State of California
Franchise Tax Board

Legal Division MS A390
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January 2014 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.

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FRANCHISE AND INCOME TAX
Closed Cases –January 2014

Case Name	Court Number
Dicon Fiberoptics Inc.	Los Angeles Superior Court Case BC367885 Court of Appeal 2nd Appellate District Case No. B202997 California Supreme Court Case No. S173860

FRANCHISE AND INCOME TAX
New Cases –January 2014

Case Name	Court Number

FRANCHISE AND INCOME TAX
MONTHLY PUBLIC LITIGATION ROSTER

January 2014

ABERCROMBIE & FITCH v. Franchise Tax Board	Filed – 10/22/12
Fresno Superior Court Case No. 12CECG03408	*FTB's Counsel*
Taxpayer's Counsel	Tim Nadar
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Doug Barrish
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 Plaintiffs' Form Interrogatories, Special Interrogatories, Production of Documents and Requests for Admissions were served on February 6, 2013. On February 25, 2013, Case Management Conference occurred. Mandatory Settlement Conference is scheduled for May 14, 2014. Plaintiffs' Responses to First Set of FTB's Special Interrogatories were served June 7, 2013. Plaintiffs' Responses to First Set of FTB's Request for Production, Inspection and Copying of Documents were served June 7, 2013. **On January 10, 2014, a Stipulation and Order to Continue Trial to February 9, 2015 was filed. The Trial Readiness Conference date was continued to February 6, 2015.**

BAKERSFIELD MALL, LLC v. Franchise Tax Board	Filed – 04/25/07
San Francisco Superior Court Case No. CGC-07-462728	
FTB LLC Tax Refund Cases JUDICIAL COUNCIL COORDINATION PROCEEDING NO. 4742	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Esq.	Marguerite Stricklin
Edwin Antolin, Esq.	*FTB Contact*
Silverstein & Pomerantz, LLP	William C. Hilson, Jr.

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. **Please refer to the status summary for FTB LLC Tax Refund Cases Judicial Council Coordination Proceeding No. 4742.**

VICKEN & ENNA BERJIKIAN v. Franchise Tax Board	Filed – 06/09/13
Los Angeles County Superior Court Case No. BC514589	
United States District Court for the Central District of California Case No. 2:13-CV-06301-DDP	
Taxpayer's Counsel	*FTB's Counsel*
Freeman Butland, Esq.	Marta Smith
Vicken O. Berjikian, Esq.	*FTB Contact*
	Suzanne Small

Issues:
1. Whether the license suspension provisions of California's Top 500 Legislation violate Equal Protection clauses under the U.S. Constitution/California Constitution.
2. Whether the license suspension provisions of California's Top 500 Legislation violates Due Process clauses under the U.S. Constitution/California Constitution.
3. Whether Plaintiffs should be removed from the "Top 500 List."

Years: 1990-94, 1999, 2002, 2004, 2008, 2009, 2010

Amount: $None Specified

Status: The State Court Action: Summons & Complaint were filed on June 9, 2013. On July 11, 2013, Plaintiffs filed a Motion for Preliminary Injunction through which they sought a court order compelling FTB to remove them from the Top 500 List; to prohibit the Department of Motor Vehicles from suspending their driver's licenses; and to prohibit the Pharmacy Board from suspending Mrs. Berjikian's Pharmacist License. On August 13, 2013, the Opposition to Plaintiffs' Motion for a Preliminary Injunction, together with supporting pleadings, was filed. Plaintiffs' Reply Brief was filed August 15, 2013. On August 22, 2013, the Los Angeles County Superior Court denied Plaintiffs' Request for Injunctive Relief in its entirety. On August 29, 2013, FTB filed a Demurrer to Plaintiffs Complaint, together with pleadings in support thereof. On September 18, 2013, Plaintiffs' Opposition to Demurrer and Declaration of Vicken O. Berjikian in Support thereof was filed. On September 27, 2013, FTB filed a Motion to Strike the Opposition to Demurrer and Plaintiff Vicken O. Berjikian Declaration, together with its Opposition to Demurrer. FTB's Demurrer to Plaintiffs' Complaint was sustained without leave to amend on October 7, 2013. Notice of Appeal was filed November 6, 2013. **The Record on Appeal is scheduled to be filed with the Court of Appeal on March 6, 2014.**

