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: August 19, 2026

RE: *Jim Hudson, in his Official Capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration v. Robert Bosch Tool Corporation*, Case No. 18CV-24-537, in the Circuit Court of Crittenden County, Arkansas

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

In 2021, the Department ("DFA") conducted a sales and use tax audit of the books and records of Robert Bosch Tool Corporation ("Bosch") for the reporting periods June 2018 through May 2021. This audit resulted in a proposed assessment of $321,105.75 in sales and use tax, penalty, and interest. Purchases included in the assessment include: (a) leases of forklifts used at Bosch's West Memphis facility; (b) Covid decontamination services; and (c) services to grind, polish and coat a concrete floor. This assessment was sustained by the Office of Hearings and Appeals ("H&A"). Bosch paid the assessment.

In 2023, Bosch filed a $54,213.10 claim for a refund of sales and use tax paid for leases of forklifts used in Bosch's West Memphis facility. The Department denied $40,659.82 of this claim. The denial was reversed by the Tax Appeals Commission ("TAC").

DFA appealed TAC's decision by filing suit in circuit court. Bosch appealed H&A's decision by filing a counterclaim. Each party filed an answer denying the opposing party's claims and denying the opposing party's entitlement to judicial relief.

The parties have reached a settlement. A copy of the Settlement Agreement is attached. Based on additional information that Bosch provided during the litigation, the Department has agreed to refund $158,344.00 to Bosch. If settlement is approved, the litigation will be dismissed per the terms of the settlement agreement.

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

State of Arkansas
Bureau of
Legislative Research

Marty Garrity, Director
Kevin Anderson, Assistant Director for Fiscal Services
Tim Carlock, Assistant Director for Information Technology
Matthew Miller, Assistant Director for Legal Services
Estella Smith, Assistant Director for Research Services

State Agency Litigation Notification Form

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.

DATE REPORTING:			
Agency:	Arkansas Department of Finance and Administration	Phone:	501-682-7030
E-mail:	paul.gehring@dfa.arkansas.gov / alicia.austin.smith@dfa.arkansas.gov / brad.young@dfa.arkansas.gov	Contact:	Paul Gehring / Alicia Austin Smith / Brad Young

1. STYLE OF THE CASE BEING LITIGATED

Hudson v. Robert Bosch Tool Corporation, Case No. 18CV-24-537, in the Circuit Court of Crittenden County, Arkansas

2. IDENTITY OF THE TRIBUNAL BEFORE WHICH THE MATTER HAS BEEN FILED (COURT)

Crittenden County Circuit Court

3. BRIEF DESCRIPTION OF THE ISSUES INVOLVED

Complaint: Appeal of administrative decision overturning a sales and use tax refund claim denial.
Counterclaim: Appeal of administrative decision sustaining a sales and use tax assessment.

3A. OTHER DESCRIPTION INFORMATION

Docket Number	18CV-24-537
Date Filed	March 22, 2024
Defendant	Robert Bosch Tool Corporation
Defendant Attorney	Mark Mayfield
Plaintiff	Jim Hudson, in his Official Capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration
Plaintiff Attorney	Michelle L. Baker, Bradley B. Young

4. ANY OTHER RELEVANT INFORMATION

4A. OTHER RELEVANT INFORMATION

Case History	Appeal under the Arkansas Tax Procedure Act.
Relief Sought	Reverse administrative decisions overturning refund claim denial and sustaining tax assessment.
Current Status	Conditional settlement reached pending subcommittee approval.

STATE OF ARKANSAS
BUREAU OF LEGISLATIVE RESEARCH

Marty Garrity, Director

Kevin Anderson, Assistant Director for Fiscal Services

Matthew Miller, Assistant Director for Legal Services

Jessica Whittaker, Assistant Director for Research Services

Eric Sanders, Assistant Director for Information Technology Services

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: *Jim Hudson, in his Official Capacity as Cabinet Secretary of the Arkansas Department of Finance and Administration v. Robert Bosch Tool Corporation*, Case No. 18CV-24-537, in the Circuit Court of Crittenden County, Arkansas

Docket Number: 18CV-24-537

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/ Michelle L. Baker
Signature

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

Michelle L. Baker
Name

July 13, 2026
Date

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into as of June 1, 2026 by and between Jim Hudson, in his official capacity as Secretary of the Arkansas Department of Finance and Administration (the "Department") and Robert Bosch Tool Corporation ("Bosch") (collectively, the "parties"). The Department is the Plaintiff/Counter-Defendant, and Bosch is the Defendant/Counter-Plaintiff, in Case No. 18CV-24-537, *Jim Hudson, in his Official Capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration v. Robert Bosch Tool Corporation;* in the Circuit Court of Crittenden County, Arkansas (the "lawsuit"). The terms of this Agreement are authorized by law, including Ark. Code § 26-18-705(a) and (b) of the Arkansas Tax Procedure Act.

1. The Department will issue to Bosch a lump sum payment of $158,344 in full and final settlement of the following matters at issue in the lawsuit: (a) an assessment of sales and use tax for the periods June 1, 2018 through May 31, 2021 that resulted from Audit ID A785999872, which Bosch has already paid; and (b) the denial of a refund of sales and use tax for the periods December 31, 2019 through November 30, 2021 that resulted from Audit ID A939517952.

2. This Agreement will be submitted for approval to the Arkansas Legislative Council. The parties agree to work cooperatively and to use their best efforts to secure approval from the Legislative Council. The parties understand and agree that such legislative approval is a condition precedent to the enforceability of this Agreement. Pursuant to Ark. Code § 26-18-303(b)(5), Bosch authorizes disclosure of this Agreement as may be required to obtain approval from the Legislative Council.

