RECEIVED
Feb 06 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Jessica A. Salvini, Circuit Court Judge

Appellate Case No. 2025-001550

Bruce Wilson, ……., Appellant,

v.

Pranceton Rodrgues Williams and Ennis M. Fant, Defendants,

Of Whom Ennis M. Fant……., Respondent.

INITIAL BRIEF OF RESPONDENT

Respectfully submitted,

/s/ Austin D. Nichols
Austin D. Nichols, Esq.
J. Todd Rutherford, Esq.
RUTHERFORD LAW FIRM
1315 Blanding Street
Columbia, South Carolina 29201
Phone No.: (803) 256-3003
Fax No.: (803) 256-9698
austin@rutherford.law
todd@rutherford.law
Attorneys for Respondent

This the 6th day of February 2026.

TABLE OF AUTHORITIES

CASES

STATUTES

STATEMENT OF THE ISSUES

1. Whether the circuit court committed an error of law in granting Respondent's Motion to Dismiss.

STATEMENT OF THE CASE

This appeal arises from the Circuit Court's grant of Respondent Ennis M. Fant's ("Respondent") Motion to Dismiss. On April 24, 2025, the Circuit Court held a hearing on Respondent's Motion to Dismiss and Motion for Sanctions. On May 2, 2025, the Circuit Court issued an Order granting Respondent's Motion to Dismiss and denying Respondent's Motion for Sanctions. Appellant now appeals this decision.

STATEMENT OF THE FACTS

Appellant, Bruce Wilson ("Appellant"), commenced this lawsuit against Respondent Ennis M. Fant ("Respondent") on May 6, 2024, alleging Intentional Infliction of Emotional Distress and Civil Conspiracy. See Appellant's Summons and Complaint, Filed May 6, 2024**.** Appellant served Respondent with the Summons and Complaint on or about May 10, 2024. Pursuant to the South Carolina Rules of Civil Procedure ("SCRCP"), Rules 6 and 12, Respondent filed his Motion to Dismiss and Motion for Sanctions on June 10, 2024. On January 23, 2025, this Court issued an order granting Respondent's Motion to Dismiss and denying Respondent's Motion for Sanctions without prejudice, permitting Appellant twenty (20) days to file an Amended Complaint to address the deficiencies in the Complaint. Notably, the Court stated specifically,

> "In looking at the four corners of the complaint and viewed in light most favorable to the Plaintiff the Complaint fails to properly allege a cause of action for Intentional Infliction of Emotional Distress. The facts supporting this cause of action mostly describe the conduct of Defendant Williams. The allegations do not assert any intentional or reckless act by Defendant Fant nor any facts supporting damages other than mere bald assertions. *See Hansson v. Scalise Builders of S.C.*, 374 S.C. 352 (2007) and *Ford v. Hutson*, 276 S.C. 157 (1981). As to the Civil Conspiracy cause of action, Plaintiff merely repeats the allegations supporting the previous causes of action. In a claim for civil conspiracy, a plaintiff must allege "additional facts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the Complaint and the failure to properly plead such acts will merit the dismissal of the claim. *Hackworth v. Greywood at Hammet*, 385 S.C. 110 (Ct. App. 2009)."

See J. Gravely Order, January 22, 2025. Based on this decision, the Court allowed Plaintiff 20 days to file an Amended Complaint to address these deficiencies. See J. Gravely Order, January 22, 2025.

On February 11, 2025, Appellant filed an Amended Summons and Complaint against both defendants and alleging the following against Respondent: 1) Defamation *Per Se*, 2) Negligent Infliction of Emotional Distress, 3) Intentional Infliction of Emotional Distress, 4) Civil Conspiracy, and 5) Extortion. See Appellant Amended Summons and Complaint, Filed February 11, 2025. On February 28, 2025, Appellant filed a Second Amended Summons and Complaint, thereby voluntarily dismissing his Amended Summons and Complaint. See Appellant Second Amended Summons and Complaint, Filed February 28, 2025. Respondent timely filed a Motion to Dismiss Plaintiff's Second Amended Complaint. On March 31, 2025, the Circuit Court informed defense counsel that a hearing for Respondent's Emergency Motion for Temporary Restraining Order ("TRO") was being scheduled for April 4, 2025. Respondent and defense counsel did not receive notice or service of this motion from Appellant. Moments prior to this hearing, Defense counsel discovered that Appellant filed a vaguely titled "Notice to Clerk of Court Regarding Second Amended Complaint". See Appellant's Notice to Clerk of Court Regarding Second Amended Complaint, Filed March 31, 2025. During the hearing for the Emergency TRO, Respondent learned that Appellant then sought to withdraw his Second Amended Complaint and reinstate his Amended Complaint. On April 8, 2025, Respondent filed this Motion to Dismiss Plaintiff's Amended Complaint.

