

In The Superior Court Of The State Of California
In And For The County Of San Diego
Department 67; Hon. EDDIE STURGEON, Judge

CHRISTINE GRAB,
Plaintiff,
vs.
CALIFORNIA FRANCHISE TAX BOARD
Defendants.

Case No. 37-2020-00005100
CL-BT-CTL

Reporter's Transcript
MARCH 25, 2022

Appearances:

For the Plaintiff: Christine Grab
In propria persona

For the Defendant: Anna Barsegyan, Esq.
300 South Spring Street, Suite 1702
Los Angeles, California 90013

Darla Kmety, RPR, CSR 12956
Court-Approved Pro-Tem Official Court Reporter
San Diego Superior Court
San Diego, California 92101

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1 MARCH 25, 2022; San Diego, California;9:28 A.M.

2 -- 00o --

3 THE COURT: State your name.

4 MS. GRAB: Christine Grab, plaintiff.

5 THE COURT: Thank you. State your name.

6 MS. BARSEGYAN: Anna Barsegyan, on behalf of the
7 FTB.

8 THE COURT: Well, thank you. All right. Here
9 we go. Two motions. Has everyone read the Court's
10 tentative?

11 MS. GRAB: Yes, your Honor.

12 MS. BARSEGYAN: Yes, your Honor.

13 THE COURT: All right. So take your time.
14 First of all, I'm thankful for people bringing their court
15 reporter. I always prefer to have a court reporter. That
16 way the record is clear. And I will listen. Are you
17 going to read to me? Okay. So I'm going to listen
18 intently. We'll listen. Okay? Here we go.

19 MS. GRAB: I have 13 issues to address today.
20 Ten are for the summary judgment, and three are for the
21 motion for sanctions. I will try to move fast. I've
22 timed it at 16 minutes.

23 THE COURT: Not too fast for the court reporter.
24 Because, actually, you speak faster than you talk. So
25 just -- that didn't make any sense, did it? Speak faster
26 than you talk? Just take -- just slow down for the court
27 reporter. Okay. I'll be quiet.

28 MS. GRAB: Starting with the 10 issues regarding

1 the summary judgment, Issue 1. The withholding practice
2 was not addressed in your tentative ruling. The primary
3 purpose of my filing this lawsuit was to obtain a
4 precedential ruling regarding whether or not FTB standard
5 operating procedure of withholding estimated tax payments
6 is lawful.

7 FTB does not apply estimated tax payments to a
8 taxpayer's account upon receipt of the funds. FTB does
9 not apply estimated tax payments until months, and
10 sometimes even years, after FTB receives the monies. FTB
11 has never denied in this case that its practices are
12 standard operating procedure.

13 For CCP431208, failure to deny constitutes
14 admission. In the OTA case that was the predecessor to
15 this case, FTB confirmed that the withholding practice is
16 indeed their standard operating procedure.

17 However, FTB has never acknowledged the
18 withholding practice in this case. I believe that if this
19 standard operating procedure were lawful, FTB would have
20 acknowledged it and provided legal codes to justify this
21 practice. I am deeply disappointed that your Honor did
22 not address this issue in the tentative ruling, as this
23 issue is the heart of this case. I request that your
24 Honor amend the ruling to include this issue.

25 Issue 2: FTB made a new false argument in their
26 reply brief. On Page 6, Anna Barsegyan completed a refund
27 of overpayment of taxes paid, with FTB not applying the
28 estimated tax payment to the taxpayer's account in the

1 first place. On lines 4 to 5 of page 6, Ms. Barsegyan
2 stated that Revenue Tax Code 19087 does not prohibit the
3 FTB from issuing a notice of proposed assessment. But she
4 omitted the pertinent fact that the notice can only be
5 issued if the tax liability had not been paid in full.

6 On lines 7 to 8, she cites the portion of the
7 statute that confirms this fact. If any taxpayer fails to
8 file a return with the intent to evade the tax,
9 Ms. Barsegyan herself confirmed that, per Revenue Tax Code
10 19087, an MPA is only to be issued on tax evaders. If
11 someone has paid their tax liability in full, as is
12 estimated by FTB, the MPA cannot be issued.

