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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas  
The Honorable Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2025-000520  
Case No. 2024-CP-23-05956

Commissioners of Public Works of the City of Greenville,  
South Carolina .....Respondent,

v.

United States Pipe and Foundry Company, LLC, TEC Utilities  
Supply Inc., and Hayes Pipe Supply Inc.,..... Defendants,

of which

United States Pipe and Foundry Company, LLC, is the.....Appellant.

**Appellant’s Return to Respondent’s Motion for Expedited Appellate Review**

Appellant United States Pipe and Foundry Company, LLC (“US Pipe”) consents to expediting this appeal, should that be acceptable to the Court.

As for the timing of the briefing, US Pipe proposes it be given only 21 days to file its initial brief and designation of matter for inclusion in the Record on Appeal upon receipt of the transcript, rather than the normal 30 days. Thereafter, it proposes that Respondent Commissioners of Public Works of the City of Greenville, South Carolina’s (“Greenville Water”) have 21 days to file its initial Response Brief and designation of matter, followed by US Pipe having seven days to file an initial Reply Brief and reply designation of matter.

In light of the limited record before the trial court's ruling on US Pipe's Motion to Dismiss or Stay Pending Arbitration, US Pipe would consent to cutting the time spent submitting the record on appeal from designations of matter from the normal 30 days to 15 days, and the time thereafter for submitting final briefs after service of the Record on Appeal from 30 to 15 days.

US Pipe makes this proposal in an effort to mitigate some of the claimed harms that the time spent for normal appellate process may allegedly cause, but it does not concede such harms exist, much less that Greenville Water will suffer irreparable harm. US Pipe reserves all rights in making this accommodation.

Furthermore, US Pipe disagrees with many of the factual assertions Greenville Water makes in its Motion:

- Arbitration: Greenville Water claims US Pipe's appeal is "baseless," and seeks to litigate the merits of the arbitrability of this dispute in its motion. This argument is incorrect and premature. US Pipe is a material manufacturer that provides a warranty for the products it sells along with other terms, including an arbitration agreement. Greenville Water bought the products at issue subject to US Pipe's terms and conditions, including the arbitration agreement. Greenville Water alleges in its Complaint that a contractual relationship with US Pipe exists, otherwise no claim for breach of warranty or breach of implied contract could be asserted. Further, Greenville Water is estopped to deny the arbitration agreement contained in the same contract on which Greenville Water sues for its claims. Thus, a valid argument for compelling arbitration exists, and this Court should hear US Pipe's arbitration argument through the normal—but US Pipe agrees expedited—appellate process. This Court should thereafter allow an arbitrator to decide gateway questions of enforceability, arbitrability, and contract defenses in the first instance.

- Alleged Irreparable Harm: Contrary to Greenville Water’s claims, there is no imminent risk of harm to the users of Greenville Water’s system. US Pipe has provided documentation that the pipe is safe for the transportation of water and Greenville Water’s own safety documentation shows the water is safe. Moreover, Greenville Water is litigating over pipe that has been in the ground for at least two years—and Greenville Water has not replaced it. If there really was any actual potential harm to its customers, Greenville Water would be actively replacing pipe. Greenville Water’s claims of irreparable harm are not supported by affidavits or other supporting evidence included with its motion.

- Discovery Sought: Greenville Water should already possess information that US Pipe would provide concerning the number, size, and type of pipes sold to Greenville Water through any distributors or to any of its contractors. Any information about where those pipes were installed after manufacturing and sale would be within Greenville Water’s knowledge. Greenville Water seeks other information about all of US Pipe’s nationwide manufacturing. Much of this manufacturing information is protected by the South Carolina Trade Secrets Act, S.C. Code Ann. §§ 39-8-10 *through* -130, and would be irrelevant to the prosecution of Greenville Water’s claims. This is evident by Greenville Water’s bold claim that defective pipe may exist in “those of other public water utilities,” an indication on its face that Greenville Water seeks discovery that exceeds the needs of this case.

