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COREY T. L. SMITH  
ATTORNEY-AT-LAW  
[csmith@rosen-lawfirm.com](mailto:csmith@rosen-lawfirm.com)

PHONE (843) 377-1700

FAX (843) 377-1709

November 19, 2014

***By Email and US Mail***

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

Re: Appellate Case No. 2013-001649

Dear Ms. Kitchings:

Enclosed for filing are the original and one copy<sup>1</sup> of Respondent Tommie Rae Brown's **Return to Adele Pope's Motion and Memorandum for Expedited Supersedeas and Stay of November 24, 2014 Summary Judgment Hearing of Respondent Tommie Rae Brown on Her Spousal Claim, and Stay of Spousal Determination Pending Mediation in Case 2010-CP-40-4900** and the accompanying **Proof of Service**. Please return a clocked copy of the Return and Proof of Service in the enclosed prepaid envelope.

Thank you for your assistance, and please feel free to contact our office if you have any questions.

Sincerely,



Corey T. L. Smith

CTLS

Enclosures

cc: Adele J. Pope, Esquire (*By Email and US Mail*)  
Eugene C. Covington, Jr., Esquire (*By Email and US Mail*)  
A. Peter Shahid, Jr., Esquire (*By Email and US Mail*)  
William W. Wilkins, Esquire (*By Email and US Mail*)  
J. David Black, Esquire (*By Email and US Mail*)  
Fred Lewis Kingsmore, Jr., Esquire (*By Email and US Mail*)  
Tanya Amber Gee, Esquire (*By Email and US Mail*)

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<sup>1</sup> Per my telephone conversation with the South Carolina Court of Appeals Clerk of Court's office on November 19, 2014, while Rule 240(e), SCACR says that an original and six (6) copies of the return must be filed with the Clerk, the Clerk's office now only requires that the original return be filed.

The Honorable Jenny Abbott Kitchings

November 19, 2014

Page 2

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John A. Donsbach, Sr., Esquire (*By Email and US Mail*)

William G. Newsome III, Esquire (*By Email and US Mail*)

Burl F. Williams, Esquire (*By Email and US Mail*)

David G. Cannon (*By Email and US Mail*)

Tommie Rae Brown (*By Email and US Mail*)

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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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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Appellate Case No. 2013-001649

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Alan Wilson, in his Capacity as Attorney General of South Carolina; and  
others..... Plaintiffs,

v.

Albert H. Dallas and others..... Defendants.

OF WHOM:

Adele J. Pope, Individually and on Behalf of Others under South Carolina Trust  
Code Section 62-7-405, is..... Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H.  
Dallas and Tommie Rae Brown, erroneously referred to as Tommie Rae  
Hynie, are..... Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina,  
Deanna J. Brown Thomas and Robert L. Buchanan, Jr.,  
are..... Additional Interested Persons,

In Re: The Estate of James Brown and The James Brown 2000 Irrevocable  
Trust u/a/d August 1, 2000..... Respondents.

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RETURN TO ADELE POPE'S MOTION AND MEMORANDUM FOR EXPEDITED  
SUPERSEDEAS AND STAY OF NOVEMBER 24, 2014 SUMMARY JUDGMENT  
HEARING OF RESPONDENT TOMMIE RAE BROWN ON HER SPOUSAL CLAIM,  
AND STAY OF SPOUSAL DETERMINATION PENDING MEDIATION IN CASE  
2010-CP-40-4900

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Respondent Tommie Rae Brown (erroneously referred to in the caption as Tommie Rae Hynie) respectfully requests that this Court dismiss Adele Pope's Motion for Expedited Supersedeas and Stay of the November 24, 2014 Summary Judgment Hearing presently scheduled for case numbers 2013-CP-02-02849 and 2013-CP-02-02850. Pope has been interfering and continues to interfere in any and all actions involving the James Brown estate, presumably to obtain leverage for her \$5 million fee claim and to increase her claim for fees. Although not a party, with her removal as personal representative and trustee confirmed by the Supreme Court in Wilson v. Dallas, 403 S.C. 411, 450, 2013 S.C. LEXIS 240 at \*70 (2013), she continues to obstruct the judicial process through frivolous motions and pleadings such as her current motion.<sup>1</sup>

Pope styles her pleading as a "Motion and Memorandum for Expedited Supersedeas and Stay" of a hearing in the Common Pleas Court. There is no such procedure. The Motion has no legal basis. In order to stay or supersede an order the provisions of Rule 241, SCACR must be followed. Pope has not complied with Rule 241 because there is no order under appeal related to the hearing on the Motion for Summary Judgment. There was no motion to intervene in the case below because Pope is not and cannot be a party. Therefore she did not seek relief from the Common Pleas Court as required by Rule 241(d)(1). There is no petition as required by Rule 241(d)(4).

Pope has no interest in the cases pending before Judge Early. This matter was remanded to Judge Early in Wilson v. Dallas and Pope is no longer a party to that case.<sup>2</sup>

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<sup>1</sup> For example, she attaches to her pleadings a "story" from the blog of a Newberry "journalist" represented by Pope's husband in a FOIA case where the "journalist" is attempting to obtain information relevant to James Brown estate related cases but not currently available through proper discovery sought by Pope. Although a blog is in no way evidence, the blogs from this "journalist" suspiciously tell only one side of a complex story: from Pope's sole perspective, consistent with Pope's myriad pleadings and statements, almost as if the blogs were written by Pope herself.

