

**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. 2023-1941

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, Respondents,

v.

Adele J. Pope, Petitioner.

PETITION FOR WRIT OF CERTIORARI

TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT.

Over a decade ago, this Court decided *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013), in which it undid the “dismemberment” of James Brown’s noble estate plan. Petitioner Adele J. Pope (“Petitioner”), at great personal cost, withstood threats and attacks by the South

Carolina Attorney General, Tommie Rae Hynie and others, so that this Court could review the disastrous settlement which it voided in *Wilson*.

While Petitioner's appeal of the extraordinary sanctions assessed against her by the circuit court in 2023 was pending, the circuit court proceeded at the behest of Respondents' counsel to enter discovery orders without jurisdiction, without an opportunity for Petitioner to be heard and in violation of the constitutional and other rights of Petitioner and her husband. Although the Court of Appeals found the orders on appeal herein to be unappealable discovery orders, Petitioner respectfully submits that those orders, issued on the basis of relief granted in the sanctions orders on appeal before this Court, ring a bell that cannot be unrung if this Court properly reverses the orders on appeal in Appellate Case No. 2023-1253. She is therefore forced to seek a writ of certiorari as set forth below.

Petitioner respectfully requests that this Court issue a writ of certiorari to review the order of the Court of appeals in *Bauknight v. Pope*, Appellate Case No. 2023-1941 (filed March 17, 2024); reverse the court of appeals' dismissal of the case; and reverse or void the discovery orders on appeal, which were issued without jurisdiction and in violation of the Due Process and other rights of Petitioner and her husband, Thomas H. Pope III.

Certification of Counsel

The undersigned counsel for Petitioner hereby certifies that Petitioner timely filed a Petition for Rehearing in the Court of Appeals, and her Petition was denied by Order of March 18, 2024.

Summary of Grounds for Granting a Writ of Certiorari and Procedural Background

Pursuant to Rule 242(b), certiorari may be granted where a case fits any one of certain listed criteria. This case presents novel issues of law and substantial constitutional issues.

Specifically, this case poses the novel question of whether circuit court orders, issued without jurisdiction and in violation of the Due Process and other rights of Petitioner and her non-party husband, are absolutely unreviewable simply because they are couched as discovery orders.

This case has been pending since May 19, 2010, when the South Carolina Attorney General, Tommie Rae Hynie and more than a dozen other private plaintiffs sued Petitioner and Robert L. Buchanan, Jr. in an effort to intimidate them into dropping the appeal which would become *Wilson*. The history of this case is addressed in more detail in the petition for rehearing on file herein, as well as Petitioner's other filings in this case and her briefs and the record on file in Appellate Case No. 2023-1253. Although no record was filed in this appeal prior to the Court of Appeals' dismissal, Petitioner's February 29, 2024 *pro se* return to Respondents' motion to transfer this case to this Court and consolidate it with two other matters sets out the history of this and related matters. Pursuant to this Court's Order, dated August 25, 2021, no appendix is filed herewith, but a list of documents available in the Court of Appeals' file on this matter is attached as **Exhibit A**.

On March 28, 2023, this Court declined to grant a writ of certiorari in a previous appeal from this case. In its Order, this Court directed the circuit court to hold a hearing and decide a pending motion to lift the stay and two long-pending motions to reconsider circuit court orders issued in 2012 and 2015 within 30 days of March 28, 2023. This Court also cautioned Petitioner against any motions in response to the circuit court's scheduling of these motions, and Petitioner made no further filings. Sweeny, Wingate & Barrow, P.A. ("SWB") nonetheless immediately filed a motion for sanctions against Petitioner, which the circuit court heard along with the pending motions to lift stay and reconsider.

Despite this Court's clear indication that this 2010 lawsuit should be resolved promptly,

the circuit court proceeded to issue a May 8, 2023 order which imposed the harshest sanctions available, striking Petitioner's answer, holding her in default and assessing substantial monetary sanctions. Petitioner is aware of no reported case in which such extraordinary sanctions have been granted absent extreme, intentional and repeated violations of discovery rules or orders of a court. Petitioner had only two options at that point: proceed to a one-sided trial in default, thereby waiving her good-faith constitutional and substantive objections to the circuit court's imposition of sanctions, or seek appellate review of the sanctions order.

SWB, knowing that Petitioner was in the process of filing an appeal of the sanctions order, barreled forward with moving to compel responses to discovery requests Petitioner had answered in 2010 and 2016, despite SWB never having taken issue with her responses in the intervening years. SWB explicitly based its motion on Petitioner's being in default under the sanctions order, now on appeal. SWB pressed the circuit court to have a quick hearing on their motion, despite knowledge of the forthcoming appeal of the circuit court's order striking Petitioner's answer.

In response to emails among the circuit court and counsel regarding a potential August 10, 2023 hearing on the motion to compel, Petitioner's counsel provided a copy of the filed Notice of Appeal in what would become Appellate Case No. 2023-1253 on August 4, 2023. Respondent's counsel asked the circuit court to proceed with a hearing *or status conference* notwithstanding the appeal, and the circuit court did not respond. Petitioner's counsel believed in good faith that the circuit court acknowledged that the appeal of orders on which the motion to compel was directly based had invoked the automatic stay under Rule 241, and that the circuit court did not intend to proceed with the matter pending the appeal. No party asked the circuit court or the Court of Appeals to lift the automatic stay.

At 4:46 p.m. on August 10th, Petitioner's counsel was startled to receive a proposed order

from Respondents' counsel, which indicated the circuit court had proceeded to hear the matter without any counsel for Petitioner present and without any attempt to contact Petitioner's counsel. Petitioner would later learn from the transcript of that hearing that SWB counsel had pointed out the absence of any counsel for Petitioner, but did not suggest that any attempt should be made to contact any of her three attorneys. The only words spoken by the circuit court in relation to the motion to compel were to ask SWB counsel, "[a]nd what do you propose to do?" See full transcript of August 10, 2023 hearing, attached as **Exhibit B**.

Petitioner's counsel immediately objected to the proposed order by email at 6:12 p.m. on August 10th and asserted that the circuit court could not and should not proceed with the matter where the automatic stay was in effect. See Affidavit of Adam T. Silvernail, attached as **Exhibit D**. Petitioner's counsel urged the circuit court, if it were to proceed at all, to give Petitioner a fair opportunity to be heard on the matter. The circuit court did not respond, but three months after the hearing, on November 8, 2023, signed Respondents' proposed order, submitted after the hearing on August 10th, directing her to provide information and documents, including tax returns filed jointly with her husband¹, "without objection."

Petitioner moved for reconsideration, setting out in detail the reasons why the circuit court should reverse its order and submitted an affidavit of Thomas H. Pope III, Petitioner's husband, but that motion was denied without a hearing. Petitioner timely appealed, and the Court of Appeals *sua sponte* dismissed the appeal, citing *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) (holding discovery orders are interlocutory and not immediately appealable).

¹ See Affidavit of Pope, dated November 16, 2023, which was presented to the circuit court in this case, attached as **Exhibit C**.

