

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

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S.C. SUPREME COURT

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

Appellate Case No. 2024-000573

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

And

Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents,

v.

Adele J. Pope, Petitioner.

**RESPONDENTS' REPLY TO PETITIONER'S RETURN TO RESPONDENTS' MOTION
FOR SANCTIONS**

Respondents offer the following brief reply arguments to Pope's Return to Respondents' Motion for Sanctions and the accompanying affidavits:

REPLY ARGUMENTS

1. The affidavits of Adele J. Pope, Esq. Thomas Pope, Esq. and Jeffery Smith, Esq., submitted ostensibly to oppose Respondents' motion for sanctions, are surplusage by even the most charitable analysis. Each alleged affidavit seeks to litigate relitigate virtually all of Mrs. Pope's now-rejected "defenses" in the underlying breach of fiduciary duty case, Civil Action No. 2010-CP-40-04900 ("Case 4900") and her lost fee claim case, Civil Action No. 2013-CP-02-01337. Each alleged affidavit roams over a landscape so vast, much of which is imaginary, that a detailed refutation is impracticable (a common Pope tactic). Each alleged affidavit contains pages of irrelevant, inadmissible, self-serving statements and should be stricken or disregarded. *See* SCRCP, 56(e) ("[A]ffidavits ... shall set forth such *facts* as would be admissible in evidence.") (emphasis added). These alleged affidavits are further examples of Mrs. Pope, and those associated with her, making patently frivolous filings. Adam Silvernail, Esq. also files an affidavit. The body itself of his affidavit does not suffer from surplusage to the extent the others do, although he achieves the same result by attaching an affidavit and an exhibit from prior matters. Mr. Silvernail also cites precious little in the way of relevant, admissible evidence and, therefore, his affidavit should be severely discounted or totally disregarded, pursuant to Rule 56(e), *supra*. Daryl Williams, Esq. appears not to have submitted an affidavit. In any event, none of the affidavits provide any *factual* evidence to support Mrs. Pope's contentions that sanctions are not warranted.

2. As a further basis to avoid sanctions, Pope asserts, under oath and under penalty of perjury, that she is eager to see this case end. This statement lacks credibility when considered

within the context of Case 4900. First, Pope either refused to appear or to meaningfully participate in three attempted mediations. Second, she has made no meaningful efforts to settle that recognized she has lost with finality all of her counterclaims, that recognizes she has been found with finality to have breached her fiduciary duty in numerous ways to the Estate of James Brown, and that recognizes the only remaining issue in Case 4900 is the amount of damages she must pay and whether the number will be calculated by a judge or jury. Third, the Estate recently made a very generous essentially “walk-away” offer to settle all matters with Mrs. Pope to which she simply did not respond and allowed the offer to lapse. Fourth, this Court has held, among other very negative findings about Pope’s conduct, that Pope has made numerous filings for the purpose of delay. These acts do not show that Pope wants to see this case end promptly and support Respondents’ motion for sanctions.

3. Pope cannot and does not refute the list of sanctionable lies listed in Respondents’ Motion. She merely restates the misrepresentations in ways she has convinced herself do not constitute sanctionable lies. But nothing can change the orders of the courts that years ago dropped Mr. Buchanan and the Attorney General¹, nor the facts, which Pope admits, that Respondents have *never* accused her of a federal felony: “Respondents do not use the term federal felony....” Petitioner’s Ret. to Mot. for Sanctions, at p. 7. Her attempted refutation of her lies about the 150 boxes of documents is inscrutable and erroneous, because Pope is the one

¹ Pope’s alleged “gotcha” observation that the Attorney General is still in the caption of Case 4900 is a form-over-substance sleight-of-hand, because the Attorney General was dismissed from Case 4900 years ago and all appellate courts, including this Court, have upheld that dismissal. Pope’s reference to the legacy captions applied to Case 4900, and to this appeal’s caption as supplied by the Court of Appeals, ignores the actual rulings of our courts. The circuit court held *back in 2017* that the Attorney General was dropped as a party—both as a Plaintiff and a Counterclaim Defendant—to Case 4900 and other James Brown matters. *See* Order, Case 4900 (signed May 31, 2017, filed June 12, 2017), *affirmed*, *Bauknight, et al. v. Pope*, 2020-UP-216 (Ct. App., refiled Sept. 16, 2020), *cert. denied*, Order, App. Case No. 2020-001383 (S. Ct., filed April 21, 2021).

who produced the boxes to the Estate, and to best recollection the Respondents have never asserted those documents are subject to any confidentiality order, although they reserve the right to do so concerning individual documents should the need arise.

4. Finally, one example of Pope's many specious arguments in attempting to avoid sanctions is her claim that the undersigned's office "seeks to deny my right to used [sic] the Confidentiality Order properly to protect my private financial information." Aff. of Pope, at ¶ 14. However, Respondents actually *suggested* that Pope use the Confidentiality Order when she turns over the compelled financial information production. See Respondents' Ret. To Pet. and Mot. for Sanctions, at p. 7 ("Respondents note there is a standard confidentiality order on file in Case 4900... there is no reason Pope could not produce the returns and stamp 'confidential' on them.") Pope is using this issue as a ruse to avoid compliance, for no other reason other than she has gotten away with sanctionable conduct for too long and she is calculating she will again.² Respondents trust this court will put an end to her abusive conduct.

CONCLUSION

For the foregoing reasons and for the reasons stated in Respondents' Motion, Respondents respectfully ask the Court to sanction Mrs. Pope and the attorneys who signed the frivolous Petition for Writ of Certiorari.

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² Moreover, Pope's claim that the undersigned "released to Attorney General Wilson" "73 James Brown CDs," Aff. of Pope at ¶ 15, is false. The 73 CDs are sitting in SWB's office and have not been sent to anyone. Even Pope admits that her claim that the 73 CDs were sent to the Attorney General's Office is based upon circumstantial speculation. See Aff. of Pope at ¶ 16 ("a later statement that the OAG had a large upload of James Brown documents is consistent with the delivery to his claimed attorney.") The fact that Pope would put such fallacious speculation into a sworn affidavit is yet another example of what Respondents have dealt with since the beginning.

Respectfully submitted,

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