

LITIGATION ROSTER

SPECIAL TAXES

OCTOBER 2014

**Special Taxes
OCTOBER 2014**

NEW CASES

Case Name

Court/Case Number

None

CLOSED CASES

Case Name

Court/Case Number

ZARTOSHT INC. v.
California Board of Equalization

Sacramento Superior Court Case No. 34-2011-00106888

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

Special Taxes
LITIGATION ROSTER
OCTOBER 2014

BRAR & CHAHAL INC. v. CA State Board of Equalization

Fresno County Superior Court Case No. 11CECG02688 DJK

Filed – 08/04/11

BOE's Counsel

Steven J. Green

Plaintiffs' Counsel

Clark L. Rountree - Attorney at Law

BOE Attorney

Wendy Vierra

Issue(s): The issue in this case is whether or not tobacco products were seized illegally under the authority of [Business & Professions Code section 22974 and 22974.3](#).

Audit/Tax Period: None

Amount: Unspecified

Status: On August 8, 2011, the judge denied Petitioner's ExParte Application for Stay of the Suspension of License to Sell Tobacco. Plaintiff also filed a Petition for Preliminary Writ of Mandate but has not served BOE. Awaiting proper service.

CALIFORNIA FARM BUREAU FEDERATION I, et al. v. CA State Water Resources Control Board, et al.

California Supreme Court Case No. S150518 Filed – 04/13/04

Sacramento Superior Court Case No. 04CS00473

Court of Appeal, Third Appellate District Case No. C050289

Filed – 04/13/04

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: The California Supreme Court issued its decision on January 31, 2011, affirming the Court of Appeal's judgment holding that the fee statutes at issue are facially constitutional and reversing the Court of Appeal's determination that the statutes and their implementing regulations are unconstitutional as applied. The case was remanded to the Court of Appeal to remand to the trial court for proceedings consistent with the opinion. On April 20, 2011, the Court denied the petitions for rehearing, and modified its opinion. Remittitur issued May 12, 2011. At the Status Conference on July 29, 2011, the judge ordered discovery in the Water Rights cases. At the Status Conference on October 21, 2011, the judge granted BOE's motion to transfer the Palo Verde case to Sacramento, set a further case management conference for January 13, 2012, and set the case for a two-week trial on July 16, 2012. A Notice of Entry of Dismissal was entered for Petitioner Stone Corral Irrigation District on November 17, 2011. Trial was held from December 4, 2012 through December 19, 2012. The court scheduled post-trial briefing. On July 1, 2013, Petitioners filed their reply brief.

Respondents State Water Resources Control Board, et al., filed their post-trial response brief on July 1, 2013. On September 6, 2013, Sacramento Superior Court issued its tentative decision in favor of Plaintiffs ruling that the fees imposed by the Water Resources Control Board are invalid, because the statutory fee scheme and implementing regulations do not provide a fair, reasonable and substantially proportionate assessment of all costs related to the regulation of affected payors. On October 23, 2013, the Department of Justice filed a response on behalf of the Defendants, opposing Petitioners' submission regarding remedies. On October 30, 2013, the court heard argument concerning its tentative decision. The Court issued its Final Statement of Decision on November 12, 2013, confirming that the fees imposed by the State Water Resources Control Board are invalid. The Court further ruled that the fees charged to contractors are unconstitutional under the supremacy clause. On December 13, 2013, the Trial Court issued its final judgment in favor of the Plaintiffs.

The Court determined that the fees imposed by the State Water Resources Control Board are invalid, and further ruled that fees charged to contractors are unconstitutional under the supremacy clause.

On February 10, 2014, Respondents filed a Notice of Appeal to the trial court's water rights decision. On February 21, 2014, Plaintiff, California Farm Bureau

Federation filed Opposition to Respondent's motion to tax costs. Northern California Water Association filed an Opposition to motion to tax costs on the same date. On February 27, 2014, Respondents filed their reply to Plaintiff's Opposition to motion to tax costs. On April 4, 2014, the Appellant's Notice Designating Record on Appeal was filed. On August 15, 2014, the parties filed a Stipulation for Extension of Time to File Briefs. Appellants' Opening Brief is due October 17, 2014. The Joint Appendix is due December 16, 2014. Appellants' Reply Brief is due February 16, 2015. On or about September 19, 2014, Appellant's filed an application for an extension of time from October 17, 2014, to December 1, 2014 to file its opening brief.

