

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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May 19 2023

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Court Judge
The Honorable L. Casey Manning, Circuit Court Judge

Appellate Case No. 2018-002229

Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Plaintiffs,

Of whom Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

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v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

**RESPONDENTS' REPLY TO APPELLANT'S RETURN TO
MOTION FOR TAXATION OF COSTS**

Appellant Adele Pope's May 12, 2023 Return to Respondents' Motion for Taxation of Costs is grossly inaccurate and based upon a counterfactual alternate reality created by Pope for the purposes of obfuscation and delay.¹

REPLY ARGUMENTS

1. Appellant's argument related to the Attorney General's role in this appeal is a red herring and is unsupported by any law or facts.

This Court dismissed the Attorney General's Office as a party to this appeal in July of 2021. The Attorney General's Office was separately represented in this appeal and submitted separate briefs from those of the other Respondents represented by the undersigned. The fact that the Attorney General's Office chose not to make a Rule 222 Motion after its dismissal in 2021 cannot run to the detriment of these Respondents. These Respondents successfully took this appeal through oral argument and a petition for writ of certiorari *after* the Attorney General was dismissed as a party to the appeal. The lead respondent, the Estate of James Brown, "actually incurred" the costs demanded in the Motion for Taxation of Costs, and the Estate is entitled to its costs. *See* Rule 222(b), SCACR.

¹ Respondents assert that the May 12 Return is frivolous *per se*, as that term is used in Rule 269, SCACR. Respondents also assert that the May 12 Return is violative of several warnings that Pope has received from the Supreme Court and the circuit court. Respondents reserve the right to file a Rule 269, SCACR Motion to Strike and Motion for Sanctions and Other Relief.

2. Appellant’s demand for allocation of the costs is replete with inaccuracies and is a poorly disguised attempt by Appellant to meddle in the affairs of the Estate.

Pope contends that an allocation of the Rule 222 award of costs among the various Respondents—as beneficiaries of the non-existent James Brown Legacy Trust—is somehow necessary for costs to be taxed. Pope is wrong. Without conceding that apportionment is even appropriate, nevertheless it is worth noting that Pope’s Return advances an apportionment formula that has no basis in current reality. Pope knows this to be so. The formula propounded by Pope appears to be based loosely on a division of assets envisioned in a 2009 settlement agreement among Estate beneficiaries, an agreement that Pope successfully fought to abolish in the appeal that became *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Thus, Pope knows that the apportionment formula she advances in the instant Return was abrogated over 10 years ago. Reality notwithstanding, Pope continues to promote the fiction of the existence of the Legacy Trust, despite the holding in *Wilson v. Dallas* and an order in Case 4900 holding the Legacy Trust was never funded, did not come into existence, and does not now exist. In her Return, in which she suggests that funds from the Rule 222 award be allocated pursuant to the defunct distribution schedule of the Legacy Trust, Pope knowingly is advocating a falsehood and is seeking to overturn the non-existence of the Legacy Trust by inviting this Court to issue an order funding it.²

Finally, Pope’s Return could be construed to be a violation of the Supreme Court’s June 10, 2015 Order directing Pope not to interfere in the affairs of the Estate.³ Her intrusion into

² By order of Judge Doyet A. Early, III, the Legacy Trust has been held not to exist due to *Wilson v. Dallas*. See *Pope v. Wilson*, Order, Case No. 2012-CP-40-00350 (S.C. Ct. Comm. Pl. filed June 20, 2016), *rev’d on other grounds*, 2019-UP-219 (S.C. Ct. App. filed June 19, 2019).

³ See *Ex Parte Adele J. Pope*, Order, Case No. 2013-001649 (S.C. S. Ct. June 10, 2015) (“Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown . . . in which she clearly has no standing. We caution Pope that continued

what is purely an Estate matter (i.e. how the Rule 222 award should be apportioned between the Estate and its beneficiaries) is a bold interference with the Estate and is in stark violation of the Supreme Court’s mandate that she stay away from how the Estate is to be distributed.

3. Pope’s frivolous Return has forced Respondents to issue this Reply, diminishing the value of their Rule 222 recovery.

The Estate, as lead Respondent, actually expended all of the fees and costs associated with this appeal and thus the Estate merits the award. By this frivolous Return, which requires the Estate to expend time and money to reply, Pope is seeking to deprive the Estate of the benefit of the \$2,558.64 recoupment. This Court should not countenance this behavior by Pope.

CONCLUSION

For the foregoing reasons, Appellant’s Return has no merit. Respondents’ Motion for Taxation of Costs, filed May 4, 2023, is a standard filing authorized by Rule 222, SCACR. Rule 222 exists for the purpose of granting a limited financial reimbursement to an opposing party from an appellant when an appeal is dismissed or the judgment below is affirmed. *See* Rule 222(a), SCACR. The lead Respondent—Russell L. Bauknight as personal representative of the Estate of James Brown—without question is a prevailing party in this appeal. Therefore, the Estate is entitled to the Rule 222 award and will make the necessary allocation (if any). As is her habit, Pope frivolously tries to obscure this simple analysis. The Motion for Taxation of Costs should be granted in favor of Respondents.

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attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges.”).

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

s/ Aaron J. Hayes

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v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

PROOF OF SERVICE

The undersigned counsel for Respondents certifies that this day he has served a copy of the following upon Appellant:

1. Respondents' Reply to Appellant's Return to Motion for Taxation of Costs

Said service upon Appellant having been accomplished by emailing a copy of same to her counsel of record, as follows:

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