



***EXECUTIVE
DIRECTOR'S
REPORT***

February 4, 2014

A.
ADMINISTRATIVE
MATTERS

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
ADMINISTRATION COMMITTEE			
<u>1. Update Guide to the New Motor Vehicle Board</u> Dana Winterrowd; Administration Committee	Update the <i>Guide to the New Motor Vehicle Board</i> to incorporate statutory and regulatory changes.	February 2014	In progress. The revised Guide will be presented at the February 4, 2014, General Meeting.
<u>Status Report Concerning Manufacturer and Distributor Compliance with Vehicle Code Sections 3064/3074, and 3065/3075 (the Filing of Statutorily Required Schedules and Formulas)</u> Kathy Tomono; Administration Committee	Annually letters are sent to all licensed manufacturers and distributors requesting copies of their current delivery and inspection obligations ("PDI"), PDI schedule of compensation, and warranty reimbursement schedule or formula.	November 2013	<u>Completed</u> A status report concerning manufacturer and distributor compliance was presented at the November 13, 2013, General Meeting.
BOARD DEVELOPMENT COMMITTEE			
<u>1. Solon C. Soteras Employee Recognition Award Recipient</u> Bill Brennan; Board Development Committee	Compile the nominations provided by staff and select a nominee for the Solon C. Soteras Employee Recognition Award.	July 2014	In progress. The Committee will select a nominee for the Board to consider at the July 15, 2014, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
<u>Schedule Board Member Education Presentations</u> Robin Parker; Board Development Committee	Develop a schedule for prioritizing topics and speakers for Board member education presentations for upcoming meetings.	November 2013	<u>Completed</u> A schedule of topics and speakers for Board member education was presented at the November 13, 2013, General Meeting.
<u>Host Board Administrative Law Judge Roundtable</u> Bill Brennan, Robin Parker; Board Development Committee	Host a Board Administrative Law Judge (“ALJ”) Roundtable for purposes of education and training. Provide an opportunity for the ALJs to meet in an informal setting, exchange ideas, and offer suggestions to improve the case management hearing process.	January 2014	<u>Completed</u> The ALJ Roundtable was held on January 9, 2014
FISCAL COMMITTEE			
1. <u>Quarterly Fiscal Reports</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	Quarterly fiscal reports will be provided to the Committee and scheduled for upcoming Board meetings.	Ongoing	In progress. The 1 st quarter report for fiscal year 2013-2014 was presented at the November 13, 2013, General Meeting. The 2 nd , 3 rd , and 4 th quarter reports are scheduled for the February 4, 2014, July 15, 2014, and December 2014, General Meetings.
2. <u>Report Concerning Out-of-State Travel Plans</u> Dawn Kindel; Fiscal Committee	The staff will provide a report concerning the out-of-state travel plans for fiscal year 2014-2015.	February 2014	In progress. A report will be presented for consideration at the February 4, 2014, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
3. <u>Status Report on the Collection of Fees for the Arbitration Certification Program</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff will provide a report concerning the annual fee collection for the Department of Consumer Affairs, Arbitration Certification Program.	July 2014	In progress. A status report will be provided at the July 15, 2014, General Meeting.
4. <u>Proposed Board Budget for the Next Fiscal Year</u> Dawn Kindel, Suzanne Luke; Fiscal Committee	The staff in conjunction with the Fiscal Committee will discuss and consider the Board's proposed budget for fiscal year 2014-2015.	July 2014	In progress. The 2013-2014 budget will be presented at the July 15, 2014, General Meeting.
5. <u>Annual Discussion and Consideration of the Methods for Determining Board Fees</u> Bill Brennan; Fiscal Committee	In response to Board Member Brooks' request, a memorandum outlining how the Board fees are calculated every year to ensure the fees are not a tax and are cost-justified, will be presented for Board consideration.	July 2014	In progress. A memorandum will be presented at the July 15, 2014, General Meeting.
GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE			
1. <u>Host Industry Roundtable</u> Bill Brennan, Dana Winterrowd, Dawn Kindel, Kathy Tomono; Government and Industry Affairs Committee	Host the traditional Industry Roundtable with representatives from car, truck, motorcycle and recreational vehicle manufacturers/distributors, dealers, in-house and outside counsel, associations and other government entities.	April 2014	In progress. The Roundtable is scheduled for April 10, 2014, in Sacramento.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
2. <u>Participant Surveys for Industry Roundtable</u> Dana Winterrowd Government and Industry Affairs Committee	Based upon the feedback provided at the Industry Roundtable in the surveys, highlight areas for improvement and develop a preliminary list of suggested topics for a future event.	July 2014	In progress. The surveys will be handed out at the Roundtable. A memorandum summarizing the feedback will be presented at the July 15, 2014, General Meeting.
<u>Host Attorney Roundtable</u> Robin Parker; Government and Industry Affairs Committee	Host an Attorney Roundtable in Sacramento that highlights topics of interest to the litigants that regularly appear before the Board.	January 2014	<u>Completed</u> The Attorney Roundtable was held on January 10, 2014.
POLICY AND PROCEDURE COMMITTEE			
1. <u>Annual Rulemaking Calendar</u> Dana Winterrowd; Policy & Procedure Committee	Consideration of the annual rulemaking calendar if the Board decides to go forward with any new proposed regulatory changes.	February 2014	In progress. The 2014 Rulemaking Calendar will be considered at the February 4, 2014, General Meeting.
2. <u>Update the Informational Guide for Manufacturers and Distributors</u> Dana Winterrowd; Policy and Procedure Committee	Update the <i>Informational Guide for Manufacturers and Distributors</i> .	February 2014	In progress. The updated Guide will be considered at the February 4, 2014, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
3. <u>Draft New Regulations to Clarify and Improve the Board's Case Management Processes</u> Robin Parker; Policy and Procedure Committee	In an effort to continue to improve and clarify the Board's case management processes, the Board staff has proposed amending four existing regulations and adding one new regulation. The topics encompass definitions, subpoenas, peremptory challenges, sanctions, and adoption and objection to proposed stipulated decisions and orders. If the Board approves the draft regulations, the legal staff will proceed with rulemaking.	February 2014	In progress. The draft proposed regulations will be considered at the February 4, 2014, General Meeting.
4. <u>Report on the Assignment of Cases to Board Administrative Law Judges</u> Robin Parker; Policy and Procedure Committee	Annual report on the assignment of cases to Board Administrative Law Judges ("ALJs").	February 2014	In progress. A report on the assignment of cases to Board ALJs will be presented at the February 4, 2014, General Meeting.
5. <u>Update New Motor Vehicle Board Administrative Law Judges Benchbook</u> Robin Parker; Policy and Procedure Committee	Update the <i>New Motor Vehicle Board Benchbook</i> .	April 2014	In progress. The revised ALJ Guide will be considered at the April 9, 2014, General Meeting.

