

163	Evidence 37, 41 and 42: In the Notice of State Income Tax Due issued to Eric for tax year 2014 on 10-03-2016, FTB had confirmed receipt of the full \$ [REDACTED] which was collected by Eric's employer. No explanation was provided on the form as to why the \$1,516.75 was removed from the total payments applied.	
164	Evidence 41 and 42: This total of \$29,388.25 did not reflect the payment of \$1,016 made via excess SDI credits that had been collected by my husband's employer.	
165	Evidence 41 and 42: This total of \$29,388.25 did not reflect the payment of \$2,751.05 paid on 02-08-2016.	
166	Evidence 41 and 42: This total of \$29,388.25 did not reflect the payment of \$28.20 made on 05-31-2016.	
167	Evidence 36, 41 and 42: This total of \$29,388.25 did not reflect the payment of [REDACTED] made on 08-03-2016 via credit elect (FTB had revised the credit elect total down upon processing the return).	
168	Evidence 42: On 06-12-2017, we made a payment of \$4,011.49 to pay the assessed tax liability in full.	
169	Evidence 42: This payment would not have been due had FTB credited the missing \$ [REDACTED] in payments previously made to them.	

### Issue 3B: FTB's Unlawful Harassment for Tax Year 2010

	<b>Plaintiff's Undisputed Material Facts and Supporting Evidence</b>	<b>Defendant's Response</b>
170	Evidence 8: On 11-04-2013, FTB issued a Notice of State Income Tax due to me for 2010 which showed FTB had assessed that I had an estimated a tax liability of \$3,054.	
171	Evidence 8: The Notice of State Income Tax stated "The amount due reflects all payments or credits received through 10-29-2013." The payments and adjustments credited was \$0.00.	
172	Evidence 6: On 09-10-2012, FTB issued a notice titled Payment Received – No Return on File to me stating: "Tax Year 2010" and "We have received an estimated tax payment in the amount of \$ [REDACTED] for the account number and tax year shown above."	

173	Evidence 1, 2, 9, 12 and 14: We had made a total of 5 estimated tax payments totaling \$[REDACTED] for tax year 2010.	
174	Evidence 6 and 8: Had FTB applied the \$[REDACTED] to my account at the time FTB received the funds, the Notice of State Income Tax for tax year 2011 would not have been issued.	
175	Evidence 1, 2, 8 and 9: Had any one of the other three estimated tax payments made for 2010 that were not accounted for in the notice titled Payment Received – No Return on File (\$[REDACTED], \$9,000 and \$3,500) been credited to my account at the time FTB received the funds, this notice would not have been issued.	
176	Evidence 8: In the timely protest letter faxed on 11-12-2013 in response to the Notice of State Income Tax Due issued on 11-04-2013, I wrote “HOW DARE YOU DISREGARD ALL MY LETTERS THAT I HAVE SENT AND THEN APPLY A LEVY ON ME FOR NOT RESPONDING TO YOUR LETTERS????”	
177	Evidence 8: In protest letter faxed 11-12-2013, I also wrote “I DO NOT RESPOND WELL TO INCOMPETENT BULLIES. I have tried very hard to work with you according to your guidelines. Every time you sent me a letter requesting information, I’ve sent proof that we have a refund due within the allotted time frame. Instead of thanking me for cooperating and updating your records, you pretended like I’d never responded and harassed me. I am sorry, but it is illegal for government agencies to harass people...”	
178	Evidence 8: In protest letter faxed 11-12-2013, I also wrote “The irony of this situation, though, is that if I hadn’t spent so many hours on those letters to you, I would have gotten my 2010 taxes done FOUR MONTHS ago (I only have about three hours a month to work on things like taxes and composing letters to the Franchise Tax Board).”	

