

WORKLOAD NARRATIVE

FIELD OPERATIONS

November 2015

Workload: In November, the number of new cases for all programs was 17,478. This was 13% below the average for the year and represented the smallest intake since November 2014. Dispositions in November [16,605] were 18% below the norm this year. The open balance [27,620] is 6% above average levels for 2015.

UI. In November, the number of new UI cases [16,111 cases; 9,763 appellants] was 13% below the average so far this year, representing the smallest intake since November 2014. Closed cases [15,488 cases; 9,386 appellants] were 18% below the average so far this year. The open balance [17,047 cases; 10,330 appellants] is 7% above average for the year.

DI. In November, verifications of disability cases [871] were 17% below the average for the year and represented the smallest intake since November 2014. Dispositions [850] were 20% below the average for 2015. The open inventory [1,715] rose by just 21 cases, but remains greater than the average for the year.

Tax, Rulings, Other. New tax petitions in November [268] were 26% greater than the average for 2015. Dispositions [81] were the highest in three months but still trailed intake. The open inventory [4,470] rose again. Verifications of new ruling cases [217] as well as dispositions [170] were below the 2015 average. The inventory of ruling cases [4,365] is right at the norm this year.

Case Aging and Time Lapse. This was the ninth consecutive month in which all timeliness measures exceeded DOL requirements. Average case age was 29.0 days; 30-day time lapse was at 67.1%, and 45-day time lapse was at 87.7%. The changes in eCATS to facilitate tracking extension cases have resulted in a major improvement in the time lapse results for those cases. In November 52.6% of the extension cases were resolved in 30 days, up from 32.9% in October. Likewise, the 45-day percentage rose to 73.8% after hitting 67.7% in October.

ALL PROGRAM CY TRENDS - FO

NEW OPENED CASES

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL	Avg.	% Chg of Avg	Yr-Yr AvgChg	
2012	35,262	32,109	38,944	35,539	36,576	34,012	33,820	39,560	35,059	38,330	32,377	27,469	419,057	34,921			
2013	35,188	32,990	35,462	34,280	35,060	30,208	31,649	31,789	26,509	29,993	24,703	26,488	374,319	31,193	89%	-3,728	
2014	30,651	25,592	27,945	32,463	28,565	26,278	26,130	23,655	23,363	22,861	17,201	21,439	306,143	25,512	82%	-5,681	
2015	18,740	17,502	21,282	23,417	19,659	21,153	21,735	20,095	18,915	20,481	17,478		220,457	20,042	79%	-5,470	
Multi	2							22			47			6			
All Programs registrations to date are down 23% from 2014, down 37% from 2013, and down 44% from 2012																	
All Programs registrations monthly average is down 21% from 2014, down 36% from 2013, and down 43% from 2012																	

CLOSED CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	35,665	39,521	46,692	30,554	36,743	33,437	32,226	37,179	31,752	41,106	34,450	33,674	432,999	36,083		
2013	34,777	34,753	39,525	30,992	31,139	27,467	37,227	35,005	31,214	29,718	25,437	24,098	381,352	31,779	88%	-4,304
2014	27,304	26,789	28,051	28,143	28,600	26,672	27,086	25,897	22,225	25,206	18,498	20,377	304,848	25,404	80%	-6,375
2015	20,925	22,273	22,494	21,249	20,206	20,759	21,282	19,088	18,743	20,234	16,605		223,858	20,351	80%	-5,053
Multi	1/4			7/20			6/38									
All Programs dispositions to date are down 21% from 2014, down 37% from 2013, and down 44% from 2012																
All Programs dispositions average is down 20% from 2014, down 36% from 2013, and down 44% from 2012																

BALANCE OPEN CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	55,113	47,540	39,388	44,228	43,982	44,458	45,980	48,183	51,402	48,515	46,318	40,048		46,263		
2013	40,368	38,419	34,291	37,401	41,214	43,875	38,202	34,844	30,062	30,217	29,380	31,701		35,831	77%	-10,432
2014	34,463	33,209	33,026	37,269	37,183	36,725	35,656	33,331	34,401	31,980	30,632	31,633		34,126	95%	-1,706
2015	29,381	24,557	23,290	25,400	24,815	25,127	25,470	26,422	26,541	26,756	27,619			25,943	76%	-8,182
Multi	7		7			25		69		64		43		43		1

All Programs balance to date is down 24% from 2014, down 28% from 2013, and down 45% from 2012
 All Programs balance monthly average is down 24% from 2014, down 28% from 2013, and down 44% from 2012

	2014	2013	2012	chg 2015 avg	chg 2015 YTD
Avg.	76%	72%	56%		
% Chg of Avg	76%	72%	55%		
Yr-Yr AvgChg					

RULING-OTHER CY TRENDS - FO
Program Codes 9, 13, 14, 19, 21, 22, 40, 44

NEW OPENED CASES

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	182	245	746	576	605	424	229	418	209	315	51	108	4,108	342		
2013	292	280	201	234	589	585	432	380	219	89	135	112	3,548	296	86%	-47
2014	156	223	402	791	601	228	231	217	190	119	71	133	3,362	280	95%	-16
2015	97	152	329	464	396	294	247	254	123	144	228		2,728	248	89%	-32
													2014	89%	84%	
													2013	84%	79%	
													2012	72%	68%	
														chg 2015 avg	chg 2015 YTD	

Ruling/Other registrations to date are down 16% from 2014, down 21% from 2013, and down 32% from 2012
Ruling/Other registrations monthly average is down 11% from 2014, down 16% from 2013, and down 28% from 2012

CLOSED CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	500	455	299	255	214	165	239	323	170	334	434	171	3,559	297		
2013	242	250	424	278	254	248	329	322	574	598	162	223	3,904	325	110%	29
2014	204	383	288	130	156	113	174	106	269	209	160	284	2,476	206	63%	-119
2015	116	139	915	243	286	206	271	176	196	193	186		2,927	266	129%	60
													2014	129%	134%	
													2013	82%	80%	
													2012	90%	86%	
														chg 2015 avg	chg 2015 YTD	

Ruling/Other dispositions to date are up 34% from 2014, down 20% from 2013, and down 14% from 2012
Ruling/Other dispositions monthly average is up 29% from 2014, down 18% from 2013, and down 10% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	3,272	3,060	3,509	3,825	4,216	4,475	4,466	4,563	4,602	4,582	4,199	4,133	4,075		
2013	4,182	4,212	3,988	3,943	4,275	4,613	4,716	4,776	4,423	3,914	3,887	3,776	4,225	104%	150
2014	3,724	3,566	3,667	4,329	4,775	4,892	4,914	5,022	4,942	4,851	4,761	4,597	4,503	107%	278
2015	4,580	4,591	4,002	4,221	4,332	4,420	4,396	4,473	4,398	4,349	4,387		4,377	97%	-126
													2014	97%	97%
													2013	104%	103%
													2012	107%	108%
														chg 2015 avg	chg 2015 YTD

Ruling/Other balance to date is down 3% from 2014, up 3% from 2013, and up 8% from 2012
Ruling/Other balance monthly average is down 3% from 2014, up 4% from 2013, and up 7% from 2012

TAX CY TRENDS - FO
Program Codes 15, 17, 18, 32, 46, 47, 48

NEW OPENED CASES

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	346	141	196	117	78	335	253	229	254	200	215	214	2,578	215		
2013	223	245	299	199	243	321	233	264	247	242	307	411	3,234	270	125%	55
2014	232	320	285	230	222	217	217	234	255	178	253	253	2,896	241	90%	-28
2015	124	197	271	194	189	300	247	235	177	136	268		2,338	213	88%	-29
													2014	88%	88%	
													2013	79%	83%	
													2012	99%	99%	

Tax registrations to date are down 12% from 2014, down 17% from 2013, and down 1% from 2012
Tax registrations monthly average is down 12% from 2014, down 21% from 2013, and down 1% from 2012

CLOSED CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	227	352	322	492	267	217	236	290	284	357	234	195	3,473	289		
2013	299	222	475	590	375	301	214	263	352	231	151	185	3,658	305	105%	15
2014	208	265	232	129	257	300	200	149	195	174	145	120	2,374	198	65%	-107
2015	81	150	143	212	252	272	196	93	64	76	81		1,620	147	74%	-51
													2014	74%	72%	
													2013	48%	47%	
													2012	51%	49%	

Tax dispositions to date are down 28% from 2014, down 53% from 2013, and down 51% from 2012
Tax dispositions monthly average is down 26% from 2014, down 52% from 2013, and down 49% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	4,711	4,498	4,371	3,995	3,803	3,918	3,931	3,871	3,841	3,683	3,664	3,683	3,997		
2013	3,606	3,629	3,453	3,062	2,930	2,949	2,967	2,965	2,861	2,872	3,028	3,253	3,131	78%	-866
2014	3,276	3,328	3,381	3,482	3,447	3,363	3,379	3,463	3,523	3,526	3,633	3,766	3,464	111%	333
2015	3,808	3,854	3,979	3,961	3,897	3,923	3,969	4,112	4,223	4,283	4,470		4,044	117%	580
													2014	117%	118%
													2013	129%	130%
													2012	101%	100%

Tax balance to date is up 18% from 2014, up 30% from 2013, and even with 2012
Tax balance monthly average is up 17% from 2014, up 29% from 2013, and up 1% from 2012

	chg 2015 avg	chg 2015 YTD

DI CY TRENDS - FO
Program Codes 7, 10, 11, 12, 16 & 20

NEW OPENED CASES

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	1,395	1,490	1,611	1,256	1,362	1,382	1,206	1,122	1,233	1,069	845	754	14,725	1,227		
2013	982	811	995	971	970	884	1,043	991	1,046	1,086	941	945	11,665	972	79%	-255
2014	1,004	958	979	1,158	1,088	1,131	1,352	1,027	1,113	1,102	815	1,062	12,789	1,066	110%	94
2015	1,104	990	1,035	1,085	1,019	1,141	1,205	1,158	1,004	992	871		11,604	1,055	99%	-11
														2014	99%	99%
														2013	109%	108%
														2012	86%	83%
														chg 2015 avg chg 2015 YTD		

DI registrations to date are down 1% from 2014, up 8% from 2013, and down 17% from 2012

DI registrations monthly average is down 1% from 2014, up 9% from 2013, and down 14% from 2012

CLOSED CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	1,334	1,547	1,456	1,424	1,460	1,140	1,079	1,220	999	1,452	938	1,039	15,088	1,257		
2013	1,083	906	1,186	734	758	860	1,026	1,098	1,223	1,298	749	822	11,743	979	78%	-279
2014	835	891	958	927	1,047	1,038	1,024	1,101	1,241	1,165	965	1,073	12,265	1,022	104%	44
2015	1,144	1,230	1,376	1,045	939	978	1,149	1,052	906	1,034	850		11,703	1,064	104%	42
														2014	104%	105%
														2013	109%	107%
														2012	85%	83%
														chg 2015 avg chg 2015 YTD		

