

**RECEIVED**

**Aug 20 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.

---

**INITIAL REPLY BRIEF AS TO  
RESPONDENT BEATRICE DENNIS-WHITE**

---

Desa Ballard (S.C. Bar No. 498)  
Haley Hubbard (S.C. Bar No. 103195)  
LAW OFFICES OF DESA BALLARD  
226 State Street  
West Columbia, South Carolina 29169  
Telephone 803.796.9299  
Facsimile 803.796.1066  
desab@desaballard.com  
haley@desaballard.com  
ATTORNEYS FOR APPELLANT

## **TABLE OF CONTENTS**

|                                                                                                                                                                                                                                                |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| Table of Authorities .....                                                                                                                                                                                                                     | ii |
| Argument .....                                                                                                                                                                                                                                 | 1  |
| 1. THE TRIAL COURT ERRED IN GRANTING A MOTION TO DISMISS<br>THAT HAD NOT BEEN FILED BY RESPONDENT DENNIS-WHITE.....                                                                                                                            | 1  |
| 2. THE TRIAL COURT ERRED IN DISMISSING RESPONDENT DENNIS-<br>WHITE BASED UPON SCRCP 12(b)(6) BECAUSE OF THE STATUTE<br>OF LIMITATIONS ISSUES ABOUT THE DISCOVERY RULE AND<br>CONCEALMENT REQUIRES DISCOVERY INTO THOSE FACTUAL<br>ISSUES ..... | 3  |
| Conclusion .....                                                                                                                                                                                                                               | 6  |

## **TABLE OF AUTHORITIES**

### **CASES**

|                                                                                                |   |
|------------------------------------------------------------------------------------------------|---|
| <i>Camp v. Camp</i> ,<br>386 S.C. 571, 689 SE.2d 634 (2010). .....                             | 2 |
| <i>Grillo v. Speedrite Products, Inc.</i> ,<br>340 S.C. 498, 532 S.E.2d 1 (Ct. App. 2000)..... | 5 |
| <i>Maher v. Tietex Corp</i> ,<br>331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998).....   | 6 |
| <i>True v. Monteith</i> ,<br>327 S.C. 116, 119, 489 S.E.2d 615, 616 (1997) .....               | 5 |

### **OTHER AUTHORITIES**

|                            |   |
|----------------------------|---|
| Rule 7(b), SCRCF .....     | 2 |
| Rule 12(b)(6), SCRCF ..... | 3 |
| Rule 59(e), SCRCF .....    | 4 |

## ARGUMENT

In Reply as to the brief submitted by Respondent Beatrice Dennis-White (“Dennis-White”), Appellant Kenneth Loveless (“Loveless”) makes only the following points.

**I. The trial court erred in granting a motion to dismiss that had not been filed by Respondent Dennis-White.**

The court’s order of February 25, 2026, purports to grant Dennis-White’s “Motion to Dismiss” on the basis that the statute of limitations period had already expired. However, it is undisputed that Dennis-White had made no motion to dismiss on limitations grounds,<sup>1</sup> and no such motion was pending before Judge Coble. Judge Coble granted a motion that had not been made, and in doing so conflicted with Judge McCutchen’s order, and on that ground alone should be reversed.

In her brief, Dennis-White does not dispute that she had no pending motion to dismiss before Judge Coble, and she argues for the first time to her “intervention filings and her Answer” as having raised a statute of limitations defense. (Dennis-White RIB, pp. 9-10). She argues that the issue was “fully argued” before Judge Coble (*Id.*). Dennis-White, in other words, contends that the circuit court was authorized to grant a motion to dismiss that had not been properly made.

This is not a mere misnomer by the trial court; nor is it semantics or a technicality. It matters that the court has erred as a matter of law, and that the error prejudices Loveless.

---

<sup>1</sup> Dennis-White had opposed on statute of limitations grounds Loveless’s motion for leave to file the Second Amended complaint, which led to Judge McCutchen’s 2025 order that the issue was premature. Dennis-White filed no motion to dismiss the Second-Amended Complaint on statute of limitations grounds, as the record reflects and as Dennis-White reluctantly admits.

In *Camp v. Camp*, 386 S.C. 571, 575, 689 S.E.2d 634, 636 (2010), the Supreme Court set out the proper consideration for the court when a party tries to argue a ground that had not been properly presented by a written motion, as required by SCRCP 7(b).

[W]hen a motion is challenged for a lack of particularity, the court should ask “whether any party is prejudiced by a lack of particularity or ‘whether the court can comprehend the basis for the motion and deal with it fairly.’ ” “The particularity requirement should not be applied in an overly technical fashion when the purpose behind the rule is not jeopardized.”

