



# **ATTORNEY GENERAL OF TEXAS**

**FINANCIAL LITIGATION, TAX, AND  
CHARITABLE TRUSTS DIVISION**

**COMPTROLLER OF PUBLIC ACCOUNTS  
CASE LIST AND SUMMARY OF ISSUES**

**JULY 2015**



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## Franchise Tax

### ***Abercrombie & Fitch, Co. v. Combs, et al.***

Cause Number: D-1-GN-13-004243 AG Case #: 143474724

Filed: 12/18/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$549,633.59	Report Years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Hagenswold, R. Eric Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15, has been passed by agreement.

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### ***AK Steel Holding Corp. v. Combs, et al.***

Cause Number: D-1-GN-14-000024 AG Case #: 143483253

Filed: 1/3/2014

Franchise Tax; Refund

Claim Amount	Reporting Period
\$58,803.70	Report Years 2011 and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15, has been passed by agreement.

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### ***Allcat Claims Service, L.P. v. Combs, et al.***

Cause Number: D-1-GN-11-002294 AG Case #: 113283048

Filed: 7/29/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$96,039.00	01/01/2008 through 12/31/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Seay, Michael B.	
Traphagan, Amanda M.	
Leonard, Lacy L.	

Issue: Whether certain payments made by Plaintiff to subcontractors should be excluded from total revenue. Whether certain payments made by Plaintiff to subcontractors should be included in COGS. Whether the Comptroller's application of §171.1011(g)(3) and §171.1012 violates the Equal Protection clause. Whether imposition of the tax on a limited partnership violates the Bullock Amendment.

Status: Abated pending final resolution of Newpark Resources, Inc. v. Combs, et al. and Titan Transportation, LP v. Combs, et al.

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***American Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-15-003101 AG Case #: CX0361479456

Filed: 7/30/2015

Franchise Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$107,577.04	Report Years 2009, 2010, 2011, 2012, 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony	OAG FTL / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	K&L Gates, LLP / Dallas
Russell, Andrew B.	
LeDoux, William J.	

Issue: Whether federal Anti Head Tax Act prevents the application of franchise tax to plaintiff. Whether imposition of tax rate interferes with interstate commerce and violates the Supremacy Clause of the US Constitution.

Status: Citation issued.

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***American Multi-Cinema, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003835 AG Case #: 123382749

Filed: 12/10/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$942,024.27	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Eidman, Mark W.

Issue: Whether expenditures for licensing fees associated with displaying motion pictures, as well as other expenses associated with the commercial display of a motion picture, are eligible for the COGS deduction. Whether the licensing fees qualify for an exclusion from revenue as flow-through funds under §171.1011. Plaintiff also requests waiver of penalty.

Status: Case consolidated into American Multi-Cinema, Inc. v. Combs, et al., Cause No. D-1-GN-12-003831, 01/04/13.

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***American Multi-Cinema, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003831 AG Case #: 123382756

Filed: 12/5/2012

#03-14-00397-CV

Franchise Tax; Protest

Claim Amount	Reporting Period
\$797,389.18	Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug  
Eidman, Mark W.  
Bryant, Kendall

Ryan Law Firm, LLP / Austin

Issue: Whether expenditures for licensing fees associated with displaying motion pictures, as well as other expenses associated with the commercial display of a motion picture, are eligible for the COGS deduction. Whether the licensing fees qualify for an exclusion from revenue as flow-through funds under §171.1011.

Status: Case consolidated with American Multi-Cinema, Inc. v. Combs, et al., Cause No. D-1-GN-12-003835, 01/04/13. Phase one of bifurcated trial held 09/16/13. Judgment that exhibition costs could be included in the COGS deduction. Phase two of trial held 03/02/14. Judgment that the Comptroller's calculation of exhibition costs was correct. Final Judgment entered for Plaintiff on 05/16/14.

Notice of Appeal filed 06/25/14. Appellant's and Cross-Appellants' brief filed 10/27/14. Appellee's and Cross-Appellees' brief filed 12/17/14. Appellant and Cross-Appellant Reply Briefs filed 01/21/15. Case submitted on oral argument on 03/11/15.

Opinion issued 04/30/15, affirming Phase One ruling in favor of taxpayer and reversing Phase Two ruling in favor of Comptroller. Comptroller's motion for extension of time to file motion for rehearing filed and granted 05/11/15. Motion for Rehearing and Motion for en banc reconsideration filed 06/05/15.

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***Amphenol Corporation and Subsidiaries v. Combs, et al.***

Cause Number: D-1-GN-13-003471 AG Case #: 133457325

Filed: 10/4/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$558,641.00	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***AN Dealership Holding Corp. v. Combs, et al.***

Cause Number: D-1-GN-13-003213 AG Case #: 133452326

Filed: 9/12/2013

Franchise Tax; Refund

Claim Amount      Reporting Period  
\$279,461.00      Report Years 2008 - 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Bennett, Stacie L.

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Anatole Partners III, LLC v. Hegar, et al.***

Cause Number: D-1-GN-15-001398    AG Case #: CX6906414977                      Filed: 4/10/2015

Franchise Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$154,771.13      June 1, 2007 through August 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn                                      OAG FTL / Austin

*Opposing Counsel*

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Colmenero, David E.                      Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas

Issue: Whether health club (and consumables) items are subject to sale-for-resale exemption. Whether CPA properly assessed based on estimated sale price of amenities. Whether employee staffing services are taxable or subject to exemption. Whether taxation of employee staffing services violated equal & uniform, double taxation, due process. UDJA claim, attorneys' fees.

Status: Discovery in progress.

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***Autohaus, LP, LLP v. Combs, et al.***

Cause Number: D-1-GN-13-000989 AG Case #: 133406611  
#03-15-00427-CV

Filed: 3/22/2013

Franchise Tax; Protest & UDJA

Claim Amount Reporting Period  
\$14,227.09 Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Colmenero, David E. Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas

Issue: Whether labor costs associated with automobile repair are eligible for inclusion in COGS. Whether expenditures for automobile repair services are eligible for inclusion in COGS. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Hearing on Cross Motion for Summary Judgment held 07/09/14. Order granting Plaintiff's MSJ filed 7/22/14. Order Denying Defendants' Motion for Reconsideration entered 10/30/14. Trial held 04/21/15. Final Judgment entered 04/29/15. Defendants' Motion for New Trial filed 05/29/15.

Notice of Appeal filed 07/10/15.

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***Bayer Material Science, LLC, and Bayer Corp. v. Hegar, et al.***

Cause Number: D-1-GN-15-001826 AG Case #: CX1991553255

Filed: 5/11/2015

Franchise Tax; Refund

Claim Amount Reporting Period  
\$4,377,466.88 Report Years 2007, 2008, 2009, 2010, and 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Co-Counsel*

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Bitter, Adam OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug  
Quiniola, Katherine

Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff is entitled to "qualified capital investments." Whether Plaintiff's refund claims were timely filed. Whether §171.202(f) is constitutional.

Status: Discovery in progress.

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***Big League Dreams USA, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-005079 AG Case #: 153558945

Filed: 12/4/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$39,725.17	2009, 2010, 2011, and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Colmenero, David E.	Meadows, Collier, Reed, Cousins, Crouch & Ungerman, LLP / Dallas
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Fahring, Thomas  
Pilawski, Alex J.

Issue: Whether taxpayer can elect 3-factor apportionment under the multi-state tax compact.

Status: Answer filed.

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***Big Mountain Airway, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-001281 AG Case #: 143506046

Filed: 5/1/2014

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$61,651.43	Tax period from 2010 through 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon	OAG FTL / Austin
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*Opposing Counsel*

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Leffman, David L.	Gordon, Davis, Johnson & Shane, P.C. / El Paso
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Issue: Whether stops in Texas mandated by federal law constitute sufficient business accounting in Texas for franchise tax liability. Equal & Uniform Challenges. UDJA/Attorney fees.

Status: Discovery in progress.

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***Brown-Forman Corp. and Subsidiaries v. Combs, et al.***

Cause Number: D-1-GN-14-0001902

AG Case #: 143517522

Filed: 6/17/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$318,833.00	Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois, Bryant & Campbell, L.L.P. / Austin
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Issue: Whether taxpayer can elect the 3-factor apportionment under the Multistate Tax Compact.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Caliber Holdings Corp. v. Combs, et al.***

Cause Number: D-1-GN-14-000153 AG Case #: 143479285

Filed: 1/15/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,026,092.31	Report Years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Taylor, III, Jasper G.	Fulbright & Jaworski / Houston
Chadha, Jayash M.	

Issue: Whether labor costs associated with automobile repair are eligible for inclusion in COGS. Whether other expenditures for automobile repair services are eligible for inclusion in

COGS.

Status: Answer filed.

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***Carl Owens Paint & Body, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-  
0002009

AG Case #: 143517423

Filed: 6/25/2014

Franchise Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$120,827.00	Report Years 2009, 2010, 2011, and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether Plaintiff, auto repair/part shops, can deduct cost of goods sold for its franchise tax. Whether Plaintiff is entitled to a .5% rate, for engaging in retail trade. Whether CPA's interpretation of tax code violates due process/equal & uniform taxation. Whether CPA's rule is invalid under APA (2001.038 rule challenge) (note: subject to Travis County Local Rule 10).

Status: Discovery in progress.

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***CGG Veritas Services (U.S.) Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001316    AG Case #: 123331670  
#03-14-00713-CV

Filed: 5/2/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,483,232.96	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Co-Counsel*

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Hughes, Joseph D.                      OAG Office of Solicitor General / Austin

Patterson, Autumn

*Opposing Counsel*

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Martens, James F.  
Leonard, Lacy L.

Martens, Todd & Leonard / Austin

Issue: Whether the costs incurred in providing seismic data are eligible to be included in COGS.

Status: Phase one of trial held 02/18/14. Court held for Plaintiff. Final Judgment entered 09/17/14.

Notice of Appeal filed 11/12/14. Appellant's Brief filed 04/20/15. Appellee's Motion for Extension to File Brief filed and granted 05/04/15. Appellee's Second Motion for Extension of Time to File Brief filed and granted 06/04/15. Appellee's Brief filed 07/20/15. Appellant's reply brief due 08/24/15.

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***Chevron U.S.A. Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001682 AG Case #: 123338279

Filed: 6/5/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,335,207.54	Report Years 1994 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is eligible, under former §171.0021, for a franchise tax deduction based on sales and use tax paid on the purchase of equipment used for manufacturing.

Status: Trial set for 12/28/15.

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***Chico's FAS, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-  
0001893

AG Case #: 143517415

Filed: 6/18/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$409,845.91	Report Years 2009, 2010, 2011 and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether taxpayer may elect the three-factor apportionment under the Multistate Tax Compact.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Cook Medical LLC Successor in Interest to Cook Medical Incorporated v. Combs, et al.***

Cause Number: D-1-GN-14-002548    AG Case #: 143525301                      Filed: 7/28/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$108,789.00	January 1, 2009 to December 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether Plaintiff is entitled to utilize the 3-factor formula for apportionment claim in Art. IV, Sec. 9. (MTC)

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Cook Medical LLC Successor in Interest to Cook Medical Incorporated v. Combs, et al.***

Cause Number: D-1-GN-14-005398    AG Case #: 153560263                      Filed: 12/29/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount      Reporting Period  
\$343,780.00      Report Years 2010, 2011, and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether taxpayer may utilize 3-factor formula for apportionment in Art. IV, §9.

Status: Answer filed.

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***Deer Run/Bassword, LLC, et al. v. Combs, et al.***

Cause Number: D-1-GN-12-001799    AG Case #: 123342669

Filed: 6/14/2012

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$287,726.18      Report Years 2008-2010 & 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG FTL / Austin

*Opposing Counsel*

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Nolan, Peter A.                      Winstead PC / Austin

Issue: Whether a group of affiliated entities are engaged in a unitary business. Whether certain entities within the affiliated group are passive entities under §171.0003.

Status: Hearing on Plaintiff's Motion for Partial Summary Judgment set for 08/20/15.

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***Ewing Buick, LP, LLP v. Combs, et al.***

Cause Number: D-1-GN-13-000990    AG Case #: 133406595

Filed: 3/22/2013

Franchise Tax; Protest & UDJA

Claim Amount      Reporting Period  
\$25,997.98      Report Year 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Colmenero, David E.              Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas

Issue: Whether labor costs associated with automobile repair are eligible for inclusion in COGS. Whether expenditures for automobile repair services are eligible for inclusion in COGS. Plaintiff also seeks declaratory relief and attorney fees.

Status: Answer filed.

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***Ewing Buick, LP, LLP v. Combs, et al.***

Cause Number: D-1-GN-13-000994    AG Case #: 133406603

Filed: 3/22/2013

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$27,900.95	Report Year 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Colmenero, David E.              Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas

Issue: Whether labor costs associated with automobile repair are eligible for inclusion in COGS. Whether expenditures for automobile repair services are eligible for inclusion in COGS. Plaintiff also seeks declaratory relief and attorney fees.

Status: Answer filed.

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***Gillette Commercial Operations North America, Inc. and Subsidiaries***

Cause Number: D-1-GN-14-001411    AG Case #: 143506574

Filed: 5/12/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$42,406,401.00	Tax period from 2009 through 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A.                              DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether single factor apportionment in the Texas Tax Code violates multi-state tax compact. Whether Gillette is entitled to refund of \$42M.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Graphic Packaging Corp. v. Combs, et al.***

Cause Number: D-1-GN-12-003038    AG Case #: 123370199  
#03-14-00197-CV

Filed: 9/27/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,019,122.00	Report Years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                              OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                              Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001. Whether the single-factor apportionment formula is violative of the Due Process Clause and the Commerce Clause. Plaintiff further alleges that a determination of a taxable entity's status as a retailer based on activity occurring outside of Texas is violative of the Commerce Clause, the Due Process Clause, and the Equal and Uniform Clause. Plaintiff further alleges that the Comptroller abused her discretion in failing to waive penalty and interest.

Status: Hearing on Cross Motions for Summary Judgment held on 12/19/13. Order granting Defendants' motion and denying Plaintiff's motion entered 01/15/14.

