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Oct 20 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL¹ FROM HORRY COUNTY

Appellate Case No. 2026-002242

Carla Ericson,.....Petitioner,

v.

Stuart M. AxelrodRespondent.

**RETURN TO
MOTION TO SUPPRESS
ELECTRONIC COMMUNICATIONS**

Respondent Stuart M. Axelrod (“Axelrod”) submits this Return opposing Carla Ericson’s October 9, 2026 Motion to Suppress Electronic Communications filed with this Court and requests that the Motion be dismissed/denied as factually and legally insufficient to invoke the authority of this Court.

The Motion confuses this Court’s limited statutory suppression function as “reviewing authority” with adjudication of a civil action pending at the circuit court. The action pending below, Case No. 2000026-CP-26-07328, does not rely upon the content of any alleged intercepted communications. Section 17-30-110 authorizes intervention of this court when alleged intercepted communications and evidence therefrom will be introduced/proffered in the action which prompted the petition to this Court. It does not authorize extraordinary relief from this Court

¹ This not an appeal. While not altogether clear, this appears to be an independent action filed with the Court of Appeals pursuant to S.C. Code § 17-30-110(A), but it does not state a factual basis for invoking the authority of this Court under the statute.

simply because the moving party alleges some electronic communication of hers might have been intercepted by someone. Perhaps Ericson and her counsel have not examined the allegations of the complaint (they have not yet responded to them), but the complaint expressly does not refer to or anticipate the use of any intercepted communications, not even the content of the interceptions made by Ericson herself. The petition to this court does not identify any allegedly intercepted communications nor the content thereof, nor does it provide a factual basis for even reckless speculation on that point. It certainly does not allege that Axelrod is the perpetrator of any interception.

Instead, this Motion is a preemptive move by Ericson and her counsel to prevent inquiry into the legitimate questions presented to the trial court. Ericson and her counsel make baseless accusations that someone apparently printed copies of something from Ericson's iPhone/iPad at some point in time that is not identified.² There is no accusation Axelrod intercepted anything nor do the allegations of the petition suggest otherwise.³ The complaint below seeks relief from Ericson from her own illegal interception of Axelrod's electronic communications and unlawful secret audio recordings, **not** the content of any of it. Ericson has already admitted the interceptions under oath. Relatively little proof is actually required, and none of it involves the intercepted content itself. The complaint below certainly does not rely on facts that would have come from interception of Ericson's electronic communications.

² While the Motion appears to include what purports to be a "verification" of Ericson, the "verification" affirms the content of Ericson's "responses" instead of her allegations. Moreover, the "verification" is not notarized and cannot constitute a verification of the general allegation of the Motion that someone apparently copied screen shots from Ericson's iPhone/iPad at some point in the unspecified past. Since Ericson and Axelrod have been involved in litigation in Family Court in a separate matter since December, 2025, the unverified allegations of the motion to this court are nothing more than hearsay and certainly not proof of anything.

³ Apparently, Ericson and her counsel want this Court to make a gigantic leap of logic that the alleged offender must be Axelrod, although she offers no proof to that effect.

Ericson and her counsel have not stated any factual basis for any relief from this Court.

II. Section 17-30-110 defines the issue before this Court

S.C. Code § 17-30-110(A) does not provide a ground for suppression merely because a litigant alleges a privacy violation, unauthorized computer access, a disputed ownership interest in a device, or a cause of action under another statute by someone at some time might have occurred. This Court's extraordinary intervention can be invoked only when there is definitive evidence that unlawfully intercepted electronic communications are the **proof** that will be introduced below. Only then is the extraordinary relief of the statute available to the complaining party.

The definitions that accompany the statute reinforce that limitation. An interception requires acquisition of the contents of a wire, electronic, or oral communication through an electronic, mechanical, or other device. § 17-30-15(3). An aggrieved person is a party to an intercepted communication or a person against whom the interception was directed. § 17-30-15(10). Thus, the Motion must connect Ericson's requested relief to a specific interception and to her status as an aggrieved person with respect to that interception. Her status as a defendant in Axelrod's civil action supplies neither connection by itself. Moreover, the allegations of the underlying action make no claim that requires introduction of the content of any illegal interceptions, certainly not any that belong to Ericson. If Ericson, her counsel and this Court looks closely, the trial court action does not allege the content or use of the content Ericson has unlawfully intercepted from Axelrod. The interceptions have been admitted by Ericson; the content is irrelevant.

