

STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Case No. 2014-000794

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

**RECEIVED**

JUL 23 2014

**SC Court of Appeals**

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Case No. 2013 CP-02-1647  
Case No. 2013-CP-02-2849  
Case No. 2013-CP-02-2850  
Case No. 2013-CP-02-2851

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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

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**RESPONSE TO ADELE POPE'S FILINGS**

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Michael Deon Brown hereby opposes Adele Pope's July 11<sup>th</sup> Motion and  
Memorandum. Through her March 31, 2014 Notice of Appeal, Pope appeals the following  
Orders (the "Orders on Appeal") issued by the Honorable Doyet A. Early in *In Re: The Estate*

of James Brown, a/k/a James Joseph Brown, Civil Action No. 2008-CP-02-164 7 (the "Underlying Action"):

- December 16, 2013 and February 7, 2014 orders (collectively, the Severance Orders") severing and then designating parties to Tommie Rae Brown's omitted spouse claim (now Civil Action No. 2013-CP-02-2849), Tommie Rae Brown's elective share claim (now Civil Action No. 2013- CP-02-2850), and James Joseph Brown II's pretermitted child claim (now Civil Action No. 2013-CP-02-2851) (collectively, the "Severed Actions");
- January 8, 2014 consent order dismissing without prejudice the cross- claim of Cinnamon Nicole Parris and LaRhonda Pettit which challenged the validity of the decedent's Will, alleged undue influence and fraud;
- February 24 and March 10, 2014 form orders denying Pope's Motion to Alter, Amend and Vacate the previously-listed three orders; and
- "All Orders issued ...after June 13,2013 which are the subject of an appeal pending in the South Carolina Court of Appeals..."

Pope lacks legal standing to pursue any motion or appeal on behalf of Michael Deon Brown.

**I. Michael Deon Brown does not wish to be a part of this action of appeal.**

Adele Pope has attempted to name Michael Deon Brown as a party and her proposed ward. Furthermore, Michael Deon Brown's name appears in the caption of this appeal and throughout the body of the appellant's brief. In the affidavit, attached as Exhibit "A," Michael Deon Brown, though he is currently housed as an inmate at the Folsom State Prison in Sacramento, California. waives any need for a *guardian ad litem*. Furthermore, Michael Deon Brown affirmatively and under oath states that he does not want Adele Pope to serve

as his *guardian ad litem*. If a *guardian ad litem* is required for him, he desires to have someone other than Adele Pope appointed. Therefore, consistent with the enclosed Affidavit of Michael Deon Brown, it is requested that his name be struck from the caption and that Adele Pope not be allowed to proceed as his "proposed *guardian ad litem*."

**II. Appellant Adele Pope has never been appointed to serve as the *guardian ad litem* for Michael Deon Brown. Furthermore, Michael Deon Brown waives the right to have a *guardian ad litem* appointed.**

The right to appearance by a *guardian ad litem* is not absolute. A prison inmate is not legally incompetent to transact business. The basis for the appointment of a *guardian ad litem* for a prison inmate is not mental deficiency, but the physical restraint of imprisonment. Since this is true, an inmate may waive the appointment of a *guardian ad litem*. Green v. Boney, 233 S.C. 49 (1958); Cobb v. Carlinton, 100 S.C. 51 (1915). Where a prisoner is represented by competent counsel, the appointment of a *guardian ad litem* would be superfluous. An incarcerated party waives his right to the appointment of a *guardian ad litem* when counsel of his own choosing appears for him.

In the case before this court, Michael Deon Brown has waived the appointment of *guardian ad litem* to appears on his behalf. He has done so in two (2) ways. First, Michael Deon Brown did affirmatively waive the appointment in the attached affidavit.

Secondly, the appearance of counsel of his own choosing acts as a waiver. Attached is Exhibit "B" is an order entered by the Honorable Doyet Early, III. Counsel of Michael Deon Brown's own choosing obtained an order finding him to be a son and heir of the late

James Brown. Therefore, it is clear that Michael Deon Brown is currently represented by counsel of his own choosing.