Notice of Appeal filed 04/02/14. Appellant's Motion for Extension of Time to File Brief filed and granted 06/26/14. Appellant's Motion to Appear Pro Hac Vice filed 07/17/14; granted 07/21/14. Appellant's second Motion for Extension of Time to File Brief filed 08/01/14;

granted 08/04/14. Appellant's third Motion for Extension of Time to File Brief filed 09/08/14; granted 09/09/14. Appellant's brief filed 09/26/14. Appellee's Motion for Extension of Time to File Brief filed and granted 10/20/14. Appellee's Second Motion for Extension of Time to File Brief filed and granted 11/20/14. Appellee's Brief filed 01/27/15. Appellant's Motion for Extension of Time to File Reply Brief filed 02/12/15; granted 02/13/15. Appellant's Second Motion for Extension of Time to File Reply Brief filed 03/05/15; granted 03/12/15. Appellant's reply brief due 04/17/15. Case submitted on oral argument on 06/03/15. Opinion issued 07/28/15, affirming the district court's judgment.

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***Gulf Chemical & Metallurgical Corp. v. Combs***

Cause Number: D-1-GN-11-003174 AG Case #: 113296925  
#03-12-00772-CV

Filed: 10/13/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,357,920.00	Report years 2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether a payment/credit from the Plaintiff to Plaintiff's customer should be netted against gross receipts for apportionment purposes.

Status: Trial held 10/11/12. Final Judgment in favor of Defendants issued 10/16/12. Notice of Appeal filed 11/26/12. Appellant's Brief filed 04/29/13. Appellee's Brief filed 08/30/13. Appellant's Reply Brief filed 10/03/13. Case submitted on oral argument on 11/06/13. Opinion issued 03/26/15, reversing the trial court's judgment and remanding this cause for further proceedings to determine the amount of refund to which Gulf is entitled. Case set for trial on 11/02/15.

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***Gulf Copper & Manufacturing Corp. v. Combs, et al.***

Cause Number: D-1-GN-14-004620 AG Case #: 143549418

Filed: 11/4/2014

Franchise Tax; Protest, Declaratory Judgment

Claim Amount	Reporting Period
\$838,118.00	Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether GCMC is entitled to revenue exclusion for payments made to subcontractors. Equal taxation. Whether GCMC may apportion the revenue using the factor originally claimed. Whether GCMC is entitled to cost-of-goods sold deduction as a deemed owner of goods or actual owner. UDJA claim.

Status: Case set for trial on 02/01/16.

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***H.J. Heinz Company and Subsidiaries v. Combs, et al.***

Cause Number: D-1-GN-13-004033 AG Case #: 133469700

Filed: 11/26/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$359,202.00	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Hallmark Marketing Company, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-001168 AG Case #: 133411850

Filed: 4/8/2013

#13-14-00093-CV  
#14-1075

Franchise Tax; Protest

Claim Amount	Reporting Period
\$211,974.96	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon                      OAG FTL / Austin

*Co-Counsel*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Eidman, Mark W.

Issue: Whether gains & losses from the sale of capital assets should be included in determining §171.105 gross receipts for apportionment.

Status: Hearing on Cross MSJs held on 10/17/13. Defendants' motion granted 12/04/13. Plaintiff's Notice of Appeal filed 12/19/13. Case transferred to the 13th COA on 02/06/14. Appellant's Brief filed 03/14/14. Appellees' Brief filed 04/15/14. Appellant's Reply Brief filed 05/27/14. Judgment and Memorandum Opinion issued 11/13/14, affirming the trial court's judgment. Petition for Review filed 12/23/14. Waiver of response filed 01/15/15. Court requested response 02/20/15. Respondent's Motion for Extension of Time to File Response filed 03/10/15; granted 03/11/15. Response filed 04/22/15. Petitioner's Motion to Extend Time to File Reply filed 04/29/15; granted 05/04/15. Reply filed 05/19/15. Petitioner's Brief filed 07/06/15. Respondent's Brief filed 07/27/15. Petitioner's Motion for Extension of Time to File Reply Brief filed 07/30/15; granted 08/06/15. Reply brief due 08/21/15.

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***Hallmark Marketing Company, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-000650    AG Case #: 143491298

Filed: 3/3/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$171,310.43	Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Issue: Whether gains & losses from the sale of capital assets should be included in determining §171.105 gross receipts.

Status: Answer filed.

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***Hallmark Marketing, Co., PLLC v. Hegar, et al.***

Cause Number: D-1-GN-15-001595 AG Case #: CX8293971490

Filed: 4/22/2015

Franchise Tax; Protest

Claim Amount	Reporting Period
\$344,660.33	2011 and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Co-Counsel*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Eidman, Mark W.

Issue: Whether the denominator of the apportionment factor should include net gains from sale of assets or capital assets. Whether Rule 3.591(e)(2) is invalid.

Status: Case abated pending resolution of Hallmark Marketing Company v. Combs, et al. (Cause # D-1-GN-13-01168)

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***Hasbro, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-002873 AG Case #: 133445726

Filed: 8/20/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$608,404.00	Report Years 2008-2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Moore, Steven D. Jackson Walker, L.L.P / Austin

Nogid, Amy F. Morrison & Foerster, LLP / New York, NY

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Status conference previously set for 06/02/15 has been passed by agreement.

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***Hon Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-005249 AG Case #: 153558838

Filed: 12/16/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$1,247,226.00	2009 through 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment under the Multi-state Tax Compact.

Status: Citation issued.

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***I-Tel, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-003013 AG Case #: 133447797

Filed: 8/28/2013

Franchise Tax; Injunctive Relief, UDJA & APA

Claim Amount	Reporting Period
\$315,133.35	Report Years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Grissom, Donald H. Grissom & Thompson / Austin  
Thompson, William W.

Issue: Whether certain expenses associated with providing pre-paid telephone services are eligible for the COGS deduction. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

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***Kimball Office, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003396 AG Case #: 123377384

Filed: 10/29/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$244,836.00	Report Years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Traphagan, Amanda M.	
Leonard, Lacy L.	

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001. Whether application of the single-factor apportionment formula to Plaintiff is violative of the Due Process Clause and the Commerce Clause.

Status: Discovery is abated per Rule 11 Agreement pending outcome of Graphic Packaging Corp. v. Combs (D-1-GN-12-003038) appeal.

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***Kimball Office, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003866 AG Case #: 123382772

Filed: 12/10/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$62,420.00	Report Year 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Traphagan, Amanda M.	

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001. Whether application of the single-factor apportionment formula is violative of the Due Process Clause and the Commerce Clause.

Status: Discovery is abated per Rule 11 Agreement pending outcome of Graphic Packaging Corp. v. Combs (D-1-GN-12-003038) appeal.

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***Kimball Office, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-000405 AG Case #: 143486561

Filed: 2/10/2014

Franchise Tax; Refund

Claim Amount	Reporting Period
\$82,139.00	Report Year 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Bennett, Stacie L.

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001. Whether application of the single-factor apportionment formula to Plaintiff is violative of the Due Process Clause and the Commerce Clause.

Status: Discovery is abated per Rule 11 Agreement pending outcome of Graphic Packaging Corp. v. Combs (D-1-GN-12-003038) appeal.

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***Kohl's Department Stores v. Combs, et al.***

Cause Number: D-1-GN-14-003350 AG Case #: 143536316

Filed: 9/3/2014

Franchise Tax; Refund

Claim Amount	Reporting Period
\$136,226.00	(\$52,186.00 for 2009 and \$84,040.00 for 2010)

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Goldberg, Olga

Issue: Whether taxpayer may deduct certain store labor costs as COGS.

Status: Hearing on Defendants' Motion for Partial Summary Judgment set for 08/04/15 has been passed.

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***Leviton Manufacturing Co., Inc. v. Hegar, et al.***

Cause Number: D-1-GN-15-001144 AG Case #: 153576798

Filed: 3/23/2015

Franchise Tax; Refund

Claim Amount	Reporting Period
\$151,241.00	Report Years 2007 through 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether taxpayer is entitled to a tax audit for "qualified capital investments" under Tax Code §171.801(2). Whether taxpayer timely filed its refund claims. Whether §171.202(f), requiring the remainder of tax reports due as a condition of comptroller granting a time extension, is unconstitutional.

Status: MSJs due 08/17/15.

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***Lockheed Martin Corp. v. Hegar, et al.***

Cause Number: D-1-GN-15-000055 AG Case #: 153562285

Filed: 1/5/2015

Franchise Tax; Refund

Claim Amount	Reporting Period
\$2,671,154.83	Report Years 2005, 2006, and 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether taxpayer's sales to foreign and US governments gave rise to "Texas gross receipts" for purposes of apportionment.

Status: Trial set for 09/21/15.

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***Medtronic, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-002807 AG Case #: 133444653

Filed: 8/14/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$4,859,972.00	Report Years 2008-2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Albaral, Robert H.	Baker & McKenzie, LLP / Dallas
Long, Stephen W.	

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001. Whether the single-factor apportionment formula is violative of the Due Process Clause, the Commerce Clause, and the Contracts Clause.

Status: Order granting Agreed Motion to Stay entered 03/28/14, pending the resolution of Graphic Packaging appeal.

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***Michelin Corp. v. Combs, et al.***

Cause Number: D-1-GN-13-004071 AG Case #: 133470955

Filed: 11/27/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,016,052.53	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Hintzen, Erich H.	Miller, Canfield, Paddock and Stone, PLC / Troy, MI
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Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Discovery abated until resolution of Graphic Packaging Corp. v. Combs (D-1-GN-12-003038) appeal.

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***National Beef Packing Company, LLC & Affiliates v. Combs, et al.***

Cause Number: D-1-GN-14-005241 AG Case #: 153558820

Filed: 12/16/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$802,017.00	2009 through 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the 3-factor apportionment under the Multi-state Tax Compact.

Status: Answer filed.

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***Nestle USA, Inc. and Subsidiaries v. Combs, et al.***

Cause Number: D-1-GN-14-003684 AG Case #: 143538072

Filed: 9/15/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$15,231,474.00	Report Years 2009, 2010, 2011, and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff may use 3-factor apportionment formula.

Status: Discovery abated until resolution of Graphic Packaging Corp. v. Combs appeal.

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***Nestle USA, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001818 AG Case #: 123341539

Filed: 6/15/2012

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$8,682,998.99      Report Year 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Calaf, Maria Amelia      OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon      OAG FTL / Austin

*Opposing Counsel*

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Nolan, Peter A.      Winstead PC / Austin  
Rabb, Jennifer Patterson

Issue: Whether the two-tiered tax rate and the statutory deductions from total revenue cause the franchise tax to violate the Equal Protection Clause of the U.S. Constitution and the Equal & Uniform Clause of the Texas Constitution. Plaintiff further alleges that a determination of a taxable entity's status as a retailer based in part on activity occurring outside of Texas causes the franchise tax to be violative of the Due Process and Commerce clauses of the U.S. Constitution.

Status: Case abated pending resolution of In re: Nestle USA, Inc., Cause No. 12-0518.

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***Nextera Energy Power Marketing, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001372      AG Case #: 123334237

Filed: 5/7/2012

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$1,840,454.22      2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack      OAG FTL / Austin

*Opposing Counsel*

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Gilliland, David H.      Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether certain expenses attributed to the generation and transmission of electricity are eligible for the COGS deduction. Whether Plaintiff properly calculated the amount of its business loss carry forward credit. Whether Plaintiff is entitled to a revenue exclusion for management fee income and interest income.

Status: Agreed Order Abating Scheduling Order and Trial Setting filed 08/08/13.

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***Nike USA, Inc. v. Combs***

Cause Number: D-1-GN-12-000373 AG Case #: 123316226

Filed: 2/9/2012

Franchise Tax; Refund and APA

Claim Amount	Reporting Period
\$2,456,810.72	Report Years 2004-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Cowling, David E. Jones Day / Dallas  
Lyda, Kirk  
Hepworth, Justin

Issue: Whether certain sales should be apportioned to Texas, if, as alleged by Plaintiff, Plaintiff's customer took delivery outside of Texas. Whether the Comptroller's application of the apportionment statute violates the Commerce, Due Process, and Equal Protection clauses of the U.S. Constitution. Whether Comptroller Rule 3.557 exceeds the scope of the Tax Code.

Status: Answer filed.

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***NTS Communications, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-000168 AG Case #: 133391029

Filed: 1/14/2013

Franchise Tax; Refund & UDJA

Claim Amount	Reporting Period
\$156,930.99	Report Year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Colmenero, David E. Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas  
Beck, Stephen A.

Issue: Whether the cost of electricity and other costs associated with providing telecom

services are eligible for the COGS deduction. Whether the Comptroller's application of the COGS statute violates the Equal and Uniform Clause of the Texas Constitution and the Equal Protection and Due Process clauses of the U.S. Constitution. Plaintiff also seeks declaratory relief.

Status: Comptroller's MSJ granted in part, Plaintiff's MSJ denied 05/14/15.

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***OGCI Training, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-005375 AG Case #: 153563523

Filed: 1/20/2015

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$59,798.61	Report Year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony	OAG FTL / Austin
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*Opposing Counsel*

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Sarkar, Neal A.	Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing P.C. / Houston
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Gorman, Sean	Bracewell & Giuliani, LLP / Houston
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Issue: Whether CPA properly apportioned OGCI's receipts as "Texas receipts." Whether the apportionment violates the Due Process & Commerce Clause. Whether it was an abuse of discretion for the CPA to fail to waive penalties and interest assessed.

Status: Answer filed.

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***Owens Corning v. Hegar, et al.***

Cause Number: D-1-GN-15-001998 AG Case #: CX7997255889

Filed: 5/21/2015

Franchise Tax; Refund

Claim Amount	Reporting Period
\$882,182.59	January 1, 2008 through December 31, 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether payments to asbestos-personal injury fund are includable in costs-of-goods sold, as "costs of quality control."

Status: Answer filed.

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***PEK, Inc. dba Serviceline Transport v. Combs, et al.***

Cause Number: D-1-GN-11-003539 AG Case #: 113301493

Filed: 11/16/2011

Franchise Tax; Protest, Injunctive Relief & Declaratory Judgment

Claim Amount	Reporting Period
\$78,315.81	Report years 2008-2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.011(g)(3).

Whether Plaintiff prospectively qualifies as a courier and logistics company.

Plaintiff also asserts an Equal Protection challenge.

Status: Trial previously set for 09/24/12 has been passed.

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***Rent-A-Center, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001059 AG Case #: 113260954  
#03-13-00101-CV

Filed: 4/11/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,162,191.64	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Co-Counsel*

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Frederick, Matthew OAG Office of Solicitor General / Austin

*Opposing Counsel*

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Butcher, Daniel L.  
Katz, Farley P.