CALIFORNIA FARM BUREAU FEDERATION II, et al. v. CA State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 05CS00538

Filed – 01/13/05

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2004-2005

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

CALIFORNIA FARM BUREAU FEDERATION III, et al. v. CA State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 06CS00651

Filed – 04/26/06

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2005-2006

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

CALIFORNIA FARM BUREAU FEDERATION IV, et al. v. CA State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 07CS00485

Filed – 02/11/08

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2006-2007; 2007-2008

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

CALIFORNIA FARM BUREAU FEDERATION V, et al. v. CA State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2009-80000231

Filed – 05/07/09

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2009

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, Case No. S150518.

CALIFORNIA FARM BUREAU FEDERATION VI, et al. v. CA State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2011-80000880

Filed – 06/10/11

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David A. Battaglia, Alan N. Bick - Gibson, Dunn & Crutcher LLP

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2010, 2010-2011

Amount: Unspecified

Status: On July 1, 2011, Plaintiff dismissed Jerome E. Horton as Chairperson of the Board of Equalization. This case is stayed pending the outcome of the stipulation pending the outcome of the consolidated cases – see *Northern California Water Association, et al. v. State Water Resources Control Board, et al.*

CALIFORNIA INSURANCE COMPANY v. California State Board of Equalization

Los Angeles County Superior Court Case No. BC530993

Filed –12/19/13

Plaintiff's CounselBOE's Counsel

Stephen Lew

Plaintiff's Counsel

Spencer Y. Kook

James C. Castle

Barger & Wolen LLP

BOE Attorney

Wendy Vierra

Issue(s): Plaintiff, a property and casualty insurance company licensed to do business in California, contends that it is entitled to a refund of taxes paid on premiums received for certain policies issued during the period of January 1, 2004 through December 31, 2005. Plaintiff contends that said premiums were not received as a result of business done in California within the meaning of Revenue and Taxation Code section 12221 since the policies were issued to a professional employer organization in Idaho and the premiums were received in Idaho.

Audit/Tax Period: None

Amount: \$962,453.80

Status: On December 23, 2013, Plaintiffs filed service of summons and complaint and related documents on the BOE. On February 4, 2014, BOE filed its answer to the complaint for refund. At the Case Management Conference on March 19, 2014, the court set the following dates: (1) Hearing on Motions for Summary Judgment, October 15, 2014; (2) Final Status Conference, December 15, 2014; and (3) Trial, January 12, 2015. On March 21, 2014, plaintiff California Insurance Company served on the Board plaintiff's first set of written discovery. On May 5, 2014, the Board served its responses to the Plaintiff's first set of written discovery. On May 6, 2014, the Board produced documents in response to the Plaintiff's first set of document requests. On May 23, 2014, the Board served its first set of written discovery requests on Plaintiff. On July 11, 2014, Plaintiff served its responses to the Board's first set of written discovery requests. On July 15, 2014, the court issued an order continuing the parties' summary judgment hearing date to December 12, 2014. On or about August 8, 2014, the parties jointly filed a Notice of Settlement and Joint Request for an Order Vacating All Pending Dates Pending Approval of Settlement. On October 30, 2014, the court entered an order approving the parties' settlement.

GREYHOUND LINES, INC. v. California Board of Equalization

Sacramento Superior Court Case No. 07CS00054

Filed – 01/12/07

BOE's Counsel

Bob Asperger

Plaintiff's Counsel

William D. Taylor, Eli R. Makus - Hanson, Bridgett, Marcus, Vlahos & Rudy, LLP

BOE Attorney

Renee Carter

Issue(s): Whether consumption of diesel fuel used to operate air conditioning systems on buses was exempt from the diesel fuel tax ([Revenue and Taxation Code section 60501\(a\)\(4\)\(A\)](#); [Regulation 1432](#)).

