

EXHIBITS TO MOTION TO STRIKE AND DISMISS

Pope v. Wilson

Appellate Case No.2021-000518

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The Supreme Court of South Carolina

Ex Parte: Russell L. Bauknight, as Personal Representative of the Estate of James Brown and as Trustee of the James Brown 2000 Irrevocable Trust, Petitioner,

In re: Adele J. Pope, Esq., Respondent.

Appellate Case No: 2024-000176

AND

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.; 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.; 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,

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

v.

Adele J. Pope, Appellant.

Appellate Case No: 2023-001253

AND

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

Of whom 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,


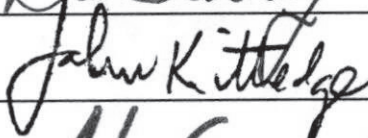
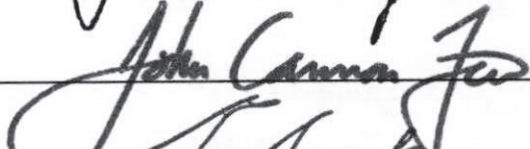


v.

Adele J. Pope, Appellant.

Appellate Case No. 2023-001941

ORDER

Pursuant to Rules 204(b) and 214, SCACR, Petitioner-Respondent Russell L. Bauknight moves to certify Appellate Case No. 2023-001941 from the court of appeals to this Court and consolidate that matter with Appellate Case No. 2023-001253 and Appellate Case No. 2024-000176. The motions to certify and consolidate are denied, for it appears the court of appeals will expeditiously conclude the matter. We further note our continuing concern with Respondent-Appellant Adele J. Pope's repeated abusive and meritless filings regarding the underlying estate and trust.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
March 28, 2024

cc:

J. David Black, Esquire
Kirsten Elena Small, Esquire
Adele Jeffords Pope, Esquire
Adam Tremaine Silvernail, Esquire
William Jeffrey Smith, Esquire
Daryl L. Williams, Esquire
Kenneth B. Wingate, Esquire
Aaron Jameson Hayes, Esquire
Mark V. Gende, Esquire
The Honorable Jenny Abbott Kitchings

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
Civil Minutes

Columbia Action 3:08-cv-14-WOB

11/15/13

Forlando J. Brown v. Adele Pope, et al.

BEFORE: HON. J. GREGORY WEHRMAN, MAGISTRATE JUDGE

No Court Reporter

No Courtroom Deputy

ATTORNEYS FOR PLAINTIFF

ATTORNEYS FOR DEFENDANT ADELE POPE

Matt Bodman
David Bell¹

Daryl Williams
Adam Silvernail

ATTORNEY FOR DEFENDANT ROBERT BUCHANAN, JR.

Joseph Calhoun Watson

ATTORNEYS FOR TRUSTEE RUSSELL BAUKNIGHT

Burl Williams
J. David Black

Conference call held on November 14, 2013 regarding trustee Bauknight's motion for confidentiality order. Doc. 290. After hearing argument of counsel, the Court **ordered:** the motion for confidentiality order [Doc. 290] is **granted in part and denied in part** as follows. The retention agreement at issue is a public document due to the involvement of the South Carolina Attorney General and, accordingly, it is not protected by the confidentiality order previously entered in this action. *See* Doc. 83. The estate valuation at issue is discoverable because it potentially relates to the remaining claims in this action. However, during the phone conference the Court was first made aware of the fact that a supplemental inventory and appraisal was filed in state court and that the supplemental inventory set forth only the valuation's bottom line figure regarding the total value of

¹ Mr. Bell's pro hac vice motion is pending and the Court will rule on that motion once briefing has been completed.

James Brown's estate. After reviewing that supplemental inventory and upon further reflection, the Court concludes that the valuation contains confidential information, the disclosure of which to the public at large could potentially harm the Estate in any future negotiations involving the music of James Brown. Because the valuation is discoverable, the Court will require Trustee Bauknight to provide a copy of the valuation to any party upon request. However, the Court orders that the contents of the valuation itself shall be subject to protection under the extant confidentiality order.

