STATE OF CALIFORNIA
Franchise Tax Board

September 2016 Franchise Tax Board Public Litigation Roster

All currently active cases and those recently closed are listed on the roster.

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 – September 2016

Case Name	Court Number

FRANCHISE AND INCOME TAX
New Cases –September 2016

Case Name	Court Number

FRANCHISE AND INCOME TAX
MONTHLY PUBLIC LITIGATION ROSTER

September 2016

ABERCROMBIE & FITCH & Subs v. Franchise Tax Board Filed – 10/22/12
Fresno Superior Court Case No. 12CECG03408

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Tim Nadar
FTB's Contact
Melissa Williams

Issue: 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: The Summons and Complaint were served on October 23, 2012. On November 20, 2012, FTB's Answer to Complaint for Refund of Taxes was filed. On April 10, 2014, an Order upon Stipulation was filed permitting the parties to file Cross-Motions for Summary Judgment, and scheduled hearing on the motions to occur on July 2, 2014. That hearing date was continued to January 22, 2015. On January 21, 2015, the Court issued an Order Staying Proceedings in this case pending the Court of Appeal decision in Harley Davidson v. Franchise Tax Board. On September 17, 2015, a Minute Order was filed lifting the Stay of Proceedings Order and scheduling the Cross-Motions for Summary Judgment to be heard on November 18, 2015. The Minute Order also permitted the parties to file Supplemental and Reply Briefs. FTB and Abercrombie timely filed their Supplemental and Reply Briefs regarding the effect of the Court of Appeal Decision in Harley-Davidson upon this case. On November 17, 2015, the Court ordered that the hearing on the Cross-Motions for Summary Judgment be rescheduled to November 24, 2015. The hearing occurred on November 24, 2015, and the matter was taken under submission. On November 30, 2015, a Minute Order was filed denying both motions. On January 27, 2016, a Trial Setting Conference occurred. **On September 1, 2016, Plaintiff's Trial Brief and Supplemental Trial Brief, along with the Joint Neutral Statement of the case were filed. The Trial commenced on September 6, 2016. On September 12, 2016, a Motion for Judgment was granted in favor of FTB.**

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
Amy L. Silverstein, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Marguerite Stricklin
FTB Contact
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
Court of Appeal Second Appellate District Court Case No. B252427
United States Court of Appeal for the Ninth Circuit Case No. 15-55551

Taxpayers' Counsel
Freeman Butland, Esq.
Vicken O. Berjikian, Esq.

FTB's Counsel
Matt Heyn
FTB Contact
Suzanne Small

Issues:
1. Whether the license suspension provisions of California's Top 500 Legislation violate the Equal Protection Clause of the Constitutions of the United States of America and/or the State of California.

2. Whether the license suspension provisions of California's Top 500 Legislation violate the Due Process Clause of the Constitutions of the United States of America and/or the State of California.
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:** The Summons and 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 filed their Opposition to FTB's Demurrer. FTB's Demurrer to Plaintiffs' Complaint was sustained without leave to amend on October 7, 2013**.** Plaintiffs timely filed a Notice of Appeal on November 6, 2013. On January 12, 2015, the Second District Court of Appeal issued an unpublished Opinion reversing the judgment in favor of FTB and remanding the case to Superior Court for further proceedings. On January 27, 2015, FTB filed a Petition for Rehearing requesting the Court of Appeal reconsider its January 12, 2015 Opinion. On January 30, 2015, FTB's Petition for Rehearing was denied. On July 20, 2015, the Answers of FTB, DMV, and the Board of Pharmacy to Plaintiffs' First Amended Complaint for Damages and Injunctive and Declaratory Relief were filed. On April 8, 2016, Plaintiffs filed a Request for Dismissal. On April 13, 2016, the Court issued a Minute Order removing the case from the active list and vacating all future hearing dates. The case was dismissed on April 16, 2016.

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 4, 2013, FTB filed a Motion to Strike Plaintiffs' Opposition to its Motion to Dismiss Plaintiffs' Complaint for Injunctive and Declaratory Relief together with its Reply to Plaintiffs' Opposition to the Motion to Dismiss. On February 20, 2014, an Order Granting Defendants' Motion to Dismiss in Part and Denying Defendants' Motion in Part was filed. Plaintiffs and Defendants thereafter filed motions for Summary Judgment seeking a determination of the dispute on the merits in

their favor. On March 13, 2015, the United States District Court for the Central District of California issued an Order granting the Motion for Summary Judgment filed on behalf of the Berjikians and denying the Motion for Summary Judgment filed on behalf of Defendants. Among other things, the Court Order directed that FTB, DMV, and the Pharmacy Board refrain from denying attempts by the Berjikians to have their licenses reinstated. On April 10, 2015, FTB timely filed its Notice of Appeal. On September 30, 2015, the Court of Appeals issued an Order directing the parties to participate in an in-person mediation on November 23, 2015.

On November 19, 2015, the in-person Mediation scheduled for November 23, 2015, was rescheduled to occur on December 18, 2015. On March 14, 2016, a Stipulated Motion to Voluntarily Dismiss Appeal and Remand the Action to District Court was filed with the Court of Appeals. On April 27, 2016, a Mediation Conference was held, the result of which was that the case has been released back to the Court of Appeals for consideration of the Stipulated Motion to Dismiss Appeal and Remand the Action to District Court. On July 22, 2016, the Court of Appeals issued an order, effective August 16, 2016, granting the Stipulated Motion to Dismiss the Appeal, vacating the District Court's judgment, and remanding the action to the District Court with instructions to dismiss the action.

