



**ATTORNEY GENERAL OF TEXAS**

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

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

**SEPTEMBER/OCTOBER 2013**



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## Franchise Tax

### *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 Taxation / 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: Discovery in progress.

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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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Van Oort, Kevin OAG Taxation / 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 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: Answer filed.

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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 Taxation / Austin
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*Opposing Counsel*

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Ormiston, Matthew	Ryan Law Firm, LLP / Austin
Sigel, Doug	
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

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 Taxation / Austin
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*Opposing Counsel*

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Ormiston, Matthew                      Ryan Law Firm, LLP / Austin  
Sigel, Doug  
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.

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.

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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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Van Oort, Kevin                      OAG Taxation / 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: Answer filed.

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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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Van Oort, Kevin                      OAG Taxation / 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: Answer filed.

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

Cause Number: D-1-GN-13-000989    AG Case #: 133406611

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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Van Oort, Kevin                      OAG Taxation / 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: Hearing on Cross Motions for Summary Judgment set for 07/09/14.

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

Cause Number: D-1-GN-12-001803    AG Case #: 123341166

Filed: 6/14/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$302,768.00	Report Years 2008 - 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether funds transferred by the Plaintiff to a limited partnership, for which Plaintiff is the GP, are eligible to be excluded from total revenue as either: i) fiduciary funds per §171.1011(f) or ii) the tax basis of a security per §171.1011(g-2). Whether the amount of such funds transferred to the limited partnership are eligible for inclusion in the COGS deduction. Whether a partial interest in the net profits to be generated from an oil lease constitute real property.

Status: Trial previously set for 06/24/13 has been passed.

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***Basic Energy Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003101 AG Case #: 113295083 Filed: 10/6/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,921,913.94	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff's election to utilize the compensation deduction disqualifies Plaintiff from filing an amended report for the same year claiming the COGS deduction. Whether detrimental reliance would require the Comptroller to accept a change in Plaintiff's election of deduction.

Status: Hearing on cross-motions for summary judgment, previously set for 07/16/12, has been passed.

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***Burns & McDonnell, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-000201 AG Case #: 133391037 Filed: 1/16/2013

Franchise Tax; Protest, UDJA & APA

Claim Amount      Reporting Period  
\$2,995,266.45      Report Years 2008-2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Cobb, Bill                              Jackson Walker, L.L.P / Austin

Issue: Whether payments to subcontractors are eligible to be excluded from total revenue pursuant to either §171.1011(g)(3) or §171.1011(f). Whether the Comptroller's interpretation and application of §171.1011(g) constitutes an APA rule. Plaintiff also seeks declaratory relief.

Status: Agreed Judgment entered 11/15/13.

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

Cause Number: D-1-GN-12-001316      AG Case #: 123331670

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 Taxation / Austin

*Opposing Counsel*

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

Traphagan, Amanda M.

Leonard, Lacy L.

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

Status: Trial set for 02/18/14.

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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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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

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: 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 Taxation / 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 Summary Judgment will be re-set. Discovery in progress.

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

Cause Number: D-1-GN-13-002284      AG Case #: 133436790

Filed: 7/8/2013

Franchise Tax; Protest & Refund

Claim Amount      Reporting Period  
\$6,857,605.37      Report Years 2004-2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Issue: Whether revenue generated from home satellite television subscriptions should be sourced to the location of the subscriber for apportionment purposes.

Status: Trial set for 05/12/14.

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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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Van Oort, Kevin                      OAG Taxation / 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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Van Oort, Kevin                      OAG Taxation / 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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***Exxon Mobil Corp. v. Combs, et al.***

Cause Number: D-1-GN-10-004036    AG Case #: 103237442

Filed: 11/16/2010

Franchise Tax; Refund

Claim Amount	Reporting Period
\$16,347,707.00	Report Years 2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the taxpayer is entitled to investment tax credits under subchapter Q (now repealed) of Chapter 171. Whether the statute requires a 90-day "look-back" period for qualifying events.

Status: Trial set for 06/30/14.

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

Cause Number: D-1-GN-12-003038    AG Case #: 123370199

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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Van Oort, Kevin                      OAG Taxation / 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 Plaintiff's Motion for Summary Judgment set for 12/19/13.

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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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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                              Scott, Douglass & McConnico, L.L.P. / 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.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$262,066.00	2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Order granting Motion to Consolidate into Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-06-004636, entered 09/22/09. Agreed Judgment entered 05/25/12.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Franchise Tax; Refund

Claim Amount	Reporting Period
\$245,571.02	1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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

Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Order granting Motion to Consolidate with Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-08-002313, entered 09/22/09. Hearing on Plaintiff's MSJ held on 12/05/11. Plaintiff's motion denied in part and granted in part. Agreed Judgment

entered 05/25/12.

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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

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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Eldred, Charles K. OAG Taxation / 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 MSJ's set for 10/17/13.

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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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Van Oort, Kevin OAG Taxation / 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: Answer filed.

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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 Taxation / 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: Answer and PTJ filed 09/30/13.

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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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Van Oort, Kevin OAG Taxation / 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 application of the single-factor apportionment formula to Plaintiff is violative of the Due Process Clause and the Commerce Clause.

Status: Discovery in progress.

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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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Van Oort, Kevin	OAG Taxation / 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 in progress.

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***Liaison Resources LP v. Combs, et al.***

Cause Number: D-1-GN-12-000624 AG Case #: 123320525

Filed: 3/2/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$96,872.66	Report Years 2008-2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to exclude certain receipts from total revenue under §171.1011(k) as a staff leasing services company. Whether Plaintiff must utilize the compensation deduction when calculating its taxable margin.

Status: Agreed Judgment entered 11/18/13.

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***Lone Star Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-000065 AG Case #: 103172730

Filed: 1/7/2010

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$428,568.50	Report years 1999-2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether taxpayer's taxable capital should be based on its historical cost without regard to applicable push-down adjustments.

Status: Agreed Judgment entered 11/15/13.

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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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Van Oort, Kevin OAG Taxation / Austin

*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: Answer filed.

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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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Van Oort, Kevin	OAG Taxation / Austin
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*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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***Newpark Resources, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002205 AG Case #: 113280895  
#03-12-00515-CV

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$472,872.00	Report year 2008 and Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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

Issue: Whether certain expenditures attributed to environmental disposal and reclamation services are eligible for the COGS deduction. Whether Plaintiff properly calculated its indirect cost limitation under §171.1012(f). Whether certain payments to subcontractors should be

excluded from revenue.

Status: Bench trial held on 05/21-22/12. Judgment for Plaintiff entered 07/02/12. Notice of Appeal filed 08/01/12. Appellant's brief filed 11/20/12. Appellee's Brief filed 02/28/13. Appellant's Reply Brief filed 04/04/13. Appellant's Motion to File Amended Brief filed 04/05/13; granted 04/10/13. Appellant's Amended Reply Brief filed 04/10/13. Appellee's Motion to Withdraw Attorney filed 04/17/13; granted 04/26/13. Case submitted on oral argument on 09/11/13. Appellant's Post-submission Brief filed 09/16/13.

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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 Taxation / 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: The district court case is being abated to allow a related administrative proceeding to conclude.

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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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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk  
Hepworth, Justin

Jones Day / Dallas

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 Taxation / 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: 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 Taxation / 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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***Renewable Energy Systems v. Combs, et al.***

Cause Number: D-1-GN-11-003625    AG Case #: 113303044                      Filed: 11/28/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$350,574.09	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is exempt from the franchise tax under §171.056 as being solely engaged in the business of installing solar energy devices.

Status: Hearing on Cross MSJ's held 06/13/13. Plaintiff's Motion granted. Order entered 06/26/13.

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

Cause Number: D-1-GN-11-001059    AG Case #: 113260954                      Filed: 4/11/2011  
#03-13-00101-CV

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 Taxation / Austin

*Opposing Counsel*

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Butcher, Daniel L.                Strasburger & Price / Dallas  
Katz, Farley P.                    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.

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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 Taxation / 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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***Service King Paint & Body, LLC as Successor to Alamo Body & Paint, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003039 AG Case #: 113293583

Filed: 9/30/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$40,012.00	Report year 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff qualifies for the 0.5% rate under §171.002(b).

Whether revenue from the sale of installed auto parts should be classified as service revenue.

Status: Answer filed.

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***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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Van Oort, Kevin OAG Taxation / 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: Answer filed.

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

Cause Number: D-1-GN-12-003920 AG Case #: 133384917

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 Taxation / 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: Answer filed.

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***Sunbelt Custom Mineral, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001504 AG Case #: 123334245

Filed: 5/16/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$95,088.00	Report Years 2008 - 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff's election to file an EZ Report disqualifies the Plaintiff from subsequently claiming the COGS deduction for the same report year.

Status: Agreed Judgment entered 11/18/13.

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

Cause Number: D-1-GN-11-002866    AG Case #: 113291926                      Filed: 9/15/2011  
#03-13-00034-CV

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 Taxation / 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 Motion for Extension of Time to File Brief filed 07/01/13; granted 07/08/13. Appellee's Brief filed 08/02/13. Appellant's Reply Brief filed 09/03/13. Case submitted on oral argument on 10/09/13.

