

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
C. COLE,) OTA NO. 240716948
)
 APPELLANT.)
)
)

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, August 13, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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IN THE MATTER OF THE APPEAL OF,)
C. COLE,) OTA NO. 240716948
APPELLANT.)
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Transcript of Proceedings, taken at
12900 Park Plaza Drive, Suite 300, Cerritos,
California, 90703, commencing at 12:57 p.m.
and concluding at 1:10 p.m. on Wednesday,
August 13, 2025, reported by Ernalyn M. Alonzo,
Hearing Reporter, in and for the State of
California.

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APPEARANCES:

Panel Lead: ALJ ASAF KLETTER

Panel Members: HEARING OFFICER ERICA PARKER
ALJ ANDREW WONG

For the Appellant: C. COLE

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD
JOHN LY
JACKIE ZUMAETA

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I N D E X

E X H I B I T S

(Appellant's Exhibit 1 was received into evidence at page 6.)

(Department's Exhibits A-C were received into evidence at page 6.)

OPENING STATEMENT

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By Ms. Cole	7
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CLOSING STATEMENT

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By Ms. Cole	12
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1 Cerritos, California; Wednesday, August 13, 2025

2 12:57 p.m.

3
4 JUDGE KLETTER: So let's go ahead and go on the
5 record.

6 This is the Appeal of Cole. It's OTA Case
7 No. 240716948. Today is Wednesday, August 13th, and the
8 time is 12:57 p.m.

9 As I mentioned, my name is Judge Kletter. With
10 me are Administrative Law Judge Andrew Wong and also
11 Hearing Officer Erica Parker. While I am lead
12 Administrative Law Judge in conducting this hearing, all
13 three judges are co-equal decision makers.

14 Also present is our stenographer Ms. Alonzo, who
15 is reporting this hearing verbatim. To ensure we have an
16 accurate record, we ask that everyone speaks one at a time
17 and does not speak over one another. Please speak clearly
18 and loudly. When needed, Ms. Alonzo will stop the hearing
19 process and ask for clarification. And after the hearing,
20 Ms. Alonzo will produce the official hearing transcript,
21 which will be available on the Office of Tax Appeals
22 website. The hearing transcript and the video recording
23 are part of the public record.

24 If I can please have the parties each identify
25 yourself by stating your name for the record, beginning

1 with Appellant.

2 MS. COLE: Carolyn Cole.

3 JUDGE KLETTER: Thank you.

4 And for Franchise Tax Board.

5 MR. LY: John Ly.

6 MS. ZUMAETA: And Jackie Zumaeta.

7 JUDGE KLETTER: Thank you so much.

8 And the hearing issue today is whether the
9 statute of limitations bars Appellant's claim for refund
10 for the 2019 tax year. With respect to the evidentiary
11 record, FTB has provided Exhibits A through C. Appellant
12 did not object to the admissibility of these exhibits.
13 Therefore, these exhibits are entered into the record.

14 (Department's Exhibits A-C were received into
15 evidence by the Administrative Law Judge.)

16 JUDGE KLETTER: Appellant provided Exhibit 1.
17 FTB did not object to the admissibility of this exhibit
18 and therefore, Exhibit 1 is also entered into the record.

19 (Appellant's Exhibit 1 was received into
20 evidence by the Administrative Law Judge.)

21 JUDGE KLETTER: As a reminder, we have 10 minutes
22 today for Appellant's presentation, ten minutes for
23 Franchise Tax Board presentation.

24 And, Ms. Cole, you will also have 5 minutes for a
25 closing statement or to respond to anything that Franchise

1 Tax Board has said. And we have also received what you
2 would like to present at the -- if you would like to read
3 that sheet of paper that you provided. Ms. Cole, are you
4 ready to begin your presentation?

5 MS. COLE: Yes, I am.

6 JUDGE KLETTER: Please go ahead. You'll have 10
7 minutes. Thank you.

8 MS. COLE: Okay.

9

10 PRESENTATION

11 MS. COLE: Good afternoon, everybody.

12 I wanted to read a document that I pulled up.
13 It's from the Tax Crisis Institute, and it states the
14 facts about the FTB collections statute for taxpayers who
15 owe back taxes in California. One of the most important
16 concepts to understand is the collection statute of
17 limitations. This statute establishes a set period during
18 which the California Franchise Tax Board can pursue
19 collection actions on unpaid tax limit. A liabilities
20 often referred to as the collection statute expiration
21 date. This 20-year period is set forth under California
22 Revenue & Taxation Code section 19255 which authorizes FTB
23 to utilize various collection methods throughout this
24 time, including levies, liens, and garnishments.

25 I want to just make a few points concerning the

1 return of the taxes that are owed me. First, FTB can
2 harass a taxpayer for 20 years using drastic measures to
3 collect money owed. Second, taxpayers have 5 years to
4 collect what FTB owes them. It took FTB
5 four-and-a-half -- over four-and-a-half years to find the
6 mistake in my 2019 return in 2024. The same year that the
7 statute of limitations expired to file an amendment. The
8 Letter of Discovery came at the peak of tax season. My
9 tax preparer was swamped, and I had no idea how to correct
10 it. We had approximately 46 days to determine what was
11 missed on the 2019 tax return.

12 My tax preparer had to contact FTB, which was a
13 task in itself, to find out what forms he needed to
14 correct and submit. Inadvertently, we missed the statute
15 of limitations deadline by 39 days. I owed FTB \$1,884 in
16 that same year, 2019, and I paid them what I owed them.
17 I'm asking for the same courtesy. I believe that is wrong
18 for FTB to have 20 years to collect by any means from a
19 taxpayer of money owed to them and gives the taxpayer only
20 5 years to collect taxes owed to them by FTB no matter
21 when the underpayment is discovered; in my case, 46 days
22 before the statute of limitations expired.