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STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Civil Action No. 2013-CP-02-1337

**ORDER GRANTING MOTION TO CONFIRM
CONFIDENTIALITY DESIGNATIONS**

Before the Court is the Estate of James Brown and The James Brown 2000 Irrevocable Trust's ("Defendants") Motion to Confirm Confidentiality Designations. The documents that Defendants have produced and labeled confidential all relate to the Philpot Ball and Werner Valuation and Appraisal (the "appraisal") and the estate tax return of James Brown (the "estate tax return"). Courts regularly conclude that these types of documents are confidential. Indeed, this Court has already held, in its August 30, 2016 Administrative Order, "that the appraisal shall remain confidential." (Administrative Order, p. 4; *see also id.* at 5 (noting that Plaintiff is entitled to a copy of the appraisal, "however, she must keep it confidential and not disseminate the document to anyone outside of this litigation.")). For the reasons discussed herein, the Court grants Defendants request to Court confirm all confidential designations.

I. BACKGROUND AND OPERATION OF THE ORDER

On August 30, 2016, this Court signed a Confidentiality Order for this case (the "Order"). Under the terms of the Order, "[a]ny party may designate documents as confidential, . . . after review of the documents by an attorney who has, in good faith, determined that the documents contain . . . sensitive personal information, trade secrets, . . . or business/commercial information that justifies protection from disclosure." (Order, ¶3).

Under the terms of the Order, a party may challenge a confidential designation. (Order, ¶8). “A party who contends that documents designated confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation” (*Id.* at ¶8(b)). Once the party that designated the document as confidential receives the challenge, it has fifteen days to attempt to resolve the dispute. If it cannot resolve the dispute, then the party that designated the document must “move for an Order confirming the confidential designation.” (*Id.*)

II. PLAINTIFF’S CHALLENGE TO THE DESIGNATIONS

On January 24 and January 30, Plaintiff sent e-mail correspondence challenging Defendants’ confidential designations. Defendants subsequently sought to resolve the challenge. Defendants’ efforts included acknowledging that some of the estate tax return confidential designations may need to be removed. Defendants also requested that Plaintiff withdraw the challenges to the appraisal documents. The parties were unable to resolve this issue.

III. PHILPOTT BALL AND WERNER APPRAISAL AND UNDERLYING DOCUMENTS ARE CONFIDENTIAL

Defendants have labeled all documents relating to the appraisal as confidential, and the designation will be confirmed by this Court.

A. This Court Previously Held the Appraisal is Confidential

As noted above, in this Court’s Administrative Order, it noted “that the appraisal shall remain confidential,” that Plaintiff is entitled to a copy of the appraisal, but “she must keep it confidential and not disseminate the document to anyone outside of this litigation.” (Administrative Order, pp. 4-5). Accordingly, this Court’s prior ruling forecloses Plaintiffs efforts to challenge the confidential designations related to the appraisal.

B. The Appraisal and the Underlying Documents Contain Confidential Financial and Commercial Information

The appraisal is a private document that is owned and controlled by the Estate. The appraisal was created for the purpose of valuing the Estate of James Brown (a private citizen), and for the purpose of determining whether the Estate owed any taxes to the federal government.¹ The appraisal is not a public document. It contains confidential financial and commercial information, and has been treated as confidential since its inception. For decades, courts across this Nation have recognized that these types of business documents are confidential and should be accorded the shield of a protective order. *See, e.g., Landco Equity Partners, LLC, v. City of Colo. Springs, Colo.*, 259 F.R.D. 510, 515 (D. Colo. 2009) (recognizing that “protective orders issued pursuant to Rule 26(c) are common in litigation to protect sensitive information exchanged during the course of discovery, particularly when the documents reflect confidential financial information”); *Nutratch, Inc. v. Syntech (SSPF) Int’l*, 242 F.R.D. 552, 554 (C.D. Cal. 2007) (noting that ***both parties agreed*** to the need for a protective order but disagreed whether the information (“sales and revenue figures”) should be afforded protection of “attorney’s eyes only”); *Palmer v. Reader’s Digest Assoc.*, 122 F.R.D. 445, 447 (S.D.N.Y. 1988) (recognizing the confidential nature of a company’s financial information and the requirement that its production requires “strict non-disclosure provisions”). Accordingly, Defendants have met their burden. The appraisal and all underlying documents are confidential.

