

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, September 10, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

1 BEFORE THE OFFICE OF TAX APPEALS

2 STATE OF CALIFORNIA

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5 IN THE MATTER OF THE APPEAL OF,)
6)
7 C. GLATZHOFER,) OTA NO. 230112343
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9 APPELLANT.)
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14 Transcript of Proceedings,
15 taken at 12900 Park Plaza Drive, Suite 300,
16 Cerritos, California, 90703, commencing at
17 9:34 a.m. and concluding at 10:08 a.m. on
18 Wednesday, September 10, 2025, reported by
19 Ernalyyn M. Alonzo, Hearing Reporter, in and
20 for the State of California.

1 APPEARANCES:

2
3 Panel Lead: ALJ AMANDA VASSIGH

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5 Panel Members: ALJ SARA A. HOSEY
ALJ SETH ELSOM

6 For the Appellant: C. GLATZHOFER

7 For the Respondent: STATE OF CALIFORNIA
8 FRANCHISE TAX BOARD

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10 AMELIA BREEN
11 VIVIAN HO

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5 (Appellant's Exhibits 1-46 were received into evidence at
page 6.)

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

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OPENING STATEMENT

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By Mr. Glatzhofer 7

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By Ms. Breen 14

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CLOSING STATEMENT

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By Mr. Glatzhofer 19

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1 Cerritos, California; Wednesday, September 10, 2025

2 9:34 a.m.

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4 JUDGE VASSIGH: We are now going on the record.

5 This is the Appeal of Glatzhofer, OTA Case

No. 230112343. The date is September 10th, 2025, and the time is 9:34 a.m. This hearing is being held in Cerritos, California. I am Judge4 Vassigh. I will be the lead for the purpose of conducting this hearing. My co-panelists, Hearing Officer Elsom and Judge Hosey, and I are equal participants in deliberating and determining the outcome of this appeal.

13 I'm going to ask the parties to identify
14 themselves and who they represent, starting with the
15 Franchise Tax Board.

16 MS. BREEN: Amelia Breen for the Franchise Tax
17 Board.

18 MS. HO: Vivian Ho, also for the Franchise Tax
19 Board

20 JUDGE VASSIGH: And for Appellant.

21 MR. GLATZHOFER: Good morning, Your Honors.

22 Craig Glatzhofer for Appellant and Appellant.

23 JUDGE VASSIGH: As stated in the Minutes and
24 Orders, the parties have agreed that the issues to be
25 decided in this appeal are: One, whether Appellant has

1 shown error in the proposed assessments for tax years 2011
2 and 2012, which were based on federal adjustments; two,
3 whether Appellant has shown that the accuracy-related
4 penalties for tax years 2011 and 2012 should be abated or
5 reduced.

6 We discussed exhibits at our prehearing
7 conference. Appellant submitted Exhibits 1 through 46.
8 Franchise Tax Board did not object to the admissibility of
9 these exhibits and, therefore, Exhibits 1 through 46 are
10 now admitted into evidence.

11 (Appellant's Exhibits 1-46 were received into
12 evidence by the Administrative Law Judge.)

13 JUDGE VASSIGH: Franchise Tax Board submitted
14 Exhibits A through Y, and Appellant did not object to the
15 admissibility of these exhibits. Therefore, Exhibits A
16 through Y are now admitted into evidence.

17 (Department's Exhibits A-Y were received into
18 evidence by the Administrative Law Judge.)

19 JUDGE VASSIGH: And Appellant indicated during
20 the prehearing conference that he will testify as a
21 witness, as well as represent himself.

22 So, Mr. Glatzhofer, I'm aware that you're an
23 attorney. I'm just going to swear you in for your
24 testimony portion. You will remain under oath until the
25 close of this hearing. Please raise your right hand.

C. GLATZHOFER,

2 produced as a witness, and having been first duly sworn by
3 the Administrative Law Judge, was examined, and testified
4 as follows:

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6 JUDGE VASSIGH: Thank you. Mr. Glatzhofer, your
7 time will start. I'm just going to remind myself how much
8 time we agreed for you portion.