Section 17-30-65(A) anticipates this court's intervention only when the use of intercepted contents or derivative evidence whose disclosure would violate Chapter 30. Neither that section

nor § 17-30-110 creates a general suppression remedy for every allegedly improper acquisition or use of digital information. The Court should require the statutory connection before considering the requested exclusion, sealing, discovery, or stay.

II. Reciting Axelrod's causes of action does not establish a basis to suppress Ericson's communications

A substantial portion of the Motion recites the claims Axelrod has brought against Ericson and describes the related action against Ruth Le May. Motion at PDF pp. 1–5; Exs. A, C. Those claims concern alleged wrongdoing by Ericson and Le May against Axelrod. Nowhere do the allegations of the lower court matter even suggest Axelrod intercepted a communication to which Ericson was a party or against which the alleged interception was directed. Neither does Ericson's motion make that allegation, unless unsubstantiated inferences are all that is required for this Court to intervene.

The Complaint below alleges that Ericson and Le May concealed a voice-activated recorder in Axelrod's bedroom, recorded his private conversations without his knowledge or consent, and obtained his email communications. Complaint ¶¶ 5–18, 24–28. Ericson admitted these allegations under oath, as set forth in the complaint below. Reference to them as the basis of the action below does not reverse the identity of the alleged victim or transform Ericson into an aggrieved person as to a separate, unidentified interception of her own communications. If Ericson's defense to the claims below is going to be "it was fine for me to illegally intercept Axelrod's electronic communications because someone else at some point might have illegally intercepted some of my electronic communications," she should make that allegation as a defense in the action below.

The motion's discussion of the Stored Communications Act, the Computer Fraud and Abuse Act, damages, and the other civil claims does not answer the question presented by § 17-30-110. Whether a pleading states a claim, whether a party can prove its elements, and what damages or other relief may ultimately be available are merits questions for the court in which the action is pending. This suppression proceeding does cannot transfer those questions to this Court.

The proper distinction turns on the evidence and its source, not simply on the title of a cause of action. Evidence offered to prove a non-interception claim could fall within § 17-30-110 if it were derived from an unlawful interception. Conversely, a claim invoking Chapter 30 does not make every document in the case a proper subject of suppression. Materials bearing no demonstrated relationship to an interception or its fruits are irrelevant to statutory determination and should be disregarded for that purpose.

Accordingly, the Court should decline the Motion's invitation to examine the parties' broader disputes as if § 17-30-110 authorized review of the entire civil litigation. The defect is substantive: the Motion substitutes a recital of causes of action and collateral litigation for the required showing concerning intercepted communications.

III. The iPhone/iPad and screenshot allegations do not establish the required interception

Axelrod recognizes that the Motion also contains allegations concerning an iPad allegedly synchronized with Ericson's iPhone, the removal of that iPad from an office, and an envelope containing screenshots or text messages but none of the allegations tie that to Axelrod. Motion at PDF pp. 5–6. Those allegations require analysis under the statutory definition of interception; they cannot simply be assumed to satisfy it because the information is electronic or private.

The Motion alleges that the iPad reflected information on Ericson's iPhone and that screenshots were found in a vehicle. It does not adequately identify when or how anyone allegedly acquired the contents of a particular communication in a manner constituting an interception under Chapter 30. Alleged possession of a device, later access to information residing on it, and possession of screenshots do not, without the necessary factual connection, establish any ground for suppression.

The Court need not adjudicate every disputed assertion about ownership, authorization, employment, or possession to resolve the threshold deficiency in Ericson's Motion. Even accepting those disputes as disputes, Ericson must establish an interception within the Act and connect the particular material she seeks to exclude to that interception. Describing conduct as an interception, on information and belief, does not supply the missing factual connection, none of which is alleged to have been done by Axelrod.

If the Court concludes further factual development is necessary, Axelrod requests that Ericson be required to specify how the alleged interceptions occurred, and how does she know they exist? She must be required to identify the alleged communications, the alleged means and circumstances of acquisition, Ericson's status as an aggrieved person, and the relationship of particular evidence to the alleged interception. The Motion supplies no basis for using that inquiry to adjudicate the entire merits of either civil action.

