

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.

**MOTION TO SUPPLEMENT THE
RECORD ON APPEAL**

Appellant Kenneth B. Loveless (“Loveless”) moves the South Carolina Court of Appeals to supplement the Record on Appeal in this matter for the sole purpose of showing that dismissal of the conspiracy claims against Respondent Flora E. “Beth” Hutchinson was premature because no discovery had been conducted. Discovery obtained since the rulings on appeal shows that many of the conspiratorial acts of were not taken in her capacity as a public official and therefore are not protected by “legislative privilege.” In addition, that evidence also shows that Hutchison has admitted her conspiratorial acts continued well into 2023, which makes dismissal of the action, which is the subject of this appeal, which dismissal was also on statute of limitations grounds, clearly erroneous. The trial court’s findings on both these issues are contradicted by this evidence. This evidence establishes that the dismissal of the claim that is the subject of this appeal was clearly erroneous in that discovery was not permitted to occur.

RECEIVED
Oct 28 2026
SC Court of Appeals

This motion does not ask the Court to decide the merits of the appeal. Supplementation is sought solely to show that the trial court's disposition of the entire case at a Motion to Dismiss stage rested on factual statements that are untrue, both as to legislative immunity and as to the statute of limitations.

Loveless expressly reserves all issues raised and briefed in this appeal, including his argument that no operative motion to dismiss was pending for several respondents (White, Hutchison and Montgomery). Loveless submits this supplement only to show that trial court's findings disregarded the allegations of the complaint, which the evidence now obtained establishes.

The trial court's ruling also disregarded Judge McCutchen's prior order, which required discovery before these precise preliminary issues could be decided and it contained factual statements that are now shown to be demonstrably false.

RULINGS NOW DISPUTED BY SWORN TESTIMONY

The trial court ruled that all of Respondent Hutchison's acts¹ were protected by legislative immunity and barred by the statute of limitations, using an arbitrary cutoff date of September 14, 2020. (Order dated Feb. 17, 2026, pp. 4-5). The Second Amended Complaint alleged otherwise, and the trial court did not address those allegations. Setting aside the error in granting a non-existent motion to dismiss, the trial court also ignored the well-pleaded allegations of fact in order to make its ruling.

¹ The specific acts alleged in the Second Amended Complaint against Hutchison that occurred after she was no longer holding public office (and therefore could not have been protected by legislative immunity) were alleged in Paragraphs 15, 17, 22 fn. 5, 33, 58, 59, 60, 61, 62, 64, 66, 68 fn. 7, 70, 72, 73, 76, 77, 78, 79, 108, 111 and 112 of the Second Amended Complaint dated August 8, 2025. See Initial Appellant's Brief as to Respondents Edward K. White and Flora E. "Beth" Hutchison filed July 1, 2026 at Issue Three, pp. 13-21.

Hutchison was deposed on September 9, 2026 in a related case² and was shown exhibits and questioned about her continued participation in the civil conspiracy against Loveless after she left public office in 2020. She also admitted that she wrote and distributed a press release defaming Loveless solely in her personal capacity, not her official one. Legislative immunity therefore did not protect all of the acts Hutchison performed while in office, and her conspiratorial acts continued well after she left public office, which defeats the trial court’s statute of limitations ruling. The summary dismissal of the Second Amended Complaint was reckless error.

Allegation in Second Amended Complaint ³	Hutchison Deposition Sept. 9, 2026
<p>“ . . . Hutchison worked together to create a press release. . . about Loveless. . .” ¶58, 58, 60, 61, 62</p> <p>“ . . . press release authorized by . . . Hutchison was a substantial and motivating event in the continuing conspiracy. . .” ¶ 111</p> <p>“ . . . press release . . . falsely accused and propagated the vicious lie that Loveless. . . published by . . . Hutchison. . .” ¶ 112</p>	<p>Q, “After the September 14, 2020 board meeting, did you author a press release. . . regarding events that had occurred at the school board meeting. . .”</p> <p>A. I did . . . (P. 126, lines 4-8). . . I drafted it. (P. 140, line 14). . . I shared it with Mr. White and Mr. Scully. . . (P. 140, line 17).</p> <p>Q. Did you ever finalize the press release?. . .</p> <p>A. . . . I think I sent it to Bristow Marchant at the State. (P. 141, lines 6-9).</p> <p>Q. . . . when you say the State, you mean the State newspaper?</p> <p>A. Yes. (P. 141, lines 6-13).</p> <p>Q. When you wrote the press release and sent it to Bristow Marchant, were you acting in your capacity as a board member or were you acting in your individual capacity?</p> <p>A. I was acting as – in my individual capacity. (P. 142, line 24 – p. 143 line 4).</p>

² *Kenneth B. Loveless v. Leslie Stiles*, Case No. 2022-CP-40-01364. The *Stiles* case was also dismissed at a preliminary stage by Retired Chief Justice Toal, but Loveless appealed and the Court of Appeals reversed the dismissal of the *Stiles* case in part. *Loveless v. Stiles*, Unpublished Opinion No. 2025-UP-218 (July 2, 2025). The *Stiles* case is now on remand to the circuit court, which is where Hutchison’s deposition was taken.