The Federal Court Action: On August 28, 2013, after the Los Angeles County Superior Court denied Plaintiffs' Request for Injunctive Relief, Plaintiffs filed a Complaint, together with an Ex-Parte Application for Injunctive Relief, in the United States District Court for the Central District of California. The content of the Complaint and the Request for Injunctive Relief is substantially similar to the content of the pleadings filed with the Los Angeles County Superior Court. On August 30, 2013, the United States District Court denied in its entirety, Plaintiffs' Request for Injunctive Relief. On September 18, 2013, FTB filed a Motion to Dismiss Plaintiffs' Complaint, together with pleadings in support thereof. On October 3, 2013, the Court issued to Plaintiffs a Notice to Filer of Deficiencies in Electronically Filed Documents. On October 4, 2013, FTB filed a Motion to Strike and Opposition to

Defendants' Motion to Dismiss Plaintiffs' Complaint for Injunctive and Declaratory Relief together with its Reply to Plaintiff's Opposition to the Motion to Dismiss. **On October 16, 2013, the Hearing on FTB's Motion to Dismiss, which was scheduled to be heard on October 21, 2014, was removed from the calendar and will be decided without Oral Argument.**

BUNZL DISTRIBUTION v. Franchise Tax Board	Filed – 12/17/10
San Francisco Superior Court Case No.CGC10506344	*FTB's Counsel*
First Appellate District A137887	Kris Whitten
Taxpayer's Counsel	Karen Yiu
William F. Colgin, Esq.	*FTB's Contact*
William Clayton, Esq.	Michael Cornez
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 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. On May 17, 2013, the Application for Admission of Margaret C. Wilson as Counsel Pro Hac Vice was filed together with the Declarations of Margaret C. Wilson and Kimberley M. Reeder in support thereof. On May 22, 2013, Appellant's Opening Brief was filed. On June 6, 2013, a Stipulation to Extend Deadlines for Filing Respondent's Brief and Appellant's Reply Brief was filed. The Application for Extension of Time to File Brief was filed on August 23, 2013. On September 29, 2013, the Attorney General's office filed a Request for Additional 30 Day Extension of Time within which to file Respondent's Opening Brief. The Court of Appeal granted the Application for Extension of Time to file Respondent's Brief. Respondent's Brief was filed October 30, 2013. Pursuant to Stipulation, Appellant's Reply Brief is now due January 21, 2014. **On January 10, 2014, the Appellant requested and obtained a Thirty-Day Extension of Time to File its Reply Brief. Appellant's Reply Brief is to be filed on or before February 20, 2014.**

CA-CENTERSIDE II, LLC v. Franchise Tax Board	Filed: 02/04/10
Fresno Superior Court Case No. 10CECG00434	*FTB's Counsel*
Court of Appeal Fifth Appellate District	Marguerite Stricklin
FTB LLC Tax Refund Cases Judicial Council Coordination Proceeding No. 4742	
Taxpayer's Counsel	*FTB Contact*
Amy L. Silverstein, Esq.	William C. Hilson, Jr.
Edwin Antolin, Esq.	
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 status summary for FTB LLC Tax Refund Cases Judicial Council Coordination Proceeding No. 4742.**

FTB LLC TAX REFUND CASES JUDICIAL COUNCIL COORDINATION PROCEEDING No. 4742	
Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Esq.	Marguerite Stricklin
Edwin Antolin, Esq	*FTB Contact*
Silverstein & Pomerantz, LLP	William C. Hilson, Jr.

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.
4. Whether the consolidated cases may properly be certified as a class action.

Years: 2000 through 2005 Amount: $65,201.00 Tax

Status: On January 30, 2013, FTB's Petition to Coordinate the cases of Bakersfield Mall LLC v. Franchise Tax Board and CA- Centerside II, LLC v. Franchise Tax Board was granted. On May 1, 2013, a Notice of Joint Motion for Class Action Certification was filed on behalf of Bakersfield Mall LLC and Ca- Centerside II, LLC. On May 1, 2013, Plaintiffs' Memorandum of Points and Authorities in Support of Joint Motion for Class Certification was filed together

