LITIGATION ROSTER

SALES AND USE TAX

DECEMBER 2018

Sales and Use Tax
LITIGATION ROSTER
DECEMBER 2018

NEW CASES

Case Name	Case Number

CLOSED CASES

Case Name	Case Number
BARRETT, JAMES	B276619
VERIZON SERVICES CORP. v CDTFA	B282170
WOOSLEY, CHARLES PATRICK	CA000499

Please refer to the Case roster for more detail regarding new and closed Cases
Sales and Use Tax

LITIGATION ROSTER
DECEMBER 2018

BARRETT, JAMES G. v. California Department of Alcohol Beverage Control, et al.
Imperial County Superior Court: ECU08527
Los Angeles County Superior Court: BS155263
Second District Court of Appeal: B276619
Filed – 03/05/15

Plaintiff's Counsel
Pro Se

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Petitioner contends that the BOE is not performing its statutory and mandatory duties in enforcing the Sales & Use Tax Law against certain tribal retailers.

Audit/Tax Period: None
Amount: Unspecified

Status: On March 20, 2015, the BOE filed a Motion to Transfer Venue to Sacramento County. On March 23, 2015, Petitioner filed a request to continue the April 1, 2015 hearing date of his Motion for a Writ of Prohibition to April 27, 2015. On March 25, 2015, the Court denied the request and took the Motion off calendar pending Petitioner's attendance at the initial Case Management Conference. On April 1, 2015, Plaintiff filed his Opposition to Motion to Transfer Venue. On April 13, 2015, the BOE filed its Reply Brief in support of its Motion to Transfer Venue. The Court continued the April 22, 2015, hearing on the BOE's Motion to Transfer Venue to May 6, 2015 to allow the BOE to submit additional evidence in support of its Motion. Following the hearing, the parties stipulated to transfer the Case to Los Angeles County Superior Court and filed a joint stipulation on April 23, 2015. The Los Angeles Superior Court served a Notice of Incoming Transfer confirming that venue of this action was moved from Imperial County to Los Angeles County. Pursuant to the transfer of venue, the Case was filed in the Los Angeles County Superior Court on May 14, 2015. The parties stipulated that the BOE would have until June 30, 2015, to file its Response to the Petition for Writ of Mandate. On June 26, 2015, the BOE filed its Demurrer to Plaintiff's Writ Petition. Plaintiff's Opposition was due November 4, 2015. The BOE's Reply was due November 10, 2015. Hearing was scheduled for November 18, 2015. On October 26, 2015, Plaintiff filed his Opposition to BOE's Demurrer. On

November 10, 2015, the BOE filed its Reply Brief in support of its Demurrer. On November 18, 2015, the Court heard Oral Argument on the BOE's Demurrer to Petitioner's First Amended Petition for Writ of Mandate. On November 23, 2015, the trial Court issued a ruling sustaining the BOE's Demurrer. The Court granted Plaintiff leave to amend only as to Plaintiff's standing to bring an action to invalidate section 765.005 of the BOE's Compliance and Procedures Manual on the ground that it is contrary to the law. No amended writ petition has been filed or served. The BOE therefore moved on January 12, 2016, to have Petitioner's action dismissed with prejudice. Hearing is set for May 4, 2016. On May 4, 2016, the Court granted the BOE's Motion to Dismiss. On June 2, 2016, the judge signed the Order dismissing the Case and judgment was entered for the BOE. On July 27, 2016, Plaintiff filed a notice of appeal and his designation of the record on appeal. On August 11, 2016, the BOE filed its supplemental designation of the record on appeal. Plaintiff filed the Appellant's Opening Brief on April 10, 2017. BOE will request an extension to file a Response. On May 9, 2017, the Court of Appeal granted BOE's request for a 60-day extension of time to file its Respondent's Brief, which is now due July 10, 2017. The Court of Appeal granted the BOE an additional extension to August 9, 2017, to file its Respondent's Brief. On August 1, 2017, the Court of Appeal granted the Motion by Respondents California Department of Alcoholic Beverage Control and its director (collectively, ABC) to dismiss the appeal (as to ABC and its director only). On August 17, 2017, the DOJ moved to substitute the California Department of Tax and Fee Administration (CDTFA) for the BOE as a Defendant in this action. On August 29, 2017, the Court of Appeal stayed further briefing on the appeal pending transmittal of a document by the superior court that was omitted from the record on appeal. On September 15, 2017, the Augmented/Supplemental Record was filed. The court set a deadline for Appellant's Reply Brief for October 15, 2017. On October 10, 2017, Appellant filed a Reply Brief. The case is now fully briefed, and awaits scheduling of Oral Argument. On April 13, 2018, the Second District Court of Appeal set Oral Argument for May 15, 2018. All parties have waived Oral Argument. On May 17, 2018, the Court affirmed the trial court judgment in favor of defendants. On June 26, 2018, Appellant filed a Petition for Review with the Supreme Court. On August 22, 2018, the California Supreme Court denied Plaintiff's Petition for Review. This case will be closed.

BARRETT, JAMES G. v. Selnek-Is Tem-Al Corp; State Board Of Equalization; David Gau; California Tax And Fee Administration; David Botelho; California Department Of Alcoholic Beverage Control; Jacob Appelsmith; California Office Of The State Controller; Betty Yee;
Imperial County Superior Court: ECU09960
Filed – 09/11/17

Plaintiff's Counsel
Pro Se

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Plaintiff contends that the CDTFA is not performing its statutory and mandatory duties in enforcing the Sales & Use Tax Law against certain tribal retailers, including defendant Selnek-is Tem-al Corp., a tribal retailer operating a gas station and convenience store in Imperial County. Plaintiff alleges that a non-tribal retailer, Salton Sea Venture, which operated a convenience store/gas station in the same area (up through January 2017) and paid its taxes due under the law, has been damaged as a result. Plaintiff alleges that he is suing in the capacity of an "absolute assignee" of the rights held by Salton Sea.

Audit/Tax Period: None
Amount: Unspecified

Status: On February 26, 2018, defendant Alcoholic Beverage Control filed a motion to transfer venue, scheduled for hearing on March 27, 2018. On March 16, 2018, defendant Selnek-is Tem-al Corporation filed a motion to quash, scheduled for hearing on April 17, 2018. On March 21, 2018, CDTFA filed a motion to transfer venue of the case to Sacramento. Hearing on CDTFA's motion is set for April 17, 2018, to be heard concurrently with defendant Selnek-is Tem-al's motion to quash. On March 23, 2018, at an ex parte hearing, defendant California Department of Alcoholic Beverage Control requested that the court continue the hearing date on its motion to transfer venue from March 27, 2018, to April 17, 2018, to be heard concurrently with CDTFA and defendant Selnek-is Tem-al's motions. Rather than continuing the hearing date, the court granted ABC's motion to transfer venue, transferring venue to Sacramento County. On May 4, 2018, the Sacramento County Superior Court issued an order acknowledging that it received the documents and pleadings in this case from the Imperial County Superior Court. CDTFA's response is due June 4, 2018. The court also set a Case Management Conference for November 1, 2018. On June 4, 2018, the CDTFA

filed a demurrer to Plaintiff's complaint. The hearing on the Demurrer is scheduled for July 12, 2018. On its own Motion, the court continued the demurrer hearing to July 25, 2018, and then again to August 10, 2018.On June 19, 2018, Defendant Selnek-is Tem-al Corporation motion to quash was granted. On June 19, 2018, ABC filed a motion for sanctions against plaintiff. The hearing on CDTFA's demurrer was held on August 10, 2018. The Court took the case under submission. On August 24, 2018, the trial court entered a minute order, sustaining CDTFA's demurrer to the complaint without leave to amend. On September 11, 2018, the court entered a final judgment for CDTFA. On September 24, 2018, CDTFA served a notice of entry of judgment. On November 15, 2018, Plaintiff filed a notice of appeal from the trial court's judgment in favor of CDTFA after the court sustained CDTFA's demurrer without leave to amend.

BEKKERMAN, ALINA; BRANDON GRIFFITH; JENNY LEE; and CHARLES LISSER v. California Department of Tax and Fee Administration, et al.
Sacramento County Superior Court: 34-2015-80002242
Filed – 11/25/15

Plaintiffs' Counsel
Daniel M. Hattis
Tony J. Tanke, Law Offices of Tony J. Tanke
Jeffrey Burke, Burke Law Group

BOE's Counsel
Nhan T. Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether Regulation 1585, subdivisions (a)(4) and (b)(3), are invalid and contrary to the Sales and Use Tax Law in that the Regulation imposes sales tax on the "unbundled sales price" of a mobile phone bundled with a service contract rather than the actual price paid by the consumer to the retailer. Whether the Board failed to adequately assess the economic impact of Regulation 1585 and failed to adequately consider less burdensome alternatives.

Audit/Tax Period: None
Amount: Unspecified

Status: Plaintiff agreed to an extension of time for BOE to respond to January 12, 2016.

The BOE filed its Answer on January 12, 2016. On February 8, 2016, Plaintiff served the BOE with a notice of hearing on the merits, which is set for October 21, 2016. Based on the local rules, the parties would then have the following deadlines: Opening Brief Due September 6, 2016; Opposition Brief Due September 26, 2016; and Reply Brief Due October 6, 2016. On February 9, 2016, Plaintiff's counsel served the BOE with Form Interrogatories and Requests for Production of Documents. Response was initially due March 18, 2016, but Plaintiff granted the BOE an extension to April 18, 2016. On March 29, 2016, the parties stipulated to a new briefing schedule. Petitioners' Opening Brief is now due on August 9, 2016, the BOE's Respondent's Brief is due September 12, 2016, and Petitioners' Reply Brief is due October 6, 2016. Plaintiffs granted the BOE an extension to respond to Plaintiffs' discovery requests to May 2, 2016. BOE served its Responses to Plaintiffs' written discovery requests on May 6, 2016. On February 17, 2017, the Court issued an Order granting Petitioners' request for a continuance of the writ hearing and resetting the briefing schedule. The new dates are as follows: (1) Petitioners' opening memorandum is due August 4, 2017; (2) the BOE's opposition is due September 29, 2017; (3) Petitioners' Reply Brief is due November 23, 2017; and the (4) hearing on the merits of the writ petition is December 8, 2017. On July 25, 2017, Plaintiffs filed a Motion to consolidate this action with its class refund action (Sacramento County Superior Court, Case No. 34-2016-80002287). Hearing on Plaintiffs' Motion to consolidate is set for August 18, 2017. On July 28, 2017, pursuant to the Petitioners' *ex parte* request, the Court vacated its prior Order on February 17, 2017, setting the briefing and hearing dates on the merits. The Court reserved January 12, 2018, as the new hearing date, but did not set any new briefing dates at this time. On August 7, 2017, the State Defendants (CDTFA and State of California) opposed the Motion to consolidate. On August 11, 2017, Plaintiffs filed their Reply Brief in support of their Motion to consolidate. On August 18, 2017, the Court held Oral Argument on the Motion to consolidate. That same date, the Court issued a Minute Order denying Plaintiffs' Motion to consolidate in light of its ruling sustaining the CDTFA's Demurrer to Plaintiffs' class action complaint in Plaintiffs' related Class Action litigation. On August 25, 2017, the presiding justice signed the Order substituting the CDTFA for the Board of Equalization. On February 23, 2018, the Court granted Plaintiffs' motion for leave to file a first amended complaint seeking to add "class allegations, a full scope of remedies arising from the invalidity of [Regulation 1585], and procedural claims under the California Administrative Procedure Act," over CDTFA's objections. On April 20, 2018, the Court approved the parties' stipulation setting a briefing schedule for CDTFA's Motion to Strike portions of Plaintiffs' First Amended Complaint. The stipulation provides as follows: CDTFA's Motion to Strike is due on June 1, 2018; Plaintiffs' Response to CDTFA's Motion to Strike is due July 6, 2018; and CDTFA's Reply Brief is due August 10, 2018. On June 1, 2018, CDTFA filed Motion to Strike Portions of Plaintiff's First Amended Complaint. On June 12, 2018, Plaintiffs took the deposition of John L. Waid. The hearing on CDTFA's Motion to Strike Portions of Plaintiff's First Amended Complaint is scheduled for September 7, 2018. On July 6, 2018, plaintiffs filed an objection to CDTFA's Motion to Strike Portions of the First Amended Complaint. On August 10, 2018,

CDTFA filed its reply brief in support of its Motion to Strike Portions of the First Amended Complaint. On September 7, 2018, the trial court affirmed its September 6, 2018, tentative ruling, in which the court granted (in part) CDTFA's Motion to Strike Portions of the First Amended Complaint. On September 20, 2018, CDTFA filed its answer to the First Amended Complaint.

BEKKERMAN, ALINA; BRANDON GRIFFITH; JENNY LEE; and CHARLES LISSER v. California Department of Tax and Fee Administration, et al.
Sacramento County Superior Court: 34-2016-80002287
Filed – 04/04/16

Plaintiffs' Counsel
Daniel M. Hattis
Tony J. Tanke, Law Offices of Tony J. Tanke
Jeffrey Burke, Burke Law Group

BOE's Counsel
Nhan T. Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether Regulation 1585, subdivisions (a)(4) and (b)(3), are invalid and contrary to the Sales and Use Tax Law in that the Regulation imposes sales tax on the "unbundled sales price" of a mobile phone bundled with a service contract rather than the actual price paid by the consumer to the retailer. Whether the Board failed to adequately assess the economic impact of Regulation 1585 and failed to adequately consider less burdensome alternatives. Plaintiffs seek a refund of sales tax reimbursement paid on the unbundled sales price of mobile phones purchased from retailers Defendants AT&T, Sprint, Verizon, and T-Mobile.