**III. Michael Deon Brown is represented by Matt Bodman and David B. Bell.**

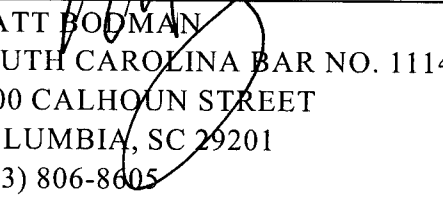
Michael Deon Brown chose Matt Bodman and David B. Bell to serve as his attorneys. Matt Bodman is a South Carolina attorney admitted to practice before this Court. David B. Bell is a Georgian attorney admitted *pro hac vice* in several of the James Brown cases. Attached as Exhibit "C" are the four (4) *pro hac vice* orders that admit David B. Bell in the various James Brown cases.

**Conclusion**

This court should dismiss Michael Deon Brown from this appeal. Appellant Adele Pope has never been appointed to represent him. Michael Deon Brown does not want her to serve as his guardian ad litem. Furthermore, Michael Deon Brown waives the appointment of a guardian ad litem. He is comfortable with being represented by his chosen attorneys.

This 21<sup>st</sup> day of July, 2014.

Respectfully submitted,

  
\_\_\_\_\_  
MATT BODMAN  
SOUTH CAROLINA BAR NO. 11143  
1500 CALHOUN STREET  
COLUMBIA, SC 29201  
(803) 806-8605  
Counsel for Michael Deon Brown

# EXHIBIT A

STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

**AFFIDAVIT OF MICHAEL DEON BROWN**

Before an officer duly authorized to administer oaths, comes Michael Deon Brown, who, after having been duly sworn, deposes and says as follows:

1.

He is Michael Deon Brown and over the age of 21 and the facts contained herein are based upon his personal knowledge and known by him to be true and correct.

2.

He is currently incarcerated by the State of California at the Folsom State Prison located in Sacramento County.

3.

By DNA evidence, it has been established that he is a son of the late James Brown. He submits this affidavit for use in the various matters concerning the estate of his late father, James Brown.

4.

He is represented by David B. Bell, Esquire and Matthew Bodman, Esquire. He is very satisfied with the legal representation they are providing. He appreciates their representation of him.

5.

Enclosed herewith as an exhibit is an Order entered by the Circuit Court of Aiken County, South Carolina in which the Honorable Doyet A. Early found as a matter of law that he is a son and heir of the late James Brown. He is grateful to Matthew Bodman and David B. Bell for the work they undertook to obtain this Order.

6.

He does not need nor does he desire to have a guardian ad litem appointed on his behalf. He hereby expressly waives any right that he would otherwise have or be entitled to a guardian ad litem.

7.

He does not want Adele Pope to be appointed as a guardian ad litem for him and if the Court were to determine, against his wishes, that a guardian ad litem were required then he would want the guardian ad litem to be anyone other than Adele Pope.

The facts contained herein are based upon his personal knowledge and known by him to be true and correct and this affidavit is given in support of his opposition to Adele Pope being appointed to serve as his guardian ad litem.

This 19 day of MAY, 2014.

  
Affiant

Sworn to and subscribed before me

this 19<sup>th</sup> day of May, 2014.

E. Gums, [Signature] \* See Attached \*  
NOTARY PUBLIC Jurist Certificate  
My commission expires: 8-20-14

CALIFORNIA  
JURAT CERTIFICATE

State of California

County of Sacramento

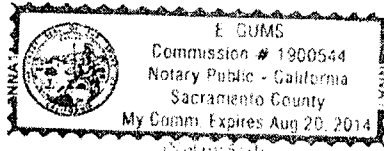
Subscribed and sworn to (or affirmed) before me on this 19<sup>th</sup> day of May  
2014, by Michael Brown

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

WITNESS MY HAND AND OFFICIAL SEAL.

