

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
F. DEICHSEL and C. DEICHSEL,) OTA NO. 241218259
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APPELLANTS.)
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TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Wednesday, February 11, 2026

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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Transcript of Proceedings, taken at
12900 Park Plaza Drive, Suite 300, Cerritos,
California, 90703, commencing at 9:30 a.m.
and concluding at 10:12 a.m. on Wednesday,
February 11, 2026, reported by Ernalyn M. Alonzo,
Hearing Reporter, in and for the State of
California.

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APPEARANCES:

Panel Lead: HEARING OFFICER KIM WILSON

Panel Members: ALJ TERESA A. STANLEY
ALJ HANS FAMULARO

For the Appellants: F. DEICHSEL

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

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I N D E X

OPENING STATEMENT

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Cerritos, California; Wednesday, February 11, 2026

9:30 a.m.

HEARING OFFICER WILSON: We are going on the record.

This is the Appeal of Deichsel, OTA Case No. 241218259. The date is February 11, 2026, and the time is 9:30 a.m. This hearing is being held in Cerritos, California.

I'm Hearing Officer Kim Wilson. I will be the lead for the purpose of conducting this hearing. My co-panelists are Judge Teresa Stanley and Judge Hans Famularo. We are equal participants in deliberating and determining the outcome of this appeal.

All right. For the record, I'm going to ask the parties to identify themselves, starting with Appellant.

MR. DEICHSEL: Frank Deichsel.

HEARING OFFICER WILSON: Thank you.

And FTB.

MR. LY: John Ly for Franchise Tax Board.

MS. ZUMAETA: And Jackie Zumaeta for Franchise Tax Board.

HEARING OFFICER WILSON: Thank you.

As stated in the Minutes and Orders, the issue to be decided in this appeal is whether Appellants' claim for

1 refund for the 2019 tax year is barred by the statute of
2 limitations.

3 Mr. Deichsel, do you agree that is the issue?

4 MR. DEICHSEL: Yes, I agree.

5 HEARING OFFICER WILSON: And Franchise Tax Board?

6 MR. LY: Yes.

7 HEARING OFFICER WILSON: Thank you.

8 In the prehearing conference, we discussed
9 Appellants' exhibit, and we determined Exhibit 1 is the
10 doctor's note. FTB did not have an objection to the
11 admissibility of this exhibit.

12 Is that still the case, Mr. Ly?

13 MR. LY: Yes, that's correct.

14 HEARING OFFICER WILSON: Thank you.

15 And Franchise Tax Board submitted Exhibits A
16 and B.

17 And, Mr. Deichsel, you did not have an objection.
18 Is that still the case?

19 MR. DEICHSEL: Not to the factual validity, no.

20 HEARING OFFICER WILSON: Thank you.

21 During the prehearing conference, neither party
22 intended to call any witnesses to testify.

23 Mr. Deichsel, is that still your intention?

24 MR. DEICHSEL: Yes, it is.

25 HEARING OFFICER WILSON: Okay. You requested

1 five minutes for your presentation, and you can begin when
2 you are ready.

3

4 PRESENTATION

5 MR. DEICHSEL: So let me start by going back six
6 years now, when we all woke up one morning and everything
7 was closed due because of a virus that most of us like to
8 forget. It was a pretty rough time for me personally, and
9 I know that there were tax deferrals or deadlines were
10 moved. I had been in contact with my CPA that I had done
11 business with, or that I had hired as my tax preparer
12 since 2014, I believe, when my wife and I lived in
13 Pasadena and he was close by in Glendale. And I've always
14 kept in touch via email, and I have emailed him -- I don't
15 want to say in 2020 but 2021 or 2022 that I would like to
16 file an extension. And he did that year, I believe. And,
17 unfortunately, I have lost my emails during that time.

18 I was cleaning up my email program, and I cannot
19 recover those emails. Otherwise, I would have presented
20 those as evidence that I relied on -- what's the right
21 word for-- I had reliance on my CPA to tell me what I
22 needed to do. And my question to him was, "Is there a
23 penalty if I overpaid?"

24 And he always said, "No, there's no penalty if
25 you overpaid."

1 HEARING OFFICER WILSON: Can I stop you for a
2 moment? It sounds like you're providing testimony. So if
3 you would like, I could swear you in so your statements
4 can be part of our evidential record.