9 MR. GLATZHOFER: Your Honor, I believe it was
10 like 10 minutes, and I don't even -- I'm not even going to
11 take that much time. So, it should be --

12 JUDGE VASSIGH: Okay. Go ahead and proceed
13 whenever you're ready.

14

PRESENTATION

16 MR. GLATZHOFER: All right. I just made a brief
17 statement regarding the issues. In regards to the issues
18 to be decided in the appeal, I defer to my numerous reply
19 briefs in this matter. I think that decides most of issue
20 right there. However, in regards to the hearing, it' is
21 undisputed --

22 THE STENOGRAPHER: Sir, please slow down.

23 MR. GLATZHOFER: Oh, I'm sorry. I'm sorry.

24 THE STENOGRAPHER: Thank you.

25 MR. GLATZHOFER: However, in regards to the

1 hearing, it is undisputed from the evidence that the
2 Franchise Tax Board never produced Form 33877 to rebut
3 Appellant's supported assertions that he was never given
4 notice of this -- of his Notice of Deficiency from the IRS
5 to allow the Franchise Tax Board to extend the statute of
6 limitations from four years to six years in 2011.

7 It is also undisputed, from the evidence, that
8 the alleged dividends the IRS classifies as Constructive
9 Dividends were also classified by the Franchise Tax Board
10 as Ordinary Dividends and was from Appellant's corporation
11 Mainstreet Enterprises' audits of 2011, 2012. That was
12 determined there was no deficiency by the IRS in U.S. Tax
13 Court on January 20th, 2 -- 2017, approximately one month
14 before Appellant was assessed by the Franchise Tax Board
15 on February 16th, 2017. Therefore, any argument that
16 Respondent asserts in this matter in regards to tax year
17 2011 is objectionable, as it assumes facts not in
18 evidence, since the Franchise Tax Board never produced
19 Form 3877 to refute the undisputed facts.

20 Appellant was never given notice of his NOD or
21 had any Constructive Dividends or any Ordinary Dividends
22 to extend the Franchise Tax Board's statute of limitations
23 from 4 years to 6 years for the Franchise Tax Board to
24 assert its assessment for tax year 2011 was not time
25 barred. Appellant filed -- Appellant filed his 2000 taxes

1 on November 5th, 2012, and the Franchise Tax Board
2 assessed Appellant on February 16, 2017, more than four
3 years after Appellant filed his 2011 taxes.

4 Lastly, any argument that the Respondent asserts
5 in this matter in regards to tax year 2012 for the
6 deficiency of Ordinary Dividends, is also objectionable,
7 as it assumes facts not in evidence, since the Franchise
8 Tax Board relied on the IRS adjustment for Constructive
9 Dividends that was determined by the IRS in US Tax Court
10 to be erroneous before Appellant was assessed by the
11 Franchise Tax Board on February 16th, 2017, which was the
12 entire assessment for the -- for Appellant's 2012 taxes,
13 which -- for both the IRS and the Franchise Tax Board.
14 There were no other dividends in this particular matter.

15 JUDGE VASSIGH: Mr. Glatzhofer, I'm going to ask
16 you to slow down a little bit. You do have 30 minutes
17 after all.

18 MR. GLATZHOFER: Did I speed up again?

19 JUDGE VASSIGH: You did.

20 MR. GLATZHOFER: I apologize.

21 JUDGE VASSIGH: Thank you.

22 MR. GLATZHOFER: I apologize. I know you
23 don't -- I was getting close to the end. So, you know,
24 that's what I always --

25 JUDGE VASSIGH: We have the time. So --

1 MR. GLATZHOFER: I know. I know. I'm sorry
2 about that.

3 Okay. So accordingly, it is clear from
4 Respondent's brief that the Franchise Tax, who'd never had
5 any justification, let alone substantial justifications
6 for, before or after assessing Appellant for 2011, 2012
7 tax, based on erroneous NOD that the IRS never noticed
8 Appellant for in the first place.