13 She continued on with a false statement on
14 lines 15 through 17. Thus, Plaintiff's argument that the
15 MPA was improper because she made sufficient tax payments
16 and/or credits is erroneous. Then, in the very next
17 sentence, Ms. Barsegyan completely changed topics from the
18 issuance of MPAs to the issuance of income tax refunds.
19 She did this in a manner which conflates these two
20 completely separate topics as if they were one in the
21 same. On lines 17 and 18 she wrote: In fact,
22 section 19307 specifically provides that no refund of tax
23 withheld or estimated tax paid shall be allowed to an
24 employee or taxpayer who fails to file a return for the
25 taxable year in respect of which the tax withheld or
26 estimated tax was allowable as a credit.

27 whether or not we are entitled to claim a refund
28 has nothing whatsoever to do with whether it was lawful

1 for FTB to not have applied the estimated tax payments
2 that we made. I believe this paragraph is so deceptive
3 and misleading that it violates Federal Criminal Code
4 18 USC 1001, misrepresentation of facts by a government
5 agent, and Federal Criminal Code 18 USC 242, color of law.
6 I request that you reevaluate your tentative ruling in
7 light of this deception being exposed.

8 Issue 3: FTB attempted to deceive your Honor
9 regarding calculations. Starting on page 6, lines 26
10 through page 7, line 2, Anna Barsegyan again falsely
11 conflated the calculations for issuing an MPA with
12 calculations for how much a demand penalty should be.
13 Anna Barsegyan has never denied my allegations that this
14 statement is deceptive and misleading.

15 Issue 4: Anna Barsegyan acknowledged demand
16 penalties are tied to the MPA. On page 7, lines 12 to 14,
17 she wrote: The demand also informed Plaintiff that the
18 demand penalty is imposed as of the date of the notice of
19 proposed assessment.

20 In the next sentence, she made a false statement
21 that directly contradicts the previous sentence.
22 Continuing on line 14: Thus, despite Plaintiff's
23 arguments in her opposition, the issuance of the MPA is
24 not a precursor to the imposition of the demand penalties.

25 Ms. Barsegyan plainly stated on lines 12 to 14
26 that if the MPA had not been issued, there would not be a
27 demand penalty, as the demand penalty is dependent on the
28 date the MPA was issued.

1 Issue 5: Another deceptive statement in the
2 reply brief. On page 8, line 19, Anna Barsegyan again
3 used sleight-of-hand word tricks to attempt to deceive
4 your Honor. She wrote: Being too busy is an insufficient
5 reason to relieve them of their tax liability.

6 She tried to conflate the liability to pay our
7 taxes with the obligation to file returns. FTB has never
8 disputed that we had timely paid our tax liabilities in
9 full, as assessed by FTB.

10 Issue 6: Consideration of facts supported by
11 FTB's evidence. I understand that, as a pro se, I'm
12 required to meet the standards of an attorney. FTB served
13 the summary judgment on January 4, via mail, but I was out
14 of town and did not receive the package until January 10.

15 My father became ill on January 23 with a MRSA
16 staph infection. He died on February 7. Sorry. That was
17 only four to six days ago. On February 18, FTB and I
18 filed a stipulation to continue this hearing until
19 September. The Court denied the stipulation on March 1,
20 leaving me only 10 days to complete and file an extensive
21 motion for summary judgment paperwork while also
22 simultaneously planning a funeral.

23 Over the last two years that I have been
24 following hearings in your courtroom, your Honor has set a
25 precedent of grace for attorneys who make mistakes. I
26 believe that your Honor would allow an attorney who is in
27 the middle of bereavement to submit a table of contents
28 and authentication late.

1 On Monday, I can clear my oversight by
2 submitting a table of contents and authentication, and
3 make any other formatting corrections that you specify. I
4 request that you reconsider accepting the evidence and
5 facts to make an amended ruling.

6 However, even if your Honor stands by the
7 dismissal of my evidence, I believe that my facts should
8 stand. The majority of evidence that I submitted was also
9 submitted by FTB. FTB's evidence supports my arguments.
10 Since your Honor has confirmed that all of FTB's evidence
11 is admissible, I request that the facts that I made
12 regarding evidence that you've accepted from FTB be
13 allowed to stand.

14 On Monday, I can submit a revised list of my
15 facts with FTB's exhibit numbers on them so that my facts
16 can be reevaluated and reconsidered in your amending
17 ruling.

18 Issue 7 is the filing requirement. Your Honor
19 stated that FTB documented that I had a filing
20 requirement. However, a filing requirement is moot to
21 this case. A filing requirement has no correlation to a
22 demand penalty. The demand penalty is tied to the
23 issuance of the notice of proposed assessment. Per
24 Revenue Tax Code 19087, MPAs are only issued to tax
25 evaders.