Put simply, Greenville Water’s allegations about US Pipe’s arbitration argument, the alleged irreparable harm, and the discovery sought are incorrect and superfluous to the motion to expedite appellate briefing (to which US Pipes consents). The Court should ignore these unsupported arguments when it grants expedited appellate briefing.

## Conclusion

Based on the above reasons, US Pipe consents to expediting this appeal and makes this proposal for doing so for the Court's consideration. US Pipe disagrees with Respondent's other various assertions in its motion.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ C. Mitchell Brown

C. Mitchell Brown, SC Bar 012872  
Email: mitch.brown@nelsonmullins.com  
Matthew A. Abee, SC Bar No. 101100  
Email: matt.abee@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

BEATTIE B. ASHMORE, P.A.

Beattie B. Ashmore, SC Bar No. 10419  
Email: beattie@beattieashmore.com  
650 East Washington Street  
Greenville, SC 29601  
(865) 467-1001

COLUCCI & GALLAHER P.C.

Paul G. Joyce, *Pro Hac Vice motion forthcoming*  
Email: pjoyce@cgbuffalo.com  
350 Main Street, Suite 800  
Buffalo, New York 14202  
(716) 853-4080

*Attorneys for United States Pipe and Foundry Company, LLC*

Columbia, South Carolina  
April 3, 2025

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**Proof of Service**

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I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant United States Pipe and Foundry Company, LLC, do certify that I have served all counsel of record in this action with a copy of the document(s) set forth below under Supreme Court Order dated April 24, 2024:

Document(s):           **Appellant’s Return to Respondent’s Motion for Expedited Appellate Review**

Served:

Via Email:

Adam C. Bach  
John Hampton Scully  
TONNSEN BACH, LLC  
1306 South Church Street  
Greenville, South Carolina 29605  
abach@tonnsenbach.com  
jscully@tonnsenbach.com  
cc: Ellen Miller, emiller@tonnsenbach.com

Adam J. Levitt  
Daniel Rock Flynn  
Anna Claire Skinner  
Jessica Holmes  
DICELLO LEVITT LLP  
Ten North Dearborn Street, Sixth Floor  
Chicago, Illinois 60602  
alevitt@dicellolevitt.com  
dflynn@dicellolevitt.com  
askinner@dicellolevitt.com  
jholmes@dicellolevitt.com

Justin J. Hawal  
DICELLO LEVITT LLP  
8160 Norton Parkway, Third Floor  
Mentor, Ohio 44060  
jhawal@dicellolevitt.com

*Attorneys for Respondent Commissioners of Public Works of the  
City of Greenville, South Carolina*

Via Email:

Rivers S. Stilwell  
David C. Dill  
Claire K. Atwood  
MAYNARD NEXSEN PC  
104 S. Main Street, Suite 900  
Greenville, SC 29601  
rstilwell@maynardnexsen.com  
ddill@maynardnexsen.com  
catwood@maynardnexsen.com

*Attorneys for Defendant TEC Utilities Supply Inc.*

Via Email:

Gregory L. Shelton  
SHELTON LAW CAROLINAS  
101 S. Tryon Street, Suite 2700  
Charlotte, NC 28280  
greg@sheltonlawcarolinas.com

*Attorney for Defendant Hayes Pipe Supply, Inc.*

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Matthew A. Abee

C. Mitchell Brown, SC Bar 012872  
Email: mitch.brown@nelsonmullins.com  
Matthew A. Abee, SC Bar No. 101100  
Email: matt.abee@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

BEATTIE B. ASHMORE, P.A.

Beattie B. Ashmore, SC Bar No. 10419  
Email: beattie@beattieashmore.com  
650 East Washington Street  
Greenville, SC 29601  
(865) 467-1001

COLUCCI & GALLAHER P.C.

Paul G. Joyce, *Pro Hac Vice motion forthcoming*  
Email: pjoyce@cgbuffalo.com  
350 Main Street, Suite 800  
Buffalo, New York 14202  
(716) 853-4080

*Attorneys for United States Pipe and Foundry Company LLC*

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