3. Upon the approval of the Legislative Council, the parties shall submit a joint motion to dismiss and agreed order to the Crittenden County Circuit Court that substantially conforms to the language in the attached Exhibit "A", asking the Court to dismiss the parties' respective claims with prejudice.

4. Upon entry by the Court of an order that substantially conforms to the agreed order submitted by the parties, the Department will issue the payment in the amount of $158,344. Upon Bosch's receipt of the payment by the Department, each party will fully, finally, and forever waive, discharge, and release any claims against the opposing party for recovery of tax associated with the audit assessment and refund claim identified in paragraph one. In addition, upon Bosch's receipt of payment by the Department, each party will forever waive, discharge, and release any claims against the opposing party for recovery of interest associated with the audit assessment and refund claim identified in paragraph one.

5. The parties shall bear their own attorneys' fees and costs associated with the lawsuit and this Agreement.

6. For tax periods beginning on or after December 1, 2021, the parties agree that Bosch may lease or purchase "standup counterbalances" exempt from Arkansas sales and use tax pursuant to Ark. Code § 26-52-402. The exemption also extends to charges related to the lease or purchase of the standup counterbalances, such as installation and maintenance of the standup counterbalances. This term is based on the Department's understanding that Bosch uses all of its

standup counterbalances to move work in process within the postponement area. This term only applies to standup counterbalances purchased or leased for Bosch's use in its West Memphis facility and shall remain in effect so long as: (1) Bosch continues to conduct postponement activities in the West Memphis facility; (2) Bosch continues to use standup counterbalances to move work in process within the postponement area; and (3) there is no relevant change to Arkansas law. This provision is intended as a resolution of a disputed issue and does not modify the application of applicable law.

7. 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.

8. This Agreement will become effective immediately upon approval by the Legislative Council.

9. 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 this Agreement shall not be construed against the party who drafted it. The terms of this Agreement are contractual and are not a mere recital.

10. This Agreement shall be binding upon and inure to the benefit of all successors and assigns, and all parent, subsidiary, and affiliated corporations, partnerships, and limited liability companies of any and all named parties to this Agreement.

11. 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.

12. 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.

13. 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.

14. The Agreement shall be deemed to have been 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:

Robert Bosch Tool Corporation

____

By:______________________________

Title:____________________________

Date:____________________________

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

____

By: Charles S. Collins

Title: Commissioner of Revenue
Arkansas Department of Finance and
Administration

Date:__________________________

Exhibit A

**Joint Motion to Dismiss
and Agreed Order**

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CIVIL DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION	**PLAINTIFF**
v. **CASE NO.: 18CV-24-537**	
ROBERT BOSCH TOOL CORPORATION	**DEFENDANT**

<u>JOINT MOTION TO DISMISS WITH PREJUDICE</u>

Plaintiff/Counter-Defendant Jim Hudson, in his Official Capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration, and Defendant/Counter-Plaintiff Robert Bosch Tool Corporation, jointly state that they have fully and finally resolved all claims raised in this matter. Therefore, the parties respectfully request that the Court grant this Joint Motion to Dismiss with Prejudice by entering the attached Agreed Order of Dismissal with Prejudice.

Respectfully submitted,

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

By: ______________________________
Michelle L. Baker, ABN 97120
Bradley B. Young, ABN 2015028
Office of Revenue Legal Counsel
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Little Rock, AR 72203
Phone: (501) 682-7030
michelle.baker@dfa.arkansas.gov
brad.young@dfa.arkansas.gov

Attorneys for Plaintiff/Counter-Defendant

and

By:______________________________
Mark Mayfield
mmayfield@pmmlawfirm.com
Puryear Mayfield & McNeil, P.A.
3000 Browns Lane
Jonesboro, Arkansas 72401

Attorney for Defendant/Counter-Plaintiff

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CIVIL DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION — **PLAINTIFF**

v. **CASE NO.: 18CV-24-537**

ROBERT BOSCH TOOL CORPORATION — **DEFENDANT**

AGREED ORDER OF DISMISSAL WITH PREJUDICE

It appears to the Court that the parties have settled and compromised their differences. The Court thereby orders:

1. Plaintiff/Counter-Defendant, Jim Hudson, in his official capacity as Cabinet Secretary of the Arkansas Department of Finance and Administration, filed a complaint for de novo review of the decision of the Arkansas Tax Appeals Commission in Docket No. 23-TAC-01842. The decision of the Tax Appeals Commission is REVERSED, and the complaint is dismissed with prejudice.

2. Defendant/Counter-Plaintiff Robert Bosch Tool Corporation filed a counterclaim for de novo review of the decision of the Office of Hearings and Appeals in Docket No. 23-210. The decision of the Office of Hearings and Appeals is AFFIRMED, and the counterclaim is dismissed with prejudice.

3. Each party shall bear that party's own costs and attorneys' fees.

IT IS SO ORDERED this ___ day of ________________, 2026.

