On March 21, 2013, FTB's Case Management Conference Statement was filed A Case Management Conference was held March 25, 2013. Plaintiffs are to file their Petition(s) for Class Certification not later than May 1, 2013, with a further Case Management Conference to be held on May 10, 2013.

BUNZL DISTRIBUTION v. Franchise Tax Board	
San Francisco Superior Court Case No.CGC10506344	
First Appellate District A137887	Filed – 12/17/10
Taxpayer's Counsel	*FTB's Counsel*
William F. Colgin	Kris Whitten
William Clayton	Karen Yiu
Morgan, Lewis, & Bockius, LLP	

Issue:
1. Whether FTB properly included the California factors attributable to certain single-member LLCs when calculating the taxpayer's apportionment percentages.
2. Whether FTB properly included the single-member LLC's in the taxpayer's combined report.
3. Whether the FTB Settlement Bureau conducts itself with reckless disregard for Board published procedures.
4. Whether the policies and/or procedures of the FTB Settlement Bureau constitute improper underground regulations.

Year: 2005

Amount
$1,368,734.00 Tax
$128,562.00 Interest

Status: Summons and Complaint served on FTB December 21, 2010. FTB's Demurrer to the Complaint was heard on March 1, 2011. The Demurrer was sustained in part and overruled in part. The Answer was filed May 11, 2011. On June 14, 2011, the Answer to Cross Complaint was filed by the Cross-Defendant, Bunzl. On July 18, 2011, trial was set for June 18, 2012. The Mandatory Settlement Conference was set for June 1, 2012. On February 29, 2012, FTB's Notice of Motion and Motion for Summary Adjudication of the First and Second Causes of Action together with pleadings in support thereof, was filed. The Motion for Summary Adjudication was scheduled to be heard on May 21, 2012. On March 29, 2012, FTB filed a Motion for Protective Order, together with pleadings in support thereof, with respect to pending discovery. On March 29, 2012, Plaintiff filed a Motion, together with supporting pleadings, to compel FTB to provide further responses to discovery requests propounded by Plaintiff. On March 29, 2013, Motion and Motion to Compel Further Responses to Interrogatories, Requests for Admission, and Requests for Production of Documents were filed. On June 13, 2012, FTB's Motion in Limine to Bifurcate Trial was filed. On December 21, 2012, a Notice of Entry of Judgment was filed in favor of FTB. On February 12, 2013, a Notice of Appeal was filed by Plaintiff. On February 13, 2013, Appellant's Notice of Designating Record on Appeal was filed. On March 18, 2013, the Record on Appeal was filed. Appellant's Opening Brief is due to be filed on April 29, 2013.

CA-CENTERSIDE II, LLC v. Franchise Tax Board	Filed: 02/04/10
Fresno Superior Court Case No. 10CECG00434	
Court of Appeal Fifth Appellate District	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz, LLP	

Issues:
1. Whether the LLC fee imposed on an LLC doing business entirely within California by Rev. Tax. Code §17942 is unconstitutional under the due process, equal protection and commerce clauses of the U.S. Constitution.
2. Whether Rev. Tax. Code §17942 violates Article XIII, section 26, of the California Constitution.
3. Whether Rev. Tax. Code §17942 constitutes an invalid exercise of state police power and is void.

Years: 2000 through 2005

Amount
$65,201.00 Tax

Status: **On January 30, 2013, FTB's Petition to Coordinate this case with Bakersfield Mall LLC v. Franchise Tax Board was granted. Please refer to the summary for Bakersfield Mall LLC v. Franchise Tax Board.**

COMCON PRODUCTION SERVICES I, INC. v. Franchise Tax Board	Filed: 8/6/2012
Los Angeles County Superior Court Case No. BC489779	
Taxpayer's Counsel	*FTB's Counsel*
Carly Roberts	Anthony Sgherzi
Sutherland, Asbill, Brennan LLP	Stephen Lew

Issues:
1. Whether Comcast and QVC were a single unitary business during the years at issue.
2. Whether Comcast's receipt of a Termination Fee at the conclusion of its unsuccessful attempt to merge with Media One constitutes nonbusiness income.

Years: 1998, 1999

Amount
1998: $2,831,920.30
1999: $24,866,811.05

Status: **Summons and Verified Complaint filed August 6, 2012. On August 15, 2012, a Case Management Conference was filed by the Clerk. On September 26, 2012, FTB filed an Answer to the Verified Complaint. On November 14, 2012, the Verified Application of Jeffrey A. Friedman to Appear Pro Hac Vice, together with a Declaration and Memorandum of Points and Authorities in Support thereof was filed. On December 10, 2012, a Minute Order was filed continuing the Case Management Conference to December 20, 2012. On December 20, 2012, a Minute Order was issued scheduling Trial for September 17, 2013. The final Status Conference is set for September 11, 2013.**

C. V. Starr & Affiliates. v. Franchise Tax Board	Filed: 1/11/2013
San Francisco County Superior Court Case No. CGC-13-527952	
Taxpayer's Counsel	*FTB's Counsel*
Peter J Drobac	David Lew
Jane Wells May	
McDermott Will & Emery LLP	

Issues:
1. Whether dividend and Capital Gain income received by the taxpayer as the result of its acquisition and subsequent sale of AIG common stock should be classified as "business income" or "nonbusiness income."
2. Whether FTB's classification of the taxpayer's receipt of dividend and Capital Gain income attributable to its acquisition and sale of AIG stock as business income and apportioning a percentage of that income to California violates the Constitution of the United States of America.

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Years: 2006, 2007

Amount
2006: $2,782,331.00
2007: $3,561,662.00

Status: **Summons and Complaint filed January 11, 2013 and served January 16, 2013. On February 27, 2013, FTB's General Denial to Plaintiffs Complaint for Refund of Taxes was filed. A Case Management Conference is scheduled to be heard on June 12, 2013.**

DENNIS & BONNY CONFORTO v. Franchise Tax Board	Filed: 4/24/2012
San Diego County Superior Court Case No. 37-2012-00092895	
Taxpayer's Counsel	*FTB's Counsel*
Paul W. Rowe, Esq.	Leslie Branman Smith

Issues:
1. Whether Appellant's investment in ShopA-Z.com Inc. became totally worthless in 2001.

