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S.C. SUPREME COURT

**THE STATE OF SOUTH CAROLINA
In the Supreme Court**

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Clifton B. Newman, Circuit Court Judge**

Appellate Case No. 2023-001253

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

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 children 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

And

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 children Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, are Respondents,

v.

Adele J. Pope, Appellant.

**RESPONDENTS' MOTION FOR LEAVE TO SUPPLEMENT RECORD
(TO FILE APPENDIX)**

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Counsel for Respondents

COMES NOW THE RESPONDENTS, who, pursuant to Rule 212(b), SCACR, hereby move the Court for an Order granting Leave to Supplement the Record, thereby accepting as filed the proposed Appendix compiled by Respondents which is submitted contemporaneously herewith. Pursuant to Rule 240(c), SCACR, Respondents' Memorandum in Support of this Motion is included herein:

FACTS BEARING UPON THE MOTION

Via Order dated September 12, 2023, this Court granted Respondents' Motion to Certify and Motion to Expedite the above-captioned appeal. In so doing, this Court dispensed with designations of matter and initial briefs. On September 19, 2023, Appellant served a six-volume Record on Appeal containing over 2500 pages. Despite this voluminous Record, key documents from the underlying case (and prior appeals from the underlying case) were not included in the Record by Appellant.

Pursuant to Rule 212(b), SCACR, counsel for Respondents emailed all counsel for Appellant to solicit their consent to an Appendix prepared by Respondents that contains certain documents to be cited in Respondents' Brief. *See* Email Exchange, attached hereto as **Exhibit A**. Lead counsel for Appellant advised that he "take[s] no position" with respect to the Appendix save for an objection to one document, a Petition for Rule to Show Cause filed by Respondents on August 3, 2023. *Id.* Furthermore, counsel for Appellant advised that he would consent to the inclusion of the objected-to document, provided Respondents include in the Appendix "the depositions of the Governor, the Attorney General and numerous others which were filed prior to [the] Petition for Rule to Show Cause." *Id.* By Respondents' counsel's count, the number of "depositions" referred to by Appellant's counsel is over *thirty*.

The net effect of the foregoing is that Appellant appears to be conditioning her consent to one document in Respondents' Appendix upon Respondents' agreement to assist Appellant in her quest to flood the Record with unnecessary documents, in this case thirty-plus deposition transcripts. Therefore, even though technically only one document of Respondents' Appendix is objected to by Appellant's counsel, in reality the integrity of Respondents' entire Appendix is at stake. Respondents refuse to be held hostage by these games, and therefore file this Motion to ask that the Appendix—as compiled by Respondents and not including the surplusage that Appellant would seek to add—be accepted into the Record.

STANDARD OF REVIEW

Absent the consent of all counsel, “a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so.” Rule 212(b), SCACR. “Supplemental materials filed under Rule 212(b) shall be included in an Appendix to the Record on Appeal.” Rule 212(c), SCACR. “Unless otherwise agreed by the parties or ordered by the Court, the Appendix shall be compiled, served and filed by the party initially proposing it.” *Id.*

ARGUMENT

Respondents' brief Appendix is necessary for the presentation of Respondents' position in this appeal. The Appendix as prepared by Respondents is comprised of a mere 10 documents (one of which has Exhibits) with a combined total of 152 pages. The Appendix documents are referenced throughout Respondents' Brief and are essential to, *inter alia*, Respondents' Statement of the Case (Br. of Respondents, at pp. 2-6) and Argument, Section II (*id.*, at pp. 18-19). Respondents aver that the interests of justice require that Respondents' Appendix be accepted as filed, so that the Court may review the Appendix as part of the Record on Appeal as it considers the merits of Respondents' Brief.

CONCLUSION

For the foregoing reasons, Respondents petition this Court for an Order granting leave to supplement the Record, thereby accepting as filed the Appendix submitted herewith.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

s/ Aaron J. Hayes

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