9 Thank you, Your Honors.

10 JUDGE VASSIGH: Thank you, Mr. Glatzhofer.

11 I'm going to check with my co-panelists to see if
12 they have questions for you.

14 HEARING OFFICER ELSOM: I did have a couple of
15 questions. The first question would be, can you expand a
16 little bit on Constructive Dividends adjustment that was
17 made -- or assessment that was made by the IRS, or just
18 shed some light on what exactly that term meant? Was
19 there income possibly shifted from Main Enterprise, and
20 considered a Constructive Dividend?

1 weren't adjusting the particular -- my corporate bank
2 records. For instance, I had a main -- I had a payroll
3 account, an operations account and a -- and then credit
4 cards a -- but a particular account.

5 So what happens is you get your money from the
6 credit card, and then you put money over into the payroll
7 account and all that stuff to satisfy payroll and all that
8 stuff. They were counting that twice, whenever that
9 income would go in there. So all that particular income
10 in Mainstreet was doubled, and they say, you're not --
11 you're not counting that as income. I go, it's not
12 income. It's a transfer from one account to the next, and
13 that's what I had to prove, and that's what showed. And
14 all that particular income that they were doing was
15 because they were doubling up on that -- on those
16 particular bank accounts.

17 HEARING OFFICER ELSOM: So was the Tax Court
18 decision was that or the stipulation for the 2017 Tax
19 Court case that -- you're referring to that case; correct?

20 MR. GLATZHOFER: Correct. Correct. And that's
21 where the where the Constructive Dividends came from.

22 HEARING OFFICER ELSOM: Okay. And that was --
23 was that versus the CDTFA? Or was -- that was -- that was
24 versus the IRS; correct?

25 MR. GLATZHOFER: Yes.

1 HEARING OFFICER ELSOM: Okay.

2 MR. GLATZHOFER: Yes, and that's why it was -- I
3 never knew about this personal income tax return because
4 they were sending all this stuff, and I got all particular
5 corporate stuff. So I thought all of that was taken care
6 of. And what -- what was troubling to me, was the
7 particular audit. This Phil Chang that was doing my
8 corporation, he was also the one that did my personal and
9 didn't get the right address. And I go, you have my right
10 address. You have all this stuff. Why wouldn't you take
11 a look at that stuff or do anything like that? He didn't
12 do it for some reason, and he sent it to the wrong
13 address, and I never got notice that this particular -- my
14 personal income tax was audited too for 2011 and '12 --

15 HEARING OFFICER ELSOM: Okay.

16 MR. GLATZHOFER: -- from the IRS with a Notice of
17 Deficiency.

18 HEARING OFFICER ELSOM: Thank you. I have no
19 additional questions.

20 JUDGE VASSIGH: Thank you, Hearing Officer Elsom.

21 Judge Hosey, do you have any questions for
22 Appellant?

23 JUDGE HOSEY: No questions for me. Thank you for
24 your presentation.

25 MR. GLATZHOFER: Thank you.

1 JUDGE VASSIGH: Mr. Glatz --

2 MR. GLATZHOFER: Sorry -- sorry I said it so
3 fast.

4 JUDGE VASSIGH: Mr. Glatzhofer, I do have a
5 clarifying question. So it appears that you're arguing
6 that the California statute of limitations is contingent
7 upon when you received the federal NOD; that is correct?

8 MR. GLATZHOFER: No. It's when I got -- I got
9 notice -- that I get notice to my last particular address.
10 I never got notice. So it's not the time. It's I never
11 got notice period.

12 JUDGE VASSIGH: Do you have any legal authority
13 supporting your argument that --

14 MR. GLATZHOFER: Yes, Your Honor.

15 JUDGE VASSIGH: -- this impacts the California
16 statute of limitations?

17 MR. GLATZHOFER: It's -- it's in my -- I believe
18 it's in my first brief that shows without them showing the
19 3877, they don't have -- any government entity doesn't
20 have the right to assume that you have notice of this
21 thing, and they can't adjust your income without that
22 notice.

