LITIGATION ROSTER

SALES AND USE TAX

NOVEMBER 2015

Sales and Use Tax
NOVEMBER 2015

NEW CASES

BEKKERMAN, ALINA; GRIFFITH, BRANDON; LEE; and CHARLES LISSER	Sacramento County Superior Court	34-2015-80002

CLOSED CASES

ALAMEDA, CITY OF	Court of Appeal, First Appellate District	A137186
SMITH, GREGORY AND AMY ELAINE	Placer County Superior Court	SCV0035041
SOUTH SAN FRANCISCO, CITY OF	Court of Appeal, First Appellate District	A137173

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

Sales and Use Tax

LITIGATION ROSTER

NOVEMBER 2015

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 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 is due November 4, 2015. The Board's Reply is due November 10, 2015. Hearing is scheduled for November 18, 2015. On October 26, 2015, plaintiff filed his Opposition

to BOE's demurrer. BOE's response is due November 10, 2015. On November 10, 2014, 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.

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

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: Pending

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.

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.

BRISBANE, CITY OF v. The California State Board of Equalization
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 it opinion. 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 is set for January 25, 2016.

CALIFORNIA CITY, THE CITY OF, et al. v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2012-80001501
Filed – 05/24/13

Plaintiff's Counsel
Kimberly Hall Barlow - Jones & Mayer

BOE's Counsel
Anthony Haki

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. Petitioner's Ex Parte Application for Temporary Restraining Order and Order to Show Cause filed on May 29, 2013, was denied by the court. On June 12, 2013, the court endorsed the Attorney General's letter filed with a proposed order regarding Petitioner's ex parte application for temporary restraining order. BOE's response to petitioner's writ of mandate and complaint was filed on July 15, 2013. On September 23, 2013, the Sacramento Superior Court ordered that Plaintiffs may amend their complaint. On September 30, 2013, Plaintiffs filed a first amended complaint for declaratory relief. BOE filed its answer to the first amended complaint and petition for writ of mandate on October 29, 2013. On November 8, 2013, the attorney for Kern County Auditor-Controller's filed its answer to petition for writ of mandate and complaint. The City and the Department of Finance have entered into settlement negotiations.

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, 2015.

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.

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.

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, has been continued to November 18, 2015.

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
Once BOE is properly served with a summons and complaint, BOE will file a timely response. 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 is set for January 28, 2016.

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 is 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 is scheduled for December 15, 2015.

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.

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.

IRVINE, CITY OF, and SUCCESSOR AGENCY TO THE DISSOLVED IRVINE REDEVELOPMENT AGENCY v. MICHAEL COHEN, Director of the Department of Finance; BETTY T. YEE, Controller for the State of California; CALIFORNIA BOARD OF EQUALIZATION; ERIC WOOLERY, Auditor-Controller of the County of Orange; ORANGE COUNTY AUDITOR-CONTROLLER'S OFFICE, and DOES 1 through 50, ROES 1 through 100, Real Parties-in-Interest
Sacramento County Superior Court Case No. 34-2015-00178971
Filed – 06/08/15

Plaintiff's Counsel
Rutan & Tucker, Dan Slater

BOE's Counsel
George Waters

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:
Amount: Unknown

Status: The Department of Finance, the Controller, and the City of Irvine have reached a tentative settlement.

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.

VASKIN KOSHKERIAN v. CALIFORNIA STATE BOARD OF EQUALIZATION
Orange County Superior Court: 30-2014-00757964
Filed – 11/24/2014
Plaintiff's Counsel
Alan Leigh Armstrong

BOE's Counsel
Jill Bowers

BOE Attorney
W. Gregory Day

Issue(s): This litigation concerns a claim for refund for sales taxes for the period October 1, 2000 through March 7, 2001. Plaintiff Vaskin Koshkerian filed a claim for refund for alleged overpayment on the account in the amount of $103,127.30, which was rejected by BOE. Plaintiff claims he was improperly charged the taxes as an individual by BOE for partnership obligations; that he did not operate the business for all or part of the tax periods in question; and that BOE improperly

collected the fees from his personal bankruptcy estate. The Board determined those allegations against him and denied the claim for refund.

Audit/Tax Period: October 1, 2000 through June 30, 2001
Amount: $103,127.30

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 County Superior Court, and also ordered that Plaintiff pay both the transfer fee and the Sacramento County Superior Court filing fees not later than February 27, 2015. On June 4, 2015, 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. This case was consolidated with Koshkerian's Sacramento County complaint, which is the lead case. On July 31, 2015, the Board filed its demurrer. On September 25, 2015, plaintiff filed its opposition to BOE's demurrer. On October 9, 2015, the trial court issued a minute order sustaining BOE's demurrer without leave to amend. On November 3, 2015, the court filed Notice of Entry of Order Sustaining Demurrer without leave to Amend and on November 5, 2015, the court filed Judgment of Dismissal. On November 10, 2015, State Board of Equalization filed its Memorandum of Costs.

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.