Questions Presented

- I. **Are the orders on appeal interlocutory, where they affect the Due Process and other rights of Petitioner and her non-party husband?**
- II. **Was the circuit court without jurisdiction to hear and decide the motion to compel, which was explicitly based on the sanctions orders, while the appeal of the sanctions orders was and remains pending?**

Statement of the Case and Facts²

In what may be the most extraordinary tort lawsuit in the history of South Carolina, the Attorney General of South Carolina, acting through private law firm, Sweeny, Wingate and Barrow, P.A. (“SWB”), has secured what may be the most troublesome and extraordinary discovery rulings in the legal history of the state. For fourteen (14) years, the power and prestige of the Office of the Attorney General, South Carolina’s chief prosecutor, protector of FOIA, and protector of charities, has been placed at the service of Respondents, SWB’s private clients, who have used troublesome, no-holds-barred discovery tactics since 2010 to conceal more than 145 boxes of public James Brown documents while seeking sanctions against Robert Buchanan and Respondent Adele Pope in an effort to denigrate and destroy their reputations and careers because, for more than five (5) years, Buchanan and Pope stood in the way of Respondents’ effort to secure more than half of the assets of James Brown’s ‘I Feel Good’ education charity for themselves, with \$20 million or so going to their contingency fee attorneys.

In 2020 the Honorable Clifton B. Newman was the third circuit court judge assigned to Richland 4900 and the 2011 FOIA case consolidated with Richland 4900. By then the circuit

² The lengthy procedural history is more fully set out in the Petitioner’s briefs and the record on appeal in Case No. 2023-1253, and the more recent developments are addressed in Petitioner’s Return to Motion to Transfer and Consolidate, dated February 29, 2024, on file in this case. In compliance with Rule 242, Petitioner offers this brief statement of the case as to the specific orders on appeal.

judge was faced with the same false claims, made by and on behalf of the Attorney General, through SWB, the AG's chosen trustee Russell Bauknight, and the AG's own FOIA staff for a decade. The circuit court also did not know, and SWB and the AG's own FOIA staff did not tell the new circuit judge, two important facts which all knew in 2020:

1. Attorney General Wilson, on April 24, 2013, had confirmed that the Office of the Attorney General never hired SWB to bring Richland 4900; and
2. The AG's FOIA attorneys were concealing from the public and multiple courts the claimed \$4.7 million valuation which had been in the Attorney General's office for years, and which the Attorney General and Respondents had used since 2010 to falsely claim that Buchanan and Pope committed the federal felony of overstating James Brown's assets to the IRS by \$79 million to secure a \$5 million commission on what the Attorney General claims was James Brown's \$5 million estate at his death.

The circuit court, believing that Attorney General Wilson fully supported SWB's requests that he issue orders violating the Due Process, privacy rights, FOIA rights and other civil rights being requested in the AG's name, issued a series of orders between 2020 and 2023 that SWB and its private clients had been trying to secure against Buchanan and Pope for fourteen (14) years.

This time, after an August 10, 2023 hearing without Pope's counsel present; while an automatic stay was in place related to the circuit court's striking of Buchanan's and Pope's answer because Pope filed a motion to lift stay; and without considering a 70+-page objection and more than 30 depositions showing that the order would violate the Due Process rights of both Pope and her husband Thomas Pope, in favor of SWB's sixteen (16) private clients, the circuit court, misled by both SWB and the AG's own FOIA counsel, directed Pope to deliver her tax joint tax returns for five years to SWB's private clients scattered from the State of Georgia to London, U.K within 10 days. "without objection."

Despite the clear violation of the Due Process rights of both Petitioner and her spouse, and the abusive proceeding during a stay without notifying counsel, the Court of Appeals on December 20, 2023, dismissed this appeal without prejudice, as not immediately appealable. On March 17, 2024, the Court of Appeals denied reconsideration, even as further discovery abuse and lack of candor with multiple courts by SWB on behalf of the State/Attorney General was coming to light.

In March 2024, as Pope was being accused of making a January 2024 “fraudulent FOIA claim” for the purported confidential \$4.7 million valuation the Attorney General has used since 2010 as the sole support for the false felony claim, the Attorney General’s FOIA attorneys reported for the first time that the AG had a copy of the \$4.7 million valuation used to lodge the false felony claim against Petitioner, and that it had been received by the Attorney General at least 6 ½ years earlier with no claim or agreement for confidentiality.

The direction for Pope and her spouse to produce their tax returns to Respondents “without objection” is an egregious violation of their Due Process right, especially since the order was issued with no notice to Pope’s spouse as they celebrated Pope’s 80th birthday with family out of state; and with no notice to her counsel, and no attempt to contact Petitioner’s counsel when they were not present for the hearing. It is the culmination of State/Attorney General discovery abuse which has gone on for fourteen (14) years and FOIA abuse and delay which now spans thirteen (13) years.

The circuit court was misled by the Attorney General, both through SWB and directly in the FOIA cases. Yet the Attorney General and Respondents claim that Pope has caused delay. Believing that the power of the State’s highest judicial office was being properly wielded by SWB and the AG’s FOIA attorneys, the circuit court joined the attack of the Attorney General and Respondents on Buchanan and Pope; awarded the sanctions Respondents wanted; struck Pope’s

answer; allowed the AG's designated trustee Russell Bauknight to pay into the court and hold more than \$120,000 of Pope's money without an accounting, even though it is earning interest at 8 ¾%; and finally violated the Due Process and privacy rights of both Appellant and her spouse Thomas Pope in the 2023 order for which certiorari is now sought.

At the behest of SWB attorneys, acting "on behalf of the Attorney General of South Carolina," the circuit court did not call Silvernail on August 10, 2023; did not call either of the two other attorneys, Daryl Williams and Wm. Jeffrey Smith, who were counsel on the August 4, 2023 appeal; did not notify Thomas Pope that his First Amendment and privacy rights were being violated in the name of the State/Attorney General for the benefit of SWB's private clients; and did not consider the opposition or the sworn testimony of the Governor, Attorney General Alan Wilson, Solicitor General Robert Cook, and numerous others which confirmed that the Attorney General and Respondent, while concealing more than 150 boxes of James Brown public records for 13 years, had trampled on the rights of Buchanan and Pope.

Argument

The 3-sentence Dismissal Order references *Hamm v. S.C. Public Service Commission*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) and states in part:

This appeal arises out of an order of the circuit court granting Respondents' motion to compel... Because the underlying order is not immediately appealable, this appeal is dismissed. The remittitur will be sent as provided in Rule 221(b)...

While *Hamm* does include the statement that discovery orders are not immediately appealable, the Supreme Court's primary review in *Hamm* related to whether a stay existed as a result of a pending appeal of interlocutory orders. This appeal presents a question opposite the one reviewed in *Hamm*. In this case, Petitioner appeals the lower courts orders *issued during the still-pending Rule 241 automatic stay triggered by the appeal of undisputedly appealable orders.*

While the orders on appeal herein grant relief related to discovery matters, the *issues* in this appeal relate to the Rule 241 automatic stay, the lower court's jurisdiction to issue the orders, and the Constitutional and other rights of Petitioner, her husband and others.

The pending appeal in Case No. 2023-1253 involves circuit court orders which strike Petitioner's answer and hold her in default. Respondents' motion to compel, granted by the orders which Petitioner asks this Court to review herein, is based on Petitioner's default. Respondents unintelligibly took the position that the automatic stay did not preclude the circuit court's hearing and ruling on this matter. The relief sought by Respondents and granted by the circuit court was clearly affected by the already pending appeal. The circuit court did not have jurisdiction to issue the orders on appeal herein.