179	Evidence 8: In protest letter faxed 11-12-2013, I also wrote "Please, this time DO YOUR JOB and UPDATE YOUR RECORDS and leave us alone... if I wasn't responsive and hadn't provided proof that we were due a refund for 2011, I'd deserve the harassment. But I sent you proof MULTIPLE TIMES that we were due a refund and you flat out ignored it."	
180	Evidence 8: In the protest letter faxed 11-12-2013, I also included copies of the protest letters that Eric and I had sent to FTB on 09-06-2013, 08-12-2013, 07-24-2013 re: 2010, a second protest letter dated 07-24-2013 re: 2011, and another protest letter dated 04-15-2013.	

### Issue 3B: FTB's Unlawful Harassment for Tax Year 2011

	<b>Plaintiff's Undisputed Material Facts and Supporting Evidence</b>	<b>Defendant's Response</b>
181	Evidence 50: On 03-11-2013, FTB issued a NPA to Eric for tax year 2011. It stated he had underpaid his tax liability by \$1,829.00	
182	On 07-22-2013, FTB issued a NPA to me for tax year 2011. It stated I had underpaid my tax liability by \$5,581.	
183	Evidence 13: On 07-24-2013, I filed a timely response to the NPA issued to me.	
184	Evidence 13: In the protest to the 2011 NPA issued to me, I wrote: "I have to admit that this letter frustrated me. Today is one of the few days I have to work on taxes. I arranged for a friend to watch my son for a few hours so I could work on taxes. Instead, I have spent the very little time I have re-sending you guys information you already had on file. If you want me to get the taxes done, please work with me by doing your job by properly and accurately track the information I supply."	
185	Evidence 13: FTB did not initiate the protest protocol in response to my protest to the 2011 NPA.	
186	Evidence 9, 28, 47: As of 11-08-2013, FTB had still not provided an accounting for the payment of \$3,500 made on 01-27-2011 nor the payment of \$9,000 that had been made on 10-13-2010 which the Notices issued on 09-10-2012 indicated were missing.	

187	Evidence 9: We filed our 2010 tax return on 11-08-2013. It showed an overpayment of \$16,893 to be applied as a credit elect to tax year 2011 (this total includes the \$9,000 and \$3,500 payments that had yet to be applied.)	
188	Evidence 26, 27 and 28: FTB stated that Eric and I combined owed a total of \$13,811.34 (including penalties, fees and interest) for tax year 2011. The credit elect payment of \$16,893 was sufficient to cover both of our assessed liabilities in full.	
189	Evidence 28: On 11-26-2013, FTB filed a wage garnishment against Eric in the amount of \$6,478.49 for tax year 2011 (\$1,829 in liability + \$4,649.49 in penalties, fees and interest).	
190	Evidence 9 and 28: Had FTB immediately applied the \$16,893 credit elect payment, the wage garnishment would not have been imposed.	
191	Evidence 11: On 12-30-2013, FTB issued a joint Return Information Notice stating that our tax year 2010 refund amount had been reduced to \$4,393. It reflected that only \$ [REDACTED] in estimated tax payments had been credited to our tax year 2010.	
192	Evidence 9: On 01-17-2014, I sent FTB an 8-page fax. The fax included a one page cover letter, a copy of the front and back of the checks for \$3,500 and \$9,000, the page of our 2010 tax return showing the credit elect payment applied to tax year 2011, proof of \$ [REDACTED] payment, and a copy of the notice titled Protest Procedure that came with every collection notice.	
193	Evidence 9: In the fax dated 01-17-2014, in the cover letter I wrote: "Once these payments are applied, then the tax credit for the 2011 tax year will be revised up to \$16,893. This is much, much more than the amount that the FTB estimates we owe for the 2011 tax year, so there should be no more threats of liens and wage garnishments from the FTB anymore."	

