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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Courtney Clyburn Pope, Circuit Court Judge

Case No. 2026-000330

Trial Court Case No. 2013-CP-02-1337

Adele J. Pope..... Appellant,

v.

Estate of James Brown and the James Brown 2000 Irrevocable Trust..... Respondents.

REPLY TO RETURN TO MOTION TO STRIKE

Ten years before David Black, Esq., began a 3-year secret *ex parte* communication with The Honorable Clifton Newman, both Black’s client and Attorney General Alan Wilson (“AG Wilson”) had an opportunity to end one of two of Appellant’s cases which were the subject of Black’s secret *ex parte* communications and prevent the filing of the other.

In 2012, after her co-fiduciary settled, Appellant offered to let both the Attorney General and Respondents out of “Richland 4900” at no cost. She agreed to have her fee claim be heard by the Honorable Doyet A. Early III. Respondents rejected the offer, as did the Attorney General.

They moved to strike it from the record.

This was the year James Brown's "I Feel Good" education charity was poised to pay \$4 million or more *every year* in scholarships to needy students of all races in S.C. and Georgia.

In 2017 this case, "Aiken 1337," could have been settled with Appellant's offer to accept \$2.1 million payment for her five years' service as PR/Trustee and in the defense of James Brown's charity (Nov. 2007 – May 8, 2013) That year Judge Early re-affirmed Appellant's rights to the \$47,972, with interest, she had earned as Special Administrator before becoming PR/Trustee.

Respondents chose not to settle in 2017. By then they had missed the chance to distribute \$4 million a year in "I Feel Good" scholarships for at least five years.

In 2018 Appellant again offered to settle both Aiken 1337 and Richland 4900 with Respondents for a payment of \$2.1 million. Respondents refused.

In late 2019 Judge Clifton Newman was assigned to both of Appellant's cases that are relevant in this *ex parte* matter as well as others in which Appellant has had no role since 2013.

That year Black's client, Russell Bauknight, deposited almost \$100,000 of Appellant's money – the \$47,972 with interest – into the Aiken Clerk of Court.

By 2020 Black's client had made the false statement, under oath, to Judge Clifton Newman. Bauknight said that Appellant's \$2.1 million fee claim was a \$19 million demand. [Ap, p.10] This was in a case in which Appellant was not a party and had no ability to correct the false claim. Black and his clients began claiming that Richland 4900 had been brought for the benefit of the "Estate" and the "children." [Ap., p. 9] This was not true. It was brought to benefit Black's client, the "Legacy Trust." The supermajority owner-beneficiaries of the Legacy Trust were the Attorney General and Tomirae Hynie, a person who claimed to be James Brown's spouse.

By the end of 2021 James Brown's assets had been sold for a reported \$90 million but Bauknight, for his own reasons, chose not to distribute \$4 million or more in "I Feel Good"

scholarships a year. By then Bauknight had chosen not to distribute “I Feel Good” scholarships in 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020 and 2021. [Ap., p.1] Bauknight and Black began to claim, with no support in the law, that the James Brown estate had to be closed in order for “I Feel Good” scholarships to be paid. [Exhibit 1-A, Ap., p. 12]

On February 4, 2022, David Black, with the knowledge of Sr. Asst. AG C.H. “Sonny” Jones,” began a 3-year secret *ex parte* communication with Judge Clifton Newman, The initial email referenced: James Brown Estate: Adele Pope appeals. [Ap.p. 12]

Black described Richland 4900 as “the action the Estate and the James Brown Children filed against Ms. Pope...” The body of the email ended with:

As the Court has requested the Estate will continue to keep updated concerning the final two cases that need to be resolved prior to Mr. Bauknight closing the Estate and funding scholarships. [Ap.p.12]

It is still unknown whether David Black provided Judge Clifton Newman with secret *ex parte* updates in 2022 about the \$11.5 million claim of the Pullman Group or Appellant’s \$2.1 million offer.