with Declarations of Kathleen M. Courtis, Johanna Roberts, William N. Hebert, Amy L. Silverstein, Edwin P. Antolin, Matthew H. Koritz, Lindsay T. Braunig, and Charles E. Olson, in Support thereof. On May 24, 2013, Defendant FTB's First Set of Special Interrogatories and Demand for Document Production of documents were served upon Plaintiffs.
On July 29, 2013, Declaration of Amelia White in Opposition to Plaintiffs' Motion for Class Certification was filed. On July 29, 2013, Declaration of William Hilson in Support of FTB's Opposition to Plaintiffs' Motion for Class Certifications was filed. On July 29, 2013, FTB's Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion for Class Certification was filed. FTB's Request for Judicial Notice in Support of Opposition to Plaintiffs' Motion for Class Certification was filed July 29, 2013. On July 29, 2013, Declaration of Marguerite Stricklin in Support of FTB's Request for Judicial Notice in Support of FTB's Opposition to Plaintiffs' Motion for Class Certification was filed. A Case Management Conference was held on August 12, 2013, during which the Court ordered Plaintiffs' Reply to FTB's Opposition to the Motion for Class Action Certification to be filed on September 30, 2013. Plaintiff Reply was filed on September 30, 2013. The Hearing on the Motion was held on October 7, 2013. On October 8, 2013, a Memorandum Order Denying Plaintiffs' Joint Motion for Class Certification was filed. On October 28, 2013, a Joint Case Management Conference Statement was filed. On December 2, 2013, Plaintiffs filed their Notice of Appeal regarding the Denial of the Class Certification motion together with their Notice of Designating Record on Appeal.
On December 17, 2013, Clerk's Notice of Filing Notice of Appeal was filed. **On January 17, 2014, a Certification Notice was filed stating that the Clerk's and Reporter's Transcripts have been completed and certified for filing with the Court of Appeal.**

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

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 non-business income.

Years: 1998, 1999

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

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. On May 1, 2013, Defendant FTB's Notice of Motion and Motion for Summary Adjudication of Second Cause of Action and pleadings in support thereof were filed. On May 14, 2013, Defendant FTB's First Set of Special Interrogatories was served upon Plaintiff. On May 20, 2013, Comcon Production Services I, Inc.'s Notice of Motion and Motion for Summary Adjudication of Second Cause of Action and pleadings in

support thereof were filed. On June 10, 2013, Comcon Production Services I, Inc.'s Motion to Continue Hearing Date on FTB's Motion for Summary Adjudication and pleadings in support thereof were filed. On June 18, 2013, Declaration of A. Pilar Mata in Support of Application to Permit Daniel H. Schlueter to Appear Pro Hac Vice was filed. On June 18, 2013, Comcon's Notice of Hearing and Application to Permit Daniel H. Schlueter to Appear Pro Hac Vice was filed. On June 18, 2013, Verified Application of Daniel H. Schlueter to Appear Pro Hac Vice was filed. On June 27, 2013, FTB's Responses and Objections to Plaintiff's First Set of Demands for Requests for Production of Documents was served. On June 28, 2013, FTB's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Protective Order was filed. On June 28, 2013, FTB's Responses to Plaintiff's First Set of Form Interrogatories was served. On June 28, 2013, FTB's Responses and Objections to Plaintiff's First Set of Specially Prepared Interrogatories was served. On June 28, 2013, FTB's Responses to Plaintiff's First Set of Demands for Requests for Production of Documents was served. On June 28, 2013, Declaration of Jeffrey I. Margolis in Support of FTB's Opposition to Plaintiff's Motion for Protective Order was served. On July 3, 2013, FTB's Notice of Motion and Motion for a Protective Order Quashing Deposition Notice; Memorandum of Points and Authorities; Declaration of Stephen Lew was filed. On July 17, 2013, Comcon's First Set of Requests for Admissions was propounded. On July 18, 2013, Comcon's First Set of Supplemental Interrogatories were propounded along with Declaration of A. Pilar Mata for Additional Discovery. Comcon's Second Set of Demands for Production of Documents, was served July 18, 2013. On July 29, 2013, FTB's Response to Plaintiff's Demand for Exchange of Expert Witness Information was filed. On July 29, 2013, Plaintiff's Expert Witness Declaration was filed. On July 31, 2013, Comcon's Reply to FTB's Opposition to Plaintiff's Motion for Summary Adjudication of Second Cause of Action was filed. On July 31, 2013, Plaintiff's Response to Defendant's Separate Statement of Additional Material Undisputed Facts in Opposition to Plaintiff's Motion for Summary Adjudication was filed. On July 31, 2013, Plaintiff's (Proposed) Protective Order-Confidential and Highly Confidential Designations were filed. On August 12, 2013, the Court denied both Motions for Summary Adjudication. FTB's Notice of Taking Depositions of Plaintiff's Experts was filed August 12, 2013. On August 14, 2013, the Confidential Settlement Conference Brief of Defendant FTB was filed. On August 16, 2013, Plaintiff's Supplemental Expert Witness List and Declaration were filed. On August 30, 2013, FTB's Amended Notice of Taking Depositions of Plaintiff's Experts was filed. On August 30, 2013, FTB's Memorandum of Points and Authorities in Further Support of Motion for a Protective order Quashing Deposition Notice; and the Declaration of Stephen Lew was filed. On September 12, 2013, Plaintiff's Designations of Deposition Transcripts and Discovery Responses as Testimony at Trial were filed. On September 12, 2013, Plaintiff's Trial Brief and FTB's Brief were filed. On September 12, 2013, FTB's Designation of Discovery Materials to be used at Trial was filed. Trial commenced on September 25, 2013, and is still going on. On November 18, 2013, Plaintiff's Request for Judicial Notice was filed. On November 18, 2013, a Minute Order was filed regarding the resumption of Trial on November 14, 2013, and noting that both sides rest on rebuttal. Closing Arguments were replaced by post-trial briefing. Plaintiff's Closing Brief was filed on December 2, 2013. Defendant's Closing Brief was filed on December 13, 2013. Plaintiff's Reply Brief was filed on December 20, 2013, along with additional supporting pleadings.