23 I request that this injustice be reversed, and
24 that FTB is required to pay me what they owe me, and to
25 pay me interest because I would have had to pay interest

1 if I owed them.

2 That's my case.

3 JUDGE KLETTER: Thank you very much, Ms. Cole.
4 Some of the information that you discussed was facts of
5 personal knowledge. As we mentioned during the prehearing
6 conference, if I swear you in in accordance with OTA's
7 regulations, then -- oh, sorry -- Office of Tax Appeals
8 regulations, then this panel can consider your statements
9 as evidence. So I'd like if you could just please raise
10 your right hand.

11

12 C. COLE,

13 produced as a witness, and having been first duly sworn by
14 the Administrative Law Judge, was examined, and testified
15 as follows:

16

17 JUDGE KLETTER: Okay. Thank you so much. I just
18 wanted to make sure we had that in the record.

19 MS. COLE: Thank you.

20 JUDGE KLETTER: And now I'll go over to Franchise
21 Tax Board.

22 Mr. Ly, are you ready to begin your presentation?

23 MR. LY: Yes. Thank you.

24 JUDGE KLETTER: Please go ahead.

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1 one-year statute of limitations is also unavailable to
2 allow a refund of Appellant's overpayment for the 2019 tax
3 year.

4 Appellant contends that she was unable to timely
5 file her claim for refund because Respondent did not
6 provide enough advance notice of her unclaimed non-wage
7 withholding credits. However, the law is clear that the
8 Notice of Non-Wage Withholding Credits is sent as a
9 courtesy to taxpayer, as Respondent has no duty to
10 discover a taxpayer's overpayment or to notify the
11 taxpayer of such overpayment. The language of the statute
12 of limitations is explicit and must be strictly construed.

13 In the precedential opinion of the Appeal of
14 Gillespie, OTA held that there's no equitable basis for
15 suspending the statute of limitations. Moreover, the
16 United States Supreme Court in United States v. Dalm
17 explain that a taxpayer's failure to file a claim for
18 refund or credit within the statute of limitations bars
19 the refund or credit even when it is later shown that the
20 tax was not owed in the first instance.

21 Appellant has not provide any additional evidence
22 that would allow Respondent by law to grant her claim for
23 refund. Therefore, Respondent respectfully request that
24 the Office of Tax Appeals sustain Respondent's claim for
25 refund denial for the 2019 tax year.

1 Thank you, and I'm happy to answer any questions.

2 JUDGE KLETTER: Thank you so much.

3 Ms. Cole, I will give you a chance to respond.

4 I'm just going to ask my panel if there are any questions,
5 and it looks like there are none. So I do not have any
6 questions, and I will just check with my panel at the end,
7 but, Ms. Cole, you will have 5 minutes if there's anything
8 you want to say in response to Franchise Tax Board or any
9 final statement or anything else before this case is
10 submitted. Please go ahead.

11

12 CLOSING STATEMENT

13 MS. COLE: I do have something to say. I'm
14 Carolyn Cole, and I understand the information that was
15 just shared. However, John -- what's your name? I'm
16 sorry.

17 MS. ZUMAETA: Jackie.

18 MR. LY: John.

19 MS. COLE: John stated that he did -- the Office
20 of Franchise Tax Board didn't have -- wasn't obligated to
21 send me a letter stating that I had an underpayment. So
22 my question is, why did you? I mean, if you have these
23 stipulations that if we don't meet the statute of
24 limitations to correct the situation, why send the letter
25 if it's just a courtesy to let us know that you owe us or

1 we made a mistake? That's my question.

2 JUDGE KLETTER: I'm not sure if Franchise Tax
3 Board wants to respond, but I know they mentioned that it
4 was sent as courtesy. So that --

5 MS. ZUMAETA: Judge Kletter, would you like us to
6 respond?

7 JUDGE KLETTER: If you have something.

8 MS. ZUMAETA: Okay. Sure. Sure. So we -- we do
9 send a courtesy notice for non-wage withholdings generally
10 about 60 days before the statute of limitations is going
11 to expire. That has been a practice that was instituted
12 as a taxpayer friendly measure, but it is not something
13 that is required of the Franchise Tax Board. It's
14 something that's done as a courtesy as John mentioned.

15 So we -- you know, it's unfortunate, of course,
16 that Ms. Cole did not have the time to be able to get
17 her -- her amended return in during that 60-day window.
18 But that -- that is the practice of the Franchise Tax
19 Board in terms of sending out those courtesy notices.

20 JUDGE KLETTER: I'm just going to ask my panel if
21 they have any questions.

22 Judge Wong, do you have any questions?

23 JUDGE WONG: No questions.

24 JUDGE KLETTER: And, Hearing Officer Parker, do
25 you have any questions?

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HEARING OFFICER PARKER: No questions.

JUDGE KLETTER: Okay. I also do not have any questions as well.

I'd like to than you, Ms. Cole for appearing today and also providing your testimony.

This concludes this hearing.

And this panel will meet and decide the case based on the documents and the testimony that was presented. We will issue our written decision no later than 100 days from today. The case is submitted, and the record is now closed.

(Proceedings concluded at 1:10 p.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for
the State of California, do hereby certify:

That the foregoing transcript of proceedings was
taken before me at the time and place set forth, that the
testimony and proceedings were reported stenographically
by me and later transcribed by computer-aided
transcription under my direction and supervision, that the
foregoing is a true record of the testimony and
proceedings taken at that time.

I further certify that I am in no way interested
in the outcome of said action.

I have hereunto subscribed my name this 8th day
of August, 2025.

ERNALYN M. ALONZO
HEARING REPORTER