

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**  
SEP 26 2018  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court Of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge  
The Honorable L. Casey Manning, Circuit Court Judge

Appellate Case No.2017-001899

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.

**MOTION OF ATTORNEY GENERAL  
TO CORRECT RECORD ON APPEAL**

The Attorney General moves for correction of the Record on Appeal in the following

respects.

1

**Correction of the identification of counsel for the Attorney General as “Special Appearance” on the covers of all briefs**

In a remarkable departure from ordinary recognition of a party’s right to choose his counsel and inconsistently with the Appellate Court rules, Appellant has re-named the AG’s counsel as “Special Appearance” counsel on the covers of the Record on Appeal. This issue, as to the Reply Brief, is the subject of the Attorney General’s recently filed Reply to Appellant’s Return to his Motion to Strike that Brief. The AG’s Reply argues in part as follows:

Appellant makes the preposterous contention that the Attorney General cannot represent himself as to the matters in his brief and motions because he made a special appearance in the lower court. Of course, he has such authority as a party and as the chief legal officer of the State, and Appellant has waived and abandoned any such issues by failing to argue them before now. [Reply at p. 2]

\* \*\*

The [AG’s initial brief] expressly stated that “[t]he Attorney General is representing himself on this appeal . . .” [Reply at p. 4]

\* \*\*

The “special appearance” of staff counsel for purposes of oral argument in circuit court was not a limitation on the authority of the Attorney General to represent himself in this matter, which he has done as noted above, nor has Appellant raised such an issue before her Return to the instant Motion to Strike. She raises this issue too late having failed to raise it before now in circuit court or on appeal. [Reply at p. 4]

\* \*\*

Moreover, the Attorney General "has broad statutory and common law authority in his capacity as the chief legal officer of the State . . . [and] may represent himself in this appeal. " [Reply at p. 4]

Appellant has no authority to change how the Attorney General is represented on appeal. The

2

AG's Designation of Matter for Record did not qualify his representation by himself and staff counsel as "Special Appearance" counsel, and therefore, Appellant should have listed counsel as they appear in the Designation. In changing the AG's listing of his counsel, Appellant has violated the right of a party to choose his counsel and transgresses the purpose of Rule 210(c) which requires that all matter designated by a party under Rule 209 be included in the Record. Certainly, the AG's listing of his counsel in his Designation would be part of that Designation and should have been included.

Appellant's changing the AG's listing of his counsel should be corrected either by her replacing all covers for all volumes of the Record filed and served or by affixing appropriate labels.

2

### **Appellant Has Failed To Include Designated Matter**

Appellant apparently failed to include the following item in the AG's Designation: "20 Letter of undersigned counsel to Judge Early, May 25, 2017 - Response to Pope's Proposed Order and Second Supplemental Return to Motion." She included a letter of May 23, 2017 (Vol. 5, p. 2093), but the AG did not designate that letter. The omitted letter should be included in the Record by some appropriate means.

3

### **Any Matter Struck From Appellant's Counter Designations Should Be Removed From The Record**

The AG's pending Motion to Strike Appellant's Reply Brief and Counter-Designations identifies two documents that should be struck. If the Court grants that motion, they should be removed from the Record.

3

**The Record As Compiled Is Disorganized, Confusing And Difficult To Use**

Just a review of the index to the Record shows its lack of organization and clarity. Not all motions are included in the pleadings and motions sections of the Record in Volumes I and II. Other motions are scattered about "Exhibits and Other Documents" in Volumes III-V. The order of documents frequently departs from chronological or other logical organization. For example, the AG's Motion for Protective Order of July 18, 2016 is at Vol. II, page 856, but his Memorandum in Support of that Motion filed the next month is in Volume V at page 2059 along with a 2012 Order that should have been in Volume I with other Orders, and a letter to Judge Manning dated in 2013. The Attorney General's Motion to Be Dropped as a party is included at Vol. II, pages 790- 793 with Exhibit A to that Motion but without Exhibit B. Those exhibits are later included with a second copy of that Motion as attachments to the Notice of Special Appearance at page 867 of Volume II. The Attorney General does not specifically request that Appellant reprint the Record but calls this disorganization to the attention of the Court for whatever action it deems appropriate.

**CONCLUSION**

For the foregoing reasons, the Attorney General respectfully requests that Appellant be required to correct the Record as set forth above.

Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT D. COOK  
Solicitor General  
S.C. Bar No. 1373

[Signature block continues next page]

J. EMORY SMITH, JR.  
Deputy Solicitor General  
S.C. Bar No. 5262

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-3680  
Email: [esmith@scag.gov](mailto:esmith@scag.gov)

BY: 

September 26, 2018

ATTORNEYS FOR THE ATTORNEY GENERAL

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court Of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge  
The Honorable L. Casey Manning, Circuit Court Judge  
Trial Court Case 2010CP4004900

**RECEIVED**

SEP 26 2018

SC Court of Appeals

Appellate Case No.2017-001899

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.

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the Attorney General's Motion to Correct Record upon

counsel for the other parties by mailing copies to them at the addresses below via the United States Mail this September 26, 2018:

Adam T. Silvernail, Esquire  
Law Office of Adam T. Silvernail  
P.O. Box 7995  
Columbia, South Carolina 29201

Walter H Bundy, Esquire  
M. Brent McDonald, Esquire  
BUNDYMCDONALD LLC  
1516 Old Trolley Road , 2nd Floor  
Summerville SC 29485

Kenneth B. Wingate, Esquire  
Mark V. Gende, Esquire  
Everett A. Kendall, II, Esquire  
Sweeny Wingate & Barrow, P.A.  
P.O. Box 12129  
Columbia, SC 29211



J. EMORY SMITH, JR.  
Deputy Solicitor General  
S.C. Bar No. 5262  
Counsel for the Attorney General



ALAN WILSON  
ATTORNEY GENERAL

September 26, 2018

**RECEIVED**  
SEP 26 2018  
SC Court of Appeals

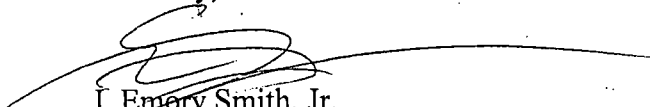
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
HAND DELIVERY

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

Dear Ms. Kitchings:

I am enclosing for filing with your Office the Motion of the Attorney General to Correct Record on Appeal together with a certificate of service. Thank you for your assistance.

Sincerely,



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

cc: Walter H. Bundy, Jr., Esquire  
M. Brent McDonald, Esquire  
Adam T. Silvernail, Esquire  
Kenneth B. Wingate, Esquire  
Mark V. Gende, Esquire  
Everett A. Kendall, II, Esquire