

LITIGATION ROSTER

PROPERTY TAX

SEPTEMBER 2011

Property Tax
SEPTEMBER 2011

NEW CASES

Case Name

Court/Case Number

None

CLOSED CASES

Case Name

Court/Case Number

METROMEDIA FIBER NETWORK SERVICES, INC.

Sacramento Superior/No. 34-2011-80000911

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

PROPERTY TAX
LITIGATION ROSTER
SEPTEMBER 2011

BENNETT, STEPHEN H. v. California State Board of Equalization

Sacramento Superior Court Case No. 34-2011-80000911

Filed – 07/08/11

Plaintiff's Counsel

Stephen Bennett
In Pro Per

BOE's Counsel

Jane O'Donnell
BOE Attorney
Wendy Vierra

Issue(s): Whether BOE violated [Government Code section 15606\(h\)](#), and [15608](#) for failing to bring judicial action against assessors for retroactively applying Part 0.5 of the California Revenue and Taxation Code and improperly instructing assessors to apply Part 0.5 of the CA Revenue and Taxation Code retroactively.

Audit/Tax Period: 2004-2008

Amount: Unspecified

Status: Plaintiff filed a Verified Petition for Writ of Mandate on July 8, 2011. BOE was properly served on August 10, 2011. BOE filed its Demurrer to Petitioner's Petition for Writ of Mandate on September 9, 2011. A hearing is set for November 18, 2011 on the petitioner's Motion to Disqualify the Attorney General from representing the BOE and BOE's Demurrer.

ELK HILLS POWER, LLC v. California State Board of Equalization, et al.

San Diego Superior Court Case No. 37-2008-00097074-CU-MC-CTL

Filed – 12/01/08

Court of Appeal, Fourth Appellate District Case No. D056943

California Supreme Court Case No. S194121

Plaintiff's Counsel

Peter W. Michaels
Law Offices of Peter Michaels

BOE's Counsel

Tim Nader
BOE Attorney
Kiren Chohan

Issue(s): Whether BOE properly included the assumed costs of emissions reductions credits (ERCs) when valuing plaintiff's property under [Revenue and Taxation Code Section 110](#).

Audit/Tax Period: 2004-2008

Amount: Unspecified

Status: The trial court ordered summary judgment in favor of BOE. The Court of Appeal issued a published decision on May 10, 2011, affirming the trial court judgment and awarding BOE its costs on appeal. Elk Hills filed a Petition for Rehearing on May 25, 2011. On June 7, 2011, the Court denied Elk Hills' Petition for Rehearing. On June 20, 2011, Elk Hills Power filed a Petition for Review with the California Supreme Court. On July 7, 2011, CalTax submitted a Request for Depublication of the Court of Appeal Opinion with the California Supreme Court. BOE's Answer to Elk Hills' Petition for Review was filed July 11, 2011. BOE's Opposition to CalTax's Request for Depublication was filed on July 18, 2011. On August 24, 2011, the Supreme Court of California accepted the petition for review filed by Elk Hills Power, LLC. The Supreme Court ordered that the time to serve and file the Appellant's opening brief on the merits of its case is extended to and includes October 21, 2011.

NETJETS AVIATION, INC., et al. v. WEBSTER GULLORY, in his capacity as Tax Assessor for the County of Orange, CA

(Amicus Curiae Brief)

Court of Appeal, Fourth Appellate District: G044970
Orange County Superior Court: 30-2008-00107805 (Lead)
Court of Appeal, Fourth Appellate District: G044980

Filed – 9/24/2010

BOE's Counsel

None

BOE Attorney

Kiren Chohan

Issue(s): This action (between Santa Barbara and Orange counties and industry to which the SBE was not a party) facially challenges the fractionally owned aircraft taxation statutes that were adopted on August 24, 2007, and became effective on January 1, 2008 under Senate Bill 87. (Stats. 2007, ch. 180 ("SB87").) SB 87 added Article 7, entitled "Fractionally Owned Aircraft," to the Revenue and Taxation Code ("TC", commencing with RTC section 1160. ([Rev. & Tax. Code, §§ 1160 et seq.](#)).