Strasburger & Price / Dallas  
Strasburger & Price / San Antonio

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b). Whether Plaintiff qualifies for the cost of goods sold deduction. Plaintiff also raises an equal protection clause challenge to: i) the tax rate, and ii) the cost of goods sold deduction.

Status: Trial held on 12/10/12. Letter Ruling-finding for Defendants on 12/19/12. Judgment entered 01/18/13. Plaintiff's Notice of Appeal filed 02/14/13. Appellant's Motion for Extension of Time to File Brief filed 06/05/13; granted 06/07/13. Appellant's Brief filed 07/18/13. Appellee's Brief filed 10/03/13. Appellant's Reply Brief filed 10/23/13. Case submitted on oral argument on 01/29/14. Additional authorities filed by Appellant 03/19/14. Opinion issued 06/11/15, reversing trial court's judgment and rendering judgment that Rent-A-Center is subject to the one-half-percent franchise-tax rate for tax year 2008 and is, therefore, entitled to a refund of its overpayment. Cause remanded to the trial court for a determination of the amount of refund to which Rent-A-Center is entitled. Appellant's Motion for Rehearing filed 06/25/15.

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***Seltex, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001582 AG Case #: 123333692

Filed: 5/24/2012

Franchise Tax; Injunction, Protest & UDJA

Claim Amount	Reporting Period
\$15,000.00	Report Years 2008 - 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as either: i) fiduciary funds per §171.1011(f) or ii) subcontracting payments per §171.1011(g)(3). Whether Plaintiff is eligible to claim the COGS deduction for its payments to drivers and for truck repairs. Whether Plaintiff prospectively qualifies as a courier and logistics company. Plaintiff also asserts claims under the Equal Protection Clause and the Equal and Uniform Clause. Plaintiff also seeks declaratory relief and injunctive relief.

Status: Hearing on inability to pay previously set for 07/31/12 has been passed.

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***Sid Tool, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-  
0001550

AG Case #: 143509040

Filed: 5/22/2014

Franchise Tax; Refund

Claim Amount	Reporting Period
\$441,266.00	Report Years 2009 through 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
Goldberg, Olga	

Issue: Whether Plaintiff is entitled to use the 3-factor apportionment formula in Art. IV §9, §141.001.

Status: Case abated pending outcome of Graphic Packaging, Cause #D-1-GN-12-003038.

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***Silgan Containers Manufacturing Corp. and Silgan Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-003732 AG Case #: 133463000

Filed: 10/30/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$99,420.00	Report Years 2009 - 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Martens, James F.	Martens, Todd & Leonard / Austin
Leonard, Lacy L.	
Bennett, Stacie L.	

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Discovery abated pending outcome of Graphic Packaging Corp. v. Combs (D-1-GN-12-003038) appeal.

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***Statewide Materials Transport, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-12-003920 AG Case #: 133384917  
#03-15-00186-CV

Filed: 12/13/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$161,445.00	Report Year 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Traphagan, Amanda M.

Issue: Whether certain expenses are eligible to be excluded from total revenue as pass-through funds under either §171.1011(f) or §171.1011(g)(3). Whether Plaintiff complied with the 34 TAC 3.585(c)(3) requirements to be eligible for an extended filing date. Plaintiff also seeks discretionary waiver of penalty and interest.

Status: Defendants' Motion to Dismiss for Lack of Jurisdiction denied 03/09/15.  
Notice of Interlocutory Appeal filed 03/27/15. District court proceedings stayed by agreement. Appellants' Brief filed 05/27/15. Appellees' Motion for Extension of Time to File Brief filed and granted 07/07/15. Appellees' brief due 08/17/15.

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***Sunstate Equipment Co., L.L.C. v. Combs, et al.***

Cause Number: D-1-GN-14-000281 AG Case #: 143481125

Filed: 1/29/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$141,188.83	Report Years 2008 and 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Perkins, Arthur Val Gardere Wynne Sewell LLP / Houston  
Craig, Allen  
Vane, Mark

Issue: Whether certain expenditures for the transportation of heavy equipment are eligible for the COGS deduction.

Status: MSJ due 08/21/15.

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***Tempur Sealy International, Inc. and Subsidiaries (formerly known as Tempu-Pedic International and Subsidiaries) v. Combs, et al.***

Cause Number: D-1-GN-13-004036 AG Case #: 133469718

Filed: 11/26/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$682,371.00	Report Years 2009-2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment formula described by Art. IV, Sec. 9, of §141.001.

Status: Discovery abated until resolution of Graphic Packaging Corp. v. Combs appeal.

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***The Lincoln Electric Company & Affiliates v. Combs, et al.***

Cause Number: D-1-GN-14-005215 AG Case #: 153558812

Filed: 12/15/2014

Franchise Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$1,188,398.00	2009 through 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to utilize the three-factor apportionment under the Multi-state Tax Compact.

Status: Answer filed.

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***Titan Transportation, LP v. Combs, et al.***

Cause Number: D-1-GN-11-002866 AG Case #: 113291926  
#03-13-00034-CV  
#14-0307

Filed: 9/15/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$88,461.00	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Seay, Michael B.  
Traphagan, Amanda M.  
Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.1011(g)(3).  
Whether Plaintiff's election to file an EZ Report disqualifies Plaintiff from subsequently claiming the COGS deduction for the same report year. Whether Plaintiff prospectively qualifies as a courier and logistics company.

Status: Final Judgment in favor of the Comptroller entered 10/31/12. Notice of Appeal filed 01/11/13. Appellant's Brief filed 06/03/13. Appellee's Brief filed 08/02/13. Appellant's Reply Brief filed 09/03/13. Case submitted on oral argument on 10/09/13. Opinion issued 03/14/14, reversing the district court's judgment in favor of the Comptroller and rendering judgment for Plaintiff.

Petition for Review filed in the Tx. Supreme Court on 05/28/14. Response to Petition for Review waived by Respondent 06/09/14. Court requested response 07/11/14. Response to Petition for Review filed 08/11/14. Petitioner's Reply Supporting Petition for Review filed 08/13/14. Briefing on the Merits filed 12/12/14. Response on the Merits filed 02/03/15. Reply on the Merits filed 02/24/15. Petition for Review denied 05/01/15.

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***TLH Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-002768 AG Case #: 103213674  
Franchise Tax; Protest, UDJA, APA

Filed: 8/6/2010

Claim Amount	Reporting Period
\$70,339.50	Report year 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Skaggs, Jack Ernest                      Jackson Walker, L.L.P / Austin

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b) and §171.0001(12).

Status: Discovery in progress.

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***Toro Rojo, Inc. and Casco Hauling and Excavating, Co. v. Combs, et al.***

Cause Number: D-1-GN-13-002427    AG Case #: 133440073

Filed: 7/18/2013

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$30,759.54	Report Years 2008 and 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG FTL / Austin

*Opposing Counsel*

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Melasky, David H.                      Houston

Issue: Whether Plaintiff is entitled to the COGS deduction for expenses associated with operating a landfill. Plaintiff also asserts a Due Process Clause violation.

Status: Discovery in progress.

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***Total Safety, U.S., Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-000762    AG Case #: 143491348

Filed: 3/12/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$539,528.27	Report Years 2008 and 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Butcher, Daniel L.                      Strasburger & Price / Dallas  
Katz, Farley P.                         Strasburger & Price / San Antonio  
Seger III, Forrest M. "Teo"

Issue: Whether Plaintiff's expenses associated with providing industrial safety services to its customers are eligible for the COGS deduction. Whether Plaintiff's payments made to subcontractors may be excluded from total revenue under §171.1011(g)(3).

Status: Answer filed.

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***U.S. Concrete, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-004938    AG Case #: 143554640                      Filed: 11/25/2014  
Franchise Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$483,544.89	Report Years 2008 and 2009
(\$40,343.17)	
(\$443,201.72)	

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Perkins, Arthur Val                      Gardere Wynne Sewell LLP / Houston  
Craig, Allen  
Gardner, Brent

Issue: What % of track costs should be allowed as cost of goods sold and whether all costs are manufacturing. What % of labor costs should be allowed as COGS. What % of return trip & dispatch costs should be allowed as COGS. Whether Titan & Newpark dictate outcome.

Status: Answer filed.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-04-002433    AG Case #: 041999269                      Filed: 7/30/2004  
Franchise Tax; Protest

Claim Amount	Reporting Period
\$754,178.16	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG FTL / Austin

*Co-Counsel*

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Iatrou, Kristie                              OAG FTL / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Order Granting Motion to Retain entered 01/08/08.

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## Sales Tax

### ***816 Charter, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001013 AG Case #: 123326902

Filed: 4/5/2012

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$966,792.61	01/01/04 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Grimsinger, William O. Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Issue: Whether Plaintiff's purchase of an aircraft was exempt as a sale for resale.

Status: Discovery in progress.

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### ***Acetylene Oxygen Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-001541 AG Case #: 143511020

Filed: 5/23/2014

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$191,828.22	January 1, 2006 through September 30, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

*Opposing Counsel*

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Mann, Jason R. Jason R. Mann, Attorney at Law / Harlingen

Issue: Whether Plaintiff is entitled to the manufacturing exemption for its sales of liquid gas & chlorine.

Status: Discovery in progress.

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***Agri-Plex Heating & Cooling, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000545 AG Case #: 123318909

Filed: 2/23/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$53,800.00	04/01/03 - 08/24/06

Counsel Associated With This Case:

*Assistant Attorney General*

Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

Millican, Paul H. Gossett, Harrison, Millican & Stipanovic, P.C. /  
San Angelo

Issue: Whether Plaintiff is liable for tax as a successor when the assessment was made after Plaintiff purchased business.

Status: Answer, PTJ and Motion to Dismiss filed.

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***Alamo National Building Management, LP v. Hegar, et al.***

Cause Number: D-1-GN-15-000802 AG Case #: 153572003

Filed: 2/27/2015

Sales and Use Tax; Refund, Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$602.71	January 1, 2015 through January 30, 2015

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether the Comptroller may deny the sale for resale exemption to hotels for the purchase and resale of consumables to hotel guests unless the hotel verifies the tax paid on the initial purchase of the consumables and verifies that sales tax was collected on the sale of such items when the items were resold to hotel guests. Whether such constitutes double taxation in view of the hotel occupancy tax. Whether the "Hotel Revenue Matrix" is an invalid rule. Whether Comptroller Rule 3.162 (a)(2) is invalid.

Status: Discovery in progress.

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***Alfred F. Mares v. Combs***

Cause Number: D-1-GN-12-000216 AG Case #: 113293989

Filed: 9/30/2011

Sales and Use Tax; Lien challenge; UDJA

Claim Amount	Reporting Period
\$8,000.00	10/01/04 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

Manriquez, Audrey E. San Antonio

Issue: Plaintiff seeks to invalidate a tax lien. Plaintiff also seeks declaratory relief.

Status: Agreed Motion to Transfer Venue filed. Case transferred from Bexar County to Travis County. Trial previously set for 12/17/12 was passed by agreement. Defendant filed Motion to Dismiss for Lack of Jurisdiction on 11/29/12. Defendants filed Motion for Continuance on 11/29/12, case placed on DWOP docket. Plaintiff's filed Motion to Retain and Amended Petition on 07/15/13. Defendants filed 1st Amended Answer, MSJ & PTJ on 08/15/13. Order granting Motion to Retain on 09/26/13.

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***Allstate Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-12-001299 AG Case #: 123331209

Filed: 5/3/2012

#03-13-00341-CV

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$18,954,813.74	01/01/06 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether outsourced insurance adjusting services qualify as services performed by an employee of a temporary employment service under §151.057(2) and are thus exempt from

sales tax.

Status: Case previously set for non-jury trial on 09/24/12 at 9:00 a.m. has been reset for 03/04/13. Comptroller's Motion to Quash deposition of Comptroller employee was granted. After trial on the merits, final judgment was entered on 04/08/13, ruling that Allstate should take nothing by way of its refund claims. Proposed findings and conclusions filed 04/26/13. Notice of Appeal filed 05/16/13. Appellant's Brief filed 09/19/13. Appellees' Brief filed 11/20/13. Appellant's Reply Brief filed 12/10/13. Case submitted on oral argument on 05/07/14.

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***Apache Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004344 AG Case #: 103170098

Filed: 12/21/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$7,080,790.79	Jan. 1, 1995 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff's refund suit raises multiple exemptions to the application of the sales and use tax to its operations. Claims include manufacturing exemptions, sale for resale, and services performed on exempt TPP.

Status: Trial date TBD.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989 AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Trial date TBD.

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***Arnold Oil Company of Austin, LP v. Combs, et al.***

Cause Number: D-1-GN-14-  
0001614

AG Case #: 143511046

Filed: 5/22/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$278,526.86	January 1, 2007 through March 21, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Todd, Kelli H.

Issue: Whether Plaintiff's sales of TPP and services are exempt from sales and use tax because they were sold to customers who are exempt or who were using the equipment for exempt purposes. Whether Plaintiff's purchases of TPP/services are subject to the sale-for-resale exemption. Whether CPA assessed tax that Plaintiff has already paid.

Status: Discovery in progress.

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***B&B Aviation, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-003885      AG Case #: 143542132

Filed: 10/6/2014

Sales and Use Tax; Protest, Declaratory Judgment

Claim Amount	Reporting Period
\$462,721.00	07-01-2010 through 12-31-2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether sky-diving instruction falls under the scope of taxable amusement services.  
Whether Comptroller application of the statute & rule violates equal & uniform taxation.  
Whether federal law preempts the statute and rule. UDJA Claim

Status: Non-jury trial previously set for 08/03/15 has been passed.

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***BAH Texas, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-003433    AG Case #: 133456897

Filed: 10/1/2013

Sales and Use Tax; Refund, Protest & UDJA

Claim Amount	Reporting Period
\$341,382.00	01/01/06 through 07/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Mondrik, Christina A.                      Mondrik & Associates / Austin  
Terbay, Michelle L.  
Cotter, Ryan M.

Issue: Whether certain services purchased by Plaintiff were nontaxable as being management services. Whether certain services purchased by Plaintiff were exempt as intercorporate services. Whether Plaintiff's purchase of restaurant equipment and supplies is exempt under §151.318. Plaintiff also seeks waiver of penalty and interest. Plaintiff also seeks declaratory relief.

