LITIGATION ROSTER

SALES AND USE TAX

SEPTEMBER 2016

Sales and Use Tax
SEPTEMBER 2016

NEW CASES

Case Name	Court/Case Number
GREGORY, STEPHEN	Los Angeles County Superior Court BC627949

CLOSED CASES

Case Name	Court/Case Number

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

Sales and Use Tax

LITIGATION ROSTER

SEPTEMBER 2016

ATAYA'S MOTORS v. Board of Equalization
Sacramento County Superior Ct: 16 SWO1132
Filed – 07/29/16

Plaintiff's Counsel

BOE's Counsel
Robert E. Asperger

BOE Attorney
Jeffrey Graybill

Issue(s): The BOE seized vehicle titles belonging to Ataya's Motors. Without these titles, Ataya's Motors is unable to conduct any new vehicle sales or complete vehicle sales begun before BOE executed the search warrant.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE and the taxpayer stipulated to the terms of two orders directing the BOE to return original titles and title-related documents, while retaining copies that may be used as evidence in any criminal proceeding.

JAMES G. BARRETT v. California Dept. of ABC, et al.
Los Angeles County Superior Court Case No. ECU08527
Filed – 03/05/15

Plaintiff's Counsel
Pro Se

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra
John Waid

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 Board 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 Board filed its Reply Brief in support of its Motion to Transfer Venue. The court continued the April 22, 2015, hearing on the Board's Motion to Transfer Venue to May 6, 2015 to allow the Board 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 Board 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 Board'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 Board'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.

ALINA BEKKERMAN; BRANDON GRIFFITH; JENNY LEE; AND CHARLES LISSER v. California Board of Equalization and DOES 1 to 20, inclusive

Sacramento Superior Court Case No. 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 August 10, 2016, the court signed the order approving the parties' stipulation to continue the hearing on the merits to June 2, 2016.

ALINA BEKKERMAN; BRANDON GRIFFITH; JENNY LEE; AND CHARLES LISSER v. California Board of Equalization et al.

Sacramento Superior Court Case No. 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 retailer 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, 2015, 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.

BELLFLOWER, CITY OF, et al. v. State of California
Sacramento Superior Court Case No. 34-2012-80001269
Filed – 09/19/12

Plaintiff's Counsel
Michael G. Colantuono - Colantuono & Levin

BOE's Counsel
Kathleen Lynch

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case. BOE filed its response on October 25, 2012. On November 9, 2012, the Court denied a notice by Respondents/Defendants to re-assign this case with League of California Cities, et al., under a single judge. The court agreed there are common legal issues but each have their own unique claims and questions of law and fact. On October 4, 2013, the parties filed their supplemental briefs. On November 7, 2013, the court issued its ruling that the local sales and use tax withholding provisions of AB 1484 do not conflict with Propositions 1A and 22. The court also concluded that Propositions 1A and 22 do not prohibit the withholding of property tax revenues owed to successor agencies because, by their terms, neither proposition applies to successor agencies. Petitioners filed a Notice of Appeal on February 5, 2014. On April 16, 2014, the League of California Cities filed a motion to partially consolidate its appeal, in which BOE is no longer a party, with the Bellflower appeal, in which BOE is still a party. The League of Cities sought assignment to the same appellate panel and concurrent briefing and argument. Petitioners' Appellants' opening brief was filed August 7, 2014. DOF filed its Respondent's Brief on November 18, 2014. The Third District Court of Appeal granted the petitioners' requests to consolidate the Bellflower and League of Cities appeals. Oral argument was held in the Court of Appeal on February 16, 2016. The court took the appeal under submission. On March 3, 2016, Third District Court of Appeal issued a ruling in favor of plaintiff cities. The court ruled that the self-help provisions of AB 1484, by which the Department of Finance (DOF) could order BOE to withhold local taxes from a city which had not paid amounts DOF

determined were owed and transferred those funds to DOF, were unconstitutional.

BIG BEAR LAKE, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-800015004
Filed – 5/29/13

Plaintiff's Counsel
Iris P. Yang - Best Best & Krieger
T. Brent Hawkins - Best Best & Krieger

BOE's Counsel
Nancy Doig

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case. On November 22, 2013, Petitioners filed memorandum of points and authorities in support of petition for writ of mandate and complaint for injunctive and declaratory relief, and a request for judicial notice in support of the petition. The Court issued a tentative ruling on January 24, 2014 denying the petition for writ of mandate. The petition was denied on March 5, 2014. Petitioners filed a Notice of Appeal on May 14, 2014. The city filed its Opening Brief on December 23, 2014. DOF's Brief was due May 13, 2015. Department of Finance filed its Respondent's Brief on June 11, 2015. Appellants filed a Reply Brief on August 25, 2015. Oral argument is not yet set.

BRISBANE, CITY OF v. Ana J. Matosantos, et al.
San Francisco Superior Court Case No. CPF-09-509232
Court of Appeal, First Appellate District: 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, 2014, 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 Nov. 20, 2015; Reply Brief due Jan. 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.

CARTER , TORRIE GIDGET and CARTER, MICHAEL ANTHONY, HUSBAND AND WIFE, Plaintiffs, v. UNITED STATES BANKRUPTCY COURT Eastern District of California; CALIFORNIA STATE BOARD OF EQUALIZATION; JOHN W. REGER; JOHN and JANE DOES 1 through 20, Defendants.
Butte County Superior Court 164455
Filed – 06/05/2015

Plaintiff's Counsel
Pro Se

BOE's Counsel
Jill Bowers

BOE Attorney
W. Gregory Day

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: Plaintiffs have not yet served a Summons on BOE.

CORONADO, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-00145407
Filed – 06/18/13

Plaintiff's Counsel
Murray O. Kane - Kane, Ballmer & Berkman
Donald P. Johnson - Kane, Ballmer & Berkman

BOE's Counsel
Nelson Richards

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (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 13, 2013, Plaintiffs filed a stipulation and order to dismiss this action, and refile in the writ department. On November 25, 2013, Plaintiffs filed a petition for writ of mandate and complaint for declaratory and injunctive relief. On December 3, 2013, Plaintiffs filed a notice of hearing on petition for writ of mandate and complaint for declaratory and injunctive relief. On December 19, 2013, attorneys for the Respondents and Defendants filed their answers to the petition. Department of Finance filed its opposition brief on May 12, 2014. On October 29, 2014, the court granted the petition and entered judgment in favor of petitioners. Judgment for petitioners was entered November 5, 2014. DOF filed its Notice of Appeal November 7, 2014. The BOE is not participating in the appeal.

CYPRESS, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001585
Filed – 08/01/13
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 AB1484 (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 filed its response on September 4, 2013. Hearing date was scheduled for March 27, 2015. Plaintiff City and DOF are in settlement negotiations. Hearing was continued to October 16, 2016. Settlement negotiations are still ongoing.

