



STATE OF ARKANSAS  
BUREAU OF  
LEGISLATIVE RESEARCH

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***Claims Review/Litigation Reports Oversight Subcommittee  
of the Arkansas Legislative Council  
Claims Subcommittee of the Joint Budget Committee  
Statement of Redaction of Confidential Information***

Style of Case: Blake Burnett v. Arkansas Department of Finance and Administration and Jim Hudson, Secretary of Arkansas  
Department of Finance and Administration and Chief Fiscal Officer of the State

Docket Number: 16JCV-23-322

Type of Matter (please circle one):                      Claims Review                      **Litigation Reports Oversight**

As indicated by my signature below:

- I acknowledge that all documents submitted to the Subcommittee may be considered a public record pursuant to Arkansas Code § 25-19-103(7)(A) and may be published or disseminated by the Subcommittee for purposes of its consideration.
- I further acknowledge that it is my responsibility to review each document submitted to the Subcommittee and make any necessary redactions.
- I certify that I have reviewed each document submitted herein and have redacted any information in which an individual may be considered to have a reasonable expectation of privacy under state or federal law or that is considered confidential and required to be redacted under state or federal law.

/s/ Kevin Christian  
Signature

Revenue Legal Counsel,  
Department of Finance and Administration  
Title and Agency

Kevin Christian  
Name

January 15, 2026  
Date

<b>State Agency Litigation Notification Form</b>
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*Dear Agency Director:*

*Arkansas Code § 10-3-312 requires that any agency or institution that is not represented by the Attorney General shall notify the Director of the Bureau of Legislative Research of pending litigation so that the appropriate legislative committee may "determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter."*

*In order to submit a report regarding pending litigation pursuant to Arkansas Code § 10-3-312, please complete the following form for each pending lawsuit, along with a cover letter to the Director of the Bureau of Legislative Research, and submit to [desikans@blr.arkansas.gov](mailto:desikans@blr.arkansas.gov).*

<b>DATE REPORTING:</b>	
Agency:	Phone:
E-mail:	Contact:
<b>1. STYLE OF THE CASE BEING LITIGATED</b>	
<b>2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)</b>	
<b>3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED</b>	
<b>3A. OTHER DESCRIPTION INFORMATION</b>	
Docket Number	
Date Filed	
Defendant	
Defendant Attorney	
Plaintiff	
Plaintiff Attorney	
<b>4. ANY OTHER RELEVANT INFORMATION</b>	
<b>4A. OTHER RELEVANT INFORMATION</b>	
Case History	
Relief Sought	
Current Status	

## A.C.A. § 10-3-312

Current through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission.

- **Arkansas Code Annotated**
- **Title 10 General Assembly**
- **Chapter 3 Committees**
- **Subchapter 3-- Legislative Council**

### **10-3-312. NOTIFICATION OF LAWSUITS AFFECTING STATE.**

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- **(a)** In order that the General Assembly may take whatever steps it deems necessary concerning lawsuits which may affect the State of Arkansas, its officials, or its financial resources:
  - **(1)** The Attorney General shall notify the Director of the Bureau of Legislative Research who is the Executive Secretary to the Legislative Council as soon as possible after the Attorney General becomes involved in such litigation;
  - **(2)** **When any state agency or any entity which receives an appropriation of funds from the General Assembly becomes involved in litigation without representation by the Attorney General, the director or administrative head of the agency shall notify the Director of the Bureau of Legislative Research as soon as possible.**
- **(b)** The notice given by the Attorney General or by the director or administrative head of a state agency to the Director of the Bureau of Legislative Research shall include the style of the case being litigated, the identity of the tribunal before which the matter has been filed, a brief description of the issues involved, and other information that will enable the Legislative Council or the Joint Budget Committee to determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.
- **(c)** Upon receipt of the notice, the Director of the Bureau of Legislative Research shall during the interim between legislative sessions transmit a copy of the notice to the cochairs of the Legislative Council and to the cochairs of the Joint Budget Committee during legislative sessions in order that those committees may schedule that matter upon their respective agendas at the earliest possible date.
- **(d)** During the interim between legislative sessions, the Legislative Council shall determine, and during legislative sessions the Joint Budget Committee shall determine, whether the General Assembly has an interest in the litigation and, if so, take whatever action deemed necessary to protect the General Assembly's and the state's interest in that matter.

