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60CV-15-2379
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**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FIFTH DIVISION**

H & S MAINTENANCE INC.

PLAINTIFF

v.

NO. 60CV-15-2379

**LARRY WALTHER, Director of the Arkansas
Department of Finance and Administration;
TIM LEATHERS, Commissioner of Revenue
of the State of Arkansas**

DEFENDANTS

**ANSWER TO
FIRST AMENDED COMPLAINT**

Come now the Defendants, Larry Walther, Director of the Arkansas Department of Finance and Administration, and Tim Leathers, Deputy Director/Commissioner of Revenue of the State of Arkansas, "Defendants", and for their Answer to the First Amended Complaint of the Plaintiff, H & S Maintenance Inc., state as follows:

1. Defendants generally and specifically affirmatively deny any and all factual allegations and legal assertions contained in Plaintiff's First Amended Complaint not specifically admitted or responded to herein.
2. Defendants admit that Plaintiff is a corporation but are otherwise without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 1 of Plaintiff's First Amended Complaint and therefore deny the same.
3. Defendants admit the averments contained in Paragraph 2 of Plaintiff's First Amended Complaint.

4. In response to Paragraph 3 of Plaintiff's First Amended Complaint Defendants admit that a prior action was dismissed without prejudice based on the same facts as the present action.
5. The first and fourth sentences of Paragraph 4 of Plaintiff's First Amended Complaint contain legal conclusions requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same; Defendants deny the factual averments as stated in the second and third sentences of Paragraph 4 of Plaintiff's First Amended Complaint.
6. Paragraph 5 of Plaintiff's First Amended Complaint states Plaintiff's goal or legal objective in this matter, but states no facts requiring admission or denial, but to the extent admission or denial is required, Defendants deny the same.
7. Defendants admit the averments stated in Paragraph 6 of Plaintiff's First Amended Complaint.
8. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments stated in the first and third sentences of Paragraph 7 of Plaintiff's First Amended Complaint and therefore deny the same; Defendants admit that a primary aspect of Plaintiff's business involves landscaping and the installation of lawn irrigation systems in response to the second sentence of Paragraph 7 of Plaintiff's First Amended Complaint.
9. The first sentence of Paragraph 8 of Plaintiff's First Amended Complaint states a legal conclusion requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same; Defendants deny the averments as

stated in the second and third sentences of Paragraph 8 of Plaintiff's First Amended Complaint.

10. Paragraph 9 of Plaintiff's First Amended Complaint states a legal conclusion requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same.
11. Paragraph 10 of Plaintiff's First Amended Complaint states legal conclusions requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same.
12. In response to Paragraph 11 of Plaintiff's First Amended Complaint, Defendants admit that a gross receipts tax was assessed against Plaintiff for the installation of lawn irrigation systems; Defendants deny the remaining averments as stated in Paragraph 11 of Plaintiff's First Amended Complaint.
13. Defendants admit the factual averments stated in the first three sentences of Paragraph 12 of Plaintiff's First Amended Complaint; Defendants admit the factual averments stated in the fourth sentence of Paragraph 12 of Plaintiff's First Amended Complaint to the extent that the assessment included tax upon the installation of lawn irrigation systems and, to the extent the fourth sentence alleges any other facts other than that which have been admitted, those facts are denied; Defendants deny the factual averments as stated in the fifth and sixth sentences of Paragraph 12 of Plaintiff's First Amended Complaint; Defendants lack knowledge as to the truth of the averments as stated in the seventh sentence of Paragraph 12 of Plaintiff's First Amended Complaint and, accordingly, deny the same.

14. Defendants admit the factual averments stated in Paragraph 13 of Plaintiff's First Amended Complaint.
15. Defendants admit the factual averments stated in the first and second sentences of Paragraph 14 of Plaintiff's First Amended Complaint; The third sentence to Paragraph 14 of Plaintiff's First Amended Complaint states a legal conclusion requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same; Defendants lack knowledge as the truth of the factual averments stated in the fourth and fifth sentences of Paragraph 14 of Plaintiff's First Amended Complaint and, accordingly, deny the same; The fifth sentence of Paragraph 14 of Plaintiff's First Amended Complaint also states a legal conclusion requiring neither admission nor denial, but to the extent admission or denial is required, Defendants deny the same.
16. Paragraphs 15 through 17 of Plaintiff's First Amended Complaint set forth legal conclusions and Plaintiff's legal arguments in this case, without asserting new and additional factual averments, that require neither admission nor denial, but to the extent admission or denial are required, Defendants deny the same.
17. Defendants deny that Plaintiff is entitled to the relief sought in its "PRAYER FOR RELIEF" paragraph on page 6 of Plaintiff's First Amended Complaint, including subparagraphs A through F thereof.
18. Defendants reserve the right to amend their Answer to Plaintiff's First Amended Complaint or to otherwise plead further.

WHEREFORE, Defendants pray that the First Amended Complaint of the Plaintiff be dismissed with prejudice in its entirety and for any and all additional relief to which they may be entitled.

Respectfully Submitted,

LARRY WALTHER, DIRECTOR
ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION;
TIM LEATHERS, ARKANSAS
COMMISSIONER OF REVENUE
Defendants

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CERTIFICATE OF SERVICE

I, Tim E. Howell, hereby certify that a copy of the foregoing has been filed electronically via the CM/ECT system on this 31st day of July, 2015, which will electronically notify counsel for the Plaintiff:

Brian Brown
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/s/ Tim E. Howell
Tim E. Howell
Attorney for Defendants