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

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 "non-business 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 Tax
2007: $3,561,662.00 Tax

Status Summons and Complaint filed January 11, 2013 and served January 16, 2013. On February 27, 2013, FTB's General Denial to Plaintiff's Complaint for Refund of Taxes was filed. On June 19, 2013, Motion to Admit Counsel Pro Hac Vice was filed. Trial is scheduled to commence on January 13, 2014. On July 16, 2013, Plaintiff filed a Motion to admit Jane Wells May, Esq. as Counsel Pro Hac Vice. On August 13, 2013, FTB's First Set of Specially Prepared Interrogatories, FTB's First Set for Request for Admissions, FTB's First Set of Requests for Production, Inspection and Copying of Documents, Form Interrogatories, Set One, were served upon Plaintiff. On September 16, 2013, Plaintiff's Response to FTB's Form Interrogatories was served. On September 16, 2013 Plaintiff's Response to FTB's First Set of Requests for Admissions was served. On November 20, 2013, an Ex Parte Application for Continuance of Trial together with supporting pleadings were filed on behalf of FTB. On November 22, 2013, an Order Granting Ex Parte Application of Defendant FTB for a Continuance of Trial was filed. Trial is now scheduled to commence on June 9, 2014.

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

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

Years: 2001, 2003

Amount:
2001: $53,661.00 Tax

2003: $28,733.00 Tax

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 Trial was scheduled for February 7, 2013. On May 3, 2013, a Civil Case Management Conference was scheduled. The Case Management Conference was continued to June 28, 2013. On May 20, 2013, a Discovery Hearing was scheduled to be heard November 8, 2013. On November 13, 2013, Plaintiffs' Opposition to Defendant's Motion to Strike was filed. On November 13, 2013, Plaintiffs' Reply to Defendant's Opposition to Motion for Order compelling further Response to Demand for Inspection and Copying was filed. **Trial was scheduled to commence on January 24, 2014, and has been postponed until March 2014.**

CUTLER, FRANK v. Franchise Tax Board	Filed – 09/15/09
Los Angeles Superior Court Case No. BC421864	*FTB's Counsel*
Court of Appeal Second Appellate District B233773	Marta L. Smith
Taxpayer's Counsel	*FTB Contact*
Marty Dakessian, Esq.	Ann Hodges
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 Constitution.
4. Whether Plaintiff is entitled to attorneys' fees and costs under Rev. & Tax Code section 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 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 March 15, 2013, FTB's Memorandum of Points and Authorities 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 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. On May 5, 2013, Plaintiff filed a Notice of Appeal with respect to the denial of the Motion for Award of Attorneys Fees. Trial in the Remanded Proceeding is scheduled to occur on November 4, 2013. On October 7, 2013, Plaintiff's Notice of Motion and Motion in Limine to Exclude Certain Evidence was filed. **Plaintiff/Appellant's Opening Brief on the Attorney's Fee's issue was filed on December 17, 2013.**

DAI, WEILI v. Franchise Tax Board	Filed – 11/03/11
San Francisco Superior Court Case No. CGC-11-515643	*FTB's Counsel*
Taxpayer's Counsel	Marguerite Stricklin
Glenn A Smith, Esq.	*FTB Contact*
Law Offices of Glenn A. Smith	Natasha Page

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 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. On July 19, 2013, an Ex Parte Application for Order to Continue Trial Date was filed by Plaintiff. On July 19, 2013, a Declaration in Support of Ex Parte Application for Order was filed by Plaintiff. On July 19, 2013, Order granting Ex Parte Application to Continue Trial was filed. **On January 9, 2014, a Motion to Continue Trial was filed. The Court reset Trial to commence on September 8, 2014.**

