THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
Dec 03 2025
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Patrick C. Fant III, Circuit Court Judge

Appellate Case No.: 2025-0001468

Cindy Barnette Camp	Appellant
v.	
Christopher Miller	Respondent

INITIAL BRIEF OF RESPONDENT CHRISTOPHER MILLER

ROBERT C. CHILDS III
CHILDS LAW FIRM LLC
20 Center Street
P.O. Box 1519
Travelers Rest SC 29690
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com
Attorney for Respondent Christopher Miller

12/03/2025

TABLE OF CONTENTS

TABLE OF AUTHORITIES iii
INTRODUCTION 5
STATEMENT OF ISSUES ON APPEAL 5
SUMMARY OF FACTS 5
ARGUMENTS 8
I. The Defamation Claim is Barred by the Two – Year Statute of Limitations 8
II. The Appellant's Case Fails Even if Any Discovery Rule Applies in this Case. 9
III. The Remaining Tort Claims are Barred by the Three-Year Statute of Limitations 15
IV. South Carolina Does Not Recognize False Light 16
V. The Public-Disclosure Claim Also Fails Because the Matter Was of Legitimate Public Concern 16
VI. Dismissal Under Rule 12(b)(6) Was Proper 17
CONCLUSION 17

TABLE OF AUTHORITIES

Cases

Tanyel v. Osborne, 312 S.C. 473, 475-76, 441 S.E.2d 329, 330-31 (Ct. App. 1994), ...15
Bayle v. South Carolina Dep't of Transp., 344 S.C. 115, 128-29, 542 S.E.2d 736, 742-43 (Ct. App. 2001) 14
Brown v. Pearson, 326 S.C. 409, 418, 483 S.E.2d 477, 481 (Ct. App. 1997) 17
Burgess v. Am. Cancer Soc'y, S.C. Div., Inc., 300 S.C. 182, 186, 386 S.E.2d 798, 800 (Ct. App. 1989) 14
Burgess, 300 S.C. at 186, 386 S.E.2d at 800 14
Clark v. Viacom Int'l Inc., 617 F. App'x 495, 500 (6th Cir. 2015) 11
Dean v. Ruscon Corp., 321 S.C. 360, 363–64, 468 S.E.2d 645, 647 (1996) 15
Firth v. State of New York, 98 N.Y.2d 365, 369-70, 747 N.Y.S.2d 69, 71-72 (2002) 12
Fleming v. Rose, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002) 9
Harris v. Tietex Int'l Ltd., 417 S.C. 533, 536, 790 S.E.2d 411, 413 (Ct. App. 2016) 10
Shively v. Bozanich, 31 Cal. 4th 1230, 1248-50, 80 P.3d 676, 688-89 (2003) 11
Johnston v. Bowen, 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993). 14, 15
Jones v. City of Folly Beach, 326 S.C. 360, 369, 483 S.E.2d 770, 775 (Ct. App. 1997) 10
Jones v. Pinkerton's Inc., 700 S.W.2d 456 (Mo. App. 1985); 13
Kelley v. Rinkle, 532 S.W.2d 947 (Tex. 1976) 13
Kelly v. Logan, Jolley & Smith, L.L.P., 383 S.C. 626, 632, 682 S.E.2d 1, 4 (Ct. App. 2009) 10
Kittinger v. Boeing Co., 21 Wash. App. 484, 585 P.2d 812 (1978) 13
Kreutner v. David, 320 S.C. 283, 285, 465 S.E.2d 88, 90 (1995) 14, 15
Moriarty v. Garden Sanctuary Church, 341 S.C. 320, 329, 534 S.E.2d 672, 676 (2000) 14
Mullin v. Washington Free Weekly, Inc., 785 A.2d 296, 298-99 (D.C. 2001) 11
Ostrzenski v. Seigel, 177 F.3d 245, 247 (4th Cir. 1999) 17
Padon v. Sears, *Roebuck & Co*., 186 W. Va. 102, 411 S.E.2d 245 (1991) 13
Parker v. Evening Post Publ. Co., 317 S.C. 236, 246, 452 S.E.2d 640, 646 (Ct. App. 1994) 18
Sears, Roebuck & Co. v. Ulman, 287 Md. 397, 412 A.2d 1240 (1980) 13
Snakenberg v. Hartford, 299 S.C. 164, 170-71, 383 S.E.2d 2, 6 (Ct. App. 1989) 17
Snell v. Columbia Gun Exch., Inc., 276 S.C. 301, 303, 278 S.E.2d 333, 334 (1981) 14, 15
Spence v. Spence, 368 S.C. 106, 116-17, 628 S.E.2d 869, 874 (2006) 18
Staheli v. Smith, 548 So. 2d 1299 (Miss. 1989) 13
*Swinton Creek Nursery v. Edisto Farm Credi*t, 330 S.C. 469, 475-76, 514 S.E.2d 126, 130 (1999) 18
Tom Olesker's Exciting World of Fashion, Inc. v. Dun & Bradstreet, Inc., 61 Ill. 2d 129, 334 N.E.2d 160 (1975 13
True v. Monteith, 327 S.C. 116, 118, 489 S.E.2d 615, 617 (1997). 13
Urie v. Thompson, 337 U.S. 163, 170, 69 S. Ct. 1018, 1025 (1949) 14