Audit/Tax Period: None
Amount: Unspecified

Status: On April 1, 2106, AT & T filed a Notice of Removal, divesting the superior Court of jurisdiction and removing the Case to the United States District Court of the Eastern District of California. On May 19, 2016, Plaintiff stipulated that the BOE could file its Response by June 6, 2016. Plaintiff stipulated to a further extension of time for BOE's Response to July 28, 2016, due to remand issues. On July 28, 2016, Plaintiffs and BOE both filed Motions for remand. Hearing was scheduled for August 25, 2016. On August 19, 2016, the Court vacated the hearing on BOE's Motion to remand the Case to state Court, and took the matter under

submission without Oral Argument. On March 31, 2017, the federal district Court granted the BOE and Plaintiffs' separate Motions to remand the action back to state Court and Order the matter remanded back to Sacramento County Superior Court. The parties stipulated that BOE could file its Response in the state Court action by May 15, 2017, which was subsequently extended to June 9, 2017. BOE filed a Demurrer on June 9, 2017 to Plaintiffs' First Amended Complaint. A hearing on BOE's Demurrer is scheduled for August 18, 2017. On July 7, 2017, Plaintiffs filed a Second Amended Complaint; as a result, the Demurrer to the First Amended Complaint is moot. On July 25, 2017, the California Department of Tax & Fee Administration ("CDTFA") filed a Demurrer to Plaintiffs' Second Amended Complaint. On this same day, Plaintiffs filed a Motion to consolidate this action with its related action, challenging the validity of Regulation 1585. The hearing on both matters is set for August 18, 2017. On August 18, 2017, the trial Court sustained CDTFA's Demurrer to Plaintiffs' class action complaint without leave to amend and denied Plaintiffs' Motion to consolidate the class action for refund with Plaintiffs' related action challenging the validity of Regulation 1585. The Court found a class refund action was premature since Regulation 1585 has not been invalidated or otherwise retroactively revoked. In light of its ruling on the Demurrer, the Court denied Plaintiffs' Motion to consolidate their two actions. The Court also granted CDTFA's unopposed request to substitute in as the proper Defendant in this sales and use tax action, in place of the Board of Equalization. The CDTFA will submit a Proposed Order to the Court consistent with the Court's rulings. On August 25, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE. On September 22, 2017, plaintiffs filed a Notice of Appeal from the judgment and "from any other orders, rulings, decisions, and proceedings of any kind that are in any respect adverse to Plaintiffs and Petitioners - to the maximum extent permitted by law." On November 9, 2017, the Court of Appeal granted CDTFA's Motion to Correct the caption to be California Department of Tax and Fee Administration instead of Board of Equalization et al. On June 21, 2018, the Court of Appeal granted plaintiffs' Motion to Stay Appeal Pending Decision of the California Supreme Court in McClain v. Sav-On Drugs, California Supreme Court Case No. S241471.

BRISBANE, CITY OF v. California Department of Tax and Fee Administration, et al.
San Francisco County Superior Court: CPF-09-509232
First District Court of Appeal: A137185
Filed – 04/21/09

Plaintiff's Counsel
Charles Coleman - Holland & Knight, LP

BOE's Counsel
Karen Yiu

BOE Attorney
John Waid

Issue(s): Whether BOE's characterization of transactions where the property sold is shipped to California customers from points out of state and the retailer has a business operation in Brisbane as being subject to use tax is valid.

Audit/Tax Period: 2001 - Present
Amount: Unspecified

Status: Trial Court: The parties stipulated and filed a Motion to assign the *City of Alameda v. BOE*; *City of Brisbane v. BOE*; and the *City of South San Francisco v. BOE* to a single judge for all purposes. Trial began on October 17, 2011, and further trial proceedings were continued to November 1, 2011. The Court accepted Petitioners' argument and judgment was entered on September 18, 2012. BOE filed its Notice of Appeal on November 16, 2012.

Court of Appeal: On August 19, 2013, counsels for Appellants City of El Segundo and Cities of Alameda, et al., filed certificates of interested entities. In a letter to the Court, the City of El Segundo joined the combined Respondents' Brief and Appellants' Opening Brief of the Cities and did not file its own. On November 15, 2013, the parties' stipulated request to consolidate appeals was granted and the appeals were ordered consolidated for all purposes. BOE filed its Reply Brief on December 3, 2013, in its own appeal, and a Cross-Respondent's Brief in the Petitioner's Cross-Appeal. The Intervenor's Reply Briefs were filed on December 19, 2013. On March 18, 2014 BOE filed Appellant's Opening Brief. On March 21, 2014, Appellant's Brief on the merits was filed with the Court of Appeal. On or about May 12, 2014, the parties agreed Petitioners would have until June 17, 2014 to file Respondents' Briefs on the attorneys' fees issue. On July 17, 2014, the Respondents' Brief was filed. BOE's Reply Brief was filed on September 21, 2014. Oral Argument was set for October 21, 2014. On September 15, 2014 the Court vacated the Oral Argument. The letter Brief ordered by the Court was filed on January 7, 2015. On January 20, 2015, BOE

filed its Reply Brief. The Court of Appeal scheduled Oral Argument in the Brisbane Case for March 17, 2015. The Court also scheduled Oral Argument for all three attorney appeals for the same day. On March 25, 2015, the Court of Appeal issued its unpublished opinion remanding the Case back to the trial Court for fact-finding proceedings. On June 2, 2015, the Court of Appeal remanded the Case to the San Francisco County Superior Court for further proceedings in accordance with its opinion.

Remand to Trial Court: On August 13, 2015, BOE filed a Peremptory Challenge. On August 17, 2015, Brisbane filed an Opposition. On August 21, 2015, BOE filed a Reply. The Court sustained BOE's Peremptory Challenge and scheduled a Case Management Conference for September 18, 2015. At the Case Management Conference on September 18, 2015, the Court set the following briefing schedule: Opening Brief due November 20, 2015; Reply Brief due January 11, 2016. Court trial was set for January 25, 2016. On November 20, 2015, the parties filed their Opening Briefs on remand with respect to the issue of whether title transferred in California for any of the sales at issue. On January 11, 2016, the BOE filed its Reply Brief. The trial took place January 25, 27, and 29, 2016. The Court ordered the parties to submit draft Statements of Decision by close of business February 22, 2016. The Case will not be deemed submitted for decision until the Court has reviewed the proposed Statements to ensure they do not contain new matter. On February 22, 2016, the City and the BOE filed proposed Statements of Decision. On August 2, 2016, the Court issued its Tentative Decision in favor of the BOE. Plaintiff City of Brisbane filed its objections to the Tentative Decision on August 19, 2016. On January 4, 2017, the trial Court issued a Statement of Decision in favor of the BOE – finding that the Internet sales at issue were properly allocated to California jurisdictions other than Brisbane as local use tax. The sales at issue were subject to use tax, rather than sales tax. On January 20, 2017, the trial Court entered Judgment in favor of the BOE. On March 1, 2017, Plaintiff City of Brisbane filed a notice of appeal. On March 9, 2017, the City filed a notice designating its record on appeal. On May 7, 2017, Appellant filed its Civil Case Information Statement. By stipulation, the Appellant's Opening Brief is now due August 11, 2017, and the Respondent's Brief is due November 13, 2017. On August 1, 2017, the DOJ moved to substitute the California Department of Tax and Fee Administration (CDTFA) for the BOE as a Defendant in this action. On August 18, 2017, Appellant City of Brisbane filed its Opening Brief in the Court of Appeal. On August 28, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE. On November 17, 2017, the CDTFA filed its Respondent's Brief. On December 5, 2017, the Respondent's Brief was filed by Intervener and Respondent, City of Alhambra. On December 7, 2017, the City of Brisbane filed its Appellant's Reply Brief. The case is now fully briefed and awaits scheduling of Oral Argument. On January 16, 2018, the Department filed its Request for Oral Argument. Brisbane previously filed its Request on January 12, 2018. The Court of Appeal scheduled oral argument for September 18, 2018. On September 6, 2018, the Attorney General's Office filed a motion to continue oral argument from September 18, 2018 to October 29, 2018. Oral argument was held on October 29, 2018, and the court

took the matter under submission. On November 14, 2018, the First District Court of Appeal affirmed the trial court's judgment in full and ordered that CDTFA and intervenors shall recover costs on appeal. The opinion is unpublished. On remand from City of Brisbane v. California State Board of Equalization (Mar. 25, 2015, A137185) [nonpublished opinion], the trial court had considered two issues: (1) whether any of the transactions before the court had taken place in California; and (2) whether any of the transactions qualified as sales on approval. If the trial court had answered either of these questions in the affirmative, sales tax would have applied to the affected transactions. In January of 2017, the trial court ruled that none of the transactions qualified in either category; thus, as a result, use tax applied to the subject transactions. The Court of Appeal affirmed this decision.

CARTER, TORRIE GIDGET and CARTER, MICHAEL ANTHONY v. California Board of Equalization, et al.
Butte County Superior Court: 164455
Filed – 06/05/2015

Plaintiff's Counsel
Pro Se

BOE's Counsel
Jill Bowers

BOE Attorney
John Waid

Issue(s): This litigation arises out of a sales and use tax dispute between BOE and the Carters concerning the operation of Homestead Furnishings in Oroville, CA, and the bankruptcy proceedings thereafter filed by the Carters in which BOE filed a proof of claim. BOE denies Plaintiffs' contentions.

Audit/Tax Period: None
Amount: $233,000.00

Status: As of July 31, 2017, Plaintiffs have not served a copy of the summons and complaint on either BOE or CDTFA, and BOE has never appeared in the matter. CDTFA will not appear in the matter until it is properly served with a copy of the Summons and Complaint.

EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY, et al. v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2013-80001671
Filed – 10/22/13

Plaintiff's Counsel
Dante Foronda - Meyers, Nave, Ribak, Silver & Wilson

BOE's Counsel
Patty Li

BOE Attorney
John Waid

Issue(s): The Court should enjoin Finance from: (1) demanding that the Successor Agency remit $1,981,989.00 to the Contra Costa County Auditor-Controller for the purposes of distributing the funds to affected taxing entities pursuant to California Health & Safety Code Section 34179.5, as added by Assembly Bill 1484 (AB 1484), and (2) directing Petitioners to reverse the $1,981,989.00 in tax increment payments, $10,168,319.00 in property conveyances and a payment of $400,243.00 in bond proceeds by the El Cerrito Redevelopment Agency. Petitioners also request an Order that the self-help provisions of AB 1484 are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: On December 2, 2013, the DOJ, attorney for State Respondents, filed notice of representation of the BOE in lieu of Response to complaint. State Respondents filed their Answer to amended petition for writ of mandate and complaint for declaratory relief on the same date. On December 10, 2013, Real Party in Interest, Alameda-Contra Costa Transit District, filed its Response and Answer to amended petition for writ of mandate and complaint for declaratory relief. The State Respondents' opposition was filed on April 30, 2014. The Reply Brief was due on May 15, 2014. The hearing was scheduled for May 30, 2014. At the May 30, 2014 hearing, the judge requested Supplement Briefs, which were filed on June 27, 2014. On September 3, 2014 the trial Court issued its ruling, finding that the local sales and use tax withhold provisions of AB 1484 violate California Constitution article XIII, section 24, subdivision (b). On February 11, 2015, DOF filed an abandonment of Cross-Appeal. BOE is not participating in the appeal. On January 4, 2016, the Court of Appeal accepted the Respondents' Brief which was initially filed on December 28, 2015. The Case is now fully briefed.

FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska Corporation, v. California Department of Tax and Fee Administration
Orange County Superior Court: 30-2018-00998977-CU-WM-CJC
Filed – 06/18/18

Plaintiff's Counsel
Leighton M. Anderson – Bewley, Lassleben & Miller LLP
Joseph A. Vinatieri – Bewley, Lassleben & Miller LLP

BOE's Counsel
Suman R. Matthews

BOE Attorney
Kiren Chohan

Issue(s): Petitioner, First American Title Insurance Company, argues that it is entitled to a refund of taxes in the amount of $721,205.53 paid to CDTFA by petitioner because the elected State Board of Equalization (SBE) ordered petitioner's "claim for refund granted in part, denied in part" at SBE's December 12, 2017 hearing on petitioner's claim. Petitioner asserts that on multiple occasions it requested CDTFA to refund the amount awarded by SBE to petitioner. CDTFA filed a petition for rehearing of the SBE's December 12, 2017 decision with the Office of Tax Appeals (OTA) on April 5, 2018, which the OTA acknowledged receipt of on May 14, 2018. Petitioner argues that OTA lacks jurisdiction to reconsider a decision made by the SBE at a meeting. Petitioner asks the court for the following relief: (1) to issue a writ of mandate to compel CDTFA to implement the SBE's December 12, 2017 decision, (2) a hearing on the legal issue of whether Regulation 1660(c)(1) is invalid because it violates California Constitution Article XIII, section 28(f) or is in excess of CDTFA's jurisdiction to implement existing provisions of the Revenue and Taxation Code; and (3) a writ to compel CDTFA to vacate its regulation and to adopt a new and different regulation providing that leases of tangible personal property to exempt taxpayers are not subject to tax on any basis. Petitioner also seeks costs of suit and attorney's fees to the extent provided by law.