Pope has no interest in the elective share and omitted spousal share matters for which a partial summary judgment hearing is scheduled for November 24, 2014, on the sole issue of Tommie Rae Brown's status as surviving spouse under South Carolina Probate Code § 62-2-802.<sup>3</sup> Ms. Pope's sole interest in the estate of James Brown is as a potential creditor claiming \$5 million in fees for approximately 1.5 years of service as co-personal representative and co-trustee.<sup>4</sup> Whatever, if anything, would eventually be awarded to Pope on her creditor's claim can in no way be affected by Mrs. Brown's spousal share claims. Under the South Carolina Probate Code, a creditor such as herself would be paid first, before any beneficiaries or spousal shares could be paid from the estate.

Ms. Pope's assertion that "the Estate and Tommie Rae *rushed* to have her spousal claim heard on stipulated facts" is a gross mischaracterization at best. See Motion and Memorandum of Adele Pope for Supersedeas and Stay, dated November 17, 2014 at p. 3 (emphasis added); see also Scheduling Orders, attached herein as Exhibits "B", "C", and "D". John Beach, the attorney for the Limited Special Administrator, first proposed a scheduling order on October 18, 2013 prior to the severance of case number 2008-CP-02-1647. See Exhibit B. After the severance order, Judge Early signed a Scheduling Order for the omitted spouse and elective share claims on June 10, 2014. Exhibit C. The latest iteration of the Scheduling Order is attached as Exhibit D. Clearly, there has been no *rush* to arrive at the November 24, 2014 hearing, and Pope has had a

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<sup>2</sup> See also Judge Early's June 13, 2013 Order, attached herein as Exhibit "A", stating that:

The Supreme Court of South Carolina has upheld and affirmed Mrs. Pope's removal as fiduciary, denied her motions for rehearing, and the remittitur has been filed in this Court. It is now the law of the case that that Ms. Pope has been removed from her fiduciary positions and *is no longer a party to the James Brown Estate and Trust Litigation*. It is the order of the Court that *Ms. Pope does not have standing to proceed* with the motions she has filed since the Supreme Court's opinion has issued.

<sup>3</sup> That hearing is based solely on the law and stipulated facts, so that none of the "information" asserted by Pope as necessary would be relevant or admissible at the hearing in any event.

<sup>4</sup> Although she continues to attempt to inject Robert Buchanan, her former co-personal representative and co-trustee, into the fray, he settled long ago.

year to convince Judge Early to allow her to intervene or argue. She has failed to do so because she cannot do so.

Pope's continuing attempts to inject herself in the administration of the James Brown estate was most recently rejected by this Court as well as the Supreme Court. Despite not being a party, she continued her attempt to, inter alia, appeal and interfere with the court's proper appointment of fiduciaries. See Court of Appeals Order in Appellate Case No. 2014-000794 dated June 16, 2014, attached hereto as Exhibit "E"<sup>5</sup>; see also Supreme Court Order in Appellate Case No. 2014-001279 dated October 23, 2014, attached hereto as Exhibit "F".

What Pope fails to adequately disclose in her motion is that the trial judge's statement about ordering another attempt at a global mediation with Pope stemmed solely from her creditor's claim, which again is in no way impacted by the determination that Mrs. Brown is the surviving spouse of James Brown in a totally separate action. To this date, no judge has even issued such an order for mediation.

Nor does her argument that the "4900" case is impacted by the hearing scheduled for November 24, 2014, hold water.<sup>6</sup> That is a completely separate civil action and is not part of the actions involving the rights of beneficiaries in the James Brown estate. The real party in interest in the 4900 case is the James Brown estate itself. Assuming

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<sup>5</sup> In this Court's June 16, 2014 Order for Case No. 2014-000794 it was stated that:

[T]he circuit court's administrative orders of June 13, 2013, remove Pope from all James Brown Estate and Trust litigation...Because '[o]nly a *party aggrieved* by an order, judgment, sentence or decision may appeal' and an appeal may only be taken 'as provided by law[] from final judgment, appealable order or decision,' this appeal is dismissed. Rule 201, SCACR (emphasis added); *see also Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ('An appeal filed by one who has ceased to be a party to a suit is a mere nullity.' (internal quotation marks and citation omitted)).

<sup>6</sup> Again, Buchanan is no longer a party to that action, having settled long ago.

arguendo that Pope's assertion that, if Mrs. Brown is determined not to be the surviving spouse under § 62-2-802, Mrs. Brown would not have an interest in the 4900 action — an assertion that is not correct — the presence or absence of Mrs. Brown in the 4900 case has no effect on Pope or on this case. As noted, the real party in interest is the estate, which will not be affected in the 4900 case by Mrs. Brown's status. Pope's only hope in dismissing the 4900 case is to continue to attempt to pick off appointed fiduciaries until one is appointed that will forgive her alleged malfeasance as fiduciary — an unlikely prospect from any prudent successor fiduciary who would chance being personally liable if dismissing the lawsuit was determined to be imprudent and harmful to the estate.