DI dispositions to date are up 5% from 2014, up 7% from 2013, and down 17% from 2012

DI dispositions monthly average is up 4% from 2014, up 9% from 2013, and down 15% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg	
2012	1,815	1,757	1,905	1,734	1,636	1,877	2,005	1,906	2,139	1,755	1,663	1,379	1,798			
2013	1,277	1,182	991	1,227	1,437	1,462	1,481	1,374	1,198	986	1,177	1,300	1,258	70%	-540	
2014	1,469	1,536	1,557	1,788	1,830	1,922	2,250	2,176	2,048	1,984	1,834	1,823	1,851	147%	594	
2015	1,782	1,542	1,198	1,237	1,318	1,480	1,534	1,639	1,737	1,694	1,715		1,534	83%	-317	
														2014	83%	83%
														2013	122%	122%
														2012	85%	84%
														chg 2015 avg chg 2015 YTD		

DI balance to date is down 17% from 2014, up 22% from 2013, and down 16% from 2012

DI balance monthly average is down 17% from 2014, up 22% from 2013, and down 15% from 2012

UI CY TRENDS - FO

Program Codes 1, 2, 3, 4, 5, 6, 8, 23, 24, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 41, 42

NEW OPENED CASES

CY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	33,339	30,233	36,391	33,590	34,531	31,871	32,132	37,791	33,363	36,746	31,266	26,393	397,646	33,137		
2013	33,691	31,654	33,967	32,876	33,258	28,418	29,941	30,154	24,997	28,576	23,320	25,020	355,872	29,656	89%	-3,481
2014	29,259	24,091	26,279	30,284	26,654	24,702	24,330	22,177	21,805	21,462	16,062	19,991	287,096	23,925	81%	-5,731
2015	17,415	16,163	19,647	21,674	18,055	19,418	20,036	18,448	17,611	19,209	16,111		203,787	18,526	77%	-5,399
Multi:													2014	77%	76%	
													2013	62%	62%	
													2012	56%	55%	
													chg 2015 avg		chg 2015 YTD	

UI registrations to date are down 24% from 2014, down 38% from 2013, and down 45% from 2012

UI registrations monthly average is down 23% from 2014, down 38% from 2013, and down 44% from 2012

CLOSED CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	33,604	37,167	44,615	28,383	34,802	31,915	30,672	35,346	30,299	38,963	32,844	32,269	410,879	34,240		
2013	33,153	33,375	37,440	29,390	29,752	26,058	35,658	33,322	29,065	27,591	24,375	22,868	362,047	30,171	88%	-4,069
2014	26,057	25,250	26,573	26,957	27,140	25,221	25,688	24,541	20,520	23,658	17,228	18,900	287,733	23,978	79%	-6,193
2015	19,584	20,754	20,060	19,749	18,729	19,303	19,666	17,767	17,577	18,931	15,488		207,608	18,873	79%	-5,104
Multi:													2014	79%	77%	
													2013	63%	61%	
													2012	55%	55%	
													chg 2015 avg		chg 2015 YTD	

UI dispositions to date are down 23% from 2014, down 39% from 2013, and down 45% from 2012

UI dispositions monthly average is down 21% from 2014, down 37% from 2013, and down 45% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Avg.	% Chg of Avg	Yr-Yr AvgChg	
2012	45,315	38,225	29,603	34,674	34,327	34,188	35,578	37,843	40,820	38,495	36,792	30,853	36,393			
2013	31,303	29,396	25,859	29,169	32,572	34,851	29,038	25,729	21,580	22,445	21,288	23,364	27,216	75%	-9,177	
2014	25,994	24,779	24,421	27,670	27,131	26,548	25,113	22,670	23,888	21,619	20,404	21,447	24,307	89%	-2,909	
2015	19,211	14,570	14,111	15,981	15,268	15,304	15,571	16,198	16,183	16,430	17,047		15,989	66%	-8,318	
Multi:													2014	66%	65%	
													2013	59%	58%	
													2012	44%	43%	
													chg 2015 avg		chg 2015 YTD	

UI balance to date is down 35% from 2014, down 42% from 2013, and down 57% from 2012

UI balance monthly average is down 34% from 2014, down 41% from 2013, and down 56% from 2012

AO REPORT TO BOARD -- MONTH OF NOVEMBER 2015

	# Cases	Last Month	Calendar Yr Avg	Last Yr Avg	2011
REGISTRATIONS	1156	1114	1343	1642	3318
DISPOSITIONS	947	1242	1421	1680	2994
OPEN BALANCE	1222	1006	1666	1662	5814

CASE AGING (40days) 31.5

TIME LAPSE

45 Days (50%) 81.00%
 75 Days (80%) 97.00%
 150 Days (95%) 100.00%

OTHER INFORMATION

FO to AO Transfer Rate 1.81
 FO ALLs working in AO 1
 Appeal Rate FO to AO 5.70%

**California Unemployment Insurance Appeals Board
Board Appeal Summary Report**

Average Days in Transfer from FO Received Date to Date Received at AO

	November, 2015	October, 2015	September, 2015	August, 2015
	Average Days in Transfer			
	Case Count	Case Count	Case Count	Case Count
Fr	0.66	1.36	2.08	0.90
	59	75	52	100
Ing	1.65	2.28	3.19	1.77
	81	245	125	122
Inl	0.89	1.40	1.77	2.81
	124	138	142	181
LA	1.97	0.64	1.36	0.86
	97	129	127	124
Oak	5.74	3.50	1.44	1.22
	57	56	57	58
OC	0.24	0.56	1.03	1.45
	55	129	115	118
Ox	0.78	0.20	0.13	0.39
	32	97	85	69
Pas	3.51	5.68	4.01	8.07
	35	73	90	56
Sac	0.66	0.90	1.40	1.68
	44	67	86	115
SD	3.40	2.33	3.67	4.77
	52	89	118	118
SF	1.72	1.36	1.25	1.78
	25	58	40	32
SJ	1.09	0.95	2.00	0.98
	22	56	73	87
Tax		0.50	1.00	
		2	2	
Total	1.81	1.68	2.03	2.15
	683	1214	1112	1180

ALL PROGRAM TRENDS-AO

REGISTRATIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	2,789	2,316	3,555	2,608	2,418	1,958	2,407	2,932	2,430	2,728	2,376	2,156	30,673	2,556		
2013	2,789	2,721	3,003	3,403	2,735	2,082	2,057	2,055	2,359	2,377	1,612	1,665	28,858	2,405	94%	-151
2014	1,681	1,666	1,620	1,959	1,623	1,812	1,847	1,729	1,636	1,873	1,298	1,417	20,161	1,680	70%	-725
2015	1,095	1,288	1,605	1,608	1,470	1,116	1,642	1,586	1,088	1,114	1,156		14,768	1,343	80%	-338
														2014	80%	79%
														2013	56%	54%
														2012	53%	52%

Registrations Jan to date down 21% from 2014, down 46% from 2013, and down 48% from 2012.
 Registration monthly average down 20% from 2014, down 44% from 2013, and down 47% from 2012.

chg to '14 avg chg to '14 YTD

DISPOSITIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	2,917	3,106	3,407	2,747	2,310	1,816	2,653	3,087	2,709	2,341	2,327	2,608	32,028	2,669		
2013	2,921	2,314	3,498	2,810	2,605	1,999	2,258	2,716	2,120	1,853	1,660	2,208	28,962	2,414	90%	-256
2014	1,517	1,549	1,743	1,877	1,661	1,634	1,583	1,813	1,925	1,568	1,438	1,637	19,945	1,662	69%	-751
2015	1,415	1,377	1,269	1,346	1,320	1,798	1,888	1,597	1,432	1,242	947		15,631	1,421	85%	-241
														2014	85%	68%
														2013	59%	120%
														2012	53%	53%

Dispositions Jan to date are down 32% from 2014, up 20% from 2013, and down 47% from 2012.
 Disposition monthly average down 15% from 2014, down 41% from 2013, and down 47% from 2012.

chg to '14 avg chg to '14 YTD

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	3,872	3,870	4,984	5,543	5,814	5,356	6,020	6,423	5,566	5,057	4,265	3,792	3,792	5,047		
2013	3,663	2,902	3,018	2,906	3,014	3,141	2,948	2,758	2,509	2,863	2,894	2,340	2,340	2,913	58%	-2,134
2014	2,057	2,452	1,910	2,509	2,625	2,671	2,484	1,804	2,049	2,575	2,562	1,970	1,970	2,306	79%	-607
2015	1,783	1,690	2,028	2,290	2,436	1,752	1,499	1,483	1,137	1,006	1,222			1,666	72%	-640
														2014	72%	71%
														2013	57%	56%
														2012	33%	32%

Open Balance Jan to date is down 29% from 2014, down 44% from 2013, and down 68% from 2012.
 Open Balance monthly average down 28% from 2014, down 43% from 2013, and down 67% from 2012.

chg to '14 avg chg to '14 YTD

OTHER TRENDS-AO
 Program Codes 9,13, 14, 19, 21,22, 40, 44

REGISTRATIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	7	9	13	2	3	0	1	3	3	2	7	2	52	4		
2013	2	4	6	9	13	5	11	4	4	14	7	4	83	7	160%	3
2014	2	2	8	7	2	4	2	9	4	4	1	5	50	4	60%	-3
2015	6	1	5	13	14	8	1	10	7	2	2		69	6	151%	2
													2014	151%	153%	
													2013	91%	87%	
													2012	145%	138%	

Other registrations Jan to date are up 53% from 2014 and down 13% from 2013, and up 38% from 2012
 Other registration monthly average up 51% from 2014, down 9% from 2013, and up 45% from 2012

DISPOSITIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	9	7	9	9	9	1	1	0	5	3	1	7	61	5		
2013	4	3	3	2	15	4	4	7	10	2	9	8	71	6	116%	1
2014	7	2	4	3	4	8	6	1	4	5	5	5	54	5	76%	-1
2015	3	5	4	4	5	10	19	5	9	5	2		71	6	143%	2
													2014	143%	145%	
													2013	109%	113%	
													2012	127%	131%	

Other dispositions Jan to date are up 45% from 2014, up 13% from 2013, and up 31% from 2012
 Other disposition monthly average up 43% from 2014, up 9% from 2013, and up 27% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	10	12	16	9	3	2	2	5	3	2	8	1	1	6		
2013	0	2	2	5	2	11	18	13	7	19	19	13	13	9	152%	3
2014	1	1	9	13	11	7	3	11	11	10	6	7	7	8	81%	-2
2015	10	6	7	15	24	22	4	9	8	5	5			10	139%	3
													2014	139%	139%	
													2013	113%	117%	
													2012	172%	160%	

Other balance of open cases is up 39% from 2014, up 17% from 2013, and up 60% from 2012
 Other balance monthly average up 39% from 2014, up 13% from 2013, and up 72% from 2012