Audit/Tax Period: 08/01/01-12/31/03; 01/01/04-06/30/05

Amount: \$295,583.04

Status: BOE's Answer to the Second Amended Complaint was filed February 1, 2010. On March 5, 2010, Greyhound agreed to remove its Demurrer to BOE's Answer

to the Second Amended Complaint from the court's March 19, 2010 calendar. On September 23, 2011, Plaintiff Greyhound and Defendant BOE stipulated and agreed that the action against the defendant going to trial within five years of the date the action commenced, as stated in the code of [Civil Procedure section 583.310](#), would be extended for 24 months.

On March 20, 2014, a hearing date was set for September 5, 2014. On June 10, 2014, the parties disclosed expert witnesses. On June 19, 2014, the parties filed their mediation briefs. On June 23, 2014, the parties attended mediation and reached a tentative agreement that will be submitted to the Board.

HOWARD JARVIS TAXPAYERS ASSN., et al. v. CA Dept. of Forestry, et al.
Sacramento Superior Court: 34-2012-00133197-CU-MC-GDS
Filed – 10/04/2012

BOE's Counsel
Linda Berg Gandara

Plaintiff's Counsel
Trevor A. Grimm - Howard Jarvis Taxpayers Foundation

BOE Attorney
John Waid

Issue(s): The issue in this case is whether the Fire Prevention Fee enacted by [AB X1 29 \(Stats 2011, First Ex. Sess. Ch.8\)](#) is a tax and, as such, not enacted without receiving the two-thirds vote required by [article XIII A, section 3, of the California Constitution](#).

Audit/Tax Period: None

Amount: Unspecified

Status: BOE's response was filed on April 26, 2013. At the July 19, 2013 hearing, the court issued a ruling on the submitted matters: 1) the Court overruled CalFire's demurrer to the first amended complaint for failure to state sufficient facts to allege class action causes for relief; 2) the Court ruled in CalFire's favor that Plaintiffs should have filed a petition for redetermination before filing a claim for refund; and 3) CalFire's motion to strike certain paragraphs of plaintiffs' first amended complaint were granted. Plaintiffs filed a second amended complaint on July 29, 2013. BOE's response to Plaintiff's second amended complaint was filed on August 7, 2013. On November 21, 2013, a hearing was held on the Demurrer, and the matter was taken under submission. On December 13, 2013, the Court issued a ruling agreeing with CalFire on CalFire's demurrer to

Plaintiffs' second amended complaint. On January 21, 2014, attorneys for Plaintiffs filed opposition to CalFire's proposed order on the demurrer and motion to strike Plaintiffs' second amended complaint. On January 24, 2014, attorneys for Defendant filed notice of order on CalFire's demurrer and motion to strike regarding Plaintiff's second amended complaint. On January 24, 2014, attorneys for Plaintiffs filed "Class Action" third amended complaint for declaratory relief and refunds. On February 25, 2014, CalFire filed an answer to Plaintiffs' third amended complaint. On February 28, 2014, BOE filed an answer to Plaintiffs' third amended complaint.

MYERS, MICHAEL D. v. Board of Equalization

Los Angeles County Superior Court: BS143436

Filed – 7/3/2013

Issue(s): The primary dispute in this matter is between the plaintiffs and Blue Cross/Blue Shield. BOE is a nominal defendant.

Audit/Tax Period: None

Amount: Unspecified

Status: On September 5, 2013, BOE filed its Notice of Appearance. The Court permitted BOE to file a no-position response on November 22, 2013. On January 17, 2014, attorneys for real party in interest, Blue Cross of California dba Anthem Blue Cross filed its reply in support of demurrer. On the same date, attorneys for real party in interest filed its response to Plaintiff's objection to Blue Cross' request for judicial notice.

Notice of Entry of Judgment of Dismissal was entered on March 10, 2014.

On April 1, 2014, Notice of Appeal and Notice Designating Record on Appeal were filed. On June 26, 2014, one volume of reporter's transcripts was filed. Appellant's opening brief and appendix were due on August 5, 2014. Pursuant to stipulation of the parties, Appellants' Opening Brief was due September 5, 2014. Respondents' Brief is due January 5, 2015.

NORTHERN CA WATER ASSOCIATION I, et al. v. State Water Resources Control Board, et al.