194	Evidence 9: In the fax dated 01-17-2014, in the cover letter I wrote: "However, there is still a discrepancy of \$2,012 between the amount of money we believe we are due back in a refund and what the FTB claims is due back. This matter will need to be resolved before we can file our 2011 taxes. Should I call you to review the numbers more closely to find the source of the discrepancy?"	
195	Evidence 9: In the fax dated 01-17-2014, in the cover letter I wrote: "I feel like the FTB is going out of its way to prevent me from working on the taxes by sending me on one wild goose chase after another. Over the last two weeks, I spent several hours hunting down these canceled checks, preparing this letter, etc. Had the FTB not lost our estimated tax payments, that time would have been spent working on the 2011 returns. I feel my time is precious and the more the FTB goes out of its way to stop me from working on my taxes with threats that I'll get into trouble if I don't get my taxes done, the more frustrated I get. Let's try to get the 2010 issues resolved quickly so I can move on to 2011."	
196	Evidence 29: On 05-15-2014, FTB issued a Notice of State Income Tax Due to both me and Eric for tax year 2011, which stated we had an outstanding balance on our account of \$3,839.63.	
197	Evidence 29: This notice stated that \$ [REDACTED] in payments and adjustments had been applied to our tax year 2011 account.	
198	Evidence 10, 11, 29: This amount of \$ [REDACTED] did not reflect the payment of \$4,393 that FTB had purportedly applied to our account on 12-30-2013, nor did it reflect the payment of \$9,000 which had been made on 01-23-2014 via webpay.	
199	Evidence 10, 11, 29: If either the \$9,000 payment or the \$4,393 payment had been credited to our tax year 2011 account, the Notices of State Income Tax Due would not have been issued.	
200	Evidence 30: On 06-27-2014, FTB filed a wage garnishment against Eric in the amount of \$3,851.11.	

201	Evidence 10, 11, 29, 30: If either the \$9,000 payment or the \$4,393 payment had been credited to our tax year 2011 account, the wage garnishment would not have been imposed.	
202	Evidence 31: FTB demanded payment of \$3,854.74 be made via Webpay in order to release the wage garnishment.	
203	Evidence 10, 11, 29 and 31: This payment of \$3,854.74 would not have been required had FTB credited either one of the estimated tax payments for \$9,000 or \$4,393 to our tax year 2011.	
204	Evidence 53: In the abatement request dated 08-11-2014, I stated: "Christine sent in proof numerous times that no additional tax liability was owed for the 2011 tax year. Every single letter was ignored – and we know you got them all because they were sent certified mail and we have delivery conformations or we faxed them in and have fax confirmations. The agents she spoke with on the phone acted as if they never received any correspondence from us at all and continued to harass us mercilessly."	
205	Evidence 53: In the abatement request dated 08-11-2014, I further stated: "In December 2013, a supervisor named Debbie at 916-845-4390 told Christine that it is the FTB's policy to ignore all correspondence – so even though the FTB officially offers the opportunity to dispute that there was an outstanding tax liability – which Christine did – the FTB systemically ignores all such disputes. It seems to us that can't possibly be legal. Thanks to Debbie's sage advice, we now we know we should have ignored the FTB altogether and just focused on getting the taxes done. We are angry that we have been financially and emotionally punished for trying to be "good" and work with the FTB to the best of our ability."	

206	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Of course, this mountain of correspondence only represents a fraction of the time and energy wasted by trying to deal with the FTB instead of ignoring you guys. We wish we could send you recordings of every phone call. Pretty much every phone call goes like this: Dial the number on the notice (for example 800-852-2753). The automated phone system from hell routes you places you don’t want to go and sometimes even hangs up on you, so then you have to call back and try to navigate the system again. It takes several minutes of navigating before finally getting to the point where you can hold for a customer service rep. The holds are usually for a long time, with wait times sometimes over an hour. Finally a human comes on the line and tells me that even though we had called the phone number listed on the notice, it was the wrong number and we needed to call a different department (for example 800-689-4776 was given to me a couple times, but the “correct” phone number that I would be given often varied). The least the FTB can do is put a correct phone number on a notice when you want someone to call in. Seriously, it is the very least you can do. Even if you don’t care about the consumer’s time being wasted, why would you want to waste your employees’ time and tie up your own phone lines by directing them to the</p>	
207	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Then we’d call the new number we’d just been given and hear a recorded message say “The phone lines are busy and we can’t take your call now” (or something like that) then get hung up on. We’d try that number again a dozen times before finally getting into the phone system from hell, navigating it, then put on a long hold to wait for a person. Then the person who takes our call “accidentally” disconnects us. We’ve been disconnected from a full 30% of calls we’ve made – there is obviously a problem on your end with phone transfers.”</p>	
208	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “This is how your organization operates on an every-day basis, and quite frankly, it is maddening. And it only gets worse!”</p>	