Years: 2001, 2003

Amount
2001: $53,661.00
2003: $28,733.00

Status: **Summons & Complaint filed on February 27, 2012. First Amended Complaint was filed April 24, 2012. On July 10, 2012, a Civil Case Management Conference was scheduled for August 24, 2012. On August 24, 2012, a Civil Court Trial was scheduled to commence on February 22, 2013. On February 4, 2013, an Ex Parte Application to Continue hearing was scheduled for February 7, 2013. On February 7, 2013, a Civil Case Management Conference was scheduled for March 8, 2013. The Case Management Conference was continued to May 3, 2013.**

CUTLER, FRANK v. Franchise Tax Board
Los Angeles Superior Court Case No. BC421864 Filed – 09/15/09
Court of Appeal Second Appellate District B233773

Taxpayer's Counsel	*FTB's Counsel*
Marty Dakessian	Christine Zarifarian
Reed Smith LLP	

Issues:
1. Whether California's Qualified Small Business Stock Deferral of Tax Provisions violate the Commerce Clause and Due Process Requirements of the United States Constitution.
2. Whether Plaintiff is entitled to a refund of taxes and interest paid to FTB.
3. Whether the Amnesty Penalty violates the Due Process Clause of the United States and California Constitutions.
4. Whether Plaintiff is entitled to attorneys' fees and costs under RTC 19717 and/or CCP 1021.5.

Year: 1998 Amount: $200,182.00 Tax
$47,600.00 Penalty

Status: On June 8, 2010, Defendant FTB filed a Notice of Entry of Order Approving Stipulation extending the time for parties to file and serve cross-motions for Summary Judgment. Hearing on the cross motions for Summary Judgment occurred on September 8, 2010. On May 2, 2011, an Order was issued granting FTB's Motion for Summary Judgment or in the Alternative Summary Adjudication. On May 3, 2011, the Notice of Entry of Order Denying Plaintiff's Motion for Summary Judgment was filed. On May 3, 2011, the Notice of Entry of Order on FTB's Motion for Summary Judgment or in the Alternative Summary Adjudication was filed. On May 5, 2011, Plaintiff's Notice of Ex-Parte Application and Application Requesting Order Clarifying Orders on Cross Motions for Summary Judgment was filed. On May 18, 2011, a Judgment, Minute Order, and Request for Dismissal were filed. The Order denied the Plaintiff's Motion for Summary Adjudication, granted Defendant's Motion for Summary Judgment, and granted Plaintiff's Request for Dismissal of the Fourth Cause of Action. On June 14, 2011, a Notice of Appeal combined with Election to Proceed was filed by the Plaintiff. Oral Arguments before the Court of Appeal were presented on July 31, 2012. On August 28, 2012, the Court of Appeal issued a published Opinion, finding California's Qualified Small Business Stock Statute to be unconstitutional and remanding the matter to Superior Court for further proceedings. The Court of Appeal Decision became final on September 27, 2012. Remittitur was issued on October 31, 2012. On November 7, 2012, Plaintiff filed a Peremptory Challenge after Reversal Pursuant to Code of Civil Procedure Section 170.6, seeking to disqualify Judge Stern from presiding over the issue remanded to Superior Court. On November 15, 2012, the Notice of Ruling granting Plaintiff's Peremptory Challenge after Reversal Pursuant to Code of Civil Procedure Section 170.6 was filed. On December 5, 2012, a Memorandum of Costs on Appeal was filed. On December 7, 2012, a Minute Order was issued, which reassigned the case from Honorable Michael L. Stern to the Honorable Elizabeth Allen White. On January 22, 2013, a Case Management Conference Statement was filed by FTB. On January 25, 2013, FTB propounded a set of Interrogatories and a Request for Production of Documents to Plaintiff. On February 8, 2013, a Motion for Attorney's Fees under the Code of Civil Procedure Section 1021.5 was filed by Plaintiff. On February 8, 2013, the Declarations of Richard M. Pearl, Christopher J. Matarese, and Mardiros H.

Dekessian were filed in support of Motion for Attorneys Fees. On March 15, 2013, FTB's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Attorney's Fees was filed. On March 15, 2013, Declaration of Ann Hodges in opposition to Plaintiff's Motion for Attorney's Fees was filed. On March 22, 2013, Plaintiff's Reply in Support of Motion for Attorney Fees and Supplemental Declaration of Mardiros H. Dakessian was filed. On March 26, 2013, Defendant's Evidentiary Objections to Supplemental Declaration of Mardiros H. Dakessian in Support of Plaintiff's Motion for Attorney Fees on Remand was filed. On March 29, 2013, the Court issued an Order denying Plaintiff's Motion for Award of Attorney Fees. On April 3, 2013, Notice of Reassignment from Judge Burrell to Judge Troy L. Nunley was filed. On April 5, 2013, Plaintiff's Case Management Conference Statement was filed. Plaintiff filed a Notice of Appeal with respect to the April 18, 2013, denial of the Motion for Award of Attorneys Fees.

DAI, WEILI v. Franchise Tax Board
San Francisco Superior Court Case No. CGC11515643 Filed – 11/03/11

Taxpayer's Counsel	*FTB's Counsel*
Glenn A Smith	Marguerite Stricklin
Law Offices of Glenn A. Smith	

Issues: 1. Whether Plaintiff is entitled to Declaratory Relief under section 11350 of the Government Code in the form of a determination that FTB has created and implemented invalid regulations with respect to the treatment of stock options.

Year: 2006 Amount: $ 1.00

Status: Summons & Complaint filed November 3, 2011. On December 15, 2011, a Summons and the First Amended Complaint were filed alleging that Plaintiff is entitled to a declaration under Section 11350 of the Government Code that FTB has created and implemented certain invalid regulations with respect to the treatment of stock options. On December 23, 2011, Plaintiff served Special Interrogatories and a Request for Production of Documents upon FTB. On February 8, 2012, FTB responded to Plaintiff's First Request for Production of Documents and First Set of Special Interrogatories. A Case Management Conference was held on May 25, 2012. Trial of this matter was set to commence on January 28, 2013. An Objection to Notice and Time and Place of Trial was filed by Plaintiff. The Court reset Trial to commence on October 21, 2013.

DANIEL V INC. v. Franchise Tax Board
Los Angeles Superior Court Case No. BC457301 Filed – 03/14/11

Taxpayer's Counsel	*FTB's Counsel*
Marty Dakessian	Anthony Sgherzi
Reed Smith LLP	

Issues: 1. Whether Appellant has demonstrated the amnesty-related penalties assessed for the 1997 and 1998 tax years should be abated.