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

Cause Number: D-1-GN-10-002768    AG Case #: 103213674                      Filed: 8/6/2010

Franchise Tax; Protest, UDJA, APA

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 Taxation / 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 Taxation / 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: Answer filed.

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***TTX Company v. Combs, et al.***

Cause Number: D-1-GN-11-002762      AG Case #: 113288161

Filed: 9/6/2011

Franchise Tax; Protest & UDJA

Claim Amount      Reporting Period  
\$5,194.89      Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Wahby, Peter S.                      Greenberg Traurig, LLP / Dallas  
Novakov, Daniel P.

Issue: Whether Plaintiff's Notice of Preservation of Temporary Credit was timely submitted.

Status: Hearing on Cross Motions for Summary Judgment set for 05/23/13.

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***Tyson Fresh Meats, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-001346    AG Case #: 123334229

Filed: 5/3/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$929,117.00	Report Years 2002-2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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McEwen, Drew                      Ryan Law Firm, LLP / Austin  
Ormiston, Matthew

Issue: Whether Plaintiff is entitled to investment tax credits under Subchapter Q (now repealed) of Chapter 171.

Status: Trial previously set for 11/11/13 has been passed.

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***Tyson Fresh Meats, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-002943    AG Case #: 123365033

Filed: 9/20/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$121,776.00	Report Year 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Ormiston, Matthew Ryan Law Firm, LLP / Austin

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

Issue: Whether Plaintiff is entitled to investment tax credits under Subchapter Q (now repealed) of Chapter 171.

Status: Trial previously set for 11/11/13 has been passed.

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***Tyson Fresh Meats, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-000928 AG Case #: 133404939

Filed: 3/15/2013

Franchise Tax; Refund

Claim Amount	Reporting Period
\$209,259.00	Report Year 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Ormiston, Matthew Ryan Law Firm, LLP / Austin

Sigel, Doug

Issue: Whether Plaintiff is entitled to investment tax credits under Subchapter Q (now repealed) of Chapter 171.

Status: Trial previously set for 11/11/13 has been passed.

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***United Space Alliance, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001618 AG Case #: 123338212

Filed: 5/29/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$19,987,673.18	Report Years 2008 - 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether Plaintiff properly reported its total revenue. Whether Plaintiff is eligible to treat certain receipts as reimbursements of wages and whether Plaintiff is eligible to exclude such receipts from total revenue under §171.1011(m-1) as a management company. Whether Plaintiff's election to utilize the 30% deduction disqualifies Plaintiff from subsequently claiming either the COGS deduction or the compensation deduction for the same report year.

Status: Discovery in progress.

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

Cause Number: GN402433

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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Van Oort, Kevin

OAG Taxation / 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: Discovery in progress.

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***Winstead, PC v. Combs, et al.***

Cause Number: D-1-GN-12-000141

AG Case #: 123313777

Filed: 1/19/2012

Franchise Tax; Protest & APA

Claim Amount      Reporting Period

\$28,974.15      Report Years 2008 and 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Nolan, Peter A.                      Winstead PC / Austin

Rabb, Jennifer Patterson

Kana, Anna

Issue: Whether, for purposes of the compensation deduction, certain expenditures are eligible §171.1013(b)(2) employee benefit costs and subject to inclusion in the deduction amount.

Status: Cross motions for summary judgment heard on 12/03/12. Plaintiff's Motion granted 02/07/13. Order signed 03/18/13.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

#10-0509

Sales Tax; Refund

Claim Amount	Reporting Period
\$299,328.98	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Response to the Motion for Rehearing filed 12/03/09. Substitute Opinion issued 04/22/10, reversing the Court of Appeals' 08/31/09 decision, remanding both issues to the trial court. Appellant's Motion for Rehearing filed 05/07/10; overruled 05/19/10. Petition for Review filed in the Texas Supreme Court on 07/02/10; denied 09/08/10. Mandate issued 10/22/10.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424    AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Hearing on Defendant's Motion to Consolidate held and denied on 01/05/11. Hearing on Plaintiff's Motion for Summary Judgment held on 01/19/11. Order denying Plaintiff's MSJ signed 02/08/12.

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***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 Taxation / 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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***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*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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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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***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*

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Sams, Erika                              OAG Taxation / Austin

*Opposing Counsel*

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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.

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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

Sales and Use Tax; Refund

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



Claim Amount      Reporting Period  
\$298,512.27      07/01/08 through 12/31/11

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                      Ryan Law Firm, LLP / Austin

Issue: Whether cranes used in a manufacturing facility are eligible for the manufacturing exemption under §151.318(a)(2). Whether the use of the cranes constitutes intraplant transportation.

Status: Trial previously set for 10/28/13 has been passed.

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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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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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

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 set for 09/29/14.

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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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Jones, Matthew C.                      OAG Taxation / 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 set for 09/29/14.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565      AG Case #: 072440159  
#03-10-00323-CV  
#12-0273

Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$53,654.00      01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.                      Mondrik & Associates / Austin

Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of

equal protection, equal and uniform taxation, and the Commerce clause.

Status: Cross Motions for Summary Judgment heard on 04/27/10. Final Judgment entered 05/12/10, granting Defendants' Cross-Motion. Plaintiff's Notice of Appeal filed 06/07/10. Appellant's brief filed 10/04/10. Appellee's brief filed 12/16/10. Request for oral argument denied 12/23/10. Appellant's Reply Brief filed 01/05/11. Case submitted on briefs on 06/21/11. Memorandum Opinion issued 08/05/11, affirming that portion of the trial court's order denying Austin Engineering's motion for summary judgment, reversing that portion of the order granting summary judgment in favor of the Comptroller, and remanding for further proceedings. Appellee's Motion for Rehearing filed 09/06/11; denied 03/08/12. Mandate issued 06/27/12, reversing the portion of the order granting summary judgment in favor of the Comptroller and remanding the cause for further proceedings. The remainder of the order is affirmed.

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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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Van Oort, Kevin OAG Taxation / 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: Jurisdictional plea, motion to dismiss and counterclaim filed.

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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 Taxation / 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: Answer filed.

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***Basram Y. Faris v. Combs, et al.***

Cause Number: D-1-GN-13-000738    AG Case #: 133397083

Filed: 2/27/2013

Sales and Use Tax; UDJA & Injunctive Relief

Claim Amount	Reporting Period
	01/01/06 through 12/31/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Flammer, Sean                      OAG Taxation / Austin

*Opposing Counsel*

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Wilson, Michael L.                  Rider & Wilson, Law Offices / Galveston

Issue: Plaintiff challenges the audit procedures and sampling methodology. Plaintiff seeks declaratory and injunctive relief.

Status: Agreed Judgment entered 11/15/13.

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***Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs***

Cause Number: D-1-GN-11-001788    AG Case #: 113272520

Filed: 6/15/2011

Sales and Use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
	June 1, 2006 - Oct. 31, 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / 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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***BHR Texas L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003056    AG Case #: 093150829

Filed: 9/10/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$19,590.14	05/01/2000 through 07/31/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                      Ryan Law Firm, LLP / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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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 Taxation / 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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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955 AG Case #: 041988023 Filed: 6/21/2004  
#03-09-00617-CV  
#11-0283

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,750,000.00	12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating with Cause #D-1-GN-06-000787 signed 05/14/07. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09. Clerk's Record filed 01/05/10. Appellant's brief filed 03/08/10. Appellee's Motion for Extension of Time to File Brief filed 03/24/10; granted 04/01/10. Appellee's brief filed 05/07/10. Appellant's Motion for Extension of Time to File Reply Brief filed and granted 05/20/10. Reply brief filed 06/28/10. Case submitted on oral argument on 09/29/10. Appellee's Post-submission brief filed 10/13/10. Memorandum Opinion issued

03/16/11, affirming the district court's judgment. Petition for Review filed 06/20/11. Respondent's Response to Petition for Review waived 06/21/11. Court requested response 07/29/11. Response filed 08/23/11. Petitioner's Reply filed 09/02/11. Amicus Curiae letter filed 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the Merits requested on 02/17/12. Petitioner's Motion to Consolidate filed 02/28/12. Petitioner's Motion for Extension of Time to File Brief filed 03/06/12; granted 03/09/12. Petitioner's Brief filed 04/18/12. Respondent's brief filed 05/08/12. Petitioner's Motion for Extension of Time to File Reply Brief filed 05/14/12; granted 05/17/12. Reply Brief filed 06/22/12. Petitioner's Letter Brief filed 06/27/12. Respondent's Letter Brief filed 07/23/12. Petition for Review granted 01/18/13. Amicus Curiae Brief filed 02/22/13. Case submitted on oral argument on 02/27/13. Petitioner's Post-Submission Letter Brief filed 03/14/13. Response to Post-Submission Letter Brief filed 03/26/13. Opinion issued on 06/07/13, affirming the court of appeals' judgment on all but the lease issue which is reversed and remanded to the trial court for further proceedings. Mandate issued 07/19/13. Agreed Judgment entered 11/13/13.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876 Filed: 3/6/2006  
Sales Tax; Refund

Claim Amount	Reporting Period
\$3,029,344.00	06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Order consolidating into Cause # GN401955 signed 05/14/07.