BUNZL DISTRIBUTION v. Franchise Tax Board Filed – 12/17/10
San Francisco Superior Court Case No.CGC10506344
Court of Appeal First Appellate District Court Case No. A137887

Taxpayer's Counsel
Kimberley M. Reeder
The Law Offices of Kimberley M. Reeder
A Professional Corporation

FTB's Counsel
Karen Yiu
FTB's Contact
Michael Cornez

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: The Summons and Complaint were served upon FTB on 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. FTB's Answer was filed on May 11, 2011. On December 21, 2012, a Notice of Entry of Judgment was filed in favor of FTB. On February 12, 2013, a timely Notice of Appeal was filed by Plaintiff. On May 22, 2013, Appellant's Opening Brief was filed. Respondent's Brief was filed on October 30, 2013. Appellant's Reply Brief was filed February 21, 2014. On March 5, 2014, an Application to file an Amicus Brief in support of Appellant was filed by the California Taxpayers Association. On March 20, 2014, the Court issued a letter to Appellant directing it to address whether a final judgment from which Appellant could appeal, existed in this case. Appellant's letter Brief was filed April 1, 2014. FTB's Answer to the Amicus Curiae Brief filed by California Taxpayers Association in support of Appellant was filed on August 21, 2014. The matter is fully briefed and the parties await the scheduling of the Oral Argument.

CA-CENTERSIDE II, LLC v. Franchise Tax Board Filed - 02/04/10
Fresno Superior Court Case No. 10CECG00434
Court of Appeal Fifth Appellate District
FTB LLC Tax Refund Cases Judicial Council Coordination Proceeding No. 4742

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Silverstein & Pomerantz, LLP

FTB Counsel
Marguerite Stricklin
FTB Contact
William C. Hilson, Jr.

Issues:
1. Whether the LLC fee imposed on an LLC doing business entirely within California by Rev. & Tax. Code section 17942 is unconstitutional under the Due Process, Equal Protection and Commerce clauses of the Constitution of the United States of America.
2. Whether Rev. & Tax. Code section 17942 violates Article XIII, section 26, of the California Constitution.
3. Whether Rev. & Tax. Code section 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
Court of Appeal First Appellate District A140518 Filed – 01/20/13

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Marguerite Stricklin
FTB Contact
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 Constitution of the United States of America.
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 July 29, 2013, FTB's Opposition to Plaintiffs' Motion for Class Certification was filed. Plaintiffs' Reply to FTB's Opposition to the Motion for Class Action Certification 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 December 2, 2013, Plaintiffs timely filed their Notice of Appeal regarding the Denial of the Class Certification motion. Appellants' Opening Brief was filed on June 26, 2014. On October 28, 2014, Respondent's Opening Brief was filed**.** On December 17, 2014, Appellants' Reply Brief was filed. The case is now fully briefed and the parties await the scheduling of the Oral Argument.

COMCON PRODUCTION SERVICES I, INC. v. Franchise Tax Board
Los Angeles County Superior Court Case No. BC489779
Court of Appeal Second Appellate District Division B259619 Filed - 08/06/12

Taxpayer's Counsel
Carley Roberts, Esq.
Sutherland, Asbill, Brennan LLP

FTB's Counsel
Anthony Sgherzi
Stephen Lew
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: The Summons and Verified Complaint were filed on August 6, 2012. On September 26, 2012, FTB filed its Answer to the Verified Complaint. On December 20, 2012, a Minute Order was issued scheduling Trial to commence on September 17, 2013. On May 1, 2013, Defendant's Notice of Motion and Motion for Summary Adjudication of the Second Cause of Action and pleadings in support thereof were filed. On May 20, 2013, Plaintiff's Notice of Motion and Motion for Summary Adjudication of the Second Cause of Action and pleadings in support thereof were filed. On August 12, 2013, the Court denied both Motions for Summary Adjudication. Trial commenced on September 25, 2013. On November 18, 2013, a Minute Order was filed regarding the resumption of Trial on November 14, 2013, and noting that both sides rested 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. On March 6, 2014, a Minute Order was issued by the Court, regarding its intended disposition of the case. The Court indicated an intention to rule in favor of Plaintiff on issues involving the unity between the two corporations and in favor of FTB with respect to the termination fees. A Notice of Entry of Judgment and Judgment were filed August 22, 2014. Judgment was entered in favor of FTB with respect to the termination fee/non-business income issue. Judgment was entered in favor of Plaintiff on the unitary business issue. On September 8, 2014, a Memorandum of Costs was filed by Plaintiff. On September 19, 2014, FTB filed a Notice of Motion and Motion to Strike and Tax Costs claimed by Plaintiff. On October 20, 2014, FTB filed a Notice of Appeal regarding the unitary business issue. On October 24, 2014, Plaintiff filed a Notice of

Cross Appeal regarding the business/non-business issue and the Trial Court's denial of its refund claim for 1999. On February 2, 2015, Plaintiff and FTB each filed its Reply Memorandum of Points and Authorities in Support of its Motion to Strike and Tax Costs claimed by the other. On February 9, 2015, the Court denied FTB's Motion to Strike and awarded Plaintiff its costs associated with prosecuting this action.

On June 17, 2015, Appellant's Opening Brief was filed. On December 15, 2015, Respondent's Brief and Cross-Appellant's Opening Brief were filed. On May 4, 2016, Appellant's Reply Brief and Cross-Respondent's Brief were filed. On May 11, 2016, a Stipulation Extending Time to File Cross-Appellant's Reply Brief was filed. The Reply Brief was due to be filed on July 25, 2016. On July 20, 2016, Cross-Appellant filed an Application for Extension of Time to and including August 24, 2016 within which to file its Reply Brief. Comcon's Cross-Appellant's Reply Brief was filed on August 24, 2016. The case is now fully briefed.

KEITH R. DeORIO v. Betty Yee, et al
United States District Court Case No. 2:15-CV-4793-RGK (RAO) Filed – 06/26/15
Central District
The United States Court of Appeals for the Ninth Circuit Case No. 16 -56337

Taxpayer's Counsel
Keith DeOrio

FTB's Counsel
Matt Heyn

FTB's Contact
Suzanne Small

Issues:
1. Whether the license suspension provisions of California's Top 500 Legislation violate the Due Process Clause of the Constitution of the United States of America.
2. Whether the license suspension provisions of California's Top 500 Legislation violate the Unreasonable Seizure Clause of the Constitution of the United States of America.
3. Whether the license suspension provisions of California's Top 500 Legislation constitute an Unconstitutional Custom or Practice under the Constitution of the United States of America.

