

THE STATE OF SOUTH CAROLINA
In The Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Case No. 2009-ALJ-17-0160
Appellate Case No. 2012-212203

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MAR 03 2014

S.C. Supreme Court

Carmax Auto Superstores West Coast, Inc., Respondent/Petitioner

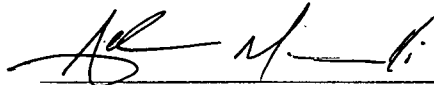
v.

South Carolina Department of Revenue, Petitioner/Respondent.

MOTION TO ARGUE AGAINST PRECEDENT

It is the position of the Department, as outlined in the written briefs in this case, that the instant facts are distinguishable from this Court's holdings in Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health and Envtl. Ctrl., 387 S.C. 365, 692 S.E.2d 894 (2012), and Bone v. U.S. Food Serv., 404 S.C. 67, 744 S.E.2d 552 (2013). Assuming *in arguendo*, however, that this Court does not concur, pursuant to Rule 217, SCACR, the undersigned does hereby respectfully request that this Court grant leave for oral argument against the precedents set by the Charlotte Mecklenburg and Bone decisions.

Respectfully submitted,



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Counsel for Litigation

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Columbia, South Carolina
March 3, 2014

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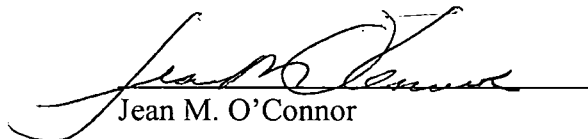
Carmax Auto Superstores West Coast, Inc., Respondent/Petitioner

v.

South Carolina Department of Revenue, Petitioner/Respondent.

PROOF OF SERVICE

I, Jean M. O'Connor, do hereby certify that I have caused to be mailed, postage pre-paid, a copy of the Department of Revenue's, Petitioner/Respondent, Response to Amicus Curiae Brief of Council on State Taxation as well as the Department's Motion to Argue Against Precedent in the above referenced matter to John C. von Lehe, Jr., Esquire and Bryson M. Geer, Esquire, 151 Meeting Street, 6th Floor, Charleston, SC 29401-2239, Burnet R. Maybank, III, Esquire, Nexsen Pruet, LLC, PO Drawer 2426, Columbia, SC 29202, and Alexandra E. Sampson, Esquire, Reed Smith LLP, 1301 K Street, N.W., Suite 1100- East Tower, Washington, DC 20005-3317 this 3rd day of March 2014.


Jean M. O'Connor

State of South Carolina
Department of Revenue
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March 3, 2014

The Honorable Daniel E. Shearouse
South Carolina Supreme Court Clerk
PO Box 11330
Columbia, SC 29211

Re: Carmax Auto Superstores West Coast, Inc.,
v. South Carolina Department of Revenue,
Appellate Case No. 2012-212203

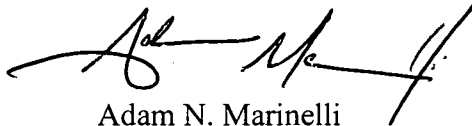
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Dear Mr. Shearouse:

Please find the original and fourteen copies of the Petitioner/Respondent, South Carolina Department of Revenue in Response to Amicus Curiae Brief of Council on State Taxation in the above-referenced matter. Additionally, please find the Department's Motion to Argue Against Precedent. Also attached is a Proof of Service.

Very truly yours,

OFFICE OF GENERAL COUNSEL, TAX AND REGULATORY SERVICES



Adam N. Marinelli
Counsel for Litigation

ANM:jmo

Attachment

c: John von Lehe, Jr., Esquire
Bryson M. Geer, Esquire
Burnet R. Maybank, III, Esquire
Alexandra E. Sampson, Esquire