Project Title/ Manager; Board Committee	Project Goal (Description)	Estimated Completion Date	Status
6. <u>Promulgate Proposed Regulations to Increase the Annual Board Fee</u> Robin Parker; Policy and Procedure Committee	In compliance with the Administrative Procedure Act, amend Section 553 to increase the Annual Board Fee per manufacturer or distributor to \$.60 per vehicle with a minimum of \$300.00 if 1-250 vehicles were distributed and \$450.00 if 251-806 vehicles were distributed and the dealer fee to \$400.00. Conforming changes would also be made to Section 553.20.	June 2014	In progress. The proposed text was approved at the March 13, 2013, General Meeting. The notice was published on October 25, 2013.
EXECUTIVE COMMITTEE			

B.
CASE
MANAGEMENT

CASE VOLUME

NOVEMBER 1, 2013, THROUGH JANUARY 21, 2014

VEHICLE CODE SECTION	DESCRIPTION	NEW CASES	RESOLVED CASES	PENDING CASES
3060	Termination	6	4	17
3060	Modification	0	0	1
3062	Establishment	0	5	0
3062	Relocation	0	4	0
3062	Off-Site Sale	0	0	0
3064	Delivery/Preparation Obligations	0	0	0
3065	Warranty Reimbursement	0	0	0
3065.1	Incentive Program Reimbursement	0	0	0
3070	Termination	0	0	0
3070	Modification	0	0	0
3072	Establishment	0	0	0
3072	Relocation	0	0	0
3072	Off-Site Sale	0	0	0
3074	Delivery/Preparation Obligations	0	0	0
3075	Warranty Reimbursement	0	0	0
3076	Incentive Program Reimbursement	0	0	0
3050(c)	Petition	0	0	0
3050(b)	Appeal	0	0	0
TOTAL CASES:		6	13	18

PENDING CASES

BY CASE NUMBER

ABBREVIATIONS			
ALJ	Administrative Law Judge	Bd Mtg	Board Meeting
HRC	Hearing Readiness Conference	IFU	Informal Follow-Up
MH	Merits Hearing	MSC	Mandatory Settlement Conference
MTCP	Motion to Compel	MTCN	Motion to Continue
MTD	Motion to Dismiss	PD	Proposed Decision
PHC	Pre-Hearing Conference	POS	Proof of Service
RPHC	Resumption of Pre-Hearing Conference	RFD	Request for Dismissal
PSDO	Proposed Stipulated Decision and Order	RROB	Resumption of Ruling on Objections
RMH	Resumed Merits Hearing	ROB	Ruling on Objections
RSC	Resumed Status Conference	SC	Status Conference
* Consolidated, non-lead case			

Protests

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
PR-2306-11 6-7-11	Tentative MH: 7-21-14	Mother Lode Motors dba Mother Lode Motors Kia v. Kia Motors America, Inc.	P: Mike Flanagan Gavin Hughes R: Colm Moran David Skaar	Termination
PR-2337-12 6-19-12	IFU: 2-24-14 Parties working on Settlement Agreement	Wesley B. Lasher Investment Corporation, dba Lasher Volkswagen v. Volkswagen Group of America, Inc.	P: Mike Flanagan Gavin Hughes R: Mo Sanchez Kevin Colton	Termination
PR-2348-12 10-12-12	Stayed due to Petitioner's Bankruptcy Petition	West Covina Motors, Inc., dba Clippinger Chevrolet v. General Motors LLC	P: Mike Flanagan Gavin Hughes R: Greg Oxford	Termination
PR-2351-12 11-15-12	Proposed Order Bd Mtg 2-4-14	Stockton Automotive Development LLC dba Stockton Nissan v. Nissan North America, Inc.	P: Mike Flanagan Gavin Hughes R: Mo Sanchez Kevin Colton	Termination

PENDING CASES

BY CASE NUMBER

	CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
	PR-2357-12 12-18-12	IFU: 2-24-14 Parties working on Settlement Agreement	Wesley B. Lasher Investment Corporation, dba Lasher Volkswagen v. Volkswagen of America (Elk Grove)	P: Mike Flanagan Gavin Hughes R: Mo Sanchez Kevin Colton	Modification
	PR-2358-13 1-22-13	MH: 1-27-14 (10 days)	Santa Cruz Nissan, Inc., dba Santa Cruz Nissan v. Nissan North America, Inc.	P: Mike Flanagan Gavin Hughes R: Mo Sanchez Kevin Colton	Termination
	PR-2359-13 1-22-13	HRC: 3-31-14 MH: 4-21-14 (10 days)	Napa Chrysler, Inc. dba Napa Kia v. Kia Motors America, Inc.	P: Larry Miles Brady McLeod R: Colm Moran	Termination
	PR-2361-13 2-27-13	Proposed Decision Bd Mtg 4-9-14	Guarantee Fork Lift, Inc. dba, GFL, Inc. v. Capacity of Texas, Inc.	P: Mike Flanagan Gavin Hughes R: Tim Brownlee Rita Hoop Mo Sanchez	Termination
	PR-2364-13 5-6-13	Matter settled at MSC SC: 3-11-14	West Covina Ford, Inc., dba Clippinger Ford v. Ford Motor Company	P: Larry Miles R: Don Cram	Termination
	PR-2371-13 7-12-13	HRC: 2-4-14 MH: 3-4-14 (moving to 4-14-14) (7 days)	Keldaneri Corp., dba San Leandro Nissan v Nissan North America, Inc.	P: Mike Flanagan Gavin Hughes R: Margie Lewis	Termination
	PR-2372-13 7-16-13	RSC: 2-14-14	Vallejo CJD, LLC dba Momentum Kia v. Kia Motors America, Inc.	P: Mike Sieving R: Colm Moran	Termination
	PR-2374-13	HRC: 6-25-14 MH: 7-21-14 (10 days)	Hayward Nissan Corporation dba Hayward Nissan v. Nissan of North America, Inc.	P: Mike Flanagan, Gavin Hughes R: Mo Sanchez, Lisa Gibson	Termination

