

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
H.W. Funderburk, Jr., Administrative Law Judge

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Case No. 16-ALJ-30-0410-CC  
Appellate Case No. 2017-002455

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Wayne's Automotive Center, Inc., Appellant-Respondent,

v.

South Carolina Department of Public Safety, Respondent-Appellant.

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**DESIGNATION OF MATTER OF APPELLANT-RESPONDENT  
TO BE INCLUDED IN THE RECORD ON APPEAL**

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Appellant-Respondent proposes the following be included in the Record on Appeal:

Title Page

Index

**ORDERS**

1. ALC Order For Prehearing Statements, filed December 19, 2016
2. ALC Order Granting Motion For Extension And Stay, filed January 18, 2017
3. ALC Order Denying Petitioner's Motion and Amended Motion. filed January 27, 2017
4. ALC Final Order, filed September 19, 2017
5. ALC Order Denying Motions For Reconsideration, filed October 31, 2017
6. Court of Appeals Order temporarily granting stay and allowing Appellant-Respondent to seek writ of supersedeas from ALC, filed December 8, 2017
7. ALC Order Granting Petition For Supersedeas, filed December 28, 2017

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**SC Court of Appeals**

8. Court of Appeals Order extending deadline to order transcript preparation until January 8, 2018, filed December 11, 2017

9. Court of Appeals Order granting motion of The Honorable Jana Shealy for extension of deadline of transcript preparation until March 28, 2018, filed March 15, 2018

**PETITIONS, MOTIONS, PREHEARING STATEMENTS, FINAL ARGUMENTS, POST-TRIAL BRIEFS**

10. Petition For Contested Case Hearing And Motion For Temporary Restraining Order (TRO) and Injunctive Relief with Memorandum of Law, **Exhibits A-D**, and Verification and Affidavit Of Jeffrey Corbett, filed December 14, 2016

11. Amended Motion For Writ Of Mandamus and/or Summary Judgment and/or Stay and/or TRO And Injunctive Relief And Proposed Order As Memorandum of Law, Supplemental Verification And Affidavit, Petitioner's 2017 Wrecker Rotation Schedule (**Exhibit E**) and Petitioner's 2015 Wrecker Rotation Schedule (**Exhibit F**), filed December 29, 2016

12. Petitioner's Prehearing Statement, initially filed February 2, 2017 with Reg. 38-600 (from State Register), and SCDPS Wrecker Disciplinary Policy (200.19), as revised

13. Respondent's Prehearing Statement, initially filed February 2, 2017, as revised

14. Petitioner's Final Arguments, filed August 21, 2017

15. Respondent's Post-Trial Brief, dated August 11, 2017

16. Respondent's Reply To Petitioner's Final Arguments, dated August 28, 2017

17. Petitioner's Motion For Reconsideration Of Final Order, filed September 29, 2017

18. Respondent's Motion For Reconsideration Of Final Order, dated October 2, 2017

19. Petitioner's Response In Opposition To Respondent's Motion For Reconsideration, filed October 11, 2017

20. Respondent's Response To Petitioner's Motion For Reconsideration, dated October 9, 2017

21. Appellant-Respondent's (Petitioner's) Motion To Impose A Supersedeas To Stay Matters Decided in SCALC Orders, filed November 29, 2017 (with Notice of Appeal and 2 Orders on appeal)  
Respondent's Return In Opposition To Appellant-Respondent's Motion For Writ Of Supersedeas, filed December 4, 2017

22. Appellant-Respondent's (Petitioner's) Reply To Respondent-Appellant's Return In Opposition To Motion To Impose A Supersedeas To Stay Matters Decided In SCALC Orders And Verification And Affidavit Of Walter Jeffrey Corbett With Attachments (2016, 2017, and 2018

Wrecker Schedules) And (2) Motion For Extension Of Time To Order Transcript, filed December 8, 2017

23. Petitioner’s Petition For Supersedeas Or Other Ruling To Continue Stay Through Appeal Process with Verification And Affidavit Of Walter Jeffrey Corbett attaching the 2016, 2017, and 2018 Wrecker Schedules, filed with the Administrative Law Court and received by the Court of Appeals on December 13, 2017

24. Petitioner’s Reply To Respondent’s Response To Petition For Supersedeas Or Other Ruling To Continue Stay Through Appeal Process, filed with Administrative Law Court and received by Court of Appeals on December 27, 2017

**TRANSCRIPT**

25. Entire Contested Case Proceeding Transcript with corrected p. 5

**EXHIBITS**

Petitioner’s Exhibits Admitted/Proffered (with Transcript page citation)

26. **Petitioner's Exhibit Number 1** ..... 128  
(Petition for Contested Case Hearing and Motion}

27. **Petitioner's Exhibit Number 4** .....129

28. (Responses to Petitioner's Request for Admission)

29. **Petitioner's Exhibit Number 5** .....129  
(DPS FOIA Responses)

30. **Petitioner's Exhibit Number 6** .....277  
(E-mails)

31. **Petitioner's Exhibit Number 9** .....130  
(Shipment Confirmation)

32. **Petitioner's Exhibit Number 13** .....277  
(Accident Photos)

33. **Petitioner's Exhibit Number 15 - Proffered.** ..... 333  
(Boundary Maps)

34. **Petitioner's Exhibit Number 27** ..... 92  
(E-mail From Pilato To Kozelek and Zottneck - 3/7/16)