Status: Discovery in progress.

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***BJ400XP, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000888 AG Case #: 123323891

Filed: 3/26/2012

Sales and Use Tax; Injunction; UDJA

Claim Amount	Reporting Period
\$805,000.00	04/01/07 - 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin

Traphagan, Amanda M.

Leonard, Lacy L.

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Plaintiff also seeks declaratory relief.

Status: Case stayed pending Plaintiff's bankruptcy.

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***BP America, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000049 AG Case #: 103172706

Filed: 1/6/2010

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,684,875.00	07/01/00 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Plaintiff brings approximately twenty-five different sales and use tax refund issues in connection with its production and refining operations. Claims include waste removal, environmental services, credit interest, and various manufacturing exemption claims.

Status: Trial set for 11/07/16.

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***BTA Oil Producers, LLC v. Combs, et al.***

Cause Number: D-1-GN-11-003640 AG Case #: 113303093

Filed: 11/28/2011

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,028,989.00	01/01/04 - 12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG FTL / Austin
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*Opposing Counsel*

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McEwen, Drew	Dykema Gossett, PLLC / Austin
Ryan, Kory L.	Ryan Law Firm, LLP / Austin

Issue: Plaintiff's refund claim raises multiple exemptions to the application of the sales and use tax to its operations. Exemptions asserted include: manufacturing exemption; environmental & conservation services; third-party installation; and services performed on exempt items.

Status: Trial set for 11/09/15.

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***Buckhorn Aviation, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-002141 AG Case #: 123348351

Filed: 7/17/2012

Sales and Use Tax; Protest & APA

Claim Amount	Reporting Period
\$502,863.15	07/01/08 through 06/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois, Bryant & Campbell, L.L.P. / Austin
Butler, Perry	Shackelford, Melton, McKinley & Norton, LLP / Dallas

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Whether the Comptroller applied an economic substance policy subject to APA notice and comment. Plaintiff also seeks penalty waiver.

Status: Discovery in progress. Case set for trial on 10/05/15.

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***Budget Prepay, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001189 AG Case #: 113263867  
#03-14-00626-CV

Filed: 4/21/2011

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,476.82	11/01/04 through 02/29/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Seidel, Scott M.

Gulotta, Anthony C. AG Tax Law, P.C. / Harrisburg, PA

Issue: Whether the "prompt payment discount" which Plaintiff provides to its customers constitutes a discount from the sales price.

Status: Hearing on parties Cross-Motions for Summary Judgment held 07/23/14. Court granted Plaintiff's MSJ and denied Defendants' MSJ on 08/19/14.

Notice of Appeal filed 10/01/14. Appeal abated 11/20/14, reinstated 01/20/15. Appellants' Agreed Status Report and Motion to Abate this Appeal for an Additional Thirty Days filed 04/06/15; granted 04/07/15.

Memorandum Opinion issued 04/07/15, abating the appeal pending consummation of settlement. Appeal will be automatically reinstated after 05/06/15.

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***Calavista, LP v. Hegar, et al.***

Cause Number: D-1-GN-15-001662 AG Case #: CX0415475252

Filed: 4/29/2015

Sales and Use Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$201,422.00	October 1, 2006 through June 30, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin

Ahlich, Danielle V.

Issue: Whether taxpayer's services are non-taxable contract programming services or consulting services. Whether taxpayer's provision of a service related license to contractors is a taxable transaction. Whether Comptroller properly credited taxpayer for erroneously-collected sales tax, gave incorrect guidance to taxpayers detriment, or applied tax to violate equal uniform taxation. Whether taxpayers products were delivered outside Texas and thus untaxable.

Status: Answer filed.

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***Canrig Drilling Technology v. Combs, et al.***

Cause Number: D-1-GN-14-002792 AG Case #: 143529253

Filed: 8/7/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$2,867,841.06	January 1, 2006 through December 31, 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Bryant, Kendall

Issue: Whether taxpayer is entitled to a refund of sales tax due to its sale to a direct payment permit holder.

Status: Discovery in progress.

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***Cantu Enterprises, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-004369 AG Case #: 143475887

Filed: 12/30/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$748,986.84	07/01/2009 through 06/30/2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Whether the Comptroller's application of the statute constitutes an APA rule subject to notice and comment. Plaintiff also seeks penalty waiver.

Status: Final Judgment in favor of Defendants, entered 06/09/15. Findings of Fact and Conclusions of Law entered 07/02/15.

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***Checkfree Services Corporation v. Combs, et al.***

Cause Number: D-1-GN-12-003376 AG Case #: 123375248

Filed: 10/26/2012

Sales and Use Tax; Protest & Refund

Claim Amount	Reporting Period
\$3,656,070.00	06/01/05 - 07/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryan, Quinn OAG FTL / Austin

*Co-Counsel*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Christian, John Ryan Law Firm, LLP / Austin

Issue: Whether the financial services provided by Plaintiff constitute taxable data processing services.

Status: Agreed Order to Abate entered 09/18/14.

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***Checkfree Services Corporation v. Combs, et al.***

Cause Number: D-1-GN-13-003667 AG Case #: 133458125

Filed: 10/24/2013

#03-14-00754-CV

#14-15-00027-CV

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$3,656,070.00	06/01/05 through 07/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryan, Quinn OAG FTL / Austin

*Co-Counsel*

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Morales, Cynthia

OAG FTL / Austin

*Opposing Counsel*

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Christian, John

Ryan Law Firm, LLP / Austin

Issue: Whether the financial services provided by Plaintiff constitute taxable data processing services. Whether certain services provided by Plaintiff are exempt under §151.330(f) to the extent performed for use outside of Texas.

Status: Trial set for 08/04/14. Final Judgment entered for Plaintiff on 09/02/14. Findings of Fact and Conclusions of Law entered 09/19/14. Amended Findings of Fact and Conclusions of Law entered 10/3/14.

Notice of Appeal filed 12/01/14. Appeal transferred to 14th COA on 01/08/15. Appellant's Motion for Extension of Time to File Brief filed and granted 03/20/15. Appellant's Brief filed 05/15/15. Appellees' Motion for Extension of Time to File Brief filed 06/09/15; granted 06/10/15. Appellees' Brief filed 06/30/15. Appellants' Reply Brief filed 07/20/15.

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***Continental Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001751 AG Case #: 103200416

Filed: 5/28/2010

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,919,943.00	11/01/1998 to 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony

OAG FTL / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller properly applied the statute of limitations to specific transactions based on the invoice date rather than an accrual date. Whether the Comptroller properly excluded a transaction from an audit sample based on the invoice date.

Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a leased facility, qualify for the sale for resale exemption.

Whether Plaintiff's purchase of equipment and consumable supplies qualify for exemption under 151.328(d) (aircraft maintenance) and 151.328(e), respectively.

Status: Discovery in progress. Plaintiff's Motion for Partial Summary Judgment filed 07/11/14. Plaintiff's Motion for Partial Summary Judgment filed 12/03/14.

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***Continental Airlines, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003602 AG Case #: 123381196

Filed: 11/14/2012

Sales and Use Tax; Protest & Refund

Claim Amount      Reporting Period  
\$3,640,944.10      04/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Opposing Counsel*

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Hagenswold, R. Eric                  Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller properly applied the statute of limitations based on the invoice date rather than an accrual date. Whether certain items are exempt as improvements to realty owned by an exempt entity. Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a facility leased from an exempt entity, should be exempt under §151.309. Whether Plaintiff's purchases of equipment and consumable supplies qualify for exemption under §151.328(e).

Status: Answer filed.

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***Courthouse Direct.com v. Combs, et al.***

Cause Number: D-1-GN-11-001252    AG Case #: 113268445

Filed: 4/27/2011

Sales and Use Tax; Refund and Protest; UDJA

Claim Amount      Reporting Period  
\$77,604.00      (plus interest & penalties) 12/01/98 thru 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG FTL / Austin

*Co-Counsel*

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Iatrou, Kristie                              OAG FTL / Austin

*Opposing Counsel*

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Hopkins, Mark D.                          Hopkins & Williams, PLLC / Austin

Roberts, William A.                      The Roberts Law Firm / Dallas

Issue: Whether services provided by Plaintiffs including title search services, constitute information services or should be exempt as "landman" services under §151.0048(b-1) and whether services are proprietary.

Status: Discovery in progress. Second Amended Petition filed 12/30/14; Amended Plea to the Jurisdiction filed 03/20/15. Hearing on Plaintiff's MSJ and Defendant's PTJ set for 08/26/15.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567      AG Case #: 062410139      Filed: 9/21/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG FTL / Austin

*Opposing Counsel*

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Rodriguez, Rene      Law Offices of Rene Rodriguez / Corpus Christi

Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Discovery in progress.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734      AG Case #: 072432578      Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG FTL / Austin

*Opposing Counsel*

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Rodriguez, Rene      Law Offices of Rene Rodriguez / Corpus Christi

Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Discovery in progress.

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***Daz Productions v. Combs, et al.***

Cause Number: D-1-GN-14-004880 AG Case #: 143553097

Filed: 11/20/2014

Sales and Use Tax; Protest, Declaratory Judgment

Claim Amount	Reporting Period
\$280,596.09	January 1, 2002 through June 30, 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

*Opposing Counsel*

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Mondrik, Christina A. Mondrik & Associates / Austin  
Terbay, Michelle L.  
Cotter, Ryan M.

Issue: Whether there is a sufficient nexus between the taxpayer and Texas for purposes of sales & use tax. Whether taxpayer owes sales & use tax on the transactions regarding computer programs and images. Whether assessment burdens interstate commerce. Whether assessment violates due process and Equal and Uniform Taxation. Whether rule is invalid.

Status: Discovery in progress.

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***Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002414 AG Case #: 093142628

Filed: 7/28/2009

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$1,877,825.91	01/01/2000 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Ohlenforst, Cynthia M. K&L Gates, LLP / Dallas

Issue: Whether Del Monte qualifies for the manufacturing exemption on equipment, parts, packaging and electricity used in its operations with raw potatoes and tomatoes.

Status: Plaintiff's Notice of Nonsuit filed 06/08/15.

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***Dish Network, LLC v. Hegar, et al.***

Cause Number: D-1-GN-15-000344 AG Case #: 153567375

Filed: 1/28/2015

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$540,286.15	October 1, 2007 through November 30, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Justiss, Gavin

Issue: Whether Plaintiff is entitled to the manufacturing exemption for packaging materials.

Status: Answer filed.

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***Dolan Enterprises, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-002527 AG Case #: 143525673

Filed: 7/25/2014

Sales and Use Tax; Protest, UDJA & APA

Claim Amount	Reporting Period
\$644,450.00	April 1, 2008 to December 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether Plaintiff owes sales tax on the aircraft purchase. Whether purchase is subject to sale-for-resale exemption. Whether tax treatment violates equal & uniform taxation.

Whether tax, if due, was calculated correctly. Whether Comptroller's rule is invalid. Rule challenge under APA.

Status: Trial set for 10/19/15 (3 days).

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***Eagle Cleanup, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-004953 AG Case #: 143554673

Filed: 11/25/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$211,949.59	04-01-08 through 11-30-11

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff's services fall within the contracts exception to the real-property-service category of taxable services. Whether assessment was based on insufficient documentation and evidence. Whether Plaintiff relied upon Comptroller representatives that were contrary to present position re taxability of residential construction services post-1994 to its detriment.

Status: Discovery in progress.

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***EBIX, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003961 AG Case #: 133386185

Filed: 12/17/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$991,386.42	08/01/15 through 04/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Leighton, William R. Leighton Law Firm, PLLC / Austin

Issue: Whether certain computer programs developed and sold by the Plaintiff are exempt. Whether computer programming services provided by the Plaintiff are subject to the sales tax.

Status: Discovery in progress.

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***Elie Sadik Haddad v. Combs, et al.***

Cause Number: D-1-GN-14-000755 AG Case #: 143494649

Filed: 3/12/2014

Sales and Use Tax; Protest & UDJA

Claim Amount	Reporting Period
\$2,807.05	June 1, 2006 through February 28, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Moore, Steven D. Jackson Walker, L.L.P / Austin  
Tomasco, Patricia B.  
Padilla, Jorge A.

Issue: Challenge to personal assessment; whether the president of taxpayer company is personally liable. Whether a cause of action is viable under UDJA.

Status: Answer and PTJ filed.

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***EMC Corp. v. Combs, et al.***

Cause Number: D-1-GN-14-000851 AG Case #: 143494805  
#03-15-00113-CV

Filed: 3/20/2014

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$5,549,263.66	Report Years 2010 through 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Co-Counsel*

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Craft, Rance L. OAG Office of Solicitor General / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Goldberg, Olga

Issue: Whether EMC may elect three-factor apportionment under the multi-state tax compact.

Status: Defendants' MSJ granted and Plaintiff's MSJ denied 02/18/15.

Notice of Appeal filed 02/19/15. Appellant's Brief filed 04/30/15. Appellees' Motion for Extension of Time to File Brief filed and granted 05/22/15. Appellees' Second Motion for Extension of Time to File Brief filed and granted 06/24/15. Appellees' Brief filed 07/08/15. Appellant waived to file a reply brief on 07/31/15.

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***EOG Resources, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001751 AG Case #: 123341133

Filed: 6/11/2012

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$18,004,000.00 07/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether the purchase of equipment for oil and gas production and distribution is eligible for the manufacturing exemption under §151.318.

Status: Trial date to be determined.

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***Excel Chevrolet, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-004854 AG Case #: 143552677

Filed: 11/19/2014

Sales and Use Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount Reporting Period

\$1,209,063.84 January 1, 2005 through December 31, 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.  
Leonard, Lacy L.

Martens, Todd & Leonard / Austin

Issue: Whether Plaintiff has successor liability. Whether there were errors in the assessment, regarding taxed location and calculation of value. Whether interest and penalties should be abated due to delay by CPA. Whether CPA violated Plaintiff's rights to due process by excluding it from the audit process.

Status: Trial set for 10/05/15.

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***Expo Windows Fashion, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-002173 AG Case #: 143518421

Filed: 7/3/2014

Sales and Use Tax; Protest; APA; UDJA, & Injunctive Relief

Claim Amount	Reporting Period
\$419,322.90	January 1, 2008 through December 31, 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Iatrou, Kristie OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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McEwen, Drew Dykema Gossett, PLLC / Austin

Issue: Whether taxpayer is entitled to sale-for-resale exemption.

