

# LITIGATION ROSTER

## PROPERTY TAX

JUNE 2017

**Property Tax**  
JUNE 2017

**NEW CASES**

Case Name

Court/Case Number

NONE

**CLOSED CASES**

Case Name

Court/Case Number

NONE

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

**Property Tax**  
**LITIGATION ROSTER**  
**JUNE 2017**

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**FERRELL, DANA K. v. California State Board of Equalization; and County of San Diego**  
California Court of Appeal, Fourth Appellate District: D069834  
San Diego County Superior Court: 37-2015-00018368-CU-WM-CTL  
Filed – 07/08/2015

Plaintiff's Counsel  
Fred Chesley

BOE's Counsel  
Suman R. Mathews

BOE Attorney  
Crystal Yu

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Issue(s):       The issue in this case is whether San Diego County unlawfully imposed higher property taxes on Plaintiff's real property due to its increased assessment value caused by the deposit of fill dirt on Petitioner's lot. Petitioner contends that BOE is mandated by [Government Code section 15606](#) to bring an action in a court of law to compel the County to comply with any provision of the law. Petitioner finally contends that he is entitled to a writ of mandate to compel BOE to order the County to comply with the laws applicable to assessment involving the deposit of fill dirt on real property.

Audit/Tax Period: None  
Amount: \$0.00

Status:         At the ex parte hearing on June 30, 2015, the Court set September 11, 2015, for the hearing of BOE's demurrer in the matter, and December 11, 2015, as the tentative date for the hearing on the petition. On August 14, 2015, BOE filed its demurrer to the petition for Writ of Mandate. On August 26, 2015, Petitioner filed his opposition to BOE's demurrer. On September 4, 2015, BOE filed its reply to the opposition. On September 10, 2015, the Court issued its tentative ruling which sustained BOE's demurrer without leave to amend. After the September 11, 2015 hearing, the tentative ruling became the final order of the Court. Judgment of dismissal of Plaintiff's complaint as to Defendant BOE was entered by the Court on October 5, 2015.

On February 16, 2016, plaintiff filed and served a notice of appeal from the judgment of dismissal entered against him in this matter. On March 3, 2016,

appellant filed a notice designating the clerk's and reporter's transcripts on appeal, but failed to properly serve respondent BOE. On May 27, 2016, the record on appeal was filed in the Court of Appeal. On August 29, 2016, appellant's opening brief was filed. On November 28, 2016, the BOE filed a Respondent's Brief in the Court of Appeal. On February 16, 2017, Appellant filed a reply brief. The case is now fully briefed, and awaits scheduling of oral argument.

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**LA PALOMA GENERATING COMPANY V. BOE AND KERN COUNTY**

Los Angeles County Superior Court: BC645390

United States Bankruptcy Court, District of Delaware: 16-12700

Filed – 01/03/2017

Plaintiff's Counsel

C. Stephen Davis

BOE's Counsel

Hutchison Meltzer

BOE Attorney

Kiren Chohan

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Issue(s): Whether plaintiff is entitled to a property tax refund related to the Board adopted unitary values for plaintiff's state assessed property for tax years 2012 through 2016. ([California Constitution, Art. XIII, section 19](#)); ([Revenue and Taxation Code section 5148](#)).

Audit/Tax Period: 2012-2016

Amount: To be determined

Status: The BOE's response to Plaintiff's Complaint is due March 28, 2017, based on the parties' stipulation. On March 28, 2017, the BOE filed a demurrer to the complaint and a motion to strike portions of the complaint. On March 16, 2017, Plaintiff La Paloma filed a Motion to transfer jurisdiction over this property tax refund action for years 2012 through 2016 from the Superior Court of Los Angeles County to the United States Bankruptcy Court for the District of Delaware. The BOE filed an objection to transferring this case to the Delaware Bankruptcy Court on March 30, 2017. La Paloma filed its reply on April 7, 2017. On April 12, 2017, the Delaware Bankruptcy Court accepted jurisdiction over the refund action and ordered the parties to file a proposed scheduling order with the Court within 20 business days. On May 12, 2017, the Delaware Bankruptcy Court signed the Scheduling Order setting forth briefing and other deadlines. Discovery is in process.