209	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Then, when we would manage to get through to a human being, we’d be met with even more aggravation. The FTB made mistake after mistake after mistake on our account. For example, in October 2010 we mailed in a check that was clearly marked as a 2010 estimated tax payment. The FTB split the payment up over four previous years, instead of applying the money to 2010. Rectifying that took several long and frustrating phone calls.”</p>	
210	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Another example of a mistake made on our account is when we filed our 2010 taxes. We spoke with Debbie (same person mentioned above) in November 2013, shortly after we filed them. Because we had a \$16,893 refund that was applied to our 2011 return, which was about \$ [REDACTED] more than the FTB claimed we still owed on our 2011 tax liability, Debbie put a hold on all action on our 2011 account. Despite the fact that we had a hold on our account, and despite the fact that we had clearly overpaid, the FTB went ahead and filed a wage garnishment with Eric’s employer. Wage garnishments are for when someone owes MORE than your estimate, not LESS!!!! That took several phone call to clear up, as well. And it was a humiliating situation for Eric to try to deal with at work. Debbie warned that if we didn’t get the 2011 taxes filed by February 2014, the garnishment would be reinstated. WHAT?????”</p>	
211	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “A third example of the heinous mistakes the FTB made on our account is that in March 2014, I found out that the FTB had lost the 2011 tax returns we filed. We sent the originals via certified mail and had a delivery confirmation. We also faxed a copy in and had a fax confirmation. You guys got our 2011 returns twice and lost both copies! And this is only three of many errors. We can cite several more. Trying to rectify the FTB’s errors took countless hours and effort on Christine’s part. Each one of these mistakes delayed our ability to get the tax returns finished.”</p>	



212	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “The FTB also tends to give Christine different information about policy every single time she talks to them. Christine does what she is told only to be later told “No, that was wrong, you need to do something different.” Or, she is assured that whatever the current problem was had been rectified, only to later find out “No, we misinformed you. It isn’t rectified at all.” Let’s go back to the example above with the wage garnishment. Debbie told us it was possible to put a hold on the account to stop any issuing of liens or garnishments. Later we found out it wasn’t possible (of course, this doesn’t change the fact that you shouldn’t be issuing wage garnishments when someone is owed a refund).”</p>	
213	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Or, for a more recent example of being told erroneous information, on June 2, 2014, Christine spoke with Carrey at 916-845-4270 regarding the balance due on the 2011 tax return due to the penalties and fees. Carrey told Christine that she could transfer money to cover the balance due on 2011 with the refund from 2011 that had been applied to 2012. A month later, we got a nasty gram from the FTB claiming no money had been paid. When Christine called Carrey on July 9, 2013 for an explanation, Carrey said “Oh, yeah... it turns out that the system wouldn’t let me pay the 2011 balance with that money....” Sigh. Carrey never bothered to call back to tell us she’d given us incorrect information, she just let another month of interest accrue. We wish this example with Carrey was a one off event, but it is actually a very typical FTB interaction. In almost every single phone call to the FTB, we are given erroneous information. There seems to be no consistency or rhyme or reason to your operating system there. So Christine has literally wasted months doing the wrong thing at the FTB’s behest and/or wasted months not taking action because we were told the wrong information by the FTB.”</p>	