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***Blue Moon Detective Agency, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-003543 AG Case #: 123375263 Filed: 11/9/2012  
Sales and Use Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period  
\$100,000.00      01/01/03 - 03/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Plaintiff's Original Petition, Request for Temporary Restraining Order, Temporary Injunction, and Permanent Injunction filed 11/08/12. Proposed Agreed Interim Order signed 11/10/12. Defendants' Response to Plaintiff's Request for Temporary Injunction filed 11/14/12. Order denying Plaintiff's Request for Temporary Injunction entered 11/21/12.

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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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Jones, Matthew C.                      OAG Taxation / 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 11/10/14.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733      AG Case #: 062412879                      Filed: 9/29/2006

Sales Tax; Refund

Claim Amount      Reporting Period  
\$217,355.92      01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Agreed Judgment entered 10/23/13.

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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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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Answer filed.

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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 Taxation / Austin

*Opposing Counsel*

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

Butler, Perry                                Shackelford, Melton & McKinley, 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.

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

Cause Number: D-1-GN-11-001189    AG Case #: 113263867

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 Taxation / 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: Answer filed.

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***C.C. Carlton Industries, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-08-003460    AG Case #: 082530270

Filed: 9/22/2008

Sales and Use Tax; Protest

Claim Amount      Reporting Period  
\$247,570.73      01/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Holcomb, Donald W.              Knolle, Holcomb, Kothmann & Callahan / Austin

Issue: Whether Plaintiff owes tax on construction and electrical work.

Status: Trial previously scheduled for 12/16/13 has been passed.

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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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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Oldham, Kevin                      Ryan Law Firm, LLP / Austin  
Ormiston, Matthew

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

Status: Trial set for 12/16/13.

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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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Van Oort, Kevin

OAG Taxation / 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: Jury trial set for 08/11/14.

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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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Morales, Cynthia

OAG Taxation / Austin

*Opposing Counsel*

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Wellington, Jon

Jon Wellington, PC / Dallas

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.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount Reporting Period

\$244,808.38 01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Flammer, Sean

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Ryan Law Firm, LLP / Austin

Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of equal and uniform taxation, and due process.

Status: Answer filed.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Court sent Notice of DWOP on 08/21/09. Plaintiff's Motion to Retain filed 08/19/09; granted 09/23/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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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

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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525 AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Benesh, W. Stephen  
Sampson, Jr., Phillip L.      Bracewell & Patterson / Austin

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of

review 11/22/05.

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***Cirrus Exploration Company v. Combs, et al.***

Cause Number: D-1-GN-11-001851 AG Case #: 113273395  
#03-13-00036-CV

Filed: 6/21/2011

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 Taxation / Austin

*Opposing Counsel*

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Ray, Doug W. Ray & Wood / Austin

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.

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***City of Dickinson v. Combs***

Cause Number: D-1-GV-12-000094 AG Case #: 123314528

Filed: 1/27/2012

Sales and Use Tax; UDJA & Injunctive Relief

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Smith, Loren B. Olson & Olson, LLP / Houston

Issue: Plaintiff seeks declaration relating to tax situs for local sales tax on certain transactions. Plaintiff also seeks injunctive relief.

Status: TRO hearing set for 04/10/12 was cancelled.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823 AG Case #: 062409446  
#03-08-00291-CV  
#10-0416

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Feldman, David M.	Feldman & Rogers, L.L.P. / Houston
Cowan, Robert W.	

Gregg, Jr., Dick H.	Gregg & Gregg, P.C. / Houston
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Issue: Whether the Comptroller's reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed 09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the

jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09; denied 04/16/10. Denton's Petition for Review filed in the Texas Supreme Court on 06/01/10. Webster's Petition for Review filed 06/03/10. State's Response filed 06/22/10. State's Cross-Petition for Review filed 06/30/10. Webster's Reply filed 07/07/10. Denton's Reply filed 07/09/10. Response to the State's Cross-Petition waived by Webster on 07/15/10, and by Denton on 07/16/10. Petitions for Review denied 08/20/10. Mandate issued by Court of Appeals on 10/22/10. Intervenor (Denton, et al.) filed Notice of Non-Suit on 10/29/10.

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***Club Hat Tricks, Inc. v. Combs, et al.***

Cause Number: GN-13-003403      AG Case #: 133450593      Filed: 9/30/2013  
Sales and Use Tax; Injunctive Relief, UDJA & APA

Claim Amount	Reporting Period
\$357,508.96	01/01/2009 through 08/31/2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Plaintiff challenges procedures utilized during a sales tax audit. Plaintiff seeks injunctive and declaratory relief.

Status: Plaintiff's Motion for Non-suit filed 10/15/13.

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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 Taxation / 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.

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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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Jones, Matthew C.

OAG Taxation / 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 reality 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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Flammer, Sean                      OAG Taxation / 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. Plea to the Jurisdiction filed 10/27/11.

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***Crowson Litigation Settlement Trust v. Combs, et al.***

Cause Number: D-1-GN-12-003424    AG Case #: 123379729

Filed: 10/31/2012

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$11,623,713.97	07/01/02 - 04/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Flammer, Sean                      OAG Taxation / Austin

*Opposing Counsel*

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Davis, Don L.                      Byrd Davis Furman & Alden, LLP / Austin

Issue: Whether Plaintiff has a statutory basis to file refund claim. Whether Plaintiff's documentation was sufficient to verify the claimed refund amount.

Status: Trial scheduled for 03/24/14.

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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 Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

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 Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.

Attorney at Law / Aransas Pass

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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***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 Taxation / 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: Answer filed.

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***Dish Purchasing Corp. v. Combs, et al.***

Cause Number: D-1-GN-12-000172 AG Case #: 123313769

Filed: 1/23/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$11,333.20	04/01/08 through 11/30/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether certain wrapping and packaging materials are exempt under §151.318(d). Whether certain wrapping and packaging materials were purchased for resale.

Status: Trial previously set for 12/02/13 has been passed.

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***Dish Purchasing Corp. v. Combs, et al.***

Cause Number: D-1-GN-12-002026 AG Case #: 123362287

Filed: 7/5/2012

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$336,805.41	04/01/05 through 03/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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McEwen, Drew  
Christian, John

Ryan Law Firm, LLP / Austin

Issue: Whether certain wrapping and packaging materials are exempt under §151.318.

Status: Trial previously set for 12/02/13 has been passed.

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***Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)***

Cause Number: D-1-GN-06-004267 AG Case #: 062425566

Filed: 11/9/2006

#03-10-00801-CV

#13-0368

**Sales Tax; Refund**

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98
	01/01/99 - 05/31/02
\$1,440.73	09/01/94 - 08/31/98

**Counsel Associated With This Case:**

*Assistant Attorney General*

Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

Sigel, Doug

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

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Hearing on Cross-Motions for Summary Judgment held 08/18/10. Case consolidated with Centreport Partners, L.P. v. Combs, et al., Cause #D-1-GN-07-000152. Court ruled for the Comptroller on 08/24/10. Plaintiff's Amended Notice of Appeal filed 12/03/10.

Appellant's brief filed 02/15/11; oral argument requested. Appellee's brief filed 05/03/11. Appellant's Motion to Withdraw Attorney filed 05/04/11; granted 05/11/11. Appellant's Reply Brief filed 06/06/11. Case submitted on oral argument on 09/28/11. Additional authorities filed by Appellee on 09/30/11. Appellant's Motion filed 10/06/11; granted 10/10/11. Letter brief filed by Appellant 10/10/11. Opinion issued 04/11/13, reversing the district court's order granting summary judgment in favor of the Comptroller and rendering judgment that DTWC recover the sales tax in controversy. Petition for Review not filed. Mandate issued 09/06/13. Mandate issued 09/06/13.

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***DSW Shoe Warehouse, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000233 AG Case #: 123314759

Filed: 1/30/2012

Sales and Use Tax; Protest

Claim Amount Reporting Period

\$570,222.00 07/01/05 through 09/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Plaintiff challenges sampling methodology applied in a sales tax audit.

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 Taxation / 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: Answer filed.

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***Efrem T. Tesfay v. Combs, et al.***

Cause Number: D-1-GN-12-003197 AG Case #: 133383182

Filed: 10/11/2012

Sales and Use Tax; Bill of Review

Claim Amount	Reporting Period
\$50,000.00	05/01/2007 through 12/31/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Socks, Emmanuel Ncube Socks Law Associates, PLLC / Dallas

Issue: Plaintiff seeks a remand of an administrative proceeding, alleging lack of representation.

Status: Petition for Bill of Review filed 10/11/12. Hearing scheduled for 01/07/13 was passed.