On April 24, 2025, the Circuit Court held a hearing on Respondent's Motion to Dismiss and Motion for Sanctions. On May 2, 2025, the Circuit Court issued an Order granting Respondent's Motion to Dismiss and denying Respondent's Motion for Sanctions. See J. Salvini Order, May 2, 2025. Appellant now appeals this decision.

STANDARD OF REVIEW

"Rule 12(b)(6), SCRCP, allows the court to dismiss a party's claims for failure to state facts sufficient to constitute a cause of action. The content and detail of the pleadings are viewed in light of the general pleading rules and in the to the non-moving party." *Woodell, Allen v. Marion School Dist. One,* 307 S.C. 297, 298, 414 S.E.2d 794, 794 (Ct.App.1992). "The motion must be granted if the facts and the inferences reasonably deducible from them show that the plaintiff could not prevail on any theory of the case." *Gray v. State Farm Auto Ins. Co*., 327 S.C. 646, 650–51, 491 S.E.2d 272, 274–75 (Ct. App. 1997) (citing *See Morrow Crane Co., Inc. v. T.R. Tucker Constr. Co., Inc.,* 296 S.C. 427, 429, 373 S.E.2d 701, 702 (Ct.App.1988).

"Upon review of a dismissal of an action pursuant to Rule 12(b)(6), the appellate court applies the same standard of review implemented by the trial court." *Doe v. Marion*, 361 S.C. 463, 470, 605 S.E.2d 556, 560 (Ct. App. 2004), aff'd, 373 S.C. 390, 645 S.E.2d 245 (2007). "The trial courts grant of a motion to dismiss will be sustained if the facts alleged in the complaint do not support relief under any theory of law." *Doe*, 361 S.C. 463, 469–70, 605 S.E.2d 556, 559.

ARGUMENTS

I. APPELLANT'S APPEAL FAILS BECAUSE IT IS NOT ANCHORED IN CONTROLLING SOUTH CAROLINA AUTHORITY AND MISSTATES THE PLEADING STANDARD.

At the outset, Appellant's brief suffers from a fatal defect: it does not cite a single South Carolina appellate decision holding that allegations like those pled in the Amended Summons and Complaint are sufficient to survive a SCRCP Rule 12(b)(6) Motion to Dismiss. Instead, Appellant relies on broad generalizations about "notice pleading," policy concerns, and selective transcript quotations untethered from binding precedent or legal argument. Appellant merely seeks to litigate his displeasure with the fact that the Amended Complaint is dismissed as opposed to asserting any legal error of law concerning the determination of each cause of action. Appellant now relitigates issues presented to the lower court, while also asserting new factual and procedural claims unrelated to the standard of review for a SCRCP Rule 12(b)(6) motion. Appellant repeatedly asks this Court, as well as the Circuit Court, to credit speculation, infer unpled facts, affirm conjecture, and disregard pleading defects—requests that are incompatible with Rule 12(b)(6) jurisprudence and unsupported by authority.

Appellant's central flaw is the failure to plead essential elements of each cause of action, a defect that independently requires dismissal as a matter of law. *Woodell,* 307 S.C. 297, 298. Appellant cites no South Carolina case holding that a plaintiff may survive dismissal without meeting the necessary elements of each cause of action. Here, as in the oral hearings and written memoranda on the same, Appellant wrongfully asserts that the Circuit Court required or requested proof of each element of each cause of action. Whereas, at each stage of the litigation, the lower court repeatedly informed Appellant that it did not seek proof of each cause of action, but that each cause of action must be properly pled in a manner that, viewed in a light most favorable to Appellant, the facts

alleged and inferences reasonably deducible therefrom would entitle Appellant to relief on any theory of the case.

