LITIGATION ROSTER

SPECIAL TAXES

AUGUST 2015

Special Taxes
AUGUST 2015

NEW CASES

Case Name	Court/Case Number
None	

CLOSED CASES

Case Name	Court/Case Number
None	

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

Special Taxes

LITIGATION ROSTER

AUGUST 2015

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

California Supreme Court Case No. S150518Filed – 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

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 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. The Joint Appendix was due December 16, 2014. Appellants' Reply Brief was 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. The Third District Court of Appeal accepted State Water Resources Control Board's (SWRCB) application for an extension to file its Reply Brief. The Brief was due April 16, 2015. On April 10, 2015, the Court granted Appellants' request for an extension to file Reply Brief by June 1, 2015. On June 5, 2015, the Court granted Appellants' Motion to File Corrected Opening Brief and Motion to File Reply Brief exceeding 14,000 words. On June 9, 2015, the Court ordered the Clerk of the Court to strike Appellants' January 5, 2015, Opening Brief and to return it. On June 9, 2015, Appellants filed their corrected Appellants' Opening Brief and the Reply Brief. This case is now fully briefed.

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 consolidated cases – see *Northern California Water Association, et al. v. State Water Resources Control Board, et al.*

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 XIIIA, 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. The motion for class certification was heard on August 7, 2015. The court denied class certification on the declaratory relief cause of action, but granted class certification on the refund claims, limited to those who have paid the fee and exhausted administrative remedies.

VASKIN KOSHKERIAN v. CALIFORNIA STATE BOARD OF EQUALIZATION

Sacramento County Superior Court: 34-2014-00165891
Filed – 7/3/2014

BOE's Counsel
Jill Bowers

Plaintiff's Counsel
Alan Leigh Armstrong

BOE Attorney
John Waid

Issue(s): This litigation concerns a claim for refund for underground storage tank fees on for the period October 1, 2000 through June 30, 2001. Plaintiff Vaskin Koshkerian filed a claim for refund for alleged overpayment on the account in the amount of $65,462.81, which was rejected by the Board. Plaintiff claims he was improperly charged the fees as an individual by the Board for partnership obligations; that he did not operate the business for all or part of the tax periods in question; and that the Board improperly collected the fees from his personal bankruptcy estate. The Board determined those allegations against him and denied the claim for refund on February 27, 2014.

Audit/Tax Period: October 1, 2000 through June 30, 2001
Amount: None

Status: Orange County Superior Court received the stipulation to transfer the case to Sacramento County Superior Court. On February 20, 2015, the Orange County Superior Court ordered the case transferred to the Sacramento Superior Court, and also ordered that Plaintiff pay both the transfer fee and the Sacramento Superior Court filing fees not later than February 27, 2015. On June 4, 2014, BOE filed its Consolidation Motion and request for extension of time to respond. On July 1, 2015,

the Trial Court issued a Minute Order granting the BOE's Motion for Consolidation and Request for Extension of Defendant's Time to Respond to Complaints. On July 31, 2015, BOE filed its demurrer. This is the lead case, consolidated with Koshkerian's Orange County complaint.

MYERS, MICHAEL D. v. Board of Equalization

Los Angeles County Superior Court: BS143436
Filed – 7/3/2013

BOE's Counsel

Plaintiff's Counsel
Richard J. Ayoob - Ajalat, Polley, Ayoob & Matarese

BOE Attorney
John Waid

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 was due January 5, 2015. On March 11, 2015, the Court of Appeal granted the application by California Department of Managed Health Care to file brief of Amici Curiae in support of Respondents and filed the brief. On April 6, 2015, the Department of Managed Care filed its amicus brief. On May 6, 2015, Respondents Blue Shield and Blue Cross filed their responses.

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 was due December 16, 2014. Appellants' Reply Brief was due February 16, 2015. On or about September 19, 2014, Appellants filed an application for an extension of time from October 17, 2014, to December 1, 2014 to file their opening brief. The Third District Court of Appeal accepted State Water Resources Control Board's (SWRCB) application for an extension to file its Reply Brief. The Brief was due April 16, 2015. On April 10, 2015, the Court granted Appellants' request for an extension to file Reply Brief by June 1, 2015. On June 5, 2015, the Court granted Appellants' Motion to File Corrected Opening Brief and Motion to File Reply Brief exceeding 14,000 words. On June 9, 2015, the Court ordered the Clerk of the Court to strike Appellants' January 5, 2015, Opening Brief and to return it. On June 9, 2015, Appellants filed their corrected Appellants' Opening Brief and the Reply Brief. This case is now fully briefed.

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. The Joint Appendix was due October 17, 2014. Respondents' Brief is due December 16, 2014. Appellants' Reply is due February 16, 2015. On or about September 19, 2014, Appellants filed an application for an extension of time from October 17, 2014, to December 1, 2014 to file their opening brief. The Third District Court of Appeal accepted State Water Resources Control Board's (SWRCB) application for an extension to file its Reply Brief. The Brief was due April 16, 2015. On April 10, 2015, the Court granted Appellants' request for an extension to file Reply Brief by June 1, 2015. On June 5, 2015, the Court granted Appellants' Motion to File Corrected Opening Brief and Motion to File Reply Brief exceeding 14,000 words. On June 9, 2015, the Court ordered the Clerk of the Court to strike Appellants' January 5, 2015, Opening Brief and to return it. On June 9, 2015, Appellants filed their corrected Appellants' Opening Brief and the Reply Brief. This case is now fully briefed.

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.

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.

On December 15, 2014, the court vacated the hearing scheduled for December 19, 2014, and took the case under submission and will rule on the papers filed by the parties. The Court rescheduled the Case Management Conference from February 27, 2015 to August 14, 2015. No ruling on BOE's Motion to Dismiss has been rendered; Motion is under submission. The Court dismissed the complaint without prejudice. Plaintiff has 30 days from March 16, 2015 to file an amended complaint. On May 7, 2015, the Plaintiff filed her response to the court's Order to Show Cause regarding dismissal of the action. On June 24, 2015, the District Court dismissed plaintiff's complaint with prejudice. Plaintiff had 30 days to file an appeal. Plaintiff filed her Notice of Appeal on June 26, 2015. The court set the following schedule: Appellant's Opening Brief is due October 5, 2015. Appellees' Answering Brief is due November 3, 2015. Appellant's Optional Reply Brief shall be filed within 14 days of service of Appellees' Brief.

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
Kiren Chohan

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 was extended to October 15, 2014. BOE filed its demurrer on October 15, 2014. The hearing on the Demurrer was scheduled for January 13, 2015.

Plaintiffs filed their Opposition to BOE's Demurrer on December 15, 2014. On January 6, 2015, BOE filed its Reply in Support of the Board's Demurrer as well as a Request for Judicial Notice in support. On January 29, 2015, the Board filed its answer to Plaintiffs First Amended Complaint. The discovery process is ongoing. The trial date has been set for January 5, 2016.

Special Taxes
CLOSED CASES
LITIGATION ROSTER
JULY 2015

DISCLAIMER

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