____
Honorable Chris Thyer
Circuit Judge Division 3

<u>APPROVED AS TO FORM AND CONTENT AND SUBMITTED BY:</u>

____

Michelle L. Baker, ABN 97120
Bradley B. Young, ABN 2015028
Office of Revenue Legal Counsel
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michelle.baker@dfa.arkansas.gov
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Attorneys for Plaintiff/Counter-Defendant

and

____

Mark Mayfield
mmayfield@pmmlawfirm.com
Puryear Mayfield & McNeil, P.A.
3000 Browns Lane
Jonesboro, Arkansas 72401

Attorney for Defendant/Counter-Plaintiff

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Pulaski County Circuit Court
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60CV-24-2419
C06D16 : 7 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
__________ DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION — **PLAINTIFF**

v. — **CASE NO.: 60CV-__-__**

ROBERT BOSCH TOOL CORPORATION — **DEFENDANT**

COMPLAINT

Now comes Jim Hudson, Secretary of the Arkansas Department of Finance and Administration ("Department"), and files this, his Original Complaint:

I. Introduction

1. This is a de novo appeal regarding a tax refund. The Defendant, Robert Bosch Tool Corporation ("Bosch Tool"), is a foreign for-profit corporation headquartered in Mount Prospect, Illinois. Bosch Tool operates two facilities in Arkansas, including a distribution or order fulfillment center in West Memphis, Arkansas. This matter involves sales and use tax paid on the lease of industrial transportation machinery and equipment, parts for that machinery and equipment, and certain services associated with that machinery and equipment for use in Defendant's West Memphis, Arkansas distribution center. Bosch Tool claimed entitlement to an exemption from sales and use tax and therefore entitlement to a refund of sales tax paid in relation to lease charges for swing-reaches, orderpickers, walkies, counterbalances, cascade forks, batteries, battery extractors, chargers, and charges for services to install pulleys to move batteries for this machinery. During its review of Bosch

Tool's refund claim, the Department determined that the industrial transportation machinery is not used directly in manufacturing and the Department denied Bosch Tool's claim for refund.

2. Bosch Tool appealed the Department's refund claim denial to the Arkansas Tax Appeals Commission. The Commission ordered the Department to issue the refund. The Department files this de novo review of the Commission's order.

II. Parties

3. The Department is an agency of the State of Arkansas charged with administering sales and use taxes.

4. Bosch Tool is a foreign corporation authorized to conduct business in Arkansas. Bosch Tool may receive service of process through its registered agent, Corporation Service Company, 300 Spring Building, Ste. 900, 300 S. Spring St., Little Rock, Arkansas 72201.

III. Jurisdiction, Venue, and Standard of Review

5. Because this is an appeal under the Arkansas Tax Procedure Act, the Court has subject matter jurisdiction under Ark. Code Ann. § 26-18-406(c)(1)(B). Venue is proper under the same statute.

6. The filing of this suit is timely under Ark. Code Ann. § 26-18-406(b)(2).

7. The standard of review for an appeal of a decision by the Tax Appeals Commission is de novo. Ark. Code Ann. § 26-18-406(c).

IV. Facts

8. Arkansas sales and use tax is levied upon all sales of tangible personal property. Ark. Code Ann. §§ 26-52-301(1), 26-52-302(a), 26-53-106(a), 26-53-107, ARK. CONST. amend. 75 § 2, and ARK. CONST. amend. 91 § 3. Swing-reaches and their associated batteries, orderpickers and their associated batteries, walkies and their associated batteries, and cascade forks are all items of

tangible personal property, the lease of which is subject to tax absent proof of entitlement to exemption.

9. Between December 31, 2019, and November 30, 2021, Bosch Tool paid sales and use tax on charges related to the lease of the following used in its West Memphis, Arkansas distribution facility: swing-reaches, orderpickers, walkies, counterbalances, cascade forks, batteries, battery extractors, chargers, and charges for services to install pulleys to move batteries for this machinery.

10. In April 2023, Bosch Tool submitted a request for refund of $54,213.10 in sales and use tax paid in relation to the lease charges identified in this Complaint. Bosch Tool asserted that the lease of swing-reaches, orderpickers, walkies, counterbalances, cascade forks, batteries, battery extractors, chargers, and charges for services to install pulleys to move batteries for this machinery qualified for exemption from tax under Arkansas Gross Receipts Tax Rule GR-55[1] as manufacturing machinery and equipment used directly to move work in progress.

11. The Department approved a portion of Defendant's refund claim, which resulted in a refund of $13,553.28 plus interest. The Department disallowed the remainder of the refund claim.

12. Defendant timely appealed the refund claim denial to the Arkansas Tax Appeals Commission. On February 23, 2024, the Tax Appeals Commission issued a decision reversing the Department's refund claim denial as to tax paid on lease charges for swing-reaches, orderpickers, walkies, cascade forks, and batteries.[2] The Commission determined that Bosch Tool's entire West Memphis facility is a manufacturing facility that is engaged in a manufacturing process that begins in North Carolina and ends in Arkansas and that Bosch Tool's lease of swing-reaches, orderpickers, walkies, cascade forks, and batteries qualified for exemption as machinery and equipment used

[1] *See* Arkansas Code Annotated §§ 26-52-402 and 26-53-114.
[2] During the administrative hearing, Bosch Tool conceded the taxability of battery extractors, and the Department conceded the taxability of counterbalances.

directly in manufacturing under Ark. Code Ann. § 26-52-402. The Commission then ordered the Department to adjust the claim denial consistent with the Commission's decision.

13. On March 20, 2024, the Department filed with the Commission a notice of intent to seek judicial review. The filing of the notice stayed the implementation of the Commission's February 23, 2024, order. Ark. Code Ann. § 26-18-1116(c)(2).

14. The Department has timely filed this appeal pursuant to Ark. Code Ann. § 26-18-406(b)(2).

15. Bosch Tool operates a manufacturing facility in Lincolnton, North Carolina. Bosch Tool's Lincolnton, North Carolina facility manufactures tools and tool components and accessories. When those tools and tool components and accessories are shipped out of the North Carolina facility, the tools and tool components have generally been manufactured into a finished article of commerce and are shipped to Bosch Tool's West Memphis facility for order fulfillment. Bosch Tool's West Memphis facility also provides order fulfillment for goods received from locations throughout the world. Order fulfillment is not manufacturing.