214	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “Just so that you can fully appreciate the FTB’s utter incompetence, we will continue on with the story above of Carrey and the late fee... when we filed our 2012 tax returns in June 2014, we subtracted the \$3,972 penalty from the amount that rolled over from 2011, as Carrey had told us to. On July 9, when we found out the late fee could not come from the 2012 overage, Carrey told us we had no choice but to pay the balance (which was now only \$3,855, so Carrey must have figured it out wrong when she totaled it in June). So we paid it in full right then via the website. Then we had her check our tax returns. The \$3,972 was not applied to 2011, nor was it applied to 2012. It’s completely and totally missing. We’ve talked to Carrey several more times since then and she has yet to be able to track the money.”</p>	
215	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “But wait, there is more!!! On July 15, 2014, the FTB mailed us a notice saying that we still owed \$6,240.29 on our estimated 2011 tax returns. On June 2, when we talked to Carrey, she confirmed that our 2011 returns had already been processed. I again called Carrey, who confirmed it was an error; the 2011 returns were paid in full. Our 2011 taxes were filed in February 2014 and we know for a fact it was processed before May 20<sup>th</sup>. So why are you sending harassing nasty grams regarding estimated taxes almost two full months after you’ve processed said taxes?”</p>	
216	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “This latest error on the part of the FTB – losing our \$3,972 -- is costing us a tremendous amount of time and aggravation, and preventing us from working on the 2013 taxes.”</p>	

217	<p>Evidence 53: In the abatement request dated 08-11-2014, I further stated: “I would like to remind you that these kinds of mistakes and errors are not unique to Carrey – they have happened with pretty much every single person we have worked with at the FTB over the last few years. And pretty much every interaction we’ve had with the FTB is equally shocking and unbelievable as the ones we’ve relayed in this letter. We’ve only given you a small taste of the living hell you guys have put us through.”</p>	
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**Issue 3B: FTB’s Unlawful Harassment for Tax Year 2013**

	<b>Plaintiff's Undisputed Material Facts and Supporting Evidence</b>	<b>Defendant's Response</b>
218	<p>Evidence 16: We filed our 2012 tax returns on 06-16-2014. We applied the overpayment of \$ [REDACTED] as a credit elect payment to tax year 2013.</p>	
219	<p>Evidence 17: On 08-31-2015, FTB issued a notice to Eric titled Payment Received – No Return on File for tax year 2013 which stated “We have received an estimated tax payment in the amount of \$ [REDACTED] for the account number and tax year shown above.”</p>	
220	<p>Evidence 20: On 11-09-2015, FTB issued Notice of State Income Tax Due to me for 2013. It stated that I owed \$4,562.00 in taxes and \$2,564.54 in penalties and fees.</p>	
221	<p>Evidence 20: The Notice of State Income Tax Due issued to me on 11-09-2015 stated that \$0.00 in payments and adjustments had been applied to my account.</p>	
222	<p>Evidences 16, 17 and 20: If the \$ [REDACTED] estimated tax payment that FTB received on 06-16-2014 (and confirmed on 08-31-2015 that it had in its possession) had been timely credited to my account, the Notice of State Income Tax Due would not have been issued to me.</p>	

223	Evidences 16, 17, and 20: If the \$[REDACTED] estimated tax payment that FTB received on 06-16-2014 (and confirmed on 08-31-2015 that it had in its possession) were to have been split in half, with [REDACTED] applied to my account and half to my husband's, the Notice of State Income Tax Due would not have been issued to me.	
224	Evidence 21: On 1-27-2016, FTB issued a Final Notice Before Levy and Lien to me for tax year 2013. It stated that I owed a total of \$7,251.92.	
225	Evidence 21: The Final Notice Before Levy and Lien issued to me for tax year 2013 on 1-27-2016 stated that \$0.00 in payments and adjustments had been applied to my account.	
226	Evidences 16, 17 and 21: If the \$[REDACTED] estimated tax payment that FTB received on 06-16-2014 (and confirmed on 08-31-2015 that it had in its possession) had been timely credited to my account, the Final Notice Before Levy and Lien would not have been issued to me.	
227	Evidences 16, 17, and 21: If the \$[REDACTED] estimated tax payment that FTB received on 06-16-2014 (and confirmed on 08-31-2015 that it had in its possession) were to have been split in half, with [REDACTED] applied to my account and half to my husband's, the Final Notice Before Levy and Lien would not have been issued to me.	
228	Evidence 22: On 01-19-2016, I made a payment of \$7,230.77 via check. This payment cleared my bank on 02-10-2016.	
229	Evidence 22: This payment was not credited to my account prior to the issuance of Final Notice Before Levy and Lien issued on 1-27-2016.	