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 is 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.

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.

LIVINGSTON, CITY OF, et al. v. Ana Matosantos
Sacramento Superior Court Case No. 34-2013-80001460
Filed – 4/12/2013

Plaintiff's Counsel
Deborah J. Fox - Meyers, Nave, Riback, Silver & Wilson

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: The BOE is a "remedial defendant" in this case. BOE filed its response on May 13, 2013. On November 8, 2013, Plaintiffs filed their opening brief in support of petition for writ of mandate. On November 12, 2013, Plaintiffs filed notice of hearing on petition for writ of mandate. On December 6, 2013, Respondents filed memorandum of points and authorities in opposition to petition for writ of mandate. Respondents also filed objections to Petitioners' evidence and declarations in support of petition for writ of mandate. On January 10, 2014, the trial court denied Plaintiffs' petition for writ of mandate and complaint for declaratory and injunctive relief. On March 27, 2014, the Plaintiff filed a proposed judgment adopting the January 10, 2014 tentative ruling denying the Petition for Writ of Mandate. Appellant filed his Opening Brief on August 18, 2015. BOE's Respondent's Brief was scheduled to be due October 26, 2015.

LOMA LINDA, CITY OF v. Ana J. Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001583
Filed – 07/31/13

Plaintiff's Counsel
Dan Slater - Rutan & Tucker

BOE's Counsel
Benjamin Glickman

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 October 4, 2013, DOJ filed a notice of representation of the BOE in lieu of a response to the verified petition for writ of mandate and declaratory and injunctive relief. On December 13, 2013, Plaintiffs filed a stipulation regarding compliance

with issued writ of mandate judgment, and/or final ruling; Order regarding compliance with issued writ of mandate, judgment, and/or final ruling.

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. The Court of Appeal has 90 days to issue a written decision. 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.

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. The Court of Appeal has 90 days to issue a written decision. 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.

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
Philip J. Eskanazi, Lee A. Cirsch - Akin, Gump, Strauss, Haur & Feld 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 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 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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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 is October 9, 2015. The court will set a briefing schedule after that date. The parties have moved to consolidate the appeals. The Court ordered that the appeals be consolidated on October 8, 2015.

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.

MOHAN, DIANE, et al. v. Dell, Inc., et al.
San Francisco Superior Court Case No. CGC 03-419192
Filed – 11/01/04

Plaintiff's Counsel
Frederick Ellis

BOE's Counsel
Anne Michelle Burr

BOE Attorney
Jeffrey Graybill

Issue(s): Whether Dell illegally collected use tax measured by the price of optional service contracts even though the contracts were not separately stated on the invoice (Revenue and Taxation Code 6011; Regulations 1546 and 1655).

Audit/Tax Period: None
Amount: Unspecified

Status: The trial court ruled that the service contracts were in fact optional and that the Dell entities should not have collected tax on their sales. Dell took up a writ of mandate on this issue to the First District Court of Appeal. In a published decision, the appeals court agreed with the trial judge. (*Dell, Inc. v. Sup. Ct.* (2008) 159 Cal.App.4th 911.) Plaintiffs' Unfair Competition Law claims are still pending.

On December 12, 2011, the trial court gave preliminary approval to the class action settlement reached by the parties. A Settlement Administrator was retained to print announcements of the class action settlement to be mailed to eligible customers with instructions on how claimants can go online to complete their refund claims. Notices were mailed to approximately 3.6 million potential claimants, and claims have started to be filed with the third party settlement administrator. The deadline to opt out of the settlement, and to file objections, was March 19, 2013. The hearing for final court approval of the settlement was April 18, 2013. The court stated that it would approve the settlement, and the parties prepared a form of judgment for consideration and entry by the court. The last day on which claims were to be filed was May 29, 2013. The Board does not plan to mail any refunds until after the court's final judgment, and any appeal periods, have passed.

As of April 1, 2014, all briefs have been filed in the appeal of objector Fred Sondheimer, and the parties are awaiting the setting of oral argument by the Court of Appeal. The Board is awaiting a decision from the Court of Appeal before it begins issuing refunds to claimants. The Court of Appeal set oral argument for October 30, 2014. On December 10, 2014, the Court of Appeal issued an unpublished opinion, affirming the trial court judgment that approved the settlement agreements on refund claims to be paid by BOE. The deadline to file a Petition for Review with the California Supreme Court was January 20, 2015. On January 16, 2015, counsel for Fred Sondheimer filed a Petition for Review with the Supreme Court. Answers were due to be filed by February 5, 2015. On February 23, 2015, counsel for objector Fred Sondheimer filed a Reply to the Answer. On March 11, 2015, the California Supreme Court denied review, thus ending the California state court litigation over the objections to the Dell settlements. Objector Fred Sondheimer had 90 days from March 11, 2015, or until June 9, 2015, to file an appeal to the United States Supreme Court. In the event that Sondheimer did not file an appeal, the Board would begin issuing refunds after that date. As no such further appeal was taken, the Sondheimer litigation has become final. In July 2015, the Board processed approximately 170,000 refunds (the refunds under $250) through the State Controller's Office. The Board began processing the larger refunds in August. The Board has continued making refunds through November.