Status: Case abated pending fulfillment of payment plan.

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***ExxonMobil Oil Corporation v. Combs, et al.***

Cause Number: D-1-GN-11-002257 AG Case #: 113280598

Filed: 7/26/2011

Sales and Use Tax; Protest & Refund

Claim Amount	Reporting Period
\$2,089,796.31	01/01/1996 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether the addition of emission control equipment to an existing refinery constitutes new construction.

Status: Discovery in progress.

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***First Class Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001271 AG Case #: 093120772

Filed: 4/17/2009

Sales and Use Tax; Declaratory Judgment & Injunction

Claim Amount Reporting Period

\$150,000.00 10/01/00 through 04/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Fowler, Gerald Fife Houston

Issue: Whether Plaintiff is liable for tax as successor when assessment was made after Plaintiff bought business.

Status: Answer filed.

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***Fitness International, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-003869 AG Case #: 143542116

Filed: 10/6/2014

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$764,293.47 July 1, 2007 through June 30, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Quiniola, Katherine

Issue: Whether items purchased by taxpayer, a health club fitness center, are subject to the sale-for-resale exemption for sales & use tax.

Status: Trial held 06/08-09/15. Court orally granted mixed judgment, granting Plaintiff's refund request in part and denying in part. Final Judgment signed 07/16/15. Plaintiff's Request for Findings of Fact and Conclusions of Law filed 07/27/15. Court has requested that both parties submit proposed findings by 08/17/15.

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***FTS Aero, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-001495 AG Case #: 143507937

Filed: 5/21/2014

Sales Tax; Protest

Claim Amount Reporting Period

\$565,174.60 Tax period from 06/01/2012 through 07/31/2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether Plaintiff's purchase of aircraft was exempt as a "sale for resale."

Status: Answer filed.

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***GEO Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-09-002855 AG Case #: 093146850

Filed: 8/28/2009

Sales and Use Tax; Protest

Claim Amount Reporting Period

\$1,367,377.14 05/01/2001 through 04/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether electricity and natural gas consumed by a correctional facility is subject to the

residential use exemption under §151.317(c).

Status: Hearing on MSJ set for 09/24/15. Case set for trial on 12/07/15.

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***Good Mourning Tree Co., Inc. and Sidney Francis Mourning v. Combs, et al.***

Cause Number: D-1-GN-14-000306 AG Case #: 143483246

Filed: 1/31/2014

Sales and Use Tax; Injunction & UDJA

Claim Amount      Reporting Period

01/01/06 through 04/30/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Iatrou, Kristie                      OAG FTL / Austin

*Co-Counsel*

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Hohengarten, Jack                OAG FTL / Austin

*Opposing Counsel*

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Nunis, Robert P.                    Nunis & Associates / Austin

Miller, Brittani S.

Issue: Plaintiff challenges the assessment of a fraud penalty.

Status: Discovery in progress.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463 AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount      Reporting Period

\$2,595,000.00      01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                          Ryan Law Firm, LLP / Austin

Eidman, Mark W.

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Trial set for 12/07/15.

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***Hotel Paso Del Norte, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000115 AG Case #: 123312431

Filed: 1/16/2012

Sales and Use Tax; Protest; APA; UDJA, & Injunctive Relief

Claim Amount	Reporting Period
\$247,028.49	07/01/00 through 12/31/03
\$363,618.46	04/01/01 through 03/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Lorenzana, Jr., Elias V. The Lorenzana Law Firm, PC / Round Rock

Issue: Plaintiff challenges a sales tax assessment and a hotel occupancy tax assessment.

Status: Discovery in progress.

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***Jawa Fuel, Inc. and Saif Ullah v. Combs, et al.***

Cause Number: D-1-GN-14-001992 AG Case #: 143517431

Filed: 6/23/2014

Sales and Use Tax; Protest, Declaratory Judgment

Claim Amount	Reporting Period
\$174,908.79	September 1, 2006 through September 30, 2010
	May 1, 2007 through September 30, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Buck, E. Rhett Houston

Issue:

Status: Taxpayer filed for bankruptcy 07/25/14. Bankruptcy dismissed 09/25/14.

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***K&A Retail, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-002421 AG Case #: 143547362

Filed: 7/21/2014

Sales and Use Tax; Protest, Declaratory Judgment

Claim Amount	Reporting Period
\$51,268.25	08-01-07 through 01-31-11

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Mitchell, Gregory W.              The Mitchell Law Firm, LLP / Austin

Issue: Whether sampling was authorized by statute. Whether auditor's markup calculation was too high. Whether Comptroller erred in refusing to waive interest and penalties. Whether Comptroller erred in refusing insolvency exception.

Status: Discovery in progress.

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***KA Equipment Leasing, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-002553    AG Case #: 143528800

Filed: 7/28/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$2,168,052.53	July 1, 2007 through September 30, 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin  
Quiniola, Katherine

Issue: Whether Plaintiff's aircraft purchase qualifies for sale-for-resale exemption.

Status: Agreed Judgment signed 08/03/15.

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***Keith B. Stout v. Hegar, et al.***

Cause Number: D-1-GN-15-002039    AG Case #: CX8649518096

Filed: 5/26/2015

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$16,799.16	June 1, 2009 through May 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony	OAG FTL / Austin
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*Opposing Counsel*

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Conley, William H.	Beaumont
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Issue: Whether Plaintiff is entitled to a refund of sales and use tax paid in connection with an airplane purchase, based on the trade-in value of the plane.

Status: Answer filed.

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***Kroger Texas, LP v. Combs, et al.***

Cause Number: D-1-GN-14-001929 AG Case #: 143518611

Filed: 6/18/2014

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$4,054,129.06	July 1, 2003 through December 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
Eidman, Mark W.	

Issue: Whether taxpayer is entitled to the manufacturing exemption on its sales & use tax.

Status: Hearing on Defendants' Motion for Partial Summary Judgment set for 06/23/15 has been passed.

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***Loyd House Aviation, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-000533 AG Case #: 143487858

Filed: 2/20/2014

Sales and Use Tax; Protest, UDJA, APA

Claim Amount	Reporting Period
\$794,859.34	04/01/11 through 03/31/12

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn                              OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether Plaintiff's purchase of two aircraft was eligible for exemption as a sale for resale. Whether the Comptroller applied a policy that constituted an invalid rule. Plaintiff also seeks declaratory relief.

Status: Non-jury trial previously set for 07/13/15 has been passed.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: D-1-GN-04-004187    AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,794,780.29	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Iatrou, Kristie                              OAG FTL / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lochridge, Robert

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and

attorneys' fees.

Status: Defendant's Motion to Dismiss filed 02/09/12. Agreed Abeyance entered 02/16/12.

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***MHPLP II v. Combs, et al.***

Cause Number: D-1-GN-14-002520 AG Case #: 143525905

Filed: 7/28/2014

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$76,747.86	June 1, 2006 to December 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether certain purchases by taxpayer, a lodging/catering/events company, are subject to the sale-for-resale exemption. Whether taxpayer's purchase/rental of animals is subject to animal reduction. Whether taxpayer is entitled to interest offset.

Status: Discovery in progress.

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***Miguel Dairy Service of Texas, LLP v. Combs, et al.***

Cause Number: D-1-GN-14-003721 AG Case #: 143538726

Filed: 9/17/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$604,925.89	Report Years 2007, 2008, 2009, and 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Whether certain agricultural purchases by taxpayer are subject to sale for resale exemption.

Status: Discovery in progress.

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***Olmos Abatement, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004361 AG Case #: 083092882

Filed: 12/3/2008

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$9,739.97	10/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Trickey, Timothy M. The Trickey Law Firm / Austin

Issue: Whether expense items used in the asbestos abatement process are exempt. Whether the items were resold to the exempt entities for whom the services were performed.

Status: Discovery in progress.

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***Outhouse Music, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-004949 AG Case #: 143551489

Filed: 11/26/2014

Sales and Use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
\$96,345.33	October 1, 2008 through March 31, 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Opposing Counsel*

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Mondrik, Christina A. Mondrik & Associates / Austin

Terbay, Michelle L.

Cotter, Ryan M.

Issue: Whether Plaintiff's services are "data processing." Whether Comptroller assessment is erroneous. Whether tax lien was properly filled. Equal & Uniform challenge. Whether Comptroller decision was premature. Whether Plaintiff is entitled to insolvency relief and a waiver of penalties and interest.

Status: Answer and RFD filed.

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***Pointsmith Point of Purchase Management Services, LP v. Combs, et al.***

Cause Number: D-1-GN-11-001514 AG Case #: 113269286

Filed: 5/20/2011

Sales and Use Tax; Protest

Claim Amount Reporting Period

\$247,670.20 11/11/03 through 03/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Grimsinger, William O. Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Issue: Whether charges associated with Defendant's printing services should be characterized a receipt for storage services. Whether certain transactions are exempt as sale-for-resale. Whether certain transactions are exempt as out of state sales. Whether the Comptroller properly calculated the error rate in the audit. Whether the Comptroller properly denied penalty and interest waiver.

Status: Summary Judgment hearing set for 10/02/14. Plaintiff's MSJ denied 10/03/14. Trial previously set for 10/13/14 was passed.

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***Restaurants Acquisition I, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-003092 AG Case #: 133448233

Filed: 9/3/2013

Sales and Use Tax; Injunctive Relief, UDJA & APA

Claim Amount Reporting Period

\$900,574.78 05/01/02 through 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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McEwen, Drew Dykema Gossett, PLLC / Austin

Oldham, Kevin C.

Schenck, David J. Jones Day / Dallas

Issue: Plaintiff challenges procedures utilized during a sales tax audit. Plaintiff challenges sampling technique utilized during the audit. Whether certain food processing items are eligible for the manufacturing exemption. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

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***Rio Grande Helicopters, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-004961 AG Case #: 143554657

Filed: 11/26/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$72,859.24	August 2007 and April 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Beatty, Matthew R. Beatty, Bangle, Strama, PC / Austin

Issue: Whether Plaintiff is entitled to exemption as "licensed and certificated carrier."  
Whether the assessment is based on an inaccurate sales price.

Status: Answer filed.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831 AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Cowling, David E. Jones Day / Dallas  
Lochridge, Robert

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the

value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Trial setting passed. Discovery in progress.

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***Roberts Ranch and Investments, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-003762 AG Case #: 133465138

Filed: 10/31/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$745,049.72	03/02/2012-02/28/2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG FTL / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois, Bryant & Campbell, L.L.P. / Austin
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Chumlea, Joe	Shackelford, Melton, McKinley & Norton, LLP / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale.

Status: Answer filed.

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***Root's Rocks, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004391 AG Case #: 113241509

Filed: 12/17/2010

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$273,052.00	05/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG FTL / Austin
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*Opposing Counsel*

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Tome, Christopher J.	C. Tome Law Firm / Cedar Park
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Issue: Whether Plaintiff's books and records accurately receipts subject to sales tax. Whether certain transactions are exempt as out of state sales.

Status: Answer filed.

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***Ryan, LLC v. Combs***

Cause Number: D-1-GN-12-002388 AG Case #: 123357642  
03-13-00400-CV  
#15-0497

Filed: 8/6/2012

Sales and Use Tax; APA & Declaratory Relief

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Co-Counsel*

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Craft, Rance L. OAG Office of Solicitor General / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Eidman, Mark W.

Christian, John

Issue: Whether Comptroller Rule 3.325(a)(4), detailing the required elements of a refund claim, exceed the scope of §111.104. Plaintiff seeks declaratory relief.

Status: Defendants' Motion for Summary Judgment heard 04/03/13. Trial held 05/06/13. Judgment for Plaintiff on 05/10/13. Notice of Appeal filed 06/06/13. Appellants' Motion for Extension of Time to File Brief filed 11/26/13; granted 12/03/13. Appellants' Brief filed 01/06/14. Appellees' Motion for Extension of Time to File Brief filed and granted 01/17/14. Appellees' Brief filed 02/18/14. Appellants' Motion for Extension of Time to File Reply Brief filed and granted 02/20/14. Appellants' Reply Brief filed 03/24/14. Case submitted on oral argument on 11/19/14.

Memorandum Opinion issued 05/20/15, affirming the trial court's judgment in part and reversing in part. Petitioner's Motion for Extension of Time to File Petition for Review filed and granted 07/06/15. Petitioner's notice, that it will not seek review, filed 07/16/15.

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***Sanadco, Inc. and Mahmoud A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.***

Cause Number: D-1-GV-10-000902 AG Case #: 113243950  
#03-11-00462-CV  
#12-0192

Filed: 1/12/2011

Sales and Use Tax; Declaratory Judgment, APA

Claim Amount	Reporting Period
\$26,312.00	01/01/08-02/28/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG FTL / Austin
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*Opposing Counsel*

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Jackson, Samuel T.	Arlington
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Issue: Whether AP92 and AP122 were properly applied in determining Plaintiff's tax liability. Whether the implementation of AP92 and AP122 was in violation of the APA.

Status: Plea to the Jurisdiction granted 07/08/11. Notice of Appeal filed in the Third Court of Appeals on 07/25/11. Appellant's brief filed 08/24/11. Appellee's brief filed 10/13/11. Appellant's Reply Brief filed 12/14/11. Case submitted on oral argument on 01/11/12. Sanadco's Motion for Emergency Relief and Petition for Writ of Injunction denied on 02/24/12. Sanadco's Motion for Emergency Relief was filed in the Third Court; and denied 05/03/12. A mandamus action was filed in the Texas Supreme Court on 03/07/12 and was denied on 11/16/12. 3rd Court of Appeals issued its opinion on 09/26/13, concluding the AP memos were formal "rules" but affirming the remainder of order granting plea to the jurisdiction. Motion for Rehearing and Reconsideration En Banc filed 10/08/13 by State Officials. Response to State Officials' Motion filed 12/20/13. State Officials' Reply filed 01/15/14. Supplemental Clerk's Record filed 12/10/14.

Notice filed in the 3rd COA on 02/11/15. Motion for Rehearing granted 03/25/15.

Memorandum Opinion withdrawn 03/25/15. Appellee's Motion for en banc reconsideration denied 03/25/15. Appellant's Motion to Expedite Mandate denied 03/25/15. Appellee's Motion for Leave granted 03/25/15. Memorandum Opinion issued 03/25/15, affirming the district court's order granting the Comptroller's plea to the jurisdiction. Appellants' Motion for Extension of Time to File Motion for Rehearing filed and granted on 04/13/15. Appellants' Further Motion for Rehearing and for Reconsideration en banc filed 05/11/15; overruled 06/04/15.