It is important to note the procedural history of this matter. Plaintiff initially filed a Complaint, which was subsequently dismissed *without* prejudice due to factually pled deficiencies, and the Court permitted Appellant twenty (20) days to file an Amended Complaint to address the deficiencies. Appellant then filed the underlying Amended Complaint, asserting new causes of action, withdrew the Amended Complaint by virtue of filing a Second Amended Complaint, followed by Appellant affirmatively withdrawing the Second Amended Complaint and then requesting to reinstate the underlying Amended Complaint. At each stage of the pleadings, it was abundantly clear that the Court did not seek nor review any pleading for evidence to support each cause of action, but that each pleading failed to properly plead the necessary elements for each cause of action that could provide Appellant relief from any theory of law. Therefore, Appellant was afforded three (3) opportunities to correct any deficiencies in the pleadings and repeatedly failed to do so.

Here, as in the Circuit Court, Appellant has failed to properly plead any facts supporting a theory of recovery for any of the alleged causes of action. Appellant consistently seeks this Court to accept his pleaded allegations as true, while materially and intentionally disregarding the legal and procedural conclusion that even if the facts were viewed as true, such allegations do not give rise to any theory of recovery.

Appellant improperly relies on matters outside the pleadings while accusing the Circuit Court of doing the same. Appellant fails to identify any instance where the court resolved factual disputes or weighed evidence. To the contrary, the appealing order and various orders issued by the Circuit Court reflect a straightforward legal conclusion: the allegations, taken as true, do not state viable causes of action. That conclusion is expressly authorized under SCRCP Rule 12(b)(6) and is

reviewed de novo as a legal determination—not as fact-finding. Appellant's argument conflates his displeasure with the outcome as a procedural error, a distinction this Court has consistently rejected.

Moreover, Appellant accuses the Circuit Court of considering "extrinsic evidence" while ignoring that such "extrinsic evidence" is either filed and pled by Appellant as exhibits or attachments to his pleadings, or such "extrinsic evidence" is directly referenced in the Amended Complaint. Appellant's own brief is saturated with new factual assertions, characterizations, and explanations that do not appear in the pleadings, transcript, or any Order of the Court. Appellant asks this Court to infer facts never pled and credit hypothetical conjecture. This request does not amount to any legal arguments supporting a determination that the Circuit Court committed any error of law.

II. THE CIRCUIT COURT CORRECTLY APPLIED RULE 12(b)(6).

Appellant repeatedly argues that the Circuit Court imposed a heightened pleading standard. That assertion is demonstrably false. South Carolina remains a notice-pleading state, but notice pleading still requires facts—not speculation, inference stacking, or conclusory labels. *See Doe*, 373 S.C. 390. A Complaint must allege facts sufficient to support relief under any theory of law. *See Id.* at 390*, see also Flateau v. Harrelson*, 355 S.C. 197, 202, 584 S.E.2d 413, 416 (Ct. App. 2003).

Here, the Circuit Court dismissed the claims not because Appellant failed to plead ***enough*** detail, but because Appellant failed to plead the essential elements whatsoever. Appellant's attempt to reframe this failure as a pleading-standard dispute is unsupported by authority and contradicted by the Order itself. Appellant's brief repeatedly supplements the Amended Complaint with new explanations, interpretations, and factual assertions. This Court has made clear that appellate review of a Rule 12(b)(6) dismissal is confined to the pleadings themselves. *Doe*, at 463. Arguments that depend on facts not pled below are not legal arguments; they are requests to amend by briefing, which is impermissible. The Circuit Court properly evaluated only what was alleged, and the Circuit

Court properly entered orders dismissing the underlying matter.

A. APPELLANT FAILED TO STATE A CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

In order to succeed on a claim for Intentional Infliction of Emotional Distress, a Plaintiff must plead, "(1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct; (2) the conduct was so "extreme and outrageous" so as to exceed "all possible bounds of decency" and must be regarded as "atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendant caused plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was "severe" such that "no reasonable man could be expected to endure it." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007). The Circuit Court unquestionably found Appellant failed to plead any action or conduct by Respondent which intentionally or recklessly inflicted severe emotional distress, failed to plead a showing of extreme and outrageous conduct that exceeds all possible bounds of decency, and that Appellant failed to plead any supporting allegations that he suffered any severe damages attributable to Respondent.