C. Irreparable Harm Will Result if the Valuation Report is Turned into a Public Document

The appraisal analyzes copyright royalty details and sources of royalty payments, among other confidential business information. The appraisal also projects future revenues of the Estate

¹ The Internal Revenue Service independently reviewed the appraisal and agreed with its findings regarding the date of death valuation for the James Brown Estate.

and Trust in an effort to arrive at the final business value of the James Brown music empire. That information is highly confidential. It is highly confidential because it completely exposes the strengths and the weaknesses of the music catalog, and discloses confidential future revenue projections of the Estate and Trust. If made public, that information will likely be used against the Estate and Trust during future business negotiations. Moreover, dissemination of this confidential information could damage James Brown's vision of providing charitable scholarships to deserving and needy students by decreasing the amount of funds available for those scholarships.

Courts have defined confidential commercial information as "information which, if disclosed, would cause substantial economic harm to the competitive position of the entity from whom the information was obtained." *Diamond State Ins. Co. v. Rebel Oil Co.*, 157 F.R.D. 691, 697 (D. Nev. 1994); *Massey Coal Services, Inc. v. Victaulic Co. of Am.*, 249 F.R.D. 477, 482 (S.D.W. Va. 2008) (same). Defendants' have met their burden; the appraisal and all underlying documents are confidential.

IV. THE ESTATE TAX RETURN AND UNDERLYING DOCUMENTS ARE CONFIDENTIAL

The Defendants have produced the estate tax returns and underlying documents of the late James Brown, and have designated those documents confidential. Accordingly, Defendants do not dispute that the estate tax returns are discoverable. Rather, they submit that the estate tax returns of an individual are confidential and should not be made public. *See Minter v. Wells Fargo Bank, NA*, 675 F. Supp. 2d 591, 597 (D. Md. 2009) (noting that "tax returns are not privileged, but that courts should order discovery of them only under a protective order" (citing MUELLER & KIRKPATRICK, Federal Evidence §5:5)). "Where tax returns are produced in discovery, protective orders are the norm, not the exception." *Closed Joint Stock Co. "CTC Network" v. Actava TV, Inc.*, 2016 WL 1364942, at *4 (S.D.N.Y. 2016). Indeed, "[c]ertain categories of information and documents are 'presumptively confidential,' including tax returns." *Id.* The Court finds that all

confidential designations related to the estate tax returns are proper under the Order. Accordingly, the Court finds that Defendants' have met their burden.

V. CONCLUSION

Defendants have met their burden to show that the documents produced and labeled confidential are, in fact, confidential and should maintain that designation under the Order. Accordingly, this Court hereby finds that the documents that have been designated as confidential shall remain confidential pursuant to this Court's August 30, 2016 Confidentiality Order.

IT IS SO ORDERED.

The Honorable Doyet A. Early, III

June ____, 2017

_____, South Carolina



Aiken Common Pleas

Case Caption: Adele Jeffords Pope VS James Estate Of Brown , defendant, et al

Case Number: 2013CP0201337

Type: Order/Other

So Ordered

s/D.A. Early III 2136

Electronically signed on 2017-06-15 18:16:35 page 6 of 6


STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF NEWBERRY)	EIGHTH JUDICIAL CIRCUIT
Susan D. Summer,)	
)	
Plaintiff,)	Civil Action No. 2012-CP-36-688
)	
v.)	
)	AFFIDAVIT
Alan Wilson, in his official capacity)	
as Attorney General of South Carolina,)	
)	
Defendant.)	
)	

I, Marcie Greene, Esquire, do swear and affirm that the following is true and correct to the best of my knowledge:

1. I am an attorney practicing in the State of South Carolina and was admitted to practice in this state in 2014.
2. I am currently an Assistant Attorney General with the South Carolina Attorney General’s Office.
3. As an Assistant Attorney General, my duties include reviewing and responding to all Freedom of Information Act (“FOIA”) requests made to the Attorney General’s Office.
4. In that capacity, I have thoroughly searched the Office’s records on multiple occasions for the \$4.7 million Brown appraisal and all documents related to said appraisal.
5. As part of each of the aforementioned searches, I have spoken to the Office’s staff and thoroughly reviewed the Office’s physical and electronic files and communications for the \$4.7 million Brown appraisal and/or evidence that any member of the Office’s staff has seen, received, or possessed the \$4.7 million Brown appraisal.
6. Based on these searches, I have determined that the Attorney General’s Office has never seen, received, or possessed the \$4.7 million Brown appraisal.