5 MR. DEICHSEL: Sure.

6 HEARING OFFICER WILSON: Okay. Could please
7 raise your right hand.

8
9 F. DEICHSEL,
10 produced as a witness, and having been first duly sworn by
11 the Administrative Law Judge, was examined, and testified
12 as follows:

13

14 HEARING OFFICER WILSON: Thank you. You may
15 continue.

16 MR. DEICHSEL: Do I need to start over with this
17 statement or --

18 HEARING OFFICER WILSON: No.

19 MR. DEICHSEL: Okay. So I relied on my CPA to
20 give me accurate information because both my wife and I
21 are not really excited about taxes, and the whole filing,
22 and how it all works, but we wanted to make sure it's done
23 right. That's why I hired a CPA. And because of
24 everything that was going on during COVID, I did not want
25 to deal with it. I just told him, let me file or please

1 file an extension for us. And he did that, and I forgot
2 the year, but I believe it was '21 or '22.

3 When we got out of COVID, my wife was diagnosed
4 with breast cancer. That is Exhibit 1, the Doctor's Note.
5 Excuse me. That made life really hard. I was basically a
6 single dad taking care of my daughter. And, on top of
7 that, I had to take care of my wife because all she could
8 do during the hardest times right after chemo was to get
9 out of the chair and go to the restroom. And sometimes
10 she would make it into the kitchen to eat.

11 So I had more important things to do in my mind
12 than burdening her with signing tax documents, and I could
13 not do that at that time. I needed to take care of her
14 and make sure she gets better, and that we --

15 JUDGE STANLEY: Mr. Deichsel, would you like to
16 take -- either take a break or have water? We have some
17 water available, if you need some.

18 MR. DEICHSEL: No. I'm okay. I'm okay. I do --
19 would like to grab a tissue.

20 JUDGE STANLEY: Okay. Sorry to interrupt. I
21 just want to make sure you're comfortable while you're
22 here.

23 MR. DEICHSEL: I apologize, but it's -- it brings
24 back memories that I am not very fond of.

25 So -- so during this time, like I said, my duty

1 as a husband and father was to take care of my family, and
2 I could not deal with other things. It was hard enough to
3 keep my job. In fact, going back to the COVID time, I
4 just want to share that I had friends that made more money
5 during COVID because of all the assistance that was paid
6 out from the State of California, and I didn't do any of
7 that. In fact, I got penalized because I took out loans
8 from my 401K to pay bills. And I got penalized for that
9 during my tax return when I filed the taxes.

10 So when my wife got better, we tried to find a
11 new CPA because I emailed my old CPA in Pasadena, "Hey, we
12 need to catch up on our taxes."

13 And the only reply I got from him was, "Sorry.
14 We don't take new clients," which left me quite stunned,
15 frankly, because I was a client of his, like I said, since
16 2014 or '15. And he -- I guess didn't want to deal with
17 me anymore because we skipped a year where I didn't email
18 him. That must have been 2023. So we were running around
19 trying to find a new CPA. I found one that was right
20 around the corner from the house, and they also said we
21 don't take new clients. I found another one a little bit
22 further away, which was the one that -- that then filed
23 this tax return that we're talking about.

24 And just a little anecdote about that, my faith
25 in CPAs, they actually filed it. I gave him all the

1 documentation that I had, all my W-2s, and their initial
2 response to us was, "Oh, you're getting a big refund."
3 And I looked at the numbers, and it wasn't correct. They
4 forgot to file or to account for the second W-2 because I
5 had switched jobs in between. And so if I hadn't caught
6 that, I would have gotten a big refund and possibly, you
7 know, if I had gotten audited, I would have had to deal
8 with that.

9 So going back to the fact that the statute of
10 limitations has run out, there's nothing I can do about
11 that. And I basically have to throw ourselves here, my
12 wife and daughter included, at the mercy of the State of
13 California. And I'm not asking for forgiveness of debt,
14 anything like that. All these things that I keep hearing
15 on radio that, oh, you owe that. You need to hire this
16 company, and the State of California will forgive your
17 debt, or this and that. No. It's because I overpaid, and
18 I'm just asking to get a refund for what I overpaid for.

19 HEARING OFFICER WILSON: Does that conclude your
20 presentation testimony?

21 MR. DEICHSEL: Can you remind me what's Exhibit
22 No. 2 on your list.

23 HEARING OFFICER WILSON: I only have you having
24 one exhibit, and Franchise Tax Board has two exhibits, A
25 and B. The first one being your tax return, and the second

1 one is -- it looks like a statement of account.