White v. Gurnsey, 48 Or. App. 931, 618 P.2d 975 (1980); 13
Wiggins v. Edwards, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994) 13, 16
Williams v. Lancaster Cty. Sch. Dist., 369 S.C. 293, 302–03, 631 S.E.2d 286, 292 (Ct. App. 2006). 9

Statutes

Cal. Civ. Code § 3425.3..11

S.C. Code §15-3-550……………………………………………………………………………9

S.C. Code § 15-3-530(5) ………………………………………………………………..…..13

Cal. Civ. Code § 3425.3,...11

Illinois' Uniform Single Publication Act 10, 11

Rules

Rule 12(b)(6), SCRCP, ...17

INTRODUCTION

Respondent Christopher Miller respectfully submits this Initial Brief of the Respondent in response to the Initial Brief of the Appellant since the Circuit Court correctly dismissed all six causes of action in Appellant's Amended Complaint because each claim was barred by the applicable statute of limitations and some claims failed to state causes of action. The Appellant's arguments on appeal do not dispute the key dates pled in her own Complaint and Amended Complaint, which conclusively established that her claims were filed years too late.

STATEMENT OF ISSUES ON APPEAL

1. **WHETHER THE CIRCUIT COURT DISMISSED THE DEFAMATION CLAIM AS BARRED BY THE TWO-YEAR STATUTE OF LIMITATIONS CONTAINED IN S.C. CODE §15-3-550, WHICH ACCRUES UPON PUBLICATION RATHER THAN DISCOVERY.**

2. **WHETHER THE CIRCUIT COURT CORRECTLY DISMISSED THE DEFAMATION CLAIM, EVEN IF A DISCOVERY RULE APPLIED TO DEFAMATION.**

3. **WHETHER ALL THE REMAINING CLAIMS OF THE APPELLANT'S FAIL FOR LACK OF DUE DILIGENCE.**

4. **WHETHER DISMISSAL OF THE FALSE LIGHT CLAIMS WAS PROPER BECAUSE SOUTH CAROLINA DOES NOT RECOGNIZE FALSE LIGHT AS A COGNIZABLE CAUSE OF ACTION AND SINCE THE STATUTE OF LIMITATIONS WOULD HAVE RUN IN ANY EVENT.**

5. **WHETHER THE PUBLIC-DISCLOSURE CAUSE OF ACTION FAILS BECAUSE THE ALLEGED MATTER CONCERNED A SHERIFF'S ELECTION AND THUS CONSTITUTED A MATTER OF LEGITIMATE PUBLIC CONCERN.**

6. **WHETHER DISMISSAL UNDER RULE 12(B)(6) WAS PROPER WHERE THE STATUTE OF LIMITATIONS BARS APPEARED ON THE FACE OF THE APPELLANT'S OWN PLEADINGS.**

SUMMARY OF FACTS

On February 27, 2025, the Appellant filed her action against the Respondent. (Summons and Complaint 2021-CP-23-5802). The Respondent was served on March 4, 2025 (Affidavit of

Service). The Respondent filed a Motion to Dismiss on April 15, 2025. The Appellant filed an Amended Complaint on May 23, 2025. A hearing on the Motion to Dismiss was held on June 20, 2025, and the Order of Dismissal was issued on July 11, 2025.

