

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2019-001706

Trial Court Case No. 17-ALJ-17-0238-CC

RECEIVED
JAN 13 2020
SC Court of Appeals

Amazon Services, LLC,.....

Appellant,

v.

South Carolina Department of Revenue,.....

Respondent.

**APPELLANT AMAZON SERVICES LLC'S DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Appellant Amazon

Services LLC ("Amazon Services") respectfully requests that the following items be included in

the record on appeal in addition to those identified by Respondent:

ORDERS

1. Final Order dated September 10, 2019

MOTIONS & MEMORANDA

2. Respondent's Memorandum in Support of Motion for Summary Judgment dated December 7, 2018

TRANSCRIPTS

3. Hearing Transcript dated February 4-6, 2019

EXHIBITS AND OTHER MATERIALS OR DOCUMENTS

4. Hearing Exhibit 3: Business Solutions Agreement
5. Hearing Exhibit 16: Selling on Amazon Fee Schedule
6. Hearing Exhibit 23: Tax Collection Service Terms
7. Hearing Exhibit 31: FBA Features and Fees
8. Hearing Exhibit 50: 2018 Fulfillment by Amazon U.S. Fee Changes
9. Hearing Exhibit 64: FBA Fulfillment Fees for Amazon.com Orders
10. Hearing Exhibit 122: Example Email Order Confirmations and Related Documents
11. Hearing Exhibit 137: S.C. Revenue Ruling #18-14: Retailers Without a Physical Presence (“Remote Sellers”) – Economic Nexus (September 18, 2018)
12. Hearing Exhibit 171: Letter from SCDOR Enclosing Department Determination (June 21, 2017)
13. Hearing Exhibit 172: Initial Audit Appointment Letter and Summons Sent to Amazon Services, LLC (September 1, 2016)
14. Hearing Exhibit 175: Amazon Services Proposed Notice of Assessment (December 9, 2016)
15. Hearing Exhibit 178: Protest to Proposed Notice of Assessment Issued to Amazon Services LLC for the Tax Period January 1, 2016, through March 31, 2016 (March 9, 2017)
16. Hearing Exhibit 192: Meeting Packet for the Legislative Oversight Committee Meeting (October 23, 2018)
17. Hearing Exhibit 193: Video of Director Powell’s Sworn Testimony Before the Legislative Committee (October 23, 2018)
18. Hearing Exhibit 194: Video of Director Powell’s Sworn Testimony Before the Joint Education and Finance Study Committee of the SC General Assembly (October 23, 2018)
19. Hearing Exhibit 195: Video of Cabinet Meeting of SC’s Governor (August 1, 2018)
20. Hearing Exhibit 196: Video of Director Powell’s Sworn Testimony Before the Economic Subcommittee (August 13, 2018)

21. Hearing Exhibit 197: Video of Director Powell's Sworn Testimony Before the Economic Subcommittee (July 10, 2018)
22. Hearing Exhibit 198: Video of Director Powell's Sworn Testimony Before the Economic Subcommittee (June 18, 2018)
23. Hearing Exhibit 199: Video of Director Powell's Sworn Testimony Before the Economic Subcommittee (September 10, 2018)
24. Hearing Exhibit 200: Video of Director Powell's Statements to WLTX Channel 19 (August 13, 2018)
25. Hearing Exhibit 201: Video of Director Powell's Sworn Testimony Before the Joint Senate Education and Finance Study Committee (October 23, 2018)
26. Hearing Exhibit 202: SCDOR House Legislative Oversight Committee Presentation (June 18, 2018)
27. Hearing Exhibit 203: Meeting Packet for the Economic Development, Transportation, and Natural Resources Subcommittee Meeting (September 10, 2018)
28. Hearing Exhibit 205: SCDOR, Program Evaluation Report (May 31, 2018)
29. Hearing Exhibit 207: Meeting Packet for the Economic Subcommittee Meeting (July 10, 2018)
30. Hearing Exhibit 210: Screenshots of Amazon.com Website
31. Hearing Exhibit 213: Deposition Designation – Testimony of Hartley Powell
32. Hearing Exhibit 214: Senate Joint Finance and Education Study Testimony of Department Director Hartley Powell (October 23, 2018)
33. Affidavit of Damian Hunt dated December 4, 2018
34. Respondent's Proposed Final Order and Decision dated April 5, 2019
35. Amazon Services's Request for Contested Case Hearing dated July 21, 2017

The Undersigned counsel hereby certifies, pursuant to Rule 209(c) of the South Carolina Appellate Court Rules that this Designation contains no matter that is irrelevant to the appeal.