PENDING CASES

BY CASE NUMBER

CASE NUMBER/ DATE FILED	STATUS	PROTEST	COUNSEL	CASE TYPE
PR-2376-13	MTD: 1-7-14 Matter taken under submission	David A. Gill, as the Trustee of the Estate of West Covina Motors, Inc., and West Covina Motors, Inc., dba Clippinger Chrysler Jeep Dodge Ram v. Chrysler Group, LLC (Dodge)	P: Larry Miles R: Gwen Young	Termination
PR-2377-13*	MTD: 1-7-14 Matter taken under submission	David A. Gill, as the Trustee of the Estate of West Covina Motors, Inc., and West Covina Motors, Inc., dba Clippinger Chrysler Jeep Dodge Ram v. Chrysler Group, LLC (Dodge)	P: Larry Miles R: Gwen Young	Termination
PR-2378-13*	MTD: 1-7-14 Matter taken under submission	David A. Gill, as the Trustee of the Estate of West Covina Motors, Inc., and West Covina Motors, Inc., dba Clippinger Chrysler Jeep Dodge Ram v. Chrysler Group, LLC (Dodge)	P: Larry Miles R: Gwen Young	Termination
PR-2379-13*	MTD: 1-7-14 Matter taken under submission	David A. Gill, as the Trustee of the Estate of West Covina Motors, Inc., and West Covina Motors, Inc., dba Clippinger Chrysler Jeep Dodge Ram v. Chrysler Group, LLC (Dodge)	P: Larry Miles R: Gwen Young	Termination
PR-2380-13	Tentative MH: 6-23-14 (10 days)	South Bay Triumph v. Triumph Motorcycles (America), LTD	P: Mike Flanagan, Gavin Hughes R: Ryan Mauck, Randall Oyler, Steve Yatvin	Termination
PR-2381-13*	HRC: 6-25-14 MH: 7-21-14 (10 days)	Hayward Nissan Corporation dba Hayward Nissan v. Nissan of North America, Inc.	P: Mike Flanagan, Gavin Hughes R: Mo Sanchez, Lisa Gibson	Termination

PENDING CASES

BY CASE NUMBER

Petitions

	CASE NUMBER/ DATE FILED	STATUS	PETITION	COUNSEL
1.			-----None Pending-----	

Appeals

	CASE NUMBER/ DATE FILED	STATUS	APPEAL	COUNSEL
1.			-----None Pending-----	

C. JUDICIAL REVIEW

Judicial Review

Either the Protestant/Petitioner/Appellant or Respondent seeks judicial review of the Board's Decision or Final Order by way of a petition for writ of administrative mandamus (Code of Civil Procedure, § 1094.5). The writ of mandamus may be denominated a writ of mandate (Code of Civil Procedure, § 1084).

1. ROADTREK MOTORHOMES, INC., Plaintiff v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Defendant, MEGA RV CORP, d/b/a MCMAHON'S RV, Real Party in Interest.

California Superior Court, Sacramento County Case No. 34-2012-80001301
New Motor Vehicle Board Case No. CRT-264-12
Protest No. PR-2201-10

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members decided to sustain the protest filed by Protestant Mega RV Corp, a California corporation doing business as McMahon's RV (Mega) [Protest No. PR-2201-10 (Colton/Irvine)]. At the Board's regularly scheduled meeting on October 17, 2012, the Board adopted its written Order Confirming Decision to Sustain Protest. The Board found that Roadtrek Motorhomes, Inc. (Roadtrek) was statutorily barred from modifying the franchise of Mega RV for its Irvine location inasmuch as Roadtrek had not complied with Vehicle Code section 3070(b)(1).

On October 30, 2012, Roadtrek filed a petition in the California Superior Court for Sacramento County seeking a writ of administrative mandate. The petition asks the Court to, (a) declare, decree, and adjudge that the Board prejudicially abused its discretion based on Roadtrek's contention that the Board's finding on Protest No. PR-2201-10 is not supported by substantial evidence in light of the whole record or the law, (b) declare, decree, and adjudge that applicable Vehicle Code sections are unconstitutional as applied under, without limitation, the Commerce Clause, Contracts Clause, and Due Process Clause of the California and United States Constitutions, (c) issue a writ of mandate (judgment) commanding the Board to set aside its Decision, (d) grant Roadtrek an immediate stay of enforcement of the Board's Decision, including the Board's decision to refer the matter to the DMV, (e) award Roadtrek its costs, and (e) grant Roadtrek such other and further relief the Court deems appropriate, proper, or in the interests of justice.

It has been determined that there is a state interest at issue in the writ so the Board will participate via the Attorney General's Office.

On November 20, 2012, the Court ordered consolidation, for all purposes, of cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, and the Court designated case number 34-2012-80001280 as the lead case. The Court also ordered the consolidated cases transferred to the Superior Court of California for the County of Orange.

All further reporting of this case will be made under CRT-258-12, below.

2. ROADTREK MOTORHOMES, INC., Plaintiff v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Defendant, MEGA RV CORP, d/b/a MCMAHON'S RV, Real Party in Interest.

California Superior Court, Sacramento County Case No. 34-2012-80001300

New Motor Vehicle Board Case No. CRT-263-12

Protest No. PR-2199-10

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members, decided to sustain the protest filed by Protestant. At the Board's regularly scheduled meeting on October 17, 2012, the Board adopted its written Order Confirming Decision to Sustain Protest. The Board found that Roadtrek was statutorily barred from modifying the franchise of Mega RV for its Colton location inasmuch as Roadtrek had not complied with Vehicle Code section 3070(b)(1).

On October 30, 2012, Roadtrek filed a petition in the California Superior Court for Sacramento County seeking a writ of administrative mandate. The petition asks the Court to, (a) declare, decree, and adjudge that the Board prejudicially abused its discretion based on Roadtrek's contention that the Board's finding on Protest No. PR-2199-10 is not supported by substantial evidence in light of the whole record or the law, (b) declare, decree, and adjudge that applicable Vehicle Code sections are unconstitutional as applied under, without limitation, the Commerce Clause, Contracts Clause, and Due Process Clause of the California and United States Constitutions, (c) issue a writ of mandate (judgment) commanding the Board to set aside its Decision, (d) grant Roadtrek an immediate stay of enforcement of the Board's Decision, including the Board's decision to refer the matter to the DMV, (e) award Roadtrek its costs, and (e) grant Roadtrek such other and further relief the Court deems appropriate, proper, or in the interests of justice.