California Superior Court Case No. S150518

Sacramento Superior Court Case No. 03CS01776

Court of Appeal, Third Appellate District: 03CS01776

Filed – 12/17/03

BOE's Counsel
Molly Mosley

Plaintiffs' Counsel
Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: The California Supreme Court issued its decision on January 31, 2011, affirming the Court of Appeal's judgment holding that the fee statutes at issue are facially constitutional and reversing the Court of Appeal's determination that the statutes and their implementing regulations are unconstitutional as applied. The case is remanded to the Court of Appeal to remand to the trial court for proceedings consistent with the opinion. On April 20, 2011, the Court denied the petitions for rehearing, and modified its opinion. Remittitur issued May 12, 2011. At the Status Conference on July 29, 2011, the judge ordered discovery in the Water Rights cases. A Notice of Entry of Dismissal was entered for Petitioner Stone Corral Irrigation District on November 17, 2011. Trial was held from December 4, 2012 through December 19, 2012. On July 1, 2013, Petitioners filed their reply brief. Respondents State Water Resources Control Board, et al., filed their post-trial response brief on July 1, 2013. On September 6, 2013, Sacramento Superior Court issued its tentative decision in favor of Plaintiffs ruling that the fees imposed by the Water Resources Control Board are invalid, because the statutory fee scheme and implementing regulations do not provide a fair, reasonable and substantially proportionate assessment of all costs related to the regulation of affected payors. On October 23, 2013, the Department of Justice filed a response on behalf of the Defendants, opposing Petitioners' submission regarding remedies. On October 30, 2013, the court heard argument concerning its tentative decision. The Court issued its Final Statement of Decision on November 12, 2013, confirming that the fees imposed by the State Water Resources Control Board are invalid. The Court further ruled that the fees charged to contractors are unconstitutional under the supremacy clause. On December 13, 2013, the Trial Court issued its final judgment in favor of the Plaintiffs. The Court determined that the fees imposed by the State Water Resources Control Board are invalid, and further ruled that fees charged to contractors are

unconstitutional under the supremacy clause. On February 10, 2014, Respondents filed a Notice of Appeal to the trial court's water rights decision. On February 21, 2014, Plaintiff, California Farm Bureau Federation filed Opposition to Respondent's motion to tax costs. Northern California Water Association filed an Opposition to motion to tax costs on the same date. On February 27, 2014, Respondents filed their reply to Plaintiff's Opposition to motion to tax costs. On April 4, 2014, the Appellant's Notice Designating Record on Appeal was filed. On August 15, 2014, the parties filed a Stipulation for Extension of Time to File Briefs. Appellants' Opening Brief is due October 17, 2014. The Joint Appendix is due December 16, 2014. Appellants' Reply Brief is due February 16, 2015. On or about September 19, 2014, Appellant's filed an application for an extension of time from October 17, 2014, to December 1, 2014 to file its opening brief.

NORTHERN CA WATER ASSOCIATION II, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 04CS01467

Filed – 10/29/04

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2004-2005

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION III, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 05CS01488
Filed – 10/19/05

BOE's Counsel
Molly Mosley

Plaintiffs' Counsel
Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2005-2006

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION IV, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 06CS01517
Filed – 10/18/06

BOE's Counsel
Molly Mosley

Plaintiffs' Counsel
Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2006-2007

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION V, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2008-00003004-CU-WM-GDS

Filed – 02/07/08

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2007-2008

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION VI, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2009-80000183

Filed – 03/05/09

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2008-2009
Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION VII, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2010-80000461
Filed – 03/04/2010

BOE's Counsel
Molly Mosley

Plaintiffs' Counsel
Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney
Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2009-2010
Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

NORTHERN CA WATER ASSOCIATION VIII, et al. v. State Water Resources Control Board, et al.

Sacramento Superior Court Case No. 34-2011- 80000828
Filed – 04/05/2011

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

Stuart L. Somach, Daniel Kelly - Somach, Simmons & Dunn

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530; 1535-1541; 1550-1552; and 1560](#)).

Audit/Tax Period: 2010-2011

Amount: Unspecified

Status: This case is stayed pending the decision of the California Supreme Court in *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.

PALO VERDE IRRIGATION DISTRICT v. State Water Resources Control Board, et al.