FIDELITY NATIONAL INFORMATION SERVICES INC. v. Franchise Tax Board	Filed – 07/15/13
Sacramento County Superior Court Case No. 34-2013-00148015	*FTB's Counsel*
Taxpayer's Counsel	Serajul Ali
Carley A. Roberts, Esq.	*FTB Contact*
Timothy A. Gustafson, Esq.	Irina Krasavtseva
Sutherland, Asbill & Brennan LLP	

Issues:
1. Whether Plaintiff's Capital Gain realized by Plaintiff from Plaintiff's sale of minority stock interest is allocable non-business income under Rev & Tax Code section 25120.
2. Whether FTB's treatment of capital gain realized by Plaintiff from Plaintiff's sale of minority stock interest as apportionable business income under Rev & Tax Code

section 25120 violates the Due Process and Commerce Clauses of the United States Constitution.

3. Assuming FTB properly treated Plaintiff's capital gain realized by sale of a minority stock interest as apportionable business income under Rev. & Tax Code section 25120, does Plaintiff require a sales factor adjustment under the Due Process and Commerce Clauses of the United States Constitution.
4. Whether FTB's imposition of a large corporate understatement penalty pursuant to Rev & Tax Code section 19138 violated the California Constitution as well as Excessive Fines, Due Process, Commerce and Equal Protection Clauses of the United States Constitution.

Year: 2007 Amount: $5,723,702.00 Tax

Status: Summons and Complaint filed July 15, 2013. On August 5, 2013, Notice of Case Management Conference and Order to Appear was filed. **On January 21, 2014, a Joint Case Management Statement was filed. A Case Management Conference is scheduled to occur on February 6, 2014.**

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

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 Consolidated Appellants and FTB. Amicus Curiae briefs were submitted on behalf of both Consolidated Appellants and Franchise Tax Board. Oral Argument occurred on May 8, 2012. On July 24, 2012, the Court of Appeal issued a published 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, Consolidated Appellants Answer to Petition for Review was filed. On December 3, 2012, Consolidated 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 April 17, 2013, FTB's Opening Brief on the Merits, together with a Request for Judicial Notice and pleadings in support thereof were filed in the Supreme Court of California. On April 23, 2013, Consolidated 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 Consolidated Appellants Request for an Extension of Time to file its Opposition. On July 16, 2013, Consolidated Plaintiffs/Appellants Answer Brief on the Merits together with a Request for Judicial Notice and pleadings in support thereof were filed with the Supreme Court of California. On July 22, 2013, an Application for Extension of Time to File FTB's Reply Brief was filed. On July 25, 2013, the Court granted FTB's Request for an Extension of Time to file the Reply Brief. The Reply Brief was filed on September 20, 2013. Between October 16, 2013, and November 7, 2013 several Requests for Permission to file Amicus Curiae Briefs were filed with the California Supreme Court, both on behalf of the Consolidated Appellants and FTB. On October 24, 2013, the California Supreme Court granted the Application of Council on State Taxation for permission to file an Amicus Curiae Brief in support of Consolidated Appellants. On October 24, 2013, the California Supreme Court granted the Application of Institution for Professionals in Taxation to file an Amicus Curiae Brief in Support of Consolidated Appellants. On October 25, 2013, the California Supreme Court granted the Application of Texas, Alabama, Alaska, Arkansas, Colorado, Hawaii, Idaho, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, and Washington and the District of Columbia for permission to file an Amicus Curiae Brief in Support of the California Franchise Tax Board. On November 7, 2013, the California Supreme Court granted the Application of Multistate Tax Commission for permission to file an Amicus Curiae Brief in support of Respondent. On November 19, 2013, the California Supreme Court granted the Application of the Interstate Commission for Juveniles & Association of Compact Administrators of the Interstate Compact on the Placement of Children for permission to file an Amicus Curiae Brief. On December 16, 2013, the Amicus Curiae Brief of the Multistate Tax Commission in Support of Defendant/Respondent Franchise Tax Board was filed. **On January 22, 2014, Plaintiffs'/Appellants' Second Motion for Judicial Notice was filed. On January 22, 2014, the Declaration of Edwin P. Antolin in Support of Plaintiffs'/Appellants' Second Motion for Judicial Notice was filed. On January 22, 2014, Plaintiffs'/Appellants' Consolidated Answer Brief to Amicus Briefs filed by the Multistate Tax Commission and the States of Texas et al. was filed. On January 22, 2014, FTB's Consolidated Reply to the Amicus Briefs filed in support of Plaintiffs/Appellants.**