35. **Petitioner's Exhibit Number 28 - Proffered**.....503, 504  
(South Carolina Schedules for 2013,2014, 2015(and 2017))

Respondent’s Exhibits Admitted (with Transcript page citation)

36. **Respondent's Exhibit Number 1** .....155  
(King March 4th Report)

<b>37. Respondent's Exhibit Number 2</b> .....	77
(E-mail From Watson To King - 2/19/16)	
<b>38. Respondent's Exhibit Number 3</b> .....	64
(Check From Premier Transportation)	
<b>39. Respondent's Exhibit Number 5</b> .....	59
(E-mail From Hughes To Watson - 2/15/16)	
<b>40. Respondent's Exhibit Number 6</b> .....	57
(E-mail From Watson To King - 2/17/16)	
<b>41. Respondent's Exhibit Number 8</b> .....	119
(E-mail From Watson To King - 3/7/16)	
<b>42. Respondent's Exhibit Number 9</b> .....	207
(Dispatch Intake Form - 2/9/16)	
<b>43. Respondent's Exhibit Number 10</b> .....	226
(E-mail From Sweezy To Corbett - 2/10/16)	
<b>44. Respondent's Exhibit Number 11</b> .....	42
(E-mail From Insurance Group To Corbett -2/16/16)	
<b>45. Respondent's Exhibit Number 12</b> .....	43
(E-mail From Watson To Corbett - 2/16/16)	
<b>46. Respondent's Exhibit Number 13</b> .....	50
(E- mail From (Watson) To Corbett - 2/16/16)	
<b>47. Respondent's Exhibit Number 14</b> .....	63
(E-mail From Coppolino To Gosti and Corbett - 2/18/16}	
<b>48. Respondent's Exhibit Number 20</b> .....	255
(E-mail From Felix To Swords - 2/11/16)	
<b>49. Respondent's Exhibit Number 21</b> .....	244
(E-mail From Felix To Corbett - 2/15/16)	
<b>50. Respondent's Exhibit Number 22</b> .....	247
(E-mail From Felix to Corbett - 2/15/16)	
<b>51. Respondent's Exhibit Number 23</b> .....	233
(Invoice 2/10/16 Wayne's)	
<b>52. Respondent's Exhibit Number 24</b> .....	243
(Invoice 2/10/16 Wayne's)	
<b>53. Respondent's Exhibit Number 25</b> .....	243
(Invoice 2/10/16 Wayne's)	
<b>54. Respondent's Exhibit Number 26</b> .....	248
(Timekeeping)	

55. **Respondent's Exhibit Number 27** ..... 198  
 (Vern's Invoice 2/10/16)

56. **Respondent's Exhibit Number 28**..... 114,119  
 (E-mail From Watson To Hughes with Attachments 2/15/17)

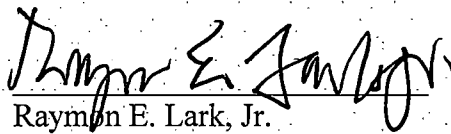
57. **Respondent's Exhibit Number 29**..... 480,483  
 (2010 Complaint filed with the West Virginia Public Service  
 Commission by Martha Gaynell Rochester)

**OTHER MATERIALS OR DOCUMENTS**

58. **Petitioner's Exhibit 15** (proffered) re Google Map showing Georgia-South Carolina boundaries under Savannah River Bridge over I-20.....
59. **Petitioner's Exhibit 28** (proffered) re SCDPS Wrecker Schedules for 2013, 2014, 2015, and 2017

I certify that this designation contains no matter which is irrelevant to this appeal or cross-appeal.

May 29, 2018



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THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE ADMINISTRATIVE LAW COURT

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**PROOF OF SERVICE**

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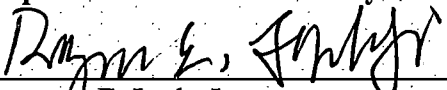
I, Raymon E. Lark, Jr., attorney for Appellant-Respondent herein, hereby certify I have served on Respondent-Appellant through its counsel via hand delivery and email and co-counsel via email Initial Brief Of Appellant-Respondent And Designation Of Matter For Record On Appeal today, May 29<sup>th</sup>, as follows:

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**Attorneys for Respondent South Carolina Department Of Public Safety**

May 29, 2018

  
Raymon E. Lark, Jr.

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**VIA HAND-DELIVERY**

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

Re: Initial Brief Of Appellant-Respondent, Designation Of Matter For Record On Appeal, And Proof Of Service In *Wayne's Automotive Center, Inc., Appellant-Respondent, v. South Carolina Department Of Public Safety, Respondent-Appellant*, Appellate Case No. 2017-002455, Our File No. 16145

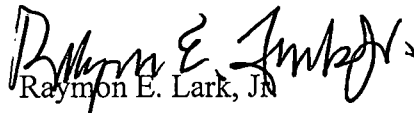
Dear Ms. Kitchings:

Enclosed are our Initial Brief Of Appellant-Respondent And Designation Of Matter For Record On Appeal with Proof Of Service in the above case. Please stamp the extra set for the courier.

Thank you for your assistance.

Sincerely,

**AUSTIN & ROGERS, P.A.**

  
Raymon E. Lark, Jr.

**Attorneys for Appellant-Respondent**

cc: SCDPS Attorney Andrew F. Lindemann Esquire (Via Hand Delivery And Email)  
SCDPS Attorney Marcus K. Gore, Esquire (Via Email)