

June 11, 2014

Columbia
fcrawford@richardsonplowden.com
Direct Dial: 803-576-3711

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: *Adele J. Pope v. Estate of James Brown, et al.*
Civil Action No.: 2013 –CP-02-1337
Appellate Case No.: 2014-000250
Our File No.: 101-2606

Dear Ms. Kitchings:

I am writing to follow-up on my letter of May 23, 2014, regarding the incorrect inclusion of Russell L. Bauknight, in his **Individual** capacity in the above-referenced appeal. Today my office has received the enclosed Form 4 Order (Exhibit A) from Judge Early.

As you can see from the Form 4 Order, Judge Early has denied Ms. Pope's Motion to Alter or Amend and/or Reconsider and Vacate Order Dated March 4, 2014. For your reference, I have attached the March 4, 2014, Order as Exhibit B. As you will recall, the March 4, 2014 Order dismissed Mr. Bauknight in his **Individual** capacity and is **NOT** the Order from which the Notice of Appeal filed in this matter, which relates to Mr. Bauknight in his **fiduciary** capacity, applies.

It is my hope that this supplemental documentation evidences that Russell L. Bauknight, **individually**, is not affected by the Order of Dismissal currently on appeal and that he should be removed as a party to this action, necessarily removing me as counsel of record.

Sincerely,


Frederick A. Crawford

FAC/smb
Enclosures

cc: Adele J. Pope, Esquire
William G. Newsome, III

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JUN 12 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, Individually, as former Executor de son tort, and in every current and former fiduciary status claimed or held as to the Estate of James Brown and The James Brown 2000 Irrevocable Trust,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

IN THE PROBATE COURT

Estate File No. 2007-ES-02-0056

2013-CP-02-1337

**ORDER DISMISSING CASE WITH
PREJUDICE**

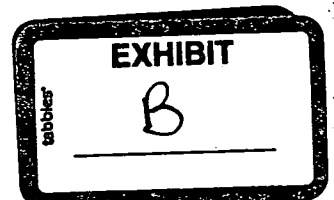
FILED 3.10.14
Liz Hodard
U.C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

THIS MATTER came before the Court on December 3, 2013 upon Defendant Russell L. Bauknight's July 10, 2013 Notice of Motion and Rule 12 Motion to Dismiss (the "Motion"), filed in his individual capacity. The Court, having reviewed the Complaint and considered the arguments presented by counsel, grants the Motion to Dismiss Russell L. Bauknight, individually, with prejudice, and finds as follows:

FINDINGS OF FACT

1. The Plaintiff filed this action on June 10, 2013.
2. In her Complaint spanning sixty-three (63) pages, the Plaintiff makes numerous allegations against Defendant Bauknight as a fiduciary of the Estate of James Brown (the "Estate") and The James Brown 2000 Irrevocable Trust (the "Trust").

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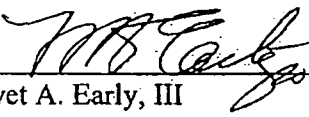
3. The only allegations against Defendant Bauknight, in his **individual** capacity, deal with the Plaintiff's desire for Mr. Bauknight to pay both his and Plaintiff's attorney's fees, incurred in the defense of this action, from his personal assets and not from the assets of the Estate or the Trust. See, e.g., Complaint ¶ 289 ("Russell, **individually**, should pay all costs of the Notice, his **Individual** Defense of this Case, and the Estate's defense"); Complaint Prayer ¶ 6 ("Directing Russell, **Individually**, to pay all costs and attorneys' fees of this action, with the Estate/2000 Trust to pay no portion of Russell's fees and costs").

CONCLUSIONS OF LAW

4. As an initial matter, the Court finds that, even giving the Plaintiff every benefit of the doubt as a pro se litigant and taking all matters pled by the Plaintiff as being true, the Complaint, on its face, fails to meet the minimum pleading requirements of the South Carolina Rules of Civil Procedure. Baird v. Charleston Cnty., 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999) (citing Stiles v. Onorato, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995)). A Complaint must contain "a short and plain statement of the facts showing that the pleader is entitled to relief." Rule 8(a), SCRPC. Here, the Complaint does not contain "a short and plain statement of the facts" and fails to show that the Plaintiff "is entitled to relief" against Defendant Bauknight, **in his individual capacity**. Id. Instead, the Complaint is mostly comprised of allegations against ~~Defendant Bauknight in his fiduciary capacity~~. More specifically, Plaintiff's Complaint does not sufficiently plead any single cause of action against Defendant Bauknight, in his **individual** capacity, but rather relates to, references, and cites actions taken by Defendant Bauknight as a fiduciary of the Estate and the Trust. As a result, dismissal is proper under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state facts sufficient to constitute a claim against Defendant Bauknight in his **individual** capacity.

IT IS HEREBY ORDERED that the Complaint against Defendant Russell L. Bauknight, **individually**, be dismissed, with prejudice.

AND IT IS SO ORDERED.



Doyet A. Early, III
Judge, Second Judicial Circuit

Aiken, South Carolina

March 4, 2014.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-02-1337

Adele J. Pope

Estate of James Brown, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Plaintiff's Motion to Alter or Amend and/or Reconsider and Vacate Order Dated March 4, 2014, Dismissing Claims Under Rule 12(b) on Behalf of Defendant Russell L. Bauknight, Individually is DENIED.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

Liz Holand
C.C.P. & G.S.
Sharon Gowers
Deputy Clerk

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the Rules of Civil Procedure. Amounts should be computed such as interest or additional taxable costs not available at the time the order was submitted to the clerk. Note: Title abstractors and researchers should refer to the official court records for the details of the original documents which have been filed in my office.

Circuit Court Judge

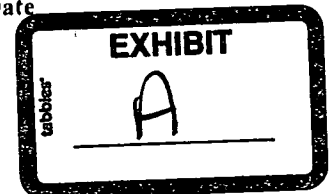
Liz Holand
C.C.P. & G.S., Aiken County, S.C.

Date

6/10/14

Deputy Clerk

Sharon Gowers



For Clerk of Court Office Use Only

This judgment was entered on 9th day of June, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 9th day of June, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Pope ,

Frederick A. Crawford PO Box 7788 Columbia, SC 29202
J. David Black PO Drawer 2426 Columbia, SC 29202-2426

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Stinson June 9th

Court Reporter

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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SC Court of Appeals

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JUN 11 2014

NEXSEN PRUET, LLC