26 Issue 8: Demand Penalties. Your Honor stated
27 that FTB properly imposed demand penalties. However, your
28 Honor did not address why you denied my argument that the

1 demand penalties were falsely imposed because the MPAs
2 were falsely issued in violation of Revenue Tax Code
3 19087. In fact, your Honor didn't address the issue of
4 the notice of proposed assessments at all in the tentative
5 ruling, and that was one of the key issues set forth in
6 the complaint.

7 Is it lawful for FTB to not apply estimated tax
8 payments when they receive the monies from the taxpayer,
9 then issue notices of proposed assessment which would not
10 have been issued had the monies been timely applied?

11 For the last two years that I have been
12 following hearings in your courtroom, your Honor has set a
13 precedent that you usually give reasons for why you do not
14 agree with particular laws cited or arguments made when
15 you issue a ruling. I am disappointed that you didn't
16 elaborate on why you have rejected my argument that the
17 MPAs were falsely issued. I request this issue be
18 specifically addressed in an amended ruling.

19 Issue 9: Reasonable Cause. Your Honor stated
20 that I did not establish reasonable cause for abatement of
21 demand penalties. I believe that is only because your
22 Honor dismissed my evidence and facts. I believe that if
23 you allow me to cure my oversight and accept my evidence
24 and facts, or if you allow my facts to stand on the
25 evidence that FTB has submitted, that there is ample
26 evidence to establish reasonable cause. FTB's own records
27 establish the egregious accounting irregularities
28 perpetrated by FTB, that your Honor can consider in an

1 amended ruling.

2 Issue 10: Clarification Requested. Your Honor
3 stated that my arguments were not adequately supported by
4 citations applicable to legal authority. However, your
5 Honor did not address even one law that I cited. From
6 what I have seen over the last 2 years, the precedent in
7 your courtroom is that you usually give reasons for why
8 you do not agree with particular laws cited. I am
9 disappointed that you didn't explain why any, not even
10 one, of the many laws that I cited were adequate for your
11 opinion. I would appreciate clarification in your amended
12 ruling. Now I am moving on to the three issues regarding
13 the motion for sanctions.

14 The first issue is the Safe Harbor provision.
15 Your Honor stated that he believes Ms. Barsegyan was
16 exempt from the Safe Harbor provision in her motion for
17 sanctions because they had already taken the alleged
18 actions. However, Ms. Barsegyan stated repeatedly that
19 the purpose of the motion was to deter me from further
20 similar actions.

21 Since she stated the intent was specific to
22 further actions, I believe that in this case, the 21-day
23 opportunity to cure that is required under CCP128.7 does
24 apply and that FTB's motion for sanctions should be
25 dismissed.

26 Issue 2: Social security number exposure was
27 not addressed. Your Honor did not address the issue of
28 Anna Barsegyan not redacting my husband and my social

1 security numbers from the motion for sanctions moving
2 papers. Anna Barsegyan readily admitted that she violated
3 California Rules of Court 1.201. I believe that I'm
4 entitled to sanctions for this violation, and I am
5 disappointed that you failed to address my arguments on
6 this issue.

7 Grace Le Bleu should have redacted the social
8 security numbers before she sent the documents to Anna
9 Barsegyan. There's no excuse for Anna Barsegyan and her
10 paralegal to not have redacted the social security numbers
11 prior to filing the moving papers.

12 Even if your Honor dismisses the motion for
13 sanctions, you still have the discretion to issue
14 sanctions for a breach of such significant consequence. I
15 was in this courtroom on October 22, 2021, when a woman
16 who had her house stolen via fraud was hysterically
17 pleading with you to save her home. This could happen to
18 me as a result of FTB's breach. I request that you
19 reconsider this issue and address it in an amended ruling.

20 The third issue is a police report and a
21 criminal complaint. Your Honor stated that one of the
22 justifications for sanctions was because I filed a police
23 report against the two FTB employees who directed me to
24 send more money than the bill stated was due. This issue
25 of FTB collection staff overcharging interest has no
26 bearing on this case whatsoever. I believe it was
27 improper for your Honor to sanction me for something that
28 is beyond the scope of this case.

