

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3 FRANCHISE TAX BOARD OF THE  
4 STATE OF CALIFORNIA,

5 Appellant/Cross Respondent,

6 v.

7 GILBERT P. HYATT,

8 Respondent/Cross Appellant.

Electronically Filed  
Jun 28 2012 02:44 p.m.  
Tracie K. Lindeman  
Case No. 53264  
Clerk of Supreme Court

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11 **FTB’S REPLY IN SUPPORT OF MOTION FOR PERMISSION**  
12 **TO REPLY TO RESPONDENT’S SUPPLEMENT**

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14 Hyatt’s opposition fails to address the fundamental basis of FTB’s motion.  
15 The basis of FTB’s motion is that Hyatt’s supplement--which consisted of eight  
16 pages of the actual supplement, and 44 pages of exhibits--went far beyond the  
17 scope of Justice Hardesty’s request at oral argument. For example, FTB’s motion  
18 observed that Hyatt’s supplement contained factual and legal arguments relating  
19 to the merits of the statute of limitations defense, in addition to arguments and  
20 exhibits dealing with other issues in the appeal. Hyatt’s opposition fails to  
21 acknowledge these facts, and fails to provide any cogent argument as to why FTB  
22 should be denied the right to reply to these matters.

23 FTB wants to help the justices reach correct decisions on all issues in this  
24 appeal, including the important statute of limitations issue. We believe Hyatt’s  
25 supplement contains facts and arguments that are incorrect and/or incomplete.  
26 We are therefore concerned that the court might consider Hyatt’s supplement,  
27 without having the benefit of FTB’s viewpoint on the extraneous matters  
28 contained in the supplement. Accordingly, FTB respectfully requests permission

1 to file a reply to Hyatt's supplement, if the court is inclined to consider his  
2 supplement in resolving this appeal.

3 DATED: June 28, 2012

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**CERTIFICATE OF MAILING**

I certify that I am an employee of Lemons, Grundy & Eisenberg and that on this date FTB's Reply in Support of Motion for Permission to Reply to Respondent's Supplement was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master list as follows:

- Carla Higginbotham
- Megan Starich
- Charles Howle
- Peter Bernhard
- Mark Hutchison
- Pat Lundvall
- Michael Wall
- Daniel Polsenberg

I further certify that on this date I served a copy, postage prepaid, by U.S. Mail to:

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DATED: 6/28/12