*Id.* (footnotes and citations omitted). This Judge Coble did not do, and the prejudice analysis, properly done, has to include the conflicting 2025 order issued by Judge McCutchen.

Judge McCutchen had already denied Dennis-White's (and other parties') statute of limitations defenses, and Judge McCutchen ruled that discovery was needed to properly assess the statute of limitations issues:

it would be premature for the Court to make a determination on when each cause of action arose, when each cause of action was or could be discovered, by Plaintiff . . . . Defendants are free to assert their claims and defenses in their respective pleadings; *once discovery on all those issues have been conducted*, Defendants can bring those issues before the Court at that time.

July 25, 2025 order of Judge McCutchen at p. 9 (emphasis added).

Discovery on the Second Amended Complaint did not occur. As counsel for Loveless explained to Judge Coble in the February 3, 2026 hearing, there had been “no factual information that [the defendants] put in this record.” (Tr, p. 51, line 11-14). Judge Coble’s order as to Dennis-White conflicts with Judge McCutchen’s order, and Judge Coble has prejudiced Mr. Loveless, depriving him of the right to have a full factual record on which to address the discovery rule and

concealment issues, as discussed *infra*, that apply to the limitations issues as to Dennis-White and other parties.

By contrast, there is no prejudice to Dennis-White. She can raise her defenses once she properly pleads them,<sup>2</sup> and once discovery fully fleshes out the information that bears on how the statute of limitations applies to her. The Court at that time can address her defense (properly, at a summary judgment motion), and the court will have the benefit of a full factual record on which to assess limitations issues when the various efforts by Defendants to evade producing information in discovery to date can be fully assessed. If there are factual questions as to the statute of limitations defense, the issue will become one for the jury.

**II. The trial court erred in dismissing Respondent Dennis-White based upon SCRCP 12(b)(6) because the statute of limitations issues about the discovery rule and concealment requires discovery into those factual issues**

As noted above and as correctly discussed in Loveless' initial appellant's brief, this appeal as to Respondent Dennis-White is not merely a matter of pleading and motion practice, or even about conflict with Judge McCutchen's prior order. Those issues are correctly set forth above and in Appellant's initial brief as to Respondent Dennis-White, and mandate reversal of Judge Coble's order dismissing Dennis-White on a statute of limitations ground.<sup>3</sup> While her brief at pp 9 – 11

---

<sup>2</sup> It is undisputed that Dennis-White's Answer was directed at the wrong pleading, and she has asked that it be stricken. But after remand, Dennis-White will be entitled to file a responsive pleading to the Second Amended Complaint. So far, Dennis-White has filed nothing subsequent to the denial of her motion for reconsideration.

<sup>3</sup> In her brief, Dennis-White acknowledges that Judge McCutchen considered the limitations issue "premature" until "discovery on all those issues have been conducted," but contends, without authority, that his order had no significance because it was "a different question at a different procedural stage," that "did not rule on the merits." (Dennis-White RIB, p. 14). Not ruling on the merits before discovery is completed is *exactly the point* as to why Judge Coble's order conflicts with Judge McCutchen's order: the facts matter as to the discovery rule. The issue was premature before Judge McCutchen and, without discovery eliciting the concealment issues stated in the Second Amended Complaint, remained premature before Judge Coble as well. It is not only that Judge Coble's order conflicts with Judge

substantially overstates the record Dennis-White created in the Circuit Court by opposing the appellant's motion to amend,<sup>4</sup> those nuances are not solely what determine the statute of limitations issue as to Respondent Dennis-White.

More to the point is that her brief concedes (at p. 13) that “the discovery rule is the operative standard,” and (at p. 2), that the Second Amended Complaint concerns information published by Dennis-White “on social media” between 2020 and 2022 (Dennis-White RIB, p. 7). The Second Amended Complaint alleges that damaging activities by Dennis-White continued into 2023. (Second Amended Complaint, ¶ 77). Of most significance, as paragraphs 63 and 100 of the Second Amended Complaint articulate, it was only in November of 2024, when defendant Scully produced the “dozens of emails” (¶ 100) that Dennis-White's participation was first disclosed.

Judge Coble's order refers to the discovery rule but fails to consider the allegations about how Dennis-White's role was discovered. (Order at pp. 3-4). Judge Coble's order considers only what *eventually* became known about Dennis-White (Order at 4, referring to ¶¶ 20-38), not the concealment which preceded it (Second Amended Complaint ¶¶ 63, 100). And no discovery had occurred, as Judge McCutchen ordered.