HARLEY DAVIDSON INC. & SUBSIDIARIES v. Franchise Tax Board	Filed: 11/09/11
San Diego Superior Court Case No. 37-2011-00100846	
Court of Appeal Case No. D064241	*FTB's Counsel*
Taxpayer's Counsel	Leslie Branman Smith
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Melissa Potter
Silverstein & Pomerantz, LLP	

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 Tax

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 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, Plaintiff's 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. On May 23, 2013, Plaintiff filed a Motion for a New Trial together with a Memorandum of Points and Authorities in Support Thereof. On May 27, 2013, FTB's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for a New Trial was filed. The Hearing on the Motion for a New Trial was heard and denied on June 21, 2013. On June 27, 2013, a Notice of Appeal was filed by Harley Davidson. On July 25, 2013, A Civil Case Information Statement was filed by Plaintiff/Appellant. On August 1, 2013, a Civil Case Information Statement was filed by Plaintiff. On September 10, 2013, Joint Stipulation Extending Time for Filing of Briefs was filed. On December 26, 2013, Appellant's Opening Brief, and Request for Judicial Notice were filed. **On January 14, 2014,**

the Court issued an Order deferring the ruling on Request for Judicial Notice that was filed December 26, 2013, to be considered concurrently with the Appeal.

HYATT, GILBERT P. V. Franchise Tax Board	Filed – 1/06/98
Clark County Nevada District Court Case No. A382999	*FTB's Counsel*
Nevada Supreme Court Case No. 47141	James W. Bradshaw
Nevada Supreme Court Case No. 53264	McDonald, Carano, Wilson
Taxpayer's Counsel	LLP
Thomas L. Steffen & Mark A. Hutchison	*FTB Contact*
Hutchison &Steffen, H Barrow Farr III	Scott DePeel

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
Emotional Distress
Punitive Damages
Prejudgment Interest
Attorney's Fees

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 August 24, 2010, FTB filed an Opposition to a motion filed on behalf of Mr. Hyatt which sought leave to file a Sur-Reply to FTB's Brief. 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.

JK GROUP INC. v. Franchise Tax Board	Filed 02/19/13
San Diego Superior Court Case No. 37-2013-00035096	*FTB's Counsel*
Taxpayer's Counsel	Tim Nadar
Martin Mullen, Esq.	*FTB Contact*
Rowe, Allen and Mullen	Suzanne Small
Amy L. Silverstein, Esq.	
Edwin Antolin, Esq.	
Johanna W. Roberts, Esq.	
Silverstein & Pomerantz, LLP	

Issues: 1. Whether FTB's Jeopardy Assessment and Levy were proper.
2. Whether the LLC fee assessed against Plaintiff was unconstitutional.

Years: 2001, 2002, 2003, 2004, 2005

Amount: $10,254.00 Tax
$9,914.00 Tax
$9,278.00 Tax
$7,997.00 Tax
$7,337.00 Tax

Status: Summons and Complaint filed February 19, 2013. Demurrer was filed March 25, 2013. The First Amended Complaint was filed June 5, 2013. On June 26, 2013, a General Denial was filed on behalf of FTB. A Stipulation was filed continuing the Case Management Conference to September 27, 2013. On September 23, 2013, Requests for Identification and Production of Documents Propounded to Plaintiffs, Set One, was served. On September 23, 2013, Special Interrogatories Propounded to Plaintiffs, Set One was served. On September 23, 2013, Form Interrogatories were propounded to Plaintiffs. . **On January 29, 2014, a Settlement Conference was held. On January 29, 2014, the Civil Court Trial scheduled for February 21, 2014, and the Trial Readiness Conference scheduled for January 31, 2014, were vacated**.

JONES APPAREL GROUP, INC. & SUBSIDIARIES v. Franchise Tax Board	Filed 04/26/10
San Francisco Superior Court Case No. CGC-10-499083	*FTB's Counsel*
Taxpayer's Counsel	Jill Bowers
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Jeffrey I. Margolis
Johanna W. Roberts, Esq	
Silverstein & Pomerantz, LLP	

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 Tax

Status: Franchise Tax Board 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-10-495916	*FTB's Counsel*
Taxpayer's Counsel	Lucy Wang
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Jeffrey I. Margolis
Johanna W. Roberts, Esq.	
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 Tax

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.**

MARTIN A. LOGIES v. Franchise Tax Board	Filed 07/01/11
Alameda County Superior Court Case No.RG11603896	*FTB's Counsel*
Taxpayer's Counsel	Marguerite Stricklin
Bradley A. Bening, Esq.	*FTB Contact*
Willoughby, Stuart & Bening	Craig Scott

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 Penalty

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.