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***Energy Education of Montana, Inc. v. Combs***

Cause Number: D-1-GN-09-001249 AG Case #: 093120491

Filed: 4/17/2009

#03-10-00644-CV

#13-0769

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$890,601.19	06/06/03 to 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar OAG Taxation / Austin

*Opposing Counsel*

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Rogers, Harold D. Wichita Falls

Johnson III, Robert F. Gardere Wynne & Sewell / Dallas

Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Cross-Motions for Summary Judgment heard on 05/12/10. Letter ruling granting Comptroller's MSJ and denying Plaintiff's MSJ entered 06/10/10. Final Order signed 08/19/10. Notice of Appeal filed 09/17/10. Appellant's Brief filed 01/21/11; oral argument requested. Appellee's brief filed 03/29/11. Oral argument denied 04/06/11. Appellant's Reply Brief filed 04/18/11. Appellant's Request for Oral Argument or for Expedited Decision filed 01/28/13. Appellee's Response filed 01/30/13. Case submitted on briefs on 04/23/13. Memorandum Opinion issued 04/25/13, affirming the district court's judgment. Appellant's Motion for Rehearing filed 05/10/13; denied 08/12/13. Petition for Review filed in the Tx. Supreme Court on 09/26/13. Respondent's Response to Petition for Review waived 10/14/13.

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***Energy Education of Montana, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002728 AG Case #: 093146496  
#03-10-00644-CV

Filed: 8/20/2009

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$154,800.33	06/01/2003 through 06/30/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar	OAG Taxation / Austin
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*Opposing Counsel*

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Johnson III, Robert F.	Gardere Wynne & Sewell / Dallas
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Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Abated pending resolution of Energy Education of Montana, Inc. v. Combs, Cause #D-1-GN-09-001249.

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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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Jones, Matthew C.	OAG Taxation / Austin
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*Opposing Counsel*

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Oldham, Kevin                      Ryan Law Firm, LLP / Austin  
Ormiston, Matthew

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

Status: Trial set for 11/24/14.

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***Evo Inc. v. Combs***

Cause Number: D-1-GN-12-002969    AG Case #: 123368425                      Filed: 9/21/2012  
Sales and Use Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Sams, Erika                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Plaintiff brings suit under 112.101 of the Tax Code to determine whether its diagnostic information products constitute nontaxable proprietary information services.

Status: Trial set for 02/03/13.

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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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Jones, Matthew C.                      OAG Taxation / 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: Answer filed.

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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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Flammer, Sean OAG Taxation / 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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***Fair Isaac Corp. v. Combs, et al.***

Cause Number: D-1-GN-11-003553 AG Case #: 113302715

Filed: 11/15/2011

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$257,528.90	11/01/03 through 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L. Ryan Law Firm, LLP / Austin  
Meisel, Seth E.  
Oldham, Kevin

Issue: Whether certain computer programming services qualify as custom software.

Status: Trial held 10/15/13; record reopened 11/25/13.

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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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Jones, Matthew C.      OAG Taxation / 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: Answer filed.

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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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Jones, Matthew C.      OAG Taxation / 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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***Garriott, Robert v. Combs, et al.***

Cause Number: D-1-GN-12-003034      AG Case #: 123370157

Filed: 9/27/2012

Sales and Use Tax; Protest

Claim Amount      Reporting Period  
\$280,041.29      04/01/09 through 03/31/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / 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 in another state, but used in Texas, is subject to Texas use tax. Plaintiff also asserts that the application of Comptroller Rule 3.297 violates the Equal Protection Clause and the Equal and Uniform Clause.

Status: Final Judgment entered in favor of Plaintiff on 10/01/13.

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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 Taxation / 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 Plaintiff's MSJ previously set for 04/25/12 has been passed.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-09-002137    AG Case #: 093136810

Filed: 7/2/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$148,709.00	02/01/1999 through 03/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Plaintiff claims an exemption for electricity used in its food business.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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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 Taxation / 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: D-1-GN-09-002137 reinstated 05/03/12.

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***Grande Communications Networks, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-002032    AG Case #: 123362865

Filed: 7/6/2012

Sales and Use Tax; Refund

Claim Amount      Reporting Period

\$338,197.00      03/01/08 through 12/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony                      OAG Taxation / Austin

*Opposing Counsel*

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McEwen, Drew                      Ryan Law Firm, LLP / Austin  
Sigel, Doug

Issue: Whether certain equipment used for broadcasting video content is eligible for exemption under either §151.318 or §151.3185.

Status: Discovery in progress.

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***Grande Communications Networks, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-003344 AG Case #: 123374688

Filed: 10/24/2012

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$8,159,662.85	07/01/00 - 02/29/08

Counsel Associated With This Case:

*Assistant Attorney General*

Bolson, Anthony OAG Taxation / Austin

*Opposing Counsel*

Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether certain equipment used for broadcasting video content is eligible for exemption under either §151.318 or §151.3185.

Status: Answer filed.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001804 AG Case #: 093131431

Filed: 6/6/2009

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$208,304.00	11/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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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 Taxation / 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: D-1-GN-09-001804 reinstated 05/03/12.

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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 Taxation / 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 Taxation / 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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***Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001803 AG Case #: 093131415

Filed: 6/6/2009

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$55,893.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904 AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Grocers Supply-Produce Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001805 AG Case #: 093131423

Filed: 6/6/2009

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$78,796.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Case dismissed for want of prosecution on 08/31/11, reinstated 05/03/12.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091

AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***H.K. Global Trading, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-11-002632 AG Case #: 113287932  
03-13-00260-CV

Filed: 8/30/2011

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 Taxation / Austin
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*Opposing Counsel*

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Scarborough, Terry	Hance Scarborough, L.L.P. / Austin
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Haynes, Alison White	Trevino, Valls & Haynes, LLP / Laredo
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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.

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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 Taxation / Austin
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*Opposing Counsel*

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

Sigel, Doug

Issue: Whether certain transactions were subject to tax as taxable services. Whether certain transactions were eligible for the sale-for-resale exemption.

Status: Trial set for 02/03/14.

***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771 AG Case #: 082512302  
#03-10-00675-CV  
#11-0652

Filed: 5/23/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman and Raytheon cases.

Status: Trial held 06/01/10. Judgment for Plaintiff entered 07/13/10. Order Denying Defendants' Request for Amended and Additional Findings of Facts and Conclusions of Law entered 08/23/10. Notice of Appeal filed 10/06/10. Appellant's Motion to Abate Appeal filed 11/29/10; overruled 12/09/10. Appellee's Response filed 12/08/10. Appellant's brief filed 01/11/11. Appellee's brief filed 02/09/11; oral argument requested. Oral argument denied 02/25/11. Appellant's Reply Brief filed 03/01/11. Appellee's certificate of conference filed 04/13/11. Appellant's and Appellee's Letter Briefs filed 04/20/11. Appellee's Motion to File Supplemental Brief filed 05/09/11; granted 05/24/11. Case submitted on briefs on 07/05/11. Memorandum Opinion issued 07/07/11, affirming the district court's judgment. Petition for Review filed 08/22/11. Response filed 11/28/11. Petitioner's Reply filed 12/21/11. Amicus Curiae letter received 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the merits requested on 02/17/12. Petitioner's Motion to Consolidate filed 03/06/12. Petitioner's Brief filed 04/18/12. Respondent's Brief filed 05/08/12. Petitioner's Letter Brief filed 06/27/12. Respondent's Letter Brief filed 07/23/12. Petition for Review granted 01/18/13. Amicus Curiae Brief filed 02/22/13. Case submitted on oral argument on 02/27/13. Petitioner's Post-Submission Letter Brief filed 03/14/13. Response to Post-Submission Letter Brief filed 03/26/13. Opinion issued on 06/07/13, affirming the court of appeals' judgment on all but the lease issue which is reversed and remanded to the trial court for further proceedings.

Mandate issued 07/19/13. Agreed Judgment entered 11/13/13.

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***Health Care Services, Corp. v. Combs***

Cause Number: D-1-GN-12-000387 AG Case #: 123316218

Filed: 2/10/2012

Sales and Use Tax; Refund

Claim Amount      Reporting Period  
\$1,002,498.37      01/01/04 through 06/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether certain taxable items were sold to the federal government and whether such transactions are eligible for the sale-for-resale exemption.

Status: Trial set for 06/02/14.

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***High Tech Document Service v. Combs, et al.***

Cause Number: D-1-GN-10-000220      AG Case #: 103175469

Filed: 1/20/2010

Sales and Use Tax; Protest

Claim Amount      Reporting Period  
\$61,592.65      09/01/00 through 01/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Flammer, Sean                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough, L.L.P. / Austin

Issue: Whether the purchase of certain items subsequently leased to a third party are eligible for the sale-for-resale exemption.

Status: Jury trial previously set for 07/23/12 was passed by agreement.

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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 Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

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

Status: Discovery in progress.

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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 Taxation / 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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***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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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Christian, John

Ryan Law Firm, LLP / Austin

Issue: Whether communications services provided by Plaintiff constitute taxable date processing services. Whether Plaintiff's sale of communications services is eligible for exemption as a sale for resale.

Status: Trial set for 05/12/14.

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***Intrepid Directional Drilling Specialists, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-12-002718 AG Case #: 123361347

Filed: 9/4/2012

Sales and Use Tax; Injunction, Protest & UDJA

Claim Amount Reporting Period

\$1,997,147.00 02/01/06 through 11/30/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.

Martens, Todd & Leonard / Austin

Leonard, Lacy L.

Ahlich, Danielle V.