1 FTB has never denied the allegations that I have
2 made regarding FTB staff ordering me to send more money
3 than was due. No one has disputed that this overcharging
4 is a violation of the law. Per Federal Criminal Code
5 18 USC 4, misprision of felony, I am required by law to
6 report this crime to the proper magistrate. At the time,
7 I believed SDPD was the proper magistrate.

8 I do not believe it's lawful to sanction me for
9 fulfilling federal law as written, especially when it is
10 for a matter that has no bearing on this case. Likewise,
11 both criminal complaints that I filed were regarding
12 issues that are beyond the scope of this civil case.

13 Again, per 18 USC 4, misprision of felony, I am
14 required by federal law to report these crimes. I do not
15 believe it's lawful to sanction me for fulfilling federal
16 law. I request that you reconsider the sanctions against
17 me.

18 In closing, I would like to remind your Honor
19 that FTB has never denied the allegations that I set forth
20 in my complaint about how FTB withheld our estimated tax
21 payments, then aggressively harassed us for money that FTB
22 knew, by their own records, was never owed. FTB has,
23 instead, attempted to cover up this withholding practice
24 with many evasive, misleading, deceptive, false, and
25 contradictory statements such as those addressed above.
26 These withholding practices are unfair, and FTB ruins
27 people's lives with their aggressive harassment for money
28 that FTB knows is not owed.

1 Your Honor, I know that you try to do the right
2 thing. This case offers you the opportunity to make a
3 precedential ruling on withholding practice that would
4 impact millions of Californians in a positive way. How
5 would you like to be remembered in 5, 10, 20 years from
6 now from this pivotal moment in time? Your ruling today
7 has the significance of paving the road for real reform.

8 The people who generally make estimated tax
9 payments are small business owners and retirees, including
10 seniors and veterans. I know that you want to protect
11 these two demographics of Californians. I beg you to
12 amend your tentative ruling to address the gaping holes
13 that I have pointed out.

14 Even if you rule against me on the issues,
15 please address the matters, instead of covering them up
16 through evasion. I understand there's probably a lot of
17 political pressure on you to not adversely affect your
18 employer's revenue stream, but, please, please take a
19 stand and protect all people who can't hire -- can't
20 afford to hire an attorney to fight that.

21 THE COURT: Response.

22 MS. BARSEGYAN: Your Honor, I'll try to keep it
23 short. I think we've -- the FTB addressed all of
24 Plaintiff's allegations and arguments in the motion for
25 summary judgment, and also in its reply. We agree with
26 the Court's tentative ruling. And the FTB has met its
27 burden of production to make a prima facie showing there
28 is no triable issue of material fact.

1 It appears that the Plaintiff does not
2 understand what the complaint for refund is about in
3 California law on the imposition of demand penalties and
4 the collection cost recovery fee. She keeps mentioning
5 the withholding practices, but with regards to the
6 imposition of demand penalties, the demand penalty is
7 computed without regards to withholding credits or
8 payments, and it's computed based on the amount of tax
9 due. So if a taxpayer fails to respond in the manner
10 prescribed, then the taxpayer -- a demand penalty of
11 25 percent of the amount of tax due is imposed on the
12 taxpayer.

13 And the collection cost recovery fee, I think
14 the Franchise Tax Board has submitted substantial evidence
15 to show that the Plaintiff was correctly imposed the
16 collection cost recovery fee. I really don't want to go
17 and address all of the allegations of criminal conduct. I
18 don't think it's worth the Court's time. But --

19 THE COURT: well, it did weigh on my factor on
20 sanctions; I will tell you that.

21 MS. BARSEGYAN: At least for the motion for
22 summary judgment, I think we've been dealing with this for
23 over 2 years. The Plaintiff has no credible evidence that
24 there's been any sort of criminal conduct by the FTB, its
25 employees, and counsel. It's just speculation, and no
26 evidence whatsoever other than what she believes is the
27 correct law. And any sort of -- it appears that, because
28 FTB defers or disputes her position on some of these

1 issues, which are really irrelevant to the case, she
2 alleges that there's criminal -- there must be some sort
3 of criminal conduct that's being committed.

4 So she's presented no evidence in this hearing
5 to even shift the burden on the motion for summary
6 judgment back to the FTB, but that there's some sort of
7 issue of triable facts that we should go to trial for.
8 The evidence that she's submitted has not been properly
9 identified or authenticated. So the tentative should be
10 the final ruling of the Court and should stand.