The Respondent is a 30-year veteran of law enforcement and, at the time of the Complaint, the Honea Path, South Carolina Chief of Police. (R.p. 5, ll. 2-3). In 2020, he was a supporter of a Republican runoff candidate for Greenville County Sheriff, A.T. Smith, and participated in a private messaging group for Smith supporters on Facebook. (R.p. 5, ll. 4-5).

The Complaint and Amended Complaint alleged the Appellant worked for the Greer Police Department between 2001 and 2004 with the eventually-elected Sheriff of Greenville County, Hobart Lewis. (Summons and Complaint ¶¶ 11-13). The Appellant alleged that on January 13, 2020, the Smith campaign prepared two flyers, one stating "Sex Scandal"... "Polygraph results revealed Lewis behaved inappropriately with a subordinate and he was forced to resign." (R.p. 5, ll. 21-24). The other flyer stated "Hobart, who is Cindy B?", "Hobart, why have you refused to authorize the release of the polygraph you took regarding the sexual encounter?" "Hobart will say he 'didn't have an affair' because it was an ongoing situation."

On January 14, 2020, the Appellant publicly identified herself as "Cindy B." (R.p. 6, ll. 8-9). On December 7, 2021, the Appellant sued Candidate Smith (Complaint 2021-CP-23-5802) and filed an amended complaint on December 9, 2022, this time joining other defendants including Kerry Wood. (Amended Complaint 2021-CP-23-5802). On May 30, 2024, the Appellant filed a second amended complaint (Second Amended Complaint). On January 24, 2025, a stipulation of dismissal with prejudice was filed in that case. (Stipulation of Dismissal 2021-CP-23-5802).

The Plaintiff's Amended Complaint, filed on May 23, 2025, alleges the following dates relevant to the causes of action (numbered in order as raised in the Amended Complaint):

1. January 2020, “Miller was aware of a runoff between Hobart Lewis and A.T. Smith...” (¶3).
2. “Between January 7, 2020, and January 12, 2020 Miller” allegedly posted false statements about Camp to other members of the ATS Private Supporters. “[G]et Cindy Barnett out there Hobart is done…The same thing Will Lewis did.” (¶6).
3. “On or about January 12, 2020, Miller” allegedly “posted the following:...” (¶7).
4. “Upon information and belief, on January 12, 2020 contacted (or was contacted by) A.T. Smith or Kerry Wood” Miller allegedly “provided the information contained in his January 12, 2020 post...” (¶8).
5. “...many people knew the flyer that said ‘Hobart, who is Cindy B?’ was referring to Camp...” (¶14).
6. “Camp did not discover Miller’s role as the ultimate source of the false statement about her until January 16, 2025. She previously brought an action, C.A. No. 2021-CP-23-05802, which recently settled...” (¶17).
7. “Miller’s” alleged “statements about Camp were defamatory and, because they were made in writing, actionable per se.” (¶19).
8. “Miller’s statements” allegedly “gave publicity to a matter concerning Camp that placed her before the public in a false light.” (¶23).
9. “Miller” allegedly “conspired and agreed with A.T. Smith and/or Kerry Wood to give publicity to a matter that placed her before the public in a false light.” (¶29).

ARGUMENTS

I. THE DEFAMATION CLAIM IS BARRED BY THE TWO-YEAR STATUTE OF LIMITATIONS FROM UTTERANCE.

While the Appellant never defines her arguments well or by a phrase, for the purpose of this brief, the Respondent will call her argument that the statute of limitations does not run until she discovers the utterance "discovery of the utterance" and her argument that the statute of limitations does not run until she discovers the identity of the person who made the utterance "discovery of the perpetrator." Neither phrase is legally supported under South Carolina law.

Appellant also appears to confuse discovery of her alleged injury with "discovery of the utterance" and "discovery of the perpetrator." While South Carolina still follows the "utterance rule", applying either the utterance rule or "discovery of the injury rule" reaches the same result in this case. To Respondent's knowledge no court recognizes "discovery of the perpetrator" as tolling the statute of limitations.

A party asserting a claim of defamation must prove the following elements: (1) a false and defamatory statement was made; (2) the unprivileged publication of the statement to a third party; (3) the publisher was at fault; and (4) either the statement was actionable irrespective of harm or the publication of the statement caused special harm. *Williams v. Lancaster Cty. Sch. Dist.,* 369 S.C. 293, 302–03, 631 S.E.2d 286, 292 (Ct. App. 2006). "The publication of a statement is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." *Fleming v. Rose,* 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002).

