

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

APRIL 2017

**Franchise and Income Tax
APRIL 2017**

NEW CASES

Case Name
NONE

Court/Case Number

CLOSED CASES

Case Name
NONE

Court/Case Number

Please refer to the case roster for more detail regarding new and closed cases

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GILBERT P. HYATT v. JOHN CHIANG, JEROME E. HORTON, AND MICHAEL COHEN, CALIFORNIA FRANCHISE TAX BOARD MEMBERS; BETTY T. YEE, GEORGE RUNNER, MICHELLE STEEL, JEROME E. HORTON, AND JOHN CHIANG, CALIFORNIA STATE BOARD OF EQUALIZATION MEMBERS; AND DOES 1 THROUGH 20

USDC, Eastern Dist. CA: 2:14-CV-00849-GEB-DAD
Filed – 04/04/2014

Plaintiff's Counsel

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UC Irvine School of Law

BOE's Counsel

Kerr & Wagstaffe LLP

BOE Attorney

Crystal Yu

Issue(s): Whether the federal court is barred by the Tax Injunction Act, 28 U.S.C. 1341, from hearing the taxpayer Hyatt's claim for an injunction forbidding Defendants, Members of the Board and FTB, from continuing the investigation and administrative proceedings against him, and forbidding Defendants from continuing to assess or threaten to assess him, or collect or threaten to collect from him taxes, penalties or interest.

Audit/Tax Period: 1991 and 1992

Amount: \$0.00

Status: October 3, 2014, the BOE's Reply In Support of Motion to Dismiss For Lack of Jurisdiction and for Failure to State a Claim was filed. On February 10, 2015, the Federal District Court granted BOE's and FTB's Motions to Dismiss for lack of subject matter jurisdiction, without leave to amend. On February 18, 2015, Hyatt filed a Notice of Appeal in the Ninth Circuit Court of Appeals. On August 28, 2015, BOE filed an Answering Brief in the Ninth Circuit Court of Appeals. On October 14, 2015, Hyatt filed a Reply Brief. On April 19, 2016, on a related case, the U.S. Supreme Court, on a 4-4 vote, upheld Hyatt's right to sue the Franchise Tax Board in Nevada state court. The Court also ruled that under Nevada law, Hyatt's damage claim against the Franchise Tax Board would be limited to a maximum of \$50,000. On September 30, 2016, the Ninth

Circuit Court of Appeals considered this case for the 2017 oral argument calendar. On December 7, 2016, the Ninth Circuit Court of Appeals issued a notice of oral argument. The case will be argued on February 17, 2017 in San Francisco. On February 17, 2017, the case was argued at the Ninth Circuit Court of Appeals before a three-justice panel.

On February 24, 2017, the Court invited the parties to move for judicial notice of documents. On March 17, 2017, the SBE and FTB filed separate motions to take judicial notice of records. On March 24, 2017, Hyatt filed motion to extend time to file a response until April 7, 2017. On March 28, 2017, on a related Nevada case, the Nevada Supreme Court scheduled an oral argument on May 2, 2017. On March 29, 2017, the Court granted Hyatt's motion to extend time to file an opposition to the SBE and FTB's request for judicial notice. On April 14, 2017, the FTB and SBE each filed a Reply to Hyatt's opposition to their motions to take judicial notice.

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DISCLAIMER

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