Both the lower court order and the single judge overlooked or misapprehended that the articulated principles of discovery found in *Hamm* must conform to applicable rules and to the S.C. and U.S. Constitutions; did so in *Hamm*; but did not do so in the lower court's orders herein.

Hamm makes clear that when the discovery process becomes abusive or creates a particular harm to a litigant or third party the trial judge has broad discretion to limit the scope of discovery. SWB and Bauknight, acting "on behalf of the Attorney General of South Carolina" asked the lower court to abuse its discretion and violate civil rights of Petitioner, her spouse, and others by conducting a hearing while a stay was in place; failing to notify Petitioner's counsel of the hearing; and invading the privacy and Due Process rights of Petitioner, her spouse, and possibly her clients. SWB, under color of state law, did so to punish Petitioner – as they have for almost 14 years – for protecting James Brown's "I Feel Good" charity from 2007 until May 2013 from Respondent Hynie and eleven (11) Respondents formerly represented by Louis Levenson, Esq.

The lower court proceeded with the hearing although the record before it showed that there was an appeal of a directly related matter; Governor Henry McMaster had not authorized this state action; AG Alan Wilson had confirmed that SWB was never hired; but SWB and Bauknight continued to act for the State/AG for more than 10 years.

The Dismissal Order overlooks these patent State/AG violations which the lower court, without notice or hearing, and while a stay was in place, continued.

Petitioner respectfully submits that the Dismissal Order cannot be justified by a proper reading of *Hamm*, which involved a reasoned decision by a circuit court judge, after a hearing, to proceed with a rate hearing where, after a hearing where both sides presented arguments, the lower court found that the document sought in discovery was material to the proceeding; and the S.C. Public Service Commission agreed to provide the document on appeal to Hamm prior to the hearing under a confidentiality order.

Chief Justice Toal, joined by the justices, reasoned in *Hamm* that the lower court had not abused its discretion when it found that the documents sought in discovery were material to the hearing, but declined to use Rule 26 SCRPC to make public contracts which would cause an extensive intrusion into the affairs of another party, where the party had offered to produce the documents to Hamm under a confidentiality order prior to the lower court's proceeding despite the appeal of whether the documents should be made public.

By sharp contrast the lower court in the instant case patently abused its discretion by holding a hearing while a stay was in place; holding it without notice to counsel, who relied on the stay; refusing to correct its error when advised by counsel for Petitioner; without making any finding that the extensive, abusive intrusion into the affairs of Petitioner, her spouse, and perhaps her clients was justified; and, with no confidentiality order, allowing Hynie, who had publicly and

falsely claimed that Petitioner was “the last of the rats” and made other troublesome, false claims, to take possession of copies of the private income tax returns of Petitioner and Petitioner’s husband.

CONCLUSION

For the reasons set forth above, Petitioner respectfully asks that the Court grant a Writ of Certiorari to review the orders appealed from; reverse or void the orders; and allow this fourteen year old case brought against Buchanan and Petitioner to proceed to its just conclusion.

Respectfully submitted,

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April 10, 2024

Counsel for Appellant Adele J. Pope

Exhibit A
List of Selected Documents Constituting the Appendix
Bauknight v. Pope
Appellate Case No. 2023-1941

1. Notice of Appeal, dated 12/15/23, with attached circuit court orders.
2. Order of Dismissal, dated 12/20/23.
3. Petition for Rehearing and Suggestion for Rehearing *en Banc*.
4. Respondents' Motion to Transfer and Consolidate, dated 2/23/24.
5. *Pro se* Return to Motion to Transfer and Consolidate, dated 2/29/24.
6. Appellant's Return to Motion to Transfer and Consolidate, dated 2/29/24.
7. Order Denying Petition for Rehearing and Suggestion for Rehearing *en Banc*, dated March 18, 2024.

EXHIBIT B

STATE OF SOUTH CAROLINA) IN THE SOUTH CAROLINA CIRCUIT COURT
COUNTY OF RICHLAND) C.A. NO. 2010-CP-40-4900

RUSSELL L. BAUKNIGHT, et al)
Plaintiffs,)
versus)
ADELE J. POPE)
Defendant.)

H E A R I N G

DATE: August 11, 2023
TIME:
LOCATION: South Carolina Circuit Court 5
JUDGE: Clifton B. Newman

TRANSCRIBED BY: Lynda Monroe

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PROCEEDING

THE COURT: Good afternoon.

MR. GENDE: Good afternoon, Your Honor.

THE COURT: What is the story here?

MR. GENDE: Your Honor, Mark Gende and Aaron Hayes here on behalf of Plaintiffs in case 4900. The James Brown Estate matter, breach of fiduciary duty action against Adele Pope.

The story -- I don't see anyone for Ms. Pope. I don't see Adam Silvernail, I don't see Darryl Williams or any of the other attorneys that have appeared for her at various times.

It's our understanding that the Court set this time for a hearing on our motion to compel. There was some e-mail about confirming that and what the Court said about that, I'm going to let Mr. Hayes describe for you and then I'll come back in.

MR. HAYES: Yes, Your Honor, I think where your law clerk last left it on the e-mail thread is that we were to be here today at 11:30 and subsequent to that, there was a filing of a notice of appeal by Ms. Pope. We responded back -- and that was provided to your law clerk, and we responded back to that e-mail saying that we believe we still need to be in front of you today in spite of the notice of appeal and there was no response or comment from Mr. Silvernail on behalf of Ms. Pope as to what they think about the notice of

1 appeal and whether today's proceedings can move forward.

2 MR. GENDE: It's our opinion, Your Honor, that their
3 notice of appeal does not prevent us to go forward with this
4 discovery matter in case 4900, because under Rule 41, the
5 only -- or 241 in the appellate court rules, the only items
6 that are stayed are items affected by the appeal.

7 Her appeal was of the sanctions order that struck her
8 answer and that sanctioned her for our fees. That is wholly
9 independent of discovery in this case and we think that the
10 last sentence of Rule 241 that says that you retain
11 jurisdiction over matters not affected by the appeal,
12 including the authority to enforce any matters not stayed by
13 the appeal, applies to this discovery matter.

14 The fact is we're 13 years into the case and we don't
15 have some basic answers in discovery from her which go to her
16 insurance availability, which is a basic right under Rule 26,
17 and then we don't have other compete answers about her
18 financial condition which goes to our claim for punitive
19 damages and assessing her ability to pay.

20 Regardless of how those appeals come out, this case is
21 going to a damages phase. Whether it's a damages hearing
22 under the default because her answer being stricken or a
23 damages trial. But liability's been established in case
24 1337, where she was found to breach her fiduciary duty. At
25 the appropriate time, we'll file a motion to enforce that in

1 case 4900 under the doctrine of collateral estoppel.

2 But we just don't see how the appeals of the sanctions
3 order affects this discovery motion that we have filed and we
4 want to keep moving things forward as best that we can.