### **HISTORY**

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Acts 1987, No. 798, §§ 1, 2.

Arkansas Code of 1987 Annotated Official Edition  
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A.C.A. § 10-3-312 (Lexis Advance through all laws of the 2017 Regular Session and 2017 First Extraordinary Session, including changes and corrections by the Arkansas Code Revision Commission)

## MEMORANDUM

TO: Arkansas Legislative Council  
Litigation Reports Oversight Subcommittee  
Sen. Jim Dotson, Co-Chair  
Rep. DeAnn Vaught, Co-Chair

FROM: Brad Young, Litigation Manager  
Office of Revenue Legal Counsel  
Arkansas Department of Finance and Administration

DATE: January 15, 2026

RE: Blake Burnett v. Hudson, Case No. 16JCV-23-322, in the Circuit Court of  
Craighead County, Arkansas – Jonesboro District

REQUEST FOR REVIEW AND APPROVAL OF SETTLEMENT BY THE  
LEGISLATIVE COUNCIL OF THE ARKANSAS GENERAL ASSEMBLY  
Ark. Code Ann. § 10-3-312(d)

SETTLEMENT AGREEMENT

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The Department issued a sales and use tax assessment for the tax periods of January 2017 through May 2021 in the amount of \$48,113.66 of sales and use tax plus penalty and interest. Plaintiff filed a petition with the Office of Hearings and Appeals, where the hearing officer affirmed the Department's assessment. Plaintiff appealed to circuit court.

The Plaintiff has provided additional information regarding his sales. The settlement will result in an assessment of tax that more accurately reflects the sales made by the Plaintiff instead of the estimated amount. The adjusted settlement amount is an assessment of \$20,000.00 of tax.

The parties request that this matter be placed on the Legislative Council's agenda for review at the earliest possible date.

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Jim Hudson, in his official capacity as Secretary of the Arkansas Department of Finance and Administration (the “Department”) and Blake Burnett (“Burnett”) (collectively, the “parties”). Burnett is the plaintiff, and the Department is the defendant, in Case No. 16JCV-23-322, *Blake Burnett v. Jim Hudson, in his Official Capacity as Secretary of the Arkansas Department of Finance and Administration*; in the Circuit Court of Craighead County, Arkansas (the “lawsuit”). The terms of this Agreement are authorized by law, including Ark. Code § 26-18-705(a) of the Arkansas Tax Procedure Act.

1. Payment. In full and final settlement of the Department’s sales and use tax assessment issued to Burnett for May 31, 2021, Burnett will pay the Department a total of \$20,000.00. Such payment shall become due thirty (30) days from the effective date of this Agreement.

2. Dismissal of Litigation. Burnett will dismiss the lawsuit with prejudice, with each party bearing its own attorneys’ fees and costs. Burnett shall file a motion to dismiss with prejudice within thirty (30) days from the effective date of this Agreement.

3. Submission to Arkansas Legislative Council. This Agreement will be submitted for approval by the Arkansas Legislative Council. The parties understand and agree that such legislative approval is a condition precedent to the enforceability of this Agreement. The parties agree to work cooperatively and to use their best efforts to secure approval from the Legislative Council. Pursuant to Ark. Code § 26-18-303(b)(5), Burnett authorizes disclosure of this Agreement to the Legislative Council and understands that the Legislative Council may make a copy of the Agreement available to the public.

4. Effective Date. This Agreement will become effective immediately upon approval by the Legislative Council.

5. Release. Upon the effective date of this Agreement, Burnett agrees to fully, finally, and forever waive, discharge, and release all claims against the Department relating to the sales and use tax assessment issued to Burnett for May 31, 2021.

6. Settlement of Disputed Claims. The parties understand and agree that this is a compromise settlement of disputed claims. Nothing in the terms of this Agreement constitutes an admission of liability or fault by either party.

7. Contract Construction. Each party recognizes that this is a legally binding contract and acknowledges and agrees that it has had the opportunity to consult with legal counsel of its choice. In any construction to be made of this Agreement, the parties agree that the Agreement shall not be construed against the party who drafted it. The terms of this Agreement are contractual and are not a mere recital.