TAX TRENDS-AO
Program Codes 15, 17, 18, 32, 45, 46, 47, 48

REGISTRATIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	22	20	39	23	34	21	2	13	11	9	44	6	244	20		
2013	27	0	0	53	24	17	12	12	5	42	9	27	228	19	93%	-1
2014	24	11	18	9	1	8	0	5	10	5	11	9	111	9	49%	-10
2015	3	8	9	5	6	1	6	5	10	5	2		60	5	59%	-4
													2014	59%	59%	
													2013	29%	30%	
													2012	27%	25%	

Tax registrations Jan to date are down 41% from 2014, down 70% from 2013, and down 75% from 2012
 Tax registration monthly average down 41% from 2014, down 71% from 2013, and down 73% from 2012

DISPOSITIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	15	23	21	24	17	13	35	34	43	16	2	18	261	22		
2013	25	11	15	16	15	10	28	38	18	20	13	39	248	21	95%	-1
2014	8	16	12	7	13	32	6	10	0	5	7	5	121	10	49%	-11
2015	5	13	0	12	10	3	7	9	4	11	4		78	7	70%	-3
													2014	70%	67%	
													2013	34%	37%	
													2012	33%	32%	

Tax dispositions Jan to date are down 33% from 2014, down 63% from 2013 and down 68% from 2012
 Tax disposition monthly average down 30% from 2014, down 66% from 2013, and down 67% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	End of yr Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	92	89	108	107	124	132	100	78	46	39	82	70	70	89		
2013	72	61	46	83	92	97	82	58	48	67	68	51	51	69	77%	-20
2014	74	63	69	71	59	35	22	18	28	27	31	35	35	44	64%	-24
2015	33	28	37	30	26	25	24	20	26	20	19			26	59%	-18
													2014	59%	58%	
													2013	38%	37%	
													2012	29%	29%	

Tax balance of open cases Jan to date is down 42% from 2014, down 63% from 2013, and down 71% from 2012
 Tax balance monthly average is down 41% from 2014, down 62% from 2013, and down 71% from 2012

DI TRENDS-AO
Program Codes 7, 10, 11, 12, 16 & 20

REGISTRATIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	99	82	120	66	74	62	85	92	78	85	65	57	965	80		
2013	52	121	55	118	84	46	37	61	74	88	55	43	834	70	86%	-11
2014	35	45	36	60	48	57	55	39	59	69	52	71	626	52	75%	-17
2015	59	54	57	72	56	51	52	91	72	37	38		639	58	111%	6
													2014	111%	115%	
													2013	84%	81%	
													2012	72%	70%	

DI registrations Jan to date up 15% from 2014, down 19% from 2013, down 30% from 2012.
DI registration monthly average up 11% from 2014, down 16% from 2013, and down 28% from 2012.

DISPOSITIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	113	116	140	88	73	55	79	95	79	87	77	71	1,073	89		
2013	69	60	117	88	71	65	53	69	52	44	56	78	822	69	77%	-21
2014	59	37	38	50	45	46	45	50	50	55	45	56	576	48	70%	-21
2015	59	74	53	59	74	52	80	56	101	87	34		729	66	138%	18
													2014	138%	57%	
													2013	97%	38%	
													2012	74%	73%	

DI dispositions Jan to date down 43% from 2014, down 62% from 2013, down 22% from 2012.
DI disposition monthly average up 38% from 2014, down 3% from 2013, and down 26% from 2012.

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	End of yr Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	163	130	109	87	89	97	102	97	97	95	82	68	68	101		
2013	51	110	50	78	91	72	55	49	71	116	115	79	79	78	77%	-23
2014	52	61	60	68	71	82	92	81	91	106	112	127	127	84	107%	6
2015	127	107	111	125	109	106	77	112	82	32	37			93	111%	10
													2014	111%	117%	
													2013	119%	119%	
													2012	92%	89%	

Open Balance of DI Jan to date up 17% from 2014, up 19% from 2013, and down 11% from 2012.
Open Balance monthly average up 11% from 2014, up 19% from 2013, and down 8% from 2012.

UI TRENDS-AO
Program Codes 1, 2, 3, 4, 5, 6, 8, 23, 24, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 41, 42

REGISTRATIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	2,661	2,205	3,383	2,517	2,307	1,875	2,319	2,824	2,338	2,632	2,260	2,091	29,412	2,451		
2013	2,708	2,596	2,942	3,223	2,614	2,014	1,997	1,978	2,276	2,233	1,541	1,591	27,713	2,309	94%	-142
2014	1,620	1,608	1,558	1,883	1,572	1,743	1,790	1,676	1,563	1,795	1,234	1,332	19,374	1,615	70%	-695
2015	1,027	1,225	1,534	1,518	1,394	1,056	1,583	1,480	999	1,070	1,114		14,000	1,273	79%	-342
													2014	79%	78%	
													2013	55%	54%	
													2012	52%	51%	
																chg to '14 avg

UI registrations Jan to date are down 22% from 2014, down 46% from 2013, and down 49% from 2012
 UI registration monthly average is down 21% from 2014, down 45% from 2013, and down 48% from 2012

DISPOSITIONS

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	2,780	2,960	3,237	2,626	2,211	1,747	2,538	2958	2582	2235	2247	2512	30,633	2,553		
2013	2,823	2,240	3,363	2,704	2,504	1,920	2,173	2602	2040	1787	1582	2083	27,821	2,318	91%	-234
2014	1,443	1,490	1,689	1,817	1,599	1,548	1,518	1,752	1,871	1,503	1,381	1,571	19,182	1,599	69%	-720
2015	1,348	1,285	1,212	1,271	1,231	1,733	1,782	1,527	1,318	1,139	907		14,753	1,341	84%	-257
													2014	84%	84%	
													2013	58%	57%	
													2012	53%	52%	
																chg to '14 avg

UI dispositions Jan to date are down 16% from 2014, down 43% from 2013, and down 48% from 2012
 UI disposition monthly average is down 16% from 2014, down 42% from 2013, and down 47% from 2012

BALANCE OPEN CASES

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	End of yr Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
2012	3,398	2,671	2,785	2,703	2,784	2,910	2,744	2,578	2,363	2,727	2,722	2,199	2,199	2,715		
2013	1,933	2,279	1,809	2,336	2,432	2,491	2,329	1,684	1,923	2,373	2,360	1,827	1,827	2,148	79%	-567
2014	1,994	2,106	1,936	1,986	1,979	2,166	2,432	2,349	2,047	2,340	2,181	1,937	1,937	2,121	99%	-27
2015	1,613	1,549	1,873	2,120	2,277	1,599	1,394	1,342	1,021	949	1,161		16,898	1,536	72%	-585
													2014	72%	72%	
													2013	72%	71%	
													2012	57%	56%	
																chg to '14 avg

UI balance of open cases Jan to date are down 28% from 2014, down 29% from 2013, and down 44% from 2012
 UI balance monthly average is down 28% from 2014, down 28% from 2013, and down 43% from 2012

APPELLATE OPERATIONS TL & Case Aging TRENDS

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Avg.
Standard 45-Day	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%
Standard 75-Day	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%	80%
Standard 150-Day	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%	95%
Standard Case Age	40	40	40	40	40	40	40	40	40	40	40	40	40
09/10 45-Day	42.4%	41.8%	39.5%	28.6%	35.6%	28.8%	29.2%	37.3%	40.6%	43.3%	59.4%	80.5%	42.2%
09/10 75-Day	76.2%	85.2%	69.7%	75.9%	78.5%	74.2%	83.2%	88.0%	92.9%	93.3%	91.3%	94.7%	83.6%
09/10 150-Day	82.6%	98.8%	96.7%	99.1%	99.3%	99.3%	99.0%	99.5%	99.6%	99.7%	99.8%	99.4%	97.7%
Case Aging	42	45	41	39	39	39	37	38	34	35	29	26	37
10/11 45-Day	83.1%	80.3%	80.9%	81.5%	83.4%	86.7%	85.9%	77.0%	48.1%	28.8%	11.4%	12.9%	63.3%
10/11 75-Day	97.5%	98.2%	97.5%	98.0%	96.9%	97.2%	98.4%	97.7%	95.6%	89.3%	88.1%	90.1%	95.4%
10/11 150-Day	99.8%	99.9%	99.9%	100.0%	99.4%	99.9%	99.7%	99.8%	99.7%	99.9%	99.6%	99.8%	99.8%
Case Aging	26	28	27	27	25	28	28	33	38	38	36	34	31
11/12 45-Day	5.2%	6.9%	4.6%	10.1%	10.6%	10.5%	11.6%	11.7%	17.2%	16.6%	47.9%	70.0%	18.6%
11/12 75-Day	89.2%	87.9%	60.8%	43.9%	40.0%	43.1%	72.7%	86.4%	89.5%	85.5%	91.0%	90.8%	73.4%
11/12 150-Day	99.7%	99.4%	99.4%	97.3%	98.9%	99.0%	98.9%	99.2%	99.5%	99.3%	99.3%	99.1%	99.1%
Case Aging	39	45	43	47	48	44	39	38	39	37	32	30	40
12/13 45-Day	66.4%	57.4%	20.5%	12.8%	28.7%	40.7%	25.5%	22.1%	14.3%	13.1%	24.0%	53.3%	31.6%
12/13 75-Day	94.0%	91.8%	81.7%	80.9%	80.6%	76.4%	75.4%	83.2%	75.3%	82.7%	76.6%	90.6%	82.4%
12/13 150-Day	99.3%	99.5%	99.4%	99.7%	99.2%	99.0%	99.0%	99.6%	98.3%	99.7%	99.8%	99.7%	99.4%
Case Aging	31	38	44	48	44	49	45	45	41	41	35	29.1	41
13/14 45-Day	62.3%	76.0%	72.4%	56.6%	77.4%	80.5%	74.5%	52.4%	52.5%	51.0%	59.1%	77.1%	66.0%
13/14 75-Day	92.1%	94.4%	90.7%	90.3%	94.8%	96.3%	97.3%	93.1%	92.3%	91.6%	93.3%	96.3%	93.5%
13/14 150-Day	99.7%	99.7%	99.8%	99.8%	99.6%	99.9%	99.9%	99.5%	99.6%	99.4%	99.6%	99.9%	99.7%
Case Aging	30.1	31.0	32.2	30.1	28.4	24.0	31.1	35.0	33.8	31.8	27.8	29.3	30.4
14/15 45-Day	77.9%	79.7%	69.8%	42.1%	48.6%	56.9%	38.5%	39.7%	42.4%	45.1%	20.5%	57.5%	51.6%
14/15 75-Day	96.9%	96.4%	95.7%	96.1%	90.6%	93.4%	91.3%	88.8%	82.1%	67.8%	77.4%	93.6%	89.2%
14/15 150-Day	99.2%	99.8%	99.8%	99.8%	99.7%	99.8%	99.5%	99.5%	99.0%	99.9%	99.8%	99.8%	99.6%
Case Aging	28.3	30.3	32.3	35.1	35.9	37.6	36.0	41.1	38.8	41.5	33.4	33.9	35.4
15/16 45-Day	43.2%	21.1%	35.1%	40.2%	69.0%	68.4%	82.5%	81.0%	82.5%	81.0%	81.0%	81.0%	55.1%
15/16 75-Day	92.4%	94.6%	87.9%	89.1%	95.3%	94.6%	96.4%	97.3%	96.4%	97.3%	97.3%	97.3%	93.4%
15/16 150-Day	99.6%	99.8%	99.8%	99.4%	99.8%	98.9%	99.4%	99.5%	99.4%	99.5%	99.5%	99.5%	99.5%
Case Aging	37.3	40.9	42.2	33.1	32.9	29.8	29.6	31.5	29.6	29.6	31.5	31.5	34.7