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 are 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 is 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.

MOSHIRI, NADEREH, individually and behalf of all others similarly situated, v. SAKS and COMPANY, a New York Corporation, dba SAKS FIFTH AVENUE and SAKS FIFTH AVENUE OFF FIFTH; CALIFORNIA STATE BOARD OF EQUALIZATION; and DOES 1 through 20, inclusive
Los Angeles County Superior Court Case No. BC548335
Filed –04/01/15

Plaintiff's Counsel
Mirabel, Farrah

BOE's Counsel
Nhan Vu

BOE Attorney
Crystal Yu
Wendy Vierra

Issue(s): This is a putative class action brought in the name of a consumer of retailer Saks and Co. dba Saks Fifth Avenue and Saks Fifth Avenue Off Fifth ("Saks"), against defendants Saks and the BOE. The complaint alleges that Saks conducted unfair and unlawful practices in connection with its sales refund policy, on the ground that Saks failed to refund sales tax reimbursement paid by consumers upon return of an

item without a sales receipt. The complaint further alleges that the BOE retained for its own gain some or all of such excess sales tax reimbursement amounts paid by Saks. Under *Javor v. State Board of Equalization* (1962) 58 Cal.2d 252, plaintiff claims standing to purse this action against the BOE, and requests an accounting of the aggregate amount of alleged excess sales tax reimbursements collected and remitted by Saks.

Audit/Tax Period: None

Amount: Unspecified

Status: Plaintiff served her first Amended Complaint on the BOE on April 1, 2015. Pursuant to the court's request, the parties held a telephone conference on April 21, 2015, to discuss the BOE's request to file a demurrer to Plaintiffs' First Amended Complaint. The court granted the BOE's request. Pursuant to Court Order, dated May 27, 2015, the BOE's deadline to file a Demurrer in the action was September 4, 2015. On September 4, 2015, BOE filed a Demurrer to Plaintiff's First Amended Complaint. On September 16, 2015, Plaintiffs filed an Opposition to the BOE's Demurrer. On September 22, 2015, BOE filed a Reply Brief in support of BOE's Demurrer to Plaintiff's First Amended Complaint. A hearing on the BOE's Demurrer is scheduled for October 6, 2015. On October 6, 2015, the trial court sustained BOE's Demurrer to Plaintiff's First Amended Complaint without leave to amend. On October 23, 2015, the trial court entered its order adopting the tentative ruling as its final ruling granting the demurrers of BOE and Saks without leave to amend. On November 16, 2015, the trial court entered judgment in favor of the BOE.

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.

PALM SPRINGS, CITY OF, et al. v. Ana Matosantos, et al.
Sacramento Superior Court Case No. 34-2013-80001440
Filed – 4/2/2013

Plaintiff's Counsel
Douglas C. Holland - Woodruff, Spradlin & Smart

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: BOE's response was filed on May 6, 2013. Petitioner's Ex Parte Application for Temporary Restraining Order and Order to Show Case Re: Preliminary Injunction was denied on May 31, 2013. Petitioner filed an amended Summons and Complaint on June 26, 2013. On July 24, 2013, the court denied Plaintiffs' ex parte application for a temporary restraining order in order to show cause regarding an issuance of a preliminary injunction. Hearing on cross-Defendants' demurrer and demurrer to cross complaint and memorandum of points and authorities in support thereof was held on April 18, 2014. This hearing involved the cross action against the city only. Hearing on the City's Writ Petition is set for October 2, 2015. Petitioners Opening Brief on the merits of their petition was filed on August 18, 2015. Respondents' Opposition was due on September 4, 2015. Hearing is set for October 2, 2015. Judgment dismissing Department of Finance and BOE from action was filed on October 23, 2015.

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
Jenifer J. Anisman

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.

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.

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 are due September 28, 2015. Hearing on the petition is set for October 23, 2015.

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.

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 will 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 is on July 16, 2015; a new judge has been 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. There has been no decision yet. 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.

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: PENDING

On October 1, 2015, plaintiff granted BOE an extension to respond to the Complaint. BOE's response is due November 19, 2015. On October 26, 2015, the court issued an order, assigning this case for all purposes to Complex Litigation Department 307. The court stayed all proceedings in the case until the Initial Status Conference, which is set for January 28, 2016. The current date for the BOE to respond to the complaint, November 19, 2015, is off calendar.

Sales and Use Tax
CLOSED CASES
LITIGATION ROSTER
NOVEMBER 2015

Case Name	Court/Case Number	
ALAMEDA, CITY OF	Court of Appeal, First Appellate District	A137186
SMITH, GREGORY AND AMY ELAINE	Placer County Superior Court	SCV0035041
SOUTH SAN FRANCISCO, CITY OF	Court of Appeal, First Appellate District	A137173

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