16. While most of Bosch Tool's West Memphis, Arkansas facility is a distribution center providing order fulfillment, a small area of Bosch Tool's West Memphis facility also includes an assembly or kitting area ("postponement") where kit components (tools, chargers, batteries, and tool accessories) received from locations outside Arkansas are assembled by Bosch Tool employees into kits. Completed kits are taken from postponement by a counterbalance to a shrink wrap station to be wrapped and palletized. Generally, the palletized kits are then taken from postponement to a storage rack or to shipping. Manufacturing, which includes the "assembling" of articles of commerce at Arkansas manufacturing plants or facilities under Ark. Code Ann. § 26-52-402, takes place only in

the postponement area of Bosch Tool's West Memphis facility. Most of the goods received at Bosch Tool's West Memphis facility do not go through postponement.

17. Swing-reaches (turret trucks) and their associated batteries are leased for use in Bosch Tool's West Memphis facility to move pallets in reserve storage racking in the warehouse section. They are used primarily to move pallets, up, down, and between storage racks. Swing-reaches are not used within Bosch Tool's postponement area. Swing-reaches and their associated batteries are not used to transport or handle a product while manufacturing is taking place and are therefore not used directly in manufacturing.

18. Orderpickers (man-ups) are forklifts with trailers. Orderpickers and their associated batteries are leased for use in Bosch Tool's West Memphis facility to move less-than-pallet quantities of goods. They can be used to transport kit components to postponement, but they are not used within Bosch Tool's postponement area. Orderpickers and their associated batteries are not used to transport or handle a product while manufacturing is taking place and are therefore not used directly in manufacturing.

19. Walkies (walkie riders) are large forkifts that can carry up to four pallets at a time. Walkies and their associated batteries are leased for use by Bosch Tool in the facility's receiving area to deliver shipments to bulk storage or to a tunnel staging area. They can be used to transport kit components to postponement or to transport palletized and shrink-wrapped kits from postponement, but they are not used within Bosch Tool's postponement area. Walkies and their associated batteries are not used to transport or handle a product while manufacturing is taking place and are therefore not used directly in manufacturing.

20 Cascade forks are leased for use by Bosch Tool to pull non-palletized product. They are not used within Bosch Tool's postponement area, they are not used to transport or handle a product while manufacturing is taking place, and they are not used directly in manufacturing.

V. Cause of Action

21. As a matter of law, Bosch Tool's lease of swing-reaches, orderpickers, walkies, cascade forks, and batteries constitutes the taxable purchase of items of tangible personal property. Ark. Code Ann. §§ 26-52-301(1), 26-52-302(a), 26-53-106(a), 26-53-107, ARK. CONST. amend. 75 § 2, and ARK. CONST. amend. 91 § 3. Bosch Tool asserted an exemption from tax on the lease charges under Ark. Code Ann. §§ 26-52-402 and 26-53-114 and Arkansas Gross Receipts Tax Rule GR-55, claiming that the swing-reaches, orderpickers, walkies, counterbalances, cascade forks, batteries, battery extractors, chargers, and charges for services to install pulleys to move batteries for this machinery qualified for exemption from tax as machinery and equipment used directly in manufacturing to move work in progress.

22. The Tax Appeals Commission erred when it: (1) determined that the entirety of Bosch Tool's West Memphis facility is a manufacturing facility; (2) determined that the swing-reaches, orderpickers, walkies, cascade forks, and batteries were exempt items of equipment used directly in a manufacturing process that began in North Carolina and ended in Arkansas; and (3) ordered the Department to refund the tax paid. The Department is entitled to a judgment sustaining the Department's decision to deny the refund.

PRAYER

FOR THESE REASONS, Defendant, Jim Hudson, Secretary of the Arkansas Department of Finance and Administration, prays that the Court enter judgment sustaining the Department's denial of Bosch Tool's refund claim, that the Court award court costs pursuant to Ark. Code Ann. § 26-18-406(e), and for such other relief to which the Court determines the Department is entitled.

Respectfully Submitted,

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

By: ______________________

Michelle L. Baker, ABN 97120
Bradley B. Young, ABN 2015028
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60CV-24-2419
C06D16 : 4 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
CIVIL DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANICE AND ADMINISTRATION — PLAINTIFF

v. — No. 60CV-24-2419

ROBERT BOSCH TOOL CORPORATION — DEFENDANT

ANSWER TO COMPLAINT

Comes the defendant, Robert Bosch Tool Corporation, by and through its attorneys, Womack Phelps Puryear Mayfield & McNeil, P.A., and for its answer states:

1. Admits on information and belief that the defendant, Robert Bosch Tool Corporation ("Bosch"), is a foreign for-profit corporation and that it has a single facility in West Memphis, Arkansas, and further admits that it sought the recovery of sales and use taxes for industrial machinery and equipment and services which are exempt, but it otherwise denies the remaining allegations of paragraph 1.

2. Admits on information and belief that Bosch timely appealed the refund claim denial to the Arkansas Independent Tax Appeals Commission, which ordered the issuance of a refund, but denies remaining allegations in paragraph 2.

3. Admits on information and belief that the Department is an agency of the State of Arkansas, but otherwise denies the remaining allegations in paragraph 3.

4. Admits that it is a foreign corporation and may be served with process and that the agent for service is correctly listed, but otherwise denies the remaining allegations in paragraph 4.

5. Admits that subject matter jurisdiction is provided by Arkansas law, but denies that venue is appropriate as the Complaint only addresses a part of Arkansas Code Annotated § 26-18-1117, and otherwise denies the remaining allegations of paragraph 5.