Audit/Tax Period: None
Amount: $721,205.53

Status: CDTFA was served with this complaint on June 18, 2018. On June 26, 2018, the Department filed a Motion to Transfer the Action to Los Angeles County Superior Court. On August 3, 2018, Petitioner filed an opposition to CDTFA's Motion to Transfer Venue to Los Angeles County Superior Court. On August 9, 2018, CDTFA filed a reply in support of CDTFA's Motion to Transfer Venue to Los Angeles County Superior Court. On August 15, 2018, the Court issued its tentative

ruling staying the action until December 3, 2018. On August 16, 2018, the court rescheduled the hearing on CDTFA's Motion to Transfer Venue to Los Angeles to be heard on October 4, 2018, and asked both parties to submit simultaneous briefs on September 24, 2018. On September 24, 2018, CDTFA and Petitioner each filed supplemental briefs on the issue of proper venue for this action at the court's request. On October 4, 2018, the court transferred venue to San Diego County, but gave petitioner until November 19, 2018 to file a petition for writ with the Court of Appeal challenging its order to transfer venue. On October 26, 2018, the court issued an order transferring this case to San Diego County Superior Court. On November 8, 2018, the Court of Appeal denied Petitioner's Petition for Writ. On December 28, 2018, the San Diego Superior Court issued a Notice of Case Assignment. CDTFA's response to the Petition is due January 28, 2019.

G-L Veneer Co., Inc. v. CA Dept. of Tax and Fee Administration, et al.
Los Angeles County Superior Court: 18STCP02878
Filed – 11/13/18

Plaintiff's Counsel
Alan G. Novodor – Law Offices of Alan G. Novodor

CDTFA's Counsel
Andrea Schoor

CDTFA Attorney
Wendy Vierra

Issue(s): Plaintiff GL-Veneer, a wholesale manufacturer of custom veneer products, contends that the CDTFA erroneously determined that certain of its sales were subject to a lumber assessment under Public Resources Code section 4629.5.

Audit/Tax Period: February 2, 2012 through October 31, 2015
Amount: $48,901.11

Status: CDTFA was served with the petition for writ of mandate in this matter on November 19, 2018. Pursuant to a stipulation between the parties, filed on December 5, 2018, CDTFA's response to the petition is due January 18, 2019.

GOLETA, CITY OF, et al. v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2013-8000521
Filed – 06/10/13

Plaintiff's Counsel
Tim W. Giles - Gibson, Dunn & Crutcher, LLP

BOE's Counsel
John Killeen

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: On July 26, 2013, the AG's office filed a notice of representation of BOE in lieu of a Response to the complaint. On November 21, 2013, Plaintiffs filed a first amended verified petition for writ of mandate, declaratory relief, injunctive relief and validation action. On November 27, 2013, Plaintiffs filed a request for judicial notice in support of their Reply Brief in support of their Motion for preliminary injunction. On December 6, 2013, the Court heard Oral Argument on Plaintiff's Motion for a preliminary injunction. The Court took the matter under submission. On December 19, 2013, Plaintiffs filed a status conference statement regarding Motion for preliminary injunction. Hearing on the petition was continued by stipulation of the parties to September 11, 2015. Hearing on the petition was further continued to November 18, 2015. Petitioners filed their Opening Brief on August 27, 2014. Department of Finance filed its Opposition and Request for Judicial Notice on October 8, 2015. On January 20, 2016, the Court issued its final ruling denying the petition. Hearing is set for September 11, 2016. On May 6, 2016, the trial Court entered judgment in favor of the BOE and Department of Finance. On May 10, 2016, Petitioners filed a Notice of Appeal. BOE is not participating in the appeal. On October 24, 2017, Appellant's Reply Brief was filed. The case is fully briefed and awaits scheduling of oral argument. Appellant filed a request to dismiss the case on September 26, 2018. On October 22, 2018, the appeal was dismissed pursuant to plaintiff/appellant's request. This case will be closed.

GTE COMMUNICATION SYSTEMS CORPORATION v. California Department of Tax and Fee Administration
San Diego County Superior Court: 37-2016-00021928-CU-MC-CTL
Fourth District Court of Appeal, Division One: D072491
Filed – 6/29/2016

Plaintiff's Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: None
Amount: Unspecified

Status: On August 15, 2016, BOE filed its Demurrer to the complaint. On October 17, 2016, Plaintiff filed its Opposition to BOE's Demurrer. On October 21, 2016, BOE filed its reply in support of its Demurrer. On October 27, 2016, the Court transferred the Case to the Hon. Judge Meyer in department C-61. A new hearing date on BOE's Demurrer will be set in that department. On November 1, 2016, the Court issued a notice of hearing setting a status conference in the matter for December 2, 2016. At the parties' December 2, 2016 status conference, the Court set the date for the hearing on the BOE's Demurrer for March 10, 2017. On March 10, 2017, the Court granted the BOE's Demurrer but with leave to amend. The amended complaint is due March 17, 2017. Anticipating another Demurrer, the Court set the hearing for May 5, 2017. On March 17, 2017, Plaintiff filed its First Amended Complaint. On April 12, 2017, BOE filed its Demurrer to GTE's First Amended Complaint. On April 24, 2017, Plaintiff filed an opposition to BOE's Demurrer. On April, 28, 2017, BOE filed a Reply Brief in support of its Demurrer. A hearing on the BOE's Demurrer is scheduled for May 5, 2017. On May 5, 2017, following Oral Argument by the parties, the Court sustained BOE's Demurrer without leave to amend. GTE filed its Notice of Appeal on June 7, 2017, and its Notice of Designation of Record on Appeal on June 16, 2017. On October 18, 2017, the State Board of Equalization's September 26, 2017, Motion to Substitute the California Department of Tax and Fee Administration in as the

Respondent on this Appeal was granted. (Gov. Code section 15570.24, subd. (b).) On January 3, 2018, Appellant's Opening Brief was filed. CDTFA's Respondent's Brief is due April 3, 2018. CDTFA filed its Respondent's Brief on April 2, 2018. Appellant filed its Reply Brief on April 16, 2018. The case is now fully briefed before the Court of Appeal. Oral Argument is scheduled for July 10, 2018. On June 13, 2018, the Fourth District Court of Appeal vacated the oral argument set for July 10, 2018. Oral argument has been scheduled for September 14, 2018. Oral argument was held on September 14, 2018 and the case was submitted. On September 24, 2018, the Fourth District Court of Appeal issued an unpublished decision affirming the trial court judgment in favor of CDTFA concluding that the plain language of Revenue and Taxation Code section 6016.5 excludes only sales of fully installed and completed telephone and telegraph lines from sales and use taxation, not the pre-installation component parts of such lines. Plaintiff/Appellant filed a petition for rehearing on October 9, 2018, which was denied by the Court of Appeal on October 12, 2018. On November 5, 2018, plaintiff filed a petition for review in the California Supreme Court, asking the Court to review the Court of Appeal's decision affirming the trial court judgment in favor of CDTFA. On December 19, 2018, the California Supreme Court denied plaintiff's petition for review in this matter.

HUNTINGTON BEACH, CITY OF, et al. v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2013-80001441
Filed – 03/15/2013

Plaintiff's Counsel
Murray O. Kane, Kane, Ballmer & Berkman

BOE's Counsel
Kim Nguyen

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: BOE's Response was filed on April 17, 2013. On October 13, 2013, State Respondents filed their objections to Petitioners' sur-reply and evidence submitted with sur-reply. Petitioners filed their Opening Brief on November 15, 2013. On December 6, 2013, Respondents filed a request for judicial notice, and a

Supplemental Reply in opposition to the petition for writ of mandate. On January 29, 2014, the trial Court issued a writ of mandate along with a declaratory judgment and a permanent injunction, directing the Department of Finance to refrain from ordering local sales and use tax offsets against the Petitioners. On April 11, 2014, the Court granted judgment for declaratory relief and a preliminary injunction against the Depart of Finance (DOF) precluding use of local sales and use tax offsets. However, the Court denied the Petition for Mandate regarding the transactions that the city asserted but that the DOF denied were enforceable obligations under the dissolution statutes.

Appeal: Petitioners filed a Notice of Appeal on June 11, 2014. Plaintiffs' Opening Brief was filed on March 20, 2015. On August 17, 2015, the Department of Finance's Respondent's Brief was filed. Briefing is now complete. Awaiting scheduling of Oral Argument. Oral argument was held on November 14, 2018. On December 3, 2018, the Court of Appeal affirmed the judgment in full in an unpublished opinion.

JAB MARINE SERVICES, LLC v. California Department of Tax and Fee Administration, Successor-in-interest to State Board of Equalization
San Diego County Superior Court: 37-2017-00028061-CU-MC-CTL
Filed – 08/22/2017

Plaintiff's Counsel
L'estrange Wright & Ergastolo
William Dysart

BOE's Counsel
Jane O'Donnell

BOE Attorney
Crystal Yu

Issue(s): Plaintiff's claim for exemption was denied and Use Tax was imposed in the amount of $34,310.92, plus interest, in the amount of 1,629.75 for a total of $35,940.67. Plaintiff seeks judgment against defendant for the sum of $44,947.70, or such larger amount as provided by law.

Audit/Tax Period: None
Amount: $44,947.70

Status: On September 11, 2017, plaintiff served the Summons and Amended Complaint on California Department of Tax and Fee Administration in this new action for refund of use taxes. On October 11, 2017, CDTFA filed an Answer to the Complaint.

KINTNER, JEREMY DANIEL v. CA. BOARD OF EQUALIZATION AND CA. DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: BC684614
Filed: 12/8/2017

Plaintiff's Counsel
Mark Bernsley, A PROF. CORP.

BOE's Counsel
Laura Robbins

BOE Attorney
Kiren Chohan

Issue(s): The Board voted 5 to 0 to predetermine the petition. Plaintiff challenges what he asserts to be a CDTFA policy of assessing and collecting from officers and shareholders of controlling closely held corporations, the amount of sales taxes collected from customers if and for any period during which the corporation's powers were suspended by the Franchise Tax Board for failure to pay franchise taxes. In addition, Plaintiff challenges the validity of CDTFA Regulation 1702.6 ("Regulation), and alleges a denial of due process. In general, plaintiff seeks the determination and declaration that (1) the Policy is invalid and cannot be implemented as it is preempted by Revenue and Taxation Code section 6829 and the Regulation; (2) the Regulation is unconstitutional and invalid and (3) plaintiff was denied due process because SBE did not consider the illegality of the Regulation during the administrative appeal, and therefore, the assessment against plaintiff for the tax liability is illegal, unconstitutional, and void. As to the underlying basis for this litigation: Plaintiff asserts that on or about May 28, 2009, the corporate powers of HK Architectural Supply, Inc. (HK Inc.), a California Corporation, were suspended. Then, on or about February 22, 2012, the Department issued a Notice of Determination against plaintiff asserting and assessing plaintiff for sales tax liability incurred by HK Inc. Plaintiff alleges that all administrative appeals and remedies in opposition to this liability have been exhausted. CDTFA denies plaintiff's allegations.

Audit/Tax Period: January 1, 2008 through December 31, 2010
Amount: Unspecified

Status: On January 23, 2018, the CDTFA's Answer was filed and served. On April 13, 2018, CDTFA filed a motion for judgment on the pleadings asserting that plaintiff's action is premature because he has not paid all taxes and penalties due, and further that BOE is not a proper defendant in this action. At the April 16, 2018, Case Management Conference, the Court set the following deadlines: Post-Mandatory Settlement Conference is November 28, 2018; Final Status Conference

is January 30, 2019; and Trial is February 11, 2019. On May 24, 2018, CDTFA filed a reply to plaintiff's opposition to CDTFA's motion for judgment on the pleadings. The hearing on CDTFA's motion is scheduled for June 1, 2018. On June 1, 2018, the Court granted CDTFA's motion for judgment on the pleadings with 20 days leave to amend on the grounds that the court does not have jurisdiction to hear this matter until plaintiff first pays his tax liability, and granted CDTFA's motion to dismiss BOE as a defendant in the action without leave to amend. On June 20, 2018, plaintiff served CDTFA with a First Amended Complaint. On July 25, 2018, CDTFA filed a Demurrer to Plaintiff's First Amended Complaint. The hearing on CDTFA's Demurrer is scheduled for September 18, 2018. On August 23, 2018, the Court, on its own motion, continued the CDTFA's Demurrer hearing from September 18, 2018 to October 29, 2018. On October 29, 2018, the trial court denied CDTFA's demurrer, in part, ruling that plaintiff may proceed under Government Code section 11350 to challenge the validity of Regulation 1702.6, but not with the refund action. On November 8, 2018, CDTFA filed an answer to Plaintiff's first amended complaint. CDTFA filed its Petition for Writ of Mandate with the Second District Court of Appeal on December 13, 2018. On December 18, 2018, the Court of Appeal granted CDTFA's request for a stay of the trial proceedings. Trial is set for February 11, 2019.

LAKEWOOD, CITY OF, et al. v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2013-80001683
Filed – 08/01/13

Plaintiff's Counsel
Holly O. Whatley - Colantuono & Levin

BOE's Counsel
Sylvia Cates

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: On November 5, 2013, Plaintiffs filed a complaint for declaratory and injunctive relief, and petition for writ of mandate. On December 13, 2013, DOJ filed an Answer on behalf of the Director of the DOF, and notice of representation of the

BOE, in lieu of Response to the complaint for declaratory and injunctive relief and petition for writ of mandate. Petitioners filed their Opening Brief on August 19, 2014. The Department of Finance's opposition was due September 8, 2014. The hearing was set for October 3, 2014. On September 8, 2014, the State Defendants filed their opposition to Petitioners' petition. Petitioners' reply was due September 18, 2014. On October 21, 2014, the trial Court denied the petition. The trial Court upheld the determination of DOF that the loans at issue were not enforceable obligations; and, thus, the proceeds were available for allocation to taxing entities pursuant to AB 1484. On January 27, 2015, judgment was entered. Petitioners had until April 1, 2015, to file their Notice of Appeal. On February 4, 2016, the Department of Finance filed its Respondent's Brief and Request for Judicial Notice. Oral Argument is scheduled for August 22, 2018. Oral Argument was held on August 22, 2018. In an unpublished opinion issued August 30, 2018, the Court of Appeal affirmed the trial court decision in favor of DOF.