Riverside Superior Court Case No. INC 043178
Filed – 05/28/04

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

David R. Saunders - Clayson, Mann, Yaeger & Hansen

BOE Attorney

Renee Carter

Issue(s): Whether the water rights fee imposed by the State Water Resources Control Board (SWRCB) enacted by the Legislature in 2003 in Senate Bill 1049 is valid ([Water Code sections 1525-1530](#); [1535-1541](#); [1550-1552](#); and [1560](#)).

Audit/Tax Period: 2003-2004

Amount: Unspecified

Status: This case is stayed pending the outcome of the consolidated cases (see *Northern California Water Association, et al. v. State Water Resources Control Board*, case number S150518.) At the Case Management Conference on October 21, 2011, the judge in Sacramento granted BOE's motion to transfer this case to Sacramento to be heard, but not consolidated, with the other water rights cases. Trial was held from December 4, 2012 through December 19, 2012. The court scheduled post-trial briefing. On July 1, 2013, Petitioners filed their reply brief. Respondents State Water Resources Control Board, et al., filed their post-trial response brief on July 1, 2013. On September 6, 2013, Sacramento Superior Court issued its tentative decision in favor of Plaintiffs ruling that the fees imposed by the Water Resources Control Board are invalid, because the statutory fee scheme and implementing regulations do not provide a fair, reasonable and substantially proportionate assessment of all costs related to the regulation of affected payors. On October 23, 2013, the Department of Justice filed a response on behalf of the Defendants, opposing Petitioners' submission regarding remedies. On October 30, 2013, the court heard argument concerning its tentative decision. The Court issued its Final Statement of Decision on November 12, 2013, confirming that the fees imposed by the State Water Resources Control Board are invalid. The Court further ruled that the fees charged to contractors are unconstitutional under the supremacy clause. On December 13, 2013, the Trial Court issued its final judgment in favor of the Plaintiffs. The Court determined that the fees imposed by the State Water Resources Control Board are invalid, and further ruled that fees charged to contractors are unconstitutional under the supremacy clause. On February 10, 2014, Respondents filed a Notice of Appeal to the trial court's water rights decision. On February 21, 2014, Plaintiff, California Farm Bureau Federation filed Opposition to Respondent's motion to tax costs. Northern California Water Association filed an Opposition to motion to tax costs on the same date. On February 27, 2014, Respondents filed their reply to Plaintiff's Opposition to motion to tax costs. On April 4, 2014, the Appellant's Notice Designating Record on Appeal was filed. On August 15, 2014, the parties filed a Stipulation for Extension of Time to File Briefs. Appellants' Opening Brief is due October 17, 2014. The Joint Appendix is due October 17, 2014. Respondents' Brief is due December 16, 2014. Appellants' Reply is due February 16, 2015. On or about September 19, 2014, Appellant filed an application for an extension of time from October 17, 2014, to December 1, 2014 to file its opening brief.

STARBUZZ INC.

Orange County Superior Court: Case No. M-15069
Filed – 3/25/2013

BOE's Counsel

Lisa Chao

Plaintiffs' Counsel

David E. Swanson - Law Offices of David E. Swanson

BOE Attorney

W. Gregory Day

Issue(s): Petitioner contends that its property was illegally seized pursuant to a search warrant by the Anaheim Police Department and other State agencies, which prevents petitioner from conducting its business, including the filing of tax returns. Petitioner contends that a special master must be appointed to determine whether any of the documents seized are protected by the attorney-client privilege and must be returned to petitioner.

Audit/Tax Period: Unknown
Amount: Not Specified

Status: At the October 18, 2013 hearing, the Court denied Starbuzz's application for a protective order. The case was held open for 30 days in the event of an appellate filing. On January 22, 2014, the Court appointed Laurie Schiff to act as Special Master to review records and computer files seized under search warrant for which a claim of attorney client communications privilege had been made. The Special Master is to review the records and computer files to determine whether any of the records and files are subject to the privilege, for the purpose of preserving the privilege. On May 2, 2014, the Court ordered Starbuzz to file a specific privilege log. On May 15, 2014, the Special Master filed her report identifying those items she found to be privileged. The Court heard the matter on May 16, 2014.