5 THE COURT: And what do you propose to do?

6 MR. GENDE: If Your Honor would just issue an order
7 directing her to give full and complete responses to the
8 interrogatories that we listed in our motion to compel and
9 there's a request to produce as well so there's one, two,
10 three, four interrogatories we request full and complete
11 responses to and a request to produce.

12 Is that the correct number?

13 MR. HAYES: That's correct.

14 MR. GENDE: Okay. If the Court would, you know, give
15 us an order directing her to give full, complete, and current
16 responses. I say current because we know that Mr. Williams
17 is still involved in the case. Mr. Williams was hired by an
18 insurance carrier. We have been told that there's no
19 coverage under that, just informally, not in discovery, yet
20 Mr. Williams has continued to appear for 13 years and so that
21 money's coming -- for him to appear is coming from somewhere.
22 So we need to have current information on her insurance
23 carrier and policy status because we suspect that there might
24 be a policy out there with -- that's responding to this
25 claim.

1 Also we want to head off at the pass a second issue
2 that's not technically before you but I'll mention it in
3 background. We have served on Ms. Pope additional discovery
4 aimed at getting financial information for the same reasons I
5 stated earlier. It's not yet due, it's coming due soon and,
6 you know, we want to head off at the pass her trying to
7 either give incomplete responses or objections which simply
8 kick that issue down the road and we believe that if the
9 Court rules, today, that she has to give full and complete
10 responses to the interrogatories and request to produce in
11 our motion to compel, that that will be some indication to
12 them that they better or they should appropriately answer the
13 pending supplemental discovery request before them.

14 I think that's all that we could hear today. We have,
15 subsequently, filed a petition for rule to show cause.
16 Arguably, I would agree that the appeal would stay that
17 because I think that, depending on how the Court of Appeal
18 rules, that could affect that motion.

19 Just for some more background on the case, generally,
20 although she's filed a notice of appeal a day or two ago, we
21 filed a petition with the Supreme Court asking them to take
22 all of these appellate matters and to give us an expedited
23 briefing schedule so that we can have them dispensed of, on
24 the appellate level, and still make the deadline that you
25 have set for trial on either the week of November 7th or back

1 up of December 18th. We very much want to make those dates.

2 So that's how we see things this morning and believe
3 that you can rule on the motion to compel.

4 THE COURT: Tell me, again, what you just indicated
5 about the week of November the 7th. What did you indicate?

6 MR. GENDE: Yes, at the hearing on Pope's motion to
7 lift the stay, the fourth or fifth hearing that she had on
8 that some months ago, in the spring, you also had somewhat of
9 a status conference component of that where you set, for
10 trial, case 4900 or what we'll try of case 4900 and you set
11 that for the week of November 7th with a backup date of
12 December 18th. That week, if for some reasons schedules
13 require that, and, of course, the Supreme Court has asked
14 that, you know, the case be disposed of as promptly as
15 possible and just at the hearing I believe you mentioned, you
16 know, with your pending retirement you wanted to make sure
17 that this was handled this year.

18 THE COURT: November 7th with a backup date of December
19 what?

20 MR. GENDE: The week of December 18th.

21 THE COURT: Okay. December 18th, I'm currently
22 scheduled in Kershaw, also in, believe in (indiscernible)
23 trial date of one of his -- one of the co-defendants in that
24 case.

25 MR. GENDE: Ah.

1 THE COURT: November 6th, common pleas court Lexington
2 County and I don't know of anything special going on there.

3 MR. GENDE: And just for, you know, discussion purposes
4 we certainly trust that it will not take a week. We're going
5 to have, essentially, our experts testify as to damages.
6 That will probably take a couple of days. Depending on the
7 nature of the hearing, whether it's just a damages hearing,
8 we'll be able to expedite it a little more because Ms. Pope's
9 responses would be limited due to the rule. If the Court of
10 Appeals or Supreme Court rules in such a way that she is no
11 longer in default then it would be a damages hearing and that
12 would probably take a little more time but we're going to be
13 prepared to come in and be as expeditious as possible.

14 THE COURT: Okay. Well, we will see how all that goes
15 and if you'll prepare an order reflecting the ruling by the
16 Court requiring the Defendant to comply with discovery.

17 MR. GENDE: Very good. Thank you. We'll do that.
18 We'll get it to you probably this afternoon.

19 THE COURT: All right. Thank you.

20 MR. GENDE: Thank you, Your Honor. Have a good day.

21 THE COURT: All right. Bye-bye.

22

23

24 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED
25 AT 2:19 p.m.)

CERTIFICATE OF TRANSCRIBER

I, Lynda Monroe, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 5, Richland County, South Carolina, on the 11th day of August, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 11, 2024

Lynda Monroe, Transcriber

EXHIBIT C

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)
) Case No.: 2010-CP-40-4900

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 Vanisha Brown; Lindsey
Delores Brown;Deanna J. Brown Thomas; Jason
Brown-Lewis; Yamma N. Brown, individually
and on behalf of her minor children, Sydney
L., Carrington L., and 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 VANISHA BROWN; LINDSEY
ELORES BROWN; DEANNA J. BROWN
THOMAS; JASON BROWN - LEWIS;
YAMMA N. BROWN, individually and on
behalf of her minor children, SYDNEY
L., CARRINGTON L., and TONYA BROWN;
VENISHA BROWN; LARRY BROWN; and
TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

AFFIDAVIT OF
THOMAS H. POPE III

PERSONALLY APPEARED BEFORE ME Thomas H. Pope III who, being duly sworn,
deposes and says:

1. This affidavit is made of my own personal knowledge. I have been a member of the
South Carolina Bar since November 1974. My resume is attached as Exhibit A.

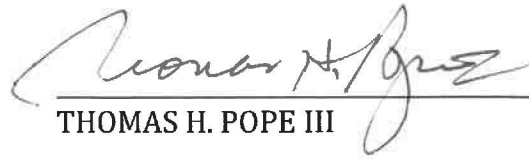
2. I am the spouse of Adele J. Pope, one of two original defendants in this 2010 case brought by the Attorney General of South Carolina against my spouse and Robert L. Buchanan, Jr.
3. It is my understanding that in the year 2023 The Honorable Clifton Newman issued orders in this case in April 2023 and July 2023 which struck Adele's Answer in the above matter, requiring her to proceed to trial on the merits of a case which had not completed discovery after thirteen (13) years.
4. I understand that Adele, through her counsel Adam Silvernail, filed on August 4, 2023, a Notice of Appeal of Judge Newman's Order striking Adele's Answer and of his Order Denying her Motion to Alter or Amend and his Order Granting Plaintiffs' Motions for Sanctions.
5. The appeal is now pending in the Supreme Court.
6. It is my understanding that while the appeal of that Order was pending, Judge Newman issued a November 8, 2023, order directing Adele to produce our joint tax returns, and to do so without objection. I do not believe the hearing should have been held, as the lower court had no jurisdiction to do so since the case was on appeal.
7. I object to this Order. Production of my joint tax returns violates my right of privacy and possibly that of my children, and my due process rights.
8. My deposition in a related case, which was taken on April 11, 2017, is attached herewith and incorporated by reference. This deposition points out the work that Adele and Bob did as Trustees and Personal Representatives of the Brown Estate, and deals with the resistance they met from dozens of lawyers from South Carolina and other states who were trying to dismember the estate plan of Brown. Prominent in those

trying to destroy the estate plan was the Office of Attorney General of South Carolina. The presence of the Attorney General in this case created formable odds for Adele and Bob.