The People of the State of California v. DEUTSCH, RUSSELL HOWARD
San Mateo County Superior Court Case No. 16SF002763A
Filed – 05/05/16

Plaintiff's Counsel

BOE's Counsel
Lucy Wang

BOE Attorney
W. Gregory Day

Issue(s): Defendant Russell Howard Deutsch has filed a Motion to Compel seeking a court order to compel the BOE to produce certain subpoenaed documents in connection with the San Mateo District Attorney's prosecution of Defendant related to the BOE's criminal investigation of Old Port Lobster operated by Defendant, among other things.

Audit/Tax Period: None
Amount: Unspecified

Status: On May 3, 2016, the Defendant filed a Motion to Suppress Evidence and Return of Money Seized by the BOE. On May 5, 2016, the Defendant filed a Motion to Compel Discovery from the People and the BOE. On May 12 and May 13, 2016, the People filed Oppositions to Defendant's Motions. On May 20, 2016, the Motion to Compel was rescheduled to June 9, 2016. The criminal case trial date of June 6, 2016, was vacated at the Defendant's request. On May 23, 2016, Defendant filed an Amended Motion to Compel Discovery. The BOE filed a Sur-Reply to the

amended Motion on May 27, 2016. On May 25 and 31, 2016, the Court denied Defendant's Motion to Suppress Evidence and ordered the BOE to return some of the money seized to the Defendant. On June 9, 2016, the Court rescheduled the Motion to Compel to August 26, 2016. On June 30, 2016, the Defendant filed with the Court of Appeal a Petition for Writ of Mandate or other Appropriate Relief seeking, among other things, that the BOE return all of the money seized from Defendant's property during its investigation.

DIAZ, MARIA DEL CARMEN ARELLANO v. Pedro Santana et al.
San Diego County Superior Court Case No. 37-2016-00017596-CU-FR-CTL
Filed – 05/25/16

Plaintiff's Counsel
David Speckman

BOE's Counsel

BOE Attorney
Kiren Chohan

Issue(s): Plaintiff seeks injunctive relief against the Board, to prevent the Board from making any refund or credit for sales taxes to co-defendant, Pedro Santana, in connection with audits that involve both the potentially jointly-owned company by Mr. Santana and Ms. Arellano, and six other locations owned separately by Mr. Santana. Further, plaintiff seeks declaratory relief against the Board and co-defendant alleging that Mr. Santana is responsible for sales taxes owed for the period from November 1, 2012 through July 31, 2015, and not plaintiff.

Audit/Tax Period: November 1, 2012 – July 31, 2015
Amount: Unspecified

Status: Plaintiff filed a Motion for a Preliminary Injunction against the BOE, which the court granted on June 7, 2016, to enjoin the BOE from making any tax refund to co-defendant, Santana. The BOE filed an Opposition to Plaintiff's Motion for Temporary Injunction on June 17, 2016. The motion was heard on June 24, 2016, during which time plaintiff withdrew his request for an injunction against the BOE and advised the court that he would dismiss the BOE from the lawsuit. On June 30, 2016, Plaintiff filed a request dismissing the BOE from the action without prejudice.

DINUBA, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001518
Filed – 06/07/13

Plaintiff's Counsel
Daniel T. McCloskey - Tuttle & McCloskey

BOE's Counsel
Nancy Doig

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (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 filed its response on July 11, 2013.

DISIMONE, NICOLLE, v. State of California, et al.
San Francisco County Superior Court Case No. CGC-16-552458
Filed – 03/23/16

Plaintiff's Counsel
Kevin Mahoney

BOE's Counsel
Lucy Wang

BOE Attorney
Kiren Chohan

Issue(s): Plaintiff alleges that the imposition of tax on the sale of tampons and certain feminine hygiene products is unconstitutional. Plaintiff asserts that these products meet the definition of "medicine" under Regulation 1591 and therefore, the charges for these products should be exempt from tax under Revenue and Taxation Code section 6369. BOE denies plaintiff's contentions.

Audit/Tax Period: N/A
Amount: None

Status: The parties stipulated to transferring the action to San Francisco Superior Court. The Stipulation and Proposed Order were filed May 16, 2016. On May 24, 2016, the judge signed the order transferring the case to San Francisco County Superior

Court. On June 9, 2016, the San Francisco County Superior Court issued a Notice of Filing and Transmittal, acknowledging that it had received the case and setting a Case Management Conference for November 9, 2016.

At the parties' July 7, 2016, Case Management Conference, the court granted plaintiff leave to amend her complaint by August 4, 2016. The court set a further Case Management Conference for August 22, 2016.

On August 4, 2016, plaintiff filed her First Amended Complaint. On August 22, 2016, the court authorized plaintiff to file a Second Amended Complaint by September 1, 2016. On September 1, 2016, plaintiff filed her Second Amended Complaint, to which she added a new plaintiff.

EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY, et al. v. Michael Cohen, et al.
Sacramento Superior Court Case No. 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 briefings, 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.

CITY OF FONTANA, CITY OF LATHROP AND CITY OF SAN BERNADINO v. State Board of Equalization, City of Ontario and Does 1 Through 10, Inclusive

Alameda County Superior Court: RG14721676
Filed – 04/23/14

Plaintiff's Counsel
Les A. Hausrath - Wendel, Rosen, Black & Dean LLP

BOE's Counsel
Anne Michelle Burr

BOE Attorney
Wendy Vierra

Issue(s): The litigation arises out of petitioners' contentions that the Board is improperly allocating local sales tax derived from retail sales made by MedCal Sales, LLC, and allocated to the City of Ontario and/or the Ontario Redevelopment Agency for the tax period January 1, 2006, to present.

Audit/Tax Period: January 1, 2006, to present
Amount: Unspecified

Status: On April 23, 2014 BOE was served a Summons, Notice of Case Management Conference and Order and First Amended Petition for Writ of Mandate and Complaint for Declaratory Relief. Petitioners' Ex Parte Application for Stay of Distribution of Local Sales Tax Revenues Pending Resolution of Petitioners' Claims was filed on June 9, 2014. On June 9, 2014, the Court ruled that what the Petitioners sought was a preliminary injunction and not a TRO. The Court continued the hearing to July 8, 2014, in order to give the parties time to file briefing on whether or not a preliminary injunction should be granted. On June