2. Whether Appellant has demonstrated a late filing penalty assessed for the 1997 tax year should be abated.

3. Whether Daniel V has demonstrated that its commercial domicile is not in California.

Years:		Amount:	
1997		Tax:	$40,759.23
		Interest:	$56,388.57
		Late Filing Penalty	$10,189.80
		Amnesty Penalty	$16.076.42
		Total:	$123,414.02
1998		Tax:	$840,010.32
		Interest:	$1,073,439.12
		Late Filing Penalty	$0.00
		Amnesty Penalty	$237,050.56
		Total:	$2,150,500.00

Status: On November 5, 2012, the evidentiary portion of the Trial was completed and Post-Trial briefing was submitted. Plaintiff's Opening Brief was filed on November 27, 2012. FTB's Opening Brief was filed on December 11, 2012. Plaintiff's Reply Brief was filed on December 18, 2012. On February 6, 2013, a Tentative Decision and Proposed Judgment in favor of Plaintiff were filed. On February 22, 2013, Objection to Proposed Judgment was filed by FTB. On February 25, 2013, an Application for Entry of Judgment and a Proposed Judgment was filed and served by Plaintiff. On March 13, 2013 the Final Statement of Decision was filed. On March 13, 2013, a Minute Order was filed. On March 29, 2013, Plaintiff filed its Application for Entry of Judgment. On April 17, 2013, Plaintiff's Notice of Motion and Motion for Litigation Costs, including Attorneys' fees; Points and Authorities; Declarations of Mardiros H. Dakessian, David Keligian, Richard Pearl, Jeffrey M. Vesely, Roy E. Crawford, Edwin P. Antolin, Christopher J. Matarese in Support thereof; Proposed Order was filed. FTB's Opposition to the Motion for Costs and Attorneys Fees is due to be filed on May 13, 2013.

DICON FIBEROPTICS, INC. v. Franchise Tax Board
Los Angeles Superior Court Case No. BC367885 Filed – 03/13/07
Court of Appeal, 2nd Appellate District Case No. B202997
California Supreme Court Case No. S173860

Taxpayer's Counsel	*Taxpayer's Counsel*	*FTB's Counsel*
Thomas R. Freeman, Paul S. Chan, Marty Dakessian		Marla Markman
Bird, Marella, Boxer, Wolpert, Reed Smith LLP		
Nessim, Drooks & Lincenberg, P.C.		

Issues:
1. Whether Franchise Tax Board properly denied EZ Credits claimed by Plaintiff.
2. Whether Franchise Tax Board has authority to look behind vouchers issued by Local Enterprise Zone coordinator.

Year: Ending 03/31/07 Amount: $1,104,992.00 Tax

Status: On April 26, 2012, the California Supreme Court rendered a unanimous Opinion in FTB's favor and remanded the case to Superior Court. The parties are awaiting further proceedings in Superior Court. On December 5, 2012, a Minute Order was issued stating that a Peremptory Challenge by Dicon was granted and the case has been reassigned from Judge Mel Red Recana to Judge Charles F. Palmer. On March 20, 2013, Notice of Order RE: Case Reassignment was filed, reassigning the case to Honorable Mary H. Strobel. On March 28, 2013, a Case Management Conference was held. FTB filed its Answer to the Complaint on April 22, 2013. Final Status Conference is to be held on February 4, 2014. Trial is scheduled to commence February 11, 2014.

THE GILLETTE COMPANY & SUBSIDIARIES v. Franchise Tax Board	
San Francisco Superior Court Case No. CGC10495911	Filed 01/11/10
Court of Appeal First District Court Case No. A130803	
California Supreme Court Case No. S206587	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts	Lucy Wang
Silverstein & Pomerantz, LLP	

Issues:
1. Whether California's Amendment of Rev. & Tax. Code § 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to Rev. & Tax. Code § 25128 is precluded by California's participation in the Multistate Tax Compact, violates the U.S. Constitution and the California Constitution.

Years: 1997 through 2004 Amount $4,137,591.00

Status: On May 27, 2010, a Complex Litigation Case Management Conference was held; the Court ordered the matters consolidated, and the Complex Litigation Hearing, including the Hearing on FTB's Demurrers was continued to October 7, 2010. This case is now consolidated with the actions filed on behalf of Jones Apparel Group, Inc. and Subsidiaries, Kimberly-Clark World Wide, Inc. & Subsidiaries; Procter & Gamble Manufacturing Co. & Affiliates; RB Holdings (USA) Inc. & Subsidiaries; and Sigma-Aldrich Corp. & Subsidiaries, all of which involve the same legal issues. On October 7, 2010, the Complex Litigation Hearing on FTB's Demurrer to Complaint was held. The Court sustained the Demurrers without leave to amend. On October 26, 2010, the Order on the Demurrer was filed. The Notice of Entry of Order was filed on November 2, 2010. On December 2, 2010, A Notice of Appeal/Request for Preparation of Transcript was filed on behalf of Gillette. Briefs were timely submitted by both Appellants and FTB. Amicus Curiae briefs were submitted on behalf of both Appellants and FTB. Oral Argument occurred on May 8, 2012. On July 24, 2012, the Court of Appeal issued a for publication opinion in favor of the taxpayers. On August 8, 2012, the Franchise Tax Board filed a Petition for Rehearing. On August 9, 2012, the Court of Appeal on its own Motion issued an Order Vacating its Opinion. On October 2, 2012, the Court of Appeal issued a second published Opinion in favor of taxpayer. On November 13, 2012, a Petition for Review was filed with the California Supreme Court on behalf of FTB. On December 3, 2012, Appellant's Answer to Petition for Review was filed. On December 3, 2012, Appellants' Objection to Respondent's Request for Judicial Notice was filed. On December 4, 2012, Amicus letters from the States of Texas, Alabama, Alaska, Arkansas, Colorado, Hawaii, Kansas, Michigan, Minnesota, Missouri, New Mexico, South Dakota, Utah, and Washington and the District of Columbia in support of granting review were filed. On December 10, 2012, an Amicus letter of the Multitstate Tax Commission in support of Granting Review was filed. On December 11, 2012, an Amicus Curiae Letter in Opposition to Petition for Review was filed. On December 28, 2012, the California Supreme Court extended the time within which it must grant or deny Review to and including February 11, 2013. On January 16, 2013, the Supreme Court granted the Petition for Review. On January 28, 2013, FTB filed an Application for Extension of Time to File its Opening Brief. On February 4, 2013, the Court ordered FTB's Opening Brief to be filed by March 18, 2013. On February 15, 2013, FTB filed an Application for Extension of Time to File its Opening Brief. On February 20, 2013, the Court granted the requested Extension. On April17, 2013, FTB's Opening Brief on the Merits was

filed in the Supreme Court of California. On April 17, 2013, Declaration of Jeffrey I. Margolis In Support of Respondent's Request for Judicial Notice was filed in the Supreme Court of California. On April 17, 2013, Declaration of Sheldon H. Laskins in Support of Respondent's Request for Judicial Notice was filed in the Supreme Court of California. On April 17, 2013, Respondent's Request for Judicial Notice, Motion, Memorandum and Supporting Papers were filed in the Supreme Court of California. On April 23, 2013, Appellants' Application for Extension of Time to File its Opening Brief and to file its Opposition to Respondent's Request for Judicial Notice were filed. On April 26, 2013, the Supreme Court of California granted respondent's request for an extension of time to file its opposition.

