

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

RECEIVED

JUL 14 2014

SC Court of Appeals

M 2862

Appeal from Circuit Court Cases

2013-CP-02-1647

2013-CP-02-2849

2013-CP-02-2850

2013-CP-02-2851

Appellate Case No. 2014-000794

MICHAEL DEON BROWN, JAMES CURTIS, AND JANE DOE and JOHN DOE
Numbers I, II, III and IV, by their proposed Guardian *ad Litem*, and Adele Pope,
as Creditor/Proponent of Will of James Brown dated June 15, 1999 and on
behalf of Others under S.C. Trust Code § 62-7-405 Appellants,

v.

James B., Terry Brown, Tommie Rae Hynie and David Sojourner, Jr.,
. Respondents.

IN RE:
THE ESTATE OF JAMES BROWN, A/K/A JAMES JOSEPH BROWN

MOTION AND MEMORANDUM SUPPORTING TERMINATION OF
PRO HAC VICE COUNSEL AND SPONSOR

Pursuant to Rules 240 and 264, SCACR, Appellant moves this Court to
terminate the representation of Georgia attorney David B. Bell, Esquire and his
South Carolina sponsor herein, Matthew D. Bodman, Esquire, as counsel for

Terry Brown ("Terry") and claimed counsel for Michael Deon Brown ("Michael") in this matter. If Scott Keniley, Esquire, or other counsel fail to appear after a brief stay to allow substitution, Terry Brown should be served at his last known address and Appellant Pope should be confirmed as guardian *ad litem* ("GAL") for Michael under Rule 17 (c),SCRCP, Rule 264, SCRE, and the Appellant-claimed heirs under the South Carolina Probate Code ("SCPC").

MEMORANDUM IN SUPPORT OF MOTION

This is an appeal by Appellants of orders issued by the Honorable Doyet A. Early, III, in the four Aiken County cases referenced above.

All Appellants share a common goal and property interest in confirming that Respondent Tommie Rae Hynie was not the surviving spouse of entertainer James Brown at his death on December 26, 2006.

Mr. Bell and his sponsor Mr. Bodman are attorneys of record for Terry, a son of Brown, in this appeal.

Mr. Bell and Mr. Bodman are also counsel of record for Terry and Terry's son Forlando Brown ("Forlando") in S. C. Court of Appeals Case No. 2013-001649, and in Appellate Case No. 2014-00794 pending on Petition for Writ of Certiorari to the South Carolina Supreme Court.

Until July 3, 2014 Mr. Bell and Mr. Bodman were counsel of record for Forlando in U.S. District Court Case No. 3:08-cv-00014-WOB-JGB (the "Forlando Federal Suit"). A copy of the order of the Honorable J. Gregory Wehrman allowing them to withdraw based Forlando's no longer wishing them

to represent him in the matter is attached as Exhibit A.

Mr. Bodman is the attorney, but not of record, for Forlando in Richland County Case 2010-CP-40-4900 (the "Wingate Suit"). Mr. Bell signed the 40% contingency fee contract which authorized the Wingate Firm to commence that action on May 19, 2010 on behalf of Terry and others.

This appeal was filed on or about March 31, 2014, and Mr. Bell was served with the Notice of Appeal.

On April 15, 2014, Mr. Bell wrote the Honorable Jenny Abbott Kitchings asserting that he and Mr. Bodman represented Brown's incarcerated son Michael and claimed Michael did not want Appellant Pope's help. This was inconsistent with a request of Michael's former California attorney and an unsolicited call from Michael, himself, thanking her after she applied to be GAL.

On April 21, 2014 Appellants filed a Return and Memorandum opposing the Letter/Motion of Mr. Bell.

On May 6, 2014 Ms. Kitchings wrote Mr. Bell noting that he was not admitted to practice in South Carolina. He was asked to file an application for admission *pro hac vice*. The Clerk stated that "[t]he required documents should be served and filed within thirty (30) days of the date of the Clerk's letter.

Appellants were not served with a copy of Mr. Bell's the *pro hac vice* admission; have inquired; but are uncertain whether, and in which of the four cases, if any, he has been admitted *pro hac vice* to represent Michael.

Appellants requested to be informed of the status of Mr. Bell's representations, but have not been provided the information.

On June 16, 2014 the Honorable Paul E. Short, for the Court, issued an Order Dismissing the appeal of four orders which are part of this appeal.

On June 25, 2014 Appellants served and filed a Petition for Rehearing.

On July 3, 2014 Judge Wehrman terminated the service of Mr. Bell and Mr. Bodman in the Forlando Federal Suit, and gave Mr. Keniley until July 17 to enter an appearance.

Appellant Pope and her counsel in the Forlando Federal Suit have communicated with with Mr. Keniley and his associated counsel, who have informed them that Messrs. Bell and Bodman have been terminated as counsel for both Terry and Forlando in all James Brown matters.

Because the pending appeals are at a critical stage, Appellants respectfully request that the representation of Messrs. Bell and Bodman be terminated of record, and that Mr. Keniley be given a brief period – not to exceed thirty days – in which to appear.

Appellants are informed and believe that this Case should be consolidated with Appellate Case No. 2013-001649, but that an attempt to do so during the brief period while the identity of counsel is uncertain would promote unnecessary confusion.

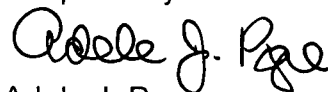
Mr. Bell has had a troublesome history in the James Brown cases for seven years, but revisiting that history is unnecessary to the termination and possible appearance of new counsel as contemplated herein.