25, 2014, BOE filed its Opposition to Petitioners' Motion. The hearing on the Petitioners' application for a preliminary injunction was held on July 8, 2014. On July 17, 2014, the order denying the preliminary injunction was filed. On December 22, 2014, BOE's answer was filed. At the Case Management Conference on February 10, 2015, the court set a briefing schedule and a hearing date. Petitioners' opening brief was due March 31, 2015, the Board's opposition was due on May 19, 2015, and the petitioners' reply was due June 10, 2015. The hearing was set for July 15, 2015. On March 30, 2015, Petitioners filed their Opening Brief. On May 19, 2015, the Board filed its Opposition to Petitioners' Opening Brief. On July 15, 2015, the Court ordered a Case Management Conference scheduled September 1, 2015. On September 21, 2015, the court issued an order on its own motion vacating submission of the petition for decision on July 15, 2015 and finding the matter to be resubmitted on September 15, 2015. As a result, the 90-day period for the court to issue its decision commences from the new submission date of September 15, 2015. The Case Management Conference set for October 21, 2015, was continued to November 18, 2015. The Case Management Conference was continued by order of court to December 18, 22015. On December 15, 2015, the court continued the Case Management Conference again to January 15, 2016. On December 16, 2015, the trial court granted the petition for Writ of Mandate. The court ordered the matter remanded to the Board with instructions to vacate the Board's January 16, 2014, Summary Decision, and to reconsider the issue of which entity passed title to consumers and was the retailer in light of the court's opinion and California law on the transfer of title. On remand, the order provides that the Board may also address whether, or how, to reallocate the tax revenue for the years at issue. The court granted the parties' request for a continuance of the Case Management Conference and moved it from January 27, 2016, to February 17, 2016. On January 29, 2016, the BOE filed its Objections to the Proposed Writ and Judgment. The City of Ontario filed its Objections the same day. On February 11, 2016, the BOE filed a notice of appeal with respect to the trial court's ruling in favor of petitioner cities. The trial court ordered the BOE to vacate its decision to allocate the local sales and use tax revenue derived from retail sales made by MedCal Sales, LLC to the City of Ontario because such decision was not supported by substantial evidence. The trial court also permitted the BOE to hold a new hearing to determine the proper allocation of the local sales and use tax revenue from the retail sales at issue in accordance with the court's discussion of the proper evidence in its ruling. The City of Ontario has also filed a notice of appeal. Petitioners submitted a proposed judgment and proposed writ of mandate. The BOE and the City of Ontario filed objections thereto. On February 22, 2015, the BOE filed and served its Appellant's Notice Designating Record on Appeal. On February 26, 2016, the Superior Court entered judgment in this matter against the BOE and the City of Ontario. On March 2, 2016, petitioners filed a Notice of Cross-Appeal to the BOE's Appeal from the Order granting Petition. On March 24, 2016, the BOE filed its Notice of Appeal. On March 25, 2016, the BOE filed its Notice Designating Record on Appeal. The court of appeal ordered that the appeals of the BOE and the City of Ontario be consolidated for the purpose of briefing, oral argument, and decision. BOE's brief was due July 1, 2016. On June 27, 2016, the BOE filed its Appellant's

Opening Brief. Respondents City of Fontana et al. filed their Respondents' Brief on September 22, 2016.

PATRICK FOURMY v. BOARD OF EQUALIZATION, An Agency of the State of California
Santa Barbara County Superior Court Case No.15CV00519
Filed –04/29/15

Plaintiff's Counsel
Joseph D. Allen

BOE's Counsel
Brian Wesley

BOE Attorney
W. Gregory Day

Issue(s): Plaintiff Patrick Fourmy seeks relief in this action. A Verified Complaint was filed on April 15, 2015, alleging that plaintiff is not legally responsible for any alleged tax debts to defendant BOE, arising either from operations of the defunct business Hydro Wizard or from the operations of the dissolved patient collective known as Compassion Center. BOE disagrees with these contentions

Audit/Tax Period: None

Amount: Unspecified

Status: PENDING
BOE through the AG's Office filed a Motion for Change of Venue to Los Angeles Superior Court on May 21, 2015. The Motion was set to be heard on July 1, 2015, in Santa Barbara Superior Court. On August 3, 2014, the Santa Barbara Superior Court formally transferred the Fourmy case to the Los Angeles Superior Court. On October 5, 2015, BOE appeared and filed its demurrer to the Complaint. The hearing on the demurrer was set for January 28, 2016. The court issued a tentative ruling on BOE's demurrer to the complaint on January 27, 2016, granting the demurrer without leave to amend. No hearing was requested, and the tentative ruling has become final.

GHAZARIAN, NORAIER. v. California State Board of Equalization, and DOES 1 through 25, inclusive
Los Angeles County Superior Court Case No. BC604177
Filed – 12/14/15

Plaintiff's Counsel
Mardiros Dakessian

BOE's Counsel
Ron Ito

BOE Attorney
Wendy Vierra

Issue(s): Plaintiff seeks a refund of sales and use taxes paid in connection with his operation of an automotive dealership, Anni Automotive.

Audit/Tax Period: July 1, 2993 – March 31, 1995
Amount: Unspecified

Status: On February 4, 2016, plaintiff's counsel granted the BOE a 15-day extension of time to respond. On March 2, 2016, the BOE filed its Answer. On March 7, 2016, the court set a Case Management Conference for April 19, 2016. At the April 19, 2016, Case Management Conference, the court scheduled the Final Status Conference for March 15, 2017, and the trial for March 17, 2017.

GMRI, INC. v. State Board of Equalization
Sacramento Superior Court Case No. 34-2013-001145890
Filed – 06/3/13

Plaintiff's Counsel
Eric J. Coffill - Morrison & Foerster LLP

BOE's Counsel
Debbie J. Vorous

BOE Attorney
John Waid

Issue(s): Plaintiff alleges that the tips that taxpayers added to their restaurant bills do not qualify as "mandatory" within the meaning of Regulation 1603(g). Mandatory tips are not part of the gross receipts received by the taxpayers for their sales of meals.

Audit/Tax Period: None
Amount: Unspecified

Status: BOE filed its response on November 7, 2013. On April 23, 2014, the case was reassigned to DAG Debbie J. Vorous. On December 5, 2014, the court set the trial date in this matter for October 5, 2015. The court scheduled a mandatory settlement conference for August 25, 2015. On May 19, 2015, the parties made a joint motion to continue the trial date from October 5, 2015, to February 8, 2016, or the first available trial date thereafter and to continue all pre-trial dates in accordance with the trial date. The parties also requested that the Mandatory Settlement Conference currently set for August 25, 2015, be continued. The Court granted the parties' Joint Motion to Continue the trial date. Trial was set for February 8, 2016, and the Mandatory Settlement Conference for January 6, 2016. On September 29, 2015, the parties filed cross-motions for summary judgment. A hearing on the parties' motions was scheduled for December 15, 2015. On December 1, 2015, BOE filed Opposition to GMRI's Motion for Summary Judgment. GMRI filed its Opposition to BOE's Motion for Summary Judgment that same date. On December 10, 2015, the parties filed Reply Briefs in support of their respective Motions for Summary Judgment. On December 15, 2015, trial court issued its ruling granting BOE's Motion for Summary Judgment and denying Plaintiff's cross-motion. On December 28, 2015, the trial court entered Judgment in favor of BOE. The BOE served Notice of Entry of Judgment on January 7, 2016. On January 28, 2016, the court awarded costs to BOE. On February 22, 2016, GMRI filed a Notice of Appeal. Appellant's Opening Brief is due on June 16, 2016. GMRI filed its Appellant's Opening Brief on June 13, 2016. The Court of Appeal rejected the brief and ordered GMRI to refile the brief by June 20, 2016. Pursuant to order of the Court of Appeal GMRI refiled its Appellant's Opening Brief on June 20, 2016. On August 19, 2016, BOE filed its Respondent's Brief. On September 22, 2016, plaintiff filed its Appellant's Reply Brief.