GONZALES, THOMAS J. II v. Franchise Tax Board
San Francisco Superior Court Case No. CGC06454297 Filed – 07/18/06
Court of Appeal, 1st Appellate District Case No. A122723 (Franchise Tax Board v. San Francisco Superior Court) (Real Party in Interest Tom Gonzales)
California Supreme Court Case No. S176943
Court of Appeal, 1st Appellate District Case No. A134238

Taxpayer's Counsel	*FTB's Counsel*
Martin A. Schainbaum, Esq.	Robert Asperger
Martin A. Schainbaum, PLC	

Issues:
1. Whether a $142,000,000.00 capital loss from an abusive tax shelter is allowable.
2. Whether a taxpayer self-reporting under VCI is eligible for interest suspension pursuant to section 19116.
3. Whether the taxpayer is entitled to deduct legal expenses paid in connection with an investment.

Years: 2000 and 2001 Amount: $12,374,510.00 Tax

Status: On June 6, 2011, the California Supreme Court issued a unanimous opinion holding that under the California Constitution there is no right to a jury trial in Tax Refund lawsuits. On June 20, 2011, a Petition for Rehearing was filed by Gonzales. On June 22, 2011, the Court extended the time to consider the Petition until September 6, 2011. On July 13, 2011, the Petition for Rehearing was denied. On July 13, 2011, the Remittitur was issued. The decision regarding a taxpayer's right to a jury trial in tax refund litigation is now final. Trial commenced on September 12, 2011. On September 13, 2011, Closing Arguments were held and the matter was submitted for Decision. The Court ruled in favor of FTB on the Substantive Tax Shelter issue, holding that a Federal Court Decision on the same issue was binding upon Plaintiff. The Court ruled in favor of the Plaintiff on the Penalty issue. On November 18, 2011, the Court Ordered judgment be entered in favor of Gonzales on the Cross-Complaint in the amount of $86,589.25. On December 1, 2011, Memorandum of Costs and Disbursements was filed by Plaintiff. Notice of Appeal/Request for Transcript was filed by Plaintiff on January 6, 2012. On January 18, 2012, the Clerk's Notice of filing of Appeal was entered. On May 17, 2012, Appellant filed his Opening Brief. On May 17, 2012, Appellant filed his Appendix. Respondent's Brief and Appendix were filed September 14, 2012. On October 4, 2012, a Notice of Change of Counsel from DAG Jeffrey Rich to DAG Robert Asperger was filed. On October 4, 2012, a Stipulation of Extension of Time was filed so as to allow Appellant's Reply Brief to be due November 6, 2012. On November 5, 2012, the Appellant filed a Reply Brief. On December 7, 2012, Request for Oral Argument was filed by Plaintiff. The Oral Argument was heard on April 18, 2013, and was submitted.

HARLEY DAVIDSON INC. & SUBSIDIARIES v. Franchise Tax Board
San Diego Superior Court Case No. 37-2011-00100846 Filed – 11/09/11

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein	Leslie Branman Smith
Edwin Antolin	
Silverstein & Pomerantz	

Issues:
1. Whether Plaintiffs should be allowed a claim for refund for 2000-2002 based on assertions that Plaintiffs have been discriminated against by FTB as they were not allowed as a multistate corporation to file separate returns.
2. Whether Plaintiffs are entitled to use the equal-weighted three factor formula to apportion their income.
3. Whether California lacks nexus sufficient to justify taxation of certain Harley Davidson subsidiaries and, if there is nexus, whether the income of these subsidiaries can be attributable to California.

Years: 2000-2002 Amount: $1,851,942.00

Status: Summons and Complaint filed November 9, 2011. On December 20, 2011, Harley Davidson filed a First Amended Complaint. FTB's Notice of Hearing on Demurrer and related pleadings were filed on January 20, 2012. On February 27, 2012, the Opposition to Demurrer and related pleadings were filed. On March 2, 2012, the Reply to Opposition of to Demurrer was filed by FTB. On March 12, 2012, a Minute Order was issued sustaining FTB's Demurrer to the first Two Causes of action without leave to amend; and sustaining FTB's Demurrer to the Third Cause of action with Leave to Amend. On March 21, 2012, a Second Amended Complaint was filed by Harley Davidson. On April 19, 2012, the FTB's Answer to Second Amended Complaint for Refund of Taxes was filed. On June 22, 2012, the Court issued an Order scheduling Trial to commence on February 15, 2013; the Motion for Summary Judgment to be heard on January 11, 2013; and the Trial Readiness Conference to be heard on February 1, 2013. On November 9, 2012, Plaintiff filed its Motion for Summary Judgment/Summary Adjudication of issues together with its pleadings in support thereof. On December 21, 2012, FTB filed its Opposition to Plaintiff's Motion for Summary Judgment/Summary Adjudication. On January 17, 2013, a Minute Order was filed denying Harley-Davidson's Motion for Summary Judgment. Trial occurred on February 22, 2013. On March 15, 2013, Plaintiffs' Brief was filed. On March 15, 2013, the Index of Non-California, State Board of Equalization, and Unpublished Authorities in Support of Plaintiffs' Post-Trial Brief was filed. On March 27, 2013, Response to Harley-Davidson's Trial Brief was filed. On May 2, 2013, the Trial Court issued its Statement of Decision and Judgment in favor of FTB.

HYATT, GILBERT P. V. Franchise Tax Board
Clark County Nevada District Court Case No. A382999 Filed – 1/06/98
Nevada Supreme Court Case No. 47141
Nevada Supreme Court Case No. 53264

Taxpayer's Counsel	*FTB's Counsel*
Thomas L. Steffen & Mark A. Hutchison Hutchison &Steffen, H Barrow Farr III	James W. Bradshaw MCdonald, Carano, Wilson LLP

Issues: 1. Whether the judgment issued by the (Nevada) Clark County District Court in favor of Gilbert Hyatt against FTB, including the award of $250,000,000 in punitive damages was proper.

Years: N/A Amount:Approx. $500,000,000

Status: Nevada Supreme Court: On June 1, 2010, FTB submitted Appellant's reply brief and Cross-Respondent's answering brief in the Nevada Supreme Court. On June 8, 2010, FTB submitted Appellant's Supplemental Opening Brief Regarding Costs, also in the Nevada Supreme Court. On September 13, 2010, Hyatt filed and served a Supplemental Answering Brief (regarding the award of his costs). FTB filed a Supplemental Reply Brief (regarding Hyatt's costs), on October 13, 2010. Mr. Hyatt previously filed a motion requesting to file a Sur-Reply to FTB's Reply Brief. On August 24, 2010, FTB filed an Opposition to Hyatt's motion. On October 4, 2010, after reviewing the Motion and Opposition, Justice Hardesty denied Hyatt's motion and directed the clerk of the court to return, unfiled, the proposed Sur-Reply submitted by Mr. Hyatt on August 13, 2010, and to strike the appendix to the Sur-Reply filed on August 16, 2010. On September 13, 2010, Hyatt filed a Supplemental Answering Brief Regarding Costs. On October 12, 2010, FTB filed a Supplemental Reply Brief regarding Costs. On January 20, 2011, FTB noticed and filed Respondent's embedded Answering and Opening Cross-Appeal Brief, Reply Cross-Appeal Brief, and Supplemental Answering Brief Regarding Costs in electronic form. On February 4, 2011, Hyatt filed a Notice of Submission of Hyatt's Embedded (i) Answering Brief and Opening Cross Appeal Brief; (ii) Reply Brief on Cross Appeal; and (iii) Answering Brief on Cost Appeal which was filed with the Nevada Supreme Court. Oral Argument was held on May 7, 2012, and on May 14, 2012, the Nevada Supreme Court issued an Order scheduling additional Oral Argument to be heard on June 18, 2012. The additional Oral Argument was presented and the matter is now under submission.

