

COURTS: MTC CHANGES COUNSEL OF RECORD FOR *AMICUS* IN *FTB V. HYATT* CASE PENDING IN NEVADA SUPREME COURT

The Nevada Supreme Court has approved a motion by the Multistate Tax Commission to allow the commission to change attorneys for purposes of its *amicus* brief in *Franchise Tax Board of California v. Gilbert Hyatt*, which still awaits the court's decision, more than two years after completion of oral arguments.

The MTC's motion to withdraw Bruce J. Fort as its counsel was approved July 17. Nevada Solicitor General Charles Wayne Howle will represent the MTC's interest as *amicus curiae* in support of the FTB. In its motion seeking court approval of the change, the MTC acknowledged that the change likely is moot, stating that it "believes its interests can be adequately represented by the Solicitor General's office now that the case is fully briefed and argued and awaiting decision."

The FTB is appealing a Nevada jury's decision to award Mr. Hyatt, an inventor who moved from California to Nevada in the 1990s, \$396 million in damages because of the misconduct of FTB auditors during a residency audit.

In its *amicus* filing, the MTC said it has an interest in the case in part because "Article VIII of the [Multistate Tax] Compact grants authority to the Commission to conduct multistate audits of taxpayers on behalf of participating states," and because the commission "sends auditors into virtually every state as a regular part of its duties."

Neither Nevada nor California currently is a dues-paying member of the MTC, but California was a member when the *amicus* brief was filed.

In Nevada, the Supreme Court is the only appellate court, and it has experienced significant backlogs. In November, the Silver State's voters will decide a ballot measure that would establish an intermediate court of appeals. The voters rejected a similar measure in 2010.