As the trial court appropriately stated, "it is abundantly clear that the limitations period begins when the alleged defamatory statement is made, not when the plaintiff learns of the statement." This makes logical sense because the injury arises directly from the utterance or

publication of the statement. Since defamation is a "publication-based" tort, the tort of defamation is considered to occur upon publication, and the harm to the party begins at that moment. Realistically, the utterance rule is the discovery of the injury rule, particularly in this case.

South Carolina law is unequivocal that a defamation cause of action accrues upon publication of the alleged defamatory statement not upon its discovery. S.C. Code § 15-3-550 establishes a two-year statute of limitations for libel and slander. In *Harris v. Tietex Int'l Ltd.*, 417 S.C. 533, 536, 790 S.E.2d 411, 413 (Ct. App. 2016), this Court reaffirmed that the statute "begins to run when the statement is made." Similarly, *Jones v. City of Folly Beach*, 326 S.C. 360, 369, 483 S.E.2d 770, 775 (Ct. App. 1997), holds that South Carolina has not adopted the discovery rule in defamation actions.

Therefore, the Circuit Court committed no error in applying the correct and existing law in this case which is the "date of utterance".

II. THE APPELLANT'S DEFAMATION CASE FAILS EVEN IF ANY DISCOVERY RULE APPLIES TO DEFAMATION.

There is no good reason this Court should apply the Appellant's proposed modified "discovery of the utterance" or "discovery of the perpetrator" rule in defamation cases. Both of Appellant's modified rules have been soundly rejected by a majority of courts but even if they were not, due diligence bars all of her claims.

"Statutes of limitations are not simply technicalities." *Kelly v. Logan, Jolley & Smith, L.L.P.*, 383 S.C. 626, 632, 682 S.E.2d 1, 4 (Ct. App. 2009)."On the contrary, they have long been respected as fundamental to a well-ordered judicial system." *Id*. "Statutes of limitations embody important public policy concerns as they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs." *Id*. "One purpose of a statute of limitations is to relieve the courts of the burden of trying stale claims when a plaintiff has slept on his or her rights."

Id. (citations omitted). "Another purpose of a statute of limitations is to protect potential defendants from protracted fear of litigation." *Id.* "Statutes of limitations are, indeed, fundamental to our judicial system." *Id*. (citation omitted). They embody important public policy concerns that stimulate activity, punish negligence, and promote repose. *Id.*

Applying a modified rule of discovery to defamation would allow claims to be brought indefinitely, as a plaintiff might "discover" an old statement years later (e.g., via an archived copy or online republication), undermining the purpose of statutes of limitations to provide defendants with predictable closure and protection from perpetual liability. This is especially critical in defamation, where the harm to reputation occurs primarily at initial publication, and defendants (such as publishers) deserve repose after a fixed period to avoid "ruinous liability." See, e.g., *Mullin v. Washington Free Weekly, Inc*., 785 A.2d 296, 298-99 (D.C. 2001) (declining to apply discovery rule to defamation claims because it would undermine the purpose of the statute of limitations by allowing claims long after publication, leading to stale evidence and perpetual liability); *Shively v. Bozanich*, 31 Cal. 4th 1230, 1248-50, 80 P.3d 676, 688-89 (2003) (holding that the discovery rule does not apply to defamation in mass communications, as it would erode certainty and expose defendants to indefinite liability, contrary to the policy of prompt resolution in speech-related torts); *Clark v. Viacom Int'l Inc*., 617 F. App'x 495, 500 (6th Cir. 2015) (rejecting discovery rule for internet defamation to prevent undermining repose and encouraging stale claims).Applying a modified discovery rule to defamation would allow claims to be brought indefinitely, undermining the core purpose of statutes of limitations.

In mass media contexts like books, newspapers, or online posts, the discovery rule would erode the single publication rule by potentially treating each new "discovery" (e.g., a sale, delivery, or viewing) as restarting the clock, leading to hundreds or even millions of potential claims from

a single defamatory issue. Courts emphasize that this would overwhelm the legal system and contradict statutes like California's Civil Code § 3425.3 or Illinois' Uniform Single Publication Act, which limit claims to one per publication to ensure efficiency and bar "stale" or speculative suits based on undiscovered harms. See, e.g., *Firth v. State of New York,* 98 N.Y.2d 365, 369-70, 747 N.Y.S.2d 69, 71-72 (2002) (applying single publication rule to internet publications and noting that allowing continuous accrual based on new discoveries would expose publishers to liability in perpetuity, defeating the purpose of limitations periods and the single publication doctrine); *Shively*, 31 Cal. 4th at 1249, 80 P.3d at 688 (emphasizing that discovery rule in mass media defamation would undermine the single publication rule codified in Cal. Civ. Code § 3425.3, leading to multiplicity of suits and judicial inefficiency); see also Ill. Uniform Single Publication Act, 740 Ill. Comp. Stat. 145/1 et seq. (limiting actions to one per publication to prevent endless retriggering of limitations).

