

# LITIGATION ROSTER

## PROPERTY TAX

FEBRUARY 2012

Property Tax  
FEBRUARY 2012

NEW CASES

Case Name

Court/Case Number

None

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CLOSED CASES

Case Name

Court/Case Number

None

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

**PROPERTY TAX**  
**LITIGATION ROSTER**  
**FEBRUARY 2012**

**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. At the December 9, 2011 hearing, the Court denied petitioner's Motion to Disqualify the Attorney General. The Court also denied the petitioners' Request for Clarification of the ruling on December 21, 2011. On January 18, 2012, the Court sustained SBE's Demurrer to Petitioner's Petition for Writ of Mandate and denied Petitioner's Motion to Disqualify the Attorney General's Office.

**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 SBE 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 SBE. The Court of Appeal issued a published decision on May 10, 2011, affirming the trial court judgment and awarding SBE 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. SBE's Answer to Elk Hills' Petition for Review was filed July 11, 2011. SBE'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. Appellant filed its opening brief on the merits of the case on October 24, 2011. SBE filed its Answer brief on the merits on February 21, 2012.

**NETJETS AVIATION, INC., et al. v. WEBSTER GUILLORY, 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 was filed with the Court on February 17, 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. The SBE's application to file an amicus curiae brief in support of Appellant County of Santa Barbara was granted by the Court of Appeal on October 17, 2011. Oral argument was held on February 8, 2012.

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

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

Filed – 06/01/11

BOE's Counsel

David Lew

BOE Attorney

Kiren Chohan

Plaintiff's Counsel

Richard N. Wiley

Law Offices of Richard Wiley

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 took place on October 20, 2011. On December 27, 2011, the Court overruled each of the three demurrers filed by the county defendants. On January 17, 2012, the Court granted the Counties Ex Parte Application for Stay of Proceedings if the Counties file a Writ of Mandate with Court of Appeal which was filed on February 10, 2012. Upon receipt of Sprint's filing it Opposition to the Petition, the Court has directed the county defendants to file a reply to Sprint's Opposition by March 13, 2012.

**VERIZON CALIFORNIA INC. v. California State Board of Equalization**

Sacramento Superior Court Case No. 34-2011-00116029

Filed – 12/21/11

BOE's Counsel

Jill Bowers

BOE Attorney

Kiren Chohan

Plaintiff's Counsel

Peter W. Michaels

Law Offices of Peter Michaels

Issue(s): The issue in this case is whether plaintiff's 2007 Board-adopted unitary value of \$3,480,700,000 is overstated. ([California Constitution, Art. XIII, section 19](#)); ([Revenue and Taxation Code section 5148](#)).

Audit/Tax Period: 2007

Amount: \$5,900,000.00

Status: Verizon served the Board with a Verified Complaint for Refund of State Assessed Property Taxes dated December 22, 2011. The Board and Defendant-Counties will not file Responses because Verizon will be filing an amended complaint.

**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

Brian Wesley

BOE Attorney

Kiren Chohan

Plaintiff's Counsel

Cris K. O'Neill

Cahill, Davis & O'Neill, LLP

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 SBE's Motion for Summary Judgment and granting summary judgment to WSPA. Judgment in favor of plaintiff was entered April 27, 2010. SBE's Appellant's Reply Brief was filed on August 12, 2011. The case has been fully briefed, and oral argument was held on November 21, 2011. On January 19, 2012, the Court of Appeal declared Rule 474 to be invalid. SBE's Petition for Review with the Court of Appeal was filed on February 28, 2012.

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NONE

**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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