



“Return and Opposition,” etc. (“Return”) to the Motion to Compel, which included 79 pages of exhibits.

### **NOTICE**

On July 21, 2023, counsel for Plaintiffs emailed the undersigned’s chambers and requested a hearing on the Motion to Compel. Counsel for Pope were copied on the email. After receiving emails from both Plaintiffs’ counsel (Mark Gende) and Pope’s counsel (Adam Silvernail) about their respective availability for a hearing, the undersigned’s law clerk replied on August 3, 2023 via the same email thread that the hearing on the Motion to Compel would occur on August 10, 2023 at 11:30 am via Webex. The undersigned’s law clerk expressly requested that all counsel notify her of any conflicts with the selected date and time.

Shortly afterwards, and also on August 3, Mr. Williams, co-counsel for Pope, replied that he could not be present on August 10 at 11:30 but indicated that Mr. Silvernail could handle the argument on behalf of Pope, absent any conflict of his (Silvernail’s) own. On August 4, 2023, via the same scheduling email thread discussed above, Mr. Silvernail provided the Court with a courtesy copy of a Notice of Appeal to the Court of Appeals, wherein Pope is appealing this Court’s Orders of May 8, 2023 and July 18, 2023, which relate to litigation sanctions this Court has issued against Pope. In this August 4 email, Mr. Silvernail simply transmitted the Notice of Appeal without comment and said nothing about having a scheduling conflict with the August 10 hearing date. Mr. Silvernail never indicated a problem with the date and time of the hearing. Therefore, the Court proceeded with the hearing.

### **RULING**

Plaintiffs’ request in this Motion is straightforward: Plaintiffs contend that they are entitled to the requested insurance and financial information from Pope, since they are seeking a judgment

against her. The Court agrees that the Plaintiffs are entitled to this information and hereby overrules any previous objections interposed by Pope. The insurance information is required to be produced by the plain text of Rule 26(b)(2), SCRCR. The remaining information requested, i.e. tax returns, net worth, and financial institutions, is necessary for Plaintiffs to investigate and establish their claim for punitive damages against Pope. *See, e.g.*, S.C. Code Ann. § 15-32-520(E)(7) (listing a defendant's availability to pay as a factor to consider when determining the amount of punitive damages to be awarded).

Pope's most recent Notice of Appeal does not operate to stay the instant discovery dispute. In the event of an appeal, the circuit court "retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal." Rule 241(a), SCACR. The Court finds that Plaintiffs would be entitled to the information requested in this Motion regardless of the outcome of the current appeal of the May 8, 2023 and July 18, 2023 Orders related to litigation sanctions. Therefore, the current discovery dispute is not "affected by the appeal" and thus not subject to appellate stay.

### **CONCLUSION**

Based upon the foregoing, the Court GRANTS Plaintiffs' July 11, 2023 Motion to Compel, and Pope is hereby ORDERED to supplement her answers/responses to the above-referenced discovery requests by providing full, complete, and current responses to same, without objection. Defendant Pope shall provide the supplemental answers/responses to Plaintiffs' counsel within 10 days of the date of this Order.

AND IT IS SO ORDERED.

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Clifton Newman, Circuit Judge

August \_\_\_\_, 2023  
Columbia, South Carolina



Richland Common Pleas

**Case Caption:** Russell Bauknight , plaintiff, et al vs Adele J Pope , defendant, et al

**Case Number:** 2010CP4004900

**Type:** Order/Compel

So Ordered

s/ Clifton B. Newman, 2127