CONCLUSION

This Honorable Court should dismiss Mr. Bell and Mr. Bodman as counsel

in this matter. The Court should stay this matter for no more than thirty (30) days to allow Mr. Keniley or other substituted counsel to appear. If no such appearance is entered within that period, all parties should be directed to serve Terry Brown with at his last known address and Appellant Pope's position as GAL for Michael in this appeal confirmed under Rule 17 (c), SCRCP and the SCPC.

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com
S. C. Bar No. 4501

July 11, 2014

Attorney for Appellants

Exhibit A

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AT COLUMBIA
CIVIL ACTION NO. 3:08-14

FORLANDO J. BROWN

PLAINTIFF

v.

ADELE J. POPE, et al.

DEFENDANTS

ORDER

Pending is a motion to withdraw as plaintiff's counsel filed by Attorneys David Bell and Matt Bodman. Doc. 358. The motion provides that plaintiff "no longer wishes to have [Bell and Bodman] represent him in this matter" and has hired "Scott Keniley of the Atlanta firm of Keniley Kumar, LLC." *Id.* The motion was served on plaintiff and contains plaintiff's last known contact information. The motion therefore complies with Local Rule 83.1.07 and, consequently, it will be granted without the necessity of defendants being required to file a response.

Accordingly,

IT IS ORDERED:

The motion of attorneys David Bell and Matt Bodman to withdraw as counsel for plaintiff Forlando J. Brown [Doc. 358] is **granted**. Plaintiff is directed to instruct new counsel to enter an appearance in this action by July 17, 2014.

This the 3rd day of July, 2014.

s/ J. Gregory Wehrman
J. Gregory Wehrman
United States Magistrate Judge

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

July 11, 2011

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29211

Re: Michael Brown and Others v. James B.
Appellate Case No. 2014-000794

Dear Ms. Kitchings:

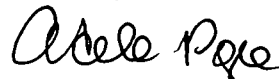
In connection with the above-referenced action, enclosed please find an original and seven copies of a MOTION AND MEMORANDUM SUPPORTING TERMINATION OF *PRO HAC VICE* COUNSEL AND SPONSOR AND AFFIDAVIT OF ADELE J. POPE,, and an original and one copy of the Proof of Service of each.

Also find my check in the amount of \$25 to cover the filing fee.

I would appreciate your filing the original and appropriate number of copies and returning a file-stamped copy of each in the stamped return envelope provided.

Thank you for your assistance in this matter.

Sincerely,



Adele J. Pope
Attorney for Appellants

Enclosures
Robert N. Rosen, Esquire
A. Peter Shahid, Esquire
David Bell, Esquire
Matthew D. Bodman, Esquire
John F. Beach, Esquire

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AFFIDAVIT OF ADELE J. POPE

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who, being duly
sworn, deposes and says:

1. I am over 18 years of age.
2. This affidavit is based on my own knowledge.

3. If the Estate/"I Feel Good" Trust's Copyrights are properly protected Michael, James Curtis and the Doe Defendants have the following potential rights in relation to James Brown:

a. As intestate heirs IF Brown's 2000 Will and 1999 backup will, both giving his music empire to the "I Feel Good" trust, are found invalid; or

b. Under the Federal Copyright Act, subject to confirming that Ms. Hynie was not Brown's spouse, they can be can be part of the least expensive HALF (or half + 1) to contract with the Estate/"I Feel Good" Trust to protect the "I Feel Good" Trust's \$3+ million royalty stream for decades.

4. I am informed and believe that Mr. Bell and Mr. Bodman should be dismissed as counsel based on their termination by Forlando and Terry and failure to protect Michael.

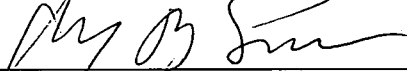
5. I am informed and believe a GAL for Michael, James Curtis and the DOE Defendants is both necessary and allowed under Rule 17 (c) [Michael] and the SCPC at any stage of a proceeding, and should be conferred on me now.

FURTHER DEPONENT SAYETH NOT.


ADELE J. POPE

SWORN TO before me this

11th day of July, 2014



(L.S.)

Notary Public for South Carolina

My Commission expires: 7/19/2015

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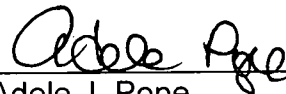
I certify that on the 11th day of July, 2014, I have served the MOTION AND
MEMORANDUM SUPPORTING TERMINATION OF *PRO HAC VICE* COUNSEL
AND SPONSOR on Respondents as shown below by depositing a copy of same
in the United States Mail, postage prepaid, addressed to them or their attorneys of
record as follows:

David B. Bell, Esquire
Matthew D. Bodman, Esquire
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1101

Robert N. Rosen, Esquire
18 Broad Street, Suite 201
Charleston, SC 29401

Peter Shahid, Jr., Esquire
89 Broad Street
Charleston, South Carolina 29401

David C. Sojourner, Jr., Esquire
c/o John F. Beach, Esquire
Adams and Reese, LLP
1501 Main Street, 5th Floor
Columbia, South Carolina 29201



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
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Email: adele@popelawfirm.com
S.C. Bar No. 4501
Attorney for Appellants

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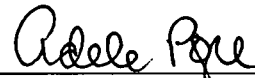
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ADELE J. POPE on Respondents as shown below by depositing a copy of same
in the United States Mail, postage prepaid, addressed to them or their attorneys of
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619 Greene Street
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Attorney for Appellants

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