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May 08 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Daniel Coble, Circuit Court Judge

Appellate Case No. 2026-000736

Kenneth B. Loveless,Appellant,
v.

Kevin Scully, Edward K. White, Flora E. “Beth” Hutchison,
Michael Montgomery and Beatrice Dennis-White Respondents.

**REPLY TO RETURN TO
MOTION FOR PARTIAL REMAND**

Appellant Kenneth B. Loveless (“Loveless”) submits this reply to return to a partial remand on the appeal against Respondent Kevin Scully.

In response to Loveless’ Second Amended Complaint, Respondent Scully filed a Motion to Dismiss or Strike Second Amended Complaint on September 8, 2025, which was heard on February 3, 2026. Pursuant to order dated February 25, 2026, the trial court partially granted Scully’s motion, dismissing the civil conspiracy claim and leaving Loveless’ claims for defamation and intentional infliction of emotional distress intact. Scully did not file a Motion to Reconsider the order, nor did he file a Notice of Appeal, thus waiving his ability to challenge the surviving causes of action on appeal, meaning that no matter the outcome of the pending appeal, the remaining causes of action will be remanded to the Circuit Court. Assuming the Circuit Court grants the Motion for Supplemental Complaint, that issue would remain with the Circuit Court and presumably held in abeyance until the appeal is resolved and the remaining claim is remanded

back to the Circuit Court for trial following disposition of the appeal. At that point, Loveless could amend the Complaint consistent with the motion.

Scully argues that Loveless could have included the most recent defamation by Scully in his Second Amended Complaint, which is absolutely untrue. The order allowing the Second Amended Complaint was not an invitation from the circuit court to add anything Loveless thought might be relevant. Indeed, Loveless was required to ask permission to file the supplemental complaint, and has not been given such permission. Rule 15(d), SCRCP.

Similarly, the reference of the motion missing on the roster at the commencement the hearing for the orders that are on appeal did not involve any ruling by the Court. Loveless merely confirmed for the record that the motion for supplemental complaint had not been scheduled for hearing. That was a fact, not a request. The assertion that Loveless should have filed a motion for reconsideration is specious.

However, if the Circuit Court denies the Motion for Supplemental Complaint, then the resulting order can be joined with the other orders arising from the February 3, 2026, hearing that are subject to the pending appeal, as would have been the case had the Motion for Supplemental Complaint been heard on that date. The only reason that the Motion was not heard on that date was due to the failure of the clerk's office to schedule it with the other pending motions. Loveless' counsel addressed this error with the trial court; however, the trial court did not hear the motion.

The instant appeal is in the initial briefing phase with the transcript having been received on May 1, 2026, thus a partial remand at this stage in the proceedings would be the most practical and efficient way to accomplish Loveless' request with minimal delay in the pending appeal. Additionally, Scully would not be prejudiced by a partial remand on this single issue since Scully has had notice of the motion since it was filed on May 19, 2025, and he would have the opportunity

to respond and present argument should this Court grant Loveless’s request for a limited remand to allow the motion to be heard.

Lastly, Scully asserts in Paragraph 5 of his return that Loveless “does not seek a hearing below on a dispositive motion so that review of that ruling may be consolidated with that of the pending appeals.” (Return, page 2). That is precisely what Loveless is asking for.

To address Scully’s assertion that the motion doesn’t make “good sense,” Loveless can only respond that again, Loveless is trying to avoid delay. That avoids the potential for the motion to be denied after future remand from the Court of Appeals, which would result in another appeal being taken up at that time because such an order of denial would be a final order as to the supplementation of the complaint. S.C. Code §14-3-330. Scully’s assertion would possibly result in two separate appeals rather than a single appeal, which doesn’t make good sense.

Respectfully submitted,

s/ Desa Ballard

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PROOF OF SERVICE

I, Beth Cogan, an employee with Ballard & Watson, do hereby certify that on May 8, 2026, I served a copy of the **Reply to Return to Motion for Partial Remand**, in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

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May 8, 2026



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Via Email (ctappfilings@sccourts.org)
The Honorable Jenny Abbot Kitchings
Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

Re: *Kenneth B. Loveless v. Kevin Scully, et. al.*
Case No.: 2026-000736

Dear Ms. Kitchings:

Enclosed for filing, please find a Reply to Return to Motion for Partial Remand and Proof of Service for the above-referenced matter. By copy of this letter and as evidenced by the Proof of Service, this filing has been served upon counsel for the Respondent. If you have any questions, please do not hesitate to contact our office. With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

Enclosures

cc: Via Email
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Ken Loveless