

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM GREENVILLE COUNTY  
Before the Master In Equity  
Charles B. Simmons, Jr., Master In Equity

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Case No. 2007-CP-23-3206  
Court of Appeals Appellate Case No. 2012-212748

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North American Rescue Products, Inc.,.....Appellant,

v.

P. J. Richardson,.....Respondent.

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**APPELLANT’S RETURN TO RESPONDENT’S MOTION TO TRANSFER APPEAL**

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This appeal was being scheduled for oral argument in the Court of Appeals during May 2014 when this Court issued its original opinion in appeal 2012-208586. Thereafter, the Court of Appeals granted Respondent’s motion to postpone oral argument on the ground that the present appeal was rendered moot by this Court’s decision in appeal 2012-208586. Appellant unsuccessfully opposed the motion on the ground that both parties would be filing rehearing petitions with this Court in appeal 2012-208586, so it was unknown how long that appeal would remain pending. Thereafter, this Court granted both parties’ rehearing petitions in appeal 2012-208586 and, therefore, Appellant moved in the present appeal to have the Court of Appeals reschedule oral argument.

Respondent offers no explanation for waiting until now to make a motion to transfer, but the reason is obvious. He hopes to delay oral argument in the present appeal until after this Court

rules in appeal 2012-208586 and thereby moot the present appeal. If this Court grants the motion to transfer, Respondent will no doubt then move to consolidate this appeal with appeal 2012-208586 or move to hold this appeal in abeyance pending this Court's decision in appeal 2012-208586, either of which would moot the present appeal.

The Court of Appeals is the proper court to decide the present appeal. It is ready to hear oral argument and no further delay should be permitted. Its decision in the present appeal will not and cannot have any impact on this Court's decision in appeal 2012-208586. There is no reason to transfer this case from the Court of Appeals other than to frustrate Appellant's effort to have its rights determined during the pendency of appeal 2012-208586. Accordingly, this Court should deny the motion to transfer. In the alternative, if this Court grants the motion to transfer, then oral argument in the present appeal should be scheduled immediately so that this appeal does not become moot.<sup>1</sup>

Respectfully Submitted,



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June 30, 2014  
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<sup>1</sup> Respondent also filed a motion to dismiss the current appeal in the Court of Appeals, and he asks this Court to rule on that motion if it grants the present motion to transfer before the Court of Appeals rules on the motion to dismiss. That motion is manifestly without merit as shown in Appellant's Return, which is attached hereto as Exhibit A.