

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court Of Common Pleas

Doyet A. Early, Ill, Circuit Court Judge
L. Casey Manning, Circuit Court Judge

Appellate Case No.2017-001899

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OCT 06 2017
SC Court of Appeals

Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children, Sydney L., Carrington L., and Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown,

And

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown - Lewis; Yamma N. Brown, individually and on behalf of her minor children, Sydney L., Carrington L., And Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown
..... Respondents,

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant Appellant.

**REPLY OF ATTORNEY GENERAL TO MEMORANDUM
OF APPELLANT POPE RE APPEALABILITY**

Attorney General Wilson respectfully submits this memorandum in reply to the

Memorandum of Appellant Pope regarding appealability¹.

In support of her appeal of the Orders granting the Attorney General's Motion to be Dropped as a party and his Rule 59 Motion, Appellant cites *Neeltec Enterprises, Inc. v. Long*, 397 S.C. 563, 567, 725 S.E.2d 926, 928–29 (2012) which held that “an interlocutory order that falls within the purview of § 14–3–330(2)(a) must be immediately appealed if it is to be considered at all, and that there is no review available after final judgment.” *Neeltec* applied its ruling to an order removing one defendant and substituting two other parties; however, the Court apparently did not consider the effect of Rule 54, SCRCP. As discussed in the Attorney General's Memorandum, *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 574, 698 S.E.2d 856, 860 (Ct. App. 2010) concluded that, absent Rule 54 certification, an appeal could not be taken from an order adjudicating only part of the case. Because Rule 54 certification was not obtained for the Orders granting the Motion to be Dropped and denying the Rule 59 Motion, they are not immediately appealable nor is the Order granting a protective order as to the deposition of the Attorney General.

For these reasons and the others discussed in his initial Memorandum, the Attorney General respectfully requests that the appeal be dismissed as to the Orders dropping the Attorney General as a party, denying the Rule 59 Motion as to that ruling, and granting a protective order.

Respectfully submitted,

ALAN WILSON
Attorney General


[Signature block continues next page]

¹ Although this Court's request that the parties submit memoranda regarding appealability did not provide for replies to the memoranda, the Attorney General respectfully requests that this Court consider this Reply. *Cf.* Rule 240(e) and (f), SCACR.

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BY: 

October 6, 2017

ATTORNEYS FOR THE ATTORNEY GENERAL

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And

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown - Lewis; Yamma N. Brown, individually and on behalf of her minor children, Sydney L., Carrington L., And Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown
..... Respondents,

v.

Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant Appellant.

CERTIFICATE OF SERVICE

I hereby certify that I have served the Reply of the Attorney General to Memorandum of

CERTIFICATE OF SERVICE
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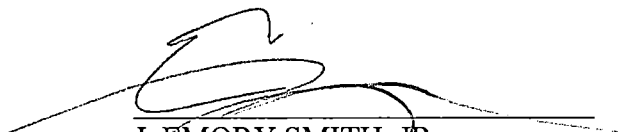
Appellant Pope regarding Appealability upon counsel for the other parties by mailing copies to them at the addresses below via the United States Mail this October 6, 2017:

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ALAN WILSON
ATTORNEY GENERAL

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
HAND DELIVERY

Re: Bauknight v. Pope, Appellate Case No. 2017-001899

Dear Ms. Kitchings:

Enclosed for filing with your Office are the original and six copies of the Reply of the Attorney General to Memorandum of Appellant Pope regarding Appealability together with a certificate of service. Please confirm filing by stamping the additional copy of this Return.

Thank you for your assistance.

Sincerely,

J. Emory Smith, Jr.
Deputy Solicitor General
Counsel for the Attorney General

cc: Adam T. Silvernail, Esquire
Walter H. Bundy, Jr., Esquire
M. Brent McDonald, Esquire
Daryl L. Williams, Esquire
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