APPELLATE OPERATIONS ~ REPORT SUMMARY

APPELLATE		July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Average	AO Current Mo. % of Avg.	TOTAL	Appellants Current Mo.
WORKLOAD																	
Registrations																	
UI TL		1,583	1,480	999	1,070	1,114								1,249	89%	6,246	
DI		52	91	72	37	38								58	66%	290	
Ruling & T-R		0	9	7	2	2								4	50%	20	
Tax		6	5	10	5	2								6	36%	28	
Other		1	1	0	0	0								0	0%	2	
Total		1,642	1,586	1,088	1,114	1,156	0	0	0	0	0	0	0	1,317	88%	6,586	670
Multi Cases																	
Dispositions																	
UI TL		1,782	1,527	1,318	1,139	907								1,335	68%	6,573	
DI		80	56	101	87	34								72	47%	358	
Ruling & T-R		18	4	6	5	2								7	29%	35	
Tax		7	9	4	11	4								7	57%	35	
Other		1	1	3	0	0								1	0%	5	
Total		1,888	1,597	1,432	1,242	947	0	0	0	0	0	0	0	1,421	67%	7,106	610
Multi Cases/Ct																	
Balance - Open Cases																	
UI TL		1,394	1,342	1,021	949	1,161								1,173	99%		
DI		77	112	82	32	37								68	54%		
Ruling & T-R		2	7	8	5	5								5	93%		
Tax		24	20	26	20	19								22	87%		
Other		2	2	0	0	0								1	0%		
Total		1,499	1,483	1,137	1,006	1,222	0	0	0	0	0	0	0	1,269	96%		698
Multi Cases																	Estimate
FO to AO Appeal Rate																	
UI TL		8.2%	7.5%	5.6%	6.1%	5.9%								6.7%	88%		
DI		5.3%	7.9%	6.8%	4.1%	3.7%								5.6%	66%		
Ruling & T-R		0.0%	3.5%	4.2%	1.1%	1.1%								2.0%	56%		
Tax		2.2%	2.6%	10.8%	7.8%	2.6%								5.2%	51%		
Other		6.3%	6.3%	0.0%	0.0%	0.0%								2.5%	0%		
Overall Rate		7.9%	7.5%	5.7%	5.9%	5.7%								6.5%	87%		

APPELLATE OPERATIONS ~ REPORT SUMMARY

APPELLATE	Year-Year												Average	AO Current Mo. % of Avg.					
	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun							
TIME LAPSE	45 Day-50 %	40	69	68	82	81								68	119%				
	75 Day- 80 %	89	95	95	96	97								95	103%				
	150 Day- 95 %	99	100	99	99	100								99	100%				
CASE AGE	Avg Days-UI (mean)	33.1	32.9	29.8	29.6	31.5								31.4	100%				
	Avg Days-UI (median)	31.0	28.0	26.0	29.0	29.0								28.6	101%				
Over 120 days old	UI Cases	9	3	16	7	2								7	27%				
	UI %	1%	0%	2%	1%	0%								1%					
	UI % w/out initials	1%	0%	2%	1%	0%								1%					
NET PYS USED	ALJ	11.97	10.46	10.72	9.90									10.8	92%				
	AO Non ALJ	20.06	20.42	19.90	20.50									20.2	101%				
	CTU Non ALJ	3.68	3.16	3.67	2.93									3.4	87%				
	Net Pys	35.71	34.04	34.29	33.33	0.00	0.00	0.00	0.00	0.00	0.00	0.00		34.3	97%				
RATIOS	AO w/o transcribers	1.68	1.95	1.86	2.07									1.88	110%				
	AO with transcribers	1.98	2.25	2.20	2.37									2.19	108%				
TRANSCRIPTS		52	39	40	39	33								41	81%			203	
	PAGES	3,539	3,676	3,845	3,445	2,576								3,416	75%			17,081	
AVG PGS Per T/S	68	94	96	88	78									85	92%				
PRODUCTIVITY	ALJ Disp/wk	35.8	34.7	35.2	27.3									33.2	82%				
	Trans Pgs/day	43.71	52.88	55.14	51.12									50.7	101%				

FY ALL PROGRAM TRENDS-AO

REGISTRATIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	2,407	2,932	2,430	2,728	2,376	2,156	2,789	2,721	3,003	3,403	2,735	2,082	31,762	2,647		
13/14	2,057	2,055	2,359	2,377	1,612	1,665	1,681	1,666	1,620	1,959	1,623	1,812	22,486	1,874	71%	-773
14/15	1,847	1,729	1,636	1,873	1,298	1,417	1,095	1,288	1,605	1,608	1,470	1,116	17,982	1,499	80%	-375
15/16	1,642	1,586	1,088	1,114	1,156								6,586	1,317	88%	-181
													14/15	88%	79%	
													13/14	70%	63%	
													12/13	50%	51%	

Registrations Jan to date down 21% from 14/15, down 37% from 13/14, and down 49% from 12/13.

Registration monthly average down 12% from 13/14, down 30% from 12/13, and down 50% from 11/12.

chg 14/15 avg chg 14/15 YTD

DISPOSITIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	2,653	3,087	2,709	2,341	2,327	2,608	2,921	2,314	3,498	2,810	2,605	1,999	31,872	2,656		
13/14	2,258	2,716	2,120	1,853	1,660	2,208	1,517	1,549	1,743	1,877	1,661	1,634	22,796	1,900	72%	-756
14/15	1,583	1,813	1,925	1,568	1,438	1,637	1,415	1,377	1,269	1,346	1,320	1,798	18,489	1,541	81%	-359
15/16	1,888	1,597	1,432	1,242	947								7,106	1,421	81.9%	-120
													14/15	92%	85%	
													13/14	75%	67%	
													12/13	54%	54%	

Dispositions Jan to date are down 15% from 14/15, down 33% from 13/14, and down 46% from 12/13.

Disposition monthly average is down 8% from 14/15, down 25% from 13/14, and down 46% from 12/13.

chg 14/15 avg chg 14/15 YTD

BALANCE OPEN CASES

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	6,020	6,423	5,566	5,057	4,265	3,792	3,663	2,902	3,018	2,906	3,014	3,141		4,147		
13/14	2,948	2,758	2,509	2,863	2,894	2,340	2,057	2,452	1,910	2,509	2,625	2,671		2,545	61%	-1,603
14/15	2,484	1,804	2,049	2,575	2,562	1,970	1,783	1,690	2,028	2,290	2,436	1,752		2,119	50.7%	-426
15/16	1,499	1,483	1,137	1,006	1,222									1,269	115.7%	-849
														14/15	60%	55%
														13/14	50%	45%
														12/13	31%	23%

Open Balance to date is down 45% from 14/15, down 55% from 13/14, and down 77% from 12/13.

Open Balance monthly average is down 40% from 14/15, down 50% from 13/14, and down 69% from 12/13.

chg 14/15 avg chg 14/15 YTD

FY OTHER TRENDS-AO
 Program Codes 9,13, 14, 19, 21,22, 40, 44

REGISTRATIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	1	3	3	2	7	2	2	4	6	9	13	5	57	5		
13/14	11	4	4	14	7	4	2	2	8	7	2	4	69	6	121%	1
14/15	2	9	4	4	1	5	6	1	5	13	14	8	72	6	104%	0
15/16	1	10	7	2	2								22	4	73%	-2
													14/15	73%	110%	
													13/14	77%	55%	
													12/13	93%	138%	
													chg 14/15 avg			chg 14/15 YTD

Other registrations Jan to date is are up 10% from 14/15, down 45% from 13/14, and up 38% from 12/13.
 Other registration monthly average is down 27% from 14/15, down 23% from 13/14, and down 7% from 12/13.

DISPOSITIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	1	0	5	3	1	7	4	3	3	2	15	4	48	4		
13/14	4	7	10	2	9	8	7	2	4	3	4	8	68	6	142%	2
14/15	6	1	4	5	5	5	3	5	4	4	5	10	57	5	84%	-1
15/16	19	5	9	5	2								40	8	168%	3
													14/15	168%	190%	
													13/14	141%	125%	
													12/13	200%	400%	
													chg 14/15 avg			chg 14/15 YTD

Other dispositions Jan to date are up 90% from 14/15, up 25% from 13/14, and up 300% from 12/13.
 Other disposition monthly average up 68% from 14/15, up 41% from 13/14, and up 100% from 12/13.

BALANCE OPEN CASES

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Avg.	% Chg of Avg	Yr-Yr AvgChg	
12/13	2	5	3	2	8	1	0	2	2	5	2	11	4			
13/14	18	13	7	19	19	13	1	1	9	13	11	7	11	305%	7	
14/15	3	11	11	10	6	7	10	6	7	15	24	22	11	101%	0	
15/16	4	9	8	5	5								6	56%	-5	
													14/15	56%	76%	
													13/14	57%	41%	
													12/13	173%	155%	
													chg 14/15 avg			chg 14/15 YTD

Other balance of open cases is down 24% from 14/15, down 59% from 13/14, and up 55% from 12/13.
 Other balance monthly average is down 44% from 14/15, down 43% from 13/14, and up 73% from 12/13.

FY TAX TRENDS-AO
 Program Codes 15, 17, 18, 32, 45, 46, 47, 48

REGISTRATIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	2	13	11	9	44	6	27	0	0	53	24	17	206	17		
13/14	12	12	5	42	9	27	24	11	18	9	1	8	178	15	86%	-2
14/15	0	5	10	5	11	9	3	8	9	5	6	1	72	6	40%	-9
15/16	6	5	10	5	2								28	6	93%	0
													14/15	93%	90%	
													13/14	38%	35%	
													12/13	33%	35%	
														chg 14/15 avg	chg 14/15 YTD	

Tax registrations Jan to date are up 10% from 14/15, down 65% from 13/14, and down 65% from 12/13
 Tax registration monthly average is up 7% from 14/15, down 62% from 13/14, and down 67% from 12/13

DISPOSITIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	35	34	43	16	2	18	25	11	15	16	15	10	240	20		
13/14	28	38	18	20	13	39	8	16	12	7	13	32	244	20	102%	0
14/15	6	10	0	5	7	5	5	13	0	12	10	3	76	6	31%	-14
15/16	7	9	4	11	4								35	7	111%	1
													14/15	111%	125%	
													13/14	34%	30%	
													12/13	35%	27%	
														chg 14/15 avg	chg 14/15 YTD	

Tax dispositions Jan to date are up 25% from 14/15, down 70% from 13/14 and down 73% from 12/13.
 Tax disposition monthly average is up 11% from 14/15, down 66% from 13/14, and down 65% from 12/13.