GOLETA, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (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.

GREGORY, STEPHEN, dba THE GREEN DOG BAR & GRILL v. California State Board of Equalization
Los Angeles County Superior Court Case No. BC627949
Filed – 9/12/2016

Plaintiff's Counsel
Gersten-Sopkin, Sally

BOE's Counsel
Brian Wesley

BOE Attorney
John Waid
Kiren Chohan

Issue(s): Whether taxpayer is entitled to sales tax reimbursement relief as an innocent spouse.

Audit/Tax Period: July 1, 2008 through May 27, 2010
Amount: Unspecified

Status: Pending

BOE will file a timely response.

GTE COMMUNICATION SYSTEMS CORPORATION v. California State Board of Equalization
San Diego County Superior Court Case No. 37-2016-00021928-CU-MC-CTL
Filed – 6/29/2016

Plaintiff's Counsel
Carly A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether taxpayer overpaid sales tax reimbursement and/or use taxes on purchases on completed telephone cables, conduit and poles it purchased from third party vendors and affiliates. Whether Revenue and Taxation Code section 6010.5 excludes such items from the definition of tangible personal property.

Audit/Tax Period: None
Amount: Unspecified

Status: Pending

On August 15, 2016, BOE filed its demurrer to the complaint.

HUNTINGTON BEACH, CITY OF, et al. v. CA Director of Finance
Sacramento Superior Court Case No. 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 AB1484 (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' surreply and evidence submitted with surreply. Petitioners filed their opening brief on November 15, 2013. On December 6, 2013, Respondents filed a request for judicial notice, and a supplemental reply 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 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.

KING CITY, CITY OF, et al. v. Michael Cohen, et al.
Sacramento Superior Court Case No. 34-2013- 80001672
Filed – 12/05/13

Plaintiff's Counsel
Roy A. Hanley, Hanley & Fleishman

BOE's Counsel

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (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 December 23, 2013, attorney for Respondents BOE, John Chiang and Michael Cohen filed their answer to the petition for writ of mandate and complaint for declaratory and injunctive relief. There has been no activity in this case since BOE filed its answer. In November 2015, petitioners opened settlement negotiations with the Department of Finance. The Department of Finance ultimately rejected petitioners' proposals. There has been no activity in the case since then.

LAKEWOOD, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (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.

APPEAL: Lakewood filed its Notice of Appeal on March 10, 2015. BOE is not participating in the appeal. On February 4, 2016, the Department of Finance filed its Respondent's Brief and Request for Judicial Notice.

LEAGUE OF CALIFORNIA CITIES, et al. v. Ana Matosantos
Sacramento Superior Court Case No. 34-2012-80001275
Filed – 09/27/12

Plaintiff's Counsel
Ann Taylor Schwing - Best Best & Krieger LLP

BOE's Counsel
Seth Goldstein

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case. BOE's response was filed on November 20, 2012. Petitioners filed a Petitioners' Memorandum of Points and Authorities in Support of Petition for Writ of Mandate and Complaint for Injunctive Relief on February 1, 2013. BOE's response was filed on March 12, 2013. On July 10, 2013, the Petitioners' request for declaratory relief and for all other relief related to their request such as injunctive relief and issuance of a writ of mandate was denied. Judgment was entered in favor of respondents. Petitioners filed their third request for judicial notice; a motion for reconsideration or a new trial on their petition for writ of mandate and complaint for injunctive and declaratory relief; and a notice of intent to move for a new trial on July 22, 2013. Petitioners filed their fourth request for judicial notice and a supporting memorandum of points and authorities on August 21, 2013. On September 20, 2013, the Court heard oral argument on Petitioner's motion for reconsideration, or new trial on complaint for declaratory and injunctive relief and petition for writ of mandate. The Court granted the motion for judicial notices. BOE, consistent with its no-position stance, did not participate in this motion. The Court ordered a new round of briefing to be completed by November 1, 2013. BOE did not participate. New hearing was set for November 15, 2013. On November 14, 2013, the County

of Santa Clara filed its surreply. On December 9, 2013, the trial court issued a ruling in favor of Plaintiffs and Petitioners.

On February 28, 2014, Petitioners filed Notice of Entry of Judgment and Order granting declaratory and injunctive relief, and petition for writ of mandate. DOF filed its Notice of Appeal on March 19, 2014. On April 16, 2014, the League of California Cities filed a motion to partially consolidate its appeal, in which BOE is no longer a party, with the Bellflower appeal, in which BOE is still a party. The League of Cities sought assignment to the same appellate panel and concurrent briefing and argument. The Department of Finance filed its brief on November 18, 2014. Hearing was set for January 9, 2015. The Third District Court of Appeal granted the petitioners' requests to consolidate the Bellflower and League of Cities appeals. Oral argument was held in the Court of Appeal on February 16, 2016. The court took the appeal under submission. On March 3, 2016, Third District Court of Appeal issued a ruling in favor of plaintiff cities. The court ruled that the self-help provisions of AB 1484, by which the Department of Finance (DOF) could order BOE to withhold local taxes from a city which had not paid amounts DOF determined were owed and transferred those funds to DOF, were unconstitutional.

LITTLEJOHN, LARRY v. COSTCO WHOLESALE CORPORATION, COSTCO WHOLESALE MEMBERSHIP, INC., ABBOTT LABORATORIES, INC., ABBOTT LABORATORIES SALES, MARKETING & DISTRIBUTION CO., CALIFORNIA BOARD OF EQUALIZATION and DOES 1-20.
San Francisco County Superior Court: CGC-13-531835
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. On July 16, 2015, Appellant filed his Appellant's Opening Brief. The parties filed a joint stipulation to extend the Board's time to file its Respondent's Brief. The Board'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 Board'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.

LOS BANOS DESIGNATED LOCAL AUTHORITY v. CA Director of Finance, Ana Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case and has an open extension of time to respond to the petition.