Defamation claims accrue upon publication because that is when the injury (reputational damage) typically begins and becomes actionable, not when the plaintiff learns of it. The discovery rule is generally reserved for latent injuries (e.g., in medical malpractice), but defamation in public forums is not inherently undiscoverable plaintiffs often have tools like legal discovery to uncover statements promptly. Extending it would conflict with fixed, short limitations periods designed for prompt resolution in torts involving speech, and it ignores historical common law developments favoring the single publication rule for modern mass communications.

Late-discovered claims also make it harder to preserve evidence, locate witnesses, or defend against allegations, as memories fade and records may be lost over time. Courts note that applying discovery broadly could encourage plaintiffs to delay suits strategically or rely on unsubstantiated speculation about "unknown" publications, violating fact-pleading standards and

leading to inefficient, non-justiciable disputes.

While there is a split of authority on discovery of defamation, most jurisdictions that differ from South Carolina limit the discovery rule to concealed or inherently undiscoverable publications. See, e.g., *Padon v. Sears*, *Roebuck & Co*., 186 W. Va. 102, 411 S.E.2d 245 (1991); *Staheli v. Smith*, 548 So. 2d 1299 (Miss. 1989); *Kelley v. Rinkle*, 532 S.W.2d 947 (Tex. 1976); *Tom Olesker's Exciting World of Fashion, Inc. v. Dun & Bradstreet, Inc.*, 61 Ill. 2d 129, 334 N.E.2d 160 (1975); *Jones v. Pinkerton's Inc.,* 700 S.W.2d 456 (Mo. App. 1985); *Sears, Roebuck & Co. v. Ulman*, 287 Md. 397, 412 A.2d 1240 (1980); *White v. Gurnsey,* 48 Or. App. 931, 618 P.2d 975 (1980); *Kittinger v. Boeing Co*., 21 Wash. App. 484, 585 P.2d 812 (1978); see generally Annot., 35 A.L.R.4th 1002 (1985).

As to "discovery of the perpetrator," no caselaw supports that proposition. "The important date under the discovery rule is the date that a plaintiff discovers the injury, not the date of the discovery of the identity of [the] wrongdoer." *Wiggins v. Edwards*, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994). The statute is triggered by knowledge of facts, diligently acquired, sufficient to put an injured person on notice of the existence of a cause of action against another. *True v. Monteith,* 327 S.C. 116, 118, 489 S.E.2d 615, 617 (1997).

In the present case, although the alleged statements by Respondent were only part of a private messaging group, the Appellant connects all her allegations and damages to the publication of a flyer by Candidate Smith. She now claims that the Respondent's comments in a private texting group were "concealed" and "secretive," arguing that her statute did not begin to run until January 16, 2025, when the information was disclosed by a witness in the Smith case. However, she again overlooks the "knew or should have known" element of all discovery rules.

The discovery rule exists to avoid the harsh and unjust result of closing the courtroom doors

to a plaintiff whose "blameless ignorance" resulted in a failure to pursue a cause of action within the limitations period. *Moriarty v. Garden Sanctuary Church*, 341 S.C. 320, 329, 534 S.E.2d 672, 676 (2000); see *Urie v. Thompson*, 337 U.S. 163, 170, 69 S. Ct. 1018, 1025 (1949). The limitations period is intended to run against those who are neglectful of their rights and who fail to exercise reasonable diligence in enforcing their rights. *Moriarty*, supra. The discovery rule exists to protect plaintiffs in "blameless ignorance." The statute begins to run when facts and circumstances would put a person of common knowledge and experience on notice that some claim might exist not when a witness or additional evidence is later discovered. *Snell v. Columbia Gun Exch., Inc.*, 276 S.C. 301, 303, 278 S.E.2d 333, 334 (1981); *Johnston v. Bowen,* 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993); *Bayle v. South Carolina Dep't of Transp*., 344 S.C. 115, 128-29, 542 S.E.2d 736, 742-43 (Ct. App. 2001) (statute began to run on date of fatal accident, not when plaintiff later discovered evidence of possible latent roadway defect).

