

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

Appellate No.: 2014-00250  
Civil Action No.: 2013-CP-02-1337

Adele J. Pope .....Appellant

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  
a former fiduciary status claimed or held as the Estate of James Brown  
2000 irrevocable trust. ....Respondents.

And Robert L. Buchanan, Jr., interested party

**MEMORANDUM IN SUPPORT OF  
MOTION TO STRIKE ON BEHALF OF  
RUSSELL L. BAUKNIGHT, INDIVIDUALLY**

**INTRODUCTION/RELEVANT BACKGROUND**

In the instant appeal, Appellant has filed a Notice of Appeal addressing Judge Early's dismissal of Russell L. Bauknight, in his fiduciary capacity, in the claims Appellant raised against him in the lower court. At that time, Russell L. Bauknight, in his individual capacity, had a pending Motion to Dismiss. Nevertheless, Ms. Pope's Notice of Appeal included, as a party,

Russell L. Bauknight, Individually as a Respondent. Despite the undersigned's attempt to inform Ms. Pope of her error, Ms. Pope proceeded to include Russell L. Bauknight in his Individual capacity as a Respondent in this matter.

The undersigned also advised this Court via letters dated March 3, 2014, and May 23, 2014, of this error. Following our May 23, 2014 letter, the Clerk's office advised of this Court's intent to construe our letters as a motion. Under the circumstances, Appellant has filed two memoranda in opposition of our letter/ Motion. The "Supplemental Return and Memorandum opposing letter motion of Russell L. Bauknight, Individually" is the subject of the instant Motion to Strike.

Russell L. Bauknight, Individually, maintains the argument and issues presented in his letters of March 3, 2014, and May 23, 2014. However, Appellant's Supplemental Return and Memoranda contains argument related to the merits of the underlying appeal and not the procedural issues that our letters have raised. For example, pages 2, 3 and 4 of Appellant's Memoranda lists factual reasons why Appellant believes Russell L. Bauknight, in his individual capacity, should be included in the appeal. This information is not responsive to the concern raised - that the Order on the Notice of Appeal is not applicable to Russell L. Bauknight, Individually.<sup>1</sup> Therefore, to the extent that this Court would rule on our Motion/letter to be Removed as a Party in this matter, we would ask that the Court's decision be limited to its interpretation and analysis of the Order filed with the Notice of Appeal, and not the factual allegations that Ms. Pope has attempted to put before this Court in her Supplemental Return and Memorandum Opposing Letter Motion of Russell L. Bauknight, Individually.


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<sup>1</sup> Indeed, this Court has been provided with Judge Early's subsequent order addressing Russell Bauknight, in his individual capacity's Motion to Dismiss.

For the foregoing reason Russell L. Bauknight, Individually respectfully moves before this Court to strike all the portions of Appellant's Supplemental Return and Memorandum related to the merits of the underlying appeal.

[SIGNATURE TO FOLLOW]

Respectfully submitted,



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June 25, 2014