LUCENT TECHNOLOGIES, INC. I, et al. v. State Board of Equalization of the State of California
Los Angeles Superior Court Case No. BC402036
Filed – 11/14/08

Plaintiff's Counsel
Jeffrey G. Varga, Julian Decyk - Paul, Hastings, Janofsky & Walker LLP

BOE's Counsel
Ronald Ito

BOE Attorney
Crystal Yu
Wendy Vierra

Issue(s): (1) Does the sale of software qualify for technology transfer agreement treatment; (2) have the plaintiffs established that the engineering and support charges are related to sales of tangible personal property; and (3) did plaintiffs use the prior agreement to calculate their tax liability for the subject quarter. (Revenue and Taxation Code sections 6012 and 6010.9; Regulations 1502 and 1507).

Audit/Tax Period: 1/1/95 - 12/31/99
Amount: $3,480,913.12

Status: On December 21, 2010, the court issued its order consolidating *Lucent Technologies, Inc. v. BOE* (Lucent I), LASC Case No. BC402036, and *Lucent Technologies, Inc. v. BOE* (Lucent II), LASC Case No. BC448715. Lucent I was designated the lead case. Lucent's Answer to BOE's Cross-Complaint for Unpaid Interest was filed February 4, 2011. The hearing on the parties' motions for

summary judgment and/or summary adjudication was held on August 26, 2013. The Court entered a Minute Order on September 27, 2013, granting Plaintiff's motion for summary judgment, and denying BOE's motion for summary judgment. The Court requested the parties to submit further briefing on whether Plaintiffs are entitled to prejudgment interest. The court heard argument on the subject of prejudgment interest on November 18, 2013, and took the matter under submission to review the parties' arguments. On December 4, 2013, the Court entered a minute order, ruling in favor of BOE and adopting BOE's calculations. On December 30, 2013, BOE filed an objection to the proposed judgment submitted to the Court by Plaintiffs. On March 6, 2014, BOE filed an Opposition to Plaintiff's Motion for Judgment for Reasonable Litigation Costs Pursuant to Revenue and Taxation Code section 7156. On April 18, 2014, the Court awarded Plaintiffs attorneys' fees in the sum of $2,625,469.87. On May 29, 2014, the trial court entered judgment for Plaintiffs. The court awarded Plaintiffs a refund of taxes in the amount of $4,746,743.59 and credit interest in the amount of $755,523.42. The trial court also granted judgment in favor of the Board on the Board's cross-complaint, in part, for unpaid debit interest in the amount of $1,938,574.24. The court awarded Plaintiffs litigation costs under Revenue and Taxation Code section 7156 in the amount of $2,625,469.87 in the consolidated actions. On July 28, 2014, BOE appealed the judgment in favor of Plaintiffs to the Second District Court of Appeal. On November 26, 2014, the Court of Appeal granted BOE's application to extend time to file the Appellant's Opening Brief to January 30, 2015. On January 20, 2015, the Court of Appeal granted BOE's application to extend time to file Appellant's Opening Brief to March 6, 2015. On March 5, 2015, the Board filed its Appellant's Opening Brief. On April 29, 2015, the Court of Appeal granted Respondents' application to extend the time to file their Respondent's Brief to May 19, 2015. On May 28, 2015, the Court approved the Board's request to extend the time for the Board to file its Appellant's Reply Brief to July 8, 2015. On June 30, 2015, pursuant to the parties' stipulation, the Court of Appeal granted the BOE's request to extend the time to file its Reply Brief to July 22, 2015. On July 22, 2015, the Board filed its Reply Brief. On September 24, 2015, the parties argued the matter before the Second District Court of Appeal. On October 8, 2015, the Second District Court of Appeal affirmed in full the judgment in favor of plaintiffs. On October 22, 2015, BOE filed a Petition for Rehearing in the Second District Court of Appeal. On November 17, 2015, BOE filed its Petition for Review in the California Supreme Court. On December 7, 2015, Respondents filed their Answer to BOE's Petition for Review. On December 17, 2015, BOE filed its Reply Brief in support of BOE's Petition for Review. On January 20, 2016, the California Supreme Court denied the BOE's Petition for Review. On January 28, 2016, the Second District Court of Appeal issued a remittitur, ordering that Plaintiffs are entitled to their costs on appeal. On March 7, 2016, Plaintiffs filed a Motion for Litigation Costs set to be heard by the court on April 5, 2016. Plaintiffs continued the hearing date on their Motion for Litigation Costs to May 5, 2016. On April 22, 2016, the BOE filed its Opposition to Plaintiff's Motion for Litigation Costs. On April 28, 2016, Plaintiffs filed their Reply in support of their Motion for Litigation Costs. On May 6, 2016, the court granted in part the motion for litigation costs on appeal in the amount of

$615, 906.55. Modified Judgment was entered on June 29, 2016.

LUCENT TECHNOLOGIES, INC. II, et al. v. State Board of Equalization of the State of California
Los Angeles Superior Court Case No. BC448715
Filed – 11/02/2010

Plaintiff's Counsel
Jeffrey G. Varga, Julian Decyk - Paul, Hastings, Janofsky & Walker LLP

BOE's Counsel
Ronald Ito

BOE Attorney
Crystal Yu
Wendy Vierra

Issue(s): Does the sale of software qualify for technology transfer agreement treatment. (Revenue and Taxation Code sections 6012 and 6010.9; Regulations 1502 and 1507.)

Audit/Tax Period: 2/1/96 – 9/30/00
Amount: $22,493,838.00

Status: On December 21, 2010, the court issued its order consolidating *Lucent Technologies, Inc. v. BOE* (Lucent I), LASC Case No. BC402036, and *Lucent Technologies, Inc. v. BOE* (Lucent II), LASC Case No. BC448715. Lucent I was designated the lead case. The Court entered a Minute Order on September 27, 2013, granting Plaintiff's motion for summary judgment, and denying BOE's motion for summary judgment. The Court requested the parties to submit further briefing on whether Plaintiffs are entitled to prejudgment interest. The court heard argument on the subject of prejudgment interest on November 18, 2013, and took the matter under submission to review the parties' arguments. On December 4, 2013, the Court entered a minute order, ruling in favor of BOE and adopting BOE's calculations. On December 30, 2013, BOE filed an objection to the proposed judgment submitted to the Court by Plaintiffs. On March 6, 2014, BOE filed an Opposition to Plaintiff's Motion for Judgment for Reasonable Litigation Costs Pursuant to Revenue and Taxation Code section 7156. On April 18, 2014, the Court awarded Plaintiffs attorneys' fees in the sum of $2,625,469.87.
On May 29, 2014, the trial court entered judgment for Plaintiffs. The court awarded Plaintiffs a refund of taxes in the amount of $4,746,743.59 and credit interest in the amount of $755,523.42. The trial court also granted judgment in favor of the