7. Furthermore, based on these searches I have determined that no member of the Office's staff has ever seen, received, or possessed the \$4.7 million Brown appraisal.

I affirm that the foregoing is true to the best of knowledge and recollection.


Marcie Greene

Sworn to before me this 10th day of August, 2015.


Notary Public for South Carolina.

My Commission Expires: 6/29/21.

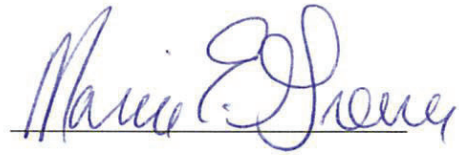
STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF NEWBERRY)	EIGHTH JUDICIAL CIRCUIT
Susan D. Summer,)	
)	
Plaintiff,)	Civil Action No. 2012-CP-36-688
)	
v.)	
)	SUPPLEMENTAL AFFIDAVIT
Alan Wilson, in his official capacity)	
as Attorney General of South Carolina,)	
)	
Defendant.)	
)	

I, Marcie Greene, Esquire, do swear and affirm that the following is true and correct to the best of my knowledge:

1. I am an attorney practicing in the State of South Carolina and was admitted to practice in this state in 2014.
2. I am currently an Assistant Attorney General with the South Carolina Attorney General's Office.
3. As an Assistant Attorney General, my duties include reviewing and responding to all Freedom of Information Act ("FOIA") requests made to the Attorney General's Office.
4. In that capacity, I have thoroughly searched the Office's records on multiple occasions for the \$4.7 million Brown appraisal and all documents related to said appraisal.
5. As part of each of the aforementioned searches, I have spoken to the Office's staff and thoroughly reviewed the Office's physical and electronic files and communications for the \$4.7 million Brown appraisal and/or evidence that any member of the Office's staff has prepared, owned, used, possessed, or retained the \$4.7 million Brown appraisal such that it would be considered a public record as defined by S.C. Code § 30-4-20(c).

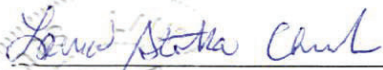
6. These public record searches revealed that while the Office has made reference to the \$4.7 million figure in court filings, specifically the Motion to Supplement the Record that was filed with the South Carolina Supreme Court, that figure was taken from the “Supplemental Inventory and Appraisement” that was filed with the Aiken County Probate Court and previously provided to the Plaintiff.
7. In regards to the \$4.7 million Brown appraisal, my public record searches revealed the following:
 - a. The \$4.7 million Brown appraisal was not prepared by the Office or any of its employees.
 - b. The \$4.7 million Brown appraisal has never been owned by the Office or any of its employees.
 - c. No employee of the Office has ever received the \$4.7 million Brown appraisal, in either physical, electronic, or any other form.
 - d. No employee of the Office has ever sent the \$4.7 million Brown appraisal to any individual or entity, in either physical, electronic, or any other form.
 - e. No employee of the Office has ever seen, possessed, or retained the \$4.7 million Brown appraisal, in either physical, electronic, or any other form.
 - f. No employee of the Office has ever filed the \$4.7 million Brown appraisal with any court, attached it to any pleading or other document or e-mail, used it as an exhibit in any form or fashion, or otherwise used it in either physical, electronic, or any other form while acting within the course and scope of their employment with this Office.
8. Based on the results of these searches, I have determined that neither the Attorney General’s Office nor any the Office’s employees have ever prepared, owned, used, possessed, or retained the \$4.7 million Brown appraisal such that it would be considered a public record as defined by S.C. Code § 30-4-20(c).

I affirm that the foregoing is true to the best of knowledge and recollection.



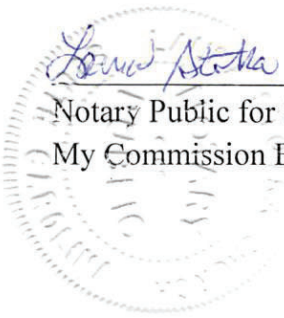
Marcie Greene

Sworn to before me this 18th day of August, 2015.