By 2023 Judge Clifton Newman, as Judge Newman, Black and the Attorney General kept the secret *ex parte* communications secret, Judge Newman issued harsh, discriminatory orders against Appellant, her counsel and Pope without considering the record.[Ap. P. 4] He also conducted an *ex parte* hearing with the law firm of Mark Gende, Esq., who represents Hynie and the Legacy Trust. The hearing resulted in a harsh order damaging Appellant’s counsel and spouse. Respondents rejected Appellant’s offer to settle for \$2.1 million for five years’ work. Bauknight continued to make the false \$19 million claim. [Ap., p. 4]

By February 2024, Bauknight, for his own reasons, had not distributed any “I Feel Good” scholarships and was blaming his decision on Appellant. [Ap., p. 16]

On February 7, 2024 Bauknight, through Black, filed requests in Aiken 1337 and the Supreme Court asking Judge Newman and the Supreme Court to hold Appellant in contempt. [Ap., p. 16] The Aiken 1337 contempt request is still pending. The Supreme Court matter resulted in a FOIA criminal contempt verdict. The Attorney General's prosecutor did not inform Appellant or the Supreme Court of Black's *ex parte* communications with Judge Clifton Newman known to the Attorney General. The Attorney General's sole prosecution witnesses in Appellant's FOIA criminal trial were David Black and Mark Gende, Esq., an attorney for the Legacy Trust, Tomirae Hynie and Bauknight since 2011.

On July 7, 2025, promptly after learning of the secret *ex parte* communications between Black and Judge Clifton Newman, Appellant wrote Judge Newman, with a copy to Black, to attempt to resolve matter quickly. [Exhibit 1, Ltr. July 7, 2023, w/ Exhibit A, *Ex, Parte* email of 2/4/22, Ap. pp. 1-12]

Judge Clifton Newman did not respond or hold a hearing.

On July 23, 2025, after neither Judge Clifton Newman nor Black came forward to address the 3-year secret *ex parte* communications, Appellant filed the Motion for Recusal and Return of Funds. [Exhibit 2, App. pp. 13-31] Appellant sought relief for Judge Newman's infected order that had "deprived Plaintiff and her counsel of Due Process and other constitutional and legal rights and invaded the privacy of her family." [Exhibit 2, page 19]

Judge Newman made no response to Appellant at any time between July 23, 2025 and November 20, 2025, and did not set a hearing to address the constitutional violations of the Due Process, First Amendment, FOIA and other rights of Appellant, her counsel and ultimately her family by the *ex parte* communications.

Respondents, through Black, filed a Motion to Strike Appellant's Motion for Recusal and Return of Funds. [See Ret. Mot. Strike, Exhibit 5, pp. 52-65]

On September 2, 2025, Appellant filed an Affidavit Related to False Statements of David Black, Esq., Prior to and Subsequent to *Ex Parte* "Update" of February 2022. [Exhibit 3] Appellant did not delay any aspect of this serious matter.

On November 5, 2025, Appellant provided further evidence in an effort to resolve the impact of David Black's 3-year secret *ex parte* communications with Judge Clifton Newman [Exhibit 4, Ap., pp. 40 -51]

On November 13, 2025, Appellant filed a Return to Motion to Strike Motion for Recusal and Memorandum in both cases involved in the *ex parte* communications. Aiken 1337 and Richland 4900. [Exhibit 5]

Everything Appellant did from July 23 until November 20, 2025, was designed to resolve this extreme violation of her Due Process, First Amendment, Equal Protection and other rights in the most efficient and least costly way possible.

Appellant even sought the help of the Attorney General, whose staff was included on at least one of David Black's *ex parte* communications. While Black's and Judge Newman's *ex parte communications were ongoing*. Black and Mark Gende, Esq., served as the Attorney General's sole prosecutions witnesses in Appellant's FOIA criminal contempt case.