11 THE COURT: Thank you.

12 MS. GRAB: Your Honor, can I point out that she
13 just lied to you multiple times? Like, just lied straight
14 to your face multiple times?

15 THE COURT: So noted for the record. I
16 understand. My turn.

17 I understand everybody's position. Couple of
18 things. When you say, Plaintiff -- counsels -- well,
19 Plaintiff: Judge, you didn't respond to all of my
20 questions -- when I find that the tax court has imposed
21 proper penalties, that means I'm disregarding all of your
22 arguments, ma'am. I don't find them credible. I don't
23 find them allowed, so I don't have to go through each one
24 because this Court finds that they're not credible.
25 They're not under the law.

26 So take that for what it's worth when you say,
27 Judge, I want to -- I just responded to every one of your
28 arguments. Not credible with this courtroom, okay? So

1 I've answered that for you. It's clear.

2 This was a detailed tentative ruling, and it's
3 good that I did that, because if you decide to take it up
4 to the Fourth, I really want them to understand how I
5 feel. Because when I talk to appellate judges, they
6 always say, Judge, tell us what you're thinking down
7 there. And I want to make sure they understood what I
8 think about this case. You-all have been in front of me
9 many times. First of all, you're all very polite and I
10 appreciate it; hopefully I'm polite. But this has got to
11 stop, Ms. Grab. This has got to stop.

12 Now, I'm just saying that. Take it up to the
13 appellate court. If they reverse me, then come on back.
14 But I don't think they will, based on these facts, ma'am.
15 Let me finish, okay? So I hope -- listen to what I'm
16 saying. Respectfully, listen to what I'm saying. This
17 has got to stop. And I -- I find it incredible that you
18 would file criminal charges. You think that the Franchise
19 Tax Board has criminal intent to charge you with -- I know
20 that's what you think. But think of the time and money
21 that people have to spend dealing with that, when it's
22 going to go no place, absolutely no place.

23 There's consequences when you do this type of
24 work. And I will tell you now: If you were an attorney,
25 I'd level sanctions of \$7500, full load. That's what you
26 requested, right? Yeah, I know you did. You don't have
27 to answer that.

28 MS. BARSEGYAN: I think 15.

1 THE COURT: No, I know what my sanctions --

2 MS. GRAB: I think this one she requested like
3 3600, and the other one was 16 and it was denied.

4 THE COURT: It was a total. And notice what I
5 just said: If you were an attorney, I would level -- I
6 would have went whatever it was, 75 -- whatever. \$7,000.
7 But I'm using my judicial restraint, and I really mean
8 that.

9 You're a nice person. Let me say that. And for
10 some reason, you've got this in your head. And I just
11 would say, as the Court, I think you're wrong.

12 Now, you can disagree with that, but you're
13 wrong, ma'am. And it's time to say, Okay, Judge, let it
14 go. But I am going to sanction you \$1,500. And the good
15 news is, it's not 7,000. I don't know if that's good news
16 or not.

17 MS. GRAB: That's great news.

18 THE COURT: Yeah, I saved you money. But it's
19 time -- and I say this so respectfully: You've always
20 been respectful in this court. I feel like I know you; I
21 really do. And your family is here; you always bring your
22 family. I think that's a good thing. They should hear
23 what I say to mom. All right?

24 But it's time to let it go, Ms. Grab. But
25 you're a citizen; you have the right. This tentative
26 ruling now becomes the order of the Court. It is a
27 concluding -- very important -- it is a terminating --
28 this case is now terminated in this court. You have the

1 absolute right to say, Judge, respectfully -- and people
2 do this -- I disagree with you. You can take it up to the
3 Fourth DCA. Everybody got it?

4 Thank you for your patience with this Court.
5 You-all have a good day.

6 MS. GRAB: Thank you, your Honor.

7 THE COURT: My pleasure.

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1 STATE OF CALIFORNIA
2 COUNTY OF SAN DIEGO

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4 I, Darla Kmety, Official Pro-Tem Reporter for
5 the Superior Court of the State of California, do hereby
6 certify:

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8 That as such reporter, I reported in machine
9 shorthand the proceedings held in the foregoing case;

10
11 That my notes were transcribed into typewriting
12 under my direction and the proceedings held on
13 March 25, 2022, are a true and correct transcription, to
14 the best of my ability.

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18 Dated this 1st of July 2022.

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22 _____
23 Darla Kmety, CSR 12956
24 Court Reporter
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