9. I understand that Judge Early, after seeking out and asking Adele and Bob to serve as Special Administrators in 2008, thereafter issued approximately ten Orders praising their diligent service as Special Administrators and as Personal Representatives and Trustees of the Brown Estate. He sought out and appointed Adele and Bob because he trusted them and their integrity.
10. After their appointments, Adele and Bob had to fight for Brown's estate plan (which provided that a vast majority of the estate assets would be placed in trust for poor children) and they vigorously defended again – against the children, against an alleged spouse (Tomie Rae Hynie), and against the position of the Attorney General that he should be in charge of the trust. The Office of Attorney General, for political or other reasons, never wanted to implement Brown's plan and fought it at every turn. The legal/political machinations were those of Assistant Attorney General Sonny Jones. I am not aware of any evidence that then-Attorney General McMaster or current Attorney General Wilson did anything other than fail to monitor and direct their staff lawyers to honor and implement the estate plan of Brown.
11. I am also aware that Steve Johnson, one of the most honorable and capable estate planning lawyers in South Carolina, testified in Case No. 2013-CP-02-1337 that in his 40+ years of practicing law, he had never seen an estate as complicated as the James Brown Estate and that Adele served the Brown Estate well and properly.

12. Adele and Bob's efforts, though considerable, were not in vain. The Supreme Court reversed the plan endorsed by Judge Early to divide up the estate and decimate Brown's estate plan in the case of *Wilson v. Dallas*.
13. I am aware that throughout Adele's fight to preserve Brown's testamentary plan and to defend herself against attacks for doing so for the last approximately 14 years, she has spent over \$30,000 each year of her own money in expenses and fees; because of the Plaintiffs' bullying legal tactics, she cannot get professional liability insurance.
14. Adele also took the position very early on in the estate that Tommie Rae Hynie was not Brown's spouse. She was ostracized, criticized, and ridiculed by attorneys for Tommie Rae, various children, and the Attorney General for asserting that Tomie Rae was not the spouse of Brown at the time of his death. Later, her position was vindicated in In re The Estate of James Brown, 2018-001990 (2020) when the South Carolina Supreme Court ruled Hynie was not the spouse of Brown.
15. She has done nothing in the James Brown case that the late Cam Lewis did not do as a lawyer and/or a fiduciary. She has been tough, fearless, persistent, and ethical.
16. Adele has done the job that Judge Early picked her for.
17. In addition to Steve Johnson, the record in this case will indicate that the following prominent South Carolina lawyers think highly of Adele, her integrity, and her fearless pursuit of doing the right thing: Jim Hardin, Charlie Carpenter, Jim Richardson, and Daryl Williams. Adele is unafraid of doing the right thing.

FURTHER DEPONENT SAYETH NOT.


THOMAS H. POPE III

SWORN TO before me this 16th
Day of November 2023

Mina Elizabeth Beaks Alexander
Notary Public for South Carolina
My Commission Expires: 1/29/2025

EXHIBIT D

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
)
) Case No.: 2010-CP-40-4900

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 Vanisha Brown; Lindsey
Delores Brown; Deanna J. Brown Thomas; Jason
Brown-Lewis; Yamma N. Brown, individually
and on behalf of her minor children, Sydney
L., Carrington L., and Tonya Brown; Venisha
Brown; Larry Brown; and Terry Brown

AFFIDAVIT OF
ADAM T. SILVERNAIL

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 VANISHA BROWN; LINDSEY
ELORES BROWN; DEANNA J. BROWN
THOMAS; JASON BROWN - LEWIS;
YAMMA N. BROWN, individually and on
behalf of her minor children, SYDNEY
L., CARRINGTON L., and TONYA BROWN;
VENISHA BROWN; LARRY BROWN; and
TERRY BROWN,

Plaintiffs.

v.

Adele J. Pope,

Defendant.

PERSONALLY APPEARED BEFORE ME Adam T. Silvernail who, being duly sworn,
deposes and says:

1. I am over eighteen (18) years old, competent to testify, and give this affidavit of my own personal knowledge.

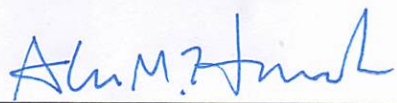
2. I am an attorney licensed to practice law in South Carolina, and I have represented Adele J. Pope in this action since 2011.
3. I attach a true and correct copy of a thread of emails among counsel and the Court in the above-referenced action in July-August 2023 as **Exhibit A**, and I certify that every statement made by me therein is true to the best of my knowledge. I also note that two emails which are privileged (but which my system nonetheless includes in this thread) are redacted.
4. I attach a true and correct copy of a thread of emails among counsel in the above-captioned action in May 2017 as **Exhibit B**, and I certify that every statement made by me therein is true to the best of my knowledge.
5. I attach a true and correct copy of a thread of emails among counsel in the above-captioned action in July 2017 as **Exhibit C**, and I certify that every statement made by me therein is true to the best of my knowledge.

FURTHER DEPONENT SAYETH NOT.



ADAM T. SILVERNAIL

SWORN TO before me this 16th
Day of November, 2023



Notary Public for South Carolina
My Commission Expires: 9/20/31

EXHIBIT A

electronic mail, or any other reader of such electronic mail, is not the intended recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you received this message in error, please send a reply, delete the message immediately, and do not forward this message to any other person.

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Quoted text hidden]

Newman, Clifton Law Clerk (Gabrielle Williams) <CNewmanLC@sccourts.org> Mon, Jul 24, 2023 at 2:55 PM
To: "Aaron J. Hayes" <AJH@swblaw.com>
Cc: "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Adam Silvernail <adam@silvernailfirm.com>, Daryl Williams <dwilliams@gertzandmoore.com>

Good afternoon,

Are the parties available during the week of August 7th to have this heard by Webex before Judge Newman?

Thank you for your email. Plaintiff's counsel will make themselves available at the court's convenience any time that week for the hearing.

Mark Gende

Mark V. Gende, Esq.

Sweeny, Wingate & Barrow, PA

1515 Lady Street

Columbia, South Carolina 29201

T 803.256.2233

F 803.256.9177

[Quoted text hidden]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

[Redacted]

[Redacted]

Adam Silvernail <adam@silvernailfirm.com>
To: "Newman, Clifton Law Clerk (Gabrielle Williams)" <CNewmanLC@sccourts.org>
Cc: "Aaron J. Hayes" <AJH@swblaw.com>, "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Daryl Williams <dwilliams@gertzandmoore.com>

Mon, Jul 31, 2023 at 9:58 AM

Dear Ms. Williams:

I can be available on days other than August 8 and 11 that week, although my client will be out of state for most of that week. I also note that we will shortly be filing a Notice of Appeal of Judge Newman's recent Order granting sanctions in this matter.