6. Paragraph 6 is a legal conclusion to which no response is required, but to the extent a relative response is required, it is denied pending part of the discovery.

7. Admits on information and belief that the matter should be tried de novo, but denies that the statutory citation is proper, and otherwise denies the remaining allegations of paragraph 7.

8. Admits that the statute cited and the constitutional amendment cited state what they state. Plaintiff has stated a legal conclusion to which no response is required, but to the extent a response is required, denies the remaining allegations of paragraph 8.

9. Admits on information and belief that it paid certain taxes as more specifically shown by company records and later sought a refund of certain taxes for a certain period, but otherwise denies the allegations of paragraphs 9 and 10.

10. Admits on information and belief that a partial refund was issued, but denies the remaining allegations of paragraph 11 and states that the Department's unilateral decision was made in error.

11. Admits that a timely appeal was filed, and the Arkansas Independent Tax Appeals Commission issued a decision to approve certain refunds and further admits that the entire West Memphis facility is a manufacturing facility, but otherwise denies the remaining allegations of paragraph 12.

12. Paragraph 13 states a legal conclusion to which no response is required, but to the extent a response is required, it is denied.

13. Admits on information and belief that its operation of a manufacturing facility in North Carolina and admits that it operates a manufacturing facility in West Memphis.

14. Paragraph 15 is vague and is therefore denied.

15. Admits that an assembly, or kitting, of articles of commerce is a part of manufacturing, but otherwise denies the remaining allegations of paragraph 16.

16. Admits that it operates turret trucks, orderpickers, walkies and cascade forks in its West Memphis manufacturing facility, but otherwise denies the conclusions of paragraphs 17, 18, 19 and 20.

17. Paragraph 21 states a legal conclusion to which no response is required, but to the extent a response is required, it is denied.

18. Admits that the Arkansas Independent Tax Appeals Commission correctly found that the West Memphis facility is a manufacturing facility and that the swing-reaches, orderpickers, walkies, cascade forks and batteries were exempt items of equipment used directly in manufacturing and was correct in ordering a refund, but denies the remaining allegations of paragraphs 22 and each and every subparagraph of said paragraph 22.

19. The prayers paragraph does not require a response, but it is otherwise denied.

20. Defendant moves to dismiss or, in the alternative, to remove the case to the Circuit Court of Crittenden County pursuant to Arkansas Code Annotated § 26-18-1117. It incorporates the motion filed concomitantly seeking removal.

21. Defendant reserves the right to file a counterclaim or separate suit concerning additional issues that arise herein and should be able to do so in a county of its choosing.

22. Defendant reserves the right to file additional pleadings herein including, but not limited to, a counterclaim or an amended answer.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the refund be ordered and otherwise affirmed; for its costs and attorneys' fees herein; and for any and all other proper relief.

Respectfully submitted,

Mark Mayfield (93180)
WOMACK PHELPS
PURYEAR MAYFIELD & McNEIL, P.A.
P.O. Box 3077
Jonesboro, AR 72403
Phone: (870) 932-0900
mmayfield@wpmfirm.com

By /s/ Mark Mayfield
Attorneys for Robert Bosch Tool Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2024, I electronically filed the foregoing with the Clerk of Court using the Arkansas Judiciary's eFlex electronic filing system, which shall send electronic notification of such filing to the following:

Michelle L. Baker
Bradley B. Young
Office of Revenue Legal Counsel
P.O. Box 1272, Room 2380
Little Rock, AR 72203
michelle.baker@dfa.arkansas.gov
brad.young@dfa.arkansas.gov
Attorneys for Plaintiff

/s/ Mark Mayfield
Mark Mayfield

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Crittenden County Circuit Court
Terry Hawkins, Circuit Clerk
2026-Jan-28 13:01:44
18CV-24-537
C02D03 : 8 Pages

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CIVIL DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION — PLAINTIFF

v. — No. 18CV-24-537

ROBERT BOSCH TOOL CORPORATION — DEFENDANT

AMENDMENT TO COUNTERCLAIM

Comes the defendant, Robert Bosch Tool Corporation, by and through its attorneys, Puryear Mayfield & McNeil, P.A., and for its counterclaim states:

1. This counterclaim concerns a *de novo* review of Gross Receipts and Compensating Use taxes on certain items. Plaintiff, through the Arkansas Department of Finance and Administration, ("Department") first filed a complaint on March 22, 2024, setting forth portions of the ruling that it was appealing. Bosch appeals the portions of the refund denial and the audit/assessment as more specifically set forth herein. This proceeding is authorized and required by Rules 8 and 13 of the Arkansas Rules of Civil Procedure.

2. Robert Bosch Tool Corporation ("Bosch") is a Delaware corporation authorized to do business in Arkansas. Its principal location in Arkansas is in West Memphis, Crittenden County, Arkansas.

3. This is an appeal under the Arkansas Tax Procedure Act by which the Court has subject matter jurisdiction under Arkansas Code Annotated § 26-18-406. Venue is proper under the same statute.

4. The filing of this suit is timely under Arkansas Code Annotated § 26-18-406 and Arkansas Code Annotated § 26-18-505.

5. Bosch is a direct pay permit holder, which means that it is able to assess and pay its own Gross Receipts and Compensating Use taxes.

6. On April 13, 2023, Bosch filed a claim for refund for the period between December 1, 2019, and November 30, 2021. The refund request included a single supplier, Raymond Leasing Corporation.

7. On or about June 8, 2023, the Department allowed a portion of the refund claim consisting of the June 21 transactions and following, but disallowed the portion that included the matters claimed herein. Bosch requested a hearing by the Arkansas Tax Appeals Commission, which was held on or about November 13, 2023. On or about February 3, 2024, the Arkansas Tax Appeals Commission issued its decision.