Year: 2000, 2001, 2002, 2006, 2008, 2010, 2011, 2012 Amount: $521,547.30

Status: **The Federal Court Action:** The Summons and Complaint for Declaratory Relief, Injunctive Relief and Damages were filed on June 26, 2015. On July 31, 2015, service was perfected through a waiver of summons. On September 9, 2015, Plaintiff filed a First Amended Complaint for Damages and for Declaratory and Injunctive Relief. The FTB-related Defendants filed their Answer to the Complaint on November 5, 2015. On

December 17, 2015, the FTB-related Defendants filed their Answer to the First Amended Complaint. On December 29, 2015, an Order was filed referring the case to mediation. On January 4, 2016, an Order for Jury Trial was filed. Trial is set to commence on September 20, 2016. On March 17, 2016, Plaintiff filed a Notice of Motion and a Motion for Leave to file a Second Amended Complaint. On April 18, 2016, the FTB-related Defendants filed their Opposition to Plaintiff's Motion for Leave to File a Second Amended Complaint. On April 25, 2016, Plaintiff filed his Reply to FTB's Opposition to the Motion for Leave to File a Second Amended Complaint. On May 9, 2016, the Court denied Plaintiff's Motion for Leave to Amend. Each of the parties filed a Motion for Summary Judgment or Partial Summary Judgment during the month of June, 2016. Through those motions Plaintiff seeks judgment against the FTB-related Defendants and the Medical Board-related Defendants; the FTB-related Defendants seek judgments in their favor against Plaintiff; and the Medical Board-related Defendants seek judgment in their favor against Plaintiff. All pleadings in support of the respective motions have been filed. All pleadings opposing the respective motions have been filed. All of the respective motions were scheduled to be heard on July 18, 2016. On July 13, 2016, the District Court ordered that the motions calendared for hearing on July 18, 2016 were taken under submission and the matter was removed from the law and motion calendar. On July 28, 2016, the District Court issued an Order granting FTB's Motion for Summary Judgment in its entirety. On August 11, 2016, a Request for Entry of Judgment was filed by FTB. On August 15, 2016, Judgment was entered in favor of all Defendants.

On September 13, 2016, Plaintiff filed a Notice of Appeal with the United States Court of Appeals for the Ninth Circuit. On September 14, 2016, a Time Schedule Order was issued setting the briefing schedule. Appellant's Opening Brief is due to be filed by February 21, 2017, and Appellees' Opening Brief is due to be filed by March 23, 2017.

PATRICK & DENISE ELLWOOD. v. Franchise Tax Board
Alameda County Superior Court Case No. RG16804981
Filed – 02/23/16

Taxpayers' Counsel
David J. Bowie .
Eric C. Schaffer
Bowie & Schafer

FTB's Counsel
Lucy Wang
FTB's Contact
Suzanne Small

Issue: Whether the Failure to File Penalty and applicable interest should be abated.

Year: 2010 Amount: $37,991.51

Status: The Summons and Complaint were filed on February 23, 2016, and personally served upon FTB on February 24, 2016. On March 22, 2016, the Court issued an Order scheduling the Initial Case Management Conference to occur on July 8, 2016. On April 11, 2016, FTB filed its Answer to the Complaint. On June 21, 2016, FTB filed its Case Management Statement. On July 8, 2016, a Case Management Conference was held. A Trial Readiness Conference is scheduled to occur on October 10, 2017, and Trial is scheduled to commence on October 23, 2017.

FIDELITY NATIONAL INFORMATION SERVICES INC. v. Franchise Tax Board
Sacramento County Superior Court Case No. 34-2013-00148015
Court of Appeal Third Appellate District Court Case No. C081522
Filed – 07/15/13

Taxpayer's Counsel
Carley A. Roberts, Esq.
Timothy A. Gustafson, Esq.
Sutherland, Asbill & Brennan LLP

FTB's Counsel
Serajul Ali
FTB's Contact
Irina Krasavtseva

Issues: 1. Whether capital gain realized by Plaintiff from the sale of its minority stock interest in another entity constitutes non-business income under Rev. & Tax Code section 25120.
2. Whether FTB's treatment of capital gain realized by Plaintiff from its sale of a minority stock interest in another entity as apportionable business income under Rev. & Tax. Code section 25120 violates the Due Process and Commerce clauses of the Constitution of the United States of America.
3. Assuming FTB properly treated the capital gain realized through Plaintiff's sale of a minority stock interest in another entity as apportionable business income under Rev. & Tax. Code section 25120, is a sales factor adjustment required under the Due Process and Commerce clauses of the Constitution of the United States of America.
4. Whether FTB's imposition of the large corporate understatement of tax penalty pursuant to Rev. & Tax. Code section 19138 violated the California Constitution and/or the Excessive Fines, Due Process, Commerce and Equal Protection clauses of the Constitution of the United States of America.

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

Status: The Summons and Complaint were filed on July 15, 2013. On August 5, 2013, a Notice of Case Management Conference and Order to Appear was filed. On April 14, 2014, Plaintiff filed a Notice of Motion and Motion to Set Trial Date. Plaintiff's motion was granted and trial was ordered to commence on February 2, 2015. The Trial commencement date was thereafter continued to July 13, 2015. Trial commenced July 13, 2015, and concluded on July 20, 2015. On September 9, 2015, Opening Post-Trial Briefs were filed on behalf of both Fidelity and FTB. Reply Briefs were filed by both parties on September 21, 2015. On December 3, 2015, a Tentative Decision after

Court Trial was filed. The Court determined that FTB's treatment of Plaintiff's capital gain as apportionable business income does not violate the Due Process Clause of the U.S. or California Constitutions, and sustained FTB's actions in the matter. On December 31, 2015, a Final Statement of Decision and Judgment in favor of FTB were filed. On January 15, 2016, a Memorandum of Costs was filed by FTB. On February 8, 2016, the Judgment entered in favor of FTB was updated so as to reflect the granting of an award of costs to FTB. On March 2, 2016, Plaintiff timely filed a Notice of Appeal. On June 20, 2016, the Reporter's Transcript was filed. The Appellant's Opening Brief and Appendix is due to be filed on August 1, 2016. On July 18, 2016, a Stipulation of Extension of Time was filed. **The Appellant's Opening Brief and Appendix were filed on September 30, 2016. The FTB's Opening Brief is due to be filed on November 30, 2016 and Appellant's Reply Brief is due to be filed on December 20, 2016.**