8. Event of Default. In the event that Burnett fails to remit the amount(s) provided in this Agreement or fails to file a motion to dismiss with prejudice: (a) the Department will be released from any obligation to abate the assessment, in whole or in part; (b) the full amount of

the assessed tax, penalty, and interest will become immediately due; and (c) interest will continue to accrue at the statutory rate until paid.

9. Entire Agreement. This Agreement constitutes the entire agreement of the parties. This Agreement may not be altered, superseded, or otherwise modified except in writing signed by both parties.

10. Severability. If any provision of the Agreement is held illegal, invalid, or unenforceable in a legal action to enforce its terms or in any other action, all other provisions shall remain in full force and effect. The illegal, invalid, or unenforceable provision shall be modified to the extent necessary to render the remaining provisions enforceable.

11. Multiple Counterparts. The Agreement may be executed in multiple counterparts (including execution by facsimile), each of which shall be deemed an original, and all of which together shall constitute one agreement.

12. Venue and Choice of Law. The Agreement was drafted in accordance with the statutes and laws of the State of Arkansas. In the event of any disagreement or litigation arising under the Agreement, such disagreement or litigation shall be decided in accordance with the statutes and laws of the State of Arkansas, without regard to conflicts of law principles. Exclusive venue of any such litigation shall be in a court having jurisdiction in Arkansas.

[Remainder of page intentionally left blank.]

SIGNED:

**Blake Burnett**

*Blake Burnett*

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: 12/22/25

[Remainder of page intentionally left blank.]

**Jim Hudson, in his official capacity  
as Secretary of the Arkansas Department  
of Finance and Administration**

*Charles S. Collins*

By: Charles S. Collins

Title: Commissioner of Revenue  
Arkansas Department of Finance and  
Administration

Date: 1/5/2026

[Remainder of page intentionally left blank.]

<p>ELECTRONICALLY FILED  Craighead County Circuit Court in Jonesboro  David Vaughn, Craighead Circuit Clerk  2023-Mar-01 15:25:03  16JCV-23-322  C02D02 : 7 Pages</p>
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IN THE CIRCUIT OF CRAIGHEAD COUNTY, ARKANSAS  
JONESBORO DISTRICT  
CIVIL DIVISION

BLAKE BURNETT

PLAINTIFF

v. No. 16JCV-23-\_\_\_\_\_

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION  
and LARRY W. WALTHER, SECRETARY OF ARKANSAS DEPARTMENT  
OF FINANCE AND ADMINISTRATION AND CHIEF FISCAL OFFICER,  
STATE OF ARKANSAS

DEFENDANTS

**COMPLAINT**

Comes now the plaintiff, Blake Burnett, by and through his counsel, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., and, for his Complaint, states and alleges as follows:

**INTRODUCTION**

1. Plaintiff, Blake Burnett, brings this suit pursuant to Ark. Code Ann. § 26-18-406(a)(1)(A) against the Arkansas Department of Finance and Administration (“DFA”) and its Secretary and Chief Fiscal Officer of the State of Arkansas, Larry W. Walther (“Walther”), to set aside the Administrative Decision of DFA to sustain DFA's proposed assessment of sales and use taxes against Mr. Burnett in the original amounts of \$119,569.02 and \$4,829.05, respectfully, with penalties and interest.

**PARTIES**

2. Mr. Burnett is an Arkansas citizen who resides in Craighead County, Arkansas.

3. DFA is an agency of the State of Arkansas that administers and collects state and use taxes for the State of Arkansas. Walther is the current Secretary of DFA and Chief Fiscal Officer for the State of Arkansas.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to Ark. Code Ann. §26-18-406(c)(1), providing that jurisdiction for a suit to contest a final determination of the hearing officer in an administrative decision is in the circuit court of the county in which the taxpayer resides or has its principal place of business.

5. This Court has jurisdiction over the subject matter of the action.

6. The events giving rise to this action occurred in this judicial district, and, therefore, venue is proper under Ark. Code Ann. §16-60-103.

**PROCEDURAL HISTORY**

7. DFA initiated a sales and use tax audit of Mr. Burnett in April, 2021 for the period of January 1, 2017 through May 31, 2021 (Audit ID: A1764845568). DFA thereafter issued a Summary of Findings for sales and use tax. The assessment amounts for sales tax were \$77,419.22 in tax, \$25,839.52 in penalties, and \$16,310.28 in interest. The assessment amounts for use tax were \$3,887.40 in tax and \$941.65 in interest.