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

California Court of Appeal, Third Appellate District: C074179 & C083537

Sacramento County Superior Court: 34-2011-00116029

Filed – 12/21/11

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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

Audit/Tax Period: 2007

Amount: \$5,900,000.00

Status: Verizon served BOE with a Verified Complaint for Refund of State Assessed Property Taxes dated December 22, 2011. BOE's response to Verizon's First Amended Complaint was filed October 23, 2012. BOE filed a Motion to Strike and Demurrer on October 23, 2012. The Demurrer was based on Verizon's failure to name the remaining 29 counties in which it held unitary property as of the 2007 lien date as named defendants in this action that was brought against the BOE and 9-named defendant counties seeking a reassessment of its 2007 BOE-adopted unitary value. Verizon filed its Oppositions to BOE's Demurrer and Motion to Strike on March 6, 2013. On March 12, 2013, BOE filed its response to Verizon's Opposition to BOE's Demurrer and a Motion to Strike Attorney Fees. On April 16, 2013, the Court issued a final ruling on the Demurrer in favor of the BOE finding that all counties within which a state assesse owns property are indispensable parties that must be named defendants in a section 5148 refund action. Verizon filed a Motion for Reconsideration on May 1, 2013. BOE's response was filed on May 20, 2013. A hearing on Verizon's Motion for Reconsideration was scheduled for June 3, 2013. Verizon's motion for consolidation of its cases was denied on May 29, 2013.

Appeal: Verizon filed an appeal in the Court of Appeal, Third Appellate District on June 28, 2013. BOE filed its response on August 2, 2013. BOE filed its Reply Brief in

Support of the Demurrer, Reply Brief in Support of the BOE's Motion to Strike Attorneys' Fees, and Supplemental Request for Judicial Notice in Verizon's 2008 refund action. On December 9, 2013, Plaintiffs filed a request for judicial notice. On December 13, 2013, Plaintiffs filed their opening brief. On February 11, 2014, BOE filed its Respondent's Brief. All other respondents filed a joinder on February 20, 2014. Appellant Verizon filed its Reply Brief and Request for Judicial notice on March 4, 2014. Respondent BOE filed its Opposition to Verizon's Request for Judicial Notice on March 18, 2014. Oral Argument was held on August 25, 2014. On October 15, 2014, the Court of Appeal overturned the trial court's grant of the BOE's demurrer. The case was remanded back to the trial court.

Remand: BOE filed its Answer on February 27, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. On July 6, 2015, the Court approved the consolidation of all eight cases brought by Verizon California against the BOE. The lead case number was designated as 2011-00116029. The trial date was set for March 22, 2016. On September 25, 2015, BOE filed a Motion for Summary Adjudication. The BOE's Motion for Summary Adjudication was scheduled to be heard on December 11, 2015. On December 4, 2015, BOE filed a Reply to Verizon's Opposition to our Motion for Summary Judgment. On December 16, 2015, the Court granted BOE's Motion for Summary Adjudication. The Court agreed with BOE that Verizon failed to exhaust administrative remedies for years 2008 through 2012, and on this basis granted the motion. On February 1, 2016, the BOE filed an Opposition to the Petition for Writ of Mandate filed by Verizon California Inc. in the Court of Appeal. On February 11, 2016, the Third District Court of Appeal issued an order denying Verizon's Petition for Writ of Mandate requesting review of the trial court's order granting the BOE's Motion for Summary Adjudication for failure to exhaust administrative remedies for tax years 2008-2012. The trial commenced on March 22, 2016, and was continued to July pending outcome of settlement discussions. On August 30, 2016, the Honorable Eugene L. Balonon entered judgment dismissing Verizon's tax refund actions for years 2007, 2013 and 2014 due to the parties' settlement agreement covering these years. On November 11, 2016, Verizon filed a Notice of Appeal with respect to tax years 2008 through 2012. Pursuant to the Court of Appeal's order of May 18, 2017, the Appellant's Opening Brief of Verizon is due June 30, 2017, and the Respondent's Brief of BOE is due 62 days thereafter. Appellant's Opening Brief was filed by Verizon on June 30, 2017. Respondent's Brief of BOE is due on August 31, 2017.

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**VERIZON CALIFORNIA INC. (II) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2013-00138191

Filed – 04/08/2013

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): The issue in this case is whether BOE's 2008 Board-adopted unitary value for plaintiff's state- assessed property in the amount of \$3,595,900,000.00 is overstated, and should be reassessed. ([California Constitution, Art. XIII, section 19](#)); ([Revenue and Taxation Code section 5148](#)).