³ Second Amended Complaint filed August 8, 2025.

<p>“ In 2022. . . Hutchison . . . directed Scully on how to proceed. . . in furtherance of the conspiracy against Loveless.” ¶ 73</p> <p>“Hutchison texted Scully on February 27, 2023 . . . [t]his is an embarrassment by . . . Loveless. . . Please attach this article to the minutes to begin the process of getting the record straight.” ¶ 76</p> <p>“On February 27, 2023, in furtherance of the continuing conspiracy against Loveless, . . . Hutchison texted . . . Scully . . . ‘it would be wise for the district to pull it from the website.’ ¶ 77.</p>	<p>Q. “Did you ever ask . . . Scully, as a board member, to do anything for you, as a former board member, in his official capacity as a member of the school board?</p> <p>A. . . . I asked Kevin to please get the – please get the fake audit report that was prepared by JAG to get that off the school board website.</p> <p>Q. And why, in 2022 or later, would you have done that?</p> <p>A. . . . two members of the board had interfered – with that – with that report. And it defamed me and it defamed several of my friends. So it was a fake audit. (Tr. P. 164, lines 2-18)</p>
<p>Hutchison . . . began raising funds in May 2021 to fund the lawsuit. . . ” ¶ 70</p>	<p>Q. My question was what is District 5 Citizens for Accountable and Open Government. . .</p> <p>A. . . . the organization where a group of parents had raised money to file a FOIA lawsuit against . . . School District 5. . . I got on it because none of the parents wanted to sign their name to anything. . . (p. 168, lines 20 – p. 169, line 9.</p> <p>Q. What was your role with District 5 Citizens for Accountable and Open Government?</p> <p>A. . . . I opened up a – a charity because parents wanted to – were – raising money to file a lawsuit against School District 5 for FOIA . . . violations. . . (P. 170, lines 12-16)</p> <p>Q. When you sent the email on January 20, 2023, how did you know the account had – no longer has any money in it? “And we have closed our bank account.”</p> <p>A. . . . what little money the parents had raised, I wrote a check to Joel Collins’ law firm and that emptied out the bank account. . .</p> <p>Q. Is that bank account still open?</p> <p>A. No.</p> <p>Q. How do you know?</p> <p>A. I closed it. (P. 171, lines 2-25).</p>

Loveless is filing the original of the Hutchison deposition transcript, along with the relevant exhibits, with the circuit court in Case No. 2022-CP-40-01364. Pursuant to Rule 212(a), SCACR, it is available to this Court. Rule 212(a), SCACR.

Respectfully submitted,

s/ Desa Ballard

Desa Ballard (S.C. Bar No. 498)

Law Offices of Desa Ballard

226 State Street

West Columbia, SC 29169

Telephone 803.796.9299

Facsimile 803.796.1066

desab@desaballard.com

ATTORNEY FOR APPELLANT

October 28, 2026

RECEIVED

Oct 28 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.

PROOF OF SERVICE

I, Beth Cogan, an employee with Law Offices of Desa Ballard, do hereby certify that on October 28, 2026, I served a copy of the **Motion to Supplement Record**, 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:

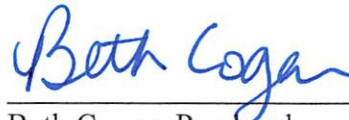
Andrew S. Radeker, Esquire
Radeker Law, P.A.
drew@radekerlaw.com

Taylor M. Smith IV, Esquire
Meriwether Law, LLC
taylor@harrisonfirm.com

David A. Anderson, Esquire
Richardson Plowden & Robinson, P.A.
danderson@RichardsonPlowden.com

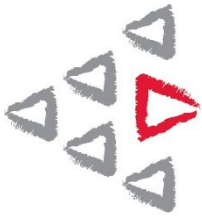
Eugene H. Matthews, Esquire
Richardson Plowden & Robinson, P.A.
gmattthews@RichardsonPlowden.com

Robert M. Peele III, Esquire
Turner, Padget, Graham, and Laney, P.A.
RPeele@TurnerPadget.com



Beth Cogan, Paralegal

October 28, 2026



Law Offices of Desa Ballard

PERSISTENT. UNWAVERING.

Desa Ballard

226 State Street West Columbia, SC 29169
ph 803.796.9299 | fx 803.796.1066 | desaballard.com

October 28, 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

RECEIVED
Oct 28 2026
SC Court of Appeals

Re: *Kenneth Loveless v. Lesley Ann Stiles*
Appellate Case No.: 2023-000145

Dear Ms. Kitchings:

Enclosed for filing, please find a Motion to Supplement Record and Proof of Service for the above-referenced matter. Pursuant to paragraph (3)(c) of the Supreme Court's amended administrative order dated May 6, 2022 ("Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules" originally dated August 25, 2021) a check for the filing fee is being forwarded separately via US mail.

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

Enclosure

cc: Via Email
Drew Radeker, Esquire
Taylor Smith IV, Esquire
David A. Anderson, Esquire
Eugene H. Matthews, Esquire
Robert Peele III, Esquire
Ken Loveless