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***Satellite Transportation Services, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-003780 AG Case #: 133465161

Filed: 11/4/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$165,837.59	11/01/08 through 10/31/11

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Bryant, Kendall

Issue: Whether Plaintiff's purchase of two aircraft was eligible for the sale for resale exemption.

Status: 1st Amended Answer and Counterclaim filed 01/16/15. Trial set for 10/05/15.

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***Shehzad Dhanani v. Combs, et al.***

Cause Number: D-1-GN-10-003321 AG Case #: 103224499 Filed: 9/17/2010

Sales and Use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
\$14,987.77	11/01/05 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether Plaintiff, as the general manager of a convenience store, is liable for certain tax delinquencies of that entity, including taxes collected but not remitted.

Status: Hearing on Defendants' Motion to Dismiss for Want of Prosecution, previously set for 04/09/13, has been passed.

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***Silicon Laboratories, Inc. v. Combs, et al.***

Cause Number: D-1-GV-14-000474 AG Case #: 143501146 Filed: 4/18/2014

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,531,056.84	May 1, 2003 through October 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Oldham, Kevin C. Dykema Gossett, PLLC / Austin  
McEwen, Drew  
Schneck, David

Issue: Whether the software used by Plaintiff in its production of semiconductor chips is exempt from taxation because it was used in the manufacturing process, under Tax Code §151.318.

Status: Non-jury trial set for 03/07/16.

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***Silicon Laboratories, Inc. v. Hegar, et al.***

Cause Number: D-1-GN-15-000302 AG Case #: 153564901

Filed: 1/26/2015

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,411,918.41	May 1, 2003 through October 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG FTL / Austin  
Ryman, Shannon

*Opposing Counsel*

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Oldham, Kevin C. Dykema Gossett, PLLC / Austin  
McEwen, Drew

Issue: Whether software used by Plaintiff is producing semi conductor chips is exempt as "manufacturing." Whether intangible intellectual property purchased by Plaintiff and incorporated by its virtual design is taxable. Whether software designated for use outside Texas is taxable.

Status: Non-jury trial set for 03/07/16 at 9:00 a.m.

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***Softlayer Technologies, Inc. fka The Planet.com Internet Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-000673 AG Case #: 133403212

Filed: 2/22/2013

Sales and Use Tax; Protest, Refund & APA

Claim Amount	Reporting Period
\$1,069,846.49	07/01/02 through 12/31/05



Second Motion for Extension of Time to File Brief filed 11/01/12; granted 11/05/12. Appellant's Brief filed 12/05/12. Appellees' Motion for Extension of Time to File Brief filed 01/04/13; granted 01/07/13. Appellees' Brief filed 03/05/13. Appellant's Motion for Extension of Time to File Reply Brief filed 03/18/13; granted 03/19/13. Appellant's Reply Brief filed 04/08/13. Case submitted on oral argument on 09/25/13. Memorandum Opinion issued 08/13/14, affirming the trial court's judgment. Petition for Review filed 12/11/14. Response to Petition for Review filed 04/20/15. Petitioner's Motion to Extend Time to File Reply filed and granted 05/01/15. Petitioner's Reply filed 06/04/15. Brief on the merits requested 06/19/15. Petitioner's Motion for Extension of Time to File Brief filed and granted 06/25/15. Petitioner's brief due 08/19/15.

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***Southwest Royalties, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-002550 AG Case #: 123359820

Filed: 8/21/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$153,330.28	01/01/97 through 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether the purchase of certain equipment for oil and gas production is eligible for the manufacturing exemption under §151.318. Whether Plaintiff is entitled to an offset of assessed interest.

Status: Trial set for 11/07/16.

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***Starflite Aviation Charters I, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-002620 AG Case #: 143528818

Filed: 7/30/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$76,725.00	June 1, 2011 through May 31, 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug  
Bryant, Kendall

Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's aircraft purchase is eligible for sale-for-resale exemption.

Status: Trial set for 09/08/15.

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***Store Display Fixtures, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-000708 AG Case #: 143491314

Filed: 3/7/2014

Sales and Use Tax; UDJA

Claim Amount	Reporting Period
\$326,580.97	October 1, 2008 through February 29, 2012

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

Jansen, Jeffrey A. Jansen Law Firm, PLLC / Houston

Issue: Plaintiff alleges improper audit methodology in a sales tax audit. Plaintiff also seeks insolvency relief and waiver of penalty and interest. Plaintiff seeks declaratory relief.

Status: Discovery in progress.

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***T. John Ward, Jr. P.C. v. Combs, et al.***

Cause Number: D-1-GN-14-004422 AG Case #: 143545952

Filed: 10/21/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$146,513.33	12-01-2011 through 11-30-2012

Counsel Associated With This Case:

*Assistant Attorney General*

Ryan, Quinn OAG FTL / Austin

*Opposing Counsel*

Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Tabor, David B. Shackelford, Melton, McKinley & Norton, LLP /  
Dallas

Issue: Whether Plaintiff's aircraft purchase is for "occasional use" under Tax Code §151.304. Whether Plaintiff is exempt from sales tax due to its transactions with federal government agencies. Whether the Comptroller abused discretion by not waiving the penalty.

Status: Discovery in progress.

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***The Chicken Source, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-003049 AG Case #: 143533065

Filed: 8/18/2014

Sales and Use Tax; Declaratory Judgment, APA

Claim Amount Reporting Period

\$4,000.00

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Owens, Jr., Maurice Owens Hervey, PLLC / Dallas

Issue: Whether Plaintiff, which purchased assets from original taxpayer, is liable for sales tax based on successor liability. Whether purchase was a fraudulent transaction. Whether any successor liability is entitled to \$4,000.

Status: Defendants' PTJ filed 01/28/15. Plaintiff's Response to Defendant's PTJ filed 03/02/15. Plaintiff's Motion for Withdrawal filed 02/13/15. Order Granting Defendants' PTJ filed 03/04/15. Order on Plaintiff's Motion for Withdrawal entered 03/03/15.

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***Tres Palacios Gas Storage, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001722 AG Case #: 123338972

Filed: 6/7/2012

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$1,530,870.00 10/01/07 through 11/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Ohlenforst, Cynthia M. K&L Gates, LLP / Dallas  
Russell, Andrew B.

Seekins, Angela J.

Issue: Whether the purchase of equipment for a natural gas distribution facility is eligible for the manufacturing exemption under §151.318.

Status: Answer filed.

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***Triagle Energy, LP v. Combs, et al.***

Cause Number: D-1-GN-14-00035 AG Case #: 143475598

Filed: 1/6/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$325,876.86	11/01/2005 through 01/31/2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Calaf, Maria Amelia OAG FTL / Austin

*Opposing Counsel*

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Oldham, Kevin C. Dykema Gossett, PLLC / Austin  
McEwen, Drew

Issue: Whether Plaintiff's purchase of certain data processing services is subject to the sale for resale exemption.

Status: Discovery in progress.

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***Vcarve, Inc. v. Combs, et al.***

Cause Number: D-1-GN-15-002996 AG Case #: CX3490215346

Filed: 7/27/2015

Sales and Use Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$103,892.00	June 1, 2006 through October 31, 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Hill, Allegra D.  
Martens, James F. Martens, Todd & Leonard / Austin  
Ahlrich, Danielle V.

Issue: Whether taxpayer provided non-taxable temporary employment services. Whether taxpayer's computer services are non-taxable. Whether sale-for-resale exemption applies. Whether CPA has correctly applied sales. Equal protection/equal & uniform taxation. Whether assessment was correctly calculated. Whether CPA should waive all penalties & interest.

Status: Citation issued.

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***W. Robert Brown v. Combs, et al.***

Cause Number: D-1-GN-11-000338 AG Case #: 113248231  
#03-14-00492-CV

Filed: 2/1/2011

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$21,228.61	04/01/03 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Tamborello, Gus G. Houston

Issue: Whether sale of an aircraft qualified as an exempt sale of the seller's entire operating assets. Whether the assessment was barred by the 4-year statute of limitations.

Status: Hearing on cross-motions for summary judgment held 06/12/14. Defendants' motion granted and Plaintiff's motion denied on 07/08/14. Notice of Appeal filed 08/07/14.

Appellant's Motion for Extension of Time to File Brief filed and granted 09/19/14. Appellant's Second Motion for Extension of Time to File Brief filed and granted 10/13/14. Appellant's Brief filed 10/27/14. Appellees' Brief filed 12/29/14. Case submitted on oral argument on 03/11/15.

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***Weatherization Management Group, LLC, In re***

Cause Number: D-1-GN-12-000456 AG Case #: 123309676

Filed: 2/17/2012

Sales and Use Tax; Injunction

Claim Amount	Reporting Period
\$100,000.00	

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Wood, Mary E.

Meadows, Collier, Reed, Cousins, Crouch &  
Ungerman, LLP / Dallas

Issue: Plaintiff challenges the requirement to post a security bond. Plaintiff seeks injunctive relief.

Status: Notice of Nonsuit entered 04/30/15.

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***XO Communications Services, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-004934 AG Case #: 143554665

Filed: 11/25/2014

Sales and Use Tax; Protest & Refund

Claim Amount Reporting Period

\$833,512.83 Refund

\$2,278,675.69 Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Iatrou, Kristie

OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon

OAG FTL / Austin

*Opposing Counsel*

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Oldham, Kevin C.

Dykema Gossett, PLLC / Austin

McEwen, Drew

Issue: Whether Comptroller calculated XO's taxes using the correct entity's records. Whether XO is entitled to a penalty waiver. Whether XO is entitled to an interest waiver. Whether XO is entitled to a refund on software purchases because transactions were not in Texas. Whether XO is entitled to a relief under double taxation, where XO overpaid tax to its vendors.

Status: Discovery abated by Rule 11 Agreement.

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***XO Communications Services, LLC v. Hegar, et al.***

Cause Number: D-1-GN-15-000339 AG Case #: 153564984

Filed: 1/28/2015

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$136,969.90 May 1, 2003 through December 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon                      OAG FTL / Austin  
Iatrou, Kristie

*Opposing Counsel*

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McEwen, Drew                      Dykema Gossett, PLLC / Austin  
Oldham, Kevin C.

Issue: Whether Plaintiff is entitled to a refund for out-of-state transactions. Whether Plaintiff is entitled to the sale-for-resale exemption. Whether the audit assessed Plaintiff twice on same transaction (double tax).

Status: Discovery abated by Rule 11 Agreement.

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***Zook Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-000990    AG Case #: 143497345

Filed: 4/2/2014

Sales and Use Tax; Refund & UDJA

Claim Amount	Reporting Period
\$101,411.64	July 1, 2007 through May 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG FTL / Austin

*Opposing Counsel*

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Buck, E. Rhett                      Houston

Issue: Whether the Comptroller's assessment of sales tax against Plaintiff properly considered certain mitigating factors.

Status: Answer filed.

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## Insurance Tax

### ***American National Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-11-002014 AG Case #: 113278345

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$1,469,527.13	1999-2002

#### Counsel Associated With This Case:

##### *Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

##### *Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

##### *Opposing Counsel*

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Conway, Susan G. Graves, Dougherty, Hearon & Moody / Austin  
Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Trial set for Oct. 05 & 06, 2015.

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### ***American National Life Insurance Company of Texas v. Combs, et al.***

Cause Number: D-1-GN-11-002018 AG Case #: 113278469

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$614,142.00	1999-2002

#### Counsel Associated With This Case:

##### *Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

##### *Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

##### *Opposing Counsel*

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Conway, Susan G.  
Cabaniss, Boyce C.

Graves, Dougherty, Hearon & Moody / Austin

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Trial set for Oct. 05 & 06, 2015.

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***Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.***

Cause Number: D-1-GN-11-001584 AG Case #: 113269278 Filed: 5/26/2011  
#03-13-00619-CV

Gross Premium & Maintenance Tax; Protest

Claim Amount	Reporting Period
\$1,157,588.33	01/01/2006 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon	OAG FTL / Austin
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*Co-Counsel*

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Ryan, Quinn	OAG FTL / Austin
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*Opposing Counsel*

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Pauerstein, Jonathan D.	Rosenthal Pauerstein Sandoloski Agather LLP / San Antonio
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Bergman, Alia M.

Issue: Whether premium payments received by Defendants should be characterized as reinsurance premiums.

Status: Hearing on Cross Motions for Summary Judgment held on 05/22/13; letter granting Defendants' Motion for Summary Judgment signed 05/29/13.

Notice of Appeal filed 09/11/13. Appellant's Brief filed 12/18/13; oral argument requested. Appellees' Motion for Extension of Time to File Brief filed and granted 02/14/14. Appellees' Brief filed 03/21/14. Appellant's Second Motion for Extension of Time to File Reply Brief filed 05/06/14; granted 05/07/14. Appellant's Reply Brief filed 05/22/14. Oral argument denied 07/22/14. Case submitted on briefs on 06/02/15.

Memorandum Opinion issued 06/24/15, affirming the trial court's judgment. Appellant's Motion for Rehearing filed 07/09/15.

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***Fidelity National Title Ins. Co. v. Combs, et al.***

Cause Number: D-1-GN-10-001722 AG Case #: 103198883 Filed: 5/27/2010

Gross Premium Tax; Protest & UDJA

Claim Amount	Reporting Period
\$954,557.00	2009 to 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon                      OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn                              OAG FTL / Austin

*Opposing Counsel*

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Burgess, Linda                          Winstead P.C. / Austin

Issue: Whether imposition of a premium tax on the entire amount of a title insurance premium is violative of:

- i) the equal protection clauses of the U.S. and Texas Constitutions and
- ii) the equal and uniform taxation provision of the Texas Constitution.

Status: Answer filed.

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***Imperial Fire and Casualty Company v. Combs, et al.***

Cause Number: D-1-GN-12-002808    AG Case #: 123362873  
#03-13-00576-CV

Filed: 9/11/2012

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$962,294.08	01/01/06 through 12/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG FTL / Austin

*Co-Counsel*

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Monson, Kristofer                      OAG Office of Solicitor General / Austin

*Opposing Counsel*

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Sigel, Doug                                Ryan Law Firm, LLP / Austin

Issue: Whether the Comptroller properly excluded certain investment credits in calculating retaliatory tax liability of a foreign insurer operating in Texas. Whether the Comptroller's

application of Chapter 281 of the Insurance Code violates the Equal Protection Clause of the U.S. Constitution.