---

McCutchen's order. It is that Judge Coble incorrectly assessed facts without permitting the proper factual record to be developed.

<sup>4</sup> The appellant's initial brief parses accurately the nuances of the Dennis-White pleading issues. No motion to dismiss was filed as to the Second Amended complaint; the opposition to the motion to amend stated, at p. 2, that “for this reason alone,” meaning because their Rule 59(e) motion was still pending, the “Second Amended Complaint should as to [Dennis-White and others] be dismissed. The Answer she submitted was filed in response to the wrong pleading, which is why in her supplemental filing of October 10, 2025, she asked that her Answer be stricken. Interestingly, Dennis-White now argues that her now-stricken answer be considered to affirm a clearly erroneous order.

For the first time, in November 2024, *despite Dennis-White's concealment*, Loveless learned from Scully that that Dennis-White was a part of the conspiracy from the beginning. Paragraph 63 of the Second Amended Complaint alleges that Dennis-White has “refused to produce her emails.”<sup>5</sup> That allegation and the allegation in ¶ 100 of the Second Amended Complaint as to Scully’s own concealment and delayed production of his own emails, raise factual issues of concealment that bear on the statute of limitations issues. E.g., *True v. Monteith*, 327 S.C. 116, 119, 489 S.E.2d 615, 616 (1997) (claim permitted 19 years after client discovered attorney had concealed his conflict of interest); *Grillo v. Speedrite Products, Inc.*, 340 S.C. 498, 532 S.E.2d 1 (Ct. App. 2000) (summary judgment improper when facts were in dispute about when injury accrued). As Judge McCutchen clearly ordered, discovery into those issues is required before they can be properly assessed.<sup>6</sup>

Judge Coble’s error is not only that he failed to see what was apparent to Judge McCutchen, or that he issued an order that conflicted with Judge McCutchen’s order. Judge Coble also failed to apply the proper standard of review of the Second Amended Complaint as to the discovery rule issues: he failed to accept the allegations of the Second Amended Complaint as true, and to view those allegations favorably to Loveless.

---

<sup>5</sup> This history was explained to Judge Coble in the hearing, (Tr., p. 50, line 2-10), but the factual allegations of the Second Amended Complaint, which must be accepted as true, require that the parameters of the discovery rule allegations be permitted full discovery.

<sup>6</sup> Dennis-White’s involvement is detailed in the Second Amended Complaint in, e.g., paragraphs 14, 22, 28, 29, 33, 37-41, 48, 51, 52, 59, 61, 63, 73, 86, 88 and 100. Every statement has to be considered as true at a Motion to Dismiss hearing (had there even been a Motion to Dismiss filed).

In short, when the discovery rule applies, it requires a more searching factual inquiry into when Loveless “should have known” the role of Dennis-White in the elaborate conspiracy to damage Loveless. Neither Judge Coble’s order nor any of Dennis-White’s arguments confront those concealment issues. Accepting as true the facts of concealment set forth in the Second Amended Complaint, a factual record must be developed before a court can properly assess whether Loveless could reasonably have discovered Dennis-White’s involvement. The order of dismissal by Judge Coble should be reversed because he erred in failing to view the accept the allegations of the Second Amended Complaint as true and further as to the concealment by Scully and Dennis-White (which have to be accepted as true) of evidence demonstrating Dennis-White’s involvement.

Those concealment issues were appreciated by Judge McCutchen, when he approved amending the complaint and rejected as premature the statute of limitations issues. Judge Coble’s error is not solely his failing to appreciate what was apparent to Judge McCutchen. When the discovery rule is involved, facts must be assessed, and only after a factual record is developed can the discovery rule be properly assessed. When those facts are in dispute, “[t]he jury must resolve conflicting evidence as to whether a claimant knew or should have known he had a cause of action.” *Maier v. Tietex Corp.*, 331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998).

## **CONCLUSION**

For the reasons set forth above and more fully in the Initial Brief of Appellant, Appellant Loveless respectfully requests an Order from this Court reversing Judge Coble’s order of dismissal as to Dennis-White.

Respectfully submitted,

s/ Desa Ballard

Desa Ballard (SC Bar No. 498)

Haley Hubbard (SC Bar No. 103195)

**Law Offices of Desa Ballard**

226 State Street

West Columbia, South Carolina 29169

Telephone 803.796.9299

Facsimile 803.796.1066

[desab@desaballard.com](mailto:desab@desaballard.com)

[haley@desaballard.com](mailto:haley@desaballard.com)

ATTORNEYS FOR APPELLANT

August 20, 2026