Notary Public for South Carolina.

My Commission Expires: 3-10-18.



The court allowed extensive oral argument. With only slight modifications, Pope's oral argument for her motion to lift stay followed the content of her brief. The Estate opposed the motion as moot due to the Supreme Court's March 28, 2023 order denying essentially the same motion. The Estate also argued in support of its motion for sanctions. The Court has also considered the parties' written submissions, including the Estate's substantive legal argument on sanctions, and Pope's four-page return and numerous affidavits.

For the reasons stated below, the Court DENIES Pope's motion to lift the stay and GRANTS the Estate's motion for sanctions against Pope. The Court will not sanction Pope's counsel at this time, but strongly reminds them as counsel of record they are responsible for the content of their filings notwithstanding that their client is also an attorney.

1. Motion to lift stay

In its March 28, 2023 Order, the Supreme Court denied Pope's petition to lift stay with very strong language, characterizing the motion as frivolous. Pope's motion to lift stay pending before this Court is in essence the same motion. Including her petition before the Supreme Court, Pope has filed six iterations of the same motion. Therefore, this Court denies Pope's motion to lift stay as moot. Once the Supreme Court denied Pope's petition to lift stay, the Court would have expected Pope to withdraw the same motion still pending in this Court. But she did not. Instead she argued for lifting the stay at the hearing. This Court also adopts the opinion of the Supreme Court that Pope's motion to lift stay is frivolous. It is a vexatious, serial, and abusive repetition of the same motion that she has lost each previous time. As additional sustaining grounds, this Court also finds Pope's serial filing of essentially the same motion, along with other considerations, to be sanctionable, as discussed below.

2. Motion for sanctions

The Supreme Court's March 28, 2023 order found Pope's petition/motion to be frivolous. The order also found Pope to have engaged in frivolous filings and repeated attempts to delay Case 4900. The relevant language of that order is:

We prohibit Appellant from filing any additional requests to have the automatic stay lifted in either the circuit court or this Court. **We take this opportunity to caution Appellant that further frivolous filings in the circuit court or this Court in this matter may result in contempt proceedings.** This case has been ongoing since 2010, and **Appellant's frivolous filings and attempts to repeatedly delay the matter have frustrated the prompt resolution of this case.**

March 28, 2023 Order (emphasis added).

Prior to Pope filing her petition to lift stay in the Supreme Court, she had filed five iterations of essentially the same motion in the circuit court, including the most recent version filed on November 1, 2022. The November 1 Motion is a repetition of arguments made by Pope time and time again. The voluminous motion consists of 15 pages of argument, 77 pages of exhibits, and incorporation by reference "the [entire] record in Richland 4900 and its four appeals." Pope's failure to immediately withdraw the motion after the Supreme Court's strong rebuke of her petition and other actions is evidence of her disregard for the opinion of the Supreme Court and of her willingness for this Court to waste its time considering her patently frivolous motion. For the following reasons, this Court sanctions Pope for her conduct.

First, the South Carolina Supreme Court's March 28, 2023 Order found that Pope's petition to that court was frivolous and that Pope has exhibited a pattern of frivolous filings and repeated attempts to delay Case 4900, *supra*. These findings by the State's highest court alone are sufficient to sustain this order granting sanctions.

Second, Pope has been warned repeatedly of serious consequences for her litigation conduct by both the Supreme Court and this Court. Pope was warned by the Supreme Court on

two prior occasions about her improper conduct and on each occasion was threatened with the possibility of contempt. On June 10, 2015, the South Carolina Supreme Court rebuked Pope for making meddlesome filings in Estate-related matters in which she has no standing:

Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges.

Order, Lead Appellate Case No. 2013-001649 (S.C. S. Ct., June 10, 2015).

On August 10, 2020, in response to a petition alleging Pope had violated the June 10, 2015 order by attempting to become the personal representative of the estate of Venisha Brown (one of Plaintiffs' counsels' clients in Case 4900), the Supreme Court again warned Pope:

Upon request from the Clerk of Court, Mark V. Gende, counsel for Venisha Brown's estate, provided the Court with an affidavit to support the request for a finding of contempt . . . This affidavit asserts that [Pope's] actions are in violation of the June 10, 2015 order.