Status: Hearing on Cross-Motions for Summary Judgment held 07/02/13. Trial setting passed by agreement. Final Judgment granting Plaintiff's Motion and denying Defendants' Motion entered 07/16/13.

Notice of Appeal filed 08/23/13. Amended Notice of Appeal filed 12/05/13. Appellants' Motion for Extension of Time to File Brief filed and granted 12/09/13. Appellants' Brief filed 01/15/14. Appellees' Brief filed 02/28/14. Case submitted on oral argument on 04/23/14. Appellants' Motion to Abate Appeal filed 02/19/15; granted 03/04/15. Memorandum Opinion issued 03/04/15, granting the motion and abating the appeal until 04/03/15. Joint Appellant and Appellee Response filed 04/06/15, requesting to continue abatement 45 days from the date all signatures are made. Joint Motion to Dismiss filed 07/31/15.

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***Standard Life and Accident Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-11-002020 AG Case #: 113278428 Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$292,098.81	1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

*Opposing Counsel*

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Conway, Susan G. Graves, Dougherty, Hearon & Moody / Austin  
Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Trial set for Oct. 05 & 06, 2015.

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## Other Taxes

### ***35 Bar & Grill, LLC, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Discovery abated until resolution of Texas Entertainment case.

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### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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### ***Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$21,065.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Bassam Jaber Hantouli v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$352,819.92	Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG FTL / Austin
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*Opposing Counsel*

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Gamboa, John L.	Gamboa & White / Fort Worth
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Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Non-Jury trial previously set for 09/26/11 has been passed by agreement. PTJ filed 11/12/12.

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***Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003385 AG Case #: 082529652

Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$70,620.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Benelux Corp., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002489    AG Case #: 082520487

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$91,240.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483    AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period

\$482,440.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.      Monshaugen & Van Huff, P.C. / Houston  
Van Huff, Albert T.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***El Paso Entertainment, Inc. dba v. Compt., et al.***

Cause Number: D-1-GN-08-002548 AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$64,767.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Enterprise Operating Co., Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002575 AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$76,780.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Serper, Lauren M. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

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***ER Gaston, Ltd. dba The Elbow Room v. Combs***

Cause Number: D-1-GN-12-002744 AG Case #: 123359804

Filed: 9/5/2012

Mixed Beverage Gross Receipts Tax; Injunctive Relief, UDJA & APA

Claim Amount Reporting Period

\$105,935.31 07/01/04 through 05/31/12

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon                      OAG FTL / Austin

*Opposing Counsel*

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Tresnicky, John M.                      The Lorenzana Law Firm, PC / Round Rock  
Lorenzana, Jr., Elias V.

Issue: Whether the Comptroller's mixed beverage tax audit procedures constitute an APA rule and were not adopted in accordance with the APA. Plaintiff also challenges the imposition of penalty. Plaintiff seeks injunctive and declaratory relief.

Status: Defendant's Plea to the Jurisdiction and Response to Plaintiff's Request for Temporary Restraining Order filed 09/06/12. Order Denying Temporary Restraining Order entered 09/07/12.

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***FW, Inc. and S & S Bros., Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002617    AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$23,685.00	FW, Inc.
\$15,881.25	S&S Bros, Inc.

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated pending resolution of the Texas Entertainment case.

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***Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002522    AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$11,055.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Hunt Oil Co. v. Hegar, et al.***

Cause Number: D-1-GN-15-000104    AG Case #: 153563531                      Filed: 1/6/2015

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$2,256,595.42	03/01/08 - 06/30/11

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray                          Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether taxpayer timely submitted its amended form re drilling & completion costs.

Status: Plaintiff's MSJ set for 09/10/15.

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***I Gotcha, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002546    AG Case #: 082520503                      Filed: 7/17/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$79,195.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                        OAG FTL / Austin

*Opposing Counsel*

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Camacho, Julie K.                        Camacho Law Firm, PLLC / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Ice Embassy, Inc. v. Hegar, et al.***

Cause Number: D-1-GN-15-002546 AG Case #: CX9927968023

Filed: 6/26/2015

S.O.B. Fee Tax; Refund, Def. Statutes/Constitution

Claim Amount	Reporting Period
\$2,440.00	January 1, 2015 through March 31, 2015

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Co-Counsel*

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Bolson, Anthony OAG FTL / Austin  
Calaf, Maria Amelia

*Opposing Counsel*

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Knight, L. Don Meyer, Knight & Williams, LLP / Houston  
Steadman, Nathan A.  
Lorkowski, Mary Jane  
Lloyd, Aaron P.

Issue: Whether SOB fee violates the Texas Constitution by unequal treatment of the Plaintiff taxpayer. Whether the SOB fee violates the Texas Constitution by promulgating a tax based on gender; abridging to reports of Plaintiff and to performer. Whether SOB fee is an unconstitutional taking. Whether SOB fee violates due process protection. Whether SOB fee is vague and ambiguous. Whether SOB fee should be refunded for excess of regulation.

Status: Plaintiff's response to Defendants' PTJ filed 07/29/15.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$20,409.70	09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Plea to the Jurisdiction filed 09/25/12.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$8,430.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia

OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Karpod, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002521 AG Case #: 082520479

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,580.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia

OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Case is abated pending resolution of the Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc. case (Cause No. GN-07-004179)

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***Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003280 AG Case #: 082530288

Filed: 9/16/2008

Other Tax; Protest

Claim Amount Reporting Period

\$14,115.00 Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***MC/VC, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount Reporting Period

\$9,516.55 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***North By East, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002624 AG Case #: 082520495

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$37,710.00 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Hopkins, Mark D.

Hopkins & Williams, PLLC / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Pankaj Matta v. Hegar, et al.***

Cause Number: D-1-GN-15-002110 AG Case #: CX3511875431

Filed: 5/21/2015

Mixed beverage Tax; Injunctive Relief, Declaratory Judgment

Claim Amount Reporting Period

\$711,867.47 December 1, 2010 through December 31, 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Calaf, Maria Amelia

OAG FTL / Austin

*Opposing Counsel*

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Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Britt, Steve

Issue: Whether Plaintiff is liable for tax assessment of LLC. Whether 50% fraud penalty is valid.

Status: Citation issued.

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***Royalveer, Inc. v. Hegar, et al.***

Cause Number: D-1-GN-15-002034 AG Case #: CX4385113622

Filed: 5/21/2015

International Fuels Tax Agreement (IFTA) Tax; Protest

Claim Amount Reporting Period

\$20,896.56 July 1, 2009 through December 31, 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon

OAG FTL / Austin

*Opposing Counsel*

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Payne, Dustin L.

Dustin L. Payne & Associates / Fort Worth

Issue: Whether Plaintiff is entitled to a refund under a credit pursuant to the Internatinal Fuels Tax Agreement.

Status: Discovery in progress.

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***RPM Entertainment, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002622 AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$69,909.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Seay, Michael B.

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Savvy, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002520 AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$159,595.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia OAG FTL / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,485.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Pianelli, James V.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Texas Cabaret, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002490 AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$49,795.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$102,535.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia	OAG FTL / Austin
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*Opposing Counsel*

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Pianelli, James V.                      Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The King Lounge, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-003793    AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$138,875.00	Apr. - Sept. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

*Opposing Counsel*

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Shells, T. Craig                      Richardson

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439    AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$60,890.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

*Opposing Counsel*

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Pianelli, James V.                      Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Case dismissed 06/02/15.



## Closed Cases

### ***Advance Hydrocarbon Corp. v. Combs, et al.***

Cause Number: D-1-GN-13-002204 AG Case #: 133433938

Filed: 7/1/2013

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$82,592.00	Report Year 2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Bennett, Stacie L.

Issue: Whether certain expenses attributed to servicing hydraulic fracturing operations are eligible for the COGS deduction.

Status: Plea to the Jurisdiction partially granted 10/02/14. Notice of Nonsuit filed 11/04/14.

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### ***Advanced Hydrocarbon Corp. v. Combs, et al.***

Cause Number: D-1-GN-14-001732 AG Case #: 143512978

Filed: 6/6/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$78,762.00	Report Year 2014

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether certain expenses attributed to serving hydraulic fracturing operations are

eligible for the COGS deduction.

Status: Answer and PTJ filed 06/30/14. Notice of Nonsuit filed 11/04/14.

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***Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001791 AG Case #: 113272736

Filed: 6/15/2011

Sales and Use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount      Reporting Period  
                                 Aug. 1, 2006 - Jan. 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Tresnicky, John M.                      The Lorenzana Law Firm, PC / Round Rock

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.

Whether officers and directors of Plaintiff may be held liable for the assessment.

Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Non-suit with Prejudice filed 08/19/13.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$196,853.60      07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack                      OAG FTL / Austin

*Opposing Counsel*

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Roberts, William A.                      The Roberts Law Firm / Dallas  
Coleman, Kyle

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable.

Whether the Comptroller erred by misapplying burden of proof and whether the requirement is

constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Case DWOP'd 05/18/15.

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***Big Lift Trucks of Texas v. Combs, et al.***

Cause Number: D-1-GN-14-003809 AG Case #: 143540656  
#03-15-00002-CV

Filed: 9/22/2014

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$50,000.00 or more

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Sympson, Richard E. Attorney at Law / Houston

Issue: Whether Plaintiff is liable for sales tax based on successor liability and fraudulent transfer.

Status: Hearing on Defendants' PTJ held 12/04/14. PTJ granted and suit dismissed 12/04/14.

Notice of Appeal filed 01/02/15. Appellant's Motion to Dismiss filed 02/26/15.

Memorandum Opinion issued 03/06/15, granting the motion and dismissing the appeal.

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***Blum Investment Group, Inc. dba ProCare Software v. Combs, et al.***

Cause Number: D-1-GN-14-0001731 AG Case #: 143514081

Filed: 6/6/2014

Sales and Use Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount Reporting Period

\$125,454.00 01-01-06 through 10-31-2013

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.

Ahlich, Danielle V.

Issue: Whether taxpayer has required constitutional nexus was Texas. Whether rule §3.286 is invalid. §2001.038 rule challenges. Whether taxpayer license of software to Texas residents constitutes rental/lease of TPP. Whether application of challenged rule violates equal protection or equal & uniform taxation.

Status: Agreed Judgment entered 02/12/15.

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***Caledon Aviation, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001550 AG Case #: 123338253

Filed: 5/22/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$373,584.83	07/01/05 through 07/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Co-Counsel*

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Ryan, Quinn OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale.

Status: Trial held 10/29-30/14. Final Judgment for Defendants, entered 11/17.

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***Captain Hook-Austin, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000544 AG Case #: 113250096

Filed: 2/22/2011

Sales and Use Tax; APA

Claim Amount	Reporting Period
\$84,000.00	01/01/05-12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Bigelow, Bruce

Blazier, Christensen, Bigelow & Virr, P.C. / Austin

Issue: Whether certain waste removal services were associated with new construction and not subject to the sales tax.

Status: Agreed Judgment entered 02/10/15.

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***Catalino A. Pajo v. Combs, et al.***

Cause Number: D-1-GN-13-002790 AG Case #: 133442871

Filed: 8/7/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$7,093.60	01/01/06 through 12/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Barbour, Laura	OAG FTL / Austin
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*Opposing Counsel*

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Haney, Susan J.	The Haney Law Firm / Austin
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Issue: Plaintiff alleges improper audit methodology in a sales tax audit. Plaintiff alleges certain receipts were for non-taxable services.

Status: Original Petition filed 08/07/13. Comptroller and OAG have not been served with citation. DWOP notice on 11/04/13 (per district clerk website). Case Dismissed for Want of Prosecution on 04/21/15.

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***Cirrus Exploration Company v. Combs, et al.***

Cause Number: D-1-GN-11-001851 AG Case #: 113273395

Filed: 6/21/2011

#03-13-00036-CV

#14-0292

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$55,000.00	01/01/06 - 06/30/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.	OAG FTL / Austin
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*Opposing Counsel*

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Ray, Doug W.	Ray & Wood / Austin
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Issue: Whether Plaintiff qualifies as a licensed and certificated carrier under Tex. Tax Code §151.328(a).

Status: MSJ hearing held 12/04/12. Defendant's MSJ granted; Plaintiff's MSJ denied. Order of Dismissal entered 12/19/12. Notice of Appeal filed 01/16/13. Appellant's Brief filed 03/04/13. Appellee's Brief filed 04/03/13. Appellant's Reply Brief filed 04/24/13. Case submitted on briefs on 08/28/13.

Opinion issued 02/12/14, reversing the district court's judgment in favor of the Comptroller and rendering judgment for Cirrus instead. Appellee's Motion for Rehearing filed 03/03/14; overruled 03/07/14.

Petition for Review filed in Tx. Supreme Court on 05/21/14. Response to Petition for Review waived by Respondent 05/23/14. Court requested response 06/27/14. Response filed 07/28/14. Petitioner's Reply filed 08/11/14. Petitioner's Brief on the merits filed 12/03/14. Respondent's Brief on the merits filed 12/23/14. Petitioner's Reply Brief on the Merits filed 01/07/15. Petition for Review denied 02/27/14.

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***CJN Leasing, LLC v. Combs, et al.***

Cause Number: D-1-GN-14-000442 AG Case #: 143485936

Filed: 2/12/2014

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$680,551.50	07/01/08 through 06/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

Sams, Erika OAG FTL / Austin

*Opposing Counsel*

Sigel, Doug Ryan Law Firm, LLP / Austin  
Eidman, Mark W.

Issue: Whether Plaintiff's purchase of two aircraft was eligible for exemption as a sale for resale.

Status: Agreed Judgment entered 12/31/14.