2 MR. DEICHSEL: Okay. Then I am --

3 HEARING OFFICER WILSON: Concluded?

4 MR. DEICHSEL: -- done. I'm done.

5 HEARING OFFICER WILSON: Thank you. Franchise
6 Tax Board, do you have any questions for the witness?

7 MR. LY: No. No questions. Thank you.

8 HEARING OFFICER WILSON: Thank you.

9 Judge Famularo, do you have any questions for the
10 witness?

11 JUDGE FAMULARO: I do.

12 So, Mr. Deichsel, I would like you to elaborate a
13 little bit, if you can, about your wife's condition,
14 specifically, the circumstances during January 22 through
15 April 23. And if you could walk us through a typical day
16 during that period, I think that would be very helpful for
17 the panel.

18 MR. DEICHSEL: Well, the condition varied. The
19 worse days were always a couple of days after she received
20 chemotherapy, where I had to drive her -- well, first, I
21 had to take care of my daughter in the morning, drop her
22 off at school. And then I had to take my wife to the
23 chemo appointment at Kaiser Permanente in Anaheim where
24 she -- she couldn't walk. I had to put her in a
25 wheelchair and then walk her to -- to her appointment

1 where she then sat in a chemo chair.

2 So this involves -- I believe it's an injection
3 of a -- of a fluid that basically is -- the way I like to
4 think of it is, it's squeezing the life out of you. It
5 wants to almost kill you so that the cancer cells die, but
6 you, at the end, you can recovery. And those were the
7 hardest, hardest days. Because, like I said, it's -- she
8 was almost lifeless. I had to take her back home. She
9 would just want to sit in a chair that we bought
10 specifically for that entire period of the treatment,
11 where she could just put her legs up and just do nothing.
12 She didn't want to watch TV. She didn't want to eat.
13 Later on, a couple of days after when she did have some
14 appetite, all she could eat was soup. And somehow --
15 well, sometimes that wouldn't stay down. So I had to take
16 her to bathroom and go through that procedure.

17 There were better days when, you know, the longer
18 the -- as time passed from the last chemotherapy, she was
19 able to walk around a little bit in the house and sit down
20 with us at the table and eat regular food sometimes. But
21 mostly it was just soup and things that would be more
22 easier on your stomach, basically.

23 JUDGE FAMULARO: You mentioned that things got
24 better. At what point, would you say things got better?
25 And, you know, was it during -- specifically during the

1 time period of January 2022 and April 2023?

2 MR. DEICHSEL: It really didn't get better until
3 April of 2023 when the whole treatment was completed.
4 After, there were -- at the end there was a mix of
5 chemotherapy and also radiation that she received, which
6 also was a different building at the same hospital where I
7 had to take her. And then after that, it went on with
8 reconstructive surgery. So even though the chemo
9 treatment had ended and all that, you know, it's -- it's
10 very taxing on your body. It was continuing with
11 appointments for reconstructive surgery and things of that
12 nature.

13 JUDGE FAMULARO: Okay. And I need to ask, even
14 though, you know, I -- I think I understand. During the
15 period between January 2022 and April 2023, was -- was
16 your wife working? Was she able to handle any -- anything
17 outside of the home? Or, you know, what was -- what was
18 she able to do during that period? I know you were
19 caring for her. Specifically what -- what could she do
20 for herself during that period?

21 MR. DEICHSEL: During the better days, she was
22 able to get dressed, go to the bathroom, go to the
23 kitchen, eat. And then later on, if she -- or after the
24 chemo, she did want to sit down and watch TV shows. So it
25 wasn't like she was in vegetative state or anything like

1 that, which I'm sure you get cases like that as well. It
2 wasn't like that. But from a mental standpoint I did
3 not -- and I didn't -- obviously, I didn't feel the need
4 to tell her, "Hey, you need to sign these tax returns, you
5 know."

6 And no, she did not work. I think we were
7 blessed enough that years ago my wife asked me from her
8 work, she's a teacher, "Hey, I got this offer from work to
9 sign up for cancer insurance. Should I sign that?"

10 I said, "Sure. I like insurance. Why don't you
11 do that."

12 So there was a little bit of money coming in. It
13 wasn't close to her full salary, but there was still money
14 coming in during the time.

15 JUDGE FAMULARO: Okay. Thank you. I have just
16 -- just one last question before I turn the microphone
17 over to my co-panelists. Do you have a power of attorney
18 for your wife? Or was there any -- has a court appointed
19 you to act for your wife with respect to financial
20 matters?

21 MR. DEICHSEL: I did not, no.

22 JUDGE FAMULARO: Okay. Thank you. I have no
23 further questions. Thank you.

24 HEARING OFFICER WILSON: Thank you.

25 Judge Stanley, do you have questions for the

1 witness.

