

## Oral Arguments 03-25-2022

I have 13 issues to address today, 10 for the summary judgment and 3 for the Motion for Sanctions. I will try to move fast. I've timed it at 16 minutes.

*Starting w/*  
*The*

### **10 Issues Regarding the Summary Judgment**

*Issue*

#### **1. The Withholding Practice Was Not Addressed in Your Tentative Ruling**

The primary purpose of my filing this lawsuit was to obtain a precedential ruling regarding whether or not FTB's standard operating procedure of withholding estimated tax payments is lawful. FTB does not apply estimated tax payments to a taxpayer's account upon receipt of the funds. FTB does not apply estimated tax payments until months and sometimes ~~even~~ years after FTB receives the monies.

FTB has never denied in this case that this practice is their standard operating procedure. Per CCP 431.20(a), Failure to deny constitutes admission.

In the OTA case that was the predecessor to this case, FTB confirmed that the withholding practice is indeed their standard operating procedure. However, FTB has never acknowledged the withholding practice in this case. I believe that if this standard operating procedure were lawful, FTB would have acknowledged it and provided legal codes to justify this practice.

I am deeply disappointed that Your Honor did not address this issue in the tentative ruling, as this issue is the heart of this case. I request that Your Honor amend the ruling to include this issue.

*Issue*

#### **2. FTB Made a New False Argument in their Reply Brief**

On page 6, Anna Barsegyan conflated a refund of overpayment of taxes paid with FTB not applying the estimated tax payments to the taxpayer's account in the first place.

On lines 4 – 5 of page 6, Ms. Barsegyan stated that Revenue & Tax Code 19087 "does not prohibit the FTB from issuing a Notice of Proposed Assessment." But

she omitted the pertinent fact that the notice can only be issued if the tax liability had not been paid in full. On lines 7 – 8, she cites the portion of the statute that confirms this fact: “if any taxpayer fails to file a return... with the intent to evade the tax...”

Ms. Barsegyan herself confirmed that per Revenue and Tax Code 19087, a NPA is only to be issued on tax evaders. If someone has paid their liability in full, as is estimated by FTB, the NPA cannot be issued.

She continued on with a false statement on lines 15 - 17, “Thus, Plaintiff’s argument that the NPA was improper because she made sufficient tax payments and/or credits is erroneous.”

Then, in the very next sentence, Ms. Barsegyan completely changed topics from the issuance of NPAs to the issuance of income tax refunds. She did so in a manner which conflates these two completely separate topics as if they were one and the same.

On lines 17 – 18, she wrote: “In fact, Section 19307 specifically provides that “no **REFUND** of tax withheld or estimated tax paid shall be allowed to an employee or taxpayer who fails to file a return for the taxable year in respect of which the tax withheld or estimated tax was allowable as a credit.”

Whether or not we are entitled to claim a refund has nothing whatsoever to do with whether it was lawful for FTB to not have timely applied the estimated tax payments that we made.

I believe this paragraph is so deceptive and misleading that it violates Federal Criminal Codes 18 USC 1001: Misrepresentation of Facts by Government Agent and Federal Criminal Codes 18 USC 242; Color of Law.

I request that you re-evaluate your tentative ruling in light of this deception being exposed.

15803. FTB Attempted to Deceive Your Honor Regarding Calculations

Starting on pages 6, line 26 through page 7, line 2, Anna Barsegyan again falsely conflated the calculations for issuing a NPA with the calculations for how much a demand penalty should be. Anna Barsegyan has never denied my allegations that this statement is deceptive and misleading.

158w **4. Anna Barsegyan Acknowledged Demand Penalties are Tied to the NPA**

On page 7, lines 12 – 14, Anna Barsegyan wrote “The demand also informed Plaintiff that the demand penalty is imposed as of the date of the Notice of Proposed Assessment.”

In the next sentence, she made a false statement that directly contradicts the previous sentence. Continuing on line 14: “Thus, despite plaintiff’s arguments in her opposition, the issuance of the NPA is not a precursor to the imposition of the demand penalties.”

Ms. Barsegyan plainly stated on lines 12 – 14 that if the NPA had not been issued, there would not be a demand penalty, as the demand penalty is dependent on the date the NPA is issued.

158w **5. Another Deceptive Statement in the reply brief**

On page 8, line 19, Anna Barsegyan again used sleight of hand word tricks to attempt to deceive Your Honor. She wrote “being too busy is an insufficient reason to relieve them of their tax liability.”

Anna Barsegyan tried to conflate the liability to *pay our taxes* with the obligation to *file returns*. FTB has never disputed that we had timely paid our tax liabilities in full as assessed by FTB.