8. The Department also audited the Gross Receipts and Compensating Use taxes for Bosch for the period of June 1, 2018 through May 31, 2021. Regular audits are a standard Department practice for a direct pay permit holder. Bosch timely requested a hearing from the audit/assessment. On or about May 17, 2023, a hearing decision was issued by the Office of Hearings and Appeals.

9. On or about December 19, 2023, Bosch paid the entire amount of state tax due on the audit/assessment. Bosch later paid a reduced amount of interest by agreement. This suit is timely filed under Arkansas Code Annotated § 26-18-406.

10. Bosch made purchases from the following companies for the following items used at the West Memphis facility:

Company	Purchase
Shaw Material Handling	Powered Industrial Trucks, or forklifts, which include sit downs, counterbalances, swing reaches, turret trucks, order pickers, walkies, cascade forks, any attachment, any accessory, batteries, maintenance charges, installation, labor, and freight.
Raymond Leasing Corporation	Powered industrial trucks or forklifts, which include counterbalances, swing reaches, turret trucks, order pickers, walkies, sit downs, cascade forks, any attachment, any accessory, batteries, maintenance charges, installation, and freight.
Kenco Fleet Services	Repairs to forklifts

Chargers and battery extractors are not part of the claim.

11. The invoices include installation charges and freight charges on a monthly basis for each item. If the item is exempt, then the freight and the installation charges would likewise be exempt..

12. The usage of the referenced items includes, but is not limited to, the following:

a. Counterbalances, sometimes referred to as forklifts, are used to move things to and from the postponement area. Such are also used elsewhere in the facility.

b. Orderpickers take semi-finished goods within postponement area and place in designated areas for production.

c. Turret trucks take bulk tools to put such into the racks. Turret trucks take bulk tools out to the staging area.

d. Walkies are used to move product from receiving and drop-off to or in the postponement area.

13. Product comes in from receiving, and can be dropped in a staging area, taken to postponement, or taken to a rack location. The movement of product to and from postponement is a continuous part of the day-to-day operations of the facility and usage of the powered industrial trucks.

14. As part of this operation, Bosch purchased subscription software for the powered industrial trucks that are used for their operation. This software is part of the machinery and equipment as it is regularly used with devices used in the facility.

15. Arkansas Code Annotated § 26-51-402 provides for the exemption of machinery and equipment used directly in producing, manufacturing, fabricating, assembling, processing, finishing or packaging of articles of commerce at manufacturing or processing plants and facilities in the State of Arkansas.

16. The West Memphis location of Bosch is a manufacturing facility. Primarily, manufacturing at West Memphis involves the assembly of components, referred to as kitting, to complete a finished product. This area of the facility is referred to in some instances as postponement. The facility, like many other manufacturing facilities in Arkansas, includes an area for keeping products available for distribution.

17. Bosch uses a variety of different types of what can generally be referred to as powered industrial trucks in postponement. As part of the overall manufacture of the finished product, powered industrial trucks are used to bring the components together at the facility as part of manufacturing, specifically assembly into a finished item.

18. The powered industrial trucks, including their batteries and other items in the invoices from the referenced vendors, are machinery and equipment used directly in

manufacturing. The Department has erroneously taken the position that the exemption is more limited. It has appealed the Gross Receipts tax refund for the purchases of powered industrial trucks. Bosch appeals the audit/assessment, seeking a consistent application of the law.

19. The purchases from the referenced vendors are exempt from Gross Receipts taxes under the manufacturing machinery and equipment exemption.

20. Further, to the extent that there is a claim that there is any Compensating Use tax owed, on any of these items, the exemption found in Arkansas Code Annotated § 26-53-114 exempts machinery and equipment used in manufacturing from Compensating Use tax, which applies the same standards.

21. Likewise, the freight, installation, and maintenance charges are exempt from taxation.

22. Powered industrial trucks were purchased to replace existing machinery and equipment, or arose as a result of an increase in demand for Bosch's operations.

23. In addition, the maintenance charges are not subject to tax, or are eligible for rebate or refund, pursuant to Arkansas Code Annotated § 26-52-447.

24. The machinery and equipment, as well as the services provided, are exempt from taxation for either Gross Receipts or Compensating (Compensating Use) taxes. Ark. Code Ann. §§ 26-52-402, 26-53-114; GR-9.17, 9.18, 55, 57, 59, 66.

25. The Department should have credited Gross Receipts and Compensating Use (if any) taxes paid to the vendor.

26. Like many businesses, Bosch employed a service to protect its employees against the harmful effects of Covid-19.

27. The Department bears the burden of proving that there was a taxable service. On

information and belief, the Department has erroneously claimed that the decontamination service is taxable cleaning or janitorial services. Ark. Code Ann. § 26-52-301(B)(i)(b).

28. The Covid-19 decontamination services should not be subject to Gross Receipts tax.

29. Further and in the alternative the word "cleaning" as used is vague and ambiguous.

30. Bosch's West Memphis facility has a concrete foundation.

31. Bosch hired a company to grind the concrete down, fill in any cracks, and seal the top of the concrete.

32. Arkansas Code Annotated § 26-52-301 contains a tax on the service of the initial installation, cleaning, refinishing, replacement or repair of flooring. Ark. Code Ann. § 26-52-301(3)(B)(i)(j). The same statute excludes or excepts the initial installation or alteration, addition, cleaning, refinishing, replacement or repair of non-mechanical, passive, or manually operated components of buildings or other improvements or structures affixed to real estate and then provides a list containing an exception to the exception for flooring. Ark. Code Ann. § 26-52-301(3)(vii)(a).