*[Handwritten Signature]*

Signature of Notary Public



OPTIONAL INFORMATION

*Notary Public - California, State Bar of California, State of California, Commission # 1900544, My Comm. Expires Aug 20, 2014. A jurat certificate cannot be affixed to a document sent by mail or otherwise delivered to a notary public, including electronic means, whereby the signer did not personally appear before the notary public, even if the signer is known by the notary public. The seal and signature cannot be affixed to a document without the correct notarial wording. As an additional option an affidavit can produce an affidavit on the same document as the notarial certificate wording to eliminate the use of additional documentation.*

DESCRIPTION OF ATTACHED DOCUMENT

Affidavit of Michael Brown  
(Title of document)

Number of Pages 8 (including proof)

Document Date 4-22-14

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual
- Corporate Officer
- Partner
- Attorney-In-Fact
- Trustee
- Other

# EXHIBIT B

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS  
) SECOND JUDICIAL CIRCUIT

IN RE: THE ESTATE OF JAMES BROWN  
aka JAMES JOSEPH BROWN

) Case No.: 2007-ES-02-0036  
) Case No.: 2008-CP-02-1647  
)  
)

### ORDER

Before the Court came the parties to the captioned case to decide the motion of Michael Deon Brown to be determined a son and heir of James Brown aka James Joseph Brown. Counsel for Michael Deon Brown defended the motion. The attorney for David Sojourner, as the Limited Special Administrator, opposed the motion and filed a motion to dismiss. A hearing was held on Monday, March 31, 2014. The Court has considered the arguments of counsel, the briefs submitted by each side, and certified copies of court proceedings filed with the Clerk. These Court pleadings include copies of orders and judgments involving James Brown and Michael Deon Brown.

A Certificate of Live Birth issued by Sacramento County, California shows that Michael Deon Brown was born on September 7, 1968. The Certificate lists as his parents Mary Florence Brown, a resident of Sacramento and James Brown, an Entertainer born in Georgia.

By judgment dated November 24, 1969, the Superior Court of the State of California, Sacramento County, decreed that James Brown had a duty to support Michael Deon Brown. That judgment further ordered James Brown to pay monthly support and maintenance for Michael Deon Brown. The records of the California Superior Court leading to the November 24, 1969 decree, particularly records of discovery in the case, show that James Brown had a full and fair opportunity to litigate the issue of the paternity of Michael Deon Brown.



On August 22, 1979 the California Superior Court issued an Order granting a writ of execution to enforce its previous Order that James Brown pay, "support and maintenance for Michael Deon Brown."

Then on August 17, 1983 the California Superior Court issued a writ of execution whereby Mary Brown requested that, "James Brown (be) ordered to pay the sum of \$500.00 per month child support for our son, Michael."

By court order dated December 25, 1983, James Brown was found to have failed to pay child support for a period of fifteen months. The California Superior Court ordered that James Brown be remanded to the Sacramento County Jail for a period of 75 days for 15 counts of contempt for failing to pay child support. James Brown was further required to pay the accrued arrearages for child support as well as the attorney's fees of Mary Florence Brown.

By Stipulation and Order dated December 13, 1984, the California Superior Court permitted James Brown to settle arrearages of child support and future claims for child support for Michael Deon Brown.

In addition to the above, this Court recognizes that Michael Deon Brown underwent a DNA test performed by Laboratory Corporation of America ("LabCorp"). LabCorp's report dated January 22, 2014 assessed the probability that James Brown is the father of Michael Deon Brown at a 99.99% probability.

Movant Michael Deon Brown brought his motion pursuant S.C. Code §62-2-109(2)(i) which provides that a person born out of wedlock is the child of the alleged father if, "paternity is established by an adjudication commenced before the death of the father." In Neely v. Thomasson,

Handwritten signature and initials, possibly "VMB" and "bc", in black ink.

365 S.C. 345, 618 S.E.2d 884 (2005), the Supreme Court of South Carolina held that a person born out of wedlock may inherit from a father who dies intestate if it is determined in an adjudication commenced before the father's death that the person is the father's child. The Neely court went on to hold that a family court proceeding in which child custody, support and visitation rights are determined may constitute an adjudication of paternity. Id. at 365 S.C. 352, 618 S.E.2d 888. See also Eichman v. Eichman, 285 S.C. 378, (1985) (order of support in separation agreement was adjudication of paternity); Beyer v. Metz, 362 S.C. 356, 359, 482 S.E.2d 789, 791 (1997) (provision of divorce decree allowing visitation and requiring payment of support clearly implies paternity).