TAKI, WAHID AHMAD dba News & Cigarettes City v. California Board of Equalization

Sacramento Superior Court Case No. 34-2012-80001335
Filed – 12/14/12

BOE's Counsel

Jane O'Donnell

Plaintiffs' Counsel

Caitlin Colman – Attorney at Law

BOE Attorney

Sharon Brady Silva

Issue(s): The issue in this case is whether the evidence supports BOE's findings of petitioner's violation of [Bus. & Prof. Code section 22974 and 22974.3, subdivision \(b\)](#), which imposes a 10-day cigarette license suspension.

Audit/Tax Period: None

Amount: Unknown

Status: Petitioner's attorney notified the DAG representing BOE that Petitioner is dismissing his writ petition. To date, the dismissal has not been filed with the Court.

WATSON, RANDALL v. California Revenue and Taxation Code §20 Board of Equalization

Sacramento Superior Court Case No. 34-2013-80001717

Filed – 1/21/14

BOE's Counsel

Robert E. Asperger

Plaintiffs' Counsel

Plaintiff in Pro Per

BOE Attorney

Renee Carter/John Waid

Issue(s): On December 23, 2013, Petitioner filed an Ex Parte Petition For Alternative Writ of Mandamus against BOE with respect to the Department of Forestry and Fire Prevention fire fee assessed against Petitioner. BOE issued Notice of Determination dated August 22, 2012, for the period July 1, 2011, through June 30, 2012. Petitioner contends that BOE's assessment is invalid because the Notice of Determination was not signed by an assessor and it is not certified.

Audit/Tax Period: None

Amount: Unknown

Status: On January 31, 2014, the hearing for Plaintiffs' Ex Parte Petition for alternate writ of mandamus was scheduled for February 7, 2014. On February 20, 2014, BOE filed its answer to petition for alternative writ of mandamus. A hearing on the merits was scheduled for August 22, 2014. On July 28, 2014, BOE filed its opposition to the petition. On August 22, 2014, the trial court denied the petition. On September 19, 2014, the Attorney General's office mailed a copy of BOE's proposed judgment to the court. The court entered Judgment denying the Writ on October 15, 2014.

WRIGHT, LINDA ANN v. USA et al.

USDC Northern Dist. CA Case No. CA 14 3008 NJV

Filed – 7/15/14

BOE's Counsel

John P. Devine

Plaintiffs' Counsel

Plaintiff in Pro Per

BOE Attorney

Renee Carter

Issue(s): On July 8, 2014, Pro Se Plaintiff Wright filed a Complaint in the District Court of Northern California, against the USA, and various defendants, including the BOE. The complaint alleges violation of the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, including violation of 42 U.S.C. §1983 and other statutes. Plaintiff sues the BOE with respect to the Department of Forestry and Fire Prevention fire fee, which she disputes.

Audit/Tax Period: None

Amount: Unspecified

Status: BOE's Motion to Dismiss was filed August 19, 2014. Hearing was set for October 3, 2014. The court on its own motion continued the hearing to October 10, 2014. The court granted the US Attorney's motion to continue all hearings to December 19, 2014.

YOUR PEOPLE PROFESSIONALS, INC. v. The California State Board of Equalization

Sacramento County Superior Court: Case No. 34-2014-00165808

Filed – 8/04/2014

BOE's Counsel

Molly Mosley

Plaintiffs' Counsel

Darren G. Smith

BOE Attorney

Renee Carter

Issue(s): On July 3, 2014, Plaintiffs filed a Complaint for Refund of Hazardous Substances Taxes pursuant to Revenue and Taxation Code (RTC) 43474, including a request for declaratory relief. Plaintiffs contend its businesses have less than 50 or more employees and therefore plaintiffs are not subject to the fees forth in Health and Safety Code 25205.6, subdivision (c).

Audit/Tax Period: None

Amount: Not Specified

Status: By Stipulation of the parties, BOE's time to respond to plaintiff's complaint has been extended to October 15, 2014. BOE filed its demurrer on October 15, 2014. The hearing on the Demurrer is scheduled for January 13, 2015.

**Special Taxes
CLOSED CASES
LITIGATION ROSTER
OCTOBER 2014**

ZARTOSHT INC. v.
California Board of Equalization

Sacramento Superior Court Case No. 34-2011-00106888

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