The November 24, 2014 hearing is the result of long-term scheduling and briefing subject to a scheduling order.<sup>7</sup> It is incorrect for Pope to contend that delaying that hearing will somehow improve her chances at a global mediation. Rather, if Mrs. Brown is determined not to be the surviving spouse, she would no longer be a party in the 4900 case, which would improve Pope's chances at a global mediation. It would therefore be in Pope's best interest to allow the court to hold the hearing with the possible result that the court will rule that Mrs. Brown is not the surviving spouse.<sup>8</sup> Keeping that issue in limbo, despite Pope's assertions, does nothing to enhance her position in a global mediation. Not only that, the Supreme Court ordered the trial court to decide this case.

Another red herring is Pope's continuing assertions about the writings that, depending on which of her pleadings one reads, is either a "diary" or just some pieces of paper with "handwritten notes" found in the house that Mrs. Brown shared with Mr.

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<sup>7</sup> See Exhibits B, C, and D. Ten (10) memorandums/responsive pleadings have been filed as a result of the Scheduling Order in Exhibit D.

<sup>8</sup> Indeed, the special administrator and other parties are vigorously contesting Mrs. Brown's status.

Brown until his death and from which she was locked out by Pope and her predecessor fiduciaries,<sup>9</sup> has no bearing on the legal issue of whether Mrs. Brown is the surviving spouse of Mr. Brown for spousal share purposes. In other pleadings, Pope has argued that she is entitled to use Mrs. Brown's "diary" for Pope's — to use Pope's term — "professional" writings.<sup>10</sup>

Despite Pope's protests that she is the "only person in the world" looking out for the charitable beneficiaries of the James Brown estate, her actions belie that claim. Unless and until the competing interests in the James Brown estate are determined, not one penny will pass to any charitable beneficiary. Delaying the orderly progress of an estate administration to determine the validity of these interests will only continue to delay the possible and eventual payment on behalf of charitable beneficiaries. In any event, the Supreme Court has ordered the case to be heard on the merits.

What Pope also fails to mention is that her \$5 million claim for fees, if paid, would come directly from the charitable interests, and nowhere else.<sup>11</sup> The truth is that she wants to delay progress towards the eventual payment of some charitable amount so that she can better proceed to obtain leverage for her fee claim. Pope has not attempted to intervene in the hearing on a motion that was originally filed in 2007 and became relevant again in 2013 after the decision in Wilson v. Dallas, but rather wants to avoid the

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<sup>9</sup> This is how the "diary" or "pieces of paper" came improperly into Pope's possession.

<sup>10</sup> To date, these "professional" writings consist of unpublished writings that continue to promote Pope's position. The only arguable actual publication of Pope's positions is in the blog of the alleged Newberry "journalist."

<sup>11</sup> Similarly, under her position that the estate belongs entirely to charity, any award for the estate against her in the 4900 case would belong to charity, and any award against the estate would come completely from the charitable share.

trial court and instead ask this Court to assert itself in the actions now properly before the trial court upon remand.

ROSEN LAW FIRM, LLC



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ATTORNEYS FOR PETITIONER  
TOMMIE RAE BROWN

November 19, 2014  
Charleston, SC

FILED  
6.13.13  
Liz Godard  
CC CP & GA  
11:30 AM  
Anita Knapp  
Deputy Clerk

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS  
COUNTY OF AIKEN (ON REMOVAL FROM PROBATE COURT)

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

ADMINISTRATIVE ORDER  
Case No.: 2008-CP-02-16  
Case No.: 2007-CP-02-012  
Case No.: 2008-CP-02-082

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
I, Liz Godard, Clerk of Court and General  
Scriber for Aiken County, South Carolina, hereby certify  
that the foregoing constitutes a true and correct copy of the  
original documents which have been filed in my office this  
JUN 13 2013

JUN 13 2013  
Liz Godard  
Anita Knapp  
Deputy Clerk

On May 29, 2013 this Court held a status conference concerning *Wilson*, --- S.E.2d ---, 2013 WL 2005103 (2013), the South Carolina Supreme Court's May 8, 2013 Opinion (the "Opinion") affirming, reversing, and remanding this Court's May 26, 2009 order confirming the James Brown Estate and Trust Settlement Agreement.

In the Opinion, the Supreme Court affirmed this Court's decision to remove Ms. Adele J. Pope from her fiduciary positions. The Supreme Court noted that: "an irreconcilable conflict existed between [Ms. Pope] and the settling parties because [Ms. Pope] had expressed continuing opposition to their actions." *Wilson*, \* 19. Accordingly, the Supreme Court held that, "the circuit court had cause to remove [her] and replace [her] with a professional fiduciary." *Id.* The Supreme Court went on to note that "the extreme discord between the parties convince us that [Ms. Pope's] continued service as [a] fiduciary is not in the best interest of the estate." *Id.*

The Supreme Court also found that this Court did not violate the statutory provisions regarding the removal of Ms. Pope as she had asserted that she was removed without this court complying with procedural mandates or for justifiable reasons. The Opinion further stated that that this Court had cause to remove her as it was not in the best interest of the estate. The Justices noted that the parties remained at odds over the handling of estate matters.