33. Services to flooring do not include the grinding, patching, or sealing of concrete. GR 9.17.

34. The work performed was not to flooring as defined, and thus, is not taxable. Alternatively, such is exempt from Gross Receipts Tax.

35. In addition, the Department has assessed penalties and interest, which should be removed from the audit and assessment as the case may be. Ark. Code Ann. § 26-18-406

36. Under Arkansas Code Annotated § 26-18-406, judicial relief is authorized from a

Notice of Final Assessment.

37. Bosch seeks the return of all sums paid, including interest for any items that are either not taxable or exempt

38. Bosch should recover interest as permitted under the Arkansas Tax Procedure Act, including the refund request. Ark. Code Ann. §§ 26-18-507, -508.

39. Bosch requests the Court enter its findings:

a. that the services and items of tangible personal property herein be declared non-taxable, or exempt, as the case may be;

b. that the audit/assessment of interest and penalties be nullified as to the items listed above;

c. that interest on the amount paid and on the refund request be awarded to the extent permitted by the Arkansas Tax Procedure Act; and

d. that the Court enter any other necessary orders or rulings related to the relief requested.

WHEREFORE, PREMISES CONSIDERED, Bosch prays it be granted the relief requested and that the assessment of The Department be overturned, for its costs and attorneys' fees herein, and for any and all other proper relief.

Respectfully submitted,

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By /s/ Mark Mayfield
Attorneys for Robert Bosch Tool Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of January, 2026, I electronically filed the foregoing with the Clerk of Court using the Arkansas Judiciary's eFlex electronic filing system, which shall send electronic notification of such filing to the following:

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/s/ Mark Mayfield
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IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
THIRD DIVISION

JIM HUDSON, IN HIS OFFICIAL CAPACITY AS CABINET SECRETARY FOR THE ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION — **PLAINTIFF**

v. — **CASE NO.: 18CV-24-537**

ROBERT BOSCH TOOL CORPORATION — **DEFENDANT**

PLAINTIFF'S ANSWER TO DEFENDANT'S AMENDED COUNTERCLAIM

Comes the Plaintiff/Counter-Defendant Jim Hudson, in his Official Capacity as Cabinet Secretary for the Arkansas Department of Finance and Administration ("DFA"), by and through his counsel of record, and for his Answer to the Amended Counterclaim filed by the Defendant/Counter-Plaintiff Robert Bosch Tool Corporation ("Bosch") states:

1. For purposes of this Answer, DFA adopts the allegations of its Complaint filed March 22, 2024 as though set forth word for word.

2. DFA admits the allegations of paragraph one.

3. In response to paragraph two, DFA admits that Defendant is a foreign for-profit corporation authorized to do business in Arkansas and that Defendant has a distribution center in West Memphis, Arkansas. DFA is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph two.

4. DFA admits the allegations of paragraph three.

5. In response to paragraph four, DFA avers the text of Ark. Code Ann. § 26-18-406 speaks for itself. Plaintiff denies any characterization of law that goes beyond its text. Plaintiff admits that Bosch's action is timely. DFA denies the remaining allegations of paragraph four.

6. In response to paragraph five, DFA admits that Bosch held a "direct pay permit" authorizing it to accrue and remit taxes directly to DFA during the periods June 1, 2018 to May 31, 2021 (the "Audit Periods" at issue in this matter) and during the periods December 1, 2019 to November 30, 2021 (the "Refund Periods" at issue in this matter). DFA further admits that as a holder of such permit, Bosch was responsible for the accrual of Arkansas sales and use tax and the remittance of that tax to DFA instead of paying said taxes to its vendors. DFA denies the remaining allegations of paragraph five.

7. In response to paragraph six, DFA admits that, in April 2023, Defendant submitted a claim for a refund of sales and use taxes Bosch paid to vendor Raymond Leasing Corporation during the Refund Periods, and that this refund claim was assigned Audit ID: A939517952.

8. DFA admits in part the allegations of paragraph seven. The audit at issue in this action was assigned Audit ID: A939517952 and the decision of the Arkansas Tax Appeals Commission that forms the basis of this action was issued February 23, 2024.

9. DFA admits the allegations of paragraph eight.

10. In response to paragraph nine, DFA admits that Bosch paid the entire amount of state tax assessed in relation to Audit ID A785999872 ("the Audit"), that Bosch later paid a reduced amount of the interest assessed under the Audit by agreement, and that this action is timely. DFA denies the remaining allegations of paragraph nine.

11. In response to paragraphs ten and eleven, DFA admits that, during the Audit Period and Refund Period, Bosch purchased certain repair services from Kenco Fleet Services and also leased

powered industrial equipment consisting of swing-reaches (a/k/a turret trucks), orderpickers, counterbalances, walkies, sit downs, cascade forks, batteries, battery chargers, battery charger accessories, battery accessories, battery extractors, watering systems, and blinkies, from Raymond Leasing Corporation and Shaw Material Handling for use in Bosch's West Memphis facility. DFA further admits that these leases included charges for freight and installation, counterbalance maintenance, swing-reach maintenance, walkie maintenance, orderpicker maintenance, an IWAREHOUSE subscription, and certain services to repair the powered industrial equipment. DFA denies the remaining allegations of paragraphs ten and eleven. Pleading affirmatively, while Bosch's Amended Counterclaim states that the lease of batteries and chargers are not part of its claim, the Amended Counterclaim fails to state whether Bosch's lease of battery accessories, watering systems, or blinkies are included in its claim.