ERNEST J. FRANCESCHI v. John Chiang, et al
United States District Court Case No. 2:14-CV-01960-CAS (SHX) Filed – 05/01/14
Central District
United States Court of Appeals for the Ninth Circuit 14-56493
Ernest J. Franceschi, Jr. v. Betty Yee, et al
Los Angeles County Superior Court Case No. BS154331
California Court of Appeal Second District Court Case No. B267719

Taxpayer's Counsel
Ernest J. Franceschi

FTB's Counsel
Matt Heyn

FTB's Contact
Suzanne Small

Issues:
1. Whether the license suspension provisions of California's Top 500 Legislation violate the Equal Protection Clause of the Constitution of the United States of America and/or the State of California.
2. Whether the license suspension provisions of California's Top 500 Legislation violate the Due Process Clause of the Constitution of the United States of America as well as the State of California.
3. Whether Plaintiff should be removed from the "Top 500 List."
4. Whether Rev. & Tax. Code Section 19195 is unconstitutional because publishing a Taxpayer's name on the Top 500 List constitutes an impermissible intrusion upon a taxpayer's right to privacy.

Year: 1995-2011 Amount: $254,656.83

Status: **The Federal Court Action:** The Summons and Complaint for Declaratory and Injunctive Relief were filed on May 1, 2014. On May 13, 2014, a Joint Stipulation for an Extension of Time to Respond to Complaint was filed, pursuant to which FTB was given sixty days to respond to the Complaint**.** On May 28, 2014, Plaintiff filed a Notice of Motion and Motion for Issuance of a Preliminary Injunction. On June 10, 2014, FTB's Opposition to Plaintiff's Motion for Issuance of a Preliminary Injunction was filed. On June 12, 2014, a Notice of Motion to Dismiss and Motion to Dismiss the Complaint for Declaratory and Injunctive Relief was filed on behalf of FTB. On July 8, 2014, the Court issued an Order directing that Plaintiff's Motion for Preliminary Injunction and FTB's Motion to Dismiss Plaintiff's Complaint both be heard on August 4, 2014. On August 4, 2014, FTB's Motion to Dismiss was granted. On August 18, 2014, Judgment was entered in favor of FTB. On September 11, 2014, Plaintiff filed a Notice of Appeal with the United States Ninth Circuit Court of Appeals. Appellant's Opening Brief was filed on February 24, 2015. On May 1, 2015, Appellees filed an answering brief. Appellant filed a reply brief on May 19, 2015. Briefing is now complete and the parties await the scheduling of oral argument and/or formal decision by the Ninth Circuit Court of Appeals.

The State Court Action: On March 18, 2015, through the vehicle of a Petition for Writ of Mandamus, Plaintiff commenced a new lawsuit in Los Angeles County Superior Court through which he seeks an Order declaring Revenue and Taxation Code section 19195 unconstitutional on the theory that publishing names of taxpayers on the "Top 500 List" constitutes a violation of taxpayers' rights to privacy. On May 18, 2015, the FTB-related defendants filed both an Answer and Demurrer to Plaintiff's Petition for Writ of Mandamus. Plaintiff filed his Opposition to the Demurrer on June 16, 2015. On July 29, 2015, the Court sustained the Demurrer of the FTB-Related Defendants without Leave to Amend. On August 24, 2015, an Order Dismissing the Case with Prejudice, together with a Notice of Entry of Order were filed. On October 14, 2015, Plaintiff timely filed a Notice of Appeal of the Judgment entered in favor of FTB. Appellant's Opening Brief was filed on February 16, 2016. Respondent's Brief was filed on March 16, 2016. Appellant’s Reply Brief was filed on April 4, 2016. The case was argued and submitted for decision on June 22, 2016. On July 8, 2016, the Court of Appeal issued a published Opinion affirming the Superior Court Judgment in its entirety. FTB was also awarded its costs on appeal. On August 15, 2016, Appellant filed a Petition for Review with the California Supreme Court. In a letter dated August 24, 2016, Matthew Heyn, Deputy Attorney General, respectively informs the Court that FTB does not intend to file an answer to the Petition for Review.

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
United States Supreme Court Case No. 15-1442

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Lucy Wang
FTB's Contact
Jeffrey I. Margolis

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 Constitutions of the United States of America and/or the State of California.

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

Status: On May 27, 2010, a Complex Litigation Case Management Conference was held. At that time, the Court ordered this case 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 Demurrers to the Complaints in the consolidated actions 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 was timely 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 the 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 the taxpayers.

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 filed their Answer to FTB's Petition for Review. 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 Multistate Tax Commission in support of granting review was filed. On December 11, 2012, an Amicus Curiae Letter in Opposition to the Court's granting FTB's 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 California Supreme Court granted the Petition for Review. On April 17, 2013, FTB's Opening Brief on the Merits was filed. On July 16, 2013, Consolidated Appellants' Answer Brief on the Merits was filed. FTB's Reply Brief was filed on September 20, 2013. 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 Applications of Texas, Alabama, Alaska, Arkansas, Colorado, Hawaii, Idaho, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, 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 the Multistate Tax Commission for permission to file an Amicus Curiae Brief in support of the California Franchise Tax Board. 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 in support of the Consolidated Appellants. On October 6, 2015, the case was argued and submitted for decision. On December 31, 2015, the California Supreme Court rendered a Decision in favor of FTB. On March 16, 2016, Plaintiffs-Appellants filed an Application for Extension of Time within which to file a Petition for a Writ of Certiorari to the United States Supreme Court. On May 27, 2016, Gillette, et.al, filed their Petition for Writ of Certiorari with the United States Supreme Court. On June 29, 2016, an Amicus Curiae Brief in support of the Petition for Writ of Certiorari was filed by the State of Ohio. On June 30, 2016, Amicus Curiae Briefs in support of the Petition for Writ of Certiorari were filed by Jeffrey B. Litwak and Phillip J. Copper; David Doerr; Tax Executives Institute, Inc.; International Business Machines Corporation, General Mills Inc.; Health Net Inc.; and S& P Globals, Inc.; and the Council of State Chambers of Commerce. On July 6, 2016, an Amicus Curiae Brief in support of the Petition for Writ of Certiorari was filed by the Tax Foundation. FTB's Opposition to Appellants' Petition for Writ of Certiorari was filed August 1, 2016. The Petitioners' Reply Brief was filed on