BALANCE OPEN CASES

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Avg.	% Chg of Avg	Yr-Yr AvgChg	
12/13	100	78	46	39	82	70	72	61	46	83	92	97	72			
13/14	82	58	48	67	68	51	74	63	69	71	59	35	62	86%	-10	
14/15	22	18	28	27	31	35	33	28	37	30	26	25	28	46%	-34	
15/16	24	20	26	20	19								22	77%	-7	
													14/15	77%	87%	
													13/14	35%	34%	
													12/13	30%	32%	
														chg 14/15 avg	chg 14/15 YTD	

Tax balance of open cases to date is down 13% from 14/15, down 66% from 13/14, and down 68% from 12/13
 Tax balance monthly average is down 23% from 14/15, down 65% from 13/14, and down 60% from 12/13

FY DI TRENDS-AO
Program Codes 7, 10, 11, 12, 16 & 20

REGISTRATIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	85	92	78	85	65	57	52	121	55	118	84	46	938	78		
13/14	37	61	74	88	55	43	35	45	36	60	48	57	639	53	68%	-25
14/15	55	39	59	69	52	71	59	54	57	72	56	51	694	58	109%	5
15/16	52	91	72	37	38								290	58	100%	0
													14/15	100%	106%	
													13/14	109%	92%	
													12/13	74%	72%	

DI registrations Jan to date are up 6% from 14/15, down 8% from 13/14, down 28% from 12/13.
DI registration monthly average is equal to 14/15, up 9% from 13/14, and down 26% from 12/13.

chg 14/15 avg	chg to 14/15 YTD
chg 14/15 avg	chg to 14/15 YTD

DISPOSITIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	79	95	79	87	77	71	69	60	117	88	71	65	958	80		
13/14	53	69	52	44	56	78	59	37	38	50	45	46	627	52	65%	-28
14/15	45	50	50	55	45	56	59	74	53	59	74	52	672	56	107%	4
15/16	80	56	101	87	34								358	72	1268%	16
													14/15	128%	146%	
													13/14	137%	131%	
													12/13	90%	86%	

DI dispositions Jan to date are up 46% from 14/15, up 31% from 13/14, down 14% from 12/13.
DI disposition monthly average is up 45% from 14/15, up 55% from 13/14, and down 1% from 12/13.

chg 14/15 avg	chg to 14/15 YTD
chg 14/15 avg	chg to 14/15 YTD

BALANCE OPEN CASES

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	102	97	97	95	82	68	51	110	50	78	91	72	83		
13/14	55	49	71	116	115	79	52	61	60	68	71	82	73	89%	-10
14/15	92	81	91	106	112	82	127	107	111	125	109	106	104	89%	31
15/16	77	112	82	32	37								68	28%	-36
													14/15	65%	71%
													13/14	93%	84%
													12/13	82%	72%

Open Balance of DI case to date is down 29% from 14/15, up 16% from 13/14, and down 28% from 12/13.
Open Balance monthly average down 35% from 14/15, down 7% from 13/14, and down 12% from 12/13.

chg 14/15 avg	chg to 14/15 YTD
chg 14/15 avg	chg to 14/15 YTD

FY UI TRENDS-AO

Program Codes 1, 2, 3, 4, 5, 6, 8, 23, 24, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 41, 42

REGISTRATIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	2,319	2,824	2,338	2,632	2,260	2,091	2,708	2,596	2,942	3,223	2,614	2,014	30,561	2,547		
13/14	1,997	1,978	2,276	2,233	1,541	1,591	1,620	1,608	1,558	1,883	1,572	1,743	21,600	1,800	71%	-747
14/15	1,790	1,676	1,563	1,795	1,234	1,332	1,027	1,225	1,534	1,518	1,394	1,056	17,144	1,429	79%	-371
15/16	1,583	1,480	999	1,070	1,114								6,246	1,249	87%	-179
													14/15	87%	78%	
													13/14	69%	62%	
													12/13	49%	50%	

UI registrations Jan to date are down 22% from 14/15, down 38% from 13/14, and down 50% from 12/13

UI registration monthly average is down 13% from 14/15, down 31% from 13/14, and down 51% from 12/13

chg 14/15 avg

chg 14/15 YTD

DISPOSITIONS

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total	Avg.	% Chg of Avg	Yr-Yr AvgChg
12/13	2,538	2,958	2,582	2,235	2,247	2,512	2,823	2,240	3,363	2,704	2,504	1,920	30,626	2,552		
13/14	2,173	2,602	2,040	1,787	1,582	2,083	1,443	1,490	1,689	1,817	1,599	1,548	21,853	1,821	71%	-731
14/15	1,518	1,752	1,871	1,503	1,381	1,571	1,348	1,285	1,212	1,271	1,231	1,733	17,676	1,473	81%	-348
15/16	1,782	1,527	1,318	1,139	907								6,673	1,335	91%	-138
													14/15	91%	83%	
													13/14	73%	66%	
													12/13	52%	53%	

UI dispositions Jan to date are down 17% from 14/15, down 34% from 13/14, and down 47% from 12/13

UI disposition monthly average is down 9% from 14/15, down 27% from 13/14, and down 48% from 12/13

chg 14/15 avg

chg 14/15 YTD

BALANCE OPEN CASES

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Avg.	% Chg of Avg	Yr-Yr AvgChg	
12/13	2,744	2,578	2,363	2,727	2,722	2,199	1,933	2,279	1,809	2,336	2,432	2,491	2,384			
13/14	2,329	1,684	1,923	2,373	2,360	1,827	1,994	2,106	1,936	1,986	1,979	2,166	2,055	86%	-329	
14/15	2,432	2,349	2,047	2,340	2,181	1,937	1,613	1,549	1,873	2,120	2,277	1,599	2,026	99%	-29	
15/16	1,394	1,342	1,021	949	1,161								1,173	58%	-853	
													14/15	58%	52%	
													13/14	57%	55%	
													12/13	49%	45%	

UI balance of open cases to date are down 48% from 14/15, down 45% from 13/14, and down 55% from 12/13

UI balance monthly average is down 42% from 14/15, down 43% from 13/14, and down 51% from 12/13

chg 14/15 avg

chg 14/15 YTD

Monthly Board Meeting Litigation Report - November 2015

AGENDA ITEM 9

<u>LITIGATION CASES PENDING</u>	TOTAL = 147
SUPERIOR COURT: Claimant Petitions.....	109
Employer Petitions.....	16
EDD Petitions.....	0
Non-benefit Court Cases	5
APPELLATE COURT: Claimant Appeals.....	12
Employer Appeals.....	2
EDD Appeals.....	0
Non-benefit Court Cases	1
ISSUES: UI.....	123
DI.....	10
Tax.....	6
Non-benefit Court Cases	8

2015 CALENDAR YEAR ACTIVITY - Benefit & Tax Cases

<u>LITIGATION CASES FILED</u>	<u>YTD</u>	<u>November</u>
SUPERIOR COURT: Claimant Petitions.....	31	3
Employer Petitions.....	10	0
EDD Petitions.....	0	0
APPELLATE COURT: Claimant Appeals.....	7	0
Employer Appeals.....	1	0
EDD Appeals.....	0	0
 <u>LITIGATION CASES CLOSED</u>	 <u>YTD</u>	 <u>November</u>
SUPERIOR COURT: Claimant Petitions.....	149	1
Employer Petitions.....	29	1
EDD Petitions.....	2	0
APPELLATE COURT: Claimant Appeals.....	4	0
Employer Appeals.....	3	0
EDD Appeals.....	0	0

2015 Decision Summary

<u>Claimant Appeals</u>		<u>Employer Appeals</u>		<u>CUIAB Decisions</u>	
Win: 9	Loss: 143	Win: 4	Loss: 24	Affirmed: 168	Reversed: 10 Remanded: 2

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

NOVEMBER 2015 PERFORMANCE INDICATORS

FIELD OPERATIONS

MEETING DOL STANDARDS

UI TIMELAPSE CASES

	<u>Closed</u>	<u>DOL Standard</u>
Closed Cases		
% Closed in <= 30 Days	67.1%	≥60%
% Closed in <= 45 Days	87.7%	≥80%

	<u>Avg. Days</u>	<u>DOL Standard</u>
Pending Cases		
Case Aging	29.0	≤30

WORKLOAD

	<u>UI</u>	<u>ALL</u>
Opened	16,111	17,478
Closed	15,488	16,605
Balance of Open Cases	17,047	27,619

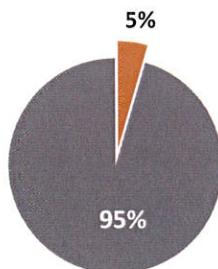
CYCLE TIME: AVERAGE DAYS TO CLOSE APPEALS

	<u>Days</u>
UI Timelapse Appeals	37
DI Appeals (including PFL)	72
All Programs	47

UI WORKLOAD COMPOSITION AT INTAKE (OPENED)

Regular UI Appeals as % of All UI	96%
UI Extensions as % of All UI	4%

UI WORKLOAD COMPOSITION AT END OF MONTH OPEN BALANCE:



UI Extensions made up 5% of UI Open Balance, and Regular UI cases made up 95%.

APPELLATE OPERATIONS

MEETING DOL GUIDELINES & STANDARDS

UI TIMELAPSE CASES

	<u>Closed</u>	<u>DOL Guideline</u>
Closed Cases		
% Closed in <= 45 Days	81.0%	≥50%
% Closed in <= 75 Days	97.3%	≥80%

	<u>Avg. Days</u>	<u>DOL Standard</u>
Pending Cases		
Case Aging	31.5	≤40

WORKLOAD

	<u>UI</u>	<u>ALL</u>
Opened	1,114	1,156
Closed	907	947
Balance of Open Cases	1,161	1,222

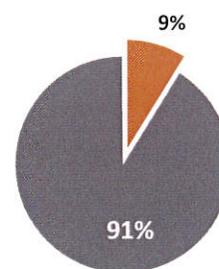
CYCLE TIME: AVERAGE DAYS TO CLOSE APPEALS

	<u>Days</u>
UI Timelapse Appeals	43
DI Appeals (including PFL)	34
All Programs	43

UI WORKLOAD COMPOSITION AT INTAKE (OPENED)

Regular UI Appeals as % of All UI	90%
UI Extensions as % of All UI	10%

UI WORKLOAD COMPOSITION AT END OF MONTH OPEN BALANCE:



UI Extensions made up 9% of UI Open Balance, and Regular UI cases made up 91%.