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***Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.***

Cause Number: D-1-GN-07-004179 AG Case #: 123363707

Filed: 12/7/2007

#03-08-00213-CV

#09-0481

#03-12-00527-CV

#14-0557

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period  
2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Morales, Cynthia                      OAG FTL / Austin

*Opposing Counsel*

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Whitehead, G. Stewart              Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition for Review with the Texas Supreme Court on 06/11/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Case submitted on oral argument on 03/25/10. Opinion issued 08/26/11, reversing the judgment of the Court of Appeals and remanding the case to the trial court for further proceedings. Petition for Writ of Certiorari filed with the U.S. Supreme Court on 11/23/11; denied 01/23/12. Case on Remand in District Court for remaining issues. Judgment holding the fee constitutional signed 07/09/12. Plaintiff's Notice of Appeal filed 08/08/12. State filed its Notice of Appeal on 09/04/12. Joint Appellant and Appellee's Motions filed 10/30/12. Case submitted on oral argument on 04/24/13. Opinion issued 05/09/14, affirming in part and reversing and rendering in part. Court holds that there was error in the trial court's judgment. The Court reversed the portions of the trial court's judgment holding that a sexually-oriented-business tax is an occupation tax and that twenty-five percent (25%) of the revenue from a sexually-oriented-business tax is required to go to public schooling, and rendered judgment that the sexually-oriented-business tax is not an occupation tax and there is no requirement that twenty-five percent (25%) of its revenue go to public schooling. The remainder of the trial court's judgment was affirmed. Appellant's Motion for Rehearing and Motion for Rehearing En Banc was filed 05/27/14; overruled 06/02/14.

Petition for Review filed in the Tx. Supreme Court 07/17/14. Response filed 10/20/14.

Petitioner's Reply filed 10/31/14. Petition for Review denied 11/21/14.  
Mandate issued 01/02/15.

Petition for Writ of Certiorari filed in the U.S. Supreme Court on 02/05/15; denied 03/23/15.

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***EWC Aviation Corp. v. Combs, et al.***

Cause Number: D-1-GN-13-003554 AG Case #: 133457358

Filed: 10/14/2013

Sales and Use Tax; Protest

Claim Amount Reporting Period

\$869,065.31 05/01/11 through 06/30/12

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale.

Status: Agreed Judgment entered 02/18/15.

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***Fencecrete America Manufacturing, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003690 AG Case #: 113305163

Filed: 12/2/2011

Sales and Use Tax; Refund & UDJA

Claim Amount Reporting Period

\$135,638.50 07/01/00 - 11/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika OAG FTL / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Blume, James D. BLUME, FAULKNER, SKEEN & NORTHAM,  
PLLC / Richardson

Issue: Whether Plaintiff was entitled to a credit for tax remitted on the purchase of materials for certain contracts.

Status: Agreed Judgment entered 11/10/14.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000516 AG Case #: 123320327

Filed: 2/21/2012

Sales and Use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-002137.

Status: Agreed Judgment entered 12/09/13.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000513 AG Case #: 123320236

Filed: 2/21/2012

Sales and Use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001804.

Status: Agreed Judgment entered 12/09/13.

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***Grocers Supply Institutional Convenience Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000514 AG Case #: 123320251

Filed: 2/21/2012

Sales and Use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001803.

Status: D-1-GN-09-001803 reinstated 05/03/12.

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***Grocers Supply Produce Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000515 AG Case #: 123320269

Filed: 2/21/2012

Sales and Use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-001805.

Status: D-1-GN-09-001805 reinstated 05/03/12.

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***H.K. Global Trading, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-11-002632 AG Case #: 113287932

Filed: 8/30/2011

03-13-00260-CV

#14-0364

Sales Tax; Protest, UDJA, APA

Claim Amount Reporting Period

\$592,667.63 09/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika

OAG FTL / Austin

*Opposing Counsel*

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Scarborough, Terry

Hance Scarborough, L.L.P. / Austin

Haynes, Alison White

Trevino, Valls & Haynes, LLP / Laredo

Issue: Whether §151.307(d), requiring a 24-hour interval between the time an item is exported and the time a Customs Broker may refund the sales tax paid on that item, violates the Import-Export Clause of the U.S. Constitution.

Status: Trial held 12/17/12. Final Judgment in favor of State entered 12/21/12. Plaintiff's Request for Findings of Fact and Conclusions of Law filed 01/09/13. Notice of Appeal filed 04/23/13. Appellant's Brief filed 09/10/13. Appellee's Brief filed 10/10/13. Appellant's Reply

Brief filed 10/30/13. Case submitted on oral argument on 02/19/14. Opinion issued 03/28/14, affirming the trial court's judgment.

H.K. Global filed Petition for Review 06/10/14. The Comptroller filed a Response to the Petition for Review 07/03/14. Petition for Review denied 08/15/14. Mandate issued 10/13/14.

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***Health Care Service Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-003387 AG Case #: 113299986

Filed: 11/3/2011

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$191,475.44	06/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin  
Eidman, Mark W.

Issue: Whether certain transactions were subject to tax as taxable services. Whether certain transactions were eligible for the sale-for-resale exemption.

Status: Agreed Judgment entered 04/17/14.

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***Intrado, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-003357 AG Case #: 123375255

Filed: 10/26/2012

Sales and Use Tax; Protest & Refund

Claim Amount	Reporting Period
\$469,461.55	01/01/05 - 12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether communications services provided by Plaintiff constitute taxable data processing services. Whether Plaintiff's sale of communications services is eligible for exemption as a sale for resale.

Status: Trial held 07/12/14. Final judgment in favor of Plaintiff entered 11/04/14. Defendants' Request for Findings of Fact and Conclusion of Law filed 11/17/14. Findings of Fact and Conclusions of Law filed 12/19/14.

---

***Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003762 AG Case #: 082534553

Filed: 10/17/2008

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$180,000.00	Sept. 1, 1999 through Feb. 29, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity is exempt as electricity used in processing when Plaintiff lowers the temperature of food products. Whether packing supplies, replacement parts, and repairs are exempt.

Status: Case Dismissed for Want of Prosecution 05/06/11. Petition to Reinstate granted 05/03/12.

---

***Kenny NK Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-002522 AG Case #: 143528826

Filed: 7/25/2014

Sales and Use Tax; Protest, Def. statutes/constitution, Decl. Judg.

Claim Amount	Reporting Period
\$129,822.70	May 1, 2009 through July 31, 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Calaf, Maria Amelia OAG FTL / Austin

*Co-Counsel*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Hollis, Barrata R. HBH Law Offices, PLLC / Frisco

Issue: Whether the audit and Comptroller's decision is based on errors relating to composition of sales of beer, wine, and cigarettes. Whether Plaintiff is entitled to insolvency relief. Whether Plaintiff is entitled to penalty waiver. UDJA claim/open courts argument

Status: Plaintiff's Notice of Nonsuit filed 02/11/15.

---

***Leoncito Plant, L.L.C. v. Combs, et al.***

Cause Number: D-1-GN-11-001116 AG Case #: 113260947

Filed: 4/14/2011

#03-12-00376-CV

#07-12-00295-CV

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$619,588.00	01/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether purchase of casing is eligible for the manufacturing exemption under Texas Tax Code §151.318.

Status: State's partial MSJ granted 03/07/12. Final Judgment regarding denial of the Section 151.318 claims signed 05/23/12. Plaintiff's Notice of Appeal filed 06/05/12. Case transferred to the 7th Court of Appeals on 07/05/12. Clerk's Record filed 07/30/12. Supplemental Clerk's Record filed 08/27/12. Appellant's Motion for Extension of Time to File Brief filed 09/26/12; granted 09/27/12. Appellant's Second Motion for Extension of Time to File Brief filed 10/24/12; granted 10/25/12. Appellant's Brief filed 11/09/12. Appellee's Motion for Extension of Time to File Brief filed and granted 01/04/13. Appellee's Brief filed 01/30/13. Appellant's Reply Brief filed 03/12/13. Appellant's Motion to Dismiss filed 04/09/13; granted 04/10/13. Memorandum Opinion issued 04/10/13, dismissing the case. Mandate issued 04/10/13.

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***LH Air, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001362 AG Case #: 123331381

Filed: 5/4/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$399,643.47	07/01/07 through 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika                      OAG FTL / Austin

*Opposing Counsel*

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Evans, Gary L.                      Coats & Evans, P.C. / The Woodlands  
Coats, George

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale. Plaintiff also seeks declaratory relief.

Status: Agreed Judgment entered 01/06/15.

---

***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217    AG Case #: 082505595

Filed: 4/10/2008

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Opposing Counsel*

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Mondrik, Christina A.                      Mondrik & Associates / Austin

Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Agreed Judgment entered 06/20/14.

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***Michael Johnson v. Combs, et al.***

Cause Number: D-1-GN-13-002485    AG Case #: 133434753

Filed: 7/23/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$200,486.82	06/01/08 through 05/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption as a sale for resale.

Status: Agreed Judgment entered 02/18/15.

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***OA, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000506    AG Case #: 123320509

Filed: 2/21/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$710,179.24	01/01/07 - 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Martens, James F.                      Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether an aircraft purchased and registered out of state, but used in Texas, is subject to the use tax.

Status: Final Judgment entered 11/17/14.

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***Richmont Aviation, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000783    AG Case #: 113254387

Filed: 3/16/2011

#03-11-00486-CV

#13-0857

Sales and Use Tax; Injunction

Claim Amount	Reporting Period
\$530,195.64	01/01/04 thru 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin

Bernal, Jr., Gilbert J.                      Stahl, Bernal & Davies / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption pursuant to either §151.328 (a)(1) or the sale for resale exemption.

Status: Hearing on State's PTJ and Plaintiff's application for injunctive relief held on 06/02/11. Trial court granted State's PTJ on 06/29/11. Notice of Appeal filed 07/29/11. Appellant's Brief filed 02/27/12. Appellee's Brief filed 03/28/12. Appellant's Reply Brief filed 04/17/12. Oral argument denied 07/23/13. Case submitted on briefs on 08/13/13. Memorandum opinion issued 09/12/13, reversing the trial court's order and remanding for further proceedings. Petition for Review filed in the Tx. Supreme Court on 10/23/13. Response to Petition for Review waived by Respondent on 11/04/13. Response requested by the Supreme Court on 12/06/13. Respondent's Motion for Extension of Time to File Response filed 12/31/13; granted 01/02/14. Response filed 01/30/14. Petitioner's Reply filed 02/14/14. Petitioner's Brief on the Merits filed 05/21/14. Respondent's Brief on the Merits filed 06/10/14. Petitioner's Reply Brief filed 07/02/14. Petition for Review denied 08/22/14.

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***SBC Aviation Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-004075    AG Case #: 133470260

Filed: 12/3/2013

Sales and Use Tax; Protest

Claim Amount      Reporting Period

\$4,708,228.42      10/01/06 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG FTL / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Eidman, Mark W.

Bryant, Kendall

Issue: Whether the purchase of two specific aircraft is subject to sales tax.

Status: Agreed Judgment filed 12/04/14.

---

***Shell Trading Services Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003859 AG Case #: 093163046

Filed: 11/9/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,416,829.00	2002-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG FTL / Austin

*Opposing Counsel*

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Schmauch, Jason M. Houston

Lowy, Peter A.

Masters, Paul H. Chamberlain, Hrdlicka, White, Williams & Martin  
/ Houston

Grimsinger, William O.

Vasquez, Jr., Juan

Issue: Whether payments made to certain individuals were payments subject to the officer and director add back provision, notwithstanding taxpayer's contention that it was reimbursed for such salary payments by a third party.

Status: Agreed Judgment entered 03/03/15.

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***Tecpetrol Operating, LLC v. Combs, et al.***

Cause Number: D-1-GN-10-002353 AG Case #: 103225868

Filed: 7/9/2010

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$89,888.00	06/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Langenberg, Ray Scott, Douglass & McConnico, L.L.P. / Austin

Britt, Steve

Issue: Whether certain compressors used to move natural gas are subject to the manufacturing exemption.

Status: Agreed Judgment entered 11/20/14.

---

***Texas Autocrafters, LP v. Combs, et al.***

Cause Number: D-1-GN-14-001710 AG Case #: 143512986

Filed: 6/5/2014

Franchise Tax; Protest

Claim Amount	Reporting Period
\$59,995.00	Report Year 2014

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon OAG FTL / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Leonard, Lacy L.  
Ahlrich, Danielle V.

Issue: Whether labor costs associated with automobile repair are eligible for the use in COGS. Whether tax treatment violates Plaintiff's right to equal & uniform taxation. UDJA Claim. Whether Comptroller's mixed services rule is invalid.

Status: Plaintiff filed Notice of Nonsuit on 11/10/14.

---

***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount	Reporting Period
\$294,000.00	01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack OAG FTL / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois, Bryant & Campbell, L.L.P. / Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

---

***TJ Leasing, LLC v. Combs, et al.***

Cause Number: D-1-GN-13-003999 AG Case #: 143474781

Filed: 11/21/2013

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$323,109.21	04/01/2007 through 09/30/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika	OAG FTL / Austin
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*Opposing Counsel*

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether Plaintiff's purchase of two aircraft was eligible for exemption as a sale for resale. Whether the Comptroller applied a policy subject to APA notice and comment. Plaintiff also seeks penalty waiver.

Status: Agreed Judgment entered 12/10/14.

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***Touch Tell, Inc. v. Combs, et al.***

Cause Number: D-1-GN-14-002855 AG Case #: 143530657

Filed: 8/12/2014

Franchise Tax; Protest, Def. statutes/constitution, Decl. Judg.

Counsel Associated With This Case:

*Assistant Attorney General*

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Ryman, Shannon	OAG FTL / Austin
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*Opposing Counsel*

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Colmenero, David E.	Meadows, Collier, Reed, Cousins, Crouch & Ungerman, LLP / Dallas
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Fahring, Thomas

Pilawski, Alex J.

Issue: Whether expenses of providing pre-paid telephone services/cards are eligible for the COGS deduction. Equal protection/equal & uniform taxation. UDJA claims

Status: Plaintiff's Notice of Nonsuit filed 02/13/15.

---

***Tree of Life, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003402 AG Case #: 113300008  
Sales and Use Tax; Bill of Review

Filed: 11/4/2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal of D-1-GN-06-002103 for want of prosecution.

Status: Petition to reinstate D-1-GN-06-002103 granted 05/03/12. Agreed Judgment entered 03/05/14.

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***U.S. Food Service, Inc. f/k/a White Swan, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002611 AG Case #: 113287874

Filed: 8/29/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal of GN304767 for want of prosecution.

Status: Petition to reinstate GN304767 granted 05/03/12.

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***U.S. Foodservice, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-003215 AG Case #: 093153260

Filed: 9/18/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG FTL / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Whether electricity used to lower temperature of food products is exempt as electricity used in processing.

Status: Agreed Judgment entered 03/10/14.

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