Adam Silvernail

--
Law Office of Adam T. Silvernail, LLC
803/779-1770

Physical address:
1905 Marion Street
Columbia, South Carolina 29201

Mailing address:
Post Office Box 7995
Columbia, South Carolina 29202-7995

[Quoted text hidden]

Newman, Clifton Law Clerk (Gabrielle Williams) <CNewmanLC@sccourts.org>
To: Adam Silvernail <adam@silvernailfirm.com>
Cc: "Aaron J. Hayes" <AJH@swblaw.com>, "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Daryl Williams <dwilliams@gertzandmoore.com>

Mon, Jul 31, 2023 at 10:38 AM

Mr. Silvernail,

If your client is out of the State most of the week, will they be able to log onto the Webex hearing for whichever date we all can agree upon for that week?

Gabrielle

F 803.256.9177

[Quoted text hidden]

Daryl Williams <dwilliams@gertzandmoore.com> Thu, Aug 3, 2023 at 2:52 PM
 To: "Mark V. Gende" <MVG@swblaw.com>
 Cc: "Newman, Clifton Law Clerk (Gabrielle Williams)" <CNewmanLC@sccourts.org>, "Aaron J. Hayes" <AJH@swblaw.com>, "Ken B. Wingate" <kbw@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Adam Silvernail <adam@silvernailfirm.com>

I will be attending the mediation of a complex securities fraud case, with out-of-state opposing counsel and mediator. Mr. Silvernail, in the absence of any conflict of his own, can handle the argument for our side.

Thank you.

Daryl L. Williams

Sent from my iPhone

On Aug 3, 2023, at 12:53 PM, Mark V. Gende <MVG@swblaw.com> wrote:

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

<image001.gif>

Aaron J. Hayes | *Of Counsel*
Sweeny, Wingate & Barrow, P.A.

1515 Lady St. (29201)
PO Box 12129
Columbia, SC 29211

Cell ■ 803-517-4338

Main ■ 803-256-2233

Fax ■ 803-256-9177

[Web](#) | [Bio](#) | [Email](#)

This message may be confidential and protected by the attorney/client, attorney work product or other privileges. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by electronic mail. If the person actually receiving this electronic mail, or any other reader of such electronic mail, is not the intended recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you received this message in error, please send a reply, delete the message immediately, and do not forward this message to any other person.

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Is the Court still amenable to hearing from us on Thursday at 11:30 via Webex, as originally scheduled? If so, would the Court like the parties to be prepared to argue the Motion?

Thank you,



Aaron J. Hayes | *Of Counsel*
Sweeny, Wingate & Barrow, P.A.

Cell: (803) 517-4338

Office: (803) 256-2233

[Quoted text hidden]

Aaron J. Hayes <AJH@swblaw.com> Tue, Aug 8, 2023 at 1:52 PM
To: "Newman, Clifton" <CNewmanJ@sccourts.org>, "CNewmanSC@sccourts.org" <CNewmanSC@sccourts.org>
Cc: "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Adam Silvernail <adam@silvernailfirm.com>, Daryl Williams <dwilliams@gertzandmoore.com>

Good afternoon, Judge Newman and Mrs. Sabb.

Below is an email exchange that counsel were having with Ms. Williams. Per the aut-reply message I just received from her account, I am supposed to forward emails directly to Judge Newman's account and Mrs. Sabb's account.

Please do not hesitate to let me know if any further clarification is needed regarding the items discussed below.

[Quoted text hidden]

Aaron J. Hayes <AJH@swblaw.com> Thu, Aug 10, 2023 at 4:46 PM
To: "Newman, Clifton" <CNewmanJ@sccourts.org>, "CNewmanSC@sccourts.org" <CNewmanSC@sccourts.org>
Cc: "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Adam Silvernail <adam@silvernailfirm.com>, Daryl Williams <dwilliams@gertzandmoore.com>, "Newman, Clifton Law Clerk (Sutania Radlein)" <cnewmanlc@sccourts.org>

Good afternoon, Judge Newman and Mrs. Sabb.

Pursuant to the Court's instructions at today's hearing, please find attached a Word version of a proposed Order Granting Motion to Compel. We have also e-filed this proposed Order into your queue.

[Quoted text hidden]

 **Case 4900 Proposed Order Granting July 11 2023 Motion to Compel.docx**
27K

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RECHLAND - COMMON PLEAS - CASE#2010CP4004900

1905 Marion Street
Columbia, South Carolina 29201

Mailing address:
Post Office Box 7995
Columbia, South Carolina 29202-7995

[Quoted text hidden]

Aaron J. Hayes <AJH@swblaw.com> Fri, Aug 11, 2023 at 10:02 AM
 To: Adam Silvernail <adam@silvernaillawfirm.com>
 Cc: "Newman, Clifton" <CNewmanJ@sccourts.org>, "CNewmanSC@sccourts.org" <CNewmanSC@sccourts.org>, "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>, "Tiffany N. Nelson" <TNN@swblaw.com>, Daryl Williams <dwilliams@gertzandmoore.com>, "Newman, Clifton Law Clerk (Sutania Radlein)" <cnewmanlc@sccourts.org>, Adele Pope <adele@popelawfirm.com>

Good morning, Judge Newman. Plaintiffs request that the Court sign the proposed order.

The below email thread contains the entirety of the Court’s and the parties’ communications regarding the date and time of the hearing. It is clear that the Court set the date and time of the hearing, with notice to Mr. Silvernail, and the Court never issued any instructions to the contrary nor did Mr. Silvernail ever advise of a scheduling conflict.

Also, as Plaintiffs argued yesterday and as reflected in the proposed order, there is no appellate stay over the current discovery dispute, because Plaintiffs are entitled to the requested information regardless of what happens in the current appeal. Therefore, the discovery dispute is “not affected by the appeal,” and thus the circuit court still has jurisdiction pursuant to Rule 241(a), SCACR.

Thank you,



Aaron J. Hayes | *Of Counsel*
Sweeny, Wingate & Barrow, P.A.

Cell: (803) 517-4338

Office: (803) 256-2233

From: Adam Silvernail <adam@silvernaillawfirm.com>
Sent: Thursday, August 10, 2023 6:12 PM
To: Aaron J. Hayes <AJH@swblaw.com>

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

EXHIBIT B



Adam Silvernail <adam@silvernaillawfirm.com>

Pricing Quote

3 messages

Armfield Supply <armfieldsupply@bellsouth.net>
Reply-To: Armfield Supply <armfieldsupply@bellsouth.net>
To: ljm@swblaw.com, adam@silvernaillawfirm.com

Wed, May 3, 2017 at 5:09 PM

Lisa,

I am attaching the price quote for the scanning job that you have discussed with the staff at Armfield's. If you wish to allow us to do the job for you, please sign the line for "Signature" and email it back to us or fax it to us at 803-276-8926

Thank you,
Megan Singleton
Manager

--- On Wed, 5/3/17, armfieldsupply@bellsouth.net <scanner.cbesc@gmail.com> wrote:

> From: armfieldsupply@bellsouth.net <scanner.cbesc@gmail.com>
> Subject: Scanned image from Armfields Office Supplies
> To: armfieldsupply@bellsouth.net
> Date: Wednesday, May 3, 2017, 5:55 PM
> Reply to: armfieldsupply@bellsouth.net
> <armfieldsupply@bellsouth.net>
> Device Name: Armfields Office Supplies
> Device Model: MX-4140N
> Location: Not Set
>
> File Format: PDF (Medium)
> Resolution: 200dpi x 200dpi
>
> Attached file is scanned image in PDF
> format.
> Use Acrobat(R)Reader(R) or
> Adobe(R)Reader(R) of Adobe Systems Incorporated to view the
> document.
> Adobe(R)Reader(R) can be downloaded
> from the following URL:
> Adobe, the Adobe logo, Acrobat, the
> Adobe PDF logo, and Reader are registered trademarks or
> trademarks of Adobe Systems Incorporated in the United
> States and other countries.
>
> <http://www.adobe.com/>
>