We decline to issue a rule to show cause at this time and hold that request in abeyance pending [Pope's] future compliance with this order and our order dated June 10, 2015 . . . If [Pope] fails to conform to these instructions as ordered and takes any further action with respect to any case related to the Estate of James Brown, which includes any proceeding in the estate of Venisha Brown, a rule to show cause will be issued, and any and all violations of the orders of this Court will be considered as grounds for holding her in contempt.

Order, Appellate Case No. 2020-000764 (S.C. S. Ct., Aug. 10, 2020).

This court has also warned Pope that her serial filings to lift the stay in Case 4900 were improper:

The successive motions of the Defendant are improper, and there is no right to repeated petitions to the Court to change its rulings on matters previously decided, especially when Defendant has already appealed a previously denied motion.

Order, Case No. 2010-CP-40-04900 (filed July 28, 2020).

Sanctions against Pope are warranted because the South Carolina Supreme Court has found her petition to lift stay was frivolous, that Pope has engaged in other frivolous filings, and that Pope has repeatedly engaged in efforts to delay the deposition of Case 4900. Additionally, this court has warned her of her repeated, improper filings. Pope has ignored these warnings.

Third, Pope has a history of improper conduct. In addition to the examples meriting the courts' warnings listed above, at the hearing counsel for the Estate detailed additional examples of similar improper, frivolous, and/or delaying conduct by Pope in Case 4900 and related appeals, including: a) Causing substantial delay by opposing the consolidation of some or all of Case 4900 with Aiken Case 1337, Pope's fee claim case against the Estate. Case 1337 went to trial in 2017. b) Appealing almost thirty pre-trial orders in Case 4900, only to abandon most of these appeals. c) Engaging in abusive appellate practice in Appellate Case 2018-02229, dealing with several Case 4900 pretrial orders, resulting in the appellate court striking two of Pope's briefs, a designation of matter, and a record on appeal. And d) concerning the two Rule 59(e) motions, also heard on April 14, 2023, (*see* related order denying the same), Pope filed a motion to reconsider this Court's referral of those motions to Judge Casey Manning (who had ruled on the original orders), resulting in further delaying of this matter. These actions cited by counsel for the Estate, and others appearing in the record of the hearing, when taken together appear to this Court, to support the Supreme Court's finding that "[Pope's] frivolous filings and attempts to repeatedly delay this matter have frustrated the prompt resolution of this case."

Fourth, Pope offered no reasonable explanation or justification for her conduct that would allow the court to excuse her actions. Instead, the affidavits of Pope, Silvernail, Williams, Smith, and Carpenter, and Mr. Silvernail's oral argument, merely restated Pope's position that her filings were all proper. Neither Pope nor counsel ever admitted to any improper or even questionable

conduct, despite the clear words of the Supreme Court's March 28, 2023 Order. In fact, the affidavits cited never even acknowledged the Supreme Court's order, and at the hearing Silvernail made only one reference to being surprised by the order's severity. Absent any reasonable justification of Pope's conduct, the Court is left to conclude Pope's conduct is willful and purposeful.

Fifth, Rule 11, South Carolina Rules of Civil Procedure (SCRCP) and the South Carolina Frivolous Civil Proceedings Sanctions Act (FCPSA) provide the legal basis for sanctioning abusive and/or frivolous filings.

Rule 11, SCRCP states in pertinent part:

a) Signature. Every pleading, motion or other paper of a party represented by an attorney shall be signed in his individual name by at least one attorney of record who is admitted to practice law in South Carolina.... *The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.*

...

If a pleading, motion, or other paper is signed in violation of this Rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee.

Rule 11(a), SCRCP (emphasis added).

The FCPSA states in pertinent part:

(4) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

(i) the person has not read the frivolous pleading, motion, or document;

(ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or

(iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

S.C. Code Ann. § 15-36-10(A)(4). Furthermore:

(2) If a document is signed in violation of this section, or an attorney or pro se litigant has violated subsection (A)(4), the court, upon its own motion or motion of a party, may impose upon the person in violation any sanction which the court considers just, equitable, and proper under the circumstances.

