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May 12 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

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.

**APPELLANT’S MOTION FOR EXTENSION OF TIME TO FILE
THE RECORD ON APPEAL**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Appellant South Carolina Department of Revenue (“Appellant”) respectfully requests an extension of time in which to file the Record on Appeal in the above-referenced matter, currently due on May 21, 2020, for the reasons set forth below.

On April 28, 2020, the Appellant filed its Motion to Amend Appellant’s Designation of Matter. Specifically, the Appellant requested that it be allowed to amend its Designation of Matter by removing a previously identified exhibit, which was not admitted into evidence at the lower court. Further, McEntire Produce, Inc., (“Respondent”) filed a similar Motion with the Court on April 29, 2020. The Respondent filed a Motion to Amend Respondent’s Designation of Matter to be Included in the Record on Appeal, wherein the Respondent also requested that it be allowed to

file an amended Designation of Matter removing certain previously identified exhibits for various reasons.

On May 8, 2020, the Court emailed a Deficiency Letter to the Respondent, wherein the Court informed the Respondent that it enclosed the incorrect filing fee with its Motion filed on April 29, 2020. On May 12, 2020, the Respondent emailed the Court a copy of a correspondence, as well as a copy of a check for the correct filing fee amount, both of which the Respondent placed in the mail on the same day in order to remedy the deficiency.

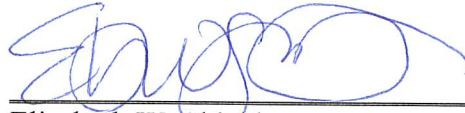
As of the date of this Motion for Extension, the parties have not received any rulings from the Court on either of its Motions to Amend their respective Designations of Matter. As a ruling on the parties' Motions has a direct impact on what must be included in the Record on Appeal, the Appellant respectfully requests that the Court allow the Appellant an extension of time to file the Record on Appeal. Specifically, the Appellant respectfully requests that it be granted an additional ten (10) days from the date of this Court's ruling on the parties' Motions. In the event this Court issues separate Orders for each Motion, the Appellant requests an additional ten (10) days from the date of issuance of the later of the two Orders to file the Record on Appeal.

Counsel for Respondent does not object to the Department's request. Further, this is the Department's first request for an extension of time as to the Record on Appeal.

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[signature on following page]

Respectfully Submitted,



Elisabeth W. Shields, Esquire (Bar No. 100784)

Counsel for Litigation

Jason P. Luther, Esquire (Bar No. 78021)

General Counsel for Litigation

P.O. Box 12265

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Attorneys for Appellant

South Carolina Department of Revenue

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CASE NO. 17-ALJ-17-0060-CC
DOCKET NO. 17-ALJ-17-0060-CC

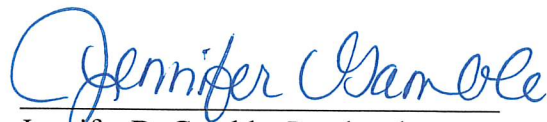
McEntire Produce, Inc., Respondent,

v.

South Carolina Department of Revenue, Appellant.

PROOF OF SERVICE

I, the undersigned employee of the South Carolina Department of Revenue, Office of General Counsel, do hereby certify that I have served the Appellant’s Motion for Extension of Time to File the Record on Appeal in connection with the above-captioned matter by causing a copy of the same to be electronically mailed to Burnet R. Maybank, III, Esquire, at bmaybank@nexsenpruet.com, and James P. Rourke, Esquire, at jrourke@nexsenpruet.com of Nexsen Pruet, LLC, Attorneys for Respondent.


Jennifer D. Gamble, Paralegal

Columbia, SC
May 12, 2020

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

300A Outlet Pointe Blvd.
Columbia, SC 29210



PO Box 12265
Columbia, SC 29211-9979

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SC Court of Appeals

VIA ELECTRONIC MAIL TO: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk of Court of Appeals
SC 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
DOR File Number: 180220

Dear Ms. Kitchings:

Enclosed for filing please find copy of the following documents in connection with the above-referenced matter:

1. Appellant's Motion for Extension of Time to File the Record on Appeal;
2. Proof of Service.

If you have any questions, please do not hesitate to contact me at 803-898-5576 or Elisabeth.Shields@dor.sc.gov.

Sincerely yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in blue ink, appearing to read "Elisabeth W. Shields".

Elisabeth W. Shields, Esquire
Counsel for Litigation

EWS/jdg

Enclosures

c: Burnet R. Maybank, III, Esquire (via electronic mail)
James P. Rourke, Esquire (via electronic mail)