23 JUDGE VASSIGH: Thank you for your answer. I'd
24 like to see if the Franchise Tax Board representatives
25 have any questions --

1 MR. GLATZHOFER: Sure.

4 MS. BREEN: No questions from the Franchise Tax
5 Board.

6 JUDGE VASSIGH: Okay. In that case, if the
7 Franchise Tax Board is ready to present its argument,
8 whenever you're ready.

10 PRESENTATION

11 MS. BREEN: Good morning. My name is Amelia
12 Breen, and along with co-counsel Vivian Ho, I'm
13 representing the Franchise Tax Board.

14 There are two issues on appeal: First, whether
15 Appellant Craig Glatzhofer has demonstrated that the
16 additional taxes or the federal adjustments on which they
17 are based for the 2011 and 2012 tax years were erroneous;
18 second, whether Appellant has demonstrated cause to abate
19 the accuracy-related penalties for these years. With
20 respect to the assessment of additional tax based on
21 federal adjustments, the law requires taxpayers to concede
22 the accuracy of the federal changes, or state if
23 erroneous.

24 It is a firmly established rule that the burden
25 is on the taxpayer to overcome the presumption of

1 correctness that attaches to a federal determination.
2 Unless the taxpayer provides documentation or other
3 evidence to establish an error in the federal adjustment,
4 FTB's assessment based on the federal adjustments, is
5 presumed correct. Unsupported assertions are not
6 sufficient to satisfy the taxpayer's burden of proving
7 that the FTB's deficiency assessment was in error. The
8 mere assertion of the incorrectness of the federal
9 determination does not then shift the burden to the FTB to
10 justify the deficiency assessment or it's correctness.
11 This rule also applies to a California penalty that is
12 based on a federal audit.

13 Here, Appellant argues that a settlement between
14 the IRS and his business Mainstreet Enterprises, prevents
15 the imposition of tax. However, there's not necessarily a
16 connection between gross receipts at the corporate level
17 and Constructive Dividends at the individual level. As
18 discussed in FTB's reply brief, there can be several
19 reasons why an individual owes tax, and their corporation
20 does not. Appellant taxpayer has not provided enough
21 evidence to establish a connection between the
22 corporation's tax liability and his individual tax
23 liability.

24 Notably, the stipulation between the IRS and the
25 business is dated January 20th, 2017. On June 9th, 2017,

1 Appellant submitted a claim for review of his individual
2 taxes. After the claim was submitted, the IRS did not
3 revise or abate its assessment of additional tax. In sum,
4 as the taxpayer has the burden of proof, FTB submits that
5 this burden was not met, and its action should be
6 sustained.

7 Second, Appellant argues that a third party,
8 Mr. Rockafeller, reported the \$22,030 and 1099 income for
9 the 2011 tax year, and not the 2011 assessment should
10 subtract this amount when calculating additional tax. As
11 to the statement by Mr. Rockafeller that he reported this
12 income on his 2011 return, there's nothing in the record
13 to support it. To the contrary, FTB's Exhibit X
14 demonstrates that FTB did not receive a 2011 return from
15 Mr. Rockafeller.

16 Appellant asserts that the income attribution mix
17 up was due to a shared American Express bank account.
18 However, Appellant has not provided any documentations to
19 corroborate the relationship between himself and the third
20 party, such as any documentation that the bank account was
21 closed, or put in Rockafeller's name, or a lease in both
22 of their names. Appellant has had multiple opportunities
23 to provide information and has failed to do so. As
24 stated, the taxpayer has the burden of proof, and
25 Appellant has only provided his own statements for the

1 adjustments made.

2 Moving on to the penalties. FTB's assessment of
3 the accuracy-related penalties is presumptively correct.
4 In the case of accuracy-related penalties imposed for
5 negligence, as is the case here, the penalties may be
6 reduced or abated if the taxpayer shows that there is a
7 reasonable basis for the taxpayer's treatment of the item,
8 or that the taxpayer acted in good faith and had
9 reasonable cause for the understatement. Here, Appellant
10 has not made any direct arguments that the
11 accuracy-related penalties for the 2011 and 2012 tax year
12 should be abated. Specifically, Appellant has not
13 asserted any facts or legal authority to establish any of
14 the potentially applicable defenses, nor has he otherwise
15 satisfied his burden of proving error in FTB's imposition
16 of the penalty. Therefore, it is FTB's position that the
17 additional taxes and accuracy-related penalties were
18 correctly imposed, and FTB respectfully request that its
19 actions be sustained.

