

STATE OF SOUTH CAROLINA

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In the Supreme Court

Jun 26 2025

APPEAL FROM RICHLAND COUNTY

S.C. SUPREME COURT

Court of Common Pleas

The Honorable Clifton B. Newman, Circuit Court Judge

Appellate Case Nos.: 2023-001941 and 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; 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,

v.

Adele J. Pope, Appellant.

APPELLANT’S RETURN TO SWEENEY, WINGATE & BARROW, P.A.’S MOTION FOR COSTS

Appellant Adele J. Pope respectfully requests that this Court not grant the attorneys’ fees and statutory costs in this matter requested by Sweeny, Wingate & Barrow, P.A. (“SWB”), in light of Appellant’s and her counsel’s good-faith attempt to present this extraordinary circumstance for appellate review.

While this is an appeal from discovery orders which are ordinarily not immediately appealable, this Appellant and her counsel felt this appeal was appropriate and necessary to protect Appellant’s and her husband’s right to privacy and due process where the lower court issued its orders during the pendency of an appeal and explicitly based its ruling on orders which were then

pending review by this Court and which Appellant and her counsel believed in good faith should and would be modified or vacated on appeal.

The history of this matter and the issues which Appellant and her counsel believed warranted appellate review are detailed in Appellant's Petition for Writ of Certiorari and Reply herein, but Appellant would specifically note the Affidavit of her counsel, Adam T. Silvernail, and email exchange attached thereto. **[Exhibit A]**

The Affidavit and attachments show that Appellant's counsel notified the lower court of the filing of the notice of appeal in what became Appellate Case No. 2023-1253, and that Respondents' counsel requested that the lower court hold a status conference. The lower court did not respond, but unbeknownst to Appellant proceeded to conduct a hearing without either the lower court or counsel making any attempt to contact Appellant's counsel to notify them that a hearing was proceeding. Appellant's counsel immediately contacted the lower court upon learning that there had been a hearing and requested that Appellant be given the fair opportunity to present her position on the matter, with no response from the lower court.<sup>1</sup>

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<sup>1</sup> Only after this appeal was filed, during the FOIA criminal proceedings before this Court, did Appellant and her counsel learn that on February 4, 2022 Russell Bauknight, through counsel, sent an *ex parte* communication to the Honorable Clifton Newman, the trial judge assigned this case, described as Case 4900 and a fee claim case described in the communication as "Case 1337". **[Exhibit B]** No counsel for Appellant was copied on the email or knew of it until after the criminal proceeding was commenced. The email stated in part:

Dear Judge Newman,

I am writing to update the Court on the two remaining appeals concerning the James Brown estate. The first appeal is now set to be heard on February 8, 2022 ...Case 4900 is the action the Estate and the James Brown children Filed against Ms. Pope for breach of fiduciary duty.

The February 4, 2022 communication ended with:

**As the Court has requested** the Estate will continue to keep you updated concerning the final two cases that need to be resolved prior to Mr. Bauknight

Appellant and her spouse were out of state for her 80<sup>th</sup> birthday when counsel failed to attend a hearing that they believed had been canceled. There was no call to counsel. There was no opportunity to explain to the Court that Appellant had offered years earlier to produce her tax returns and private information at any proper time, or that Appellant had fully complied with all discovery in Case 4900. Or that the offered tax returns had not been requested with proper redaction.

The orders on appeal herein rang a bell that could not be unrung in requiring Appellant to produce her and her husband's private financial information "without objection." Although this Court ultimately affirmed the lower court's orders in the then-pending appeal, Appellant and her counsel had a good-faith belief that it was necessary to seek appellate review of the orders in the instant case to avoid prejudice to Appellant and her husband in the trial of Richland Case 4900.

The harsh orders overlooked that mere professional courtesy among counsel and exchange of the documents was the best course, rather than sanctions and more sanctions. The Court is asked to note the large number of requests for sanctions and their unwarranted, vitriolic tone.

While the matter of the *ex parte* communication is a matter for the lower court, it is relevant to a request for \$20,000 for a hearing that could, and should have been, resolved with a phone call.

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closing the Estate and funding scholarships. [Emphasis added]

Appellant and counsel do not yet know what the two PDF attachments to the *ex parte* email contained or whether the trial court actually requested any further *ex parte* communications. While Appellant was unaware of this communication at the time this appeal was filed, it is presented here to give context to the lower court's convening a hearing without any attempt to contact any of Appellant's counsel and then issuing and refusing to reconsider a harsh discovery order which would have finally decided Respondents' access to Appellant's and her husband's private financial information before the then-pending appeal was decided.

## Conclusion

Appellant and counsel understand the Supreme Court has requested that SWB provide its time records. They understand that the February 2022 communication is for consideration by the circuit court, but respectfully request that it is relevant to a request for a \$20,000 fee and statutory costs for a hearing that could have been resolved far more efficiently without an order that unnecessarily invaded the privacy rights of Appellant and her non-party spouse and sanctions requests.

Respectfully submitted,<sup>2</sup>

s/Adam T. Silvernail  
Adam T. Silvernail  
Law Office of Adam T. Silvernail, LLC  
Post Office Box 7995  
Columbia, South Carolina 29202  
Telephone (803) 799-1770  
[adam@silvernailfirm.com](mailto:adam@silvernailfirm.com)  
S.C. Bar No. 80219

William Jeffrey Smith  
1216 Crenshaw Street  
Newberry, SC 29108  
Telephone: (803) 597-0209  
Email: [wjstv@mindspring.com](mailto:wjstv@mindspring.com)  
SC Bar No. 0005225

*Counsel for Appellant Adele J. Pope*

June 26, 2025

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<sup>2</sup> Daryl Williams, Esq., who has served as counsel to Appellant in this matter since 2010 has not signed this request. The undersigned have notified the circuit court that he will be withdrawing for health reasons.