LEVITZ, ALAN v. California Department of Tax and Fee Administration
San Francisco County Superior Court: CGC-17-558763
Filed – 5/09/2017

Plaintiff's Counsel
Jessie W. McCellan

BOE's Counsel
Heather Hoesterey

BOE Attorney
W. Gregory Day

Issue(s): This is an action for refund of taxes, interest and penalties for the period covering January 1, 2009, through April 10, 2009 (the "Period at Issue"). Plaintiff contends that the BOE has failed to meet the burden to prove that he willfully failed to pay the tax in dispute in violation of the Revenue and Taxation Code section 6829, and alleges that he is not personally liable for the tax in dispute. BOE denies Plaintiff's contentions.

Audit/Tax Period: January 1, 2009 through April 10, 2009
Amount: $42,000.00

Status: The deadline to file an Answer was initially June 9, 2017. The deadline to file the BOE's Answer was extended to June 26, 2017. On June 24, 2017, the BOE filed an Answer to Plaintiff's Verified Complaint. On October 17, 2017, the Court granted the Order substituting the California Department of Tax and Fee Administration (CDTFA) as the Defendant. On November 17, 2017, Plaintiff

served discovery on CDTFA through electronic service. The service was considered invalid and the parties stipulated to extend the discovery response deadline to January 19, 2018. On January 19, 2018, Plaintiff agreed to extend the Discovery Response deadline to February 17, 2018. On February 14, 2018, plaintiff agreed to extend the deadline for CDTFA's Discovery Response to March 1, 2018. On February 21, 2018, the parties agreed to a continuance of the trial date in the matter from June 11, 2018, to March 22, 2019. On February 28, 2018, plaintiff agreed to final extension of the deadline for CDTFA's Discovery Response to March 23, 2018. On March 22, 2018, the Court ordered the trial date in this matter continued to March 11, 2019. CDTFA served its responses to Plaintiff's written discovery requests on March 23, 2018. CDTFA filed and served its First Amended Answer to Plaintiff's Verified Complaint on April 10, 2018. On April 20, 2018, CDTFA served its written requests for discovery on Plaintiff. On April 23, 2018, the parties agreed to an extension of time to June 2, 2018, for plaintiff to file a motion to compel further responses to his written discovery requests, to allow a timely meet-and-confer session on the parties' disputes concerning that discovery. Discovery is in process.

LITTLEJOHN, LARRY v. Costco Wholesale Corp., et al.
San Francisco County Superior Court: CGC-13-531835
First District Court of Appeal: A144440
Filed – 8/06/2014

Plaintiff's Counsel
Daniel Berko - Law Office of Daniel Berko

BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Plaintiff seeks a refund of sales tax reimbursement on behalf of himself and a class of others paid on purchases of Ensure related products to Costco and other retailers from May 31, 2009 to the present. Plaintiff contends that Costco and other retailers improperly charged sales tax reimbursement on certain Ensure products when such products were considered food products not subject to sales tax under California's Sales and Use Tax law, including Regulation 1602. Plaintiff also alleges breach of contract and various tort claims against Costco and Abbott Laboratories.

Audit/Tax Period: May 31, 2009 to the present
Amount: Unspecified

Status: Demurrers were filed on November 4, 2014. The Case Management Conference

was held November 7, 2014. Oppositions to the pending Demurrers were due November 21, 2014, and replies were due December 9, 2014. The hearing on the Demurrers was set for December 17, 2014. On December 9, 2014, BOE filed its Reply Brief to Plaintiff's Opposition to BOE's Demurrer to the Second Amended Complaint. On December 17, 2014, the Court heard Oral Argument on BOE's Demurrer to Plaintiff's Second Amended Complaint. The Court issued a written opinion following Oral Argument in which the Court sustained BOE's Demurrer with leave to amend. Plaintiff filed his Third Amended Complaint on December 26, 2014. On January 12, 2015, BOE filed its Demurrer to Plaintiff's Third Amended Complaint, and on January 14, 2015, its Opposition to Plaintiff's Motion to Compel Costco to File a Refund Application with the BOE. BOE's Demurrer and Plaintiff's Motion to Compel were scheduled to be heard on January 21, 2015. On February 10, 2015, final judgment was entered in favor of the BOE and electronically served. Notice of Appeal was due to be filed by Plaintiff on or before April 10, 2015. On February 19, 2015, Plaintiff filed his Notice of Appeal. The appeal is in the First District Court of Appeal, Case No. A144440. On July 16, 2015, Appellant filed his Appellant's Opening Brief. The parties filed a joint stipulation to extend the BOE's time to file its Respondent's Brief. The BOE's deadline to file its Respondent's Brief was September 23, 2015. Pursuant to the stipulation of the parties, the Court granted Appellant's Motion to file an amended Appellant's Opening Brief. Appellant filed his amended Opening Brief pursuant to the Order. The BOE's Brief was due to be filed on October 26, 2015. On October 15, 2015, the BOE filed a stipulation extending the time to file its Respondents' Brief to November 18, 2015. On December 7, 2015, BOE filed its Respondent's Brief. Pursuant to a stipulation of the parties, the Court of Appeal extended Appellant's time to file its Reply Brief to January 19, 2016. On January 26, 2016, Appellant filed his Reply Brief with the Court of Appeal. On February 4, 2016, the Court concluded that the matter was fully briefed and eligible for Oral Argument. On February 9, 2016, Appellant requested Oral Argument. On August 3, 2017, the DOJ moved to substitute the California Department of Tax and Fee Administration (CDTFA) for the BOE as a Defendant in this action. On August 25, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE as a defendant in this action. On April 9, 2018, the First District Court of Appeal set oral argument on April 25, 2018. On April 11, 2018 the Court denied CDTFA's request to continue oral argument, which remains scheduled on April 25, 2018. Oral argument was held on April 25, 2018. The case was taken under submission. On July 13, 2018, the First District Court of Appeal issued a decision affirming the Superior Court ruling granting CDTFA's demurrer to plaintiff's complaint because "this case does not involve allegations of unique circumstances showing the Board has concluded consumers are owed refunds for taxes paid on sales of Ensure." On July 30, 2018, Plaintiffs/Appellants filed a Petition for Rehearing. On August 3, 2018, the Court of Appeal denied the petition for rehearing, and filed a modified opinion, with no change in its judgment. The opinion was modified as follows: BY THE COURT: It is ordered that the opinion filed herein on July 13, 2018, be modified as follows: 1. On page 2, in the first paragraph of the section entitled "BACKGROUND," the word "not" in the quotation in the second full sentence is

to be underlined, so it will now read: "not subject to sales tax." 2. On page 9, in the paragraph commencing with the words "In contrast" the fourth full sentence which beings with the words "As counsel for the Board advised this court" is deleted and the following sentence is inserted in its place : "There appear to be many such letters issued each year. On August 3, 2018, the petition for rehearing was denied. There was no change in judgment. On August 22, 2018, Appellant submitted a petition for review to the California Supreme Court. On October 19, 2018, the Supreme Court extended the time for granting or denying review in this case to November 21, 2018. On October 24, 2018, the California Supreme Court granted the petition for review but deferred further action and additional briefing pending consideration and disposition of a related issue in McClain v. Sav-On Drugs, S241471, or pending further order of the court.

LOS BANOS DESIGNATED LOCAL AUTHORITY v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2012-80001352
Filed –12/28/2012

Plaintiff's Counsel
John G. McClendon - Leibold McClendon & Mann, P.C.

BOE's Counsel
Jeff Rich

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: Some of the real parties in interest have answered the petitions. However, BOE, as a remedial defendant, has an open extension of time to respond to the petitions.

MAINSTREET ENTERPRISES v. California Department of Tax and Fee Administration
Los Angeles County Superior Court: BC648293
Filed – 01/26/2017

Plaintiff's Counsel
Michael L. Schack

BOE's Counsel
Van Nguyen

BOE Attorney
Crystal Yu

Issue(s): Plaintiff seek refund of sales and use taxes that they allegedly overpaid to the Board during the audit periods from October 1, 2008 to February 28, 2016, in the amount of approximately $384,000. Plaintiffs also contend that Board staff recklessly disregarded the Board audit procedures by failing to perform an adequate and complete audit as required by the Board's published audit manual. Plaintiffs allege that, as the consequence, they suffered significant financial losses, so they brought this action for damages under Revenue and Taxation Code section 7099 for over $2 million.

Audit/Tax Period: 10/1/2008-9/30/2011; 1/1/2012-2/28/2016
Amount: $5,000,000.00

Status: BOE's Response to Plaintiff's complaint is due April 10, 2017. On April 21, 2017, Plaintiffs filed the First Amended Complaint. On May 22, 2017, the BOE filed its Demurrer, Motion to Strike, and Request for Judicial Notice. On June 27, 2017, Plaintiffs filed the Second Amended Complaint. On July 27, 2017, CDTFA filed a Demurrer and Motion to Strike Portions of Plaintiffs' First Amended Complaint (the Second Amended Complaint was refiled as the First Amended Complaint per Court Order), Requests for Judicial Notice, and an application for change of Case title to substitute CDTFA for BOE. On August 24, 2017, CDTFA filed replies to Plaintiffs' oppositions to CDTFA's Demurrer and Motion to strike. The hearing on CDTFA's Demurrer and Motion to strike is scheduled for August 30, 2017. On August 30, 2017, the Court rescheduled the hearing on CDTFA's Demurrer and Motion to strike for September 13, 2017. On August 31, 2017 Plaintiffs served form interrogatories and request for production of documents, CDTFA's Response is due on October 2, 2017. On September 13, 2017, following Oral Argument, the court sustained the CDTFA's Demurrer to Plaintiffs' second cause of action for damages under Revenue and Taxation Code section 7099, on the grounds that plaintiffs' action was untimely. The court denied CDTFA's Demurrer as to the portion of the first cause of action relating to the first audit period; the court ruled it was an issue of fact as to whether this action was

untimely. At the conclusion of the September 13th hearing, the court agreed to the substitution of CDTFA for BOE, and indicated it would sign the formal substitution Order. On September 29, 2017, Plaintiffs filed a Second Amended Complaint per court order and a Petition for Relief from claim requirement under Government Code section 946.6. On October 10, 2017, the Court entered an Order substituting the CDTFA for the BOE in this case. On October 30, 2017, the CDTFA filed a Demurrer to plaintiffs' complaint and a Motion to Strike portions of the Complaint. On November 17, 2017, the CDTFA filed its opposition to plaintiffs' Petition for Relief from Claim Requirement. Hearings on CDTFA's demurrer and Motion to Strike, and also plaintiffs' Petition for Relief from Claim Requirements are set for January 17, 2018. On January 22, 2018, Oral Argument on CDTFA's Demurrer and Motion to Strike was held, and the Superior Court took the matter under submission. On January 24, 2018, the Court denied Defendants' Demurrer and Motion to Strike portions of the Second Amended Complaint, and granted Plaintiffs' Petition for Relief from claim requirement. The Court ordered Defendants to file an Answer to the Second Amended Complaint within 10 days. On February 2, 2018, Defendants filed an answer in response to the court's order. On March 26, 2018, CDTFA filed an Amended Answer to Plaintiffs' Second Amended Complaint. On May 23, 2018, CDTFA filed Reply to Plaintiffs' Opposition to CDTFA's motion to quash the court's jury trial order. On May 31, 2018, the Court held oral argument on CDTFA's motion to quash jury trial order. CDTFA's motion was granted and the matter has been set for bench trial on January, 9 2019. Discovery is in process. On September 16, 2018, CDTFA filed a motion for summary adjudication. Court hearing on the motion is scheduled on December 3, 2018. On October 17, 2018, CDTFA filed an opposition to Plaintiffs' motion for summary judgment/summary adjudication, supporting declarations, and evidentiary objections. At the Status Conference on October 31, 2018, the judge continued the trial date to February 1, 2019. On November 16, 2018, Plaintiffs filed a Notice of Mandatory Settlement Conference ("MSC"). A MSC was scheduled on December 18, 2018. The MSC was held on December 18, 2018.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Los Angeles County Superior Court: BC325272
Second Appellate District: B265011 and B265029
California Supreme Court: S241471
Filed – 02/24/06

Plaintiffs' Counsel
Taras P. Kick, The Kick Law Firm, APC
G. James Strenio, The Kick Law Firm, APC
Bruce R. Macleod, McKool Smith Hennigan P.C.
Shawna L. Ballard, McKool Smith Hennigan P.C

BOE's Counsel
Nhan Vu
BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement were properly collected from Plaintiffs on their purchases of glucose test strips and skin puncture lancets from Defendant retailers, or were the sales of these items exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None
Amount: Unspecified

Status: By Order dated November 17, 2007, the trial Court ruled in favor of Defendants Sav-On Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE were still pending. On July 6, 2011, the Court heard Walgreen's Motion for summary judgment or summary adjudication of issues. The Court denied summary judgment as to all issues against both Plaintiffs. The Court granted summary adjudication as to the sales of skin lancets as to both Plaintiffs and as to the sales of glucose test strips as to Plaintiff Feigenblatt. Plaintiff Feigenblatt was dismissed from the Case. Plaintiff McClain remains in the Case but only as to sales of glucose test strips. The Court did not grant summary judgment as to all causes of action because the Court is still awaiting the California Supreme Court's ruling in *Loeffler*. At the October 25, 2011 hearing, the Court continued the stay on the Plaintiffs' Motion to compel discovery and Defendants' Motion for judgment on the pleadings. On February 20, 2014, Notice of Change of Attorney was filed, substituting DAG Anthony Sgherzi for DAG Bonnie Holcomb. On June 26, 2014, parties filed a stipulation with the Court agreeing to lift the stay so that Plaintiffs' counsel could file a Motion for Leave to File a Fourth Amended Complaint. The parties agreed to allow Plaintiffs' counsel until July 28, 2014, to file the Motion. Notice of Motion and Motion for Leave to Amend Complaint, as well as a proposed draft of the

Fourth Amended Complaint, were filed on July 28, 2014. As permitted by the Court at the August 7, 2014 Status Conference, Plaintiffs filed their Fourth Amended Complaint on August 11, 2014. On October 1, 2014, BOE filed a Demurrer. Hearing was set for January 9, 2015. On November 26, 2014, Plaintiffs filed their Opposition to BOE's Demurrer to the Fourth Amended Complaint and Cross-Complaint. On December 15, 2014, BOE filed its Reply Brief in support of its Demurrer to the Fourth Amended Complaint. On February 24, 2015, following Oral Argument, the trial Court granted the Demurrers of BOE and the corporate Defendants without leave to amend. Judgment in favor of Defendants was entered on April 15, 2015.