20 I'm happy to answer any questions the panel may
21 have.

22 JUDGE VASSIGH: Thank you for your presentation.

23 Hearing Officer Elsom, do you have any questions
24 for the Franchise Tax Board?

25 HEARING OFFICER ELSOM: Oh, hello. Yes, I do

1 have just one question. If Mr. Rockafeller had filed a
2 2011 return and reported that income, would FTB have
3 accepted that as, you know, as fulfilling the tax
4 liability for that portion? Or would the corroborating
5 documents still be needed that you requested, and did you
6 state the Appellant hasn't provided? Or is that too
7 complex of an analysis on the --

8 MS. BREEN: To clarify, FTB does not have a 2011
9 return from Mr. Rockafeller. So either would be
10 acceptable, a 2011 return from this third party reporting
11 the income, or evidence corroborating the relationship.
12 But we have neither.

13 HEARING OFFICER ELSOM: Okay. Thank you. No
14 additional questions from me.

15 JUDGE VASSIGH: Thank you.

16 Judge Hosey, do you have any questions?

17 JUDGE HOSEY: No questions from me. Thank you.

18 JUDGE VASSIGH: Thank you very much.

19 At this point, I'd like to turn back to
20 Mr. Glatzhofer. And as we discussed, you have the
21 opportunity to make a closing statement or a rebuttal.

22 MR. GLATZHOFER: I'd like to make a rebuttal,
23 Your Honor.

24 JUDGE VASSIGH: Okay. You have 10 minutes for
25 that.

CLOSING STATEMENT

2 MR. GLATZHOFER: First -- first of all, for the
3 2011 IRS from Mr. Rockafeller, I spoke to Mr. Rockafeller,
4 and Mr. Rockafeller told me that the IRS imputed that
5 income, and he did not file a 2011 tax return, but the IRS
6 made one for him; imputed that money from that -- from
7 that bank account. Second of all, that bank account, I
8 never said it was a joint bank account. It was only
9 Mr. Rockafeller's bank account, and all that particular
10 money went into Mr. Rockafeller's own bank account that
11 the IRS assessed in the 2011.

1 And second of all, any accuracy regarding this
2 particular thing, they jumped over the issue of regarding
3 notice and the -- and regarding this statute of
4 limitations that tolled for 2011. They don't even want to
5 talk about that because they don't have any argument to
6 that because it's -- it's undisputed that the IRS never
7 gave me that particular notice -- that 2011, 2012 Notice
8 of Deficiency notice to be able to be put on a notice of
9 this particular thing. And whenever I tried to talk to
10 the IRS regarding about this, all they said was you're
11 assessed. You can't do anything about it until we levy
12 you -- your accounts.

13 Finally, they tried to levy my accounts. Now,
14 I've been trying to get the IRS back and saying, hey, I --
15 I'd like to have you guys take a look at it. And they've
16 been continuously 30 days, 60 days, 90 days, continuing
17 this matter because they want to see where this
18 particular -- this particular audit goes to regarding
19 their particular thing. It's been time and time again. I
20 have documentation of that particular fact. But this is
21 what's going on.

22 They don't want to admit that they don't have a
23 case against me, and they just keep going out because they
24 don't like Mr. Rockafeller. That's fine. There's a
25 reason why I don't have an office with Mr. Rockafeller

1 anymore because I don't trust him either. So I got out of
2 the situation altogether. So that's all I wanted -- have
3 to say about that particular matter.

4 And regarding -- unless -- regarding the \$22,000,
5 like I said -- that's why I said and put the argument and
6 all that -- it's all been time barred because they'll have
7 you go down every rabbit hole known to man say to try to
8 say that -- that you're responsible for something that's
9 been time barred in the first place for 2011. And then
10 for 2012, the entire particular deficiency was from my
11 dividend -- Constructive Dividends that I prove in U.S.
12 Tax Court that I didn't owe in the first place. So both
13 those things right there, it shows that I did not own.
14 And I'm telling you facts regarding this thing. They just
15 go conclusionary statements of the -- conclusionary
16 statements of this case without specifying any facts
17 regarding this particular matter.