MICROSOFT CORPORATION v. Franchise Tax Board	Filed – 01/22/08
San Francisco Superior Court Case No. CGC-08-471260	*FTB's Counsel*
Court of Appeal Court Case No. A131964	David Lew
Taxpayer's Counsel	Lucy Wang
A. Pilar Mata, Esq,	*FTB Contact*
Sutherland, Asbill, & Brennan LLP	Craig Sweiso

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 was 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.

DAN PICKELL v. Franchise Tax Board	Filed: 2/28/12
United States District Court Case No. 2:12-CV-00373-GEB-DAD	*FTB's Counsel*
Taxpayer's Counsel	Jane O'Donnell
Dan Pickell, Pro Se	*FTB Contact*
	Suzanne Small

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 Tax & Penalty

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 District Judge Garland E. Burrell to District Judge Troy L Nunley. On April 5, 2013, Plaintiff's Case Management Conference Statement was filed. On April 12, 2013, Defendant's Report for Status (Pretrial Scheduling) Conference was filed. On May 16, 2013, Defendant's First Set of Requests for Admissions to and Defendant's First Set of Interrogatories were served upon Plaintiff. On May 21, 2013, a Status (Pretrial Scheduling) Order was filed. On May 28, 2013, Plaintiff's Motion for Summary Judgment was filed. On June 6, 2013, a Notice of Deposition of Plaintiff Dan Pickell was served by FTB. On July 17, 2013, an Order was filed. The Order stated that pursuant to the Status (Pretrial Scheduling) Order issued by the Court on May 21, 2013, all Discovery in this matter must be completed by August 16, 2013. Accordingly, Plaintiff's Motion to Stay Discovery is denied without prejudice to renewal. On July 15, 2013, an Order denying Plaintiff's Motion to Hold Discovery in Abeyance until Summary Judgment has been heard was filed. On August 8, 2013, a Minute Order was issued continuing the date for hearing on Plaintiff's Motion for Summary Judgment to September 20, 2013. On September 13, 2013, Motion to Accept Plaintiff's Response to FTB's Cross-Motion for Summary Judgment was filed. On September 13, 2013, Plaintiff's Response to FTB's Cross-Motion for Summary Judgment; Memorandum of Points and Authorities in support thereof was filed. At the hearing on the Motion for Summary Judgment on September 20, 2013, Magistrate Drodz found in favor of the FTB and stated he would prepare findings to present to the judge for a formal ruling on the matter. **On November 8, 2013, a Minute Order, vacating the date assigned for the Pre-Trial Conference and the Trial. The dates will be reset.**

THE PROCTER & GAMBLE MANUFACTURING CO. & AFFILIATES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-495912 Filed: 1/11/10

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Esq.	Lucy Wang
Edwin Antolin, Esq.	*FTB Contact*
Johanna W. Roberts, Esq.	Jeffrey I. Margolis
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 Tax

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 the status summary for The Gillette Company & Subsidiaries v. Franchise Tax Board.**

QUELLOS FINANCIAL ADVISORS, LLC v. Franchise Tax Board	Filed – 04/20/09
San Francisco Superior Court Case No. CGC-09-487540	*FTB's Counsel*
Court of Appeal First Appellate District A134734	Anne Michelle Burr
Taxpayer's Counsel	*FTB Contact*
Amanda J. Pedvin, Esq.	Christopher Haskins
Matthew D. Lerner, Esq.	
Steptoe & Johnson, LLP	

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. On August 28, 2013, a Joint Case Management Conference Statement was filed stating that this case should not go forward until the Court of Appeal has issued a decision on FTB's Petition for Writ of Mandate. The Case Management Conference is set for September 4, 2013. On September 4, 2013, the Superior Court ordered the Case Management Conference taken off calendar and continued to January 7, 2014. Oral Argument before the Court of Appeal Occurred on September 18, 2013. On November 20, 2013, the Court of Appeal issued its for publication Opinion in favor of Quellos Financial Advisors, LLC and Quellos Group, LLC. **On January 7, 2014, a Joint Case Management Conference Statement was filed along with a Stipulation for Dismissal.**

QUELLOS GROUP, LLC v. Franchise Tax Board	Filed – 07/20/10
San Francisco Superior Court Case No. CGC-10-501299	*FTB's Counsel*
Taxpayer's Counsel	Anne Michelle Burr
Amanda J. Pedvin, Esq.	*FTB Contact*
Matthew D. Lerner, Esq.	Christopher Haskins
Steptoe & Johnson, LLP	