B. APPELLANT FAILED TO STATE A CLAIM OF DEFAMATION.

"In order to prove defamation, the plaintiff must show (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." *Erickson v. Jones St. Publishers, LLC*, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006), disapproved of by *Floyd v. WBTW*, No. CIV.A. 4:06CV3120-RB, 2007 WL 4458924 (D.S.C. Dec. 17, 2007) (quoting *Fleming v. Rose*, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002)).

Appellant failed to plead any defamatory statement published by Respondent by way of libel or slander. Appellant failed to plead Responded published any statement whatsoever. Appellant, at best, accuses Respondent of directing members of the community to review a video that was publicly available

and published on co-defendant Williams' public Facebook profile, notably without pleading any supporting or evidentiary facts to lead to such a conclusion and accusation. There is no question that defendant Williams stated, posted, and published the Facebook live video in question. This video is and was readily available to anyone who looked at Williams' Facebook page. This in no way amounts to a false statement, published by Respondent, at the fault of Respondent. *See Erickson*, at 465-7. Absent these necessary elements for Defamation, Appellant's pleadings fail to meet the necessary criteria to survive a SCRCP Rule 12(b)(6) motion.

I. APPELLANT'S PUBLIC-FIGURE ARGUMENT IS LEGALLY IRRELEVANT AND UNSUPPORTED BY THE PLEADINGS

Appellant devotes substantial argument to disputing public-figure status, yet this argument is largely beside the point and irrelevant to the standard of review in this matter. First, the Circuit Court never issued a determination of Appellant's public status. Even assuming arguendo Appellant is a private figure, dismissal remains proper because the complaint fails to plead publication and falsity, elements required under any defamation standard. *Erickson* 368 S.C. at 465. Appellant seeks to apply this argument as a means to accuse the Circuit Court of expanding a legal doctrine, while ignoring that the decision of the Court was made irrespective of such doctrine. Appellant misinterprets the legal analysis and fails to recognize that the basis is to determine the level of scrutiny applied to the review of the elements, while again ignoring that the elements are deficiently pled on their face under any level of scrutiny. The Circuit Court's conclusion was grounded not in Appellant's status, but in the complete absence of a properly pled cause of action.

C. APPELLANT FAILED TO STATE A CLAIM FOR CIVIL CONSPIRACY.

The elements of civil conspiracy are: "(1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff." *Paradis v. Charleston Cty. Sch. Dist*., 433 S.C. 562, 576, 861 S.E.2d 774, 780

(2021), reh'g denied (Aug. 18, 2021). "[I]n civil conspiracy, the graveman of the tort is the damage resulting to plaintiff from an overt act done pursuant to a common design." *Hackworth v. Greywood at Hammett*, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (Ct. App. 2009).

"In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and ***the failure to properly plead such acts will merit the dismissal of the claim***." *Hackworth,* 385 at 115-116 (emphasis added); see also J. Gravely Order, January 22, 2025. The Circuit Court properly determined that Appellant failed to state a claim primarily on three grounds: (1) Appellant failed to correct the deficiencies in his claim, per this Court's instruction, and such deficiencies are cited as the remaining two grounds for dismissal of this claim; (2) Appellant failed to allege Respondent committed any unlawful act or lawful act by unlawful means; (3) Appellant failed to allege additional acts in furtherance of the conspiracy. *Hackworth,* at 115-116, see J. Salvini Order, May 2, 2025; see also J. Salvini Order, May 27, 2025; see also J. Gravely Order, January 22, 2025.

Therefore, the Circuit Court properly determined this cause of action should be dismissed because Appellant (1) did not plead the existence of any combination or agreement between Respondent and Williams; (2) he did not properly allege any unlawful act or lawful act by unlawful means; (3) he did not plead any overt act in furtherance of the conspiracy as required and ordered by Judge Gravely; and (4) he did not alleged any damages, in which any Court may grant relief. *See Id.*; see also J. Gravely Order, January 22, 2025.