EXHIBIT  
A  
#1

The Supreme Court referenced specific actions that it relied on in holding that Ms. Pope's service as a fiduciary was not in the best interest of the estate. The opinion specifically mentioned the \$5 million dollars in fees she sought as fiduciary for a relatively short interval of time, paying her own fees from a large portion of the funds raised from selling iconic assets, and attempting to sell a GRAMMY award. The Supreme Court found no error in this Court removing Ms. Pope from her fiduciary positions.

Despite the South Carolina Supreme Court's Opinion, Ms. Pope has now filed several documents with this Court. The documents include Motions, Memoranda, and Proposed Scheduling Orders concerning the James Brown Estate and Trust litigation. These actions and filings will not be considered by this Court. The Supreme Court of South Carolina has upheld and affirmed Mrs. Pope's removal as fiduciary, denied her motions for rehearing, and the remittitur has since been filed in this Court. It is now the law of the case that Ms. Pope has been removed from her fiduciary positions and is no longer a party to the James Brown Estate and Trust litigation. It is the Order of this Court that Ms. Pope does not have standing to proceed with the motions she has filed since the Supreme Court's opinion has issued. Accordingly, this Court hereby directs the Clerk of Court to remove Ms. Pope's filings from these cases pursuant to the Supreme Court's Opinion removing her as party to these proceedings.

This Court is aware that Ms. Pope has filed a separate fee petition for Personal Representative and Trustee commissions. If Ms. Pope's fee petition is litigated, then pursuant to past practices, the Probate Court is hereby directed to assign the case to the Circuit Court, and the Clerk of Court is hereby directed to assign Mrs. Pope's fee petition a separate case number. Ms. Pope's filings relating to her fee petition shall then be filed under that case number.

*[Handwritten signature]*  
#2

AND IT IS SO ORDERED.



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



~~Barnwell~~, South Carolina

June 13, 2013

# ADAMS AND REESE LLP

Attorneys at Law  
Alabama  
Florida  
Louisiana  
Mississippi  
South Carolina  
Tennessee  
Texas  
Washington, DC

October 18, 2013

John F. Beach  
Direct: 803.343.1269  
E-Fax: 803.343.1224  
john.beach@arlaw.com

The Honorable Liz Godard  
Clerk of Court of Aiken County  
P.O. Box 583  
Aiken, SC 29802-0583

RE: In re The Estate of James Brown A/K/A James Joseph Brown  
Case Number: 2008-CP-02-1647

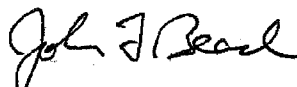
Dear Ms. Godard:

Enclosed herewith for filing, please find the original and one (1) copy of the Notice of Appearance filed by Adams and Reese LLP and John F. Beach in the above-referenced matter. Please return a clocked copy of this document in the enclosed envelope.

By copy of this letter, I am serving all parties in this action and enclose my Certificate of Service to that effect. Please contact me if you have any questions or need further information.

With kind regards, I am

Yours truly,

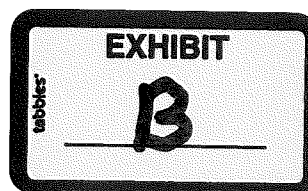


John F. Beach

JFB/ls

Enclosures (as stated)

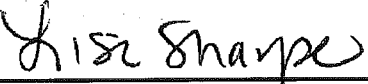
cc: The Honorable D.A. Early, III  
Clerk of Court/Aiken County Probate Court  
David C. Sojourner  
All parties of Record





David L. Michel, Esq.  
Michel Law Firm, LLC  
15 State Street  
Charleston SC 29401

David B. Bell, Esq.  
David Bell Law Firm  
619 Greene Street  
Augusta GA 30903

---

Lisa Sharpe, Paralegal

October 18, 2013  
Columbia, South Carolina



October 18, 2013

John F. Beach  
Direct: 803.343.1269  
E-Fax: 803.343.1224  
john.beach@arlaw.com

**VIA FIRST CLASS AND ELECTRONIC MAIL SERVICE**

The Honorable D.A. Early, III  
Circuit Court of the 2<sup>nd</sup> Judicial Circuit  
Post Office Box 90  
Bamberg, SC 29003

RE: In re The Estate of James Brown A/K/A James Joseph Brown  
Case Number: 2008-CP-02-1647

Dear Judge Early:

On behalf of David C. Sojourner, as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement ("Trust") and Limited Special Administrator of the Estate of James Brown, I am enclosing an original and one (1) copy of a proposed Scheduling Order in the above-referenced matter.

On October 4, 2013 we received the Court's October 1, 2013 Interim Order appointing Mr. Sojourner as Limited Special Trustee to defend the Trust in the Will and Trust Challenges. On October 10, 2013 the Aiken County Probate Court appointed Mr. Sojourner as Limited Special Administrator for that same purpose related to the Estate of James Brown. We are working diligently toward obtaining, organizing, and reviewing the many relevant case documents.

The proposed Scheduling Order sets forth a ten-month schedule for trial. This schedule depends upon all parties working in concert to rapidly complete discovery.