JONES APPAREL GROUP, INC. & SUBSIDIARIES v. Franchise Tax Board Filed 04/26/10
San Francisco Superior Court Case No. CGC10499083

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts Silverstein & Pomerantz, LLP	Jill Bowers

Issues:
1. Whether California's Amendment of RTC 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to RTC 25128 is precluded by California's participation in the Multistate Tax Compact, violates the Constitution of the United States of America and the State of California.

Years: 12/31/01 through 12/31/03 Amount: $755,730.00

Status: **Summons and Complaint served on April 27, 2010. Please see summary for the Gillette Company & Subsidiaries v. Franchise Tax Board. On June 10, 2010, the Court ordered this case consolidated with The Gillette Company & Subsidiaries v. Franchise Tax Board, San Francisco County Superior Court Case No. CGC-10-495911. Please refer to status summary for The Gillette Company & Subsidiaries v. Franchise Tax Board.**

KIMBERLY-CLARK WORLD WIDE, INC. & SUBSIDIARIES v. Franchise Tax Board Filed 01/11/10	
San Francisco Superior Court Case No. CGC 10495916	
Taxpayer's Counsel	*FTB'sCounsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts	Lucy Wang
Silverstein & Pomerantz, LLP	

Issues:
1. Whether California's Amendment of Rev. & Tax. Code § 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to Rev. & Tax. Code § 25128 is precluded by California's participation in the Multistate Tax Compact, violates the U.S. Constitution and the California Constitution.

Years: 1993 through 2004 Amount: $14,317,394.00

Status: **On June 10, 2010, the Court ordered this case consolidated with The Gillette Company & Subsidiaries v. Franchise Tax Board, San Francisco County Superior Court Case No. CGC-10-495911. Please refer to status summary for The Gillette Company & Subsidiaries v. Franchise Tax Board.**

DENISE ELIZABETH LAM v. Franchise Tax Board	Filed 09/12/12
Los Angeles County Superior Court Case No. CV12-7719cas	
Taxpayer's Counsel	*FTB's Counsel*
Denise Elizabeth Lam	Eliza Wolfe

Issues:
1. Whether Plaintiff is entitled to her claim for refund.
2. Whether the Franchise Tax Board can engage in collection activity without going through some type of formal court proceeding.

Years: 2001 Amount: $1.00

Status: **Summons and Complaint filed on October 17, 2012. On January 17, 2013, the Court granted FTB's Motion to Dismiss. A Refusal for Cause for multiple pleadings was filed March 19, 2013.**

MARTIN A. LOGIES v. Franchise Tax Board Filed 07/01/11
Alameda County Superior Court Case No.RG11603896

Taxpayer's Counsel	*FTB's Counsel*
Bradley A. Bening	Marguerite Stricklin
Willoughby, Stuart & Bening	

Issues:
1. Whether Plaintiff is entitled to cancellation of the Preparer penalties.
2. Whether Plaintiff is entitled to a refund of the $21,112.50 that he has paid to date.

Years: 1997-2001 Amount: $21,112.50

Status: **On June 23, 2011, the Summons and Complaint were filed. On August 4, 2011, the Santa Clara County Superior Court approved a Stipulation and Order transferring the case to Alameda County. On October 13, 2011, an Order was issued transferring the case to Oakland, Alameda County. On November 7, 2011, the case was transferred to Oakland, Alameda County. Notice of Receipt of Transfer was filed on November 8, 2011.**

MERCEDES-BENZ USA INC. v. Franchise Tax Board Filed 01/11/12
Sacramento County Superior Court Case No.34-2012-00116949

Taxpayer's Counsel	*FTB's Counsel*
Eric Coffill	Jill Bowers
Morrison & Foerster	

Issues:
1. Whether the loss sustained by Plaintiff upon liquidation of that certain entity known as AEG should properly be considered an ordinary loss or a capital loss.
2. Whether certain bad debts should be classified as ordinary losses or capital loss carryover.
3. Whether income generated by pension assets should be classified as non-business income.

Years: 1996-1997 Amount: $10,300,564.00

Status: **Summons and Complaint served on January 12, 2012. On February 27, 2012, FTB filed its General Denial with Affirmative Defenses. The parties have agreed to go to Mediation. The parties have selected a Mediator. On November 26, 2012, FTB served its Mediation Brief. Mediation was scheduled to commence on November 30, 2012, but was continued to March 2013. Plaintiff filed its Mediation Statement on February 19, 2013. FTB filed its Mediation Statement on February 20, 2013. The Mediation was conducted on March 5, 2013 and March 7, 2013. Informal settlement was reached on March 7, 2013.**

MERCEDES-BENZ USA INC. v. Franchise Tax Board Filed 05/17/12
Sacramento County Superior Court Case No.34-2012-00124506

Taxpayer's Counsel	*FTB's Counsel*
Eric Coffill	Jill Bowers
Morrison & Foerster	Steven Green

Issues:
1. Whether FTB properly determined that Mercedes-Benz USA Inc. and ABB Daimler-Benz transportation GMBH (Adtranz) were not a single unitary business.
2. Whether FTB properly denied Plaintiff's request to correct an erroneous mark to market adjustment on its California return.
3. Whether FTB properly treated a portion of Plaintiff's pension asset income as non-business income.
4. Whether FTB properly denied certain net operating losses claimed by Plaintiff.

Years: 1998-1999

Amount:
1998: $10,580,243.00
1999: $6,116,155.00

Status: Summons and Complaint filed May 17, 2012. On July 31, 2012, a Stipulation and Order to submit the matter to Mediation was filed. Both Mercedes-Benz cases are to be mediated at the same time.

MICROSOFT CORPORATION v. Franchise Tax Board
San Francisco Superior Court Case No. CGC08471260 Filed – 01/22/08
Court of Appeal Court Case No. A131964

Taxpayer's Counsel	*FTB's Counsel*
A. Pilar Mata, Esq,	David Lew
Sutherland, Asbill, & Brennan LLP	Lucy Wang

Issues:
1. Whether royalty income received from licensing agreements with Original Equipment Manufacturers should be sourced outside of California based upon costs of performance.
2. Whether receipts from trading marketable securities should be included in the sales factor.
3. Whether the value of trademarks, copyrights, patents and other intangible assets should be included in the property factor.
4. Whether the taxpayer should be allowed a deduction under Revenue and Taxation Code section 24402 for dividends received for the years at issue.
5. Whether the amnesty penalty under Rev.& Tax. Code § 19777.5 violates the due process clause of the U.S. Constitution, applies only retroactively, or attaches only after a liability becomes due and payable.