It has been determined that there is a state interest at issue in the writ so the Board will participate via the Attorney General's Office.

On November 20, 2012, the Court ordered consolidation, for all purposes, of cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, and the Court designated case number 34-2012-80001280 as the lead case. The Court also ordered the consolidated cases transferred to the Superior Court of California for the County of Orange.

All further reporting of this case will be made under CRT-258-12, below.

3. HARLEY-DAVIDSON MOTOR COMPANY, a Corporation, Petitioner v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Respondent, RIVERSIDE MOTORCYCLE, INC., DBA SKIP FORDYCE HARLEY-DAVIDSON, Real Party in Interest.

California Superior Court, Riverside County Case No. R1C1215074
New Motor Vehicle Board Case No. CRT-262-12
Protest No. PR-2310-11

On July 20, 2011, Riverside Motorcycle, Inc., dba Skip Fordyce Harley-Davidson (Riverside) filed a termination protest. On August 16, 2012, Judge Ryerson issued a "Proposed Decision," sustaining Riverside's protest. Judge Ryerson found that Harley-Davidson Motor Company (HDMC) had not met its burden of proof under Vehicle Code section 3066(b) to establish that there was good cause to terminate Riverside's franchise, but conditioned the decision on Riverside's reimbursement of some of HDMC's expenses.

At the Board's regularly scheduled meeting on August 22, 2012, the Public Members adopted Judge Ryerson's Proposed Decision as the Board's final decision in the matter.

On October 9, 2012, the Board received copies of the Verified Petition for Writ of Mandate and accompanying papers advanced by HDMC for filing in the California Superior Court for Riverside County. The petition seeks a judgment (i.e., writ of mandate), (1) directing the Board to set aside its decision sustaining Riverside's protest and allow the proposed termination to proceed, and (2) for such other relief as the Court deems just and proper.

It has been determined that there is no state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

On November 15, 2012, the Board received Riverside's Notice of Appearance and Preliminary Opposition to Petitioner's Writ of Mandate.

The parties are attempting to settle this matter. The schedule has been amended twice, most recently, as follows: March 7, 2014, is the last day on which HDMC may file its opening brief; April 7, 2014, is the last day on which Riverside may file its opposition brief; April 28, 2014, is the last day on which HCMC may file its reply brief; and the hearing on the petition for writ of mandate is scheduled to begin on May 19, 2014.

On November 26, 2013, the court entered HDMC's request for dismissal without prejudice. This matter is closed and will not appear on future reports.

4. ROADTREK MOTORHOMES, INC., Plaintiff v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Defendant, MEGA RV CORP. d/b/a MCMAHON'S RV, Real Party in Interest.

California Superior Court, Sacramento County Case No. 34-2012-00130525
New Motor Vehicle Board Case No. CRT-261-12
Protest No. PR-2233-10

Protestant Mega filed protest number PR-2233-10, with the Board on May 11, 2010. The protest alleged that Roadtrek failed to give Mega and the Board timely notice of Roadtrek's intention to establish an additional Roadtrek dealer in Colton, California in the relevant market area in which Mega, a franchisee of the same recreational vehicle line-make, was located, and that the exception provided by subdivision (b)(5) of Vehicle Code section 3072 was inapplicable in the circumstances. On July 30, 2012, following a hearing on the merits of the protest, Judge Hagle issued a "Proposed Decision" sustaining Mega's protest. Judge Hagle found that Roadtrek failed to give Mega timely notice of Roadtrek's intention to establish an additional Roadtrek dealer in the relevant market area in which Mega, a franchisee of the same recreational vehicle line-make, was located, and that the exception provided by subdivision (b)(5) of Vehicle Code section 3072 was inapplicable in the circumstances.

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members adopted Judge Hagle's Proposed Decision as the Board's final decision in the matter.

On October 2, 2012, Roadtrek filed a petition in the California Superior Court for Sacramento County, seeking a writ of administrative mandate. The petition asks the court to, (a) declare, decree, and adjudge that the Board prejudicially abused its discretion based on Roadtrek's contention that the Board's finding on Protest No. PR-2233-10 is not supported by substantial evidence in light of the whole record, (b) declare, decree, and adjudge that applicable Vehicle Code sections are unconstitutional as applied under, without limitation, the Commerce Clause, Contracts Clause, and Due Process Clause of the California and United States Constitutions, (c) issue a writ of mandate (judgment) commanding the Board to set aside its decision relative to Protest No. PR-2233-10, (d) award Roadtrek its costs, and (e) grant Roadtrek such other and further relief the Court deems appropriate, proper, or in the interests of justice.

It has been determined that there is no state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

On November 20, 2012, the Court ordered consolidation, for all purposes, of cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, and the Court designated case number 34-2012-80001280 as the lead case. The Court also ordered the consolidated cases transferred to the Superior Court of California for the County of Orange.

All further reporting of this case will be made under CRT-258-12, below.

5. ROADTREK MOTORHOMES, INC., Plaintiff v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Defendant, MEGA RV CORP, d/b/a MCMAHON'S RV, Real Party in Interest.

California Superior Court, Sacramento County Case No. 34-2012-80001280;
New Motor Vehicle Board Case No. CRT-260-12
Protest Nos. PR-2205-10, PR-2211-10 and PR-2212-10

Judicial Review

Protestant Mega filed Protest No. PR-2205-10 with the Board on February 9, 2010 and Protest Nos. PR-2211-10 and PR-2212-10 on February 18, 2010. The protests alleged that Roadtrek failed to fulfill an agreement with Mega to pay Mega's claims under the terms of Roadtrek's franchisor incentive program. On July 26, 2012, following a hearing on the merits of the protest, Judge Hagle issued a "Proposed Decision" sustaining Mega's protests. Judge Hagle found that Roadtrek had failed to fulfill obligations to Mega relative to "franchisor incentive program" claims and that Roadtrek had not timely and appropriately paid approved claims.

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members adopted Judge Hagle's Proposed Decision as the Board's final decision.