Appeal: Plaintiffs filed their Notice of Appeal on June 11, 2015. On June 30, 2015, the Superior Court issued Notices of Default to Plaintiffs for failure to designate the record on appeal. Plaintiffs subsequently designated the record on appeal. The deadline for the Court reporter to deliver transcripts of the four hearings to the Court of Appeal was October 9, 2015. The Court was to set a briefing schedule after that date. The parties moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015. The Second District Court of Appeal, Division 8, ordered that the appeals be consolidated on October 8, 2015 (Case Nos. B265011 and B265029). On December 14, 2015, the Second District Court of Appeal issued an Order setting the due date for Plaintiff's Opening Brief as January 13, 2016. The Respondents' Briefs were due February 12, 2016. Appellants failed to file their Opening Brief on time. As a result, on February 22, 2016, the Court issued a notice that if the Briefs were not on file within 15 days after the date of this notice, or good cause shown for relief from default, the appeal would be dismissed. The Opening Brief was due on or before March 8, 2016. Appellant filed a request for extension of time to file his Appellant's Opening Brief on March 9, 2016, which was denied by the Court of Appeal. Appellant served his Opening Brief, Appendix, and a Motion to File Over length Brief on March 9, 2016. On April 22, 2016, the parties stipulated to extending Respondents' time to file their Respondents' Briefs. On July 13, 2016, the BOE filed its Respondent's Brief. On September 12, 2016, Plaintiffs/Appellants filed their Reply Brief. Briefing is now complete. On November 17, 2016, the Second District Court of Appeal transferred the matter from Division Eight to Division Two due to a recusal of the majority of the Justices in Division Eight. On December 14, 2016, the Court of Appeal scheduled the hearing in this matter for January 26, 2017. On December 16, 2016, the Court of Appeal granted the BOE's request to continue the hearing date in this matter due to a conflict with the January 26th date. On February 24, 2017, the parties presented Oral Argument on the matter before the Second District Court of Appeal. Appellants filed a Petition for Rehearing on March 30, 2017. On April 10, 2017, the Court of Appeal issued an Order modifying its earlier opinion, and denying Plaintiff's Petition for Rehearing. The Court's modified opinion continues to affirm the trial Court's prior ruling in favor of the BOE. On April 24, 2017, Plaintiffs/Appellants filed a Petition for Review. A Response, if one is to be filed, is due May 15, 2017. BOE filed a Response to Plaintiffs'/Appellants' Petition for Review on May 15, 2017. On June 14, 2017,

the Supreme Court granted Plaintiffs'/Appellants' Petition for Review. On August 14, 2017, Petitioners' Opening Brief was filed. On August 15, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE. On September 8, 2017, CDTFA requested an extension of time to file its answer brief to October 13, 2017. On September 12, 2017, the California Supreme Court extended CDTFA's time to file its Answer Brief to October 13, 2017. On October 11, 2017, the Supreme Court granted the CDTFA's Request for an Extension of Time to file the Answer Brief to November 13, 2017. On November 13, 2017, the Supreme Court granted CDTFA's request to file its Answer Brief to December 13, 2017. On December 13, 2017, the CDTFA filed its Answer Brief and a Motion for Judicial Notice. The other named Defendants and Respondents also filed their Answer Briefs on December 13, 2017. The Supreme Court granted Petitioners' request to file their Reply Brief on February 1, 2018. On February 1, 2018, the Supreme Court granted Petitioner's request extended the filing deadline for Petitioner's Reply Brief to and including March 2, 2018. On March 2, 2018, Appellants filed an application requesting permission to file an oversized Reply Brief on the merits. On March 14, 2018, Appellants filed a Reply Brief on the merits. On April 5, 2018, Public Citizen, Inc. filed an Amicus Curiae Brief in support of Appellants. The League of California Cities and the California State Association of Counties filed an Amicus Brief on April 20, 2018. Howard Jarvis Taxpayers Association filed an Amicus Brief and Request for Judicial Notice on April 20, 2018. On May 1, 2018, an amicus brief was filed by Larry LittleJohn, the plaintiff in Littlejohn v. CDTFA, a related case pending before the First District Court of Appeal (Case No. A144440). On May 21, 2018, an amicus brief was filed by Alina Beckerman, Brandon Griffith, Jenny Lee, and Charles Lisser, who are the plaintiffs in a pending class action lawsuit against the CDTFA (Sacramento County Superior Court, Case No. 34-2016-80002287). The California Supreme Court extended the time for Retailer-Respondents and CDTFA to respond to the amicus briefs filed in this case to July 30, 2018. On July 12, 2018, CDTFA filed its response to the amicus curiae briefs. On July 20, 2018, the Retailer-Respondents filed their response to the amicus briefs. On November 8, 2018, the Supreme Court set oral argument for December 5, 2018. Oral argument was held on December 5, 2018 before the California Supreme Court, and the matter taken under submission. A decision will be issued within 90 days.

MCI COMMUNICATIONS SERVICES, INC. v. California Department of Tax and Fee Administration
San Diego County Superior Court: 37-2015-000392-12-CU-MC-CTL
Fourth District Court of Appeal, Division One: D072402
Filed –12/03/15

Plaintiff's Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: None
Amount: Unspecified

Status: On December 21, 2015, Plaintiff filed a Notice of Errata, attaching to the Verified Complaint Exhibit "A", which had been omitted from Plaintiff's complaint filed on November 23, 2015. On December 23, 2015, Plaintiff granted BOE an extension to January 19, 2016, to file a Response to Plaintiff's complaint. On January 19, 2016, the BOE filed its Answer in this Case. It also filed Notices of Related Case in both Los Angeles and San Diego County Superior Courts on January 15, 2016. On January 29, 2016, the judge issued an Order recusing himself from hearing this Case. Thus, the Case was to be reassigned to another judge. The Case Management Conference of April 29, 2016, was vacated. On February 9, 2016, the Los Angeles Superior Court issued an Order relating the MCI and Verizon Services Cases. The parties were ordered to meet and confer regarding joint Discovery Orders and coordination and file a status report within 30 days. Status conference on both Cases was set for March 14, 2016. This Order results only in an assignment of both Cases to the same judge. The two actions otherwise remain separate actions. On February 22, 2016, the Court issued its Order reassigning the Case. The Case Management Conference was re-set for October 7, 2016. On July 1, 2016, the BOE granted Plaintiff an extension until July 15, 2016, to file a potential Motion to compel discovery. No Motion to compel discovery was filed. On September 1, 2016, the BOE filed its Motion for judgment on the pleadings. At the parties' October 7, 2106, Case Management Conference, the Court set the trial in this matter for January 20, 2017. The Court issued a Notice of Status Conference for December 2, 2016. On November 1,

2016, the Court issued a notice of hearing setting a status conference in the matter for December 2, 2016. At the parties' December 2, 2016 status conference, the Court took the trial off calendar and set the hearing on the BOE's Motion for judgment on the pleadings for March 10, 2017, to be heard concurrently with BOE's Demurrers in the related Cases brought by Verizon Business Purchasing, Verizon Business Network Services, and GTE Communication Systems. On March 10, 2017, the Court granted the BOE's Demurrer Motion for judgment on the pleadings but with leave to amend. The amended complaint is due March 17, 2017. Anticipating another Demurrer, the Court set the hearing for May 5, 2017. On March 17, 2017, Plaintiff filed its First Amended Complaint. On April 12, 2017, BOE filed its Demurrer to MCI's First Amended Complaint. On April 24, 2017, Plaintiff filed an opposition to BOE's Demurrer. On April 28, 2017, BOE filed a Reply Brief in support of it Demurrer. A hearing on the BOE's Demurrer is scheduled for May 5, 2017. On May 5, 2017, following Oral Argument by the parties, the Court sustained BOE's Demurrer without leave to amend. MCI filed its Notice of Appeal on June 7, 2017, and its Notice of Designation of Record on Appeal on June 16, 2017. On September 25, 2017, the California Department of Tax and Fee Administration (CDTFA) was substituted for the Board of Equalization. On November 20, 2017, the Appellant's Opening Brief and Appendix were filed. On February 16, 2018, CDTFA filed its Respondent's Brief. Appellant's Reply Brief was filed on March 5, 2018. The case is now fully briefed and awaits scheduling of oral argument. On April 3, 2018, the Fourth District Court of Appeal set oral argument for May 15, 2018. On April 12, 2018, the Fourth District Court of Appeal vacated the oral argument originally scheduled for May 15, 2018, and the matter will be recalendared for July. Oral argument is scheduled for July 10, 2018. On June 13, 2018, the Fourth District Court of Appeal vacated the oral argument set for July 10, 2018. Oral argument has been scheduled for September 14, 2018. Oral argument was held on September 14, 2018 and the case was submitted. On September 24, 2018, the Fourth District Court of Appeal issued an unpublished decision affirming the trial court judgment in favor of CDTFA concluding that the plain language of Revenue and Taxation Code section 6016.5 excludes only sales of fully installed and completed telephone and telegraph lines from sales and use taxation, not the pre-installation component parts of such lines. Plaintiff/Appellant filed a petition for rehearing on October 9, 2018, which was denied by the Court of Appeal on October 12, 2018. On October 15, 2018, CDTFA filed a request to publish the opinion. On October 24, 2018, the Court of Appeal granted publication of the opinion filed September 24, 2018. On November 5, 2018, plaintiff filed a petition for review in the California Supreme Court, asking the Court to review the Court of Appeal's decision affirming the trial court's judgment in favor of CDTFA.

MENDOTA DESIGNATED LOCAL AUTHORITY v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2012-80001353
Filed –12/23/12

Plaintiff's Counsel
John G. McClendon, Leibold McClendon & Mann, P.C.

BOE's Counsel
Jeff Rich

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: Some of the real parties in interest have answered the petitions. However, BOE, as a remedial defendant, has an open extension of time to respond to the petitions.

MERCED DESIGNATED LOCAL AUTHORITY v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2012-80001351
Filed –12/28/12

Plaintiff's Counsel
John G. McClendon - Leibold McClendon & Mann, P.C.

BOE's Counsel
Jeff Rich

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: Some of the real parties in interest have answered the petitions. However, BOE, as a remedial defendant, has an open extension of time to respond to the petitions.

MONTEREY PARK, CITY OF, et al. v. California Board of Equalization
Sacramento County Superior Court: 34-2014-80001777
Filed –03/14/2014

Plaintiff's Counsel
Mark D. Hensley - Jenkins & Hogin, LLP

BOE's Counsel
Aaron Jones

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: On March 17, 2014, Case was assigned to DAG Aaron Jones. On April 11, 2014, the BOE filed its Answer to Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. There has been no recent activity in this case.

MORSCHAUSER I
MORSCHAUSER, WILLIAM G. dba FRIAR TUCK'S BAR AND GRILLE v. California Department of Tax and Fee Administration
Los Angeles County Superior Court: BC602509
Filed –11/25/2015

Plaintiff's Counsel
Dennis N. Brager, Richard G. Stack

BOE's Counsel
Charles Tsai

BOE Attorney
Kiren Chohan

Issue(s): Plaintiff contests the denial of his claim for refund to a Notice of Determination for tax deficiency after an audit.