It is clear to this Court that the repeated court orders from the Superior Court of Sacramento County, California ordering James Brown to pay child support and finding him in contempt when those payments were not made constituted an adjudication of paternity commenced during the lifetime of James Brown. These Court orders were vindicated when the DNA test established James Brown as the biological father.

I find that James Brown, during his life, had many opportunities to contest the paternity of Michael Deon Brown. When considering the totality of the pleadings, it is clear that the California Superior Court adjudicated the issue of paternity and found Michael Deon Brown to be the son of James Brown.

Pursuant to South Carolina Code Annotated, §62-2-109(2), I find that Michael Deon Brown's paternity was established by adjudication commenced during the life of James Brown. It

DAE  
13


is further the finding of this Court that James Brown fathered Michael Deon Brown and that Michael Deon Brown is hereby found to be an heir and son of James Brown.

This 23 day of April, 2014, at Bamberg, South Carolina.



DOYET A. EARLY, III  
JUDGE, SECOND JUDICIAL CIRCUIT

Presented by:



DAVID B. BELL  
Georgia State Bar No. 047750  
619 Greene St.  
Augusta, GA 30901  
(706) 724-1882

Counsel for Michael Deon Brown

# EXHIBIT C

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 HENRY DARGAN MCMASTER, in his )  
 Capacity as Attorney General of the )  
 State of South Carolina, and others )  
 )  
 Petitioners, )  
 v. )  
 )  
 ALBERT H. DALLAS and others )  
 )  
 Respondents. )  
 )  
 IN RE: )  
 The Estate of James Brown and the )  
 James Brown Irrevocable Trust u/a/d )  
 August 1, 2000 )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS FOR THE  
 SECOND JUDICIAL CIRCUIT

CASE NUMBER 2008-CP-02-1647

ORDER

STATE OF SOUTH CAROLINA  
 COUNTY OF AIKEN  
 I, Liz Godard, Clerk of Court of Common Pleas and General  
 Sessions for Aiken County, South Carolina do hereby certify  
 that the foregoing constitutes a true and correct copy of the  
 original documents which have been filed in my office this

AUG 28 2013 1:10

*Liz Godard*

C.C.P. & G. A., Aiken County, S.C.

*Anita Knoepfle*

Deputy Clerk

David B. Bell, a Georgia attorney who has been admitted pro hac vice in the James Brown Estate and Trust case since 2007 and 2008 under other case numbers, has moved to be admitted pro hac vice with South Carolina attorney Matt Bodman in the above captioned case to represent Terry Brown, Forlando Brown and Romunzo Brown. One of the cases Mr. Bell has been admitted in since 2008, case number 2008-CP-02-0872, has been recently collapsed by order of this Court into case number 2008-CP-02-1647.

THEREFORE, IT IS ORDERED, that David B. Bell be, and is hereby admitted pro hac vice in the above captioned case to represent Terry Brown, Forlando Brown and Romunzo Brown.

IT IS SO ORDERED.

*Doyet A. Early, III*

The Honorable Doyet A. Early, III  
 Second Circuit Chief Administrative Judge

*Bankers* South Carolina  
 August 19, 2013

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 Tommie Rae Brown, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 David C. Sojourner Jr., in his capacity )  
 As Limited Special Administrator and )  
 Limited Special Trustee, Deanna )  
 Brown Thomas, Yamma Brown, )  
 Vanisha Brown, Terry Brown, and )  
 Daryl Brown, )  
 Respondents, )  
 IN RE: )  
 THE ESTATE OF JAMES BROWN )  
 A/K/A JAMES JOSEPH BROWN )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS FOR THE  
 SECOND JUDICIAL CIRCUIT