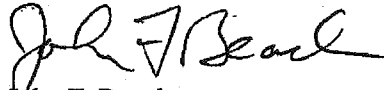
Tommie Rae Brown and James Brown II have recently moved to sever the Elective Share, Omitted Spouse, and Pretermitted Child claims from the other Will and Trust Challenges, and from each other. We will explore with counsel the possibility of proposing some severance arrangement by consent. If the Court severs one or more of these claims, it is possible that the severed claim(s) can proceed upon a different schedule.

By copy of this letter, I am serving all parties of record and enclose my Certificate of Service to that effect.

Should you have any questions or concerns, please do not hesitate to contact me.

With kind regards, I am

Yours truly,



John F. Beach

JFB/lr

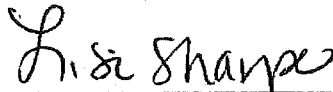
Enclosures (as stated)

cc: David C. Sojourner  
All parties of Record



David L. Michel, Esq.  
Michel Law Firm, LLC  
15 State Street  
Charleston SC 29401

David B. Bell, Esq.  
David Bell Law Firm  
619 Greene Street  
Augusta GA 30903



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Lisa Sharpe, Paralegal

October 18, 2013  
Columbia, South Carolina



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

10 day of June 2014

IN THE COURT OF COMMON PLEAS

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

Shannon Johnson  
Deputy Clerk

CASE NO. 2013-CP-02-02849 ONG

(Omitted Spouse Claim)

CASE NO. 2013-CP-02-02850 cert copy

(Elective Share Claim)

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, Larry Brown, Terry Brown and )

Daryl Brown, )

Respondents, )

IN RE: )

THE ESTATE OF JAMES BROWN )

A/K/A JAMES JOSEPH BROWN )

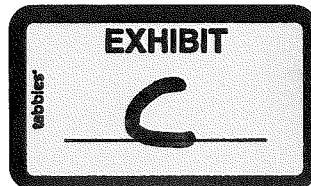
**SCHEDULING ORDER**

6-10-2014  
Liz Godard  
C.C.C.P. & G.S.  
Shannon Johnson  
Deputy Clerk

Pursuant to Rule 16 of the South Carolina Rules of Civil Procedure, the Court orders as follows:

1. The Court will hear Petitioner's April 24, 2014 motion for partial summary judgment on the issue of whether Petitioner is Decedent's surviving spouse on September 3, 2014, at 2:00 pm ~~2014~~ [not before August 20, 2014]. The Parties shall observe the following schedule in Bamberg, S regarding this motion:

- a. The Parties shall submit to the Court a joint stipulation of facts necessary for the Court to rule upon Petitioner's motion for partial summary judgment no later than June 20, 2014.
- b. Petitioner shall file and serve a Memorandum of Law setting forth the law and facts supporting all theories upon which Petitioner contends she is entitled to this partial summary judgment, as well as all affidavits and evidence in support of Petitioner's theories, no later than July 7, 2014;
- c. The Respondents shall file and serve Memoranda of Law setting forth the law and facts supporting all counterarguments to Petitioner's theories, as well as all affidavits and evidence in support of Respondents' counterarguments, no



JME  
HC

later than July 21, 2014;

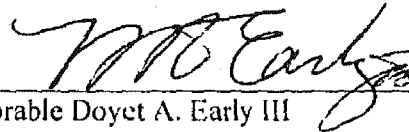
- d. The Petitioner shall file and serve a Responsive Memorandum setting forth the law and facts supporting all theories responsive to the Respondents' counterarguments, as well as all affidavits and evidence in support of Petitioner's responsive theories, no later than August 5, 2014.
  - e. The Respondents shall file and serve Memoranda of Law setting forth the law and facts supporting all counterarguments to Petitioner's responsive theories, as well as all affidavits and evidence in support of Respondents' counterarguments, no later August 13, 2014.
2. Petitioner shall respond to the Limited Special Administrators April 23, 2014 1<sup>st</sup> Requests for Admission, 2<sup>nd</sup> Interrogatories, and 2<sup>nd</sup> Requests for Production on or before June 16, 2014.
  3. All other discovery in these two cases is stayed pending the Court's ruling upon Petitioner's April 24, 2014 motion for partial summary judgment on the issue of whether Petitioner is Decedent's surviving spouse.
  4. The Parties shall resume all written discovery following the Court's ruling on Petitioner's partial motion for summary judgment and shall respond to all discovery requests stayed by this Order on or before fifteen (15) days following the Court's ruling. All remaining written discovery must be completed on or before sixty (60) days following the Court's ruling. Additional written discovery requests shall be served on a date that affords the responding party the full time to respond under the applicable rules of the South Carolina Rules of Civil Procedure prior to the written discovery completion date set forth in this paragraph.
  5. The Parties shall identify and disclose all expert witnesses intended to be offered at trial, along with all written discovery relevant to such witnesses, on or before sixty (60) days following the Court's ruling on Petitioner's motion for partial summary judgment.
  6. The Parties shall complete all depositions on or before one hundred twenty (120) days following the Court's ruling on Petitioner's motion for partial summary judgment.
  7. The Parties may, with the written consent of counsel for each Party, conduct written discovery and depositions up to the time of trial, provided the other deadlines in this Order are not affected. If the parties do not consent to additional written discovery and depositions, the parties may petition this Court for additional time.
  8. The Parties shall file and serve all dispositive motions on or before one hundred fifty (150) days following the Court's ruling on Petitioner's motion for partial summary judgment.
  9. The Court will schedule a pre-trial hearing, pursuant to Rule 16 of the South Carolina

*[Handwritten signature]*  
#2

Rules of Civil Procedure, approximately two (2) weeks prior to the trial date. Prior to such hearing the Parties shall confer regarding the exchange of a list of witnesses, the stipulation of facts not in controversy, and a list of exhibits proposed to be offered at trial and their admissibility,

10. The Court shall set a day-certain trial date for this case not before March 1, 2015, or thirty (30) days after the Court rules upon all dispositive motions, whichever comes later.
11. This Order shall be subject to further modification by the Court upon motion of any party and for good cause shown.