Audit/Tax Period: 2008

Amount: \$5,900,000.00

Status: BOE's responsive pleading was filed on May 29, 2013. BOE filed an amended notice of demurrer and motion to strike portions of Plaintiff's complaint on October 13, 2013. The Court issued its tentative rulings on the BOE's Motion to Strike Verizon's prayer for attorneys' fees and Demurrer to Verizon's Complaint on November 25, 2013. The Court granted the BOE's motion to strike based upon statutory interpretation, but denied the demurrer. On December 10, 2013, the DOJ on behalf of the BOE filed an answer in response to Verizon's complaint. The 38 Defendant-Counties also filed a joint answer in response to the complaint. On February 11, 2014, BOE filed its Respondent's Brief. All other respondents filed a joinder on February 20, 2014. On February 12, 2015, Verizon filed a Motion to Continue the May 11, 2015 trial date to October 26, 2016. BOE filed its response on February 19, 2015. The May 11, 2015 trial date was vacated. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

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**VERIZON CALIFORNIA INC. (III) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2014-00157245

Filed – 01/10/2014

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): The litigation arises out of plaintiff's contention that the 2009-2010 Board-adopted unitary value of plaintiff's state-assessed property is excessive; and, thus, plaintiff is entitled to a refund of property tax it overpaid for the 2009-2010 tax year.

Audit/Tax Period: 2009-2010

Amount: Unknown

Status: The hearing date for the Motion to Strike was scheduled for April 3, 2014. BOE's Brief was filed on February 11, 2014. The BOE filed its Answer to the Complaint and Motion to Strike Attorney's Fees from Complaint on March 3, 2014. On March 18, 2014, the county Defendants filed their Answer to the Complaint, and Motion to Strike Attorney's Fees from Complaint. On March 26, 2014, the BOE filed its reply to Verizon's Opposition to BOE's Motion to Strike Attorneys' Fees from Complaint. On April 25, 2014, Verizon filed a Motion to consolidate its 2008 and 2009 Refund Actions. On April 28, 2014, the Court denied the BOE's Motion to Strike Attorneys' Fees. BOE filed its Opposition to the Motion to Consolidate on May 8, 2014. Verizon filed its Reply on May 14, 2014. The Court granted Verizon's Motion to Consolidate the 2008 and 2009 Refund Actions on May 21, 2014, and Verizon II and Verizon III cases were consolidated. Discovery was ongoing. Subsequently, the parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.



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**VERIZON CALIFORNIA INC. (IV) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2014-00171512

Filed – 11/10/2014

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): Verizon California, Inc. contends that the Board adopted unitary value for Verizon's state-assessed property for the 2010 tax year is excessive.

Audit/Tax Period: 2010

Amount: Unknown

Status: BOE filed its answer on March 30, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

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**VERIZON CALIFORNIA INC. (V) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2015-00175631

Filed - 02/24/2015

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): Verizon California, Inc. contends that the Board adopted unitary value for Verizon's state-assessed property for the 2011 tax year is excessive.

Audit/Tax Period: 2011

Amount: Unknown

Status: BOE filed its answer on March 30, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

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**VERIZON CALIFORNIA INC. (VI) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2015-00175609

Filed – 02/24/2014

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): Verizon California, Inc. contends that the Board adopted unitary value for Verizon's state-assessed property for the 2012 tax year is excessive.

Audit/Tax Period: 2012

Amount: Unknown

Status: BOE filed its answer on March 30, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

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**VERIZON CALIFORNIA INC. (VII) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2015-00175621

Filed – 02/24/2015

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): Verizon California, Inc. contends that the Board adopted unitary value for Verizon's state-assessed property for the 2013 tax year is excessive.

Audit/Tax Period: 2013

Amount: Unknown

Status: BOE filed its answer on March 30, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

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**VERIZON CALIFORNIA INC. (VIII) v. California State Board of Equalization**

Sacramento County Superior Court: 34-2015-00175627

Filed – 2/24/2015

Plaintiff's Counsel

Luann L. Simmons - O'Melveny & Myers LLP

BOE's Counsel

Michael Von Loewenfeldt, Kerr & Wagstaffe LLP

BOE Attorney

Kiren Chohan

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Issue(s): Verizon California, Inc. contends that the Board adopted unitary value for Verizon's state-assessed property for the 2014 tax year is excessive.

Audit/Tax Period: 2014

Amount: Unknown

Status: BOE filed its answer on March 30, 2015. Discovery was ongoing. The parties stipulated to consolidating all 8 tax refund actions filed by Verizon for years 2007 through 2014 into one consolidated case. The court approved the consolidation of all eight Verizon California cases – see Verizon California Inc. v. California State Board of Equalization; County of Kern; County of Los Angeles, County of Orange; County of Riverside; County of Sacramento; County of San Bernardino; County of Santa Barbara; County of Santa Clara; County of Ventura (Sacramento County Superior Court Case No. 34-2011-00116029).

NOTE: See history in Verizon I for future updates to the consolidated action.

**Property Tax  
CLOSED CASES  
LITIGATION ROSTER  
JUNE 2017**

Case Name

Court/Case Number

NONE

**DISCLAIMER**

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