CASE NO. 2013-CP-02-02849  
*Omitted Spouse Claim*

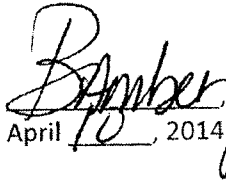
ORDER ADMITTING DAVID B. BELL *PRO HAC VICE*

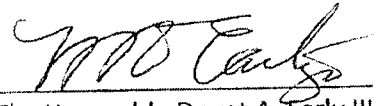
STATE OF SOUTH CAROLINA  
 COUNTY OF AIKEN  
 I, Liz Ordard, Clerk of Court of Common Pleas and General  
 Sessions for Aiken County, South Carolina do hereby certify  
 that the foregoing constitutes a true and correct copy of the  
 original documents which have been filed in my office this  
 \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
 \_\_\_\_\_  
 C.C.P. & G.S., Aiken County, S.C.  
 Deputy Clerk *Sharon Grouse*

Georgia attorney David B. Bell has applied by motion to this Court for admission *Pro Hac Vice* for Terry Brown and Daryl Brown under Rule 404 of the South Carolina Rules of Court. A written Application for Admission *Pro Hac Vice* has been submitted to the South Carolina Supreme Court and the required filing fee has been paid. No parties objected to the admission of Mr. Bell, who is a licensed Georgia attorney in good standing with the Georgia state bar. His local counsel is Matt Bodman, South Carolina Bar #11143. Mr. Bell was previously admitted *Pro Hac Vice* by this Court since 2007 under several other case numbers related to the Estate of James Brown.

Therefore, I find that attorney David B. Bell is hereby admitted *Pro Hac Vice* in the above-captioned case.

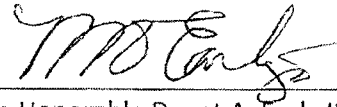
IT IS SO ORDERED.

  
Amber, South Carolina  
April 10, 2014

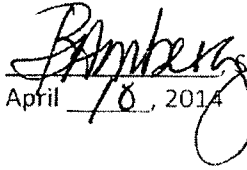
  
The Honorable Doyet A. Early III  
Second Judicial Circuit Judge



IT IS SO ORDERED.



The Honorable Doyet A. Early III  
Second Judicial Circuit Judge



Amber, South Carolina  
April 10, 2014

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 James Brown II, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 David C. Sojourner Jr., in his capacity )  
 As Limited Special Administrator and )  
 Limited Special Trustee, Deanna )  
 Brown Thomas, Yamima Brown, )  
 Vanisha Brown, Terry Brown, and )  
 Daryl Brown, )  
 Respondents, )  
 IN RE: )  
 THE ESTATE OF JAMES BROWN )  
 A/K/A JAMES JOSEPH BROWN )

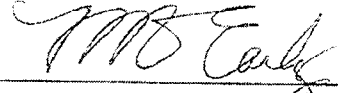
IN THE COURT OF COMMON PLEAS FOR THE  
 SECOND JUDICIAL CIRCUIT  
 CASE NO. 2013-CP-02-02851  
*Pretermitted Child Claim*  
 ORDER ADMITTING DAVID B. BELL *PRO HAC VICE*

STATE OF SOUTH CAROLINA  
 COUNTY OF AIKEN  
 I, Liz Godard, Clerk of Court of Common Pleas and General  
 Sessions for Aiken County, South Carolina do hereby certify  
 that the foregoing constitutes a true and correct copy of the  
 original documents which have been filed in my office this  
 11 day of 09/27/13 2014  
 Liz Godard  
 C.C.C.P. & G. S. Aiken County, S.C.  
 Shannon Gossard  
 Deputy Clerk

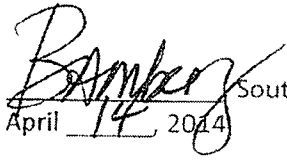
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Therefore, I find that attorney David B. Bell is hereby admitted *Pro Hac Vice* in the above-captioned case.

IT IS SO ORDERED.