On October 1, 2012, Roadtrek filed a petition in the California Superior Court for Sacramento County seeking a writ of administrative mandate. The petition asks the court to, (a) declare, decree, and adjudge that the Board prejudicially abused its discretion based on Roadtrek's contention that the Board's findings on Protest Nos. PR-2205-10, PR-2211-10, and PR-2212-10 are not supported by substantial evidence in light of the whole record, (b) declare, decree, and adjudge that applicable Vehicle Code sections are unconstitutional as applied under, without limitation, the Commerce Clause, Contracts Clause, and Due Process Clause of the California and United States Constitutions, (c) issue a writ of mandate (judgment) commanding the Board to set aside its decision relative to Protest Nos. PR-2205-10, PR-2222-10 [sic], and PR-2212-10, (d) award Roadtrek its costs, and (e) grant Roadtrek such other and further relief the Court deems appropriate, proper, or in the interests of justice.

It has been determined that there is no state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

On November 20, 2012, the Court ordered consolidation, for all purposes, of cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, and the Court designated case number 34-2012-80001280 as the lead case. The Court also ordered the consolidated cases transferred to the Superior Court of California for the County of Orange.

All further reporting of this case will be made under CRT-258-12, below.

6. ROADTREK MOTORHOMES, INC., Plaintiff v. CALIFORNIA NEW MOTOR VEHICLE BOARD, Defendant, MEGA RV CORP, d/b/a MCMAHON'S RV, Real Party in Interest.

California Superior Court, Sacramento County Case No. 34-2012-80001281
New Motor Vehicle Board Case No. CRT-259-12
Protest Nos. PR-2206-10, PR-2208-10 and PR-2209-10

Protestant Mega filed Protest No. PR-2206-10 with the Board on February 9, 2010 and filed Protest Nos. PR-2208-10 and PR-2209-10 with the Board on February

18, 2010. The protests alleged that Roadtrek failed to fulfill its warranty agreement to adequately and fairly compensate Mega for labor and parts used to fulfill warranty obligations of repair and servicing. On July 25, 2012, Judge Hagle issued a "Proposed Decision" sustaining Mega's protests. Judge Hagle concluded that Roadtrek failed to fulfill its warranty agreement to adequately and fairly compensate Mega for labor and parts used to fulfill warranty obligations of repair and servicing, that Roadtrek had failed to provide appropriate notice of its purported approval or disapproval of warranty claims, and that Roadtrek had failed to timely and appropriately pay approved warranty claims.

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members adopted Judge Hagle's Proposed Decision as the Board's final decision.

On October 2, 2012, Roadtrek filed a petition in the California Superior Court for Sacramento County seeking a writ of administrative mandate. The petition asks the court to, (a) declare, decree, and adjudge that the Board prejudicially abused its discretion based on Roadtrek's contention that the Board's findings on Protest Nos. PR-2206-10, PR-2208-10, and PR-2209-10 are not supported by substantial evidence in light of the whole record, (b) declare, decree, and adjudge that applicable Vehicle Code sections are unconstitutional as applied under, without limitation, the Commerce Clause, Contracts Clause, and Due Process Clause of the California and United States Constitutions, (c) issue a writ of mandate (judgment) commanding the Board to set aside its decision relative to Protest Nos. PR-2206-10, PR-2208-10, and PR-2209-10, (d) award Roadtrek its costs, and (e) grant Roadtrek such other and further relief the Court deems appropriate, proper, or in the interests of justice.

It has been determined that there is no state interest at issue in the writ so the Board will not participate via the Attorney General's Office.

On November 20, 2012, the Court ordered consolidation, for all purposes, of cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, and the Court designated case number 34-2012-80001280 as the lead case. The Court also ordered the consolidated cases transferred to the Superior Court of California for the County of Orange.

All further reporting of this case will be made under CRT-258-12, below.

7. MEGA RV CORP, a California corporation doing business as MCMAHON'S RV, Petitioner vs. NEW MOTOR VEHICLE BOARD, STATE OF CALIFORNIA, Respondent, ROADTREK MOTORHOMES, INC., Real Party in Interest.
California Court of Appeal, Fourth District, Division 3, Case No. G049534
California Superior Court, Orange County Case No. 30-2012-00602460-CU-WM-CJC
New Motor Vehicle Board Case No. CRT-258-12
Protest Nos. PR-2244-10 and PR-2245-10

Protestant Mega filed Protest Nos. PR-2244-10 and PR-2245-10 with the Board on July 13, 2010. The protests alleged that Roadtrek violated Vehicle Code section 3070 and should not be permitted to terminate Mega's franchises at its California dealership locations in Scotts Valley (PR-2245-10) and in Colton and Irvine (PR-2244-10).

On July 24, 2012, Administrative Law Judge Anthony M. Skrocki issued a proposed order granting Roadtrek's motion to dismiss Protest No. PR-2245-10. Judge Skrocki concluded that, in light of the circumstances, including the fact that Mega's dealership location in Scott's Valley had not been in operation for over one year and was unlikely to reopen, any decision by the Board on the merits of the protest would not be meaningful and would not effectuate relevant legislative intent.

On July 30, 2012, Judge Hagle issued a "Proposed Decision" overruling Protest No. PR-2245-10. Judge Hagle concluded that the protest was not viable relative to the Irvine location, inasmuch as Mega had closed that dealership location, relocated the dealership to Westminster, California, and there was no franchise for Mega to sell Roadtrek vans from the Westminster dealership. Judge Hagle also concluded that Roadtrek had established good cause to terminate the Roadtrek franchise of Mega at Colton, California.

At the Board's regularly scheduled meeting on August 23, 2012, the Public and Dealer Members adopted Judge Hagle's Proposed Decision and Judge Skrocki's Proposed Order as the Board's final decisions.

On October 2, 2012, Mega filed a Petition for Writ of Administrative Mandamus, in the California Superior Court for Orange County (the Court). The petition seeks a judgment (i.e., writ of mandate), that would, (1) direct and compel the Board to set aside its decisions in Protest Nos. PR-2244-10 and PR-2245-10 dated August 23, 2012, (2) require the Board to sustain those protests and preclude the proposed termination of Mega's Roadtrek franchises with addresses in Colton and Irvine, California, (3) grant Mega an immediate stay of enforcement of the Board's decisions relative to Protest Nos. 2244-10 and 2245-10, (4) order the Board to take no further action relative to the protests pending resolution of the writ petition, (5) award petitioner its costs, and (6) order such other relief as the court may consider just and proper.

It has been determined that there is a state interest at issue in the writ so the Board will participate via the Attorney General's Office.