Issue: Plaintiff challenges sampling methodology applied in a sales tax audit. Whether Plaintiff remitted tax in error on items consumed in providing oil field services. Plaintiff also asserts detrimental reliance. Plaintiff seeks injunctive relief as well as declaratory relief under the UDJA and the tax code.

Status: Discovery in progress.

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***J.E. Dunn Construction Co. v. Combs, et al.***

Cause Number: D-1-GN-11-002825 AG Case #: 113288617

Filed: 9/12/2011

Sales Tax; Refund

Claim Amount Reporting Period

\$189,293.81 02/01/03 through 01/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Ryan, Kory L. Ryan Law Firm, LLP / Austin  
Meisel, Seth E.

Issue: Whether Plaintiff properly calculated the amount of tax due on various contracts for remodeling services.

Status: Answer filed.

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***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 Taxation / 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.

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***Kenneth O. Lester, Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002741 AG Case #: 113287916 Filed: 9/2/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal of D-1-GN-08-003762 for want of prosecution.

Status: D-1-GN-08-003762 reinstated on 05/03/12.

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***Krishna Bhavana, LLC and Krishna Kothari v. Combs, et al.***

Cause Number: D-1-GN-11-003393 AG Case #: 113300016

Filed: 11/3/2011

Sales and Use Tax; Injunction

Claim Amount	Reporting Period
\$283,592.01	05/01/2006 - 08/31/2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Sookdeo, Christina I. Sookdeo & Associates, PC / Plano

Issue: Plaintiff contests sales tax assessment. Plaintiff also seeks injunctive relief.

Status: Discovery in progress.

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***KST Electric, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-11-003855 AG Case #: 123306664

Filed: 12/20/2011

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$162,197.00	01/01/05 - 09/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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

Traphagan, Amanda M.

Leonard, Lacy L.

Issue: Plaintiff challenges the sampling methodology used in a sales tax audit.

Status: Discovery in progress.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633 AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04
\$21,811.57	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 06/12/09. Plaintiffs' Amended Motion to Retain filed 08/19/09; granted 08/28/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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***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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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

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

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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Jones, Matthew C. OAG Taxation / 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: Discovery in progress.

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***Linda S. Jones dba Johnny's Package Store and also dba Johnny's v. Combs, et al.***

Cause Number: D-1-GN-13-001061 AG Case #: 133408146

Filed: 3/29/2013

Sales and Use Tax; Injunction, UDJA & APA

Claim Amount      Reporting Period  
\$233,420.75      10/01/06 through 07/31/10

Counsel Associated With This Case:

*Assistant Attorney General*

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Hohengarten, Jack              OAG Taxation / Austin

*Opposing Counsel*

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

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. Plaintiff also seeks declaratory and injunctive relief.

Status: Hearing on Plea to the Jurisdiction set for 10/01/13. Defendants' brief in support of plea filed 09/06/13. Notice of Nonsuit entered 09/18/13.

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***Makara Enterprise, LP v. Combs, et al.***

Cause Number: D-1-GN-11-003507    AG Case #: 113302830

Filed: 11/15/2011

Sales and Use Tax; Protest & UDJA

Claim Amount      Reporting Period  
\$297,993.00      01/01/06 - 07/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.              OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.              Mondrik & Associates / Austin

Issue: Whether the audit procedures were proper. Plaintiffs also challenge assessment of individual liability against a partner. Plaintiffs challenge validity of a tax lien. Plaintiffs also seek declaratory and insolvency relief.

Status: Answer filed.

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***Marlin Leasing Corp. v. Combs, et al.***

Cause Number: D-1-GN-12-002601    AG Case #: 123355935

Filed: 8/16/2012

Sales and Use Tax; Protest

Claim Amount      Reporting Period  
\$91,805.67      10/01/03 through 04/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the Comptroller properly characterized certain contracts as financing leases. Whether certain leases were written-off as bad debts.

Status: Answer filed.

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***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 Taxation / 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: Trial setting for 04/25/11, passed by agreement.

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

Cause Number: GN404187                      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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Van Oort, Kevin                      OAG Taxation / 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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***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 Taxation / 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: Answer filed.

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***Modern Furniture, Inc. and Thanh Thuan Ly v. Combs, et al.***

Cause Number: D-1-GN-12-002689      AG Case #: 123363715

Filed: 8/31/2012

Sales and Use Tax; Injunction, UDJA & APA

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / 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 has authority to assess liability for tax collected by the Plaintiff, but not remitted to the Comptroller, based on an estimated assessment. Whether the Comptroller properly imposed a fraud penalty. Plaintiff seeks declaratory relief under the APA and UDJA, as well as injunctive relief.

Status: Answer filed.

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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 Taxation / 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: Trial set for 04/14/14.

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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 Taxation / 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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***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 Taxation / 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: Discovery in progress.

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***Precision Recovery Analytics, Inc. fka Collins Financial Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-000931    AG Case #: 133404913                      Filed: 3/18/2013

Sales and Use Tax; UDJA & Injunctive Relief

Claim Amount      Reporting Period  
\$145,024.00      2011 and 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Johnson, Nathan M.              Spector & Johnson, PLLC / Dallas

Issue: Whether certain funds held in a bank account were subject to a freeze and levy.

Status: Answer filed.

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***Rackspace US Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-000947      AG Case #: 113260749

Filed: 3/31/2011

Sales and Use Tax; Refund

Claim Amount      Reporting Period  
\$739,186.00      10/01/01 - 06/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether purchase of a software license qualifies for the sale-for-resale exemption.

Status: Trial set for 04/14/14.

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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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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Schenck, David J. Jones Day / Dallas

Oldham, Kevin Ryan Law Firm, LLP / Austin

McEwen, Drew

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: Answer filed.

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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

#03-11-00486-CV

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 Taxation / 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

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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 Taxation / 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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***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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Van Oort, Kevin                    OAG Taxation / Austin

*Opposing Counsel*

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Tome, Christopher J.              C. Tome Law Firm / Cedar Park

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

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 Taxation / Austin

*Opposing Counsel*

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Christian, John Ryan Law Firm, LLP / Austin

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

Sigel, Doug

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: Defendant's 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. Appellant's Motion for Extension of Time to File Brief filed 11/05/13; granted 11/06/13. Appellant's brief due 12/06/13.

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***Salim Abbas Merchant v. Combs, et al.***

Cause Number: D-1-GN-09-000511 AG Case #: 093107688

Filed: 2/17/2009

Sales and Use Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Canfield, George W. San Antonio

Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the Comptroller used unreliable data and incorrect mark-up percentages.

Status: Defendants' Plea to the Jurisdiction heard on 08/26/13. Order granting Defendants' Plea to the Jurisdiction entered 08/26/13.

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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-GN-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

Hohengarten, Jack OAG Taxation / Austin

Opposing Counsel

Jackson, Samuel T. Arlington

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.

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

Cause Number: D-1-GN-10-003321 AG Case #: 103224499  
Sales and Use Tax; Protest, Injunction & Declaratory Judgment

Filed: 9/17/2010

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

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

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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***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

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Steadman, Nathan A.

Meyer, Knight & Williams, LLP / Houston

Lorkowski, Mary Jane

Lloyd, Aaron P.

Issue: Whether Plaintiff's purchase of software installed on its own servers qualifies for the sale for resale exemption. Whether Plaintiff remitted tax on certain equipment leases. Plaintiff also seeks judicial review, under the APA, of the Comptroller Decision.

Status: Discovery in progress.

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***Southwest Airlines, Co. v. Combs, et al.***

Cause Number: D-1-GN-13-002066 AG Case #: 133429993

Filed: 6/20/2013

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$1,336,959.01 01/01/99 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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

Issue: 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 purchase of TPP and construction services are exempt under §151.311 as improvements to realty owned by an exempt entity.

Status: Answer filed.

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

Cause Number: D-1-GN-09-004284    AG Case #: 103170106  
#03-12-00511-CV

Filed: 12/17/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$960,000.00	Jan. 1, 1997 through April 30, 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Plaintiff's refund suit raises approximately 50 sales and use tax issues in relation to its production and refining operations. Claims include waste removal, sale for resale, environmental services, and various manufacturing exemption claims.

Status: Judgment for the State on 04/30/12. Notice of Appeal filed 07/30/12. Appellant's Motion for Extension of Time to File Brief filed 09/27/12; granted 10/01/12. Appellant's Second Motion for Extension of Time to File Brief filed 11/01/12; granted 11/05/12. Appellant's Brief filed 12/05/12. Appellee's Motion for Extension of Time to File Brief filed 01/04/13; granted 01/07/13. Appellee's 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.

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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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Jones, Matthew C.                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                                  Ryan Law Firm, LLP / Austin

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: Answer filed.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465                      AG Case #: 041925850                      Filed: 2/17/2004

Sales Tax; Protest

Claim Amount      Reporting Period  
\$92,357.48      05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                                  OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Agreed Judgment entered 08/28/13.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633                      AG Case #: 011420734                      Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment





12/06/10. Appellee's Brief filed 01/18/11. Appellant's Reply Brief filed 02/17/11. Case submitted on oral argument on 04/13/11. Appellant's Notice filed 04/29/11. Opinion issued 07/20/12, affirming the trial court's judgment. Motion for Rehearing filed 08/06/12; denied 02/22/13. Second Opinion issued 02/22/13, withdrawing the Opinion issued 07/20/12 and affirming the trial court's judgment. Petitioner's Second Motion for Extension of Time to File Petition for Review in the Tx. Supreme Court filed 05/02/13; granted 05/03/13. Petition for Review filed 06/07/13. Response requested 08/09/13. Response filed 09/16/13. Petitioner's Reply filed 10/11/13.