By: Bryson M. Geer
With Express Permission by John Tullow
NELSON MULLINS RILEY & SCARBOROUGH LLP

Bryson M. Geer
SC Bar No. 13606
bryson.geer@nelsonmullins.com
John C. von Lehe, Jr.
SC Bar No. 5719
john.vonlehe@nelsonmullins.com
151 Meeting St / 6th Floor
PO Box 1806 (29402-1806)
Charleston, SC 29401-2239
(843) 853-5200

SIDLEY AUSTIN LLP

Carter G. Phillips
(admitted *Pro Hac Vice*)
cphillips@sidley.com
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Constantine L. Trela, Jr.
(admitted *Pro Hac Vice*)
ctrela@sidley.com
Robert N. Hochman
(admitted *Pro Hac Vice*)
rhochman@sidley.com
Neil H. Conrad
(admitted *Pro Hac Vice*)
nconrad@sidley.com
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

Attorneys for Amazon Services LLC

Charleston, South Carolina
January 13, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

Appellate Case No. 2019-001706

Case No. 17-ALJ-17-0238-CC

RECEIVED
JAN 13 2020
SC Court of Appeals

Amazon Services, LLC, Appellant,
v.
South Carolina Department of Revenue Respondent.

PROOF OF SERVICE

I the undersigned Administrative Assistant of the law firm of Nelson Mullins Riley & Scarborough, LLP, attorneys for Amazon Services LLC, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by FedEx, postage prepaid, to the following address(es):

Pleadings: INITIAL BRIEF OF APPELLANT AMAZON SERVICES LLC

APPELLANT AMAZON SERVICES LLC'S DESIGNATION OF
MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Counsel Served:

Lauren Acquaviva, Esq.
Jason P. Luther, Jr., Esq.
John M. Hoefer, Esq.
Tracey C. Green, Esq.
Chad N. Johnston, Esq.
John W. Roberts, Esq.
Andrew R. Hand, Esq.
Counsel for Litigation
South Carolina Department of Revenue
Office of General Counsel for Litigation
P. O. Box 12265

Columbia, SC 29211

Margaret Tharks
by Catherine F. Sease
Administrative Assistant

January 13, 2020



NELSON MULLINS

Bryson M. Geer
(Admitted in NC & SC)
T 843.534.4306
bryson.geer@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

151 Meeting Street | Sixth Floor
Charleston, SC 29401-2239
T 843.853.5200 F 843.722.8700
nelsonmullins.com

January 13, 2020

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
JAN 13 2020
SC Court of Appeals

RE: Amazon Services LLC v. South Carolina Department of Revenue
Appellate Case No. 2019-001706
NMRS File No. 54685.09000

Dear Ms. Kitchings:

Enclosed for filing please find the original and one (1) copy of the following documents:

1. Initial Brief of Appellant Amazon Services LLC;
2. Appellant Amazon Services LLC's Designation of Matter to be Included in the Record on Appeal; and
3. Proof of Service.

Please return clocked in copies of these documents to me via our courier. By copy of this correspondence to counsel of record, we are serving them with a copy of the enclosed documents.

Thank you for your assistance with this matter, and please do not hesitate to contact us with any questions or concerns.

With kind regards,

Bryson M. Geer
with Bryson's permission
by *John T. Moore*
Bryson M. Geer

BMG:mam
Enclosures

cc: Lauren Acquaviva, Esq.

The Honorable Jenny Abbott Kitchings

January 13, 2020

Page 2

Jason P. Luther, Jr., Esq.

John M. S. Hoefler, Esq.

Tracey C. Green, Esq.

Chad N. Johnston, Esq.

John W. Roberts, Esq.

Andrew R. Hand, Esq. (all via email and U.S. Mail)