Also, the Respondent is not responsible for Appellant's choice in delaying discovery until four years after filing suit. Under the general discovery rule, the limitations period commences when the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some claim against another party might exist. *Burgess v. Am. Cancer Soc'y*, S.C. Div., Inc., 300 S.C. 182, 186, 386 S.E.2d 798, 800 (Ct. App. 1989); see S.C. Code Ann. § 15-3-535 (2005) ("[A]ll actions initiated under Section 15-3-530(5) must be commenced within three years after the person knew or by the exercise of reasonable diligence should have known that he had a cause of action."). "This standard as to when the limitations period begins to run is objective rather than subjective." *Burgess*, 300 S.C. at 186, 386 S.E.2d at 800.

The date on which discovery should have been made is objective. *Kreutner v. David*, 320 S.C. 283, 285, 465 S.E.2d 88, 90 (1995). In *Tanyel v. Osborne*, 312 S.C. 473, 441 S.E.2d 329 (Ct.

App. 1994), the statute ran from the date of the accident that put the statutes of limitations requiring actions to be commenced within a time period after a person knew or should have known that he had a cause of action means that the injured party must act with some promptness where facts and circumstances of the injury would put a person of common knowledge and experience on notice that some right of his had been invaded or that some claim against another party might exist. *Snell v. Columbia Gun Exch., Inc.*, 276 S.C. 301, 303, 278 S.E.2d 333, 334 (1981). The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery is developed. *Id.* The date of discovery is not when the plaintiff discovers a witness to support or prove his case. *Johnston v. Bowen*, 313 S.C. 61, 64, 437 S.E.2d 45, 47 (1993). Our Supreme Court has "interpreted the 'exercise of reasonable diligence' to mean that the injured party must act with some promptness" when on notice of a potential claim. *Dean v. Ruscon Corp.,* 321 S.C. 360, 363–64, 468 S.E.2d 645, 647 (1996). "Moreover, the fact that the injured party may not comprehend the full extent of the damage is immaterial." *Id*. "The date on which discovery should have been made is an objective, not subjective, question." *Kreutner v. David*, 320 S.C. 283, 285, 465 S.E.2d 88, 90 (1995).

In *Tanyel v. Osborne*, *supra.* the facts involved a collision at an intersection. Tanyel was stopped at a red light. Osborne entered the intersection and turned left in front of an oncoming school bus driven by an employee of the Department of Education. The bus hit Osborne's car, pushing it into Tanyel's car. The accident occurred on November 14, 1990. In early 1991, Tanyel brought an action against Osborne only. In early December 1992, Tanyel amended his complaint to add the bus driver as a defendant when he discovered new evidence indicating negligence by the bus driver. Tanyel alleged the statute did not begin to run until he "discovered" evidence supporting a claim of negligence against the bus driver. The Court determined the statute of

limitations on Tanyel's claim against the school bus driver began to run when Tanyel witnessed the events causing his loss, thereby putting him on notice he might have a potential claim against another person, not when he later discovered evidence to support his claim.

The only injuries the Appellant complains of are those surrounding the publication of the flyer. Although more appropriate as summary judgment, the Complaint can hardly be construed to allege the Appellant was actually damaged by anything the Respondent said in a private texting group. Those are also her only damages as shown in the Complaint as established by *Wiggins v. Edwards*, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994).

The present "utterance rule" is good policy. If the Court should modify and adopt either the "discovery of the publication" or the totally unsupported by law "discovery of the perpetrator" rules propounded by the Appellant, the result would be the same in this case because those rules would require due diligence.

III. THE REMAINING TORT CLAIMS ARE CORRECTLY BARRED BY THE THREE-YEAR STATUTE OF LIMITATIONS.

Although not argued clearly by the Appellant, it is important to note that the Appellant's remaining causes of action are governed by the three-year limitations period under S.C. Code § 15-3-530(5). Appellant appears to concede this element, but in her conclusion she states "The statute of limitations for all causes – including defamation – should from January 16, 2025", but this lack of due diligence to all the other causes of action shows her lack of due diligence as to defamation as well.