8. After issuance of the initial Summary of Findings, and at the request of Mr. Burnett, Jamie Payton, the auditor responsible for his audit, reviewed additional information submitted by Mr. Burnett and concluded that her initial Summary of Findings wrongfully included tax, penalties and interest for nontaxable transactions. Accordingly, Ms. Payton adjusted her schedules accordingly and reissued a Summary of Findings on November 8, 2021. The updated assessment amounts for sales tax were \$48,113.66 in tax, \$16,194.47 in penalties, and \$9,462.28 in interest. The updated assessments for use tax were \$1,269.01 in tax and \$192.45 in interest.

8. Mr. Burnett timely protested the assessment on January 14, 2022, pursuant to Ark. Code Ann. § 26-18-404.

8. An initial administrative hearing was held in the matter on June 23, 2022.

9. Subsequently, on September 2, 2022, hearing officer Ray Howard issued a decision sustaining the proposed assessment by DFA.

10. Mr. Burnett now files this suit pursuant to Ark. Code Ann. §26-18-406 to have the proposed assessment set aside.

#### **BACKGROUND INFORMATION RELEVANT TO ASSESSMENTS**

11. Up until January, 2017, the month in which the applicable audit period began, Mr. Burnett was engaged in the sales of golf carts with his business partner, Josh Olson, under the name Doughboyz Customs.

12. Throughout the operation of Doughboyz Customs, Mr. Burnett and Mr. Olson collected and remitted all applicable sales and use tax as required by Arkansas law.

13. Mr. Burnett and Mr. Olson ended their joint venture in January, 2017, at which time Mr. Burnett ceased selling golf carts.

14. Since concluding the operation of Doughboyz Customs, Mr. Burnett's primary business has been selling and purchasing of motor vehicles, primarily as an agent for his customers.

15. Through his sales of golf carts, Mr. Burnett developed a significant customer base. After January, 2017, he transitioned to buying and selling cars and trucks mostly for those same customers.

16. When a customer had a specific vehicle need, that customer would contact Mr. Burnett to ask for his assistance in acquiring the same, and Mr. Burnett would try to find a

suitable fit. When a customer wanted to sell a vehicle, that customer would contact Mr. Burnett and ask for his assistance in marketing that vehicle. To the extent Mr. Burnett facilitated a transaction, that customer would pay Mr. Burnett a commission for his services.

17. Throughout the audit period, Mr. Burnett did perform occasional repairs on golf carts for his customer base, as he had the skills and expertise to provide those services based upon his prior customization and sales of golf carts. The adjusted use tax assessment relates to the purchase of repair parts by Mr. Burnett to make those repairs, and upon information and belief he cannot provide documentation to prove that he paid sales tax on the purchase of those parts. However, he did not engage in the sale of golf carts after 2017.

18. Mr. Burnett was selected for audit in April, 2021. Auditor Jamie Payton from the Jonesboro Office of Field Audit conducted the audit.

19. In the course of the audit, Mr. Burnett explained to Ms. Payton that he was no longer engaged in the sales of golf carts, but instead was engaged in the purchase and sale of motor vehicles.

20. Also in the course of the audit, Mr. Burnett provided Ms. Payton with his checking account statements, and Paypal and credit card transaction records.

21. After reviewing the information provided, Ms. Payton initially assessed Mr. Burnett for sales and use tax based upon all his deposits into his checking accounts and receipt of funds via Paypay and credit cards.

22. At the protest hearing, Mr. Payton testified that she did so because she just assumed that Mr. Burnett had engaged in a taxable sale or service when she saw a deposit into one of his financial accounts in the absence of any other business records, and testified that there

was no evidence of Mr. Burnett engaging in any golf cart sales other than pictures she had on her cell phone, which she claimed was destroyed prior to the protest hearing.

23. At Mr. Burnett's urgent request, Ms. Payton agreed to allow him to submit additional information evidencing his sales of motor vehicles. To substantiate his claims, Mr. Burnett provided Ms. Payton with a) Facebook posts evidencing his marketing and advertising of vehicles for sale on behalf of his customers; b) copies of titles to vehicles being transferred; c) evidence of wire transfers made by Mr. Burnett and his customers for payments for vehicles and payments of commissions to him; and d) affidavits from certain of his customers stating that Mr. Burnett was in fact buying and selling vehicles on their behalf.