Years: 1995 and 1996 Amount: $25,283,868.00 Tax

Status: Trial commenced on September 1, 2010, and further proceedings were scheduled to resume on October 14, 2010. On January 18, 2011, the trial court issued a Proposed Statement of Decision that ruled in favor of the FTB on each of the four causes of action set forth in Microsoft's complaint for tax refund. On January 28, 2011, Microsoft filed its Objections to the Court's Proposed Statement of Decision. On February 17, 2011, the Court issued its Statement of Decision in favor of FTB. On March 15, 2011, the Court ordered that Microsoft take nothing from FTB. The Notice of Entry of Judgment was filed on March 21, 2011. On May 12, 2011, a Notice of Appeal/Request for a Transcript was filed by Plaintiff. Appellant's Opening Brief was filed on September 19, 2011. On December 19, 2011, Respondent's Brief was filed. On February 8, 2012, Appellant's Reply Brief was filed. Oral Argument was held on October 1, 2012. The Court of Appeal issued a for-Publication Opinion in favor of Microsoft on December 18, 2012. The Judgment was reversed and the matter is remanded to the trial court for further proceedings. On January 2, 2013, Respondent's Petition for Rehearing was filed. On January 15, 2013, the Court of Appeal denied the Petition for Rehearing. On February 20, 2013, Remittitur was issued. On February 21, 2013, the Remittitur was reversed. On March 27, 2013, a Memorandum of Costs and Disbursements was filed. The case has been remanded back to Superior Court. Microsoft has until July 1, 2013, to respond to a Request for Information.

DAN PICKELL v. Franchise Tax Board
United States District Court Case No. 2:12-CV-00373-GEB-DAD Filed: 2/28/12

Taxpayer's Counsel	*FTB's Counsel*
Dan Pickell	Jane O'Donnell

Issues: 1. Whether Franchise Tax Board's Executive Director and the Contactor's Licensing Board's Director have the authority to revoke, rescind, or suspend Plaintiff's contractor's license.

Years: 2000-2008 Amount: $150,000.00

Status: Summons & Complaint filed February 28, 2012. A Notice of Hearing on Motion of Defendants Sands and Stanislaus to Dismiss Civil Complaint was filed on April 9, 2012. A Memorandum of Points and Authorities in Support of Defendants' Motion to Dismiss was filed on April 9, 2012. On May 23, 2012, the Plaintiff's Request to File a Sur Reply to Defendants' Motion to Dismiss or, in the Alternative, to Have the Defendants' Motion Converted to a Motion for Summary Judgment Giving Plaintiff Additional Time to Respond Thereto was filed. On May 23, 2012, Plaintiff's Sur Reply to Defendants' Reply to Plaintiff's Motion to Dismiss was filed. On June 27, 2012, Defendant's Designation of Counsel was filed. On December 5, 2012, the Magistrate's Findings and Recommendations were filed proposing that Plaintiff's lawsuit be permitted to proceed. On January 18, 2013, an Order was issued from the Court denying Defendant's Motion to Dismiss. On February 15, 2013, the Answer to Complaint by Defendants Stephen P. Sands, Registrar California State License Board and Selvi Stanislaus, Executive Director of the Franchise Tax Board was filed. On April 3, 2013, an Order of Reassignment was filed, reassigning the case from from District Judge Garland E. Burrell to District Judge Troy L Nunley. On April 5, 2013, Plaintiff Case Management Conference Statement was filed. On April 12, 2013, Defendants' Status Report for Status (Pretrial Scheduling) Conference was filed.

ROBERT & GAIL POLL v. Franchise Tax Board
Los Angeles County Superior Court Case No. BC 485069 Filed: 5/22/12

Taxpayer's Counsel	*FTB's Counsel*
Abelson Herron& Halpern LLP	Stephen Lew
Leslie A. Pereira	

Issues: 1. Whether Plaintiffs were nonresidents of the State of California for income tax purposes for the time period of September 29, 2000 to December 31, 2000.

Years: 2000 Amount: $1,520,083.00

Status: Summons & Complaint filed May 22, 2012. The Answer to Complaint for Declaratory Relief was filed June 19, 2012. On July 26, 2012, Deposition Subpoena for Production of Business Records was filed. On July 26, 2012, Plaintiffs' First Set of Requests for Production to Defendant Franchise Tax Board was sent. On July 26, 2012, Plaintiffs' First Set of Specially-Prepared Interrogatories to Defendant Franchise Tax Board was served. On August 7, 2012, Defendant Franchise Tax Board's First Set of Special Interrogatories to Plaintiffs Robert and Gail Poll were served. On August 7, 2012, Defendant Franchise Tax Board's First Set of Requests for Identification and Production of Documents to Plaintiffs Robert & Gail Poll were served. On September 27, 2012, Franchise Tax Board's Responses to Plaintiffs' First Set of Special Interrogatories were served. On September 27, 2012, Franchise Tax Board's Responses and Objections to Plaintiffs' First Set of Requests for Production were served. On November 10, 2012, a Case Management Statement was filed scheduling the next Case Management Conference for December 17, 2012. On November 15, 2012, a Joint Case Management Statement was filed requesting a Trial date of March 25, 2013. On December 17, 2012, Case Management Conference held. The following dates were set at the conference: August 8, 2013, Post-Mediation Status Conference, October 24, 2013, Final Status Conference and November 7, 2013, non-jury Trial. On April 11, 2013, a Notice of Change of Firm Name was filed. It is now Abelson Herron and Halpern LLP.

THE PROCTER & GAMBLE MANUFACTURING CO. & AFFILIATES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC10495912 Filed: 1/11/10

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts	Lucy Wang
Silverstein & Pomerantz, LLP	

Issues: 1. Whether California's Amendment of Rev. & Tax. Code § 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to Rev. & Tax. Code § 25128 is precluded by California's participation in the Multistate Tax Compact, violates the U.S. Constitution and the California Constitution.

