

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

MARCH 2016

**Franchise and Income Tax
MARCH 2016**

NEW CASES

Case Name

Court/Case Number

NONE

CLOSED CASES

Case Name

Court/Case Number

NONE

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:
1:14-CV-00849-GEB-DAD
Filed – 4/04/2014

Plaintiff's Counsel

Malcolm Segal, Segal & Associates, PC
Donald J. Kula, Perkins Cole, LLP
UC Irvine School of Law

BOE's Counsel

Kerr & Wagstaffe LLP

BOE Attorney

John Waid

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.

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None

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