August 18, 2016. The case was placed on the United States Supreme Court consideration calendar for September 26, 2016. It was re-listed for the October 7, 2016 conference.

HARLEY DAVIDSON INC. & SUBSIDIARIES v. Franchise Tax Board
The Supreme Court of California Case No. S227652

Filed – 11/09/11

Taxpayers' Counsel
Amy L. Silverstein, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Tim Nadar
FTB's Contact
Melissa Williams

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 unitary group of corporations 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: The Summons and Complaint were filed on November 9, 2011. On December 20, 2011, Harley Davidson filed a First Amended Complaint. FTB's Demurrer and related pleadings were filed on January 20, 2012. Plaintiff's Opposition to the Demurrer and related pleadings were filed on February 27, 2012. 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 November 9, 2012, Plaintiffs filed a Motion for Summary Judgment/Summary Adjudication of Issues together with its pleadings in support thereof. On December 21, 2012, FTB filed its Opposition to Plaintiffs' 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 May 2, 2013, the Trial Court issued its Statement of Decision and Judgment in favor of FTB. On June 27, 2013, a Notice of Appeal was timely filed by Harley Davidson. On

December 26, 2013, Appellants' Opening Brief was filed. Respondent's Brief was filed on April 24, 2014. On July 15, 2014, Appellants' Reply Brief was filed. On May 13, 2015, Oral Argument was held and the matter was submitted for decision. On May 28, 2015, the Court of Appeal issued its opinion for publication holding that the Superior Court had improperly sustained, without leave to amend, FTB's Demurrer to the Plaintiffs' Cause of Action alleging that Revenue and Taxation Code section 25105.15 discriminated against taxpayers engaged in interstate business. The Court also held that the Superior Court properly concluded that Plaintiffs' subsidiaries had business nexus with the state of California sufficient to subject them to taxation by California. The case has been remanded to San Diego County Superior Court for further proceedings on Plaintiffs' claims of discrimination. Cross-motions for Summary Judgment were scheduled to be heard on August 12, 2016. Trial, if necessary, is scheduled to commence on December 2, 2016. On June 21, 2016, the Court ordered the Motions for Summary Judgments to be scheduled to occur on October 21, 2016, and the Trial to be moved to March 24, 2017.

GILBERT P. HYATT v. BETTY YEE, et. al. Filed – 04/04/14
United States District Court Eastern District of California
Case No. 2:14-CV-00849-GEB-DAD
United States Court of Appeal Ninth Circuit Case No. 15-15296

Taxpayer's Counsel
Donald J, Kula
Perkins Coie, LLP
Erwin Chemerinsky, Esq.
Malcolm Segal
Segal & Associates, PC

FTB's Counsel
James W. Bradshaw
McDonald Carano, Wilson, LLP
Cynthia Larsen
Orrick, Herrington and Sutcliffe, LLP

FTB's Contact
Scott DePeel

Issue: Whether the delays in bringing Mr. Hyatt's administrative Appeals of FTB Tax Assessments for tax years 1991 and 1992 to a conclusion constitute violations of Mr. Hyatt's rights under the Due Process and Equal Protection clauses of the Constitution of the United States of America so as to justify relief in the form of injunctive orders directed at the individual members of the Franchise Tax Board and the State Board of Equalization which would preclude the Franchise Tax Board and the State Board of Equalization from taking any further actions with respect to Mr. Hyatt's potential tax liabilities for 1991 and 1992.

Years: 1991 and 1992 Amount: N/A, Seeks Injunctive Relief

Status: The Complaint in this action was filed on behalf of Mr. Hyatt on April 4, 2014. The Service of Process upon the respective individual members of the Franchise Tax

Board and the State Board of Equalization was effected in accordance with Rule 4 of the Federal Rules of Civil Procedure. On June 9, 2014, the Court approved a Stipulated Proposed Order and Briefing schedule. In accordance with the Stipulation, the Court ordered that anticipated Motions to Dismiss by individual Defendants were to be filed no later than June 20, 2014, with Opposition and Reply briefings due on July 25, 2014, and August 25, 2014, respectively. The motions were scheduled for hearing on November 3, 2014. On October 28, 2014, the Court issued a Minute Order directing that the Motions to Dismiss were to be taken under submission without Oral Argument and that the Hearing scheduled for November 3, 2014, was to be taken off calendar. On February 10, 2015, an Order Granting Defendants' Motions to Dismiss for Lack of Jurisdiction was filed. On February 27, 2015, Plaintiff timely filed a Notice of Appeal. Appellant's Opening Brief was filed on June 29, 2015. FTB's Opening Brief was filed on August 28, 2015. On October 14, 2015, Appellant's Reply Brief was filed. Briefing is now complete and the parties await the scheduling of oral argument and/or formal decision by the Court of Appeal.