On November 20, 2012, the California Superior Court for the County of Sacramento ordered, (a) consolidation, for all purposes, of that court's cases numbered 34-2012-80001280; 34-2012-80001281; 34-2012-80001300; 34-2012-80001301; and 34-2012-130525, (b) case number 34-2012-80001280 designated as the lead case, and (c) transfer of the consolidated cases to the Superior Court of California for the County of Orange for consolidation with the instant case - No. 30-2012-00602460-CU-WM-CJC.

In November 2012, Mega requested that the Court issue a Temporary Restraining Order (TRO) staying the operative effect of the Board's Decision. Roadtrek opposed the request and the Court denied the request, without prejudice in the event Mega wished to present the issue in a noticed motion. Mega filed such a motion. On December 14, 2012, the Court heard the motion and took the matter under submission.

On December 19, 2012, Roadtrek's writ petitions were transferred to the Orange County Superior Court. However, the Orange County Superior Court assigned these matters with a different case number, 30-2013-00624042-CU-PT-CJC, and assigned the case to Department C18. On January 17, 2013, Roadtrek filed a Notice of Related Case to inform the Court that a related case is already assigned to Department C20.

On January 16, 2013, Judge David Chaffee, presiding in Department C20 of the Superior Court for the County of Orange, issued a written order denying Mega's motion to temporarily stay enforcement of the Board's "order/decision" with regard to Protest Nos. PR-2244-10 and PR-2245-10 pending the Court's resolution of Mega's Petition for Writ of Administrative Mandamus relative to the same matters. The disputed legal issue pertaining to the motion for temporary stay was whether Code of Civil Procedure (CCP) section 1094.5, subds. (g) or (h) applied. The Court stated that section 1094.5, subd. (g), "allows a stay to be granted as long as the stay is not against the public interest." However, section 1094.5, subd. (h), "requires that, before a stay can be granted, the moving party must show not only that the stay is not against the public interest, but also that the state agency is unlikely to prevail ultimately on the merits."

Although the Court found that Mega, "made a convincing statutory construction argument, contending that the NMVB decisions at issue satisfy the criteria of CCP [section] 1094.5 (h)(1) because they fall under the definition of an 'administrative order or decision of ... [a] state agency made after a hearing required by statute to be conducted under the Administrative Procedure Act ...' and that the decisions at issue satisfy the criteria set forth in CCP [section] 1094.5 (h)(2) because 'the agency ... adopted the proposed decision of the administrative law judge in its entirety,'" the Court ultimately ruled that a stay is inappropriate, based on the facts unique to this dispute.

The Court ruled against a stay, finding that a stay of the Board's decision "would be against the public interest." The Court noted, "the public's interest is best served by preservation of the status quo. The status quo is that Mega has not been operating as a Roadtrek dealership since the end of 2009, while Mike Thompson RV ("MTRV") in Colton has been doing so continuously since March 2010." The Court found that the stay would be against the public interest because "it increases Mega RV's ability to revive and leverage rights that, for all intents and purposes, became dormant approximately 3 years ago."

The Court noted Mega's concern that Roadtrek will attempt to enfranchise a new Roadtrek dealership before Mega's writ petition is decided. However, the Court also noted that "in light of the fact that Mega RV has not been operating as a

Roadtrek dealer for the last 3 years, this does not seem to be a valid reason for implementing a stay."

The Court also found that Mega did not satisfy the requirement under CCP section 1094.5, subd. (h) that the state agency is unlikely to prevail ultimately on the merits. Mega argued that the Board, "purportedly proceeded in excess of jurisdiction." However, the Court found that Mega failed to "lay any foundation explaining the applicable standards and legal implications of these purported errors."

On March 1, 2013, Judge DiCesare (Department C-18) held a Case Management Conference (CMC) in case number 30-2013-00624042 (the Roadtrek petitions). Judge DiCesare continued the CMC to April 19. Judge DiCesare said that he would review the related case notice and talk to Judge Chaffee (Department C-20) about the issues relative to the consolidation of this case (number 30-2012-00602460) with the case concerning the Roadtrek petitions (number 30-2013-00624042) Judge DiCesare suggested that the CMC scheduled for April 19 would be taken off-calendar if the Roadtrek petitions case was transferred to Judge Chaffee.

At a Case Management Conference in the instant case on March 6, 2013, before Judge Chaffee in Department C-20, Judge Chaffee confirmed that case number 30-2013-00624042-CU-PT-CJC (the Roadtrek petitions) had been transferred to his Department (C-20) and had been consolidated with the instant case (number 30-2012-00602460). To clarify matters, Judge Chaffee stated that the two cases are deemed related so they will retain their original court case numbers (30-2012-00602460-CU-WM-CJC and 30-2013-00624042-CU-PT-CJC), thus any pleadings filed with the court should reference both case numbers, and as a result all dates scheduled in Department C-18 have been taken off-calendar.

Judge Chaffee gave parties until March 25, 2013, to file a stipulated briefing schedule, and set the hearing for: Tuesday, October 15, 2013, at 9:00 a.m. The parties agreed to the following briefing schedule: Roadtrek's opening brief shall be filed and served by June 17, 2013; Mega's opposition brief shall be filed and served by August 16, 2013. Roadtrek's reply brief shall be filed and served by September 16, 2013.

On March 6, 2013, the Board received notice of Roadtrek's motion to stay enforcement of the Board's administrative orders and decisions in protest numbers PR-2199-10 and PR-2201-10. Following the hearing of the motion on April 12, 2013, and on April 24, 2013, the Court issued its final ruling on the motion, granting Roadtrek's motion to stay enforcement of the Board's administrative orders and decisions in Protest Nos. PR-2199-10 and PR-2201-10, including the Board's referral for an investigation to the Department of Motor Vehicles.

This matter has been fully brief and oral arguments were presented on October 15, 2013. The Judge issued detailed tentative rulings at the beginning of the oral arguments. The tentative rulings are to DENY each of the petitions, with some slight caveats.

On December 18, 2013, Judge Chaffee issued a Minute Order denying all of the writs. On January 7, 2014, the court entered its judgment on the petitions for writ of mandate. On January 15, 2014, Roadtrek filed a Notice of Appeal. On January 16, 2014, Roadtrek also filed a motion to stay enforcement of the modification decisions. Any opposition to the motion is due no later than January 27.

8. POWERHOUSE MOTORSPORTS GROUP, INC. and TIMOTHY L. PILG v. YAMAHA MOTOR CORP, INC.; POWERHOUSE MOTORSPORTS, Petitioner v. NEW MOTOR VEHICLE BOARD, Respondent, YAMAHA MOTOR CORP INC., Real Party in Interest.

