

STATE OF SOUTH CAROLINA

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Feb 26 2026

IN THE COURT OF APPEALS

SC Court of Appeals

Appellate Case No. 2025-001313

Scott R. Mannaetta,

Appellant,

v.

Jack Sinclair, Esq.,

Respondent.

APPELLANT'S AMENDED INITIAL BRIEF

Scott R. Mannaetta

Appellant, Pro Se

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I. STATEMENT OF THE ISSUES ON APPEAL

1. Whether the circuit court erred in granting Rule 12(b)(6) dismissal by holding, as a matter of law at the pleading stage, that court-appointed counsel owed no duty to Appellant despite well-pled facts showing foreseeable and legally cognizable harm arising from breaches of statutory duties owed to the vulnerable client.

2. Whether the circuit court erred in dismissing under S.C. Code Ann. § 15-36-100 where the complaint plausibly invoked the common-knowledge exception and Appellant expressly requested, and later supplied, a curative expert affidavit.

3. Whether the circuit court abused its discretion by denying leave to amend and cure at the earliest pleading stage, contrary to Rule 15(a) and the strong preference for merits adjudication.

II. STATEMENT OF THE CASE

This appeal arises from the dismissal of Appellant's legal-malpractice action against Respondent, court-appointed counsel for Appellant's adult son, Jake Mannelta, in a contested guardianship proceeding (Case No. 2022-GC-10-78).

The complaint alleged that Respondent ignored Jake's repeatedly expressed wishes (including involvement of his father), failed to challenge an ex parte order, failed to conduct basic discovery or present available evidence, and failed to advise on or pursue an appeal — all in violation of duties imposed by S.C. Code Ann. § 62-5-433.

Respondent moved to dismiss under Rule 12(b)(6), arguing no duty to a non-client and no expert affidavit under § 15-36-100. At the February 28, 2025 hearing, Appellant argued the common-knowledge exception applied and expressly requested leave to amend if an affidavit were required. Respondent urged a public-policy bar. The court took the matter under advisement and later issued a written dismissal order on March 27, 2025.

Appellant's timely Rule 59(e) motion, which included a compliant expert affidavit, was effectively denied. This appeal followed.

III. STANDARD OF REVIEW

De novo review applies to Rule 12(b)(6) dismissals. The court accepts all well-pled facts as true and views them in the light most favorable to the plaintiff. Dismissal is proper only if the plaintiff can prove no set of facts entitling him to relief. *McNair v. Rainsford*, 330 S.C. 332, 342, 499 S.E.2d 488, 493 (Ct. App. 1998).

Denial of amendment or reconsideration is reviewed for abuse of discretion, with a strong preference for resolving cases on their merits. *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 537, 726 S.E.2d 748 (2012).

IV. ARGUMENT

A. The Circuit Court Erred in Ruling No Duty Existed as a Matter of Law at the Pleading Stage

The circuit court held that because Respondent represented Jake — not Appellant — no duty could exist as a matter of law. That categorical ruling at the pleading stage was error.

South Carolina recognizes that an attorney's conduct can give rise to liability to a non-client when the injury is the direct and foreseeable result of the attorney's breach. *Pye v. Estate of Fox*, 369 S.C. 555, 633 S.E.2d 505 (2006); *Fabian v. Lindsay*, 410 S.C. 475, 765 S.E.2d 132 (2014).

In guardianship proceedings, court-appointed counsel has an affirmative statutory duty to represent the alleged incapacitated person's expressed wishes and to explore less restrictive alternatives. S.C. Code Ann. § 62-5-433.

The complaint alleges Respondent knowingly disregarded Jake's repeated requests to involve Appellant (his father and next-of-kin) in strategy sessions, excluded him from meetings, failed to prepare, and failed to pursue relief.

These alleged acts created foreseeable and legally cognizable harm to Appellant, including independent financial injury and the deprivation of meaningful procedural participation in the guardianship proceeding.

Whether a duty exists under these fact-specific circumstances — particularly where the statute itself contemplates advocacy aligned with the client's expressed wishes involving family participation — is a fact-intensive inquiry not suitable for categorical resolution under Rule 12(b)(6).

B. The Circuit Court Erred in Dismissing Under S.C. Code Ann. § 15-36-100

The court dismissed solely for lack of a contemporaneous expert affidavit.

At the hearing, Appellant expressly invoked the common-knowledge exception for allegations such as ignoring a client's clear instructions, failing to challenge an ex parte order, and failing to present available evidence. These allegations plausibly fall within the common-knowledge exception, under which expert testimony is not required when the alleged negligence is within ordinary understanding. *H & H of Johnston, LLC v. Old Republic Nat'l Title Ins. Co.*, 405 S.C. 469, 748 S.E.2d 72 (Ct. App. 2013).

At the pleading stage, the court was required only to determine whether the exception could plausibly apply.

Even if an affidavit were ultimately required, § 15-36-100(E) permits cure after challenge, and Rule 15(a) mandates that leave to amend "shall be freely given when justice so requires." Appellant expressly requested leave to amend and promptly supplied a compliant expert affidavit with his Rule 59(e) motion.

Dismissal with prejudice on a curable technical defect at the earliest stage of litigation was reversible error. *Grier*, 397 S.C. at 537.

C. The Circuit Court Abused Its Discretion by Denying Leave to Amend and Cure

Rule 15(a) reflects South Carolina's strong policy favoring decisions on the merits rather than procedural technicalities.

This case was dismissed at the pleading stage:

- No discovery had occurred;
- No prejudice to Respondent was demonstrated;
- Appellant sought amendment;
- A curative affidavit was promptly supplied.

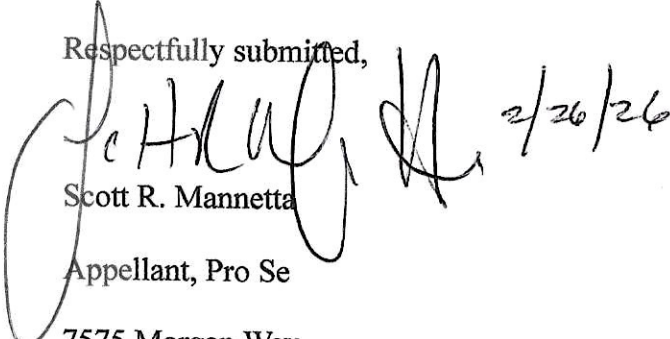
The refusal to allow amendment elevated form over substance and constituted an abuse of discretion.

V. CONCLUSION

The circuit court erred in dismissing this action at the pleading stage based on a categorical duty ruling and a curable affidavit defect, and further abused its discretion by denying leave to amend.

For these reasons, Appellant respectfully requests that this Court reverse the dismissal and remand for proceedings on the merits.

Respectfully submitted,

 2/26/26
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February 26th, 2026

CERTIFICATE OF SERVICE

I certify that on Feb. 26th, 2026, I served a copy of the foregoing Amended Initial Brief upon:

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