

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Court Judge  
The Honorable Liz Godard, Clerk of Court

Case No. 2007-CP-02-0122; Case No. 2008-CP-02-0872  
Case No. 2007-CP-02-0322; Case No. 2010-CP-02-0721  
Case No. 2012-CP-02-1059; Case No. 2008-CP-02-1426  
Case No. 2008-CP-02-1712; Case No. 2008-CP-02-2127  
Case No. 2008-CP-02-1556; Case No. 2008-CP-02-1557  
Case No. 2008-CP-02-1758; Case No. 2008-CP-02-1759  
Case No. 2008-CP-02-1647; Case No. 2013-CP-02-1348

Alan Wilson, in his Capacity as Attorney General of  
South Carolina; and others..... Plaintiffs,

v.

Albert H. Dallas and others..... Defendants.

OF WHOM:

Adele J. Pope, Individually and on Behalf of Others under South Carolina Trust  
Code Section 62-7-405, is ..... Appellant,

AND:

Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and  
Tommie Rae Hynie are ..... Respondents

AND:

Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J. Brown  
Thomas and Robert L. Buchanan, Jr., are ..... Additional Interested Persons.

IN RE:

The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d  
August 1, 2000

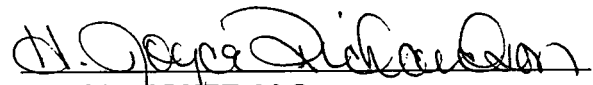
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**PROOF OF SERVICE**

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The undersigned certifies that a copy of the foregoing **Reply In Support Of Motion To Dismiss Appeal For Lack Of Standing** has been served upon counsel of record by depositing a copy of the same, first-class postage prepaid, in the United States Mail, on the 3<sup>RD</sup> day of September, 2013, to the addresses shown below.

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Columbia, South Carolina

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**REPLY IN SUPPORT OF MOTION  
TO DISMISS APPEAL FOR LACK OF STANDING**

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This Court should dismiss Ms. Pope’s appeal. Her involvement with the Estate and Trust was conclusively foreclosed by the Supreme Court’s decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). When the Supreme Court affirmed the circuit court’s decision to remove Ms. Pope for cause, she ceased to be a party to the James Brown Estate and Trust litigation. Accordingly, her continued efforts to meddle in the James Brown Estate and Trust litigation must be rejected. The law is clear that “[a]n appeal filed by one who has ceased to be a party to a suit is a mere nullity.” *Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979). There is nothing in Ms. Pope’s Return that changes this critical fact.

Ms. Pope argues that her standing to file this appeal should not be considered until the close of briefing. In support of that argument, she quotes from the case of *Home Medical Systems, Inc. v. South Carolina Department of Revenue*, 382 S.C. 556, 677 S.E.2d 582 (2009). In that case, the Supreme Court deferred ruling on the taxpayer’s motion to dismiss the appeal. The basis of the motion to dismiss was that the Department failed to timely serve its notice of appeal. *Id.* at 559, 670 S.E.2d at 584. The Court noted that the issue presented a “novel issue regarding the intersection of the South Carolina Rules of Civil Procedure and the ALC Rules.” *Id.* at 560, 670 S.E.2d at 585. The *Home Medical* case has nothing to do with this case.

There are no novel issues presented in the subject motion to dismiss. Ms. Pope is not a party—it is as simple as that. In fact, this Court has previously noted

that where a party lacks standing, the standard practice would be to “dismiss th[e] appeal.” *Valentine v. Davis*, 319 S.C. 169, 172, 460 S.E.2d 218, 219 (Ct. App. 1995) (noting that because the appellant lacked standing the Court would ordinarily dismiss the appeal, but because the Supreme Court had summarily denied a previous motion to dismiss for lack of standing, the Court of Appeals could not issue a contrary order). Ms. Pope is not a party to the underlying litigation she appealed from; for that reason, she lacks standing and this Court should dismiss her appeal.

Ms. Pope’s efforts to argue that she has standing in an “individual” capacity, as opposed to a “fiduciary” capacity are meritless. Ms. Pope has never been involved in the underlying Estate and Trust litigation as an individual. Her only involvement with the Estate and Trust has been as a fiduciary. Now that she has conclusively been removed as a fiduciary, she cannot now argue that her individual interest in her creditor claim provides her an avenue to continue as a party to the Estate and Trust litigation.

The Supreme Court noted that Ms. Pope’s prior actions created an “irreconcilable conflict” between the Estate and Trust and its beneficiaries, and that her continued involvement was “not in the best interests of the estate.” *Wilson*, 403 S.C. at 448-49, 743 S.E.2d at 766-67. Those findings are just as relevant to this Court’s decision. On September 4, 2013, the circuit court will entertain applications from individuals that seek to serve as fiduciaries to the Estate and Trust. The circuit court hearing is occurring pursuant to the Supreme Court’s directive: “The circuit court should, upon proper application, appoint fiduciaries to oversee these matters in accordance with the provisions for succession outlined in Brown’s trust and

estate documents.” *Id.* at 449, 743 S.E.2d at 767. In addition to this appeal, challenging the administrative orders that merely effectuated the Supreme Court’s decision, Ms. Pope has also filed a motion objecting to the hearing to appoint fiduciaries. Ms. Pope’s flagrant disregard for the opinion of the Supreme Court and the rule of law must come to an end.

The Estate and Trust respectfully request that this Court issue an Order dismissing this appeal.

Respectfully submitted,



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James Brown and the Special Trustee of  
the James Brown August 1, 2000  
Irrevocable Trust Agreement

September 3, 2013

Columbia, South Carolina