Audit/Tax Period: None
Amount: Unspecified

Status: On April 28, 2016, the Plaintiff agreed to give the BOE an extension to respond, until May 16, 2016. On May 13, 2016, the BOE filed a Motion to Strike certain paragraphs in Plaintiff's complaint on the grounds he had not exhausted his administrative remedies. Hearing on the BOE's Motion was set for July 27, 2016. The Case Management Conference originally scheduled for April 21, 2016, was continued by the Court to June 15, 2016. The BOE filed a Motion to Strike portions of the complaint on June 15, 2016. At the July 27, 2016, Case Management Conference, the parties stipulated to granting the Motion to Strike. On August 26, 2016, the BOE filed its Answer and Cross-Complaint for recovery of unpaid interest and penalties. The trial is scheduled for June 28, 2017. At the April 21, 2017, Status Conference, the Court continued the trail to September 20, 2017. The Mandatory Settlement Conference is scheduled for June 7, 2017, and both parties were required to file Settlement Statements with the Court by May 31, 2017. BOE filed Confidential and Non-confidential Settlement Statements on May 31, 2017. Discovery is in Progress. On August 8, 2017, the DOJ moved to substitute the California Department of Tax and Fee Administration (CDTFA) for the BOE as a Defendant in this action. On August 29, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE. On September 26, 2017, the judge dismissed the complaint without prejudice and the trial date of October 3, 2017 was taken off calendar. On October 11, 2017, Plaintiff filed a Motion for Reconsideration in response to the Order granting CDTFA's Motion. The Motion for Reconsideration is set for hearing on February 26, 2018. Any Opposition is due before February 13, 2018. The case is still dismissed. Plaintiff

state in his Motion for Reconsideration that he will file a Motion to Vacate the Dismissal Order, but Plaintiff has yet to file the Motion to Vacate. On November 22, 2017, the Plaintiff filed a Motion to Vacate Dismissal of the Complaint. Hearing is set for January 4, 2018. On December 20, 2017, CDTFA filed an Opposition to Plaintiff's Motion to Vacate the Dismissal. On December 26, 2017, Plaintiff filed a Reply to CDTFA's Opposition to Plaintiff's Motion to Vacate the Dismissal. On January 4, 2018, the County of Los Angeles Superior Court granted Plaintiff's Motion to Vacate the Dismissal of its complaint. On February 9, 2018, the CDTFA filed an opposition to Plaintiff's Motion for Reconsideration of Order Granting Defendant's Motion in Limine to Exclude Expert Testimony and Opinions of Ian Foster or any other Expert Witness. At the February 26, 2018 hearing on Plaintiff's Motion for Reconsideration of the Court's ruling on CDTFA's Motion in Limine to Exclude Expert Testimony, the court ordered further briefing on the issue and continued the hearing on the motion to April 2, 2018. The briefing schedule is as follows: Plaintiff's Brief is due March 9, 2018; CDTFA's Opposition is due March 19, 2018; Plaintiff's Reply Brief is due March 26, 2018. The Court set the trial date for January 23, 2019, and the final status conference for January 10, 2019. Plaintiff filed supplemental briefing in support of its Motion for Reconsideration of Order Granting Defendant's Motion in Limine to Exclude Expert Testimony. CDTFA filed its opposition on March 19, 2018. Plaintiff filed its reply on March 26, 2018. On March 27, 2018, the court issued a tentative ruling in favor of CDTFA granting CDTFA's Motion in Limine to Exclude Plaintiff's Expert Testimony. Court adopted its tentative ruling at the hearing on April 2, 2018. On August 13, 2018, the Court granted plaintiff's counsel Motion to Be Relieved as Counsel. Further, the court ordered both parties to participate in a mandatory settlement conference. On September 26, 2018, a mandatory settlement conference was scheduled for October 26, 2018. A mandatory settlement conference was held on October 29, 2018.

MORSCHAUSER II
MORSCHAUSER, WILLIAM G dba FRIAR TUCK'S BAR AND GRILLE v. California Department of Tax and Fee Administration
Los Angeles County Superior Court: BC677289
Filed –12/22/2017

Plaintiff's Counsel
Dennis N. Brager, Richard G. Stack

BOE's Counsel
Charles Tsai

BOE Attorney
Kiren Chohan

Issue(s): Plaintiff states the same facts, makes the same allegations, and raises the same issues and causes of action as set forth in Morschauser I that Plaintiff filed on November 25, 2015. Plaintiff filed this complaint because Morschauser I had been dismissed without prejudice on September 26, 2017. See Morschauser I.

Audit/Tax Period: 1/1/97-12/31/99; 10/1/00-6/30/01; 7/1/01-12/31/03
Amount: Unspecified

Status: On January 22, 2018, CDTFA filed a Demurrer to Plaintiff's Second Refund Action and a Motion to Strike the complaint on the grounds that the second action was time-barred by Revenue and Taxation Code Section 6933 and further that there is another action pending between the same parties on the same causes of action. The hearing on CDTFA's Demurrer and Motion to Strike is set for February 23, 2018. On January 31, 2018, pursuant to the parties' stipulation, the hearing date was continued to April 25, 2018. A Case Management Conference is scheduled for March 19, 2018. The hearing on the Demurrer and Motion to Strike was rescheduled for April 25, 2018. At the March 19, 2018 status conference, the court set the following deadlines: the Conference-Post Mediation is October 18, 2018; Final Status Conference is January 10, 2019; and Court Trial is January 23, 2019. On March 27, 2018, CDTFA renoticed its Demurrer and Motion to Strike plaintiff's complaint. Hearing is scheduled for April 25, 2018. On April 18, 2018, CDTFA filed its Reply Brief in Support of its Demurrer and Motion to Strike. The hearing on CDTFA's Demurrer and Motion to Strike portions of plaintiff's complaint was held on April 25, 2018. CDTFA's Demurrer was overruled with respect to the first cause of action for payments made by plaintiff for penalties after Morschauser I was filed that related to one entity owned by plaintiff (Friar Tuck's). CDTFA's Demurrer was sustained with respect to the second cause of action, which related to a separate entity owned by plaintiff (Arco AM/PM), and the second cause of action was dismissed without leave to amend. CDTFA's

Motion to Strike portions of the complaint was continued to June 5, 2018. The parties were ordered to meet and confer with respect to a proposed order on the CDTFA's motion to strike portions of the complaint. Furthermore, supplemental briefing is allowed to the extent permitted under the Code of Civil Procedure. All discovery has been stayed pending resolution of CDTFA's Motion to Strike portions of the complaint. On May 24, 2018, Plaintiff filed a supplemental opposition to CDTFA's Motion to Strike. On June 25, 2018, CDTFA's Motion to Strike was granted in full. On July 3, 2018, CDTFA submitted a proposed order as to the court ruling granting CDTFA's Motion to Strike in full. The court entered the order on July 13, 2018. On July 26, 2018, CDTFA filed an answer to Plaintiff's complaint. On July 31, 2018, CDTFA filed a Motion for Judgment on the Pleadings. The hearing on this motion is scheduled for October 18, 2018. On August 13, 2018, the court granted plaintiff's counsel motion to be relived as counsel. Further, the court ordered both parties to participate in a mandatory settlement conference. On September 26, 2018, a mandatory settlement conference was scheduled for October 26, 2018. A mandatory settlement conference was held on October 29, 2018.

NOVATO, CITY OF, et al. v. The California Director of Finance, et al.
Sacramento County Superior Court: 34-2013-80001496
Filed –5/22/13

Plaintiff's Counsel
Dan Slater - Rutan & Tucker

BOE's Counsel
Alexandra R. Gordon

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: BOE's Response was filed on June 28, 2013. Marin County Transit District, Real Party in Interest, filed its Response to the petition for writ of mandate and complaint for declaratory and injunctive relief on August 6, 2013. This Case

came on for hearing on March 25, 2016. The Court entered a judgment denying Novato's request for writ on May 13, 2016. Novato filed a Notice of Appeal on May 26, 2016. The Case was not selected for mediation. Novato filed its Appellants' Opening Brief on March 21, 2017. Pursuant to a stipulation between the parties, DOF's Respondents' Brief is due June 19, 2017. On June 13, 2017, the Court granted Finance's request for extension to file its Respondent's Brief in the City of Novato appeal. The new deadline is July 19, 2017. On August 17, 2017, the Department of Finance filed its Respondent's Brief. On September 6, 2017, Appellant filed its Reply Brief. The case is now fully briefed, and awaits scheduling of Oral Argument.

ONTARIO FOOD & BEVERAGES, LLC. v. Christine Baker In Her Official Capacity Only As The Director Of The State Of California Department Of Industrial Relations, David M. Lanier In His Official Capacity Only As The Secretary Of The California Labor & Workforce Development Agency, Nick Maduros In His Official Capacity Only As The Director Of The California Department Of Tax And Fee Administration, And Jacob Appelsmith In His Official Capacity Only As The Director Of The California Department Of Alcoholic Beverage Control
United States District Court, Central District CA: 5:18-cv-00753
Filed –4/13/18

Plaintiff's Counsel
Garrell Law, P.C.
Garrell, Peter E.

BOE's Counsel
Van Nguyen

BOE Attorney
John Waid

Issue(s): Plaintiff's Contentions: Plaintiff alleges that a provision in Labor Code section 350, subdivision (e), which provides that amounts paid by a patron to a dancer in a qualifying place of employment are deemed that dancer's gratuities, is unconstitutional and/or preempted by federal law. Plaintiff asserts that it has named CDTFA's Director (in his official capacity) as a defendant in the action in the interest of caution because disposition of the action may impair CDTFA's interests.

CDTFA's Contentions: CDTFA takes no position in this action.

Audit/Tax Period: None
Amount: Unspecified

Status: CDTFA's response to the complaint is due May 9, 2018. On April 27, 2018, plaintiff filed a Renewed Motion for Preliminary Injunction. A hearing is scheduled on this motion for June 4, 2018. On May 25, 2018, the Court vacated the hearing on June 4, 2018, on the motion for Preliminary Injunction and will decide it on the papers without oral argument. CDTFA's answer to the complaint is due June 1, 2018. On June 1, 2018, CDTFA filed its Motion to Dismiss Plaintiff's Complaint. On June 13, 2018, the District Court denied plaintiff's Request for a Preliminary Injunction. On June 18, 2018, plaintiff filed its opposition brief to CDTFA's Motion to Dismiss Plaintiff's Complaint. On June 22, 2018, CDTFA filed its reply brief in support of its motion. On June 26, 2018, the Court found CDTFA's motion suitable for deposition without oral argument and vacated the July 9, 2018 hearing date. On July 3, 2018, plaintiff appealed the trial court's order denying its Renewed Motion for Preliminary Injunction. On July 3, 2018, plaintiffs filed a Notice of Appeal with the Ninth Circuit Court of Appeals. On July 3, 2018, the Ninth Circuit acknowledged receipt of plaintiff's Notice of Appeal. On the same day the Court issued an order regarding the briefing schedule. The opening brief and excerpts of record are due not later than July 31, 2018; the answering brief is due August 28, 2018 or 28 days after service of the opening brief, whichever is earlier; and the optional reply brief is due within 21 days after service of the answering brief. On July 18, 2018, the District Court granted the separate motions filed by each appellee to dismiss the underlying complaint without leave to amend. On August 9, 2018, plaintiff filed a notice of appeal of the order granting the motion to dismiss. On August 13, 2018, the Ninth Circuit Court of Appeals set forth the briefing schedule on the appeal of the District Court's order on CDTFA's Motion to Dismiss. Appellant's Opening Brief is due October 10, 2018. Answering Briefs are due November 13, 2018. On August 24, 2018, the court issued an order requiring plaintiff/appellant to move for voluntary dismissal of the preliminary injunction appeal or show cause why it should not be dismissed as moot. On August 28, 2018, the CDTFA filed its answering brief regarding the denial of the preliminary injunction. On September 14, 2018, plaintiff/appellant moved to dismiss the appeal of the trial court's denial of the preliminary injunction. On November 9, 2018, plaintiff filed its Appellant's Opening Brief. On December 11, 2018, Appellants agreed to voluntarily dismiss Maduros and Appelsmith from the Appeal. The appeal will continue as to the other Respondents. CDTFA's case file will be closed.

ORTHO MATTRESS, INC. v. Bedding Pros, LLC, et al.
Los Angeles County Superior Court: BC665853
Filed – 06/21/17

Plaintiff's Counsel
Gordon & Rees LLP - Mariam, Craig J. & Hawley, James E.

BOE's Counsel
Laura Robbins

BOE Attorney
Kiren Chohan

Issue(s): This litigation arises out of Plaintiff's contention that Defendant Bedding Pros, LLC dba US-Mattress and Defendant Mattress-USA, Inc. dba US-Mattress have engaged in unfair business practices, among other things, and should be required to collect use tax for other sales made to California consumers. The Board is named as a nominal Defendant in this action.

Audit/Tax Period: None
Amount: Unspecified

Status: On July 28, 2017, a notice of reassignment and removal was filed notifying parties that this matter was removed by Defendants Bedding Pros, LLC and Mattress USA, Inc. to United States District Court for the Central District of California. Plaintiff intends to seek remand of the matter back to the State Court. On August 3, 2017, the Court granted the unopposed Motion substituting the CDTFA for the BOE. On August 7, 2017, Plaintiff filed a Motion to remand the Case back to the Los Angeles County Superior Court. The hearing on this Motion is set for September 14, 2017. On August 18, 2017, Defendants Mattress USA and Bedding Pros filed a Motion to dismiss the federal Court action, which is scheduled to be heard on September 18, 2017. On August 28, 2017, Plaintiff filed an opposition to Defendants' Motion to Dismiss, evidentiary objections, and request for judicial notice and exhibits. On August 31, 2017, Plaintiff filed a Reply Brief in support of its Motion to Remand the matter to Los Angeles Superior Court based on the amount in controversy. On September 14, 2017, the U.S. District Court for the Central District of California denied Plaintiff's motion to remand the case back to superior court based on the court's determination that the amount in controversy was met. The hearing for Defendants' motion to dismiss initially set for September 18, 2017, and the hearing on CDTFA's motion to dismiss, initially set for September 28, 2017, were both taken off calendar.