 **armfieldsupply@bellsouth.net_20170503_165501.pdf**
501K

Adam Silvernail <adam@silvernaillawfirm.com>

Thu, May 4, 2017 at 12:52 PM

To: "Mark V. Gende" <MVG@swblaw.com>

Cc: Adele Pope <adele@popelawfirm.com>, Walter Bundy <walter@bundymcdonald.com>, Brent McDonald <brent@bundymcdonald.com>, Paul D Kent <PDK@swblaw.com>, Rett Kendall <EAK@swblaw.com>

Dear Mark:

Since the attached was sent only to your assistant, I am forwarding it, along with my comments below, to you, Paul, Rett and my co-counsel.

This will just confirm for all that we fully complied with our responsibilities, both under Judge Early's discovery Order and under your earlier request for production of documents. For those who were not present, I will describe the process which we completed over Monday, Tuesday and Wednesday this week.

On Monday, May 1, Paul Kent, an attorney for Plaintiffs, and I met in Newberry and worked in Mrs. Pope's file storage space at 1228 Walnut Street from 9 until 4:45 and on Tuesday from 9:20 until about 3:15. During that time, we identified approximately 123 boxes responsive to the Order and/or document requests.

Documents which contained information from other clients and/or Mrs. Pope's private information on the backsides of papers were segregated within each box and marked "This side only" to notify the copier that the backsides should not be copied. Very few items were identified as either confidential or privileged. These will be discussed below.

On Monday, we delivered to Armfield's what appeared to be a representative sample box, so that they could provide an estimate of the cost of copying as requested by Plaintiffs.

With respect to Plaintiffs' decision to copy, we note that more than 80% of Mrs. Pope's documents are either available from the public record and/or from Wingate Suit Plaintiffs.

As shown on the cost estimate of Armfield's, attached, they have now provided Plaintiffs with the cost of copying and are ready to proceed when the first deposit is received.

On Wednesday, May 3, Paul Kent and I met at approximately 9 o'clock and proceeded to 1222 Main Street. At the Main Street address, we reviewed and marked an approximately 50-65 additional boxes of documents.

Again, the documents which contained Mrs. Pope's private information and information from other clients were segregated and marked as set out above. In addition, Mr. Kent was shown a number of documents which are confidential and relate to Mrs. Pope's damages. They include income and expense statements of her law firm; Social Security records; her IRA distribution records; individual income tax returns; and tax returns of the Law Office of Adele J. Pope, P.C. Because we have not worked out a "for attorneys' eyes only" or other mechanism for dealing with financial records, including records which contain information of parties' spouses, unrelated clients and others, we look forward to arranging a mechanism for making these confidential documents available to attorneys and the Court at the appropriate time.

In addition, Paul was invited to view, and we did view, Mrs. Pope's laptop computer and all James Brown documents on that computer. Before concluding discovery, we initiated the copying of all of those matters onto a flash drive which. The copying was expected to take approximately four hours and thirty minutes. Having checked this morning, we believe it was successfully completed. I will have that thumb drive copied within 14 days, so that we will both have a copy. I will deliver that to you.

After copying the responsive documents on Mrs. Pope's laptop computer, we revisited 1228 Walnut Street and, in addition, copied various FOIA responses received by Mrs. Pope since 2013. It is my understanding that Paul, fully satisfied with the discovery, has elected not to return today or tomorrow for anything in addition to the above.

As you know, Mrs. Pope is preparing for a trial on September 5th, which has a large number of overlapping documents with those produced in response to the discovery requests. For that reason, we look forward to your

initiating and completing document copying, which will minimize disturbance of Mrs. Pope's documents as she prepares for trial.

It is my understanding that you plan only to obtain the documents on a flash drive. We would appreciate being copied on all arrangements. Mrs. Pope will be out of town the week of May 15-19. If at all possible, it would be helpful if you could use that week to copy certain documents which she needs for trial preparation. I can help identify those.

Adam

[Quoted text hidden]

Law Office of Adam T. Silvernail, LLC

1905 Marion Street (29201)

Post Office Box 7995

Columbia, South Carolina 29202-7995

803/779-1770



armfieldsupply@bellsouth.net_20170503_165501.pdf

501K

Mark V. Gende <MVG@swblaw.com>

Thu, May 4, 2017 at 2:39 PM

To: Adam Silvernail <adam@silvernaillawfirm.com>

Cc: Walter Bundy <walter@bundymcdonald.com>, Brent McDonald <brent@bundymcdonald.com>, Paul D Kent <PDK@swblaw.com>, Rett Kendall <EAK@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>

Adam:

First, let me thank you for working cooperatively with Paul on this review.

Now having reviewed the documents, we are assessing just how many of them have been produced in one way or the other. Your estimate below that a very large portion of the documents are already available, based on what Paul has reported, may well be accurate. We do not intend unnecessarily to disrupt your client's files or to reduplicate what has been produced.

To that end, using Paul's notes and knowledge, we are working to identify those boxes that may contain material we cannot identify as already produced. We will then have those boxes, or subgroups within boxes if possible, copied. Based on my preliminary meeting with Paul, I think this will be a relatively small number. We understand that while we make this assessment Mrs. Pope will be continuing to use her files.

Part of our review includes an effort to identify how many of the documents on the 75 computer disks you provided represent the boxes reviewed this week. I would appreciate any insight you can give me on that question.

Concerning the confidential documents noted by you below, there is already a confidentiality order in place. Pursuant to that order, you may mark the documents as confidential. I look forward to receiving those documents from you once you have marked them.

I understand you designated some documents as privileged during the review. I look forward to receiving your privilege log as well.

As you are aware, when we contacted Armfield's for a quote, some significant questions arose as to their ability and willingness to participate. We will address those concerns in an appropriate way at a later time.

Mark V. Gende, Esq.