GILBERT P. HYATT v. Franchise Tax Board	Filed – 01/06/98
Clark County Nevada District Court Case No. A382999	
Nevada Supreme Court Case No. 47141	
Nevada Supreme Court Case No. 53264	
United States Supreme Court Case No. 14-1175	
Taxpayer's Counsel	*FTB's Counsel*
Thomas L. Steffen & Mark A. Hutchison	James W. Bradshaw
Hutchison &Steffen, H Barrow Farr III	McDonald Carano, Wilson, LLP
	FTB's Contact
	Scott DePeel

Issue: 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 filed its Appellant's Reply Brief and Cross-Respondent's Answering Brief regarding the judgment entered against it in the Clark County, Nevada, District Court 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 an additional Oral Argument to be heard on June 18, 2012. The additional Oral Argument was presented. On September 18, 2014, the Nevada Supreme

Court reversed and dismissed the $250 million punitive damage award based upon principles of comity. The Court reversed and dismissed the $52 million invasion of privacy compensatory damage award based upon state law grounds. The Court upheld the liability determination under the intentional infliction of emotional distress claim, but reversed and remanded for a new trial regarding the $85 million emotional distress verdict. The Court upheld the fraud verdict and the resultant $1.08 million compensatory damage award. The Court reversed and remanded the cost and pre-judgment interest awards of $2.5 million. The Court upheld the District Court's dismissal of Mr. Hyatt's cross-appeal claim for economic damages based upon lack of evidence. On October 6, 2014, both Parties filed Petitions for Rehearing with the Nevada Supreme Court. On November 25, 2014, the Nevada Supreme Court issued an Order Denying both Petitions for Rehearing. FTB subsequently filed a Petition for Writ of Certiorari with the United States Supreme Court, the result of which was that the United States Supreme Court accepted the case for hearing. On May 23, 2016, the United States Supreme Court issued judgment in favor of FTB and remanded the case to the Nevada Supreme Court. On June 24, 2016, the Nevada Supreme Court issued an Order directing the parties to address which portions of the Nevada Supreme Court decision issued during September 2014 should be reconsidered. FTB's Opening Brief was to be filed on July 24, 2016. On July 11, 2016, the Nevada Supreme Court issued an Order amending the briefing schedule as follows: Appellant's (FTB's) Opening Supplemental Brief is to be filed on August 24, 2016, Respondent's Supplemental Opening Brief is to be filed on September 23, 2016, and Appellant's optional Supplemental Reply Brief is due to be filed on October 8, 2016. Appellant's Supplemental Opening Brief was filed on August 22, 2016. On August 25, 2016, a Motion for an Extension of Time within which to file the Supplemental Answering Brief was filed. The Court granted the motion and now the Respondent\Cross-Appellant shall have until October 21, 2016, to file a supplemental answering brief

The United States Supreme Court: On January 13, 2015, the United States Supreme Court granted FTB an extension of time within which to file a Petition for a Writ of Certiorari to and including March 23, 2015. FTB's Petition for Writ Certiorari was filed on March 23, 2015. Mr. Hyatt's Opposition to FTB's Petition for Writ of Certiorari was filed on May 26, 2015. FTB's Reply Brief was filed on June 9, 2015. On June 30, 2015, the United States Supreme Court granted FTB's Petition for Writ of Certiorari. On September 3, 2015, FTB's Opening Brief was filed. On September 10, 2015, an Amicus Curiae Brief was filed by the Multistate Tax Commission in support of Petitioner. On September 10, 2015, an Amicus Curiae Brief was filed by South Carolina in support of Petitioner. On September 10, 2015, an Amicus Curiae Brief was filed by the Council of State Governments, National Association of Counties, National League of Cities, United States Conference of Mayors, International City/County Management Association and International Municipal Lawyers Association in support of Petitioner. On September 16, 2015, an Amicus Curiae Brief was filed by West Virginia and 43 other states in support of Petitioner. On October 9, 2015, the Court scheduled Oral Argument for December 7, 2015. On October 23, 2015, Respondent's

Opening Brief was filed. On November 4, 2015, the Brief of Professors of Federal Jurisdiction as Amici Curiae in support of Respondent was filed. On November 23, 2015, FTB's Reply Brief was filed. The matter was heard in the United States Supreme Court on December 7, 2015 and submitted for decision.
On April 19, 2016, the United States Supreme Court issued its decision on the matter. The Court ruled in favor of FTB on the issue of the Nevada statutory damages cap, ruling that if a California agency is haled into a Nevada Court, it must be treated the same as Nevada government agencies. On May 23, 2016, the United States Supreme Court issued its judgment in favor of FTB, and on June 24, 2016, remanded the case back to the Nevada Supreme Court for further action not inconsistent with its opinion.

JONES APPAREL GROUP, INC. & SUBSIDIARIES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-499083 Filed - 04/26/10

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Jill Bowers
FTB's Contact
Jeffrey I. Margolis

Issues:
1. Whether California's amendment of Rev. & Tax. Code section 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 section 25128 is precluded by California's participation in the Multistate Tax Compact, violates the Constitutions of the United States of America and/or the State of California.

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

Status: The Summons and Complaint were served upon the Franchise Tax Board on April 27, 2010. 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.

TIMOTHY A. KERSTEN v. Franchise Tax Board, et.al. Filed- 02/15/16
United States District Court, Eastern Division Court Case No. 2:16-cv-00309

Taxpayer's Counsel
Timothy A. Kersten
.

FTB's Counsel
Matt Heyn
FTB's Contact
Suzanne Small

Years: 1991, 2000-2013 Amount: $1.00

Issues: 1. Whether Plaintiff is entitled to Declaratory or Injunctive Relief.
2. Whether Plaintiff's Equal Protection rights have been violated.
3. Whether Plaintiff's Due Process rights have been violated.
4. Whether Plaintiff is entitled to a judicial declaration that Business and Profession Section 494.5 does not apply to Plaintiff.

Status**:** Plaintiff filed the Complaint on February 16, 2016, and Summons was issued on February 17, 2016. On May 14, 2016, Plaintiff requested an Extension of Time to serve the Summons and Complaint. On June 9, 2016, the Court ordered that the time within which Plaintiff must serve the Summons and Complaint is extended to September 13, 2016. **On September 13, 2016, the First Amended Complaint was filed.**

KIMBERLY-CLARK WORLD WIDE, INC. & SUBSIDIARIES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-495916 Filed - 01/11/10

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Edwin Antolin, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Lucy Wang
FTB's Contact
Jeffrey I. Margolis

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 Constitutions of the United States of America and/or the State of California.