Board on the Board's cross-complaint, in part, for unpaid debit interest in the amount of $1,938,574.24. The court awarded Plaintiffs litigation costs under Revenue and Taxation Code section 7156 in the amount of $2,625,469.87 in the consolidated actions. On July 28, 2014, BOE appealed the judgment in favor of Plaintiffs to the Second District Court of Appeal. On November 26, 2014, the Court of Appeal granted BOE's application to extend time to file the Appellant's Opening Brief to January 30, 2015. On January 20, 2015, the Court of Appeal granted BOE's application to extend time to file Appellant's Opening Brief to March 6, 2015. On March 5, 2015, the Board filed its Appellant's Opening Brief. On April 29, 2015, the Court of Appeal granted Respondents' application to extend the time to file their Respondent's Brief to May 19, 2015. On May 28, 2015, the Court approved the Board's request to extend the time for the Board to file its Appellant's Reply Brief to July 8, 2015. On June 30, 2015, pursuant to the parties' stipulation, the Court of Appeal granted the BOE's request to extend the time to file its Reply Brief to July 22, 2015. On July 22, 2015, the Board filed its Reply Brief. On September 24, 2015, the parties argued the matter before the Second District Court of Appeal. On October 8, 2015, the Second District Court of Appeal affirmed in full the judgment in favor of plaintiffs. On October 22, 2015, BOE filed a Petition for Rehearing in the Second District Court of Appeal. On November 17, 2015, BOE filed its Petition for Review in the California Supreme Court. On December 7, 2015, Respondents filed their Answer to BOE's Petition for Review. On December 17, 2015, BOE filed its Reply Brief in support of BOE's Petition for Review. On January 20, 2016, the California Supreme Court denied the BOE's Petition for Review. On January 28, 2016, the Second District Court of Appeal issued a remittitur, ordering that Plaintiffs are entitled to their costs on appeal. On March 7, 2016, Plaintiffs filed a Motion for Litigation Costs set to be heard by the court on April 5, 2016. Plaintiffs continued the hearing date on their Motion for Litigation Costs to May 5, 2016. On April 22, 2016, the BOE filed its Opposition to Plaintiff's Motion for Litigation Costs. On April 28, 2016, Plaintiffs filed their Reply in support of their Motion for Litigation Costs. On May 6, 2016, the court granted in part the motion for litigation costs on appeal in the amount of $615, 906.55. Modified Judgment was entered on June 29, 2015.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross Complaint: Albertson's Inc., et al. v. The California State Board of Equalization
Los Angeles Superior Court Case No. BC325272
Filed – 02/24/06

Plaintiff's 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 was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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. 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 brief was 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 Overlength Brief on March 9, 2016. On April 22, 2016, the parties stipulated to extending Respondents' time to file their Respondents' Briefs. On July 13, the BOE filed its Respondent's Brief. On September 12, 2016, plaintiffs / appellants filed their Reply Brief. Briefing is now complete.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross-Complaint: CVS, Inc. v. California State Board of Equalization
Los Angeles Superior Court Case No. BC325272
Filed – 01/24/06

Plaintiff's Counsel
Richard T. Williams - Holland & Knight LLP

BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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 are 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 was 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 plaintiff 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. 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 brief was 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 Overlength 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.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross-Complaint: Longs Drug Stores Corporation, et al. v. California State Board of Equalization

Los Angeles Superior Court Case No. BC325272
Filed – 01/24/06

Plaintiff's Counsel
Douglas A. Winthrop, Christopher Kao - Howard, Rice, Nemerovski, Canady, Falk & Rabkin

BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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 are 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 was 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 plaintiff 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. 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 brief was 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 Overlength 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.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross-Complaint: Rite Aid v. The California State Board of Equalization

Los Angeles Superior Court Case No. BC325272
Filed – 01/24/06

Plaintiff's Counsel
Douglas C. Rawles - ReedSmith LLP
BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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 are 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 was 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 plaintiff 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. 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 brief was 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 Overlength 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 in the Second District Court of Appeal. On September 12, 2016, plaintiffs / appellants filed their Reply Brief. Briefing is now complete.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross-Complaint: Wal-Mart Stores, Inc. v. The California State Board of Equalization
Los Angeles Superior Court Case No. BC325272
Filed – 02/24/06

Plaintiff's Counsel
Gail E. Lees, Brian Walters - Gibson, Dunn & Crutcher LLP

BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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 are 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 was 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. Defendant Walmart served Notice of Entry of Judgment on April 16, 2015. Plaintiff's deadline to file a Notice of appeal is June 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 plaintiff 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. 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 brief was 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 Overlength 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.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.

Cross-Complaint: Walgreen Co. v. The California State Board of Equalization

Los Angeles Superior Court Case No. BC325272

Filed – 02/24/06

Plaintiff's Counsel

Douglas C. Rawles - ReedSmith LLP

BOE's Counsel
Nhan Vu

BOE Attorney
Wendy Vierra

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were 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 are 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 was 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 plaintiff 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. 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 brief was 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 Overlength 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.

MCI COMMUNICATIONS SERVICES, INC. a Delaware corporation authorized to do business in California v. California State Board of Equalization
San Diego County Superior Court Case No. 37-2015-000392-12-CU-MC-CTL
Filed –12/03/15

Plaintiff's Counsel
Carley A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6010.5 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.

MENDOTA DESIGNATED LOCAL AUTHORITY v. CA Director of Finance, Ana Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case and has an open extension of time to respond to the petition.

MERCED DESIGNATED LOCAL AUTHORITY v. CA Director of Finance, Ana Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: The BOE is a "remedial defendant" in this case and has an open extension of time to respond to the petition.

MONTEBELLO, CITY OF, et al. v. Ana Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001703
Filed –12/05/13

Plaintiff's Counsel
Glassman, Arnold M., Alvarez-Glasman & Colvin
BOE's Counsel

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (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 December 18, 2013, Respondent Wendy Watanabe, and County Real Parties in Interest filed their answer to petition for writ of mandate and complaint for declaratory and injunctive relief. On December 30, 2013, DOJ filed its notice of representation of the BOE in lieu of response to petition for writ of mandate and complaint for declaratory and injunctive relief. On December 30, 2013, attorney for Respondents Ana J. Matosantos and Michael Cohen filed their answer to

petition for writ of mandate and complaint for declaratory and injunctive relief. On April 23, 2014, the Petitioners' Opening Brief was filed with the Court. The Respondents' oppositions were due June 6, 2014. On October 28, 2014, the court entered an order denying the petition in part and remanding the action for further proceedings consistent with the order. Hearing on the remanded case is set for June 19, 2015. On July 17, 2015, the Court approved the parties' stipulation to remand the case back to the Department of Finance to allow petitioners to submit additional documents. The parties were to meet and confer as to a time frame. The trial court approved the parties' stipulation as to Department of Finance (DOF) review on October 28, 2015. The review was due April 12, 2016.

