

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 FRANCHISE TAX BOARD OF THE
4 STATE OF CALIFORNIA,

5 Appellant/Cross Respondent,

6 v.

7 GILBERT P. HYATT,

8 Respondent/Cross Appellant

Case No. 53264

Electronically Filed
Jun 27 2012 03:53 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

9 **RESPONDENT’S OPPOSITION TO APPELLANT’S MOTION FOR**
10 **PERMISSION TO REPLY TO RESPONDENT’S SUPPLEMENT**
11 **(ORAL ARGUMENT: JUNE 18, 2012)**

12 Respondent respectfully submits that Appellant has responded to Justice
13 Hardesty’s request at the June 18 oral argument, and that the instant motion should
14 be denied. Justice Hardesty asked FTB for a simple citation to the record where
15 FTB sought dismissal of the emotional distress claim based on the statute of
16 limitations. After admitting that it had not filed any motion seeking such
17 dismissal, the FTB added five items that it argued preserved the statute of
18 limitations issue, responding to a point not requested by Justice Hardesty.

19 Respondent’s Supplement permissibly addressed what was missing from
20 FTB’s Supplement, i.e., the absence of any such motion, as well as what was
21 missing from the FTB’s five additional items. Had FTB responded to Justice
22 Hardesty request, only with the correct statement that it did not file any motion
23 seeking dismissal of the emotional distress claim on statute of limitations grounds,
24 Respondent would not have submitted its own Supplement. However, because of
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1 the FTB taking the liberty to add material and argument not requested by Justice
2 Hardesty, Respondent was permitted to (and did) show what was missing from
3 this additional FTB argument, i.e., that even FTB's added material was missing
4 any record citation that, as a matter of fact or law, preserved the defense.
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6 The pleadings in this case should end with the two supplements expressly
7 permitted by Justice Hardesty, and further motions or pleadings should not be
8 allowed.
9

10
11 Dated this 27 day of June, 2012

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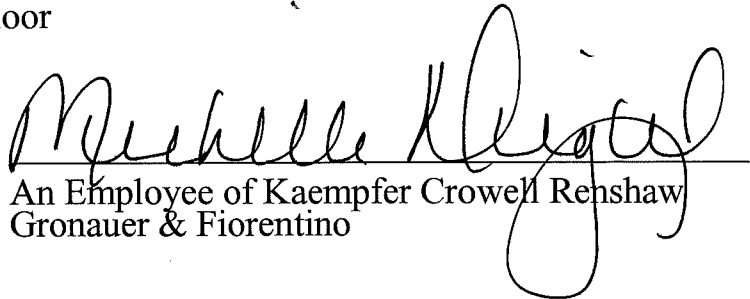
CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of Kaempfer Crowell Renshaw Gronauer & Fiorentino, and that I served true and correct copies of the foregoing **RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION FOR PERMISSION TO REPLY TO RESPONDENT'S SUPPLEMENT** on this 27th day of June, 2012 by depositing said copies in the United States Mail, postage prepaid thereon, upon the following:

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