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
Alameda County Superior Court Case No.RG11603896 Filed - 07/01/11

Taxpayer's Counsel
Bradley A. Bening, Esq.
Willoughby, Stuart & Bening

FTB's Counsel
Marguerite Stricklin

FTB's Contact
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.

RONALD & PAMELA MASS v. Franchise Tax Board Filed - 07/20/16
Los Angeles County Superior Court Case No. BC 627648

Taxpayers' Counsel
Mardiros H. Dakessian
Dakessian Law LTD.

FTB's Counsel
Matthew Heyn

FTB's Contact
Renel Sapiandante

Year: 2010 Amount: $7,384 Tax

Issues:
1. Whether Rev. & Tax. Code section 17145 violates Article XIII, Section 26(b) of the California Constitution's exemption of interest on California and/or local government bonds from taxes on income.

2. Whether FTB's application of Rev. & Tax. Code section 17145 with regard to dividends received from Regulated Investment Companies ("RICs"), which may have interest income from California municipal bonds, violates Article XII, Section 26(b) of the California Constitution.

Status: The Summons and Complaint were filed July 20, 2016**.** On August 16, 2016, the Court issued an Order scheduling the Initial Case Management Conference to occur on January 13, 2017. **On September 6, 2016, FTB filed its Answer to the Complaint.**

MEDNAX SERVICES INC. v. Franchise Tax Board Filed - 05/14/14
San Francisco County Superior Court Case No.CGC-14-539294

Taxpayer's Counsel
Andres Vallejo
Peter Kanter
Lisa Ma
Morrison & Foerster, LLP

FTB's Counsel
AnneMichelle Burr

FTB's Contact
Laurie McElhatton

Issues: 1. Whether FTB's determination that Mednax Services and other entities should have filed combined income tax reports for the years at issue pursuant to Rev. & Tax. Code section 25102 was proper.
2. Whether FTB's determination that Mednax Services and other entities should have filed combined income tax reports for the years at issue pursuant to Rev. & Tax. Code section 25102, is precluded by Rev. & Tax. Code section 25105.
3. Whether FTB's determination that Mednax Services and other entities should have filed combined income tax reports for the years at issue pursuant to Rev. & Tax. Code section 25102 constitutes violations of the Equal Protection and Due Process clauses of the Constitution of the United States of America and/or the State of California.
4. Whether FTB's assessment of a large corporate understatement of tax penalty for 2006 tax year was appropriate.
5. Whether Mednax is entitled to an award of attorneys' fees.

Years: 2004, 2005, 2006

Amount: 2004: $699,406.57
2005: $1,268,211.97
2006: $1,976,040.99

Status: The Summons and Complaint for Refund of Personal Income Taxes were filed on May 14, 2014. The Summons and Complaint for Refund of Personal Income Taxes were served on FTB on July 11, 2014. On August 7, 2014, FTB's Verified Complaint for Refund of Corporation Tax was filed. On October 17, 2014, a Notice of Time and Place of Trial was filed. Trial was originally scheduled to commence on October 19, 2015, and was continued to September 12, 2016. **On**

September 9, 2016, FTB filed a Request for Dismissal, and the Master Court Calendar set for September 12, 2016, was vacated.

PALACE EXPLORATION. v. Franchise Tax Board Filed - 07/18/16
Los Angeles Superior Court Case No: BC627385

Taxpayer's Counsel
Brian C. McManus
Latham & Watkins LLP

FTB's Counsel
Nhan Vu
Matthew Heyn
FTB's Contact
Suzanne Small

Issues: 1. Whether FTB's assessment of promoter penalties against Plaintiff pursuant to Rev. & Tax. Code section 19177 was properly determined.
2. Whether FTB's assessment of promoter penalties against Plaintiff pursuant to Rev. & Tax. Code section 19177 violates the Due Process and the Commerce clauses of the United States Constitution.
3. Whether FTB's assessment of the penalties pursuant to Rev. & Tax. Code section 19177 violates the Eighth Amendment of the United States Constitution.
4. Whether FTB's denial of Plaintiff's claim for refund under Rev. & Tax. Code section 19180 was proper.

Amount: $6,250 Penalty: $10,908,750

Year: 2005

Status: On July 18, 2016, the Summons and Complaint were filed. On August 16, 2016, a Stipulation was filed extending FTB's time to respond to the complaint to September 1, 2016. On August 19, 2016, the Court issued an Order scheduling the Initial Case Management Conference to occur on November 8, 2016. On August 23, 2016, Plaintiff filed Applications for Admission of Counsel *Pro Hac Vice* regarding Brian C. McManus, Miriam L. Fisher, and Stephen N. Shashy. A hearing to determine if those Applications will be granted is scheduled to occur on September 16, 2016. On August 30, 2016, a declaration of Deputy General Matthew Heyn extending time to respond to the complaint was filed. The answer is now due October 3, 2016. **On September 16, 2016, the Court granted Plaintiff's Applications for Admission Pro Hac Vice. At the September 16, 2016 hearing, the Case Management Conference, originally scheduled for November 8, 2016, was rescheduled to November 17, 2016.**

PRIORITY POSTING & PUBLISHING INC. v. Franchise Tax Board Filed - 03/18/15
San Francisco County Superior Court Case No.CGC-15-544791

Taxpayer's Counsel
Edward Ord, Esq.
Cheng Zheng, Esq.
Ord & Norman

FTB's Counsel
Marguerite Stricklin

FTB's Contact
Renel Sapiandante

Issue: 1. Whether FTB properly concluded that $17,861,500 of a purported $19,750,000.00 bonus paid to the corporation's sole shareholder and director during 2008 should be reclassified as a dividend and disallowed as a salary deduction to the corporation.
2. Whether FTB's assessment of penalties and interest against the corporation in the amount of $625,855.03 for tax year 2008 is appropriate.