MONTEREY PARK, CITY OF, et al. v. California State Board of Equalization
Sacramento Superior Court Case No. 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 AB1484 (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, WILLIAM G., dba FRIAR TUCK'S BAR and GRILLE v. Board of Equalization
Los Angeles County Superior Court Case No. BC602509
Filed –11/25/2015

Plaintiff's Counsel
Dennis N. Brager, Howard Rosenblatt

BOE's Counsel
Charles Tsai

BOE Attorney
John Waid

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. The Final Status Conference is scheduled for March 21, 2017. Trial is set for April 5, 2017.
On August 26, 2016, the BOE filed its Answer and Cross-Complaint for recovery of unpaid interest and penalties.

NOVATO, CITY OF, et al. v. Ana Matosantos, et al.
Sacramento Superior Court Case No. 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 AB1484 (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.

ONTARIO, CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-8000162
Filed – 09/09/13

Plaintiff's Counsel
T. Brent Hawkins - Best Best & Krieger

BOE's Counsel
Jonathan Eisenberg

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (2012). Petitioners allege that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: On September 16, 2013, the Court signed the order denying ex parte motion for temporary restraining order. On October 18, 2013, Petitioners filed an amended petition for writ of mandate and complaint for injunctive and declaratory relief. On November 15, 2013, the DOF issued to the BOE local sales and use tax withhold orders to commence with the November 2013 distributions. On November 18, 2013, Respondents filed an answer to amended petition for writ of mandate and complaint for injunctive and declaratory relief. A hearing on the petition for writ of mandate and complaint for injunctive and declaratory relief was set for May 2, 2014. Department of Finance's brief was filed on April 2, 2014. After the hearing on May 2, 2014, the court took the matter under submission. On May 20, 2014, the court affirmed its tentative order denying most of Petitioners' claims. However, the court ruled that the local sales and use tax withhold provisions are improper. The Court issued a writ of mandate against Department of Finance. Judgment was entered on July 2, 2014. The last day to

file a notice of appeal was September 8, 2014.

APPEAL: On August 28, 2014, Petitioners filed a Notice of Appeal. The Notice of Appeal for the Department of Finance was filed on August 28, 2014. The appeal in the case has been fully briefed but no oral argument has been scheduled.

PASSERI, MICHAELA, an individual v. THE STATE OF CALIFORNIA, Does 1 through 10
Orange County Superior Court Case No. 30-205-00774767
Filed – 4/29/2015

Plaintiff's Counsel
Pro Per

BOE's Counsel
Charles Tsai

BOE Attorney
Wendy Vierra

Issue(s): Plaintiff alleges she was improperly assessed sales and use taxes in connection with sales made by Maison St. Marie.

Audit/Tax Period: None
Amount: Unspecified

Status: On July 27, 2015, the Orange County Superior Court transferred the case to the Los Angeles County Superior Court. On August 18, 2015, the Los Angeles Superior Court served the parties a Notice of Incoming Transfer, acknowledging the filing of this action in its court that same date. The State filed its demurrer on August 31, 2015. The hearing is set for October 15, 2015. On September 24, 2015, Plaintiffs filed their opposition to the State's demurrer. On October 7, 2015, the BOE filed its Reply Brief in support of its Demurrer to Plaintiff's First Amended Complaint. On October 15, 2015, the trial court sustained the BOE's Demurrer with leave to amend as to plaintiff's action for declaratory relief. On October 26, 2015, plaintiff filed a Second Amended Complaint. On November 30, 2015, the BOE filed a Demurrer to Plaintiff's Second Amended Complaint. The Order and Judgment in favor of the BOE was signed on February 17, 2016. On February 26, 2016, the BOE served the Notice of Entry of Order and Judgment.

Plaintiff, on her own behalf, filed a Notice of Appeal on April 26, 2016. On May 19, 2016, BOE filed its Notice Designating Record on Appeal.

REDWOOD CITY, CITY OF v. State of California
Sacramento Superior Court Case No. 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 AB1484 (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 briefing 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.

SALTON SEA VENTURE, INC. v. SELNEK-IS TEM-AL CORP et.al.
Imperial County Superior Court Case No. ECU08956
Filed –02/16/2016

Plaintiff's Counsel
Heumann, Douglas

BOE's Counsel
Jane O'Donnell

BOE Attorney
John Waid

Issue(s): Plaintiff 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 30, 2016, BOE filed its Motion to Transfer Venue, seeking to transfer venue from Imperial County to Sacramento County. Hearing on the motion is scheduled for May 2, 2016. The Case Management Conference is scheduled for April 27, 2016. The court continued the April 27, 2016, Case Management Conference to May 2, 2016, to coincide with the hearings on the BOE's Motion to Transfer Venue and the Motion to Quash filed by defendant Selnek-is Tem-Al Corporation. At the May 2, 2016, hearing on the BOE's Motion to Transfer Venue and defendant Selnek-is Tem-Al Corporation's Motion to Quash Service, the court continued the hearing to June 23, 2016, to allow plaintiff additional time to submit further documents supporting its opposition to defendants' motions. The court continued the hearing on the BOE's Motion to Transfer Venue and defendant Selnek-is Tem-Al Corporation's Motion to Quash Service to July 21, 2016. On July 21, 2016, the court granted defendant Selnek-is Tem-Al Corporation's Motion to Quash and continued the hearing on BOE's Motion to Transfer Venue to August 18, 2016. On August 8, 2016, the trial court entered an order quashing service on Selnek-Is Tem-Al Corporation and dismissing it from the case. Hearing on the BOE's motion to transfer venue was continued to August 21, 2016. On August 16, 2016, plaintiff filed a request for dismissal of the case with prejudice.

SAN BERNARDINO, CITY OF v. John Chiang, State Controller
USBC, Central District, Riverside, Case No. 6:12-BK-28006-MJ
Filed – 03/26/13

Plaintiff's Counsel
James F. Penman - Attorney for the City of San Bernardino

BOE's Counsel
None

BOE Attorney
John Waid

Issue(s): Even though this case was filed in bankruptcy court, the dispute is over certain provisions of AB1484 (2012). Plaintiff alleges that statutes that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Unspecified

Status: Plaintiff San Bernardino filed an amended complaint on May 23, 2013. BOE's response was filed on June 5, 2013. On September 11, 2013, the Trial Court entered an order granting the motions of the Department of Finance (DOF) and State Controller's Office (SCO), to dismiss San Bernardino's complaint for declaratory relief with leave to amend and to deny its motion, without prejudice for an order that DOF violated the automatic stay in bankruptcy by issuing its demand letter. On September 24, 2013, Defendants submitted their election to have the appeal heard by the District Court. On June 4, 2014, the District Court reversed the Bankruptcy Court's finding denying DOF and SCO Eleventh Amendment immunity from suit.

The BOE is not participating in the current bankruptcy proceedings.