IV. The prior suppression proceeding does not establish Ericson's present claim

The September 1, 2026 Order attached as Exhibit E concerns Axelrod's motion in Appellate Case No. 2026-001137. The Order states that additional discovery was required before that motion could be decided and directs the family court to supervise discovery and report proposed findings concerning Ericson's alleged conduct. Motion, Ex. E, PDF pp. 105–106. It is

focuses solely on Ericson's interception of Axelrod's electronic communications, not the other way around.

That Order therefore cannot supply the factual predicate missing from this Motion. Related litigation may explain the procedural background, but it does not establish a distinct interception of Ericson's communications. Axelrod requests that the Court decide the present Motion on its own statutory and factual basis without reference to the prior proceedings at this Court in Appellate Case No. 2026-001137.

V. Section 17-30-110 does not impose the blanket stay requested

Ericson requests a stay of any trial-court action and ultimately of both *Axelrod v. Ericson*, No. 2026-CP-26-07328, and *Axelrod v. Le May*, No. 2026-CP-26-05684. Motion at PDF pp. 7–8. Section 17-30-110(A), however, the statutory automatic stay applies only when there is some threatened use of some wrongfully intercepted communications that are the subject of the suppression motion. Statutory language ties the stay to use of the particular communications at issue; it does not state that filing a suppression motion automatically stays all activity in every related case.

A blanket stay would extend the statute beyond its terms and permit allegations about unspecified communications to halt the adjudication of independent claims and matters that require no use of those communications. The Court should deny that request. To the extent any stay applies while this Motion is pending, Axelrod requests clarification that its reach is limited to proceedings requiring use of the particular communications properly at issue, subject to any separate order governing the other suppression proceeding.

Ericson's generalized requests to segregate and seal material, bar access to it, compel disclosure of records, and award fees likewise require an identified factual and legal basis. The Court may protect particular material or direct evidence necessary to decide a genuine suppression issue under § 17-30-110(A). It should not grant sweeping relief encompassing unrelated evidence or proceedings merely because Ericson invokes that section. Her request for fees should be denied because the Motion has not established an entitlement to that relief.

CONCLUSION

For these reasons, Axelrod requests that the Court deny Ericson's Motion to Suppress Electronic Communications; disregard material unrelated to an alleged interception of which Ericson is an aggrieved person or to evidence derived from such an interception; deny the requested blanket stay of both civil actions and the unsupported requests for sealing, exclusion, disclosure, and fees; and permit the underlying courts to address matters outside the limited statutory suppression inquiry, subject to any otherwise applicable orders. Alternatively, any further factual inquiry and interim relief should be narrowly confined to the specific communications and acquisition actually placed in issue under Chapter 30.

Respectfully submitted,

s/Desa Ballard
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ATTORNEYS FOR RESPONDENT

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM HORRY COUNTY

Appellate Case No. 2026-002242

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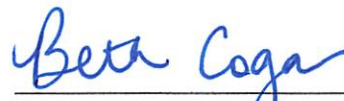
v.

Stuart M. Axelrod Respondent.

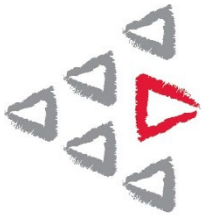
PROOF OF SERVICE

I, Beth Cogan, an employee with the Law Offices of Desa Ballard, do hereby certify that on October 20, 2026, I served a copy of the **Return to Motion to Suppress Electronic Communications**, 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:

William B. von Herrmann, Esquire
von Herrmann Law Firm
bvhlaw00@gmail.com


Beth Cogan, Paralegal

October 20, 2026



Law Offices of Desa Ballard

PERSISTENT. UNWAVERING.

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October 20, 2026

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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Oct 20 2026

SC Court of Appeals

Re: *Carla Ericson v. Stuart M. Axelrod*
Appellate Case No.: 2026-002242

Dear Ms. Kitchings:

Enclosed for filing, please find a Return to Motion to Suppress Electronic Communications 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,

desab@desaballard.com

Enclosures

cc: Via Email
William B. von Herrmann, Esquire
Steve Abrams, Esquire
Stuart Axelrod, Esquire