Sweeny, Wingate, & Barrow, PA

1515 Lady Street

Columbia, South Carolina 29201

803.256.2233 – Phone

803.256.9177 – Facsimilie

[Quoted text hidden]

ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

EXHIBIT C



Adam Silvernail <adam@silvernaillawfirm.com>

Pricing Quote

3 messages

Armfield Supply <armfieldsupply@bellsouth.net>
Reply-To: Armfield Supply <armfieldsupply@bellsouth.net>
To: ljm@swblaw.com, adam@silvernaillawfirm.com

Wed, May 3, 2017 at 5:09 PM

Lisa,

I am attaching the price quote for the scanning job that you have discussed with the staff at Armfield's. If you wish to allow us to do the job for you, please sign the line for "Signature" and email it back to us or fax it to us at 803-276-8926

Thank you,
Megan Singleton
Manager

--- On Wed, 5/3/17, armfieldsupply@bellsouth.net <scanner.cbesc@gmail.com> wrote:

> From: armfieldsupply@bellsouth.net <scanner.cbesc@gmail.com>
> Subject: Scanned image from Armfields Office Supplies
> To: armfieldsupply@bellsouth.net
> Date: Wednesday, May 3, 2017, 5:55 PM
> Reply to: armfieldsupply@bellsouth.net
> <armfieldsupply@bellsouth.net>
> Device Name: Armfields Office Supplies
> Device Model: MX-4140N
> Location: Not Set
>
> File Format: PDF (Medium)
> Resolution: 200dpi x 200dpi
>
> Attached file is scanned image in PDF
> format.
> Use Acrobat(R)Reader(R) or
> Adobe(R)Reader(R) of Adobe Systems Incorporated to view the
> document.
> Adobe(R)Reader(R) can be downloaded
> from the following URL:
> Adobe, the Adobe logo, Acrobat, the
> Adobe PDF logo, and Reader are registered trademarks or
> trademarks of Adobe Systems Incorporated in the United
> States and other countries.
>
> <http://www.adobe.com/>
>

 **armfieldsupply@bellsouth.net_20170503_165501.pdf**
501K

Adam Silvernail <adam@silvernaillawfirm.com>

Thu, May 4, 2017 at 12:52 PM

To: "Mark V. Gende" <MVG@swblaw.com>

Cc: Adele Pope <adele@popelawfirm.com>, Walter Bundy <walter@bundymcdonald.com>, Brent McDonald <brent@bundymcdonald.com>, Paul D Kent <PDK@swblaw.com>, Rett Kendall <EAK@swblaw.com>

Dear Mark:

Since the attached was sent only to your assistant, I am forwarding it, along with my comments below, to you, Paul, Rett and my co-counsel.

This will just confirm for all that we fully complied with our responsibilities, both under Judge Early's discovery Order and under your earlier request for production of documents. For those who were not present, I will describe the process which we completed over Monday, Tuesday and Wednesday this week.

On Monday, May 1, Paul Kent, an attorney for Plaintiffs, and I met in Newberry and worked in Mrs. Pope's file storage space at 1228 Walnut Street from 9 until 4:45 and on Tuesday from 9:20 until about 3:15. During that time, we identified approximately 123 boxes responsive to the Order and/or document requests.

Documents which contained information from other clients and/or Mrs. Pope's private information on the backsides of papers were segregated within each box and marked "This side only" to notify the copier that the backsides should not be copied. Very few items were identified as either confidential or privileged. These will be discussed below.

On Monday, we delivered to Armfield's what appeared to be a representative sample box, so that they could provide an estimate of the cost of copying as requested by Plaintiffs.

With respect to Plaintiffs' decision to copy, we note that more than 80% of Mrs. Pope's documents are either available from the public record and/or from Wingate Suit Plaintiffs.

As shown on the cost estimate of Armfield's, attached, they have now provided Plaintiffs with the cost of copying and are ready to proceed when the first deposit is received.

On Wednesday, May 3, Paul Kent and I met at approximately 9 o'clock and proceeded to 1222 Main Street. At the Main Street address, we reviewed and marked an approximately 50-65 additional boxes of documents.

Again, the documents which contained Mrs. Pope's private information and information from other clients were segregated and marked as set out above. In addition, Mr. Kent was shown a number of documents which are confidential and relate to Mrs. Pope's damages. They include income and expense statements of her law firm; Social Security records; her IRA distribution records; individual income tax returns; and tax returns of the Law Office of Adele J. Pope, P.C. Because we have not worked out a "for attorneys' eyes only" or other mechanism for dealing with financial records, including records which contain information of parties' spouses, unrelated clients and others, we look forward to arranging a mechanism for making these confidential documents available to attorneys and the Court at the appropriate time.

In addition, Paul was invited to view, and we did view, Mrs. Pope's laptop computer and all James Brown documents on that computer. Before concluding discovery, we initiated the copying of all of those matters onto a flash drive which. The copying was expected to take approximately four hours and thirty minutes. Having checked this morning, we believe it was successfully completed. I will have that thumb drive copied within 14 days, so that we will both have a copy. I will deliver that to you.

After copying the responsive documents on Mrs. Pope's laptop computer, we revisited 1228 Walnut Street and, in addition, copied various FOIA responses received by Mrs. Pope since 2013. It is my understanding that Paul, fully satisfied with the discovery, has elected not to return today or tomorrow for anything in addition to the above.

As you know, Mrs. Pope is preparing for a trial on September 5th, which has a large number of overlapping documents with those produced in response to the discovery requests. For that reason, we look forward to your

initiating and completing document copying, which will minimize disturbance of Mrs. Pope's documents as she prepares for trial.

It is my understanding that you plan only to obtain the documents on a flash drive. We would appreciate being copied on all arrangements. Mrs. Pope will be out of town the week of May 15-19. If at all possible, it would be helpful if you could use that week to copy certain documents which she needs for trial preparation. I can help identify those.

Adam

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Mark V. Gende <MVG@swblaw.com>

Thu, May 4, 2017 at 2:39 PM

To: Adam Silvernail <adam@silvernaillawfirm.com>

Cc: Walter Bundy <walter@bundymcdonald.com>, Brent McDonald <brent@bundymcdonald.com>, Paul D Kent <PDK@swblaw.com>, Rett Kendall <EAK@swblaw.com>, "Ken B. Wingate" <KBW@swblaw.com>

Adam:

First, let me thank you for working cooperatively with Paul on this review.

Now having reviewed the documents, we are assessing just how many of them have been produced in one way or the other. Your estimate below that a very large portion of the documents are already available, based on what Paul has reported, may well be accurate. We do not intend unnecessarily to disrupt your client's files or to reduplicate what has been produced.

To that end, using Paul's notes and knowledge, we are working to identify those boxes that may contain material we cannot identify as already produced. We will then have those boxes, or subgroups within boxes if possible, copied. Based on my preliminary meeting with Paul, I think this will be a relatively small number. We understand that while we make this assessment Mrs. Pope will be continuing to use her files.

Part of our review includes an effort to identify how many of the documents on the 75 computer disks you provided represent the boxes reviewed this week. I would appreciate any insight you can give me on that question.

Concerning the confidential documents noted by you below, there is already a confidentiality order in place. Pursuant to that order, you may mark the documents as confidential. I look forward to receiving those documents from you once you have marked them.

I understand you designated some documents as privileged during the review. I look forward to receiving your privilege log as well.

As you are aware, when we contacted Armfield's for a quote, some significant questions arose as to their ability and willingness to participate. We will address those concerns in an appropriate way at a later time.

Mark V. Gende, Esq.

Sweeny, Wingate, & Barrow, PA

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ELECTRONICALLY FILED - 2023 Nov 16 4:38 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

**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. 2023-1941

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, Respondents,

v.

Adele J. Pope, Appellant,

PROOF OF SERVICE

The undersigned counsel for Appellant certifies that he has served a copy of the Petition for Writ of Certiorari, with exhibits, on Respondents on the date shown below, by emailing a copy of the same to their counsel, addressed as follows:

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Mark V. Gende
Aaron J. Hayes
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Counsel for Respondents

April 10, 2024

s/Adam T. Silvernail
Counsel for Appellant