Id. at (B)(2). Finally, allowable sanctions for violations include:

(1) an order for the party represented by an attorney or pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section. Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage, parking, costs of reports, and any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding;

(2) an order for the attorney to pay a reasonable fine to the court; or

(3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

Id. at (G).

The FCPSA imposes on counsel the same reading requirement as Rule 11. *See Father v. S.C. Dep't. of Soc. Svcs.*, 345 S.C. 57, 72, 545 S.E.2d 523, 531 (Ct. App. 2001) (“[t]he criteria for Rule 11 sanctions are essentially the same as those for sanctions under the [FCPSA].”). Additionally, the FCPSA enunciates a “reasonable attorney” standard to determine whether the

motion is sanctionable for, among other things, making frivolous arguments, which either are not reasonable supported by the facts or by existing law and/or there is no good faith argument for the extension, modification or reversal of existing law. S.C. Code Ann. 15-36-10(A)(4)(c).

Pope is also a longstanding South Carolina attorney. The fact that she is a party represented by counsel in Case 4900 does not excuse her from the requirements of professional conduct. *See Holmes v. East Cooper Comm. Hosp.*, 408 S.C. 138, 143, 758 S.E.2d 483, 486 (2014) (upholding sanctions against an attorney-plaintiff for repeat filings of the same dismissed claims). Furthermore, Pope's verification of the November 1, 2022 motion to lift stay clearly brings her actions under both Rule 11 and the FCPSA.

The FCPSA also allows the court to impose "any sanction which the court considers just, equitable, and proper under the circumstances," *see* S.C. Code Ann. §15-36-10(B)(2), and costs related to defending against a frivolous motion, *see* S.C. Code Ann. § 15-36-10(G)(1). The decision to impose sanctions is left to this Court's discretion and will not be disturbed on appeal absent a clear abuse of discretion. *See Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160, 162 (1996). As shown above, Pope's abusive and frivolous conduct extends to the instant motion, prior motions, and filings in the court of appeals and other courts and cases. Pope's efforts have frustrated and delayed the litigation of Case 4900, have frustrated this Court's efforts to dispose of the remanded issues from Appeal No. 2017-01899 related to the motions to reconsider, and have frustrated the Supreme Court's stated desire that the James Brown Estate litigation matters be resolved promptly. *See Bauknight, et al. v. Pope*, Order, Case No. 2020-001383 (S.C. S. Ct., filed April 21, 2021) ("[t]he motions currently pending before the Honorable Clifton B. Newman in the circuit court may now be resolved so that the extensive litigation in this matter may be *promptly concluded*") (emphasis added). Counsel for the Estate stated at the hearing that in large part, due

to Pope's serial, abusive, and frivolous actions, the James Brown Estate has not able to close its litigation matters and begin dispensing scholarships to underprivileged, deserving children in South Carolina and Georgia--the main purpose of Mr. Brown's noble estate plan. Sanctions must be awarded as a result of this conduct and to deter future similar conduct.

SANCTIONS

In its filing, the Estate requested the imposition of sanctions, jointly and severally, on each attorney who participated in the subject filings. While there are good and solid grounds to do so, at this time this Court chooses to sanction only Pope because only she has been warned repeatedly by the highest court of our state, although all of Pope's counsel should have noted the seriousness of each warning and acted prudently. Pope, though, has chosen to disregard those warnings and thus has shown "bad faith, willful disobedience or gross indifference," justifying a severe sanction. *QZO, Inc. v. Moyer*, 358 S.C. 246, 257, 594 S.E.2d 541, 547 (Ct. App. 2004). It appears from the argument of the Estate's counsel and the affidavits provided by Pope, that she has directed the decisions and actions of her counsel, who appear to have taken more of a read-and-sign approach to her filings. The Court now wants to be very clear to Pope and to her attorneys, Silvernail, Williams, Smith, and Carpenter (and any other attorney who may represent Pope in this matter) that they are on notice that any further frivolous or improper filings of any nature or any further attempts to delay this matter will not be tolerated and will result in a rule to show cause and/or the imposition of sanctions on the attorney(s) consistent with the gravity of their actions. Further, counsel for Pope are admonished not to enable Pope's frivolous and improper conduct by merely filing papers for her without serious legal vetting and advising.