California Supreme Court No. S215677

California Court of Appeal, Second District, Ventura Division Case No. B236705

San Luis Obispo Superior Court Case No. CV09-8090

New Motor Vehicle Board Case No. CRT-249-09

Protest No. PR-2122-08

On June 5, 2009, the Board upheld a May 22, 2009, Proposed Order granting Yamaha's Motion to Dismiss Powerhouse's termination protest. The Order found that Powerhouse had failed to timely file its Protest and Powerhouse failed to establish that Yamaha was estopped from terminating the dealership.

The original complaint, filed in Superior Court on March 6, 2009, alleges Yamaha unreasonably withheld its consent for Powerhouse to transfer its dealership in violation of Vehicle Code section 11713.3, intentionally interfered with Powerhouse's contractual relations, intentionally interfered with Powerhouse's business advantage, and breached its contract with Powerhouse. Identical causes of action were alleged in behalf of dealer principal Timothy L. Pilg. In its First Amended Complaint, filed July 7, 2009, Powerhouse added a Petition for a Writ of Administrative Mandamus challenging the Board's June 5, 2009, Final Decision Dismissing Protest No. PR-2122-08. The Petition seeks reversal of the Board's Final Decision, based on allegations that the Board prejudicially abused its discretion and exceeded its jurisdiction.

On July 23, 2009, Board President Flesh determined the Board would not participate in the action by means of the Attorney General's Office. The matters before the court, including a Motion to Strike, a Motion to Bifurcate, and a Demurrer to the First Amended Complaint, were heard November 17, 2009, resulting in a Final Ruling denying the Demurrer and the Motion to Strike, but granting the Motion to Bifurcate. The court further ruled that the Writ Petition would be tried by the court separately prior to the other causes of action, and the court stayed all discovery until the conclusion of the writ action. Following the hearing of the writ action, the Court ruled on July 2, 2010, that Yamaha prevailed on the writ action. Based on that ruling, the court entered judgment in the writ action, on August 9, 2010, in favor of Yamaha.

A Hearing on a Motion for Summary Judgment was held on January 4, 2011. The court initially took the matter under submission, and on January 31, 2011, the court entered a ruling denying Yamaha's motion for summary judgment and in the

alternative summary adjudication. The ruling is adverse to the Board's jurisdiction and the Judge indicated that the Board does not have jurisdiction over protests and "...invocation of the Board's limited authority [is] optional..."

A jury trial, on the remaining causes of action scheduled for February 7, 2011, was continued to February 14, 2011, and continued again to May 31, 2011.

On February 7, 2011, Yamaha filed a "Petition for Writ of Mandate and/or Prohibition or Other Appropriate Relief [stay of trial proceedings]," in the Second District of the California Court of Appeal, case number B230699. The Board in consultation with Jeffrey Schwarzschild, Deputy Attorney General and Augustin Jimenez, General Counsel, Business, Transportation & Housing Agency ("Agency") filed a declaration containing statistical information on the types of actions filed with the Board, i.e., protests, petitions, and appeals. On February 10, 2011, the court denied the writ because, "...petitioner neglected to cite or argue the application of Vehicle Code section 3050, subdivision (e), and *South Bay Creditors Trust v. General Motors Acceptance Corp.* (1999) 69 Cal.App.4th 1068, 1079-1080."

On February 14, 2011, Yamaha re-filed the petition in the Second District, case number B230830. This petition included the Board's declaration and the citations and arguments previously noted by the court. On February 17, 2011, the court denied the writ and request for stay.

On February 28, 2011, Yamaha filed a Petition for Review in the California Supreme Court, case number S190950, seeking review of the denial, by the Second District Court of Appeal, of Yamaha's writ petition and request for stay. The Board received the necessary approvals from Glenn Stevens, the Public Members of the Board, Agency, and the Governor's Office to file an amicus curiae letter in support of Yamaha's petition for review on the jurisdictional issue of whether final Board decisions are binding with regard to other legal proceedings when the underlying writ concerning the final Board decision is denied, or whether these decisions are subject to re-litigation in a subsequent court action. The amicus curiae letter was filed on March 9, 2011. On April 13, 2011, the California Supreme Court denied Yamaha's Petition for Review and Application for Stay.

In a letter dated May 5, Yamaha asked the superior court to review the Board's amicus curiae letter. Counsel for Yamaha indicated that it would subpoena Robin Parker to testify concerning the content of the amicus curiae letter around May 31 or June 1. Agency was apprised of this.

A multi-day jury trial began on May 31, 2011. After being subpoenaed by Yamaha, Robin Parker testified on June 13. The jury awarded Powerhouse and Mr. Pilg \$1,136,000 in compensatory damages and \$200,000 in punitive damages. During the course of the trial, the bankruptcy trustee (Namba) was substituted for Mr. Pilg.

A briefing schedule was set on Yamaha's motion for a judgment notwithstanding the verdict and motion for new trial. An in-person hearing was held on August 2,

2011. Both motions were denied. Counsel for Yamaha indicated that a notice of appeal would be filed.

Plaintiffs filed a “Motion for Prejudgment Interest under Civil Code section 3287(a), or in the Alternative, Civil Code section 3287(b).” A hearing was held on August 9, 2011. The tentative order concluded that attorneys’ fees are allowed under Vehicle Code section 11726(a) but not under the contract. Plaintiffs requested \$703,000 adjusted upward by a 1.7 multiplier. The court indicated this amount will be reduced by the fees incurred in connection with the protest and petition for writ of administrative mandate.

Yamaha filed a “Motion to Tax Costs Requested by Plaintiff’s”. This matter was resolved by counsel based on the court’s ruling on the attorney’s fees.

Powerhouse sought to enforce the \$2,175,000 judgment against Yamaha prior to the deadline for Yamaha to file an appeal, i.e., October 17, 2011. On September 7, 2011, Yamaha filed an Ex Parte Application for an Order Staying Enforcement of Judgment. A hearing was held on September 8, 2011. The motion was granted and enforcement of the judgment was stayed until October 17. On October 6, 2011, the law firm of Gibson, Dunn & Crutcher LLP was associated in as counsel for Yamaha.