CDTFA's motion to remand will be heard on September 28, 2017. The court indicated that if CDTFA's Motion to Remand is denied, then both motions to dismiss will be re-calendared. On September 29, 2017, the Court granted CDTFA's Motion to Remand the case back to Los Angeles County Superior Court. On October 24, 2017, the Los Angeles County Superior Court issued a Notice of Receipt of Remand. On November 17, 2017, the CDTFA filed its Demurrer to plaintiff's complaint or, in the alternative, Request for Stay. On November 22, 2017, the corporate defendants filed a Motion to Quash Service and a Demurrer of their own. Hearings on all actions set for February 6, 2018. Status conference set for December 7, 2017. At the Case Management Conference (CMC) held on December 7, 2017, the Court continued the CMC to February 6, 2018, which is the hearing date set for CDTFA's demurrer. On January 29, 2018, the Court continued CDTFA's Demurrer and Bedding Pros/Mattress USA's Motion to Quash from February 6, 2018 to February 7, 2018, so that they will be heard concurrently with the Bedding Pros/Mattress USA Demurrer. On February 9, 2018, the hearing on CDTFA's Demurrer to plaintiff's complaint and defendants' Demurrer and Motion to Quash was moved to February 16, 2018. On February 16, 2018, the court adopted its tentative ruling as to CDTFA, with the court sustaining CDTFA's demurrer without leave to amend. CDTFA was named as a Nominal Defendant in this action. As to the primary Defendants, Bedding Pros LLC DBA US Mattress, et al., the tentative was to allow jurisdictional discovery related to the motion to quash for lack of subject matter jurisdiction. The Court did not reach the primary Defendants' demurrer, which is on the same grounds as CDTFA's, in addition to raising other arguments. At the hearing, counsel for the primary Defendants withdrew the motion to quash. The Court ordered the primary Defendants and Plaintiff to submit additional briefing within ten days on the issues raised in CDTFA's demurrer; the court indicated that it will consider this additional briefing before issuing a ruling. On February 24, 2018, Defendants filed a supplemental brief and a request for judicial notice to support the Defendants' demurrer. On February 24, 2018, Plaintiff filed a supplemental brief in opposition of Defendants' demurrer. The Court entered judgment in favor of the CDTFA on March 26, 2018. On April 2, 2018, the Court granted the remaining defendants' demurrer with leave to amend within 20 days. Notice of Entry of Judgment granting CDTFA's demurrer was served on April 3, 2018. Plaintiff filed an amended complaint on April 12, 2018. On April 25, 2018, defendants Bedding Pros, LLC dba US-MATTRESS, a Michigan Limited Liability Company, and Mattress USA, Inc. dba US-Mattress, removed this case to federal court. Defendants filed an answer to Plaintiff's First Amended Complaint on May 2, 2018. CDTFA is no longer a party to this pending action.

REDWOOD CITY, CITY OF v. The State of California
Sacramento County Superior Court: 34-2012-80001447
Filed – 03/22/13

Plaintiff's Counsel
Iris Yang - Best & Krieger, LLP

BOE's Counsel
Jonathan Eisenberg

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of Assembly Bill 1484 AB 1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: BOE's Response was filed on April 25, 2013. On October 31, 2013, the Court tentatively denied Petitioner's petition for writ of mandate. On November 22, 2013, Petitioners filed a Supplemental Brief in support of petition for writ of mandate. On January 4, 2014, the Court issued an Order denying the petition for writ of mandate.

Appeal: On April 29, 2014, Petitioners filed a Notice of Appeal. The BOE is not participating in the Appeal. The Case has been fully briefed. The parties are waiting for the Court of Appeal to set a date for Oral Argument.

SAN JOSE CANNABIS BUYER COLLECTIVE, LLC. v. California Department of Tax and Fee Administration
Sacramento County Superior Court: 34-2017-80002729
Filed – 11/06/2017

Plaintiff's Counsel
Law Office of Lerman, Editte D.

BOE's Counsel
Mike Sapoznikow

BOE Attorney
Kiren Chohan

Issue(s): Petitioner contends: Petitioner seeks declaratory relief to set aside CDTFA's decision denying its claim for refund related to the 2009-2010 tax year.

CDTFA position: Taxpayer's claim for refund was properly denied. Also, taxpayer should have brought a refund action and not a petition for writ of mandate when challenging CDTFA's denial of a claim for refund.

Audit/Tax Period: 2009/2010
Amount: Unspecified

Status: On January 22, 2018, CDTFA filed a demurrer to petitioner's petition on the basis that (1) a refund action is the exclusive means by which a taxpayer may seek a tax refund, and the Petition for Writ of Mandate is improper; (2) petitioner failed to exhaust its administrative remedies for the period at issue; and (3) petitioner has not yet paid its taxes in full and, therefore, may not pursue a refund action. The hearing on CDTFA's Demurrer was rescheduled to July 27, 2018. Plaintiff's opposition is due on July 16, 2018, and CDTFA's reply is due on July 20, 2018. The hearing on CDTFA's Demurrer was rescheduled for August 24, 2018. On August 13, 2018, SJCBC filed its opposition to CDTFA's demurrer to SJCBC's petition. On August 15, 2018, the parties stipulated and jointly requested a court order that : (1) the August 24, 2018 hearing on CDTFA's demurrer be vacated, (2) this case be reassigned to Department 39 for Case Management and Department 53 for Law and Motion, (3) SJCBC may file an amended complaint on or before August 30, 2018, and (4) CDTFA may file a demurrer or other appropriate responsive pleading on or before September 20, 2018, and the scope of any demurrer by CDTFA is not limited in any way by CDTFA's January 22, 2018 demurrer. On August 23, 2018 the Court signed the parties' stipulation. On August 29, 2018, SJCBC filed a first amended complaint. CDTFA's response is due September 20, 2018. On September 20, 2018, CDTFA filed a Demurrer to Plaintiff's First Amended Complaint. On October 16, 2018, plaintiff filed an opposition brief which was due on October 12, 2018. On October 18, 2018, CDTFA filed a reply brief in support of its demurrer. The hearing on CDTFA's demurrer was held on October 25, 2018, and the trial court denied CDTFA's demurrer. CDTFA filed its answer to Plaintiff's first

amended complaint on November 5, 2018. Discovery is ongoing.

VERIZON BUSINESS NETWORK SERVICES, INC. v. California Department of Tax and Fee Administration
San Diego County Superior Court: 37-2016-0001941-CU-MC-CTL
Fourth District Court of Appeal, Division One: D072427
Filed –6/29/2016

Plaintiff's Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: None
Amount: January 1, 2003 – December 31, 2005

Status: On August 15, 2016, BOE filed its Demurrer to the complaint. Plaintiff filed its Brief in opposition on October 17, 2016. On October 21, 2016, BOE filed its reply. Hearing on the BOE's Demurrer was scheduled for October 28, 2016. On October 28, 2016, the Court transferred the matter to Courtroom C-61, to have the matter heard by the Hon. John Meyer. The Court instructed the BOE to obtain a new hearing date for its Demurrer from Judge Meyer. On November 1, 2016, the Court issued a notice of hearing setting a status conference in the matter for December 2, 2016. At the parties' December 2, 2016 status conference, the Court set the date for the hearing on the BOE's Demurrer for March 10, 2017. On March 10, 2017, the Court granted the BOE's Demurrer but with leave to amend. The amended complaint is due March 17, 2017. Anticipating another Demurrer, the Court set the hearing for May 5, 2017. On March 17, 2017, Plaintiff filed its First Amended Complaint. On April 12, 2017, BOE filed its Demurrer to Verizon Business Network's First Amended Complaint. On April 24, 2017, Plaintiff filed an opposition to BOE's Demurrer. On April 28, 2017, BOE filed a Reply Brief in support of its Demurrer. A hearing on the BOE's Demurrer is scheduled for May

5, 2017. On May 5, 2017, following Oral Argument by the parties, the Court sustained BOE's Demurrer without leave to amend. Verizon Business Network filed its Notice of Appeal on June 7, 2017, and its Notice of Designation of Record on Appeal on June 16, 2017. On September 28, 2017, the Court of Appeal extended the deadline for Plaintiff to file its Opening Brief to December 11, 2017.On October 17, 2017, the State Board of Equalization's Motion to Substitute the California Department of Tax and Fee Administration in its place as the respondent in this Action was granted. On December 8, 2017, Plaintiff filed its Opening Brief. CDTFA's Respondent's Brief filed March 22, 2018. Appellant's Reply Brief filed March 27, 2018. Case fully briefed. On June 13, 2018, the Fourth District Court of Appeal vacated the oral argument set for July 10, 2018. Oral argument has been scheduled for September 14, 2018. Oral argument was held on September 14, 2018 and the case was submitted. On September 24, 2018, the Fourth District Court of Appeal issued an unpublished decision affirming the trial court judgment in favor of CDTFA concluding that the plain language of Revenue and Taxation Code section 6016.5 excludes only sales of fully installed and completed telephone and telegraph lines from sales and use taxation, not the pre-installation component parts of such lines. Plaintiff/Appellant filed a petition for rehearing on October 9, 2018, which was denied by the Court of Appeal on October 12, 2018. On November 5, 2018, plaintiff filed a petition for review in the California Supreme Court, asking the Court to review the Court of Appeal's decision affirming the trial court judgment in favor of CDTFA. On December 19, 2018, the California Supreme Court denied plaintiff's petition for review in this matter.

VERIZON BUSINESS PURCHASING LLC v. California Department of Tax and Fee Administration
San Diego County Superior Court: 37-2016-00021936-CU-MC-CTL
Fourth District Court of Appeal, Division One: D072527
Filed –06/29/16

Plaintiff's Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: October 1, 2008 – December 31, 2011
Amount: Unspecified

Status: On August 15, 2016, BOE filed its Demurrer to the complaint. On November 1, 2016, the Court issued a notice of hearing setting a status conference in the matter for December 2, 2016. At the parties' December 2, 2016 status conference, the Court set the date for the hearing on the BOE's Demurrer for March 10, 2016. On February 27, 2017, Plaintiff filed its Brief in opposition to the BOE's Demurrer. On March 10, 2017, the Court granted the BOE's Demurrer but with leave to amend. The amended complaint is due March 17, 2017. Anticipating another Demurrer, the Court set the hearing for May 5, 2017. On March 17, 2017, Plaintiff filed its First Amended Complaint. On April 12, 2017, BOE filed its Demurrer to Verizon Business Purchasing's First Amended Complaint. On April 24, 2017, Plaintiff filed an opposition to BOE's Demurrer. On April 28, 2017, BOE filed a Reply Brief in support of its Demurrer. A hearing on the BOE's Demurrer is scheduled for May 5, 2017. On May 5, 2017, following Oral Argument by the parties, the Court sustained BOE's Demurrer without leave to amend. Verizon Business Purchasing filed its Notice of Appeal on June 7, 2017, and its Notice of Designation of Record on Appeal on June 16, 2017. On October 17, 2017, the Board of Equalization's Motion to Substitute the California Department of Tax and Fee Administration in its place as the respondent in this action was granted. On December 21, 2017, Plaintiff filed its Opening Brief. CDTFA's Reply Brief is due March 21, 2018. CDTFA's Respondent's Brief filed March 22, 2018. Appellant's Reply Brief filed March 27, 2018. Case fully briefed. Oral argument is scheduled for July 10, 2018. On June 13, 2018, the Fourth

District Court of Appeal vacated the oral argument set for July 10, 2018. Oral argument has been scheduled for September 14, 2018. Oral argument was held on September 14, 2018 and the case was submitted. On September 24, 2018, the Fourth District Court of Appeal issued an unpublished decision affirming the trial court judgment in favor of CDTFA concluding that the plain language of Revenue and Taxation Code section 6016.5 excludes only sales of fully installed and completed telephone and telegraph lines from sales and use taxation, not the pre-installation component parts of such lines. Plaintiff/Appellant filed a petition for rehearing on October 9, 2018, which was denied by the Court of Appeal on October 12, 2018. On November 5, 2018, plaintiff filed a petition for review in the California Supreme Court, asking the Court to review the Court of Appeal's decision affirming the trial court judgment in favor of CDTFA. On December 19, 2018, the California Supreme Court denied plaintiff's petition for review in this matter.

VERIZON CALIFORNIA INC. v. California Department of Tax and Fee Administration
Sacramento County Superior Court: 34-2016-00196022-CU-MC-GDS
Third District Court of Appeal: C084551
Filed – 06/15/2016

Plaintiff's Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: July 1, 2000-December 1, 2011
Amount: $19,613.34

Status: On August 15, 2016, BOE filed its Demurrer to the complaint. On September 9, 2016, BOE filed a reply in support of its Demurrer. The hearing on the BOE's Demurrer set for September 16, 2016, was continued on the Court's own Motion to October 21. The hearing on the Demurrer was rescheduled for October 31, 2016. On October 31, 2016, on the Court's own Motion, the BOE's Demurrer to Verizon California, Inc.'s First Amended Compliant was continued to December 2, 2016, on the grounds that the declaration in support of the meet and confer efforts does not comply with Code of Civil Procedure section 430.41. After the tentative ruling posted, counsel for Plaintiff filed a Peremptory Challenge pursuant to Code of Civil Procedure section 170.6 as to Judge David I. Brown. Judge Cadei having previously disqualified himself pursuant to Code of Civil Procedure section 170.1, the Case was ordered transferred to the Presiding Judge for assignment. On November 15, 2016, the Court continued the hearing on the BOE's Demurrer while it considered whether the Demurrer was stayed by Plaintiff's filing of a Motion to Transfer Venue. The Court requested the parties provide briefing on the issue of the stay. On November 17, 2016, Plaintiff filed a request to withdraw its Motion to Transfer Venue. The Court reset the hearing on BOE's Demurrer to December 7, 2016. On December 9, 2016, the Court sustained the BOE's Demurrer with leave to amend. On December 21, 2016, Plaintiff filed a second amended complaint. The BOE's Response is due on January 19, 2017. On January 19, 2017, the BOE filed its Demurrer to Plaintiff's second amended complaint. A hearing on the Demurrer is set for February 22, 2017. On February 14, 2017, the BOE filed a reply in support of its Demurrer.