California Unemployment Insurance Appeals Board
FO Cycle Time Summary Report
For Cases Closed in November 2015

PFL CASES	Average Days to Process an Appeal	Case Creation Date to Verified Date	Verified Date to Scheduled Date	Scheduled Date to Hearing Date	Hearing Date to Decision Mailed Date
Jurisdiction	Average	Average	Average	Average	Average
Fresno	63	5	14	15	5
Inglewood	60	10	22	12	2
Inland	36	5	26	14	
Los Angeles	75	4	43	16	6
Oakland	28	4			
Orange County	65	6	60	14	14
Oxnard	100	4	67	14	5
Pasadena	60	4	24	13	9
Sacramento	51	4	20	16	8
San Diego	43	7	16	12	9
San Francisco	64	6	25	14	11
San Jose	56	6	28	16	0
Statewide	55	6	28	14	6

DI CASES (No PFL)	Average Days to Process an Appeal	Case Creation Date to Verified Date	Verified Date to Scheduled Date	Scheduled Date to Hearing Date	Hearing Date to Decision Mailed Date
Jurisdiction	Average	Average	Average	Average	Average
Fresno	39	8	8	13	2
Inglewood	66	11	23	13	6
Inland	71	6	27	16	14
Los Angeles	79	7	39	17	7
Oakland	78	7	47	17	3
Orange County	92	8	45	16	11
Oxnard	84	6	52	14	1
Pasadena	60	5	22	15	6
Sacramento	82	4	35	16	5
San Diego	52	6	18	14	5
San Francisco	76	7	31	14	9
San Jose	69	6	34	13	3
Statewide	73	7	33	15	7

California Unemployment Insurance Appeals Board
FO Cycle Time Summary Report
For Cases Closed in November 2015

UI Timelapse CASES	Average Days to Process an Appeal	Case Creation Date to Verified Date	Verified Date to Scheduled Date	Scheduled Date to Hearing Date	Hearing Date to Decision Mailed Date
Jurisdiction	Average	Average	Average	Average	Average
Fresno	35	3	11	14	1
Inglewood	36	5	8	13	2
Inland	32	3	5	15	2
Los Angeles	38	3	8	18	2
Oakland	37	4	12	13	1
Orange County	45	8	10	15	5
Oxnard	35	3	11	13	0
Pasadena	36	3	11	12	4
Sacramento	36	3	9	16	2
San Diego	34	4	9	14	1
San Francisco	40	3	16	13	2
San Jose	37	3	14	13	0
Statewide	37	4	10	14	2

ALL CASES	Average Days to Process an Appeal	Case Creation Date to Verified Date	Verified Date to Scheduled Date	Scheduled Date to Hearing Date	Hearing Date to Decision Mailed Date
Jurisdiction	Average	Average	Average	Average	Average
Fresno	35	3	11	14	1
Inglewood	62	6	14	14	2
Inland	34	3	6	15	3
Los Angeles	61	3	11	18	2
Oakland	45	5	13	16	1
Orange County	62	8	14	16	6
Oxnard	38	3	14	13	0
Pasadena	43	3	15	13	4
Sacramento	39	3	11	16	2
San Diego	40	4	9	14	2
San Francisco	44	3	18	13	3
San Jose	40	3	16	13	1
Tax Office	272	N/A	N/A	35	156
Statewide	47	4	12	15	2

CUIAB 15/16 Fiscal Year Paid Overtime/Lump Sum Payout - SCO Report
July 2015 through October 2015

Branch	15/16 Fiscal Year-to-Date Overtime Expenditure				FY Y-T-D Other	
	FY Y-T-D Decision Typing Hours	Pay	FY Y-T-D CTU Typing Hours	Pay	Hours	Pay
Appellate	0.00	\$0.00	0.00	\$0.00	6.40	\$129.80
Admin	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
IT	0.00	\$0.00	0.00	\$0.00	148.50	\$7,760.06
Exec	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
Field	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00
Total	0.00	\$0.00	0.00	\$0.00	154.90	\$7,889.86

Branch	15/16 Fiscal Year-to-Date Total Overtime Expenditures				CTO Expenditures		FY 15/16 FY Projections Estimated Expenditures Over-/Under
	15/16 FY Allocation	Year-to-Date Hours	Year-to-Date Position Equivalent	Year-to-Date Pay	Hours	Estimated Pay	
Appellate	\$124.00	6.40	0.01	\$129.80	0.00	\$0.00	-\$265.40
Admin	\$1,269.00	0.00	0.00	\$0.00	7.00	\$343.57	\$238.29
IT	\$33,057.00	148.50	0.21	\$7,760.06	154.50	\$8,368.18	-\$15,327.73
Exec	\$0.00	0.00	0.00	\$0.00	0.00	\$0.00	\$0.00
Field Operations	\$1,044.00	0.00	0.00	\$0.00	0.00	\$0.00	\$1,044.00
Total	35,494.00	154.90	0.22	\$7,889.86	161.50	\$8,711.75	-\$14,310.84
Actual Monthly Average Personnel Year			0.07		0.08		

Branch	15/15 Fiscal Year-to-Date Lump Sum Payout July 2015 through October 2015				15/16 Allocation		Estimated Over/Under
	Year-to-Date Hours	Year-to-Date Position Equivalent	Year-to-Date Pay	Allocation	15/16 Allocation		
Appellate	173.80	0.08	\$4,204	\$164,018	\$151,404.94		
Admin	0.00	0.00	\$0	\$3,459	\$3,458.57		
IT	0.00	0.00	\$970	\$7,544	\$4,635.06		
Exec	986.00	0.47	\$22,211	\$58,482	-\$8,150.14		
Field Operations	3,047.00	1.47	\$183,351	\$775,228	\$225,175.87		
Total	4,206.80	2.02	\$210,735	\$1,008,730	\$376,524		



CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
P O Box 944275
SACRAMENTO CA 94244-2750

JESUS E SEVILLA
Claimant-Appellant

BERRY PLASTICS CORP
c/o THOMAS & THORNGREN INC
Account No.:
Employer

Case No.: **AO-375883**

OA Decision No.: 5493633

EDD: 0490 BYB: 04/19/2015

DECISION

Attached is the Appeals Board decision in the above-captioned case issued by Board
Panel members:

MICHAEL ALLEN

ELLEN CORBETT

ROBERT DRESSER

This is the final decision by the Appeals Board. The Appeals Board has no authority to
reconsider this decision. If you disagree with the decision, please refer to the information
attachment which outlines your rights.

Date Mailed: 11/16/2015

Case No.: AO-375883
Claimant: JESUS E SEVILLA

The claimant appealed from the decision of the administrative law judge that held the claimant disqualified for benefits under section 1256 of the Unemployment Insurance Code¹. The employer's reserve account was relieved of benefit charges.

ISSUE STATEMENT

The issues presented in this case are:

1. Whether the claimant was discharged from his most recent employment due to behavior that constituted misconduct connected with such work; and,
2. whether the employer's reserve account is subject to charges for benefits paid or payable to the claimant.

FINDINGS OF FACT

Prior to filing his claim for unemployment insurance benefits, the claimant most recently worked for the employer as a machine operator and group leader, with a final rate of pay of \$23.31 per hour. The employer manufactures plastic bottles. The claimant's last day of work was April 19, 2015. The claimant had been employed by the employer for approximately 30 years when he was discharged under the following circumstances.

The claimant was aware of the employer's written policy against harassment, which included but was not limited to, sexual harassment. On January 31, 2007, the claimant signed for receipt of the employee handbook, which included this policy.

The employer's written policy against sexual harassment provides, in pertinent part, the following:

Sexual harassment . . . includes, sexually oriented conduct and communications which unreasonably interfere with an employee's work performance or create an intimidating, hostile or offensive environment.

¹ Unless otherwise indicated, all code references are to California's Unemployment Insurance Code.

Unwarranted sexual advances violate this policy even if directed at a . . . temporary worker . . .

While not exhaustive, the following is a list of some examples of sexual harassment:

Unwanted sexual advances or propositions.

. . .

Visual conduct such as leering, making sexual gestures, displaying or distributing sexually suggestive objects or pictures, cartoons or posters. (emphasis added)

. . .

Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations.

. . . .

Even if a behavior is not sexual harassment for purposes of establishing liability, it could still be in violation of this policy. Notably, while the policy specifies that "unwanted" sexual advances or propositions are prohibited, the policy prohibits certain visual or verbal sexual behaviors at-work, regardless of whether the behavior is wanted or unwanted. For example, the policy prohibits distributing sexually suggestive pictures.

As part of its regular business, the employer hires temporary employees through a temporary services agency. The temporary services agency contacted the employer with complaints received from three female temporary employees who had worked for the employer that the claimant was sexually harassing them by texting them and continually asking them to go out, despite their lack of interest. One of these women contended that she had a text from the claimant, asking the woman to sleep with him, to meet him after work, and complimenting her breasts. Based on these complaints, the employer initiated an investigation. The claimant disputes the contentions of these three women and contends that he never sexually harassed any of the women.

After the employer received the initial complaints, a fourth female temporary employee complained regarding the claimant's behavior. The claimant and this woman initially had a consensual relationship wherein they exchanged sexually explicit texts and, on one occasion, met outside of work. According to the employer witness, this woman complained that she tried to end the consensual relationship with the claimant but he kept on insisting and texting her. According

to the claimant, the texting relationship with this woman always remained consensual.

The fourth female temporary worker showed the employer a texted photograph of the claimant's penis that he had taken at work and texted to her at work. The claimant admits that the photograph is of his penis, that he took the picture in the restroom at work, and that he texted it to the female co-worker while on duty, obviously knowing she would likely open the text while at work. Significantly, the claimant understood that his behavior would be considered inappropriate by the employer but the claimant did not believe that the woman would notify the employer of the text. The claimant agrees that the text with the penis photograph is in violation of the employer's policy. He also believes that he should have received a second chance or a warning instead of discharge because he believes discharge was too drastic. Although he received the employer's handbook that contained the policy, the claimant had not been previously warned or disciplined for violating it.

On April 23, 2015, the employer discharged the claimant for inappropriate behavior on company time and property. According to the employer, it was irrelevant whether the claimant was in a mutual relationship with the fourth female temporary worker because the claimant's admitted behavior of taking a picture of his penis on company premises and texting it to a co-worker while on duty violated the policy and warranted discharge. The discharge letter states the following:

Your dismissal is due to inappropriate behavior and transmissions of texts and pictures on Company time and property. You and I have talked in detail regarding the inappropriate behavior for which there is zero tolerance.

The claimant, thereafter, filed for unemployment insurance benefits.

REASONS FOR DECISION

An individual is disqualified for benefits if he or she has been discharged for misconduct connected with his or her most recent work. (Unemployment Insurance Code, section 1256.)

The employer's reserve account may be relieved of benefit charges if the claimant was discharged for misconduct. (Unemployment Insurance Code, sections 1030 and 1032.)