12. DFA lacks knowledge sufficient to admit or deny the truth of the allegations in paragraph twelve.

13. In response to paragraph thirteen, DFA admits that Bosch's West Memphis facility receives goods that can be dropped in a staging area, taken to postponement for assembly, or taken to a rack location. DFA denies the remaining allegations of paragraph thirteen for lack of information.

14. In response to paragraph fourteen, DFA admits that Bosch purchased an IWAREHOUSE subscription for powered industrial equipment used in Bosch's West Memphis facility. DFA denies the remaining allegations of paragraph fourteen for lack of information.

15. In response to paragraph fifteen, DFA avers the text of Ark. Code Ann. § 26-52-402 speaks for itself. DFA denies any characterization of the law that goes beyond its text.

16. In response to paragraph sixteen, DFA admits that Bosch assembles or kits product at its West Memphis facility and that Bosch provides order fulfillment services at its West Memphis

facility. DFA denies the remaining allegations of paragraph sixteen. DFA states affirmatively that Bosch's witness, when deposed, testified that during the relevant audit periods, about 10 percent of the 665,000 square foot facility was used for postponement. Thus, the West Memphis facility is primarily a distribution center with "about 10 percent" of the facility involved in kitting.

17. DFA denies the allegations of paragraph seventeen.

18. DFA denies the allegations of paragraph eighteen.

19. DFA denies the allegations of paragraph nineteen.

20. In response to paragraph twenty, DFA avers that the text of Ark. Code Annotated § 26-53-114 speaks for itself. DFA denies any characterization of the law that goes beyond its text. DFA denies the remaining allegations of paragraph twenty.

21. DFA denies the allegations of paragraph twenty-one.

22. DFA denies the allegations of paragraph twenty-two.

23. DFA denies the allegations of paragraph twenty-three.

24. DFA denies the allegations of paragraph twenty-four. Pleading affirmatively, Bosch cites to Arkansas Gross Receipts Rules GR-9.17, GR-57, GR-59, and GR-66 which have no bearing on the transactions in this matter. To the extent Bosch contends that these rules apply to the transactions at issue in this matter, this paragraph fails to comply with the provisions of Ark. R. Civ. P. 8(a) as it fails to state in ordinary and concise language facts showing Bosch is entitled to relief under the provisions of these rules.

25. DFA denies the allegations of paragraph twenty-five. This paragraph fails to comply with the provisions of Ark. R. Civ. P. 8(a) as it fails to state in ordinary and concise language facts showing Bosch is entitled to relief. Specifically, Bosch has neither identified what taxes were paid to which

vendor that should have been credited by DFA nor asserted a legal basis that would require such a credit by DFA.

26. In response to paragraph twenty-six, DFA admits that, between April 2020 and September 2020, Bosch purchased Covid-19 cleaning services from vendor Hepaco during the Audit Period. To the extent paragraph twenty-six consists of other allegations or pertains to other purchases from other vendors, DFA denies same.

27. Paragraph twenty-seven consists in of legal conclusions, which require no response from DFA. To the extent a response is required, DFA denies the allegations of paragraphs twenty-seven.

28. DFA denies the allegations of paragraph twenty-eight.

29. DFA denies the allegations of paragraph twenty-nine.

30. DFA is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph thirty.

31. In response to paragraph thirty-one, DFA admits that Defendant purchased floor refinishing and repair services from vendor Questmark during the Audit Period. To the extent paragraph twenty-six consists of other allegations or pertains to other purchases from other vendors, DFA denies same.

32. In response to paragraph thirty-two, DFA avers the text of Ark. Code Ann. § 26-52-301 speaks for itself. DFA denies any characterization of the law that goes beyond its text.

33. DFA denies the allegations of paragraph thirty-three.

34. DFA denies the allegations of paragraph thirty-four.

35. DFA denies the allegations of paragraph thirty-five to the extent that Bosch is alleging that interest and penalties were improperly assessed in addition to tax for the transactions at issue in

its Amended Counterclaim, especially as Bosch admits in paragraph nine of its Amended Counterclaim that it paid only the tax plus a reduced amount of interest assessed during the Audit.

36. In response to paragraph thirty-six, DFA avers the text of Ark. Code Ann. § 26-18-406 speaks for itself. DFA denies any characterization of the law that goes beyond its text.

37. The allegations of paragraph thirty-seven consist of a prayer for relief that does not require a response from DFA. To the extent a response is required, DFA denies the allegations of paragraph thirty-seven.

38. DFA denies the allegations of paragraph thirty-eight.

39. The allegations of paragraph thirty-nine consist of a prayer for relief that does not require a response from DFA. To the extent a response is required, DFA denies the allegations of paragraph thirty-nine.

40. The "WHEREFORE" clause of Bosch's Amended Counterclaim consists of a prayer for relief that does not require a response from Plaintiff. To the extent a response is required, Plaintiff denies the allegation contained in the "WHEREFORE" clause.

41. The "WHEREFORE" clause of Bosch's Amended Counterclaim also seeks attorney's fees. In response, DFA asserts the affirmative defense that Bosch cannot recover attorney's fees because the Amended Counterclaim fails to allege facts entitling the defendant to attorney's fees under Ark. Code Ann. § 26-18-406(e) or any other statute. The Court should dismiss the Bosch's claim for attorney's fees pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure.

WHEREFORE, for the reasons set forth herein, Plaintiff prays that the Defendant's Amended Counterclaim be dismissed and for all other just and appropriate relief to which he may be entitled.

Respectfully Submitted,

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

By: /s/ *Michelle L. Baker*
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CERTIFICATE OF SERVICE

On February 17, 2026, I served a copy of this document on the following person(s) by first class mail and by electronic transmission:

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