Years: 06/30/99 through 06/30/05 Amount: $11,837,747.00

Status: **On June 10, 2010, the Court ordered this case consolidated with The Gillette Company & Subsidiaries v. Franchise Tax Board, San Francisco County Superior Court Case No. CGC-10-495911. Please refer to status summary for The Gillette Company & Subsidiaries v. Franchise Tax Board.**

QUELLOS FINANCIAL ADVISORS, LLC v. Franchise Tax Board	
San Francisco Superior Court Case No. CGC09487540	Filed – 04/20/09
Court of Appeal First Appellate District A134734	
Taxpayer's Counsel T*axpayer's Counsel*	*FTB's Counsel*
Amanda J. Pedvin, Matthew D. Lerner, Esq.	Anne Michelle Burr

Issues:
1. Whether the promoter penalty provided for in RTC section 19177 violates the due process clause of the United States and California Constitutions.
2. Whether the promoter penalty provided for in RTC section 19177 violates the commerce clause contained within the United States Constitution.
3. Whether the penalty provisions provided for in RTC section 19177 apply to activities prior to calendar year 2005.
4. Whether the proper measure of the promoter penalty is $1,000 per transaction or 50% of the gross income derived from the improper activity.
5. Whether the proper measure of the promoter penalty may include income not received by the Person/entity against whom the penalty has been assessed.

Years: N/A Refund sought $3,473,437.50 Penalty

Status: **Trial commenced on March 28, 2011, and was continued to April 25, 2011. The Court's Statement of Decision was filed on January 3, 2012, in favor of the Plaintiff. FTB filed a Petition for Writ of Mandate and/or Prohibition or Other Appropriate Relief; Request for Stay, and a Memorandum of Points and Authorities on March 1, 2012. FTB filed a Notice of Appeal on March 1, 2012. On July 13, 2012, an Order was issued dismissing the Appeal, but permitting the Writ proceeding to continue. On July 30, 2012, an Order was filed, which ordered the briefing be temporarily held in abeyance pending the Court's determination of appealability. That issue was decided, the Order holding briefing in abeyance was lifted. On August 17, 2012, the return was filed. On August 31, 2012, the Petitioner's Traverse to Return to Petition for Writ of Mandate and/or Prohibition was filed. On October 2, 2012, the Court of Appeal ordered cases A134734 and A134735 consolidated for purposes of argument and decision. On October 4, 2012, FTB submitted a request to present Oral Argument. On October 5, 2012, Quellos Financial submitted a request to present Oral Argument. On November 29, 2012, the Court issued a letter asking three questions of the parties. On December 7, 2012, Quellos filed a Letter Brief in Response to the Court's November 29, 2012, request. On December 10, 2012, the Franchise Tax Board submitted a Letter Brief in Response to the Court's November 29, 2012, Request for Additional Briefing. We are now waiting for the Appellate Court to set Oral Argument dates. The May 13, 2013, Case Management Conference has been moved to September 4, 2013, in light of the fact that the Court of Appeal has not scheduled Oral Arguments.**

QUELLOS GROUP, LLC v. Franchise Tax Board		
San Francisco Superior Court Case No. CGC10501299		Filed – 07/20/10
Taxpayer's Counsel	*Taxpayer's Counsel*	*FTB's Counsel*
Amanda J. Pedvin	Matthew D. Lerner, Esq.	Anne Michelle Burr
Steptoe & Johnson, LLP	Septoe & Johnson, LLP	Christopher Haskins

Issues: 1. Whether the promoter penalty provided for in RTC section 19177 violates the due Process clause of the United and California Constitution.
2. Whether the promoter penalty provided for in RTC section 19177 violates the commerce clause contained within the United States Constitution.
3. Whether the penalty provisions provided for in RTC section 19177 apply to the activities prior to calendar year 2005.
4. Whether the proper measure of the promoter penalty is $1,000, per transaction or 50% of the gross income derived from improper activity.
5. Whether the proper measure of the promoter penalty may include income not received by person/entity against whom the penalty has been assessed.

Years: 2001 Refund sought: $569,807.25

Status: **Summons and Complaint filed July 23, 2010. On August 3, 2010, Defendant FTB filed both an Answer to the Complaint and its Cross Complaint. On August 30, 2010, Quellos Group LLC filed an Answer to Cross Complaint. Although not formally consolidated, this case is proceeding in tandem with Quellos Financial Advisors, LLC v. Franchise Tax Board. Please see summary to Quellos Financial Advisors, LLC v. Franchise Tax Board.**

RB HOLDINGS (USA) INC. & SUBSIDIRIES v. Franchise Tax Board	Filed 01/29/10
San Francisco Superior Court Case No. CGC10496438	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts Silverstein & Pomerantz, LLP	Lucy Wang

Issues: 1. Whether California's Amendment of Rev. & Tax. Code § 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to Rev. & Tax. Code § 25128 is precluded by California's participation in the Multistate Tax Compact, violates the U.S. Constitution and the California Constitution.

Years: 2002 through 2004 Amount: $145,240.00

Status: **On June 10, 2010, the Court ordered this case consolidated with The Gillette Company & Subsidiaries v. Franchise Tax Board, San Francisco County Superior Court Case No. CGC-10-495911. Please refer to status summary for The Gillette Company & Subsidiaries v. Franchise Tax Board.**

SEHAT SUTARDJA v. Franchise Tax Board	Filed 11/03/11
San Francisco Superior Court Case No. CGC11515645	
Taxpayer's Counsel	*FTB's Counsel*
Glenn A. Smith Law Offices of Glenn A. Smith	Marguerite Stricklin

Issues: 1. Whether Plaintiff is entitled to declaratory relief under Section 11350 of the Government Code in the form of a determination that FTB has created and implemented invalid regulations with respect to the treatment of Stock Options.

Years: 2006 Amount: $1.00

Status: Summons & Complaint filed November 3, 2011. On December 15, 2011, a Summons and First Amended Complaint were filed alleging that Plaintiff is entitled to a declaration under Section 11350 of the Government Code that FTB has created and implemented certain invalid regulations regarding the treatment of stock options. On December 22, 2011, Plaintiff propounded Discovery to FTB in the form of Request for Production of Documents and Special Interrogatories. On April 3, 2012, a Motion to Compel further Discovery from FTB was filed. On April 13, 2012, the Opposition to Motion to Compel further Responses to Special Interrogatories and Request for Production of Documents was filed by FTB. On April 24, 2012, a Reply Memorandum in Support of Motion to Compel to Special Interrogatories and Request for Production of Documents was filed. On April 24, 2012, a Reply Brief in Support of Demurrer was filed by FTB. On May 25, 2012, an Order Overruling Defendant FTB's Demurrers and Tentative Decision granting Plaintiff's Motion to Compel Discovery was filed. On June 8, 2012, an Order granting in Part and Denying in Part Plaintiff's Motion to Compel (Special Interrogatories and Document Requests) was filed. On July 3, 2012, FTB's Response to First Set of Special Interrogatories following Court's Order granting in part Plaintiff's Motion to Compel was filed. On July 3, 2012, FTB's Response to First Request for production of Documents following Order Granting in Part Plaintiff's Motion to Compel was filed. On July 18, 2012, Trial was scheduled to commence on February 4, 2013. An Objection to Notice and Time and Place of Trial was filed by Plaintiff. The Court rescheduled Trial to commence on May 13, 2013. On December 21, 2012, an Ex Parte Application for Order to Continue Trial was filed by the Plaintiff. Trial is now scheduled to commence on October 21, 2013.