The Honorable Doyet A. Early III  
Second Judicial Circuit Judge



South Carolina  
April 14, 2014

STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Case No. 2014-000794

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

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**RECEIVED**

JUL 21 2014

**SC Court of Appeals**

Case No. 2013 CP-02-1647  
Case No. 2013-CP-02-2849  
Case No. 2013-CP-02-2850  
Case No. 2013-CP-02-2851

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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

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**PROOF OF SERVICE**

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I, the undersigned attorney for Michael Deon Brown, do hereby certify that I have

served all counsel in this action with a copy of the Response to Adele Pope's Filings by first class mail this 21<sup>st</sup> day of July, 2014:

Mr. Robert Rosen  
Rosen Law Firm, LLC  
18 Broad Street, Suite 201  
Charleston, SC 29401

Mr. Louis Levenson  
Levenson and Associates  
125 Broad Street, SW  
Atlanta, GA 30303

Mr. A. Peter Shahid, Jr.  
Shahid Law Office, LLC  
89 Broad Street  
Charleston SC 29401

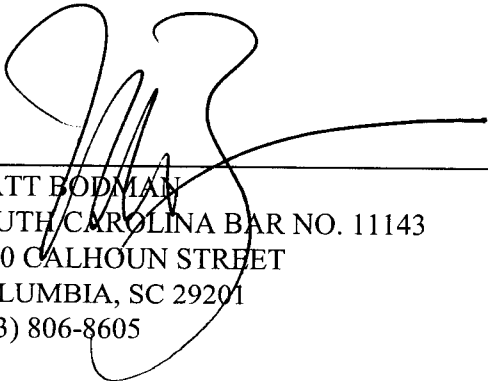
Mr. William J. Barr  
108 N. Academy St.  
Kingstree, SC 29556

Mr. John Fisher Beach  
1501 Main Street, Fifth Floor  
Columbia SC 29202

Mr. James Mixon Griffin  
Lewis Babcock & Griffin, LLP  
P.O. Box 11208  
Columbia, SC 29211

Mr. S. Alan Medlin  
1713 Phelps Street  
Columbia, SC 29205

Ms. Adele Pope  
1228 Walnut Street  
Newberry, SC 29108



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MATT BODMAN  
SOUTH CAROLINA BAR NO. 11143  
1500 CALHOUN STREET  
COLUMBIA, SC 29201  
(803) 806-8605

Counsel for Michael Deon Brown

# Matt Bodman, P.A.

*Attorney at Law*

1500 Calhoun Street  
Columbia, South Carolina 29201



Telephone (803) 806-8605 • Facsimile (803) 758-6087  
matt@mattbodmanlaw.com • www.mattbodmanlaw.com

Monday, July 21, 2014

## VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1205 Pendleton Street, Brown Building  
Columbia, SC 29201

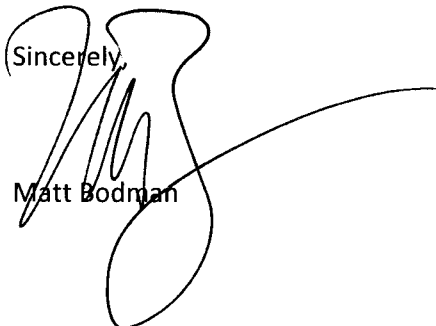
RE: *Michael Deon Brown, James Curtis, and Jane Doe and John Doe Numbers I, II, III and IV, by their proposed Guardian Ad Litem and Adele Pope, as Creditor/Proponent of Will of James Brown dated June 15, 1999 and on behalf of others under S.C. Trust Code 62-7-405 v. James B., Terry Brown, Tommie Rae Hynie and David Sojourner Jr. – In Re: the Estate of James Brown a/k/a James Joseph Brown*  
**Appellate Case No. 2014-000794**

Dear Ms. Kitchings:

On behalf of Michael Deon Brown, I am enclosing the original and 6 copies of the Response to Adele Pope filings in the above-captioned case. Please file the original and return the clocked copy through the bearer of these documents.

By copy of this letter, I am serving this document to all parties in this action as noted on the Proof of Service.

With warmest personal regards, I am,

Sincerely,  
  
Matt Bodman

**RECEIVED**

JUL 21 2014

**SC Court of Appeals**