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 Penalty

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 refer to the status summary for 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. CGC-10-496438	*FTB's Counsel*
Taxpayer's Counsel	Lucy Wang
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Jeffrey I. Margolis
Johanna W. Roberts, Esq.	
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: 2002 through 2004 Amount: $145,240.00 Tax

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 the 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. CGC-11-515645	*FTB's Counsel*
Taxpayer's Counsel	Marguerite Stricklin
Glenn A. Smith, Esq.	*FTB Contact*
Law Offices of Glenn A. Smith	Natasha Page

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, which resulted inTrial being rescheduled to commence on October 21, 2013. On June 13, 2013, Plaintiff Sehat Sutardja's Memorandum in Support of Motion to Compel FTB to Answer and/or further Answer Second Set of Special Interrogatories and Second Set of Document Requests was filed. FTB's responses were due July 24, 2013. On July 19, 2013, an Ex Parte Application for Order to Continue Trial Date was filed by Plaintiff. On July 19, 2013, an Order granting Ex Parte Application to Continue Trial was filed. The Court reset Trial to commence on March 10, 2014. On November 26, 2013, a Notice of Motion and Motion to Compel Defendant to Answer Second Set of Special Interrogatories and to respond to Plaintiff's Second Set of Document Requests together with a Request for Sanctions against Defendant were filed by Plaintiff. On December 9, 2013, FTB filed an Opposition to Plaintiff's Motion to Compel with additional supporting pleadings. On December 13, 2013, Plaintiff's Reply Memorandum and related pleadings in Support of Motion to Compel FTB to

Answer and/or Further Answer Second Set of Special Interrogatories and Second Set of Document Requests and Request for Sanctions were filed. The Hearing scheduled for December 20, 2013, has been continued to January 23, 2014. **On January 9, 2014, Motion to Continue Trial was filed. The Court reset Trial to commence September 8, 2014. On January 28, 2014, Plaintiff's Motion to Compel FTB to Answer and/or Further Answer Second Set of Special Interrogatories and Second Set of Document Requests was argued. The Court adopted its Tentative Ruling that Plaintiff's Motion to Compel FTB to Answer and/or Further Answer Plaintiff's Second Set of Special Interrogatories and Second Set of Document Requests and for Sanctions was denied. The monetary sanctions were also denied.**

SIGMA-ALDRICH, CORP. & SUBSIDIARIES v. Franchise Tax Board	Filed 01/29/10
San Francisco Superior Court Case No. CGC-10-496437	*FTB's Counsel*
Taxpayer's Counsel	Lucy Wang
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Jeffrey I. Margolis
Johanna W. Roberts, Esq.	
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 Tax

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 the status summary for The Gillette Company Subsidiaries v. Franchise Tax Board. On December 27, 2013, an Ex Parte Application for Order to Continue Trial Date was filed by Plaintiff.**

SWART ENTERPRISES v. Franchise Tax Board	Filed 07/09/13
Fresno County Superior Court Case No. 13CECG02171	*FTB's Counsel*
Taxpayer's Counsel	Jane O'Donnell
Amy L. Silverstein, Esq.	*FTB Contact*
Edwin Antolin, Esq.	Suzanne Small
Johanna W. Roberts, Esq.	
Silverstein & Pomerantz, LLP	

Issues: 1. Whether Plaintiff had sufficient nexus with the State of California during 2009 so as to be subject to the provisions of Revenue and Taxation Code 23153.
2. Whether the provisions of Revenue and Taxation Code section 23153 violate the Constitutions of the United States of America and/or the State of California.
3. Whether Plaintiff's investment activities during 2009 constitute doing business within the State of California.
4. Whether Plaintiff is entitled to an award of Attorneys' Fees.

Years: 2009 Amount: $1,106.71 Tax

Status: Summons and Complaint was filed on July 9, 2013. Case Management Conference set for November 12, 2013. FTB filed its Answer to Complaint on August 16, 2013. A Case Management Conference is scheduled to occur on November 12, 2013. On November 8, 2013, Defendant's First Set of Interrogatories was served on Swart Enterprises. On November 7, 2013, a Case Management Conference was held. Trial is scheduled to commence on March 4, 2015. The Trial Readiness Conference is scheduled to occur on February 27, 2015, and a Mandatory Settlement Conference is scheduled for February 3, 2015. On December 4, 2013, a Stipulation and Order was filed excusing the parties from compliance with the requirement that they participate in Alternative Dispute Resolution prior to Trial. **On January 15, 2014, Order to Show Cause regarding the Alternative Dispute Resolution scheduled for January 16, 2014, was ordered off calendar.**