D. APPELLANT FAILED TO STATE A CLAIM FOR CIVIL EXTORTION.

Just as the claims above, Appellant's argument in the dismissal of the extortion claim is an attempt to relitigate issues addressed by the Circuit Court without providing any legal authority to support his argument. The Circuit Court expressed very articulately and unambiguously the following:

> "South Carolina does not recognize a civil claim for extortion and no elements or burden of proof are established for this alleged civil cause of action. Plaintiff argues that S.C. Code Ann. § 16-9-10 allows him the ability to plead extortion; however, S.C. Code Ann. § 16-9-10 refers to the criminal penalty of perjury and subornation of perjury and does not relate to a criminal charge of "extortion." However, in viewing this claim in a light most favorable to Plaintiff, Plaintiff asserts that South Carolina defines extortion as, "the obtaining of property or other benefit from another induced by wrongful use of force, fear, or threats." Plaintiff failed to plead that Defendant Fant obtained property or benefit from another by the use of force, fear, or threats."

See J. Salvini Order, May 27, 2025.

Appellant's brief fails to address this fundamental and legal deficiency with the pleadings. Appellant now seeks relief from this deficiency, claiming he mislabeled the statute, an issue never presented or preserved prior to this Court. Further, Appellant now claims the allegations fall under S.C. Code Ann. § 16-17-640, rather than S.C. Code Ann. § 16-9-10 as he pled.[1] Again, an assertion never raised before this brief, and Appellant again failed to plead any elements of S.C. Code Ann. § 16-17-640 within the Amended Complaint. Again, Appellant intentionally ignores the legal fact that such statute is a criminal statute and fails to cite any legal authority for a civil cause of action which corresponds to S.C. Code Ann. § 16-17-640 or S.C. Code Ann. § 16-17-640.

[1] S.C. Code Ann. § 16-17-640 states, "Any person who verbally or by printing or writing or by electronic communications:

(1) accuses another of a crime or offense;
(2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or
(3) compels any person to do any act, or to refrain from doing any lawful act, against his will;

with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court."

III. APPELLANT'S RELIANCE ON THE CO-DEFENDANT'S DEFAULT IS LEGALLY BASELESS.

Appellant's most novel argument is that the default entered against co-defendant Williams operates as a factual admission binding Respondent, who timely appeared and defended. This proposition is unsupported by South Carolina authority, inconsistent with fundamental principles of civil procedure, and would violate the Respondent's procedural and substantive due process rights. No portion of SCRCP Rule 55 supports this position, nor has Appellant cited to any case law to provide the same. Pursuant to SCRCP Rule 55, default judgment constitutes an admission of well-pleaded allegations only as to the defaulting party and has no evidentiary or preclusive effect against a co-defendant who has appeared and contested liability. SCRCP Rule 55.

As a procedural matter, the Circuit Court issued an Order of Default Judgment against Defendant Williams on August 6, 2025. See J. Fant Order, August 6, 2025. This comes nearly three (3) months after the Court dismissed the underlying action against Respondent on May 27, 2025. Appellant requests this Court to determine that the Circuit Court erred as a matter of law in failing to retroactively impute factual admissions of a co-defendant, by way of default, onto Respondent, who was already dismissed from the action. There is no such legal authority that permits such a request. Even assuming arguendo that such a legal mechanism exists, it would not cure the deficiencies as it relates to the allegations against Respondent.

CONCLUSION

This appeal is not supported by controlling authority, misstates the applicable standards, and improperly attempts to cure pleading defects through appellate argument. Appellant has failed to demonstrate any error of law; the Circuit Court's Order should be **AFFIRMED**.

Respondent respectfully requests that this Court affirm the Circuit Court's Order and dismiss this matter with prejudice.

Respectfully submitted,

/s/ Austin D. Nichols

Austin D. Nichols, Esq.
J. Todd Rutherford, Esq.
RUTHERFORD LAW FIRM
1315 Blanding Street
Columbia, South Carolina 29201
Phone No.: (803) 256-3003
Fax No.: (803) 256-9698
austin@rutherford.law
todd@rutherford.law
Attorneys for Respondent

This the *6th* day of February 2026.