On February 21, 2017, the Court rescheduled the hearing on the BOE's Demurrer, set for February 22, 2017, to March 14, 2017. On March 13, 2017, the Court issued a tentative ruling in favor of the BOE, sustaining the BOE's Demurrer to Plaintiff's Second Amended Complaint. On March 24, 2017, the Court entered an Order affirming its tentative ruling in favor of the BOE. The judgment of dismissal as to the BOE was filed on April 20, 2017. Plaintiff filed its notice of appeal on April 21, 2017. On August 4, 2017, pursuant to the Plaintiff's request, the Court of Appeal granted an extension for Plaintiff/Appellant Verizon California to file its Opening Brief to October 16, 2017. On September 27, 2017, the Third District Court of Appeal granted the State Board of Equalization's Motion to Substitute the California Department of Tax & Fee Administration for itself as a party. On October 16, 2017, plaintiff filed its Opening Brief on Appeal. On January 16, 2018, CDTFA filed its Respondent's Brief. Plaintiff and Appellant, Verizon California, filed its Reply Brief on January 31, 2018. Case fully briefed. On June 8, 2018, Appellant made the following substitution with new legal representative Douglas Mo. The case is fully briefed and awaits scheduling of oral argument.

VERIZON SERVICES CORP. v. California Department of Tax and Fee Administration
Los Angeles County Superior Court: BC602156
Second District Court of Appeal: B282170
Filed – 12/01/2015

Plaintiffs' Counsel
Douglas Mo, Sutherland Asbill & Brennan

BOE's Counsel
Ron Ito

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6016.5 excludes such items as completed telephone cables, conduit, and poles from the definition of "tangible personal property."

Audit/Tax Period: None
Amount: Not Specified

Status: On December 21, 2015, Plaintiff filed a Notice of Errata, attaching to the Verified Complaint Exhibit "A", which had been omitted from Plaintiff's complaint filed on November 23, 2015. On December 23, 2015, Plaintiff granted BOE an extension to January 19, 2016, to file a Response to Plaintiff's complaint. On January 15, 2016, the BOE filed its answer. On February 9, 2016, the Los Angeles Superior Court issued an Order relating the MCI and Verizon Services Cases. The parties were ordered to meet and confer regarding joint discovery orders and coordination, and file a status report within 30 days. The status conference on both Cases was set for March 14, 2016. This Order resulted only in an assignment of both Cases to the same judge. The two actions otherwise remain separate actions. On February 22, 2016, the Court issued its Order reassigning the Case. The Case Management Conference was re-set for October 7, 2016. The Joint Case Management Conference Statement was filed on February 26, 2016. The Court held a Case Management Conference on March 14, 2016. At the conference, the Court amended its prior Order relating this Case with the MCI refund action and related the Cases for discovery purposes only. The Court set the next Case Management Conference for October 11, 2016. On June 30, 2016, the BOE granted Plaintiff an extension until July 15, 2016, to file a potential Motion to compel discovery. Plaintiff has not filed a Motion to compel discovery. On August 12, 2016, Plaintiff filed a Notice of Motion of Summary Judgment. Due to a scheduling conflict, Plaintiff requested a continuance of the October 25th hearing date. The BOE agreed and continued the hearing on its Motion for Judgment on the Pleadings to November 16, 2016. On September 22,

2016, the BOE filed its Motion for Judgment on the Pleadings. Hearing is set for October 25, 2016. On November 8, 2016, the BOE filed its Reply Brief in support of its Motion for judgement on the pleadings. On November 16, 2016, the Court issued a tentative ruling granting the BOE's Motion for judgement on the pleadings without leave to amend. The Court continued the hearing on the matter to November 30, 2016. The Court continued the November 30th hearing on the BOE's Motion for Judgment on the pleadings to January 4, 2017. On January 4, 2017, the Court granted the BOE's Motion for judgment on the pleadings. The BOE filed a proposed judgment on dismissal on January 11, 2017. On February 3, 2017, the Court issued an Order granting judgment in favor of the BOE following its earlier Order granting the BOE's Motion for judgment on the pleadings. On February 22, 2017, the BOE served its Notice of Entry of Judgment in favor of the BOE. Plaintiff's deadline to appeal the judgment is April 24, 2017. Plaintiff filed a Notice of Appeal on April 19, 2017. On August 23, 2017, Plaintiff/Appellant filed a stipulated request for an extension to November 13, 2017, to file its Appellant's Opening Brief. On August 29, 2017, the appeals court granted CDTFA's motion to be substituted for the BOE. The Appeal has been assigned to Division 8. On November 13, 2017, the Appellant's Opening Brief was filed. CDTFA's Reply Brief is due February 13, 2018. CDTFA's Respondent's Brief filed February 13, 2018. Appellant's Reply Brief filed March 5, 2018. Case fully briefed. On April 27, 2018, oral argument was scheduled for May 24, 2018. On May 16, 2018, at appellant's request, oral argument was continued to June 29, 2018. On May 30, 2018, on the court's own motion, oral argument was rescheduled to June 28, 2018. On June 8, 2018, Appellant Verizon Services Corporation made the following substitution with new legal representative Douglas Mo. Attorney Eric S. Tresh will appear pro hac vice for Appellant. Oral argument was held on June 28, 2018, and the Court took the matter under submission. On July 19, 2018, the Court of Appeal issued a non-published decision in favor of CDTFA finding that Verizon's sales and purchases of component parts (i.e., cable, conduit, and poles) used in the construction and repair of its telephone lines were subject to tax and were not excluded from the definition of tangible personal property by Revenue and Taxation Code section 6016.5. On August 7, 2018, CDTFA filed a request to publish the Court of Appeal's opinion. On August 14, 2018, Verizon Services filed an opposition to CDTFA's request to publish the Court of Appeal's opinion. On August 28, 2018, Verizon Services filed a petition for review with the California Supreme Court. The Supreme Court denied Plaintiff/Appellant's Petition for Review. The Supreme Court denied CDTFA's Request for Publication of the Court of Appeal decision. This case will be closed.

WOOSLEY, CHARLES PATRICK v. The State of California
Los Angeles County Superior Court: CA000499
Second District Court of Appeal: B113661
Filed – 06/20/78

Plaintiff's Counsel
James M. Gansinger - Gansinger, Hinshaw

BOE's Counsel
Diane Spencer-Shaw

BOE Attorney
Sharon Brady Silva

Issue(s): Whether the taxpayer is entitled to a refund of the vehicle license fee (Revenue and Taxation Code sections 10753 and 10758) and use tax imposed.

Audit/Tax Period: None
Amount: $1492.00

Status: Supreme Court of CA. On July 21, 2010, the California Supreme Court denied Woosley's Petition for Review. As no further appeals may be taken from the appellate decision, the Case will be remanded to the trial Court to make further determinations in accordance with the appellate Court's decision. Remittitur issued on August 3, 2010.

Trial Court: Woosley filed his Brief on August 22, 2011. The hearing was held on November 15, 2011, and was continued to conclude arguments regarding the first attorney's fee issue. A hearing was scheduled to begin on January 23, 2012 concerning the second and third attorneys' fees issues. Arguments as to the first, second, and, third attorney's fees issues were continued to March 1, 2012, and completed. On October 11, 2012, the Court issued a Minute Order to reassign the Case to a new judge. On October 25, 2012, Plaintiff filed a petition challenging the reassignment. The State's opposition was filed on November 30, 2012. The superior Court vacated its decision on February 5, 2013, and set a further hearing on February 13, 2013. On February 14, 2013, the superior Court assigned the matter back to the judge who conducted the hearing in 2011 and 2012. A final status conference took place on January 8, 2014. Hearing was held on May 16, 2014, concerning fees through 2008, with post-trial briefs to be filed by July 10, 2014. Parties' post-trial briefs were submitted in early July. Issues of attorneys' fees through 2008 awaited the Court's decision. On August 27, 2014, the trial Court issued a tentative ruling concerning attorney's fees awards covering the time period 1978 to 2006. The ruling reduced the original trial Court decision awarding over $24 million in attorney's fees, costs and interest to a total award of

slightly over $2.6 million. The decision was to become final fifteen (15) days from August 27, 2014 unless any party lodges objections. After the decision regarding attorney's fees awards for the period 1978-2006 is final, the Court will conduct proceedings concerning attorney's fees claims after 2006. On December 9, 2014, the judge issued a Judgment on Fees after Remand adopting the findings in the October 29, 2014 decision. On the same date, the judge also approved the stipulated briefing schedule of the parties on the remaining attorney's fees issues, with Motions for Fees and Expenses to be filed by February 17, 2014, Responses to Motions for Fees and Expenses by May 8, 2014, and Replies to Responses to Motions for Fees and Expenses by June 9, 2015. A hearing date was to be set after briefing is completed. On December 23, 2014, an Order issued making Stephanie Boswick the trial judge for the remaining issues, effective January 5, 2015. On January 15, 2015, class counsel Gansinger filed a notice of appeal concerning the December 9, 2014 decision. The State's oppositions were filed on May 27, 2015. The hearing was set for July 16, 2015; a new judge was assigned. Gansinger and Woosley filed their replies to the State's oppositions to the fee petitions on June 24, 2015. Hearing scheduled for July 16, 2015 was continued on the Court's own Motion to September 22, 2015.

Appeal: Concerning the pre-2006 attorney's fees decision now on appeal, on September 2, 2015, Appellant Woosley filed a notice of omissions concerning addition records. Based on this filing, the Appellate Court ordered the Case briefing stayed pending filing of the supplemental records. Appellant's Brief will be due 30 days from the date of the filing of the supplemental record. Hearing on post-2005 attorney's fees began on September 22, 2015, but was continued to November 4, 2015, with initial issue to be determined being whether Plaintiffs' counsels are prevailing parties. The hearing on the post-2006 attorneys' fees was taken under submission as of November 20, 2015. Concerning the pending appeal on the pre-2006 attorneys' fees, Gansinger made a Motion to augment the record on appeal to include documents that he failed to designate. The Motion was granted. On December 2, 2015, Gansinger filed a second appellate Motion to augment the record concerning records misplaced by the Superior Court clerk. The briefing was not to commence until the Court of Appeal stated that the record was complete. On February 11, 2016, the trial Court issued an Order awarding approximately $805,000 total to the various Plaintiffs' firms in additional attorneys' fees, and $5750 in costs. On June 2, 2016, the BOE filed a notice of appeal regarding the attorneys' fees decision. On June 24, 2016 Woosley filed a Cross-Appeal. The June 30, 2016 deadline to file briefs was extended to July 27, 2016. Oral Arguments on the pre-2006 fees appeal will take place February 7, 2017. Defendant's Brief on the post-2006 fees appeal is due on February 7, 2017. Oral Argument on the pre-2006 fees appeal took place February 7, 2017. Appellate decision on the pre-2006 fees is to be issued by May 1, 2017. Defendant's Brief on the post-2006 fees appeal was filed February 7, 2017. On April 24, 2017, the Appellate Court issued a decision on the pre-2006 attorney's fees. The Appellate Court upheld the trail Court's finding on most issues, but did remand the Case back to the trail Court for further proceedings, to allow the Busetti law firm representatives to submit additional evidence, and to adjust the

Gansinger firm's lodestar figure as to work expended on the pre-1985 fee application. All other trial Court findings were upheld. On June 5, 2017, Plaintiff Woosley filed an appeal with the California Supreme Court concerning the pre-2006 attorney's fee awards. Remittitur issued on July 5, 2017, partially remanding to the trial Court for a consideration of additional attorney fees. Nothing has been scheduled yet with respect to the remand. On August 4, 2017 and August 17, 2017, Plaintiffs Busetti and Woosley, respectively, each filed motions in the trial Court for attorneys' fees related to time spent on the last appeal. On August 17, 2017, plaintiff Woosley filed a petition for fees covering January 2015 onwards. The matter was heard on December 11, 2017. On December 11, 2017, the Court issued a Ruling denying Woosley's request for fees. The AGO served the December 11, 2017 Ruling on the Parties on January 4, 2018. On August 21, 2017, the State of California filed a Reply Brief regarding the post-2006 Appeal. Oral Argument regarding the post 2006 Fees Appeal took place on October 30, 2017. On November 3, 2017, the Appellate Court issued an unpublished decision concerning the AGO's appeal of the post-2014 "fees on fees" awarded by the trial court and Woosley's cross-appeal concerning the same decision. The appellate decision upheld the trial court decision, finding that the trial court did not abuse its discretion by not reducing the "fees on fees" award for lack of success, and that the award of fees to Woosley was appropriate. The hearing for Busetti's August 4, 2017 petition for appellate attorney's fees was held on December 7, 2017. The Court ordered fees as on January 2, 2018; order served on January 8, 2018. On December 21, 2017, Gansinger and counsel for Busetti filed a joint motion for attorney's fees and to reopen the prior attorney fee matter, concerning matters the appellate court ordered to be addressed on remand. On February 2, 2018, Gansinger and counsel for Busetti filed a joint motion for "final" attorney's fees covering February 2015 onwards. The December 21, 2017 petition was originally scheduled to be heard on January 24, 2018, but was consolidated to be heard with the February 2, 2018 petition on March 26, 2018. The court continued the hearings to May 31, 2018. The May 31, 2018 hearing was continued to June 19, 2018. The case has settled. This case will be closed.

Sales and Use Tax
LITIGATION ROSTER
DECEMBER 2018

CLOSED CASES

Case Name	Case Number
BARRETT, JAMES	B276619
VERIZON SERVICES CORP. v CDTFA	B282170
WOOSLEY, CHARLES PATRICK	CA000499

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