230	Evidence 22: Attached to the check was a letter dated 01-19-2016 that stated “Enclosed is a check for \$7,230.77 for my 2013 income tax assessment. I am paying this amount of money under protest. As several people within your organization have confirmed, according to your own records, my husband and I had a large sum of money roll over from our 2012 return to our 2013 return. The sum of money that you are holding for us is significantly larger than the \$4,562.00 that you claimed that I owed for the year, and is even larger than the \$7,230.77 that you now think I owe with penalties and interest.”	
231	Evidence 22: The letter attached to the check further stated: “The fact that you are shaking me down for money when you know – per your own records – that I AM DUE A REFUND AND DON’T OWE ANYTHING AT ALL for 2013 makes you the mafia. And it is unconstitutional for you to make me pay penalties and interest on money that I’d paid you a year before it was due!!!!!!”	
232	Evidence 22: The letter attached to the check further stated: “Harassing people for harassing’s sake, being mean and nasty and treating people like criminals, and stressing them out when they have a life-threatening illness – thereby making their illnesses worse – is not acceptable. I should be thanked for overpaying – NOT HARASSED AND PENALIZED AND MADE SICKER FROM STRESS!!!!”	
233	Evidence 22: FTB “misapplied” the payment for \$7,230.77 that was made on 01-19-2016.	
234	Evidence 22: On 02-24-2016, I faxed FTB proof that the \$7,230.77 payment had cleared my bank.	
235	Evidence 24: The FTB customer service representative I spoke with on the phone on 02-24-2016 regarding the “misapplied” \$7,230.77 told me \$28.20 was the outstanding balance on my tax year 2013 liability.	
236	Evidence 24: On 02-24-2016, we made a payment via Webpay (FTB’s website) of \$28.20.	

237	Evidence 24: On 03-16-2016, FTB issued a Notice of State Income Tax Due to me for tax year 2013. It stated that the \$28.20 payment made on 02-24-2016 had not been applied to my account. When I checked my bank records, the payment had not cleared my bank.	
238	Evidence 42: I repaid the \$28.20 via check on 05-31-2016.	

### Issue 3B: FTB's Unlawful Harassment for Tax Year 2014

	Plaintiff's Undisputed Material Facts and Supporting Evidence	Defendant's Response
239	Evidence 36: We filed our 2013 tax return on 08-03-2016. We designated the overpayment of \$[REDACTED] to be applied to tax year 2014 as an estimated tax payment made via credit elect.	
240	Evidence 37: On 08-29-2016, FTB issued a Notice of State Income Tax Due to Eric stating they believed he had an outstanding liability of \$17,351.99 for tax year 2014, including penalties and fees.	
241	Evidence 37: The Notice of State Income Tax Due issued to Eric for tax year 2014 on 10-03-2016 stated that \$30,905 in payments and adjustments had been applied to his account, which was the amount of money collected by his employer on Eric's behalf.	
242	Evidence 37: The Notice of State Income Tax Due issued to Eric for tax year 2014 on 10-03-2016 did not reflect the \$[REDACTED] estimated tax payment that FTB received from us on 08-03-2016.	
243	Evidences 36 and 37: If the \$[REDACTED] estimated tax payment that FTB received on 08-03-2016 had been timely credited to Eric's account, the Notice of State Income Tax Due would not have been issued to Eric.	
244	Evidences 36 and 37: If the [REDACTED] estimated tax payment that FTB received on 08-03-2016 was to have been split in half, with \$[REDACTED] applied to Eric's account and [REDACTED] to mine, the Notice of State Income Tax Due would not have been issued to Eric.	