24. Ms. Payton then removed some, but not all, of the deposit transactions from the assessment amounts. However, she did not remove all of them. Accordingly, as currently assessed, Mr. Burnett is being taxed on multiple transactions involving sales of motor vehicles as if he instead sold golf carts, despite providing Ms. Payton evidence to the contrary that those transactions involved motor vehicles.

#### **LAW AS APPLIED TO AUDITOR'S ADJUSTMENTS AND RESULTING PROPOSED**

##### **ASSESSMENTS**

25. With respect to sales tax on the sales of motor vehicles, a consumer shall pay to the Secretary of the Department of Finance and Administration [sales tax] and all other gross receipts taxes levied by the state with respect to the sale of a new or used motor vehicle, trailer, or semitrailer required to be licensed in this state, instead of the taxes being collected by the dealer or seller. Ark. Code Ann. § 26-52-510(a).

26. When the state seeks to impose a tax under the terms of a state tax law, then the statute imposing the tax shall be strictly construed in limitation of the imposition of the tax. Ark. Code Ann. §26-18-313(a).

27. When the meaning of a state tax law is in controversy, the burden of establishing the proper construction of the statute shall be on the party claiming application of the tax or benefit of the tax exemption, deduction, or credit. Ark. Code Ann. § 26-18-313(d).

28. DFA bears the burden of proving that a tax law applies to an item or service sought to be taxed. See *Simpson v. Cavalry SPV I, LLC*, 2014 Ark. 363, 440 S.W.3d 335, 337-338 (2014).

29. It is the duty of every taxpayer required to make a return of any tax due under any state tax law to keep and preserve suitable records as are necessary to determine the amount of tax due or to prove the accuracy of any return . . . [w]hen a taxpayer fails to preserve and maintain the records required by any state tax law, the secretary may, in his or her discretion, make an estimated assessment based upon information available to him or her as to the amount of tax due by the taxpayer. The burden of proof of refuting this estimated assessment is upon the taxpayer. Ark. Code Ann. § 26-18-506.

29. Here, DFA cannot meet its burden to properly assess Mr. Burnett sales tax on golf cart sales because it has no evidence that Mr. Burnett engaged in sales of golf carts during the audit period.

30. DFA has no evidence that Mr. Burnett sold golf carts during the audit period because Mr. Burnett did not sell golf carts during the audit period.

31. Instead, DFA is taking Mr. Burnett's prior business dealings and then assessing him on the assumption that those business dealings continued through the audit period, despite the glaringly obvious evidence to the contrary.

32. To the extent DFA relies or did rely upon Ark. Code Ann. § 26-18-506 to uphold its assessment, that reliance is improper.

33. Mr. Burnett was not required to make a return of tax due, because he was engaged in the sale of motor vehicles. As set forth above, the end user, and not the seller, is required to remit sales tax on motor vehicles.

34. Further, Mr. Burnett was not required to preserve or maintain records required by state tax law, because he did not sell taxable goods, i.e., golf carts, and thus, was not required to pay sales tax.

35. Because Mr. Burnett was improperly assessed and DFA cannot meet its legal burden to sustain the assessment, it should be set aside.

WHEREFORE, plaintiff, Blake Burnett, prays that this Court hold the additional assessment of tax as illegal, set the assessment aside, and issue judgment on behalf of him accordingly.

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,  
GATES & WOODYARD, P.L.L.C.  
100-E. Huntington Ave., Suite C  
Jonesboro, Arkansas 72401  
(870) 938-6254  
wbowen@mwlaw.com

By   
Wade Bowen (2010243)

*Attorneys for Blake Burnett*

<p>ELECTRONICALLY FILED  Craighead County Circuit Court in Jonesboro  David Vaughn, Craighead Circuit Clerk  2023-Apr-21 13:50:37  16JCV-23-322  C02D02 : 7 Pages</p>
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IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS  
JONESBORO DISTRICT  
CIVIL DIVISION

BLAKE BURNETT

PLAINTIFF

VS.