AND IT IS SO ORDERED.



The Honorable Doyet A. Early III

Aiken, South Carolina

June 10, 2014

**FORM 4**

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

**JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2013CP0202849**

**Tommie Rae Hynie-Brown**

**David Special  
Administrato Soujourner  
Deanna Brown Thomas  
Vanisha Brown  
Daryl Brown**

**Terry Brown  
Yamma Brown  
Larry Brown  
Jeanette Mitchell**

**PLAINTIFF(S)**

**DEFENDANT(S)**

**Submitted by:**

**Attorney for:**  Plaintiff  Defendant  
 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:

**ORDER INFORMATION**

**This order**  ends  does not end the case.

Additional Information for the 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<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(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 SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**Circuit Court Judge** \_\_\_\_\_ **Judge Code** \_\_\_\_\_ **Date** 6/10/2014

**For Clerk of Court Office Use Only**

This judgment was entered on 10th day of June, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 10th day of June, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

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

**J. David Black** PO Drawer 2426 Columbia, SC 29202-2426  
**John Fisher Beach** PO Box 2285 Columbia, SC 29202  
**Matthew Day Bodman** 1500 Calhoun St. Columbia, SC  
29201  
**William Joseph Barr** 108 N. Academy St. Kingstree, SC  
29556-3422

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

*Probate*

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

*Liz Godard by Snow*

**Court Reporter**

**Liz Godard - Clerk of Court**

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**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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FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2013CP0202850

Tommie Rae Hynie-Brown

David Soujourner  
 Deanna Brown Thomas  
 Vanisha Brown  
 Daryl Brown

Terry Brown  
 Yamma Brown  
 Larry Brown  
 Jeanette Mitchell

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 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:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the 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<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(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 SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

6/10/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

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John Fisher Beach PO Box 2285 Columbia, SC 29202  
Matthew Day Bodman 1500 Calhoun St. Columbia, SC 29201  
William Joseph Barr 108 N. Academy St. Kingstree, SC 29556-3422

ATTORNEY(S) FOR THE PLAINTIFF(S)

*probate*

ATTORNEY(S) FOR THE DEFENDANT(S)

*Liz Godard by [Signature]*  
Liz Godard - Clerk of Court

Court Reporter

**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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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, Larry Brown, Terry Brown and )  
 Daryl Brown, )  
 )  
 Respondents, )  
 )  
 IN RE: )  
 )  
**THE ESTATE OF JAMES BROWN** )  
**A/K/A JAMES JOSEPH BROWN** )  
 \_\_\_\_\_ )

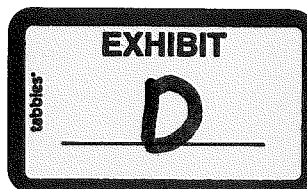
IN THE COURT OF COMMON PLEAS

CASE NO. 2013-CP-02-02849  
*(Omitted Spouse Claim)*  
 CASE NO. 2013-CP-02-02850  
*(Elective Share Claim)*

**SCHEDULING ORDER**

Pursuant to Rule 16 of the South Carolina Rules of Civil Procedure, the Court orders as follows:

1. The Court will hear Jeanette Mitchell’s July 9, 2014 Motion to Intervene, Michael Deon Brown’s July 25, 2014 Motion to Intervene, Jeanette Mitchell’s April 21, 2008 Motion to be Declared an Heir of the Estate of James Brown (pending in Case No. 2008-CP-02-1647), and Lisa Sims’ October 31, 2013 Corrected Motion for Determination as a Child and Heir of James Brown (pending in Case No. 2008-CP-02-1647) on September 30, 2014 at 10:00 AM at the Aiken South Carolina County Courthouse.
2. The Court will hear Petitioner’s April 24, 2014 motion for partial summary judgment and the Limited Special Administrator’s May 29, 2014 Motion for Summary Judgment on the issue of whether Petitioner is Decedent’s surviving spouse (the “Summary Judgment Motions”) on November 10, 2014 at 2:00 PM at the Aiken South Carolina County Courthouse. The Parties shall observe the following schedule regarding the Summary Judgment Motions:
  - a. Petitioner shall file and serve (via email and regular mail) a Memorandum of Law setting forth the law and facts supporting all theories upon which Petitioner contends she is entitled to this partial summary judgment, as well



as all affidavits and evidence in support of Petitioner's theories, no later than September 12, 2014;

- b. The Respondents shall file and serve (via email and regular mail) Memoranda of Law setting forth the law and facts supporting all counterarguments to Petitioner's theories, as well as all affidavits and evidence in support of Respondents' counterarguments, no later than October 3, 2014;
- c. The Petitioner shall file and serve (via email and regular mail) a Responsive Memorandum setting forth the law and facts supporting all theories responsive to the Respondents' counterarguments, as well as all affidavits and evidence in support of Petitioner's responsive theories, no later than October 17, 2014.
- d. The Respondents shall file and serve (via email and regular mail) Memoranda of Law setting forth the law and facts supporting all counterarguments to Petitioner's responsive theories, as well as all affidavits and evidence in support of Respondents' counterarguments, no later October 31, 2014.