2 JUDGE STANLEY: Yes.

3 Good morning, Mr. Deichsel. And thank you so
4 much for sharing what is clearly a difficult story for you
5 to have to share in public, and we appreciate you coming
6 here to do that today. Is your wife better now?

7 MR. DEICHSEL: Yes.

8 JUDGE STANLEY: Is she back to 100 percent or
9 not?

10 MR. DEICHSEL: I wouldn't say 100 percent, but
11 she's better. She's working again. She has -- her hair
12 grew back. And I've always was curious I never heard in
13 any of the medical reports, is she cured? And I asked the
14 doctor that at one of the last visits. And they said,
15 "Well, you're never really cured. You're in remission,
16 but there's always a chance it come back."

17 But so far so good, and thank you for asking.

18 JUDGE STANLEY: I'm glad to hear at least that
19 she's in remission.

20 You -- you mentioned a few things that I wanted
21 to ask about. You said -- you talked about when she got
22 better, but a doctor's note says she was dealing with all
23 the treatments through April of 2023. And I know it's not
24 a situation where you just go from being hardly able to do
25 anything for yourself and then back to normal. So I -- I

1 don't imagine those dates really represent what you two
2 were experiencing during that time. When -- at what point
3 was she at a point where she was able to start doing
4 things for herself again so that you didn't have the whole
5 burden of taking care of your daughter and her?

6 MR. DEICHSEL: I would say probably later that
7 year in 2023.

8 JUDGE STANLEY: Okay. And you also mentioned
9 that you changed jobs during 2019. Was that related to
10 the pandemic somehow?

11 MR. DEICHSEL: It was not directly related to the
12 pandemic, no. But it did add that complexity of the
13 last -- or of that tax return that we're talking about of
14 that year where I had two W-2s that the CPAs that had 4.9
15 rating, I believe, on Yelp, they just completely missed
16 that. And that was very disappointing from my point of
17 view.

18 JUDGE STANLEY: Okay. That's all that I have for
19 now. I may have some follow up after the Franchise Tax
20 Board, but thank you.

21 HEARING OFFICER WILSON: Thank you.

22 We'll move over to Franchise Tax Board's
23 presentation.

24 You asked for 10 minutes. Please begin when
25 you're ready.

1 MR. LY: Respondent would like to request a brief
2 recess to discuss --

3 HEARING OFFICER WILSON: Of course. We'll go off
4 the record for 5 minutes.

5 (There is a pause in the proceedings.)

6 HEARING OFFICER WILSON: Okay. We'll go back on
7 the record.

8 Franchise Tax Board, do you have -- you may do
9 your presentation.

10 MS. ZUMAETA: Okay. Thank you.

11 During -- during the break, we had an opportunity
12 to have a conference with the Appellant, and we spoke
13 about the FTB Form 1564, which is the financial disability
14 affidavit. And so we would like to request a postponement
15 of the remainder of this hearing for 30 days so that the
16 Appellant can take that -- the financial disability
17 affidavit to his wife's doctor and have it signed.
18 Assuming that -- that he is able to provide that to
19 Franchise Tax Board, then we would be able to withdraw and
20 provide the refund.

21 HEARING OFFICER WILSON: Thank you.

22 I'm going to need a couple of minutes to have a
23 quick discussion with my panel.

24 So we'll go off the record for two minutes.

25 (There is a pause in the proceedings.)

1 HEARING OFFICER WILSON: Okay. We'll go back on
2 the record.

3 Thank you, Franchise Tax Board.

4 We will continue the hearing and allow 30 days
5 for both parties to provide the form to Franchise Tax
6 Board. If, at that point, Franchise Tax Board is willing
7 to concede the appeal, then the case will be dismissed.
8 If not, we will come back. At that point, the Office of
9 Tax Appeals will provide further instruction following the
10 30 days.

11 Thank you.

12 This hearing is held open, but the record is
13 closed. Yes. Thank you.

14 JUDGE STANLEY: Just -- just to be clear, the
15 hearing -- we're going off the record. The record is not
16 closed because we're accepting additional evidence from
17 Appellant. So our record will remain open.

18 Thanks for coming and sharing your story.

19 MS. ZUMAETA: Thank you.

20 HEARING OFFICER WILSON: Yes. OTA is now in
21 recess, and we'll come back in the afternoon maybe.

22 MR. DEICHSEL: Thank you very much.

23 (Proceedings adjourned at 10:12 a.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 27th day of February, 2026.

ERNALYN M. ALONZO
HEARING REPORTER