NO. 16JCV-23-322

ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION  
and LARRY W. WALTHER, SECRETARY OF THE ARKANSAS  
DEPARTMENT OF FINANCE AND ADMINISTRATION AND  
CHIEF FISCAL OFFICER, STATE OF ARKANSAS

DEFENDANTS

**ANSWER**

Comes now the Defendants, Larry W. Walther, Secretary of the Arkansas Department of Finance and Administration and Chief Fiscal Officer of the State of Arkansas, and the Arkansas Department of Finance and Administration, by and through their attorneys, Joel M. DiPippa and Kevin Christian, and for their Answer to the Complaint filed by the Plaintiff, states as follows:

1. The Defendants affirmatively state that Ark. Code Ann. § 26-18-406(a)(1)(A) (Supp. 2021) speaks for itself. The Defendants admit that a Notice of Proposed Assessment in the amount of \$124,398.07 was sustained after an administrative hearing by the Office of Hearings and Appeals.

2. The Defendants admit the allegations contained in Paragraph 2 of the Plaintiff's complaint.

3. The Defendants admit the allegations contained in Paragraph 3 of the Plaintiff's complaint.

4. The Defendants affirmatively state that Ark. Code Ann. § 26-18-406(c)(1) (Supp. 2021) speaks for itself.

5. The Defendants admit the allegations contained in Paragraph 5 of the Plaintiff's Complaint.

6. The Defendants affirmatively state that Ark. Code Ann. § 16-60-103 (Supp. 2021) speaks for itself.

7. The Defendants admit the allegations contained in Paragraph 7 of the Plaintiff's complaint.

8. The Defendants denies the allegations contained in the first Paragraph 8 of the Plaintiff's complaint.

9. The Defendants admit the allegations contained in the second Paragraph 8 of the Plaintiff's complaint.

10. The Defendants admit the allegations contained in the third Paragraph 8 of the Plaintiff's complaint.

11. The Defendants admit the allegations contained in Paragraph 9 of the Plaintiff's complaint.

12. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the Plaintiff's intentions however the Defendants affirmatively state that Ark. Code Ann. § 26-18-406 speaks for itself.

13. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 11 of the Plaintiff's Complaint.

14. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 12 of the Plaintiff's Complaint.

15. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 13 of the Plaintiff's Complaint regarding the Plaintiff's previous business ventures. The Defendants deny the remaining allegations in Paragraph 13 and to the extent the allegations of Paragraph 13 allege that the Plaintiff is entitled to an exemption from tax, the Defendants deny the allegations therein.

16. The Defendants deny the allegations contained within Paragraph 14 of the Plaintiff's Complaint.

17. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 15 of the Plaintiff's Complaint. To the extent the allegations of Paragraph 15 allege that the Plaintiff is entitled to an exemption from tax, the Defendants deny the allegations therein.

18. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained within Paragraph 16 of the Plaintiff's Complaint. To the extent the allegations of Paragraph 16 allege that the Plaintiff is entitled to an exemption from tax, the Defendants deny the allegations therein.

19. The Defendants admit that Plaintiff performed taxable services within the State of Arkansas during the audit period. The Defendants otherwise deny the allegations in Paragraph 17 of the Plaintiff's Complaint.

20. The Defendants admit the allegations in Paragraph 18 of Plaintiff's Complaint.

21. The Defendants admit that Plaintiff claimed certain bases for exemption from liability to collect and remit the Arkansas sales tax during the course of the audit.

To the extent the allegations of Paragraph 19 allege that the Plaintiff is entitled to an exemption from tax, the Defendants deny the allegations therein.

22. The Defendants admit the allegations in Paragraph 20 of the Plaintiff's Complaint.

23. The Defendants admit the allegations in Paragraph 21 of the Plaintiff's Complaint.

24. The Defendants admit that the Department applied Ark. Code Ann. § 26-18-506 (Repl. 2020) in the absence of business records during the course of the audit. The Defendants otherwise deny the allegations contained in Paragraph 22 of the Plaintiff's Complaint.

25. The Defendants admit the allegations in Paragraph 23 of the Plaintiff's Complaint.

26. The Defendants admit that the Department's Auditor did make adjustments to the original audit amount based on records provided by the Plaintiff and that Plaintiff was not satisfied with the adjustments made by the Department's Auditor. The Defendants otherwise deny the allegations in Paragraph 24 of the Plaintiff's Complaint.

27. Regarding Paragraph 25 of Plaintiff's Complaint, the Defendants affirmatively state that Ark. Code Ann. § 26-52-510(a) (Repl. 2020) speaks for itself.