245	Evidence 38: On 10-03-2016, FTB issued a Notice of State Income Tax Due to me stating they believed that I owed \$4,448.07 for tax year 2014, including penalties and fees.	
246	Evidence 38: The Notice of State Income Tax Due issued to me for tax year 2014 on 10-03-2016 stated that \$0.00 in payments and adjustments had been applied to my account.	
247	Evidences 36 and 38: If the \$ [REDACTED] estimated tax payment that FTB received on 08-03-2016 had been timely credited to my account, the Notice of State Income Tax Due would not have been issued to me.	
248	Evidences 36, and 38: If the \$ [REDACTED] estimated tax payment that FTB received on 08-03-2016 was to have been split in half, with \$ [REDACTED] applied to my account and \$ [REDACTED] to Eric's, the Notice of State Income Tax Due would not have been issued to me.	
249	Evidence 39: On 10-07-2016, FTB received a timely filed protest to the Notice of State Income Tax Due issued to me on 10-03-2016 via fax, which was a copy of a complaint letter that we had sent to Governor Brown, State Senator Marty Block, and Assemblyman Brian Maienschein.	
250	Evidence 39: In that 10-07-2016 letter to my legislators, I stated: "The IRS has been fine with us not filing on time because we don't owe any money. They just send us letters periodically reminding us that we will lose our refund if we don't file by a certain date. The FTB is a whole different story. As you can see from the documents enclosed, we don't owe any money for 2014. Nor did we owe any for 2010, 2011, 2012 or 2013. Yet each year we have been mercilessly harassed, with wage garnishments almost filed, heavy penalties, and demands that we pay money that they – according to their own records – know we had already paid (via refunds that had rolled over)..."	

251	Evidence 39: In that 10-07-2016 letter to my legislators, I further stated: "Enclosed is a copy of our 2013 return, plus a copy of one of the FTB's extortion letters demanding money from us. As you can see, we have paid way beyond what they claim we owed. However, they continue to demand we send them more dollars because they refuse to apply the rollover from 2013 to 2014. The system is ludicrous..."	
252	Evidence 39: In that 10-07-2016 letter to my legislators, I further stated: "I feel like I have a legitimate lawsuit against the FTB for harassment, especially because they have a problem with losing estimated tax payments. I get blood work done every month, and I believe I can correlate months where I rapidly worsened to the months that the FTB harassed me, and months when I improved to months that they did not harass me. And remember, they harassed me for money that they knew – according to their own records – that we didn't owe."	
253	Evidence 39: FTB did not initiate the protest protocol in response to my timely filed protest to the Notice of State Income Tax Due issued to me for tax year 2014 on 10-03-2016.	
254	Evidence 40: On 11-30-2016, I copied FTB on another letter that I had sent to Governor Brown, State Senator Marty Block, and Assemblyman Brian Maienschein on 11-14-2016 requesting their intervention to stop the harassment.	
255	Evidence 40: In the letter to my legislators dated 11-14-2016, I stated: "The FTB has in their possession \$ [REDACTED] more than they believe we owe. Yet, they expect me to mail them a check for \$ [REDACTED] for me and my husband to cover the taxes, interest and penalties on the money that THEY ALREADY HAVE. If I don't send them almost \$ [REDACTED] in cash they will levy bank accounts or file wage garnishments..."	