On October 6, 2011, Yamaha filed a Notice of Appeal. On November 7, 2011, plaintiffs filed a Notice of Cross-Appeal, in which plaintiffs appeal from, among other matters, “The judgment entered on August 9, 2011, to the extent that it incorporates the trial court’s ruling of July 2, 2010, denying Powerhouse’s eighth cause of action under Code of Civil Procedure Section 1094.5 for Petition for Administrative Writ of Mandate.”

The Second District of the California Court of Appeal has established case number B236705 for the appeal and cross-appeal. On February 24, 2012, the record of important documents accumulated during the administrative and trial proceedings, was filed in the Court of Appeal.

The Court of Appeal ordered the following briefing schedule: (1) by April 4, Yamaha may file its opening brief; (2) within the following 30 days, appellants (collectively, “Powerhouse”) may file a brief in opposition to Yamaha’s opening brief, and may file an opening brief on cross-appeal; (3) within the following 30 days Yamaha may file a brief in reply to Powerhouse’s brief opposing Yamaha’s appeal, and may file a brief in opposition to Powerhouse’s opening brief on cross-appeal; (4) within the following 20 days Powerhouse may file a brief in reply to Yamaha’s brief in opposition to Powerhouse’s opening brief on cross-appeal. On April 20, 2012, the Court of Appeal noted that on April 10, 2012, appellant had provided that court with a notice (also served and filed in superior court) specifying a portion of the record that the clerk or reporter had omitted and requested that the clerk or reporter prepare, certify, and send that supplemental record to the Court of Appeal. The Court of Appeal expects that it will receive the supplemental record by May 10, 2012. These events have delayed the due date for the filing of Appellant’s opening brief until 30 days after the filing of the supplemental record.

On May 17, 2012, Yamaha filed appellant's opening brief. On August 1, 2012, Powerhouse filed respondents' opening brief.

In a letter to the Board dated May 8, 2012, counsel for Yamaha requested that the Board consider filing, in connection with the pending appellate case, a "friend of the court" (amicus curiae) brief. Counsel described the essential objectives of the brief, as follows: "...to educate the Court of Appeal regarding the jurisdiction of the Board, explain the expertise of the Board in adjudicating protests, and underscore the mission of the Board to serve all constituents in the new motor vehicle industry: dealers, manufacturers and the general consuming public." At its regularly scheduled meeting on May 22, 2012, the Board decided to decline Yamaha's request.

Counsel for Yamaha asked the Board to reconsider the Board's decision to decline Yamaha's request that the Board consider filing an amicus curiae brief in the pending appellate case. Yamaha's request was scheduled for consideration by the Board at its regularly scheduled meeting on August 23, 2012. At that meeting the Board denied Yamaha's request.

On August 1, 2012, Powerhouse filed its opening brief, and on August 23, 2012, filed amendments to the brief. On November 9, 2012, Yamaha filed its opposition to Powerhouse's opening brief. On December 17, 2012, Powerhouse filed its reply brief.

The hearing was held on August 14, 2013, before a panel of justices from Division 6 of California's Second District Court of Appeal. *In a published decision dated November 26, 2013, the Court concluded that Powerhouse's right to seek and recover damages for Yamaha's unreasonable refusal to approve the sale of Powerhouse's dealership and franchise is not affected by Powerhouse's failure to comply with the Section 3060 procedure for challenging Yamaha's termination of the franchise agreement, nor by the Board's decision regarding the timeliness of Powerhouse's protest to the notice of termination. The jury verdict was affirmed and Powerhouse was awarded costs on appeal.*

On or about December 23, 2013, Yamaha and Timothy L. Pilg filed Petitions for Rehearing. On December 24, 2013, the court issued an Order Modifying the Opinion and Denying Rehearing. On or about January 6, 2014, Yamaha filed a Petition for Review of the following issues:

- 1. Whether a motor vehicle franchisor may treat a franchise as terminated where the statutory and contractual grounds for termination exist, the franchisor issues a Notice of Termination that complies with all the requirements of Section 3060, and the franchisee fails to file a protest to the Notice of Termination within the statutory deadline to do so?*
- 2. Whether California law and due process preclude an award of punitive damages against a motor vehicle franchisor that indisputably complied with the statutorily authorized mechanism for terminating a franchise under the Vehicle Code?*

Timothy Pilg filed a Petition for Review on or about January 7, 2014, requesting that the Court grant review of the following issues:

- 1. Where a statute prohibits certain conduct, and expressly protects specific persons without restricting the nature or extent of the harm for which they may recover, do the courts have the power to add restrictions?*
- 2. Does the trial court have the power to grant a nonsuit sua sponte?*
- 3. Where plaintiffs' damages may have resulted from multiple causes, but defendant's conduct is the only unlawful cause, is the plaintiff entitled to a substantial factor instruction on causation.*

D.
NOTICES FILED

PURSUANT TO
VEHICLE CODE SECTIONS
3060/3070 AND 3062/3072

NOTICES FILED

PURSUANT TO VEHICLE CODE SECTIONS 3060/3070 AND 3062/3072

NOVEMBER 1, 2013, THROUGH JANUARY 21, 2014

These are generally notices relating to termination or modification (sections 3060 and 3070) and establishment, relocation, or off-site sales (sections 3062 and 3072).

SECTION 3060/3070	No.	SECTION 3062/3072	No.
ACURA		ACURA	
AUDI		AUDI	
BMW		BMW	
CHRYSLER		CHRYSLER	
DAIHATSU		DAIHATSU	
FERRARI		FERRARI	
FORD		FORD	2
GOSHEN		GOSHEN	
GM	13	GM	3
HARLEY-DAVIDSON		HARLEY-DAVIDSON	
HONDA		HONDA	
HYUNDAI		HYUNDAI	2
INFINITI		INFINITI	
ISUZU		ISUZU	
JAGUAR		JAGUAR	
KAWASAKI		KAWASAKI	
KTM	33	KTM	
KIA		KIA	1
LEXUS		LEXUS	
MAZDA		MAZDA	
MERCEDES		MERCEDES	
MITSUBISHI		MITSUBISHI	
NISSAN		NISSAN	
PORSCHE	25	PORSCHE	
SAAB-SCANIA		SAAB-SCANIA	
SATURN		SATURN	
SUBARU		SUBARU	
SUZUKI		SUZUKI	
TOYOTA		TOYOTA	
VOLKSWAGEN		VOLKSWAGEN	
VOLVO		VOLVO	
YAMAHA		YAMAHA	
MISCELLANEOUS	3	MISCELLANEOUS	
TOTAL	74	TOTAL	8