18 So that's where I -- I wanted to say. And I
19 thank you for listening to my matter, and I hope it --
20 it's resolved to everyone's benefit.

21 Thank you, Your Honors.

22 JUDGE VASSIGH: Thank you, Mr. Glatzhofer.

23 Hearing Officer Elsom?

24 HEARING OFFICER ELSOM: I do not have any
25 additional questions. Thank you.

1 JUDGE VASSIGH: Okay. Judge Hosey, do you have
2 any questions?

3 JUDGE HOSEY: No questions for me. Thank you.

4 JUDGE VASSIGH: Okay. I think at this point the
5 panel is going to take a few minutes to confer privately.
6 So we're going to go off the record for 10 minutes. It is
7 9:55, and we will return at 10:05.

8 If anyone needs to use the restroom or get a
9 glass of water, this would be a good time to do that.

10 So we are now off the record, and we will be back
11 in 10 minutes.

12 (There is a pause in the proceedings.)

13 JUDGE VASSIGH: Thank you everyone for your
14 patience. It is now 10:05 a.m., and we will go back on
15 the record.

16 I'm going to turn to Hearing Officer Elsom.

17 HEARING OFFICER ELSOM: Mr. Glatzhofer, we did
18 have one additional question. I believe it's your
19 assertion that the 2017 Tax Court decision basically
20 nullified the ordinary -- excuse me -- the Constructive
21 Dividend issue for your return, that additional income.
22 Can you direct us in the record where -- where there's a
23 source document that shows that the IRS, subsequent to
24 that decision, addressed your Constructive Dividends
25 income?

1 MR. GLATZHOFER: Well, Your Honor, I can direct
2 you to, I believe, my second reply brief that directly
3 shows from the codes and procedures that this Ordinary
4 Dividends was -- this Constructive Dividends was the
5 Ordinary Dividends and was the basis of my dividends from
6 the IRS for that particular 2011 to 2012. And it was
7 based on 514 -- 514 -- I believe 2014 audit of Mainstreet
8 Enterprises on that particular thing, and says directly in
9 the particular IRS code that that's where they got that
10 from.

11 HEARING OFFICER ELSOM: Can you direct us where
12 pursuant to that Tax Court decision though, that those --
13 it was determined that there were no Constructive
14 Dividends between Main Enterprise (sic) and yourself?

15 MR. GLATZHOFER: That's the only dividends that I
16 had, Your Honor.

17 HEARING OFFICER ELSOM: Okay.

18 MR. GLATZHOFER: There's no other dividends.

19 There's no other -- and that's long term. That's the only
20 dividends. There's no short-term dividends. There's no
21 nothing like that, and that's the only dividends that
22 could be attributed to me.

23 HEARING OFFICER ELSOM: Okay. Thank you,
24 Mr. Glatzhofer.

25 JUDGE VASSIGH: Okay. Judge Hosey, do you have

1 any questions for either party at this time?

2 JUDGE HOSEY: No questions. Thank you.

3 JUDGE VASSIGH: Hearing Officer Elsom, any
4 questions for either party at this time?

5 HEARING OFFICER ELSOM: No additional questions.

6 Thank you, both.

7 JUDGE VASSIGH: Okay. At this time this hearing
8 is concluded.

9 This case is submitted on September 10th, 2025.
10 The record is now closed.

11 I'd like to thank everyone for participating
12 today. The Judges will meet and deliberate on this matter
13 and come to a decision. We will issue an opinion within
14 100 days.

15 Today's hearing in the Appeal of Glatzhofer is
16 now concluded.

17 (Proceedings concluded at 10:08 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:

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

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

14 I have hereunto subscribed my name this 24th day
15 of September, 2025.

ERNALYN M. ALONZO
HEARING REPORTER