SANTA FE SPRINGS, CITY OF, et al. v. Ana Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001528
Filed – 6/14/2013

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

BOE's Counsel
Michael Glenn Witmer

BOE Attorney
John Waid

Issue(s): Dispute is over certain provisions of AB1484 (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 January 8, 2014, Respondent filed a notice of change of assignment of counsel, within the county counsel's office. The Department of Finance's Opposition Brief was filed on or about August 29, 2014. Hearing was scheduled for October 24, 2014. On October 2, 2014, the Court issued a Minute Order asking the parties to stay this case, in light of the fact that the Petitioners'

challenges raised arguments that the Court had considered and rejected in several other cases, most of which are presently on appeal. Counsel for the parties agreed that the action be stayed pending resolution of the issues by the Third District Court of Appeal. The hearing was therefore taken off calendar and the action stayed pending further order of the Court.

SOUTHGATE, CITY OF v. Michael Cohen, et al.
Sacramento County Superior Court: Case No. 34-2014-800001915
Filed – 8/12/2014

Plaintiffs' Counsel
Alvarado Smith
Raul F. Salinas

BOE's Counsel
Peter H. Chang

BOE Attorney
John Waid

Issue(s): Petitioners contend: Dispute is over certain provisions of AB 1484 (2012). Petitioners allege that statues that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Not Specified

Status: BOE's answer was filed on September 11, 2014. Petitioners filed their Opening Brief on March 20, 2015; Respondents' Briefs were due September 28, 2015. Hearing on the petition was set for October 23, 2015. Briefing was complete in this matter. The court, however, vacated the hearing originally set for October 10, 2015, for the parties to consider whether SB 107 (Stats. 201, ch. 325), which went into effect last September to resolve some of the disputes between Department of Finance and the cities, mooted the case. A new hearing was set for May 6, 2016. On May 16, 2016, the trial court granted the petition. Judgment was entered June 9, 2016.

TORRANCE, CITY OF v. Michael Cohen, et al.
Sacramento County Superior Court: Case No. 34-2015-80002102
Filed – 7/21/2014

Plaintiffs' Counsel
Dan Slater, Rutan & Tucker

BOE's Counsel
Paul Stein

BOE Attorney
John Waid

Issue(s): Petitioners contend: Dispute is over certain provisions of AB 1484 (2012). Petitioners allege that statues that may require the Board to withhold local tax distributions are unconstitutional.

Audit/Tax Period: None
Amount: Not Specified

Status: BOE filed its answer on August 20, 2015. On January 26, 2016, the parties stipulated to a briefing schedule and set a hearing date of July 1, 2016.

VERIZON BUSINESS NETWORK SERVICES, INC. a Delaware corporation authorized to do business in California v. California State Board of Equalization
San Diego County Superior Court Case No. 37-2016-0001941-CU-MC-CTL
Filed –6/29/2016

Plaintiff's Counsel
Carley A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether taxpayer overpaid sales tax and/or use tax on purchases of completed telephone cables, conduit and poles that it purchased from third party vendors and affiliates. Whether Revenue and Taxation Code section 6010.5 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: Pending

On August 15, 2016, BOE filed its demurrer to the complaint.

VERIZON BUSINESS PURCHASING LLC v. California State Board of Equalization
San Diego County Superior Court Case No. 37-2016-00021936-CU-MC-CTL
Filed –06/29/16

Plaintiff's Counsel
Carley A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6010.5 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: Pending.
On August 15, 2016, BOE filed its demurrer to the complaint.

VERIZON CALIFORNIA INC. v. California State Board of Equalization
Sacramento County Superior Court: Case No. 34-2016-00196022-CU-MC-GDS
Filed – 06/15/2016

Plaintiff's Counsel
Carley A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Jane O'Donnell

BOE Attorney
Wendy Vierra

Issue(s): Whether taxpayer overpaid sales tax and/or use taxes on purchases of completed telephone cables, conduit, and poles that it purchased from third party vendors and affiliates. Whether Revenue and Taxation Code section 6016.5 excludes such items from the definition of "tangible personal property".

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

Status: Pending

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.

VERIZON SERVICES CORP. v. California State Board of Equalization
Los Angeles County Superior Court: Case No. BC602156
Filed – 12/01/2015

Plaintiffs' Counsel
Carley A. Roberts, Sutherland Asbill & Brennan

BOE's Counsel
Ron Ito

BOE Attorney
Wendy Vierra

Issue(s): Whether Revenue and Taxation Code section 6010.5 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.

WOOSLEY, CHARLES PATRICK v. State Board of Equalization
Los Angeles Superior Court Case No. CA000499
Court of Appeal, Second Appellate District, Case No. 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 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.

ZEICHICK, DAVID, Individually and on Behalf of All Others Similarly Situated, and on Behalf of the General Public v. CALIFORNIA STATE BOARD of EQUALIZATION, SYMANTEC CORPORATION, and Does 1 - 100
Los Angele County Superior Court Case No. BC594229
Filed – 9/10/2015

Plaintiff's Counsel
Taras Kick, The Kick Law Firm, APC

BOE's Counsel
Nhan T. Vu

BOE Attorney
John Waid

Issue(s): Plaintiff alleges that co-defendant Symantec Corp. improperly collected sales and use taxes on non-taxable sales.

Audit/Tax Period: None
Amount: Unspecified

Status: On October 1, 2015, plaintiff granted BOE an extension to respond to the Complaint. BOE's response was due November 19, 2015. On October 26, 2015, the court issued an order assigning the case for all purposes to Complex Litigation Department 307. The court stayed all proceedings in the case until the Initial Status Conference, which was set for January 28, 2016. The date for BOE to respond to the complaint, November 19, 2015, was taken off the calendar. On January 26, 2016, the court continued the status conference from January 28, 2016, to March 22, 2016. The court held a case management conference on March 22, 2016. At the conference, the court ordered the BOE to take up the threshold jurisdictional issues by way of a demurrer. The court ordered the BOE's demurrer to be filed by May 20,

2016, Plaintiff’s opposition by June 24, 2016, and the BOE’s reply brief by July 11, 2016. Hearing on the demurrer was scheduled for August 10, 2016. On May 20, 2016, the parties stipulated to a new briefing schedule for the BOE to file a response, extending the deadline from May 20, 2016, to June 3, 2016. On June 3, 2016, the BOE filed a Demurrer.

On July 29, 2016, Symantec submitted a declaration and evidence concerning sales tax reimbursement collected. Plaintiff’s opposition to Symantec’s and BOE’s demurrers was due September 11, 2016. Hearing on the demurrers was set for October 6, 2016. Following review of Symantec's declaration, Plaintiff did not file an opposition to the BOE's demurrer.

Sales and Use Tax
CLOSED CASES
LITIGATION ROSTER
SEPTEMBER 2016

Case Name	Court/Case Number
None	

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