“Misconduct connected with the work” is a substantial breach by the claimant of an important duty or obligation owed the employer, wilful or wanton in character, and tending to injure the employer. (Precedent Decision P-B-3, citing *Maywood Glass Co. v. Stewart* (1959) 170 Cal.App.2d 719.) Misconduct is any wrong or improper conduct, and becomes willful if it is done intentionally, that is, purposely with knowledge, or is of such a nature as to evince a reckless disregard of consequences by him who is guilty of it.

The employer has the burden of proving misconduct. (*Prescod v. California Unemployment Insurance Appeals Board* (1976) 57 Cal.App.3d 29.)

We are not here to determine whether the employer was right or wrong in discharging the claimant. We are here to determine whether the claimant's behavior constituted misconduct for the purposes of unemployment insurance. Moreover, for the purposes of unemployment insurance benefits, the burden of proof does not require the employer to prove that the claimant committed sexual harassment.

As set forth in more detail below, to establish misconduct for purposes of disqualification for unemployment insurance benefits, an employer need only show that a claimant, without good cause, deliberately violated a reasonable employer rule, which is designed to prevent sexual harassment and otherwise offensive behavior of a sexual nature, or that the claimant's conduct was egregious and in disregard of the standard of behavior an employer has the right to expect.

The specific conduct at issue in the case at bar is the claimant's taking a photograph of his penis at work and texting it to a co-worker while on duty.² As discussed in detail below, we find this behavior to be misconduct that disqualifies him from receiving unemployment insurance benefits.

I. The claimant violated a reasonable employer rule.

When an employer has discharged a claimant for violating its policy against sexual harassment, the employer does not have to prove the claimant committed sexual harassment but just that the claimant knew or should have known that he violated the reasonable employer rule, which was designed to prevent sexual

² In this case, there are unresolved conflicts in the evidence as to whether the claimant was texting or was otherwise communicating with the initial three women who complained regarding his behavior, and as to whether the fourth woman and the claimant were in a continuing consensual relationship. Despite the failure of the administrative law judge to make credibility findings to resolve these conflicts, we find it unnecessary to remand this case because the undisputed evidence as to the claimant's conduct is sufficient to resolve this case.

harassment. In this case, the employer met its burden of proof that the claimant committed misconduct because the employer's rule was reasonable and the claimant deliberately violated the rule.

A. The employer has a reasonable rule against sexual harassment in the work place.

"The duty of an employee is to obey the employer's lawful and reasonable orders. . . ." (Precedent Decision P-B-3.) Accordingly, an employee has the duty to follow reasonable employer rules.

In Precedent Decision P-B-3 the employer refused to employ married stewardesses. The claimant was discharged when the employer learned she had married and had not disclosed this information to the employer. This Board held neither getting married nor failing to disclose the marriage was misconduct as the employer's rule was in violation of public policy against discrimination and, as such, was not a reasonable rule.

In the context of unemployment insurance law, the code specifically provides that an employee has good cause to quit a position because of sexual harassment. (Unemployment Insurance Code, section 1265.5.) There is no similar statute pertaining to sexual harassment for discharge cases. This case involves the discharge of an employee based on behavior in violation of the employer rule, embedded in the policy designed to prevent sexual harassment at work. The employer policy prohibits the unreasonable interference with an employee's work performance or the creation of an intimidating, hostile or offensive environment and expressly prohibits distributing sexually suggestive pictures. Accordingly, it must be determined whether the employer's policy addressing sexually harassing behavior in the work place was reasonable.

Like federal law³, California law prohibits sexual harassment in the workplace. (Hughes v. Pair (2009) 46 Cal.4th 1035, 1042.) In California, employers may be liable for sexual harassment in the work place under the Fair Employment and Housing Act (FEHA)⁴. As part of FEHA, Government Code, section

³ Title VII of the Civil Rights Act, 42 U.S.C. § 2000e-2(a) (1988) provides, in pertinent part that:
It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin

⁴ California's Fair Employment Housing Act (FEHA), codified at Gov't Code Sections, 12900 to 122996, statutorily prohibits sexual harassment in the work place.

12940, subdivision (j)(1), specifically provides that it is unlawful for "an employer . . . because of . . . sex . . . to harass an employee"

The employer is strictly liable for acts of sexual harassment by a supervisor. (*Dickson v. Burke Williams, Inc.* (2015) 234 Cal.App.4th 1307, 1313, n. 7, citing, *State Dept. of Health Services v. Superior Court* (2003) 31 Cal.4th 1026, 1041.) The employer is liable for sexual harassment of a nonsupervisory co-worker if it knew or should have known of the harassing conduct and failed to take immediate and appropriate corrective action. (Gov. Code, section 12940, subd. (j)(1); (*Alatoree v. Mabus*, 2015 U.S.D.C. CA Lexis 60850, 5.)

In this case, the claimant, as a group leader, could potentially be viewed as an agent of the employer, such that the employer may be strictly liable for sexual harassment on his part; or, at a minimum, he is considered a co-worker whose actions can be imputed to the employer if the employer knew or should have known of the actions and permitted the sexually harassing behavior to occur.

For a civil action for sexual harassment based on a hostile work environment, the harassment "must be sufficiently severe or pervasive to alter the victim's conditions of employment and create an abusive working environment." (*Mokler v. County of Orange* (2007) 157 Cal.App.4th 121, 142 (internal citations omitted).).

Sexual conduct certainly has the potential to be disruptive to the workplace; in this case, the employer's policy against sexually inappropriate behavior served as a tool to help prevent that disruption and to protect the employer from liability for sexual harassment in the workplace. Certainly by the time the employer received the complaints, the employer had potential liability in the event that any of the temporary workers made a charge that the working environment was abusive and that the employer had tolerated sexual harassment in the workplace. For these reasons, we find that this employer's rule, prohibiting sexually explicit behavior in the workplace is reasonable and represents a legitimate business interest.

B. The claimant deliberately violated the employer rule pertaining to sexual harassment at work.

To establish misconduct for purposes of disqualification for unemployment benefits, "there must be 'substantial evidence of deliberate, willful, and intentional disobedience' on the part of the employee." (*Paratransit, Inc. v. Unemployment Insurance Appeals Board* (2014) 59 Cal.4th 551, 559, citing, *Robles v.*

Employment Development Department (2012) 207 Cal.App.4th 1029, 1035.) Thus, to determine whether there is misconduct, we must judge the “reasonableness of his act from his standpoint in the light of the circumstances facing him and the knowledge possessed by him at the time.” (*Paratransit, Inc.*, 59 Cal.4th at 559, quoting, *Amador v. Unemployment Insurance Appeals Board* (1984) 35 Cal.3d 671, 683.)

If an employee knew or should have known about the employer’s reasonable rule designed to prevent sexual harassment at work, then the employee has a duty to follow that rule. In this case, the claimant was aware of the employer policy designed to prevent sexual harassment. The employer policy prohibits the creation of a hostile or offensive environment and specifically prohibits distributing sexually suggestive pictures. The claimant took a picture of his penis at work and distributed it by texting it to a co-worker while on duty. The claimant’s behavior is in violation of the employer policy and the claimant admitted that he believed that the employer would find the behavior to be inappropriate; he nevertheless decided to engage in the behavior because he did not think he would get caught. Accordingly, when the claimant violated the employer rule, he did so deliberately.

- II. The claimant’s behavior is misconduct, regardless of any warnings or rules, as opposed to a good faith error in judgment.
 - A. A warning was not necessary because the claimant’s behavior interfered with the employer’s business and threatened the employer’s interest in a substantial manner.

A single act of disobedience, without prior reprimands or warnings for insubordination, generally is not misconduct unless the act interferes with the orderly conduct of the employer’s business or injures, or threatens to injure, the employer’s interest in a consequential or substantial manner. (*Paratransit, Inc. v. Unemployment Insurance Appeals Board* (2014) 59 Cal.4th 551, 564 (internal citations omitted).).

In *Paratransit, Inc. v. Unemployment Insurance Appeals Board, supra*, the California Supreme Court held that an employee’s refusal to sign a disciplinary warning represented only a good faith error in judgment rather than misconduct because (1) the employee reasonably believed that he was entitled to union representation before signing the warning and that signing the warning would constitute an admission of guilt concerning allegations he disputed, and (2) there was no indication that the employee’s refusal interfered with the orderly conduct of the employer’s business or injured, or threatened to injure, the employer’s interest in any consequential or substantial way. The Court noted that

insubordination amounting to misconduct generally entails cumulative acts with prior reprimands or warnings. (*Id.* at 564.)

Here, the claimant had not received any warnings regarding sexually explicit actions at work. Warnings serve to place the recipient on notice of the impropriety of an identified act. The claimant, however, admitted he knew his conduct violated the employer's policy but engaged in the conduct anyway because he did not think he would be caught. Moreover, a warning was not necessary in this case because, unlike the case in *Paratransit*, the claimant's behavior in this case did interfere with the orderly conduct of the employer's business and at least threatened to injure the employer's interest in a consequential or substantial way. (*Paratransit, Inc.*, 59 Cal.4th at 564).

Clearly the taking of the picture in the workplace bathroom of his penis and sending it to a co-worker while on duty would reasonably interfere with the work of, at a minimum, the claimant and the co-worker. The potential of other co-workers seeing the picture or hearing about it could also threaten the interests of the employer in having a harassment free working environment. The claimant's behavior had at least the potential to create an offensive working environment. Finally and most importantly, the claimant threatened the employer's interests because of the risk for potential liability for sexual harassment. For all the reasons stated above, we find that the claimant's behavior interfered with the orderly conduct of the employer's business and threatened to injure the employer's interests.

B. Regardless of the employer policy, the claimant was discharged for misconduct due to his egregious behavior.

In Precedent Decision P-B-221, the claimant was a hotel bell man who had two drinks during his shift with a guest in her room. The appeals board held that whether the claimant was aware of the rule against drinking on duty, such conduct was in disregard of the standard of behavior which the employer had the right to expect and not simply a good faith error in judgment or discretion. The claimant's discharge was for misconduct.

Some conduct, even in the absence of a specific employer rule, is in disregard of the standard of behavior that an employer has a right to expect. Unless simply a good faith error in judgment or discretion, such behavior is misconduct. (Precedent Decision P-B-221.)

Considering the risk of liability as well as the detrimental effect upon production and morale, incidents of sexual harassment at the workplace constitute a willful violation of the expected standards of behavior. Thus, even if the employer did

not have a policy against sexual harassment or had a policy that, as drafted, was not reasonable, certain behaviors remain egregious. Furthermore, a discharge for egregious behavior is misconduct for purposes of unemployment insurance benefits.

An employer has the right to expect that its employees will not, at work, engage in the type of inappropriate and offensive behavior engaged in by this claimant. The claimant's violation of accepted standards of behavior in the workplace is egregious and therefore constitutes misconduct for purposes of unemployment insurance benefits.

