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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APR 29 2020

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

H.W. Funderburk, Jr., Administrative Law Judge

Case No. 17-ALJ-17-0060-CC
Appellate Case No. 2019-001933

McEntire Produce, Inc.

Respondent,

v.

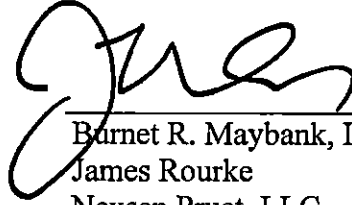
South Carolina Department of Revenue

Appellant.

**MOTION TO AMEND RESPONDENT'S
DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

Respondent McEntire Produce, Inc., with the consent of Appellant, moves to amend its Designation of Matter to be Included in the Record on Appeal which was originally filed on March 23, 2020. The grounds for the Motion are that counsel for Respondent was notified by counsel for Petitioner that two Exhibits cited in Respondent's Initial Brief (specifically, Exhibits 12 and 18) were not admitted into evidence at the Administrative Law Court. Further, Respondent's Exhibit 16 was protective clothing which cannot be incorporated into the Record on Appeal. For these reasons, Respondent respectfully requests that this Court grant this motion and allow Respondent to file the enclosed Amended Designation of Matter to be Included in the Record on Appeal removing Respondent's Exhibits 12, 16, and 18.

Respectfully submitted,



Burnet R. Maybank, III
James Rourke
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
(803) 771-8900

Attorneys for Respondent
McEntire Produce, Inc.

April 28, 2020

Other Counsel of Record:

Elisabeth W. Shields, Esquire
South Carolina Department of Revenue
P.O. Box 12265
Columbia, SC 29211

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The Honorable H.W. Funderburk, Jr., Administrative Law Judge

Case No. 17-ALJ-17-0060-CC
Appellate Case No. 2019-001933

McEntire Produce, Inc.Respondent,

v.

South Carolina Department of Revenue,Appellant.

PROOF OF SERVICE

I, Trudy J. Shealy, hereby certify that I have caused to be mailed a copy of McEntire Produce Inc.'s Motion to Amend Respondent's Designation of Matter to be Included in the Record on Appeal and Amended Designation of Matter to be Included in the Record on Appeal regarding the above-referenced case, by depositing the same in the United States Mail, postage prepaid, on April 28, 2020, addressed to the Court of Appeals, 1205 Pendleton Street, Columbia, SC 29201 and to the attorney of record, Elisabeth W. Shields, South Carolina Department of Revenue, P.O. Box 12265, Columbia, SC 29211-9979.


Trudy J. Shealy
Legal Assistant
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
803-540-2064

James P. Rourke
Member

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APR 29 2020

SC Court of Appeals

April 28, 2020

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: McEntire Produce, Inc. v. South Carolina Department of Revenue
Appellate Case No. 2019-001933
ALC Docket No. 17-ALJ-17-0060-CC

Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of Respondent's Motion to Amend its Designation of Matter to be Included in the Record on Appeal, along with the \$25.00 filing fee for the above referenced case. Please return a clocked copy to our office. By copy of this letter, we are also serving Appellant's counsel.

Thank you for your attention to this matter.

Very truly yours,



Jim Rourke

JPR/tjs

cc: Elisabeth W. Shields, Esq.

- Charleston
- Charlotte
- Columbia**
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SC Court of Appeals

NESSEN PROET, LLC
ATTORNEYS AND COUNSELORS AT LAW
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2425
Columbia, SC 29202

TO

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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