Year: 2008

Amount: $17,861,500.00
Penalty: $625,855.03

Status: The Summons and Complaint were served upon FTB on March 20, 2015. On April 16, 2015, Plaintiff filed its First Amended Complaint for Refund of Taxes. On June 1, 2015, FTB filed a Demurrer to the First Amended Complaint, together with supporting pleadings. On December 8, 2015, an Order on Stipulation permitting Plaintiff to file a Second Amended Complaint was filed, and FTB's Demurrer to the First Amended Complaint was taken off calendar. On December 18, 2015, Plaintiff's Second Amended Complaint was filed. On January 12, 2016, FTB filed its Answer to the Second Amended Complaint. On February 9, 2016, FTB filed an Amended Answer to the Second Amended Complaint. Trial is scheduled to commence on January 17, 2017.

THE PROCTER & GAMBLE MANUFACTURING CO. & AFFILIATES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-495912 Filed - 01/11/10

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Lucy Wang
FTB Contact
Jeffrey I. Margolis

Issues: 1. Whether California's amendment of Rev. & Tax. Code section 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 section 25128 is precluded by California's participation in the Multistate Tax Compact, violates the Constitutions of the United States of America and/or the State of California.

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.

RB HOLDINGS (USA) INC. & SUBSIDIRIES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-496438 Filed - 01/29/10

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Lucy Wang
FTB's Contact
Jeffrey I. Margolis

Issues: 1. Whether California's amendment of Rev. & Tax Code section 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 section 25128 is precluded by California's participation in the Multistate Tax Compact, violates the Constitutions of the United States of America and/or the State of California.

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.

SIGMA-ALDRICH, CORP. & SUBSIDIARIES v. Franchise Tax Board
San Francisco Superior Court Case No. CGC-10-496437 Filed - 01/29/10

Taxpayer's Counsel
Amy L. Silverstein, Esq.
Johanna W. Roberts, Esq.
Silverstein & Pomerantz, LLP

FTB's Counsel
Lucy Wang
FTB Contact
Jeffrey Margolis

Issues: 1. Whether California's amendment of Rev. & Tax. Code section 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 section 25128 is precluded by California's participation in the Multistate Tax Compact, violates the Constitutions of the United States of America and/or the State of California.

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.

DAVID & ALICIA SMITH v. Franchise Tax Board
San Diego Superior Court Case No. 37-2015-00014020 Filed - 04/27/15

Taxpayers' Counsel
Matthew D Rifat
John Donnelly
Law Offices of Matthew D. Rifat, LLP

FTB's Counsel
Stephen Lew

FTB's Contact
Suzanne Small

Issue: Whether FTB properly disallowed Plaintiff's attempt to defer gain on a sale of real property under the provisions of Internal Revenue Code section 1031 and Rev. & Tax Code section 19382.

Years: 2003 Amount: $91,073.00 Tax
$38,660.00 Interest

Status**:** The Summons and Complaint were filed on April 27, 2015. Personal service was effected upon FTB on June 2, 2015. On July 28, 2015, FTB filed its Answer to the Complaint. On December 18, 2015, an Order was issued scheduling the Trial Readiness Conference to occur on June 17, 2016, with Trial to occur on July 8, 2016. On June 17, 2016, the Trial Readiness Conference and Trial were continued to July 8, 2016, and to October 21, 2016 respectively. On July 7, 2016, the Trial Readiness Conference was continued to August 12, 2016. Trial is scheduled to commence on October 21, 2016. The Trial Readiness Conference was held on August 12, 2016, after which the Joint Trial Readiness Conference Report, the Minute Order, and the Advance Trial Review Order were filed. Trial remains scheduled to commence on October 21, 2016. **On September 28, 2016, the Court granted FTB's Ex Parte Application for a continuance of the trial date. The parties were ordered to stipulate to a new trial date.**

SWART ENTERPRISES v. Franchise Tax Board Filed - 07/09/13
Fresno County Superior Court Case No. 13CECG02171
Court of Appeal Fifth Appellate District Court Case No. F070922

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Esq.	Jane O'Donnell
Johanna W. Roberts, Esq.	*FTB's Contact*
Silverstein & Pomerantz, LLP	Suzanne Small
	Melissa Williams

Issues: 1. Whether Plaintiff had sufficient nexus with the State of California during 2009 so as to be subject to the provisions of Rev. & Tax Code section 23153.
2. Whether the provisions of Rev. & Tax 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: The Summons and Complaint were filed on July 9, 2013. FTB filed its Answer to the Complaint on August 16, 2013**.** On November 7, 2013, a Case Management Conference was held. Trial was originally scheduled to commence on March 4, 2015. On June 20, 2014, FTB filed a Notice of Hearing on Motion for Summary Judgment and a Motion for Summary Judgment together with pleadings in support thereof were filed. On June 25, 2014, Plaintiff filed a Motion for Summary Judgment together with pleadings in support thereof. On September 9, 2014, the Court ordered a hearing on the Cross Motions for Summary Judgment to be continued from September 9, 2014 to November 13, 2014. On November 13, 2014, a Tentative Ruling was issued by the Court granting Plaintiff's Motion for Summary Judgment and Denying the

Motion for Summary Judgment filed by FTB. On November 14, 2014, the Court affirmed its Tentative Ruling of November 13, 2014. On November 25, 2014, a Notice of Entry of Judgment was filed. On January 16, 2015, a Notice of Appeal to the Fifth District Court of Appeal was filed on behalf of FTB. On January 22, 2015, Plaintiff filed an Ex-Parte Application for Extension of Time within which to file a Motion for Attorney Fees, together with pleadings in support thereof. On January 22, 2015, FTB filed its Opposition to Plaintiff's Ex-Parte Application to Extend Time to file its Attorney Fees Motion. On January 22, 2015, the Court issued a Minute Order granting Plaintiff's Motion to Extend the Time within which it must file its Motion to recover Attorney's Fees until such time as the pending appeal is resolved. On October 26, 2015, FTB's Opening Brief was filed. Respondent's Opening Brief was filed on January 29, 2016. On April 14, 2016, FTB's Reply Brief was filed. The case is now fully briefed and the parties await the scheduling of oral argument.