28. Regarding Paragraph 26 of Plaintiff's Complaint, the Defendants affirmatively state that Ark. Code Ann. § 26-18-313(a) (Supp. 2021) speaks for itself.

29. Regarding Paragraph 27 of Plaintiff's Complaint, the Defendants affirmatively state that Ark. Code Ann. § 26-18-313(d) (Supp. 2021) speaks for itself.

30. Regarding Paragraph 28 of Plaintiff's Complaint, the Defendants deny that *Simpson v. Cavalry SPV I, L.L.C.*, 2014 Ark. 363, 440 S.W.3d 335 stands for the Plaintiff's proffered proposition. The Defendants affirmatively state that Ark. Code Ann. § 26-18-313(a) speaks for itself regarding the Defendants' burden of proof and expressly denies that the Defendants are subject to the *Simpson* holding.

31. Regarding the first Paragraph 29 of Plaintiff's Complaint, the Defendants affirmatively state that Ark. Code Ann. § 26-18-506 (Repl. 2020) speaks for itself.

32. The second Paragraph 29 of the Plaintiff's Complaint contains bare legal conclusions for which no response is required. To the extent that the allegations in the second Paragraph 29 of the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein.

33. The Defendants deny the allegations contained in Paragraph 30 of the Plaintiff's Complaint.

34. Paragraph 31 of the Plaintiff's Complaint contains bare legal conclusions for which no response is required. To the extent that the allegations in Paragraph 31 of the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein.

35. Paragraph 32 of the Plaintiff's Complaint contains bare legal conclusions for which no response is required. To the extent that the allegations in Paragraph 32 of the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein.

36. To the extent that Paragraph 33 of the Plaintiff's Complaint contains legal conclusions, no response is required. To the extent that the allegations in Paragraph 33 of

the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein. The Defendants affirmatively state that Paragraph 17 of Plaintiff's Complaint contradicts the allegations in Paragraph 33.

37. Paragraph 34 of the Plaintiff's Complaint contains bare legal conclusions for which no response is required. To the extent that the allegations in Paragraph 34 of the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein.

38. Paragraph 35 of the Plaintiff's Complaint contains bare legal conclusions for which no response is required. To the extent that the allegations in Paragraph 35 of the Plaintiff's Complaint require a response, the Defendants deny all allegations contained therein.

39. The Defendants deny the allegations and relief sought in the WHEREFORE clause of the Plaintiff's Complaint.

40. The Defendants deny each and every allegation contained in the Complaint that the Defendants have not specifically admitted.

41. To the extent any of the headings in the Complaint contain allegations that require a response, the Defendants deny the allegations contained in those headings.

42. The Defendants assert the affirmative defenses listed under Rule 8(c) of the Arkansas Rules of Civil Procedure.

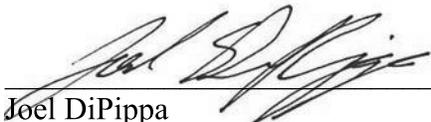
43. The Defendants reserve the right to amend this Answer.

WHEREFORE, the Defendants respectfully request that the relief requested by the Plaintiff be denied, that Plaintiff's Complaint be dismissed, and for all other equitable and proper relief to which the Defendants may be entitled.

Respectfully Submitted,

LARRY W. WALTHER, SECRETARY  
ARKANSAS DEPARTMENT OF  
FINANCE AND ADMINISTRATION

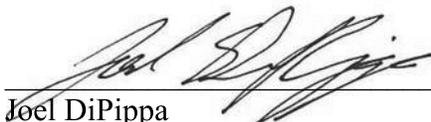
By:

  
\_\_\_\_\_  
Joel DiPippa  
Arkansas Bar No.: 2003218  
Kevin Christian  
Arkansas Bar No.: 2011139  
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[Kevin.Christian@dfa.arkansas.gov](mailto:Kevin.Christian@dfa.arkansas.gov)

**CERTIFICATE OF SERVICE**

I, Joel DiPippa, do hereby certify that a true and correct copy of the foregoing was electronically filed on this April 21, 2023 which will send notice to the following:

Wade Bowen  
Mitchell, Williams, Selig,  
Gates & Woodyard P.L.L.C.  
100 East Huntington Avenue, Suite C  
Jonesboro, Arkansas 72401

  
\_\_\_\_\_  
Joel DiPippa  
Attorney for Defendants