Notwithstanding the Court's decision not to sanction Pope's counsel at this time, the conduct of Pope detailed above merits severe sanctions. Therefore, the court imposes the following:

1. Pope will pay the costs and attorney's fees related to the Estate's defense of her serial motions to lift stay, excluding the initial motion but including the petition to the Supreme Court. The Estate has submitted an affidavit of attorneys' fees and costs in the amount of \$32,137.50. The court has reviewed the affidavit and finds it reasonable under the standard set out in *Glasscock v. Glasscock*, 304 S.C. 158, 403 S.E.2d 213 (1991).¹ Therefore, Pope is directed to pay \$32,137.50 to the Estate within 30 days of the date of this Order.

2. Pope's Answer in Case 4900 is stricken, and she is declared to be in default. That Pope has engaged in a pattern of frivolous filings and repeated efforts at delay, thereby demonstrating willfulness and bad faith, is not just the opinion of this Court, but it is the opinion of the Supreme Court and therefore is now the law of the case. Repeated frivolous filings and efforts to delay the prompt resolution of Case 4900, which is already over a decade old, deserve the harshest sanction available to this court. The court has assessed this sanction under the provisions of Rule 11, SCRCP and the FCPSA, and it finds striking the Answer proper. Striking Pope's Answer is an appropriate consequence for a litigant who has repeatedly delayed court action by frivolous filings and other improper delay tactics.

¹ The reasonableness of an attorney's fee award is gauged by the consideration of six factors: 1) the nature, extent, and difficulty of the case, 2) the time necessarily devoted to the case, 3) the professional standing of counsel, 4) contingency of compensation, 5) beneficial results obtained, and 6) customary legal fees for similar services. *Glasscock*, 304 S.C. at 161, 403 S.E.2d at 315 (quoting *Donahue v. Donahue*, 299 S.C. 353, 384 S.E.2d 741 (1989)). The Court finds that each *Glasscock* factor weighs in favor of Plaintiffs' claim for fees as stated in counsel's Affidavit.

THEREFORE, the Estate's motion for sanctions is GRANTED. Pope must pay \$32,137.50 to the Estate within 30 days, and Pope's Answer in Case 4900 is stricken. Upon the Estate's filing of a motion for judgment by default, a damages hearing will be set at the earliest mutually agreeable date for the Court and the Estate.

IT IS SO ORDERED.

Clifton Newman, Circuit Judge

Aiken, South Carolina

April ____, 2023



Richland Common Pleas

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

Case Number: 2010CP4004900

Type: Order/Sanctions

So Ordered

s/ Clifton B. Newman, 2127

Electronically signed on 2023-05-08 12:18:48 page 12 of 12

The Supreme Court of South Carolina

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 children 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 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 children 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 and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

Appellate Case No. 2022-001713


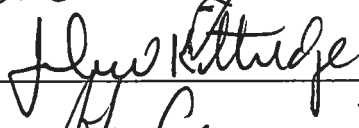


ORDER

Appellant has filed a petition asking this Court to lift the automatic stay imposed in this case pursuant to Rule 241(a), SCACR. The petition is denied.

Appellant has also filed a motion with the circuit court to lift the automatic stay as well as motions to reconsider orders issued by the circuit court. The circuit court shall hold a hearing and issue an order within thirty days of the date of this order addressing Appellant's pending motions to reconsider and to lift the automatic stay in Case No. 2010-CP-40-04900. We caution Appellant that filing any additional motions in response to the circuit court's scheduling order for this hearing will be seen as an intentional effort to delay the case.

Further, we prohibit Appellant from filing any additional requests to have the automatic stay lifted in either the circuit court or this Court. We take this

opportunity to caution Appellant that further frivolous filings in the circuit court or this Court in this matter may result in contempt proceedings. This case has been ongoing since 2010, and Appellant's frivolous filings and attempts to repeatedly delay the matter have frustrated the prompt resolution of this case.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.

Hill, J., not participating

Columbia, South Carolina
March 28, 2023

cc:
Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Everett Augustus Kendall, II, Esquire
Aaron Jameson Hayes, Esquire
Adam Tremaine Silvernail, Esquire
William Jeffrey Smith, Esquire
Daryl L. Williams, Esquire
Charles E. Carpenter, Jr., Esquire
Adele Jeffords Pope, Esquire
The Honorable Clifton Newman