158w **6. Consideration of Facts Supported by FTB’s Evidence**

I understand that as a *pro se*, I am required to meet the standards of an attorney. FTB served the summary judgment on January 4 via mail, but I was out of town and did not receive the package until January 10. My father became ill on January 23rd with a MRSA staph infection and he died on February 7. On February 18, FTB and I filed a stipulation to continue ~~of~~ this hearing until September. This court

That was  
money was  
46 days  
ago

denied the stipulation on March 1, leaving me only 10 days to complete and file the extensive Motion for Summary Judgment paperwork, *while also simultaneously planning a funeral*

Over the last two years that I have been following hearings in your courtroom, Your Honor has set a precedent of grace for attorneys who make mistakes. I believe that Your Honor would allow an attorney who was in the middle of bereavement to submit a table of contents and authentications late. On Monday, I cure my oversight by submitting a table of contents and authentication, and make any other formatting corrections that you specify. I request that you reconsider accepting the evidence and facts to make an amended ruling.

However, even if Your Honor stands by the dismissal of my evidence, I believe that my facts should stand. The majority of the evidence that I submitted was also submitted by FTB. FTB's evidence supports my arguments. Since Your Honor has confirmed that all of FTB's evidence is admissible, I request that the facts that I made regarding evidence that you have accepted from FTB be allowed to stand.

On Monday, I can submit a revised list of my facts with FTB's exhibit numbers on them so that my facts be re-evaluated and re-considered in your amended ruling.

*Issue*

## 7. Filing Requirement

Your Honor stated that FTB documented that I had a filing requirement, however, a filing requirement is moot to this case. A filing requirement has no correlation to a demand penalty. The demand penalty is tied to the issuance of the Notice of Proposed Assessment. Per revenue and tax code 19087, NPAs are only issued to tax evaders.

*Issue*

## 8. Demand Penalties

Your Honor stated that FTB properly imposed the demand penalties. However, Your Honor did not address why you denied my argument that the demand penalties were falsely imposed because the NPAs were issued in violation of Revenue and Tax Code 19087.

In fact, Your Honor didn't address the issue of the Notices of Proposed Assessments at all in the tentative ruling, and that was one of the key issues set forth in the Complaint. Is it lawful for FTB to not apply estimated tax payments when they receive the monies from the taxpayer, then issue Notices of Proposed assessment which would not have been issued had the monies been timely applied?

Over the last two years that I have been following hearings in your courtroom, Your Honor has set a precedent that in you usually give reasons for why you do not agree with particular laws cited or arguments made when you issue a ruling. I am disappointed that you didn't elaborate on why you have rejected my argument, *that the NPTAS were falsely issued.*

I request that this issue be specifically addressed in the amended ruling.

*Issue* **9. Reasonable Cause**

Your Honor stated that I did not establish reasonable cause for abatement of demand penalties. I believe that is only because Your Honor dismissed my *evidence* and facts. I believe that if you allow me to cure my oversight and accept my *facts* or if you allow my facts to stand on the evidence that FTB has submitted, that there is ample evidence to establish reasonable cause. FTB's own records establish the egregious accounting irregularities perpetrated by FTB that Your Honor can consider in an amended ruling.

*Issue* **10. Clarification Requested**

Your Honor stated that my arguments were not adequately supported by citation to applicable legal authority, however, Your Honor did not address even **one** law that I cited.

From what I have seen over the last two years, the precedent in your courtroom is that you usually give reasons for why you do not agree with particular laws cited. I am disappointed that you didn't explain why **any** – not even one – of the many laws that I cited were not adequate per your opinion. I would appreciate clarification in your amended ruling.

Now moving on to

## The Three Issues regarding the Motion for Sanctions

1560e

### 1. Safe Harbor Provision

Your Honor stated that he believes that Ms. Barsegyan was exempt from the safe harbor provision in her Motion for Sanctions because I had already taken the alleged actions. However, Ms. Barsegyan stated repeatedly that the purpose of the Motion was to deter me from **further** similar actions. Since the stated intent was specific to **further actions**, I believe that in this case the 21-day opportunity to cure that is required under CCP 128.7 (c) does apply and that FTB's Motion for Sanctions should be dismissed.

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### 2. Social Security Number Exposure Was Not Addressed

Your Honor did not address the issue of Anna Barsegyan not redacting my husband and my social security numbers from the Motion for Sanctions moving papers. Anna Barsegyan readily admitted that she violated California rules of the court 1.201. I believe that I am entitled to sanctions for this violation and I am disappointed that you failed to address my argument on this issue.

Grace LeBleu should have redacted the social security numbers before she sent the documents to Anna Barsegyan. There is no excuse for Anna Barsegyan and her paralegal to not have redacted the social security numbers prior to filing the moving papers.

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

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### 3. Police Report and Criminal Complaints