256	Evidence 40: In the letter to my legislators dated 11-14-2016, I further stated: "I have been giving in to their extortion for years now... I am really tired of the harassment from the FTB. If we actually owed any money, I would understand why we were being harassed, but as you can see, this harassment is totally unwarranted. Being as the state is in a deficit, they should be grateful for a free loan!"	
257	Evidence 40: In the letter to my legislators dated 11-14-2016, I further stated: "...having to deal with the FTB slows me down that much more and makes it that much harder for me to get caught up. The harassment is actually counter-productive to their goal of getting us to file in a timely manner."	
258	Evidence 41: On 06-08-2017, FTB issued a Notice of State Income Tax Due for tax year 2014 to me.	
259	Evidence 41: The Notice of State Income Tax Due for tax year 2014 issued on 06-08-2017 stated that we had an outstanding tax liability due of \$4,011.49, including penalties and fees.	
260	Evidence 41: The Notice of State Income Tax Due issued to me for tax year 2014 on 10-03-2016 stated that \$29,388.25 in payments and adjustments had been applied to my account.	
261	Evidence 41 and 42: This amount of \$29,388.25 was [REDACTED] less than the \$ [REDACTED] that FTB received in payments from us.	
262	Evidence 42: On 06-12-2017, we made a payment of \$4,011.49 to pay the assessed tax liability in full.	
263	Evidence 42: This payment would not have been due had FTB credited the missing \$ [REDACTED] in payments previously made to them.	

**Evidence to Support That Defendant's Allegation That We Had a Filing Requirement for 2013 is False**

	<b>Plaintiff's Undisputed Material Facts and Supporting Evidence</b>	<b>Defendant's Response</b>
264	Evidence 44: The form letter from the IRS states "If you would like this credit transferred to another tax return, tax period, tax identification number, please call us at 1-800-829-8374 and provide this information."	

265	Evidence 44: This letter further states: "If you do not act promptly, you may lose this credit. The Internal Revenue Code sets strict time limits for refunding or transferring of credits. You must file a return to claim any refund due to you."	
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**Evidence to Support That Defendant's Allegation That Our Grounds For Reasonable Cause Were Personal Hardship are False**

	<b>Plaintiff's Undisputed Material Facts and Supporting Evidence</b>	<b>Defendant's Response</b>
266	Evidence 46: In the Complaint, on pages 15 – 16 of the Complaint for Refund of Personal Income Tax, I wrote in regards to tax year 2011: "FTB argued that Eric should have quit his job in order to have more time to work on tax issues. Eric was the sole provider for our family; we believe that any prudent businessperson would also prioritize continuity of income and health insurance coverage for our family over the filing of tax returns... Our personal hardships do qualify as reasonable cause for the delays in the filing of our tax years 2010 and 2011 returns. However, for tax year 2011 penalties and fees, personal hardship is a superfluous argument. Point II.A.4 makes it clear that the 2011 penalties were improperly imposed via the false NPA that was issued for 2010. Likewise, Point II.A.4 also make it clear that the improper withholding of the credit elect payment in violation of R&TC 19363 means the \$170 Cost Recovery Fee was also improperly imposed. These arguments are strong enough in and of themselves."	
267	Evidence 46: In the Complaint, on page 19, I wrote in regards to tax year 2013: "Our personal hardships do qualify as reasonable cause for the delays in the filing of our tax year 2013 returns. However, for tax year 2013 penalties, personal hardship is a superfluous argument. Point II.B.1 makes it clear that the 2013 Demand Notices were improperly issued as a result of the unlawful withholding of our credit elect payment, and as such, the accompanying Demand Penalty was improperly imposed. This is a strong enough argument in and of itself."	

268	Evidence 46: In the Complaint, on pages 22 - 23, I wrote in regards to tax year 2014: "FTB coerced us into prioritizing preventing a wage garnishment/bank levy over filing the return. Any reasonable businessperson would choose preventing a garnishment/levy... We have proven that we devoted what any prudent business person would consider a reasonable amount of time on tax issues, as documented above, and thus were not willfully negligent."	
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Verification: I declare under penalty of perjury under the laws of the State of California and that the foregoing is true and correct. I further declare under penalty of perjury that all documents entered into evidence and true and correct copies of the original documents.

Respectfully Submitted on:

3-11-2022

Christine N. Grab, in pro per

*C. Grab*