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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2015-000733

Kan Enterprises, Inc., d/b/a A 1 Food Stores,..... Appellant,

v.

South Carolina Department of Revenue, Ellen Fishburne Triplett,  
Keith McIver, Samuel L. Munson, Jocelyn Munson, and Michael Hill, ..... Respondents.

**MOTION TO REPLACE FILED FINAL BRIEF OF APPELLANT**

The undersigned, as counsel for Appellant Kan Enterprises, Inc., d/b/a A 1 Food Stores, hereby moves for leave of the Court to retrieve their filed Final Brief and refile a corrected Final Brief. It has come to the attention of Appellant's counsel that the Order on Motion for Reconsideration, for a Stay and for Supersedeas (R. pp. 1-5), and the Amended Final Order and Decision (R. pp. 6-9) are incomplete. While pages of these two orders were inadvertently omitted during compilation of the Record on Appeal, the complete Orders are contained within Volume II as Exhibits to Appellant's Notice of Appeal (R. pp. 496 - 510.) The Appellant's Final Brief that has been filed refers to these two documents at least three times.

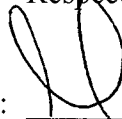
To correct this error, Appellant has, with consent of Respondents' counsel, filed an Appendix to the Record on Appeal. Appellant respectfully requests leave to retrieve

the incorrect Final Brief of Appellant filed on December 22, 2015, and to file a corrected Final Brief. If granted, Appellant also respectfully requests that the Court disregard pages 1 - 9 of the Record on Appeal and instead refer to the Appendix to Record on Appeal instead.

WHEREFORE, Appellant respectfully prays that this Court allow the replacement of the filed Final Brief with a corrected Final Brief, and that the Court disregard pages 1 - 9 of the Record on Appeal.

Respectfully submitted,

By:



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ATTORNEYS FOR APPELLANT

West Columbia, South Carolina

January 7, 2016

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v.

South Carolina Department of Revenue, Ellen Fishburne Triplett,  
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**PROOF OF SERVICE**

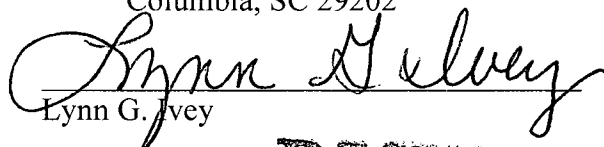
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I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Motion to Replace Filed Final Brief of Appellant by mail, to the following parties by depositing a copy of same in the United States Mail, postage prepaid, on January 7, 2016, addressed as follows:

Justine M. Tate, Esquire  
Sean Ryan, Esquire  
Counsel for Litigation  
SC Department of Revenue  
P.O. Box 12265  
Columbia, SC 29211

Kathleen McDaniel, Esquire  
Callison Tighe & Robinson, LLC  
PO Box 1390  
Columbia, SC 29202-1390

Patrick C. Sharpe, Esquire  
City of Columbia  
PO Box 667  
Columbia, SC 29202

  
Lynn G. Ivey

West Columbia, South Carolina  
January 7, 2016

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JAN 07 2016

**SC Court of Appeals**

January 7, 2016

The Honorable Jenny Abbott Kitchings  
Court of Appeals Clerk of Court  
P.O. Box 11629  
Columbia, SC 2921

RE: Kan Enterprises, Inc., d/b/a A1 Food Stores v. SC Department of  
Revenue, et al  
Appellant No. 2015-000733

Dear Ms. Kitchings:

Please find enclosed with this letter Appellant's Motion to Replace Filed Final Brief of Appellant and firm check for \$25.00. Please return the extra copies of the Motion via our courier.

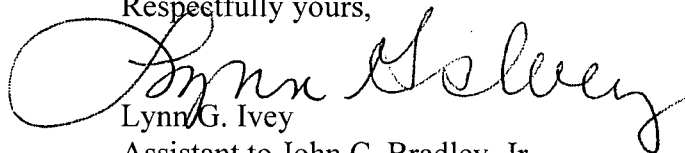
By way of background regarding this motion, Appellant filed their Final Brief on December 22, 2015. The Record on Appeal was filed on December 15, 2015. After filing the Record on Appeal and final briefs, it was discovered that two documents included at pages 1 - 9 of the Record were incomplete. Respondents' Counsel consented to a supplement to the Record on Appeal, and an Appendix is being filed today with your office.

Due to the incomplete documents included in the Record on Appeal, there are subsequent errors in the filed Appellant's Final Brief. To correct these errors, Appellant is moving for permission to replace the filed Final Brief with a corrected copy.

By copy of this letter, we are serving opposing counsel with a copy of the Motion.

Thank you for your assistance with this matter.

Respectfully yours,



Lynn G. Ivey  
Assistant to John C. Bradley, Jr.

Enclosures

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JAN 07 2016

**SC Court of Appeals**

S. Jahue Moore†  
J. Mark Taylor\*  
C. Vance Stricklin, Jr.  
James Edward Bradley†  
Sheila McNair Robinson  
Christian G. Spradley  
C. David Sawyer, Jr.  
William H. Edwards  
Stanley L. Myers  
Jane H. Downey\*  
S. Jahue Moore, Jr.  
John C. Bradley, Jr.  
Melissa K. Moore  
William B. Fortino  
Ralph Nichols Riley, Jr.  
Amber Cary Fulmer  
Sarah Taylor Cassidy  
Gregory R. Close  
-----  
Robert D. Hazel  
OF COUNSEL  
Billy C. Coleman  
RETIRED

The Honorable Jenny Abbott Kitchings

January 7, 2016

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cc: Justine M. Tate, Esquire  
Sean Ryan, Esquire  
Kathleen McDaniel, Esquire  
Patrick C. Sharpe, Esquire