

Tanya A. Gee
Special Counsel

October 22, 2014

VIA HAND DELIVERY

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

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SC Court of Appeals

**Re: In Re: The Estate of James Brown
Appellate Case No. 2013-001649**

Dear Ms. Kitchings:

On October 16, this Court sent a letter to the parties, indicating that the caption proposed by the Respondent should be used unless an objection was received by October 24, 2014. We have since received Ms. Pope's letter dated October 19, 2014, objecting to the proposed caption.

The day after filing her objection, Ms. Pope elected to file the original and fifteen bound copies of the Record on Appeal bearing *her* proposed caption even though: (1) this Court's October 16 letter stated that "[t]he date of service for the record on appeal will be reset after the matter of the caption is resolved" and (2) just four days earlier, Ms. Pope had filed a Motion for Permission to File a Reduced Number of Copies and that motion was still pending.

As this Court is aware, the James Brown litigation has a long history. In 2007, five of the six adult children named in Brown's will brought actions to set aside the will and trust. The parties reached a settlement agreement on the will and trust contest that was approved by the trial court in May of 2009; however, the Supreme Court reversed that settlement in May of 2013. In addition to reversing the settlement, **the Supreme Court affirmed the removal of Ms. Pope as a fiduciary for the Estate and Trust.** It is the caption from the Supreme Court's opinion overturning the settlement agreement that Ms. Pope urges this Court to use in this appeal, which addresses many other James Brown cases.

The problem with Ms. Pope's suggestion is that her proposed caption does not reflect the caption of the orders now on appeal nor does it reflect the current posture of the parties. Indeed, the only thing Ms. Pope's caption reflects is her unrelenting

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desire to remain listed as a party to the Estate and Trust litigation even though her only role in that litigation – as a fiduciary for the Estate and Trust – ended when the Supreme Court affirmed her removal.

After the settlement agreement was reversed, the trial court issued an administrative order addressing the status of over a dozen, separate James Brown cases currently pending in the Aiken County Court of Common Pleas. These cases included challenges to the will and trust; matters involving former fiduciaries Albert H. Dallas, Alford Bradley (now deceased), and David Cannon; and numerous creditors' claims, among other matters. Because the administrative order addressed so many separately filed cases, each with unique captions, the trial court's order bore the simple caption:

In Re: The Estate of James Brown a/k/a James Joseph Brown

One aspect of the administrative order was to remove Ms. Pope's name from being listed as the fiduciary for the Estate and Trust in many of the pending cases. This was done to comply with the Supreme Court's May 2013 opinion, which affirmed Ms. Pope's removal.

In light of that history, the undersigned suggests the appropriate caption for this appeal is:

Ex parte: Adele J. Pope, Appellant,

In re: Estate of James Brown a/k/a James Joseph Brown, Respondent.

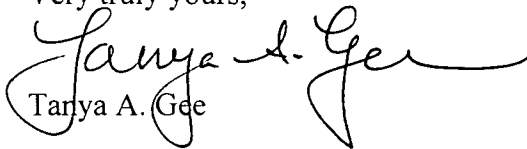
Ms. Pope argues that a change to the caption at this juncture is inappropriate "where it serves to remove designated Respondents and the Interest Persons, including the Attorney General, who have been designated as such in this appeal for more than a year without objection." "It is important," according to Ms. Pope, "that six of the Respondents elected not to file briefs."

In actuality, Mr. Bauknight pointed out that Ms. Pope was using the wrong caption some eight months ago when, in February 2014, he filed a petition for rehearing. That petition was necessary because the Court declined to consider his motion to dismiss, finding instead that Mr. Bauknight was not a party to the appeal. In his petition for rehearing, Mr. Bauknight suggested that the Court's confusion about the parties' standing may have been caused by Ms. Pope's incorrectly manufactured caption. This Court granted rehearing, and Mr. Bauknight was reinstated as a party.

Furthermore, to the extent Ms. Pope expresses specific concern regarding the Attorney General, Ms. Pope has *never* designated the Attorney General as a Respondent, just as a plaintiff below and as an "Additional Interested Person" on appeal, a designation not typically (and perhaps not ever) used on appeal outside of an amicus curiae brief. Certainly, Ms. Pope is not allowed to designate other parties as being amici. Lastly, in determining the caption of the case, it is not at all important that six of the so-called Respondents elected not to file briefs.

In sum, the caption proposed by Ms. Pope simply does not reflect the parties (or the posture of the parties) in the orders involved in this appeal, and the Court should adopt a caption that properly reflects the title of the case below. I believe the caption we propose is appropriate.

Very truly yours,


Tanya A. Gee

cc: Adele J. Pope, Esquire
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