SIGMA-ALDRICH, CORP. & SUBSIDIARIES v. Franchise Tax Board	Filed 01/29/10
San Francisco Superior Court Case No. CGC10496437	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin, Johanna W. Roberts	Lucy Wang
Silverstein & Pomerantz, LLP	

Issues:
1. Whether California's Amendment of Rev. & Tax. Code § 25128 in 1993 is precluded by California's participation in the Multistate Tax Compact.
2. Whether California's denial of Plaintiff's claim for refund, premised upon the claim that the 1993 amendment to Rev. & Tax. Code § 25128 is precluded by California's participation in the Multistate Tax Compact, violates the U.S. Constitution and the California Constitution.

Years: 1998 through 2004 Amount: $1,607,168

Status: On June 10, 2010, the Court ordered this case consolidated with The Gillette Company & Subsidiaries v. Franchise Tax Board, San Francisco County Superior Court Case No. CGC-10-495911. Please refer to status summary for The Gillette Company Subsidiaries v. Franchise Tax Board.

IRENE TRITZ v. JOHN POTTER	Filed 02/12/10
United States Federal District Court Central District	
SACV10-182doc (RNBx)	
Ninth Circuit Court Appeal	
10-56967	
Taxpayer's Counsel	*FTB's Counsel*
Irene Tritz	Marla Markman
Pro Se	

Issues: 1. Whether Plaintiff's post-judgment settlement of damages award against her former employer (U.S. Postal Service), which she contends she was led to believe by the Postal Service and its counsel was non-taxable, may be set aside on any of the following bases:

A. Fraud/Misrepresentation;
B. Voidable Contract due to undue Influence
C. Breach of Settlement Agreement
D. Discrimination
E. Retaliation
F. Hostile Environment
G. Interference by the Court
H. Final Contract Violates Rights of Others
I. Conspiracy

Years: Amount: Not Specified

Status: First Amended Complaint filed June 4, 2010. Notice of Appeal filed December 10, 2010. Appellant filed an Informal Brief with the Ninth Circuit Court of Appeal on May 20, 2011. On June 22, 2011, the Brief of Appellee Selvi Stanislaus, Executive Officer of the FTB, was filed. On June 29, 2011, Appellant's Informal Reply to Appellee Brief was filed. On March 20, 2012, Plaintiff's Request for Temporary Injunction against Defendants IRS and FTB, together with, a Proposed Order Approving Plaintiff's Request for Temporary Injunction Against the IRS and FTB was filed with the Ninth Circuit Court of Appeal. An Order was issued April 18, 2012, appointing a pro bono counsel to assist the Plaintiff. On April 19, 2012, the Plaintiff's Reply to Defendant's Opposition to Appellee's Request for Temporary Injunction against Defendant's Internal Revenue Service and Franchise Tax Board was filed. On October 26, 2012, Appellant's Supplemental Opening Brief was filed. On December 6, 2012, a Supplemental Brief for Review was submitted by Appelles's IRS and USPS. On January 28, 2013, a Notice was issued by the Court requesting the Parties to submit Electronically, via appellate ECF, all excerpts of the record. Oral Argument occurred April 17, 2013. The case is now under submission.

TRIVEDI, MRUDULA & RAMNIK v. Franchise Tax Board		
Los Angeles County Superior Court Case No. BC481592		Filed – 11/12/09
Taxpayer's Counsel	*FTB's Counsel*	
Mrudula & Ramnik Trivedi	Marta Smith	

Issues: 1. Whether plaintiff is entitled to Innocent Spouse relief from a deficiency collection for the 1992 tax year.

Years: 1992 Amount: $23,677.67

Status: **Summons & Complaint filed in Ventura County on November 7, 2011. On December 21, 2011, FTB filed a Notice of Motion and Motion to Transfer the case to Los Angeles County Superior Court. Hearing held on Motion to Transfer on February 1, 2012. The Court granted the Motion and the case was transferred to Los Angeles County Superior Court. On April 30, 2012, Plaintiffs' filed a Notice of Motion and Motion for Writ of Mandate Relief. On May 23, 2012, Plaintiffs' Demurrer to the Complaint was filed by the Franchise Tax Board. On June 13, 2012, FTB's Opposition to Motion to Petition for Writ of Mandate Relief was filed. On June 16, 2012, Plaintiffs' Reply Memorandum to Defendant's Opposition of Writ of Mandate Relief was filed. On June 28, 2012, a Notice of Ruling on Demurrer was filed favoring FTB. On August 14, 2012, FTB filed a Demurrer and a Motion to Strike Plaintiffs' First Amended Complaint. On September 12, 2012, a Tentative Ruling was issued sustaining the Demurrer to the First Cause of Action without leave to amend on the basis that FTB is immune from liability for undertaking the collection of a tax. The Court also found there was no separate cause of action for Writ of Mandate relief pled. Thus, the Demurrer to the non-existent Writ of Mandate cause of action was moot. On October 10, 2012, the Order Dismissing Plaintiff's First Amended Complaint was filed. On October 18, 2012, the Notice of Entry of Order was filed. On October 25, 2012, a Notice of Appeal was filed by Plaintiff.**

DONALD YOUNG v. Franchise Tax Board		
Los Angeles County Superior Court Case No. BS140902		Filed – 08/17/12
Taxpayer's Counsel	*FTB's Counsel*	
Donald Young	Anthony Sgherzi	

Issues: 1.Whether the Franchise Tax Board properly issued Earning Withholding Orders of non-payment of Taxes for the 1997,1998, 1999, 2000, 2001 tax years.
2. Whether plaintiff is entitled to an injunction against FTB so as to prevent FTB from engaging in collection and enforcement procedures against Plaintiff; obtain relief from penalty assessments.; and pursue damage claims against the Franchise Tax Board.
3. Whether plaintiff may have the State Tax Liens recorded against him by the Franchise Tax Board abated.

Years: 1997, 1998, 1999, 2000, 20012 Amount: $900,000.00

Status: **Summons and Complaint filed August 17, 2012. On September 19, 2012, FTB filed a Motion to Change Venue of this lawsuit from Kern County to Los Angeles County Superior Court. On January 15, 2013, the Notice of Hearing on Demurrer and Demurrer of FTB to Plaintiff's Complaint and Request for Dismissal was filed. On February 20, 2013, a Reply to Plaintiff's**

Opposition to Demurrer and Request for Dismissal of FTB was filed. The Hearing on the Demurrer took place February 22, 2013. The Court sustained the Demurrer with twenty days leave to amend. On February 27, 2013, a Notice of Ruling after Hearing was filed. On March 26, 2013, a Case Management Statement was filed by Plaintiff. On April 17, 2013, a Notice of Entry of Judgment and Judgment was filed favoring FTB.