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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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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***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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Jones, Matthew C. OAG Taxation / 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.

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***Texas Health Harris Methodist Hospital Alliance v. Combs, et al.***

Cause Number: D-1-GN-13-002430 AG Case #: 133433912

Filed: 7/18/2013

Sales and Use Tax; APA & UDJA

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Leatherbury, Thomas S. Vinson & Elkins L.L.P. / Dallas

Wimberly, Travis R. Vinson & Elkins L.L.P. / Austin

Penny, James D. Vinson & Elkins LLP / Houston

Rosenbaum, Glen A.

Issue: Whether Plaintiff is entitled to retroactive exemption from the state sales tax based on the issuance date of its 501(c)(3) letter. Plaintiff challenges the validity of Comptroller Rule 3.322(g)(8)(B)(i). Plaintiff seeks declaratory and injunctive relief.

Status: Notice of Nonsuit filed 10/04/13.

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***Texas Health Presbyterian Hospital Denton v. Combs, et al.***

Cause Number: D-1-GN-12-003105 AG Case #: 123371171

Filed: 9/27/2012

Sales and Use Tax; APA & UDJA

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Leatherbury, Thomas S. Vinson & Elkins L.L.P. / Dallas

Penny, James D. Vinson & Elkins LLP / Houston

Rosenbaum, Glen A.

Issue: Whether Plaintiff is entitled to retroactive exemption from the state sales tax based on the issuance date of its 501(c)(3) letter. Plaintiff challenges the validity of Comptroller Rule 3.322(g)(8)(B)(i). Plaintiff seeks declaratory and injunctive relief.

Status: Hearing on Cross Motions for Summary Judgment and Defendants' PTJ held on 06/25/13. Order granting Plaintiff's MSJ to the extent Rule affects the effective date of exempt status for non-profits entered on 07/01/13.

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***Toppan Photomasks, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-002443 AG Case #: 133440065

Filed: 8/2/2013

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$207,808.75	07/01/2005 through 12/31/2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Whether certain services on software and certain data processing services are eligible for exemption as being performed for use either entirely (§151.330(e)) or partially (§151.330(f)) outside of Texas. Whether certain items purchased by Plaintiff are eligible for exemption under §151.330(a) as being delivered to a point outside of Texas.

Status: Answer filed.

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***Tree of Life, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-003402 AG Case #: 113300008

Filed: 11/4/2011

Sales and Use Tax; Bill of Review

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / 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.

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***Tree of Life, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002103 AG Case #: 062367701

Filed: 6/9/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$200,000.00      01/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the process causes a physical change to the products. Whether packing supplies and replacement parts of processing equipment qualify as manufacturing equipment and exempt from sales tax. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Case reinstated on 05/03/12.

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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 Taxation / 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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***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 Taxation / 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 Taxation / 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: Answer filed.

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

Cause Number: D-1-GN-10-000060    AG Case #: 103174488

Filed: 1/7/2010

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$200,000.00	(Plus penalty and interest)06/01/01 thru 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Petition also asserts manufacturing exemption claims for replacement parts, wrapping & packaging materials and certain work clothes.

Status: Answer filed.

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***United Space Alliance, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-001619 AG Case #: 123338261

Filed: 5/29/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$1,850,588.81	07/01/03 through 12/31/09

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Plaintiff claims a sale for resale exemption on services and TPP resold to the federal government. Whether electricity consumed by Plaintiff is eligible for exemption under §151.317 and/or §151.318. Plaintiff also challenges the sampling methodology applied in a sales tax audit.

Status: Answer filed.

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***Verizon Business Network Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-004221 AG Case #: 072484389

Filed: 12/7/2007

#07-11-00025-CV

#13-0343

Sales Tax; Refund

Claim Amount	Reporting Period
\$20,179,336.77	01/01/96 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Bifurcated trial held 01/19/10. Case submitted to court after trial on 01/20/10. Post-submission briefs submitted on 02/03/10. Court ruled for Defendants on creation of TPP and first use in Texas, and against Defendants on delivery of other TPP (non-custom software). Trial on bifurcation portion on 10/04/10 in favor of Plaintiff. Final Judgment entered 10/29/10. Notice of Appeal filed by Verizon on 12/03/10. Case transferred to Amarillo Court of Appeals on 01/25/11. Appellant's Brief filed 04/04/11; oral argument requested. Appellee's brief filed 05/05/11. Appellant's Reply Brief filed 05/31/11. Appellant's Motion for Oral Argument filed 06/27/11. Appellee's Response filed 06/30/11. Appellant's Motion for Oral Argument denied 07/12/11. Case submitted on oral argument on 01/09/12. Appellee and Appellant Letter Briefs filed 02/14/12. Memorandum Opinion issued 04/03/13, affirming the trial court's judgment. Petition for Review filed 06/19/13. Response to Petition for Review waived 07/18/13. The Tx. Supreme Court requested that respondent file a response to the Petition for Review. Respondent's Motion for Extension of Time to File Response filed 10/23/13; granted 10/25/13. Response filed 11/13/13.

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***Verizon Business Network Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-13-001162 AG Case #: 133408427

Filed: 4/8/2013

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$569,474.85	01/01/07 through 12/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Ryan Law Firm, LLP / Austin

Issue: Whether software updates constituted tangible personal property or programming services. Whether the sale or use of the software updates occurred in Texas. Plaintiff also seeks credit interest under §111.064. Whether the purchase of the software updates qualifies for multi-state benefit treatment under §151.330(f).

Status: Answer filed.

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

Cause Number: D-1-GN-11-000338 AG Case #: 113248231

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 Taxation / 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 set for 01/06/14.

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***Walton Enterprises, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-12-002094 AG Case #: 123346066

Filed: 7/12/2012

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$99,567.77	

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony OAG Taxation / Austin

*Opposing Counsel*

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Pullen, Eric A. Pulman, Cappuccio, Pullen & Benson, LLP / San Antonio

Sonsino, B. Raphael

Issue: Whether signs installed by Plaintiff become improvements to realty or instead remain tangible personal property. Whether Plaintiff's purchase of electricity and natural gas should be exempt under §151.318.

Status: Agreed Judgment entered 07/11/13.

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***Warren Transportation, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-002173 AG Case #: 123348344

Filed: 7/9/2012

Sales and Use Tax; Protest, UDJA & APA

Claim Amount	Reporting Period
\$348,991.00	07/01/2007 through 09/30/2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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

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 the APA notice and comment requirements. Plaintiff also seeks declaratory relief under the APA and UDJA.

Status: Trial held 06/10/13. Order granting Defendants' Motion for Directed Verdict entered 06/28/13.

Notice of Appeal filed 08/16/13.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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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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Jones, Matthew C.

OAG Taxation / 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: Answer filed.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount Reporting Period

\$415,185.61 10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987 AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260    AG Case #: 062425574                      Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                              Ryan Law Firm, LLP / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed. Court sent Notice of DWOP on 04/03/09. Plaintiff's Amended Motion to Retain filed and granted 08/19/09. Case abated pending Doubletree DTWC v. Combs appeal.

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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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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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  
#03-13-00619-CV

Filed: 5/26/2011

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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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Pauerstein, Jonathan D. Rosenthal Pauerstein Sandoloski Agather LLP /  
San Antonio

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 Defendant's Motion for Summary Judgment signed 05/29/13.

Notice of Appeal filed 09/11/13.

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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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Jones, Matthew C. OAG Taxation / 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

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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Jones, Matthew C. OAG Taxation / Austin

*Opposing Counsel*

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Oldham, Kevin Ryan Law Firm, LLP / Austin  
Ormiston, Matthew

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 on 07/02/13. Trial setting passed by agreement. Final Judgment granting Plaintiff's Motion and denying Defendants' Motion entered 07/16/13.

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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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Jones, Matthew C. OAG Taxation / 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: Answer filed.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271

AG Case #: 991226739

Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$416,462.73	1993 - 1997
\$214,893.74	1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Jones, Matthew C.

OAG Taxation / Austin

*Opposing Counsel*

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White, Raymond E.

McGinnis, Lochridge & Kilgore, LLP / Austin

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Trial previously set for 07/30/12 has been passed.

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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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Van Oort, Kevin OAG Taxation / 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: Answer filed.

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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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Van Oort, Kevin OAG Taxation / 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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### ***Amegy Bank Nat'l Assoc. v. State of Texas, et al.***

Cause Number: 2013-36144

AG Case #: 133429951

Filed: 6/18/2013

Tax; Interpleader & UDJA

Claim Amount      Reporting Period

\$50,218.49

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Huttenbach, William P.

Hirsch & Westheimer, P.C. / Houston

Stephens, Jacob M.