For all the reasons stated above, we find that the employer has met its burden to establish that the claimant engaged in inappropriate behavior that was in violation of the employer's reasonable policy to prevent sexual harassment. We also find that the claimant's behavior interfered with the orderly conduct of the employer's business, threatened the employer's interests, and was in disregard of the behavior an employer has the right to expect. The claimant was discharged for misconduct because his inappropriate sexually explicit at work behavior was a knowing violation of a reasonable employer rule and also because the behavior was egregious. Accordingly, the claimant was discharged for misconduct connected with his most recent work.

The claimant has not put forth an argument that would provide good cause for his misconduct. Therefore, the claimant is disqualified for benefits under code section 1256 and the employer's reserve account is relieved of benefit charges under code section 1030 or 1032.

DECISION

The decision of the administrative law judge is affirmed. The claimant is disqualified for benefits under code section 1256. Benefits are denied. The employer's reserve account is relieved of charges.



CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD
P O Box 944275
SACRAMENTO CA 94244-2750

MICHAEL E CECIL
Claimant-Appellant

Case No.: **AO-374577 (D)**

OA Decision No.: 5459538

EDD: 2180

DECISION

Attached is the Appeals Board decision in the above-captioned case issued by Board
Panel members:

ROBERT DRESSER

ELLEN CORBETT

MICHAEL ALLEN

This is the final decision by the Appeals Board. The Appeals Board has no authority to
reconsider this decision. If you disagree with the decision, please refer to the information
attachment which outlines your rights.

Date Mailed: 12/3/2015

Case No.: AO-374577
Claimant: MICHAEL E CECIL

The claimant appealed from that portion of the decision of the administrative law judge that disallowed the claimant disability benefits under section 2776 of the Unemployment Insurance Code beginning January 13, 2013.

ISSUE STATEMENT

The issue in this case is whether the claimant's claim for disability benefits is disallowed.

FINDINGS OF FACT

The claimant sustained an industrial injury on January 13, 2013 while performing his most recent, regular and customary work as a truck driver and deliveryman. The claimant's industrial injury occurred in Colorado. He waited there for over two days for his employer to send a replacement driver, and then had to drive himself back to California. The claimant never saw his employer again. His employer never provided him a Department of Industrial Relations (DIR) form "DWC-1," which advises injured workers to file a claim for disability benefits immediately.

Shortly after sustaining his industrial injury, the claimant filed for and began to receive worker's compensation temporary total disability benefits for the period beginning January 18, 2013 at a weekly rate of \$658.69. When he filed the worker's compensation claim, the claimant's attorney told him he could not receive disability benefits at the same time he was receiving worker's compensation benefits. As the claimant had never filed a claim for disability benefits before, he relied on his attorney's statement and did not file for disability benefits at that time.

The claimant exhausted his worker's compensation benefits on January 15, 2015, at which time the claimant had received the maximum worker's compensation benefits allowed by law. Because the claimant was still unable to perform his regular and customary work at the time he exhausted his worker's compensation benefits, he filed a claim for disability benefits. That claim, supported by a physician's certification, was signed on February 3, 2015 with a requested claim effective date of January 13, 2013.

On February 18, 2015 the Employment Development Department (hereinafter EDD) issued a determination denying the claimant disability benefits beginning January 13, 2013 under Unemployment Insurance Code section 2776, stating:

“Your claim for Disability Insurance Benefits as an ‘Industrially Disabled Person’ has been disallowed because you failed to file your claim within 2 years of the commencement of your industrial disability, and you received or are entitled to receive Workers Compensation benefits under Division 4 (commencing With Section 3201) of the Labor Code.”

The administrative law judge who heard the case issued a decision affirming the EDD determination.

REASONS FOR DECISION

Unemployment Insurance Code section 2776¹ is contained in Part 2, Chapter 2, and Article 7 (titled “Rights of Industrially Disabled Persons”) of the Unemployment Insurance Code (hereinafter code) and provides as follows:

As used in this article:

(a) "Industrially disabled person" means an individual who has received or is entitled to receive benefits under Division 4 (commencing with Section 3201) of the Labor Code, and who is unable to perform his regular or customary work for 60 consecutive days or more, but not to exceed two calendar years from the date of commencement of his industrial disability.

(b) "Industrial disability" means a disability compensable under Division 4 (commencing with Section 3201) of the Labor Code.

The only proper determination which may be made under section 2776 is that an individual is or is not an “industrially disabled person” as defined by that section. Disallowing the individual’s claim for disability benefits solely because he or she is not an “industrially disabled person” as of the date the claim is filed is a misapplication of section 2776. A claimant who is not an “industrially disabled person” may still be eligible for disability benefits based on other relevant, applicable provisions of Chapter 2.

As reflected in the legislative history, Article 7 was enacted in 1973 to enable an “industrially disabled person” to establish a claim for disability benefits when otherwise unable to do so because his or her prior period of industrial disability left him or her with insufficient wage credits in the usual base period. Under such circumstances, the base period is adjusted by excluding quarters from the base period and substituting earlier ones, such that the “industrially disabled person”

¹ All references to statutes are references to the Unemployment Insurance Code, unless otherwise noted.

can establish a valid disability claim. This right afforded to “industrially disabled persons” by Article 7 is set forth in section 2777:

Except as provided in subdivision (b) of Section 2611, in determining the benefit rights of any industrially disabled person the disability base period shall exclude those quarters during which such person was industrially disabled for 60 days or more. For all quarters so excluded there shall be substituted an equal number of quarters immediately preceding the commencement of his or her industrial disability. In the event the base period so determined includes wages in calendar quarters for which the records have been destroyed under proper approval, a claimant may establish the amount of wages by affidavit in accordance with authorized regulations. The quarter of commencement of an industrial disability shall be counted as a completed quarter if the director finds that the inclusion thereof would be more equitable to the industrially disabled person.

In the present case, the claimant did receive worker’s compensation benefits under the applicable division of the Labor Code for over two years and thus does not meet section 2776’s definition of “industrially disabled person.” The inquiry as to whether the claimant might be entitled to disability benefits does not, however, end there.

EDD cited only section 2776 as the basis for disallowing the claimant’s benefits. Although, EDD’s narrative in its determination did implicate two other relevant sections of the code, that determination did not explicitly address the issues under those other sections. By failing to adjudicate those additional issues, EDD’s analysis as to whether the claimant might be entitled to any disability benefits is incomplete.

First, EDD’s determination indicated that this claimant’s benefits were disallowed because the claimant failed to file his claim within two years of the commencement of his industrial disability. A “claim effective date” (CED) is based on when the claimant filed a first claim for disability benefits relative to the first compensable day of unemployment and disability with respect to which the claim is made. Whether a claimant, an “industrially disabled person” (under section 2776) or otherwise, has timely filed an application for disability benefits, or has good cause for failing to do so such that an extension of time is allowed, is determined properly under code section 2706.1:

A first claim, accompanied by a certificate on a form furnished by the department to the claimant, shall be filed not later than the 41st

consecutive day following the first compensable day of unemployment and disability with respect to which the claim is made for benefits, which time shall be extended by the department upon a showing of good cause. If a first claim is not complete, the claim form shall be returned to the claimant for completion and it shall be completed and returned not later than the 10th consecutive day after the date it was mailed by the department to the claimant, except that such time shall be extended by the department upon a showing of good cause.

Good cause includes mistake, inadvertence, surprise, or excusable neglect, but not negligence, carelessness, or procrastination. (California Code of Regulations, title 22, section 1326-10(a)(7).)

While EDD denied claimant's benefits "beginning January 13, 2013" (underline added for emphasis), EDD did not address whether the claimant established good cause for backdating his claim. If, in fact, the claimant establishes good cause for backdating, the issue of whether the claimant is an "industrially disabled person" under section 2776 would be irrelevant. The claimant would have sufficient base period wages and would not need the provisions of section 2777 in order to establish a disability claim.

Second, EDD's determination stated that the claimant's disability benefits were disallowed because the claimant received or was entitled to receive Workers Compensation benefits. The effect of receipt of other benefits on a claimant's disability claim, whether the claimant is an "industrially disabled person" or otherwise, is properly determined under code section 2629:

Eligibility while receiving specified "other benefits"

(a) Except as provided in this section, an individual is not eligible for disability benefits under this part for any day of unemployment and disability for which he or she has received, or is entitled to receive, "other benefits" in the form of cash payments.

(b) "Other benefits," as used in this section and Section 2629.1, means any of the following:

- (1) Temporary disability indemnity under a workers' compensation law of this state or of any other state or of the federal government.
- (2) Temporary disability benefits under any employer's liability law of this state or of any other state or of the federal government.
- (3) Permanent disability benefits for the same injury or illness under the workers' compensation law of this state, any other state, or the federal government.

(c) If these "other benefits" are less than the amount an individual would otherwise receive as disability benefits under this part, he or she shall be entitled to receive, for that day, if otherwise eligible, disability benefits under this part reduced by the amount of these "other benefits."

(d) An individual shall be entitled to receive, for any day, if otherwise eligible, disability benefits under this part reduced by the amount of the permanent disability indemnity if the permanent disability indemnity is less than the amount an individual would otherwise receive as disability benefits under this part.

We note that both code sections 2706.1 and 2629 apply to any claimant regardless of whether he or she is deemed an "industrially disabled person" under section 2776. Other than as codified in Article 7, the disability benefit rights of "industrially disabled persons" are to be determined in the same manner as for all other claimants, in accordance with all of the provisions of Part 2, as specified by section 2775:

Notwithstanding any inconsistent provisions of this part, the benefit rights of industrially disabled persons shall be determined in accordance with the provisions of this article for the period and with respect to the matters specified in this article. Except as otherwise provided in this article, all of the provisions of this part shall continue to be applicable in connection with such benefits.

Despite its references to the language of different code sections in its determination, EDD failed to adjudicate the claimant's eligibility for disability benefits beyond concluding his claim was disallowed under section 2776 based on the fact that he did not, as of the filing date of his claim, any longer meet the definition of "industrially disabled person." As such, no other legal issues were noticed on appeal.

The administrative law judge correctly did not consider any legal issues not adjudicated by EDD and not noticed for the hearing, as he had no jurisdiction to do so. We are also precluded from doing so. (California Code of Regulations, title 22, section 5101.)

The Board may refer to the Employment Development Department or remand to an administrative law judge for appropriate action any issues raised for the first time in the appeal. (California Code of Regulations, title 22, section 5101.)

As EDD's determination and the decision of the administrative law judge erroneously disallowed the claimant's claim for disability benefits under code section 2776, we set both aside.

Because EDD failed to adjudicate legal issues under relevant, applicable code sections to determine the claimant's eligibility for disability benefits, we do not have jurisdiction to consider the legal issues raised by those code sections. We therefore refer the case back to the EDD for proper determination of the claimant's eligibility for benefits based on applicable code sections including, but not limited to, sections 2706.1 and 2629.

DECISION

The appealed portion of the decision of the administrative law judge is set aside. The notice of determination is also set aside. The case is referred to EDD for further consideration and determination of the claimant's claim for disability benefits consistent with this decision.