The Appellant's pleadings demonstrate that she experienced injury and emotional distress in January 2020, when thousands of flyers were mailed referencing "Cindy B.," and when friends contacted her about the allegations. By her own admission, she filed a lawsuit against A.T. Smith in December 2021 arising out of those same injuries. These facts conclusively establish that she

knew of her injury no later than January 2020 and certainly by December 2021. Therefore, the Circuit Court properly dismissed all claims as time barred.

IV. SOUTH CAROLINA DOES NOT RECOGNIZE FALSE LIGHT.

Appellant appears to have abandoned the false light claim but, in her conclusion, refers to "all causes of action." However, the Circuit Court also correctly dismissed the false light claims because South Carolina has declined to recognize false light as an actionable tort. *Brown v. Pearson*, 326 S.C. 409, 418, 483 S.E.2d 477, 481 (Ct. App. 1997) (noting that "[n]o South Carolina case recognizes this tort"). Any of the Appellant's requests that the Court of Appeals recognize false light contradicts binding precedent and should not be granted by this Court. Of course, recognition of false light would not change the outcome of this case since the Statute of Limitations for all causes of action has run in any event.

V. THE PUBLIC-DISCLOSURE CLAIM ALSO FAILS BECAUSE THE MATTER WAS OF LEGITIMATE PUBLIC CONCERN.

As an additional sustaining ground, the Appellant overlooks the fact that to establish public disclosure of private facts, the plaintiff must demonstrate that the matter disclosed was (1) private, (2) highly offensive, and (3) not of legitimate public concern. *Snakenberg v. Hartford*, 299 S.C. 164, 170-71, 383 S.E.2d 2, 6 (Ct. App. 1989). Appellant alleges that the statements at issue concerned conduct involving a candidate for sheriff during a political election. Matters relating to political candidates, law-enforcement personnel, and alleged conduct in public office fall squarely within the category of legitimate public concern. Because this element fails as a matter of law, dismissal was proper.

The tort of false light, which is recognized in other jurisdictions outside of South Carolina, is a type of action claiming an invasion of privacy. See, e.g., *Ostrzenski v. Seigel*, 177 F.3d 245, 247 (4th Cir. 1999). South Carolina recognizes three separate and distinct causes of action for invasion

of privacy: (1) wrongful appropriation of personality; (2) wrongful publicizing of private affairs; and (3) wrongful intrusion into private affairs. See *Swinton Creek Nursery v. Edisto Farm Credit*, 330 S.C. 469, 475-76, 514 S.E.2d 126, 130 (1999). "A cause of action for public disclosure lies only for disclosure of private facts which are of no legitimate public concern." *Parker v. Evening Post Publ. Co.,* 317 S.C. 236, 246, 452 S.E.2d 640, 646 (Ct. App. 1994).

Because any publication in this case involved matters of public concern, namely, whether a candidate for Greenville County Sheriff had an extramarital affair with a law enforcement co-worker, any claim of privacy would necessarily fail. Regardless, Plaintiff has not asserted all the elements necessary to support such an invasion of privacy claim. The Plaintiff has shown in her Complaint that this was a matter of public concern.

VI. DISMISSAL UNDER RULE 12(B)(6) WAS PROPER.

Appellant appears to have abandoned any objection to a dismissal at this stage of the proceeding; however, in the event Appellant raises it, a Rule 12(b)(6), SCRCP, dismissal is appropriate where the statute of limitations bar appears on the face of the pleadings. *Spence v. Spence*, 368 S.C. 106, 116-17, 628 S.E.2d 869, 874 (2006). The Amended Complaint clearly alleges that all relevant conduct occurred no later than January 2020 and acknowledges a prior lawsuit filed in December 2021 based on the same alleged injuries. Filing this action in February 2025 places every claim far outside the applicable limitation periods. The Circuit Court properly dismissed the action with prejudice.

CONCLUSION

For the foregoing reasons, Respondent Christopher Miller respectfully requests that this Court affirm the Circuit Court's July 11, 2025 Order dismissing all claims with prejudice.

Respectfully submitted,

s/ Robert C. Childs III
Robert C. Childs, III, #1218
Childs Law Firm LLC
20 Center Street
P.O. Box 1519
Travelers Rest SC 29690
(864) 242-9997
Fax (864) 242-9914
Robert@LawyerChilds.com
Attorney for Respondent

Date: 12/03/2025

Other Counsel of Record:
Doug Churdar
Attorney for Appellant