Issue: Whether certain funds held in a bank account were subject to a freeze and levy.

Status: Answer filed.

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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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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

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 Taxation / Austin

*Opposing Counsel*

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Gamboa, John L.                      Gamboa & White / Fort Worth

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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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                      Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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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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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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

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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Van Oort, Kevin OAG Taxation / 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. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09. 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. Appellant's Brief filed 11/05/12. Cross-Appellant's Brief filed 12/05/12. Cross-Appellee's Brief filed 01/07/13. Cross-Appellant's Reply Brief filed 01/22/13. Amicus Curiae Brief received 04/22/13. Case submitted on oral argument on 04/24/13.

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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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Van Oort, Kevin OAG Taxation / 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: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: D-1-GN-10-001909 AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$180.00	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Mather, Melissa OAG Taxation / Austin

*Opposing Counsel*

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Clevenger, Ty

Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Case transferred to Travis County. Case Dismissed for Want of Prosecution on 06/06/13.

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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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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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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Van Oort, Kevin OAG Taxation / 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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Jones, Matthew C. OAG Taxation / 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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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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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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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828 AG Case #: 072470107  
Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Filed: 9/4/2007

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 Taxation / Austin
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*Opposing Counsel*

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Bonilla, Ray	Ray, Wood & Bonilla, L.L.P. / Austin
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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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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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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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***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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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                  Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                  Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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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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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Minh Tran Hammond v. Combs, et al.***

Cause Number: GN-13-002008

AG Case #: 133430371

Filed: 6/14/2013

Mixed Beverage Gross Receipts Tax; Injunctive Relief, Protest

Claim Amount      Reporting Period

\$123,347.41      October 1, 2006 through January 31, 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Bolson, Anthony

OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.

Monshaugen & Van Huff, P.C. / Houston

Van Huff, Albert T.

Issue: Plaintiff challenges procedures utilized during a mixed beverage tax audit. Specifically, Plaintiff challenges the audit methodology applied in conducting the pour test and calculating the error rate.

Status: Answer filed.

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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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Van Oort, Kevin

OAG Taxation / 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: Answer filed.

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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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Van Oort, Kevin OAG Taxation / 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: Answer filed.

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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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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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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Van Oort, Kevin	OAG Taxation / 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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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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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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Van Oort, Kevin                      OAG Taxation / 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 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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Van Oort, Kevin                      OAG Taxation / 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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Van Oort, Kevin

OAG Taxation / 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 the Texas Entertainment case.

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## Closed Cases

### ***Atlantic Casualty Insurance Co. v. Combs, et al.***

Cause Number: D-1-GN-12-000884 AG Case #: 123323917

Filed: 3/26/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$63,569.00	Report Year 2012

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is exempt from the franchise tax as a nonadmitted insurance organization under §171.052(a).

Status: Agreed Judgment entered 01/31/13.

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### ***Bigham Brothers, Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-002206 AG Case #: 113283055

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$38,946.00	Report years 2008-2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff's election to file an EZ report disqualifies the Plaintiff from

subsequently claiming the COGS deduction for the same report year.

Status: Agreed Judgment entered 11/21/12.

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***Chapal Zenray, Inc. v. Combs, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

#03-10-00646-CV

#12-0175

Sales Tax; Protest

Claim Amount      Reporting Period

\$210,943.91      01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Plaintiff's Motion for Partial Summary Judgment granted. Final Judgment for Plaintiff entered 08/18/10. The State filed its Notice of Appeal on 09/17/10. Appellant's brief filed 01/31/11. Appellee's brief filed 04/01/11; oral argument requested. Oral argument denied 04/06/11. Reply brief filed 04/20/11. Appellee's Supplemental Brief filed 05/24/11. Case submitted on briefs on 08/11/11. Opinion issued 11/18/11, reversing the trial court's order and rendering in favor of the State. Appellee's Motion for Rehearing filed 01/05/12; denied 01/25/12. Petition for Review filed in the Tx. Supreme Court on 03/01/12. Brief on the merits requested 08/31/12. Petitioner's Brief on the Merits filed 09/27/12. Respondent's Brief filed 11/05/12. Petitioner's Reply Brief filed 11/20/12. Petition for Review denied 12/14/12. Mandate issued 02/08/13 by the 3rd COA, reversing the judgment of the trial court and rendering that Chapal take nothing by its suit for a refund in accordance with this Court's opinion.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789

AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount      Reporting Period  
\$559,579.09      1994 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Agreed Judgment entered 06/28/13.

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

Cause Number: D-1-GN-10-003112      AG Case #: 103218558

Filed: 9/2/2010

Sales and Use Tax; Protest & Refund

Claim Amount      Reporting Period  
\$52,189.00      02/01/02 through 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Rosenblatt, James David      San Antonio

Issue: Plaintiff challenges methodology of a sales and use tax audit. Plaintiff also seeks a waiver of assessed penalty and interest.

Status: Order of Nonsuit entered 10/15/12.

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

Cause Number: D-1-GN-11-002349      AG Case #: 113282073

Filed: 8/3/2011

Motor fuel tax Tax; Refund

Claim Amount      Reporting Period  
\$115,248.00      12/01/2007 through 12/31/2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Britt, Steve

Issue: Whether Plaintiff's purchase of aviation fuel is exempt under §162.204(a)(6).

Status: Agreed Judgment entered 04/01/13.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekkessi v. Rylander, et al.***

Cause Number: GN002724                      AG Case #: 001353960                      Filed: 9/15/2000  
#03-12-00144-CV

Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K.                      OAG Taxation / Austin

*Opposing Counsel*

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Isgitt, Percy L. "Wayne"                      Law Offices of Percy L. "Wayne" Isgitt, P.C. /  
Houston

Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Plaintiffs' Amended Motion for Partial Summary Judgment filed 07/15/11. Defendants' Response to Plaintiffs' Amended Motion for Partial Summary Judgment filed 08/15/11. Plaintiffs' Objections to Defendants' Evidence in Support of Their Amended Motion for Summary Judgment filed 08/15/11. Plaintiff's Amended Motion for Partial Summary Judgment and Defendants' First Amended Cross-MSJ heard 09/29/11. Defendants' First Motion for Summary Judgment granted 10/03/11. Defendants' 2nd MSJ granted 02/14/12. Notice of Appeal filed 03/13/12. Amended Notice of Appeal filed 05/14/12. Appellant's Brief filed 07/13/12. Appellee's Brief filed 08/13/12. Case submitted on briefs on 08/30/12. Case assigned to new panel on 01/07/13. Memorandum Opinion issued 03/15/13,

affirming the trial court's judgment. Mandate issued 05/31/13.

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***Flint Energy Services, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-000671 AG Case #: 123320228

Filed: 3/7/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$14,496.00	Report Year 2010

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff may include travel per diem expenses in its COGs deduction.  
Whether the travel per diem payments qualify as a direct cost.

Status: Agreed Judgment entered 04/09/13.

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***Habib Surani, H.S.N. Enterprises, Inc. v. Tx. Comptroller of Public Accounts***

Cause Number: D-1-GN-11-001941 AG Case #: 113278451  
#03-12-00338-CV

Filed: 6/29/2011

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
	07/01/08 through 12/31/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald OAG Taxation / Austin

*Opposing Counsel*

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Surani (Pro-Se), Habib

Issue: Plaintiff alleges improper collection actions.

Status: Plea to the Jurisdiction granted and case dismissed 04/12/12. Notice of Appeal filed  
05/09/12. Appellant's Motion filed 12/27/12; denied 01/18/13. Memorandum Opinion issued

01/25/13, dismissing the appeal for want of prosecution.

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***Ingersoll-Rand Company v. Combs, et al.***

Cause Number: D-1-GN-11-002010 AG Case #: 113279871

Filed: 7/6/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,200,334.00	Report year 2011

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Fruchtman, David A. Horwood Marcus & Berk Chartered / Chicago, IL  
Ruskin, David S.

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

Issue: Whether Plaintiff properly calculated the amount of its temporary credit under Section 171.111.

Status: Agreed Judgment entered 06/24/13.

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***Keystone RV Company Inc. v. Combs, et al.***

Cause Number: D-1-GN-11-001284 AG Case #: 113263875

Filed: 4/29/2011

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$796,724.00	Report years 2003-2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Agreed Judgment entered 05/13/13.

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***Keystone RV Company, Inc. v. Combs, et al.***

Cause Number: D-1-GN-12-00072 AG Case #: 123309668

Filed: 1/12/2012

Franchise Tax; Refund

Claim Amount Reporting Period

\$1,015,945.43 Report Years 2006 & 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Agreed Judgment entered 05/13/13.

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

Cause Number: D-1-GN-11-003477 AG Case #: 113303010

Filed: 11/10/2011

Sales and Use Tax; Refund

Claim Amount Reporting Period

\$1,082,333.92 09/01/92 through 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Sigel, Doug

Issue: Plaintiff asserts various sales tax refund claims based on sale-for-resale, manufacturing exemption, intra-company transfers and TPP shipped out of state.

Status: Agreed Judgment entered 11/21/12, dismissing the case with prejudice.