Should proposed Intervenors Jeanette Mitchell and Michael Deon Brown wish to submit memoranda and supporting materials related to the Summary Judgment Motions, they shall follow this schedule. In the event the Court denies one or more of their motions to intervene, the Court will consider that person's memoranda and supporting material as having been submitted *amicus curiae*.

- 3. Petitioner shall respond to the Limited Special Administrators April 23, 2014 1<sup>st</sup> Requests for Admission, 2<sup>nd</sup> Interrogatories, and 2<sup>nd</sup> Requests for Production on or before June 16, 2014.
- 4. All other discovery in these two cases is stayed pending the Court's ruling upon the Summary Judgment Motions.
- 5. The Parties shall resume all written discovery following the Court's ruling on the Summary Judgment Motions and shall respond to all discovery requests stayed by this Order on or before fifteen (15) days following the Court's ruling. All remaining written discovery must be completed on or before sixty (60) days following the Court's ruling. Additional written discovery requests shall be served on a date that affords the responding party the full time to respond under the applicable rules of the South Carolina Rules of Civil Procedure prior to the written discovery completion date set forth in this paragraph.
- 6. The Parties shall identify and disclose all expert witnesses intended to be offered at trial, along with all written discovery relevant to such witnesses, on or before sixty (60) days following the Court's ruling on the Summary Judgment Motions.
- 7. The Parties shall complete all depositions on or before one hundred twenty (120) days

following the Court's ruling on the Summary Judgment Motions.

8. The Parties may, with the written consent of counsel for each Party, conduct written discovery and depositions up to the time of trial, provided the other deadlines in this Order are not affected. If the parties do not consent to additional written discovery and depositions, the parties may petition this Court for additional time.
9. The Parties shall file and serve all dispositive motions on or before one hundred fifty (150) days following the Court's ruling on the Summary Judgment Motions.
10. The Court will schedule a pre-trial hearing, pursuant to Rule 16 of the South Carolina Rules of Civil Procedure, approximately two (2) weeks prior to the trial date. Prior to such hearing the Parties shall confer regarding the exchange of a list of witnesses, the stipulation of facts not in controversy, and a list of exhibits proposed to be offered at trial and their admissibility,
11. The Court shall set a day-certain trial date for this case not before March 1, 2015, or thirty (30) days after the Court rules upon all dispositive motions, whichever comes later.
12. This Order shall be subject to further modification by the Court upon motion of any party and for good cause shown.

AND IT IS SO ORDERED.

\_\_\_\_\_  
The Honorable Doyet A. Early III

\_\_\_\_\_, South Carolina

\_\_\_\_\_, 2014

# The South Carolina Court of Appeals

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

Michael Deon Brown, James Curtis, Jane Doe and John Doe Numbers I, II, III, and IV, and Adele Pope, Appellants,

v.

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

Appellate Case No. 2014-000794

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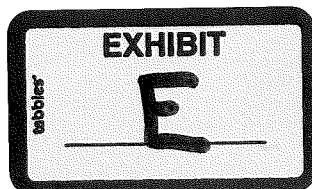
## ORDER

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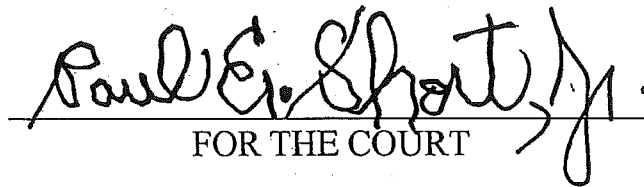
Adele Pope has filed a notice of appeal from the following orders of the circuit court:

- (1) Order of February 7, 2014, determining parties to severed omitted spouse claim, elective share claim, and pretermitted child claim (Case No. 2008-CP-02-1647);
- (2) Order of January 8, 2014, dismissing cross-claims of Cinnamon Nicole Parris and LaRhonda Pettit without prejudice (Case No. 2008-CP-02-1647);
- (3) Order of December 16, 2013, severing omitted spouse claim, elective share claim, and pretermitted child claim (Case No. 2008-CP-02-1647); and
- (4) Form Orders of February 26, 2014, and March 10, 2014, denying Pope's motions to alter, amend, and vacate orders dismissing heirs of James Brown and others from proceedings of James B. and Tommie Rae Hynie.