Audit/Tax Period: None

Amount: Unspecified

Status: Trial Court: On June 18, 2010, the Board approved the filing of an amicus brief. BOE's Application for Leave to File Amicus Brief was filed on September 24, 2010. On November 20, 2010, the trial court entered a ruling in favor of petitioners, finding that SB 87 was unconstitutional and unlawful.

Court of Appeal: BOE'S Amicus Brief is tentatively due February 24, 2012.

SANTA BARBARA, Assessor for the County of v. Assessment Appeals Board No. 1

Court of Appeal, Second Appellate District: B229656

Santa Barbara County Superior Court: 01244457

(Amicus Curiae Brief)

BOE's Counsel

Stephen Lew

BOE Attorney

Kiren Chohan

Issue(s): The primary issue in the case is the proper valuation of transfers of individual ownership interests in resident-owned mobile home parks. ([Revenue and Taxation Code section 62.1](#)) On April 26, 2011, the Board approved the filing of an amicus brief in this case to support the appellant Santa Barbara County Assessor's position for the purpose of uniformity and to support those assessors that are following BOE's guidance regarding this issue.

Audit/Tax Period: None

Amount: Unspecified

Status: Pending. Appellant County Assessor for Santa Barbara filed Reply Brief on September 29, 2011. BOE's Amicus Brief must be filed no later than October 13, 2011.

SPRINT TELEPHONY PCS, L.P. v. State Board of Equalization, et al.

San Francisco Superior Court Case No. CGC-11-511398

Plaintiff's Counsel

Richard N. Wiley

Law Offices of Richard Wiley

Filed – 06/01/11

BOE's Counsel

David Lew

BOE Attorney

Kiren Chohan

Issue(s): The issue in this case is whether plaintiff's 2008 Board-adopted unitary value of \$2,039,700,000 is overstated. ([California Constitution, Art. XIII, section 19](#)); ([Revenue and Taxation Code section 5148](#)).

Audit/Tax Period: 2008

Amount: \$9,000,000.00

Status: Sprint PCS served the Board with a First Amended Verified Complaint dated June 23, 2011. Hearing on Defendant-Counties Demurrers filed on September 21, 2011, is scheduled for October 20, 2011.

WESTERN STATES PETROLEUM ASSOCIATION v. California State Board of Equalization

Los Angeles County Superior Court Case No. BC403167

Filed – 12/03/08

Court of Appeal, Second Appellate District No. B225932

BOE's Counsel

Plaintiff's Counsel

Brian Wesley

Cris K. O'Neill

BOE Attorney

Cahill, Davis & O'Neill, LLP

Kiren Chohan

Issue(s): Whether BOE's Property Tax Rule 474 is valid ([Government Code section 11340](#) et seq.; [Revenue and Taxation Code section 51](#); [Government Code section 15606](#); Title 18 California Code of Regulations, sections 461 and 324; [California Constitution Article III, section 1](#); and [Article XIII A sections 1, 2, and 3.](#))

Audit/Tax Period: None

Amount: Unspecified

Status: On March 29, 2010, the court issued its Order on Submitted Matter denying BOE's Motion for Summary Judgment and granting summary judgment to WSPA. Judgment in favor of plaintiff was entered April 27, 2010. BOE's Appellant's Reply Brief was filed on August 12, 2011. The case is now fully briefed.

**PROPERTY TAX
CLOSED CASES
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SEPTEMBER 2011**

METROMEDIA FIBER NETWORK SERVICES, INC. v. California State Board of Equalization, et al.
Sacramento Superior Court Case No. 34-2007-00882854-CU CO GOS

Filed – 12/10/07

Plaintiff's Counsel

Peter W. Michaels

Law Offices of Peter Michaels

BOE's Counsel

Jeffrey Rich

BOE Attorney

Victoria Baker

Issue(s): Whether BOE's valuation of Plaintiff's property was excessive ([California Constitution, Art. XIII, section 16](#)); ([Revenue and Taxation Code section 5148](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Disposition: On September 1, 2011, the court dismissed the litigation pursuant to the settlement reached by the parties.

DISCLAIMER

Every attempt has been made to ensure the information contained herein is valid and accurate at the time of publication. However, the tax laws are complex and subject to change. If there is a conflict between the law and the information found, decisions will be made based on the law.

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