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***Memphis Folding Stairs, Inc., a Tennessee Corp. v. State of Texas, An Independent State Entity***

Cause Number: CT-002705-12

AG Case #: 123343428

Filed: 6/21/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$35,000.00	Report Years 2003-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Yeaglin, Thomas D.                      Memphis, TN

Issue: Whether Plaintiff had sufficient nexus to Texas to be subject to the Texas Franchise Tax.

Status: Complaint for Money Damages and Application for the Issuance of a Cease and Desist Order filed 06/21/12. Motion to Dismiss filed 08/30/12; granted 11/08/12. The case was dismissed with prejudice on 4/30/13.

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***Morgan Buildings and Spa v. Combs, et al.***

Cause Number: D-1-GN-12-001775    AG Case #: 123341141

Filed: 6/13/2012

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$25,300.00	04/01/05 through 04/30/08

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J.                      Stahl, Bernal & Davies / Austin

Sewell, David J.

Friend, Gregory S.

Issue: Whether a direct pay exemption certificate is subject to the §151.054(e) requirement that exemption certificates be produced by the taxpayer within 60 days of the Comptroller's request.

Status: Agreed Judgment entered 09/04/13.

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***NCO Financial Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004447 AG Case #: 113247738

Filed: 12/22/2010

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,889,671.18	(+ principal & interest) 08/01/99 through 12/31/0

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Sigel, Doug	Ryan Law Firm, LLP / Austin
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Issue: Whether debt collection services provided by Plaintiff should be exempt as a service benefiting an out-of-state customer under 34 TAC 3.345(g). Plaintiff also asserts a refund claim for taxes paid on financial settlement services and on interpretation and translation services.

Status: Agreed Judgment entered 03/07/13.

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***Neiman-Marcus Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-11-003377 AG Case #: 113298616

Filed: 11/2/2011

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$1,425,000.00	03/01/05 through 12/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Ryan, Kory L.	Ryan Law Firm, LLP / Austin
Meisel, Seth E.	

Issue: Plaintiff asserts refund claim based on multiple grounds, including: data processing, sale for resale, multi-state use, temporary storage and charitable purchases.

Status: Agreed Judgment entered 03/14/13.

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***Nestle USA, Inc., In Re***

Cause Number: 12-0518

AG Case #: 123340366

Filed: 6/25/2012

Franchise Tax; Mandamus, Original Proceeding in the Tx. Sup. Ct.

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Craft, Rance L. OAG Solicitor General Division / 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: Petition for Writ of Mandamus filed by Nestle on 06/25/12. State's Response to Petition filed 07/03/12. Nestle's Brief filed 07/26/12. State's Brief filed 08/16/12. Case submitted on oral argument on 09/18/12. Opinion issued 10/19/12, denying Nestle's petition. MRH filed 11/05/12; denied 12/14/12.

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***Pop Restaurants, LLC. v. Combs, et al.***

Cause Number: D-1-GN-10-002636 AG Case #: 103207007

Filed: 7/9/2010

Sales and Use Tax; Protest

Claim Amount	Reporting Period
\$91,679.00	01/01/2003 thru 12/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Eldred, Charles K. OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug Ryan Law Firm, LLP / Austin

Issue: Plaintiff alleges that it over reported sales and remitted sales tax on that amount.

Status: Agreed Judgment entered 04/18/13.

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***Roark Amusement & Vending, L.P. v. Combs, et al.***

Cause Number: D-1-GN-10-003530 AG Case #: 103224986

Filed: 9/30/2010

Sales and Use Tax; Refund, Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$303,542.00	03/01/04 - 09/30/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Agreed Judgment entered 05/24/13.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated into Cause #D-1-GN-06-004725 on 12/02/09.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158  
#03-10-00105-CV  
#11-0261

Filed: 12/22/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens, Todd & Leonard / Austin  
Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Case consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09. Order granting Defendant's MSJ and denying Plaintiff's Motion for Partial Summary Judgment signed and entered on 02/22/10.

Notice of Appeal filed 02/23/10. Clerk's Record filed 03/25/10. Appellant's brief filed

06/02/10. Appellee's brief filed 07/02/10. Appellant's reply brief filed 08/18/10. Case submitted on oral argument on 12/15/10. Memorandum Opinion issued 01/26/11, reversing the trial court's grant of summary judgment in favor of the State, rendering judgment that Roark is entitled to the exemption, and remanding the cause to the trial court for a determination of the amount of the refund to which Roark is entitled. Motion for Rehearing filed 02/10/11; overruled 02/24/11.

Petition for Review filed in the Texas Supreme Court on 04/11/11. Amicus Curiae letter received 04/19/11. Court requested response on 05/20/11. Response to Petition for Review filed 06/07/11. Petitioner's Reply filed 06/22/11. Brief on the merits requested 08/19/11. Petitioner's Brief filed 09/19/11. Respondent's Brief filed 11/09/11. Petitioner's Reply Brief filed 11/28/11. Case submitted on oral argument on 10/15/12. Opinion issued 03/08/13, affirming the 3rd Court of Appeals' judgment and remanding the case to the trial court for further proceedings. Mandate issued 04/18/13. Agreed Judgment entered 05/24/13.

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***Robert Davis dba Davis Funeral Chapel v. Combs, et al.***

Cause Number: D-1-GN-12-002980 AG Case #: 123370215

Filed: 9/22/2012

Sales and Use Tax; UDJA

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Green, Anthony Fort Worth

Issue: Plaintiff seeks declaratory relief regarding taxability of caskets conveyed as part of a funeral service.

Status: Defendants' Motion for Summary Judgment granted 05/08/13.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637 AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount Reporting Period

\$747,733.01 07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Hagenswold, R. Eric

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

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Agreed Judgment entered 04/30/13.

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***Southern Union Gas v. Combs, et al.***

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$2,910,000.00	07/01/1997 through 06/30/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Agreed Judgment entered 04/30/13.

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***Taylor & Hill, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-004429 AG Case #: 113241889

Filed: 12/21/2010

Franchise Tax; Protest

Claim Amount	Reporting Period
\$145,010.00	Report year 2009

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff qualifies for the cost of goods sold deduction. Whether Plaintiff's §171.101(d) election precludes post-audit use of the compensation deduction to calculate margin.

Status: Hearing on Cross-Motions for Summary Judgment held 06/16/11, both motions denied. Trial held 06/28-29/11. Final Judgment for Plaintiff entered 07/20/11.

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***TD Auto Finance, LLC v. Combs, et al.***

Cause Number: D-1-GN-12-000528    AG Case #: 123320517                      Filed: 2/22/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$381,278.47	Report Years 2006-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Meisel, Seth E.                      Ryan Law Firm, LLP / Austin

Issue: Whether proceeds from the sale of loan finance receivables should be valued on a gross basis or on a net gain basis for the purpose of apportionment.

Status: Agreed Judgment entered 03/07/13.

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***Texas Waste Systems, Inc. v. Combs, et al.***

Cause Number: D-1-GN-10-001865    AG Case #: 103201638                      Filed: 6/7/2010

Sales and Use Tax; Declaratory Judgment, APA

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald                      OAG Taxation / Austin

*Opposing Counsel*

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Tubbs, Laura Denise                      Austin

Issue: Plaintiff alleges that the Comptroller failed to provide proper notice of an audit determination and that Plaintiff's request for a redetermination hearing was improperly denied. Plaintiff also seeks a declaration under the UDJA as to the amount of tax due. Plaintiff further alleges that the protest payment requirements of Tax Code §112.051 are violative of both the Texas and U.S. Constitutions.

Status: Plaintiff Counsel's Motion to Withdraw filed. Order granting Defendant's Motion to Dismiss for Want of Prosecution granted, 12/15/11.

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***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

#03-07-00640-CV

#08-1056

Franchise Tax; Protest

Claim Amount	Reporting Period
\$390,471.26	1997 - 2000
\$1,422,008.76	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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McBride, James T.

Jackson Walker L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also seeks attorneys' fees.

Status: Hearing on Cross-Motions for Summary Judgment heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File

Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief filed 12/14/09. Amicus letter filed 12/31/09. Petition for Review granted 03/12/10. Case submitted on oral argument on 04/15/10. Petitioner's post-submission brief filed 06/09/10. Amicus letter received 08/06/10. Opinion issued 05/27/11, reversing the court of appeals' judgment and remanding the case to the trial court for further proceedings. Mandate issued 07/13/11. Agreed Judgment entered 12/10/12.

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***Zimmer US, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002096 AG Case #: 093136620  
#03-11-00178-CV

Filed: 6/30/2009

Sales and Use Tax; Refund

Claim Amount	Reporting Period
\$947,827.00	09/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Johnson, Ronald	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Hearing on Cross Motions for Summary Judgment held on 02/23/11. Summary Judgment for Defendants entered on 02/24/11. Notice of Appeal filed 03/25/11. Appellant's Brief filed 05/31/11. Appellee's brief filed 6/29/11. Appellant's Reply Brief filed 07/19/11. Case submitted on oral argument 10/19/11. Opinion issued 02/09/12, reversing the district court's judgment. Appellee's Motion for Rehearing filed 03/09/12; overruled 04/25/12. Mandate issued 07/06/12.

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