Pope signs her notice of appeal as "Attorney for Appellants." However, "Appellant" Michael Deon Brown's attorney, David B. Bell, has notified this Court that Pope does not represent Michael Deon Brown and he asks that his client's



name be removed from the caption of this appeal.<sup>1</sup> As to the remaining "Appellants," they are not parties to Case No. 2008-CP-02-1647. In fact, the circuit court's administrative orders of June 13, 2013,<sup>2</sup> remove Pope from all James Brown Estate and Trust litigation, specifically including Case No. 2008-CP-02-1647, noting any litigation regarding Pope's fee petition will be assigned a separate case number. Because "[o]nly a *party aggrieved* by an order, judgment, sentence or decision may appeal" and an appeal may only be taken "as provided by law[]" from final judgment, appealable order or decision," this appeal is dismissed. Rule 201, SCACR (emphasis added); *see also Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ("An appeal filed by one who has ceased to be a party to a suit is a mere nullity." (internal quotation marks and citation omitted)).

  
FOR THE COURT

Columbia, South Carolina

cc:

Adele Jeffords Pope, Esquire  
Robert N. Rosen, Esquire  
Albert P. Shahid, Jr., Esquire  
John Fisher Beach, Esquire  
David B. Bell, Esquire



---

<sup>1</sup> We further question whether Pope represents James Curtis, Jane Doe and John Doe Numbers I, II, III, and IV. In her filings, Pope contends she is filing the appeal as a "proposed guardian ad litem" and as "Creditor/Proponent of the Will of James Brown." We note that nothing in our file indicates Pope has been appointed as the guardian ad litem for any of the "Appellants."

<sup>2</sup> The administrative orders were issued in response to our supreme court's decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Pope's appeal from these orders, appellate case number 2013-001649, is currently pending before this court.

# The Supreme Court of South Carolina

Alan Wilson, in his Capacity as Attorney General of  
South Carolina; and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants,

Of whom Adele J. Pope, Individually and on behalf of  
Others under South Carolina Trust Code Section 62-7-  
405, is Petitioner,

And Terry Brown, Forlando Brown, James B., David G.  
Cannon, Albert H. Dallas and Tommie Rae Hynie are  
Respondents,

And Alan Wilson in his Capacity as Attorney General of  
South Carolina, Deanna J. Brown Thomas and Robert L.  
Buchanan, Jr., are Additional Interested Persons.

In Re: The Estate of James Brown and The James Brown  
2000 Irrevocable Trust u/a/d August 1, 2000.

Appellate Case No. 2014-001279  
Lower Court Case No. 2007CP0200122

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## ORDER

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Petitioner seeks a writ of certiorari to review the Court of Appeals' order of  
dismissal. The petition is denied.

  
C.J.  
FOR THE COURT

Pleicones, J., not participating

**RECEIVED**

OCT 24 2014

NEXSEN PRUET, LLC



Columbia, South Carolina

October 23, 2014

cc:

The Honorable Jenny Abbot Kitchings

The Honorable Liz Godard

Albert P. Shahid, Jr., Esquire

William W. Wilkins, Esquire

J. David Black, Esquire

Fred Lewis Kingsmore, Jr., Esquire

Burl F. Williams, Esquire

Eugene C. Covington, Jr., Esquire

Robert N. Rosen, Esquire

Alan McCrory Wilson, Esquire

Adele J. Pope

David G. Cannon

**STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**

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**APPEAL FROM AIKEN COUNTY**  
**Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Court Judge**

---

**Appellate Case No. 2013-001649**

---

Alan Wilson, in his Capacity as Attorney General of South Carolina; and  
others..... Plaintiffs,

v.

Albert H. Dallas and others..... Defendants.

OF WHOM:

Adele J. Pope, Individually and on Behalf of Others under South Carolina Trust  
Code Section 62-7-405, is..... Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H.  
Dallas and Tommie Rae Brown, erroneously referred to as Tommie Rae  
Hynie, are..... Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina,  
Deanna J. Brown Thomas and Robert L. Buchanan, Jr.,  
are..... Additional Interested Persons,

In Re: The Estate of James Brown and The James Brown 2000 Irrevocable  
Trust u/a/d August 1, 2000..... Respondents.

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**PROOF OF SERVICE**

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The undersigned hereby certifies that on November 19<sup>th</sup>, 2014 a true and accurate copy of the Return to Adele Pope's Motion and Memorandum for Expedited Supersedeas and Stay of November 24, 2014 Summary Judgment Hearing of Respondent Tommie Rae Brown on Her Spousal Claim, and Stay of Spousal Determination Pending

Mediation in Case 2010-CP-40-4900 was placed in an envelope with first class postage thereon through the United States Postal Service and mailed to the offices of the attorneys of record and *pro se* party in this case at the addresses below:

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

Eugene C. Covington, Jr., Esquire  
Post Office Box 2343  
Greenville, South Carolina 29602

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

William W. Wilkins, Esquire  
Post Office Drawer 10648  
Greenville, SC 29603-0648

J. David Black, Esquire  
Post Office Drawer 2426  
Columbia, SC 29202-2426

Fred Lewis Kingsmore, Jr., Esquire  
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T. Heyward Carter, Jr.  
Andrew W. Chandler  
M. Jean Lee  
Evans, Carter, Kunes & Bennett  
115 Church Street  
P.O. Box 369  
Charleston, SC 29402

David L. Michel  
Michel Law Firm, LLC  
15 State Street  
Charleston, SC 29401

ATTORNEYS FOR PETITIONER  
TOMMIE RAE BROWN

November 19, 2014  
Charleston, SC