Appellant had a duty to protect James Brown's "I Feel Good" charity from November 2007 until May 8, 2013.

In 2025 Appellant asked the Attorney General to get involved in the violations since 2010 of Appellant's First Amendment, Due Process and Equal Protection rights because she told the truth – that James Brown died with a \$100 million estate, an \$80 million charity and no spouse.

In 2025 the Attorney General and Respondents rejected Appellant's offer to end both cases with the return of her \$47,972 with interest, \$1 in PR/Trustee commissions, and the costs (but not attorneys' fees) she had incurred in defending attacks by the AG and others since 2010.

The Honorable Courtney Clyburn Pope could have ended this matter by ruling on the violation of Appellant's Due Process, First Amendment and Equal Protection rights. Her Honor chose not to do so. The delay in resolution of this important *ex parte* matter was not the fault of Appellant.

As shown in Appellant's Initial Brief, incorporated herein by reference, and *State v. Murdaugh*, filed this week, Due Process rights and other constitutional rights must not be allowed to be violated by outside influences on the Court's required level playing field.

In a 2-paragraph Return to Appellant's Motion to Strike filed on May 12, 2026, Respondents do not point to a single part of their Initial Brief or a single designation that does not violate SCACR as set out in Appellant's motion. They do not present evidence to deny any fact stated in the Appellant's Motion to Strike. Instead, Respondents attack.

Respondents characterize Appellant desire to have a correct record for this important, constitutional appeal an "effort to create delay" and "patently frivolous." [Page 1, β 1]

In the second paragraph, covering one line on page 1 and two lines on page two, Respondents, with no support in the record, suggest that Appellant's motion to strike Respondents' brief was "clearly made in bad faith and solely to avoid prompt resolution of this relatively straightforward appeal." This is not correct.

This appeal is serious. A proper record that complies with the rules is important. Respondents have filled their Statement of the Case with arguments and their Arguments with

matters outside the record and irrelevant to this appeal. This will distract the Court as it addresses these important questions:

- I. DID THE LOWER COURT'S DISMISSAL OF THIS CASE WITHOUT CONSIDERING THE RELIEF SOUGHT IN THE RECUSAL MOTION AND SUBSEQUENT MOTION VIOLATE APPELLANT'S STATUTORY AND CONSTITUTIONAL RIGHTS TO A FAIR TRIBUNAL AND A LEVEL PLAYING FIELD TO RECOVER HER FUNDS TAKEN BY RESPONDENTS?
- II. SHOULD ALL RELIEF SOUGHT WITH RESPECT TO DAVID BLACK'S IMPROPER *EX PARTE* COMMUNICATIONS BE GRANTED?
- III. SHOULD THE RICHLAND 4900 COMPLAINT BE DISMISSED BECAUSE IT IS UNCONSTITUTIONAL AND ILLEGAL AND THE PRODUCT OF FRAUD.

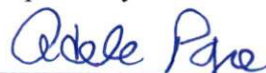
CONCLUSION

This Appeal involves a 3-year secret *ex parte* communication between Judge Clifton Newman and David Black, the details and full extent of which are still unknown. Respondents' Return to Appellant's Motion to Strike presents no evidence that Appellant's Motion to Strike was incorrect or faulty in its analysis of Respondents' violations of Rules 208 and 210 SCACR. There is no evidence in the record that Appellant seeks to delay this matter.

Granting the Motion to Strike will provide the Court with a proper record to address the damage done by the lower court's failure to address the serious Due Process, First Amendment and Equal Protection issues raised below and in this appeal.

Respondents' Initial Brief and Designation of Matter should be stricken.

Respectfully submitted,



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PROOF OF SERVICE

I certify that I caused to be served the Reply to Return to Motion to Strike Initial Brief of Respondents and Respondent's Designation of Matter to be Included in the Record on Appeal and the Appendix thereto, on Respondents by hand delivery on May 15, 2026 to their attorneys of record:

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May 15, 2026