



SWEENEY WINGATE & BARROW P.A.

December 7, 2018

Reply to: Main Office

Mark V. Gende  
(803) 256-2233  
mvg@swblaw.com

**VIA HAND-DELIVERY**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**

DEC 07 2018

SC Court of Appeals

RE: Russell L. Bauknight, et al. v. Adele J. Pope  
**Appellate Case No. 2017-001899**  
Civil Action No. 2010-CP-40-04900  
Our File: 4077-7389

Dear Ms. Kitchings:

On December 4, 2018, at around 3:00 PM, a courier for Appellant's counsel served on our receptionist the following:

1. Final Brief of Appellant
2. [Final] Appellant's Reply Brief to Respondents
3. [Final] Appellant's Reply Brief to Respondent Attorney General

with Proofs of Service and Certificates of Counsel pursuant to Rule 211(b), SCACR.

It is my understanding pursuant your letter dated September 21, 2018, that "the filing deadlines for this appeal are held in abeyance pending the Court's decision on the motion to strike." (See attached copy for your quick reference.) Therefore, we have not yet prepared a final brief for filing, and it is our understanding that our final brief should not yet be filed while the filing deadlines for this appeal are held in abeyance. I have to conclude that Appellant's filing of her three final briefs is premature and not authorized. Also, there are unaddressed issues with the Record on Appeal that affect the use of accurate references to the record in our final brief.

Upon review of what is pending before the Court in connection with the holding in abeyance, the following filings appear to be what needs to be considered before any final briefs are filed:

	<b>Filing</b>	<b>Date Filed</b>
1	Motion of Attorney General to Strike Initial Reply Brief and Designation of Appellant as to Attorney General	September 5, 2018
2	Motion to Strike Appellant's Initial Reply Brief to Respondents' Initial Brief	September 17, 2018
3	Return and Memorandum Opposing Motion of Attorney General to Strike and Requesting Expedited Consideration	September 17, 2018
4	Reply of Attorney General to Return to His Motion to Strike Appellant's Initial Reply Brief and Designation	September 21, 2018
5	Return and Memorandum Opposing Motion of Respondents to Strike	September 24, 2018
6	Motion of Attorney General to Correct Record on Appeal	September 26, 2018
7	Return to Motion to Correct Record and Motion to Consolidate Appeals	October 5, 2018
8	Return of Attorney General in Opposition to Motion to Consolidate Appeals	October 12, 2018
9	Reply of Respondents to Appellant's Return and Memorandum Opposing Motion to Strike Appellant's Initial Reply Brief to Respondents' Initial Brief	October 15, 2018
10	Reply of Respondent to Appellant's Return to Motion to Correct Record and Motion to Consolidate Appeals	October 15, 2018
11	Reply to Return of Attorney General Opposing Motion to Consolidate Appeals	October 17, 2018

Also, on October 25, 2018, in an effort to work with Appellant's counsel without filing another motion, we wrote to Appellant's counsel identifying issues with the Record on Appeal and requested the issues be addressed during the holding in abeyance. See attached letter marked for identification as Exhibit A. We did not receive any response from Appellant's counsel to this letter.

We are unclear as to any significance with Appellant's filing of her final briefs. I am requesting direction from the Court as to Respondents' immediate filing requirements, if any.

Very truly yours,

**SWEENEY, WINGATE & BARROW, P.A.**

  
Mark V. Gende

Enclosure

cc: Counsel of Record (with copy of enclosures; via email and US Mail)



**COPY**

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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September 21, 2018

Mr. Walter Henry Bundy, Jr., Esquire  
PO Box 50427  
Summerville SC 29485

Re: Russell Bauknight v. Adele Pope (2)  
Appellate Case No. 2017-001899

Dear Counsel:

Please see the enclosed order regarding appellant's motion to file fewer than fifteen copies of the record on appeal and final briefs. All parties are advised the filing deadlines for this appeal are held in abeyance pending the Court's decision on the motion to strike.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Kenneth B. Wingate, Esquire  
Everett Augustus Kendall, II, Esquire  
Mark V. Gende, Esquire  
Clyde H. Jones, Jr., Esquire  
J. Emory Smith, Jr., Esquire  
Adam Tremaine Silvernail, Esquire  
Michael Brent McDonald, Esquire



SWEENEY WINGATE & BARROW P.A.

October 25, 2018

Reply to: Main Office

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VIA EMAIL

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Brent McDonald, Esquire  
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Summerville, SC 29485

Adam T. Silvernail, Esquire  
Law Office of Adam T. Silvernail LLC  
1905 Marion Street (29201)  
P. O. Box 7995  
Columbia, SC 29202

RE: Russell L. Bauknight, et al. v. Adele J. Pope  
Civil Action No. 2010-CP-40-04900/Appellate Case No. 2017-001899  
Our File: 4077-7389

Dear Bill, Brent and Adam:

While the filing deadlines for this appeal are held in abeyance pending the Court's decision on the motion to strike, we have reviewed the Record on Appeal as carefully as possible and have discovered certain issues that can be addressed at this time.

1. ROA 386-389 is Defendant's Motion to Stay Proceedings, but it is not referenced as such in the ROA Index. Please make that correction.
2. ROA 592-595 is "Adele J. Pope's Offer of Judgment to the South Carolina Attorney General and Russell L. Bauknight as Agent for the South Carolina Attorney General," dated 7/18/2012, and filed on 7/19/2012, but it is not referenced as such in the ROA Index. Please make that correction.
3. ROA 596-598: "Plaintiffs' Motion for Emergency Telephone Hearing on Plaintiffs' Motion for Protective Order Concerning the Deposition of Mr. Albert Dallas"

October 25, 2018

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- ROA 599-601 are a portion of the Exhibit A to said motion, but does not include the entirety of the actual Exhibit A attached to such motion when filed. The additional portions of Exhibit A should be included.
  - We see that Exhibits B and C to such motion were not included. Please confirm whether their exclusion was intentional or an oversight.
4. ROA 790-793 needs to reflect in the ROA Index the currently missing Exhibit B and either include Exhibit B following ROA 793 or have a reference in the ROA Index that it is included in its entirety at ROA 874-905. Please confirm that ROA 874-905 is Exhibit B and is in the same form as it was when filed.
5. ROA 827-828: We are unable to determine who designated this "Return" or where such document was designated. Please direct us as to who/where.
6. ROA 1666-1672 and 2219-2226 are a portion of "Plaintiffs' Memorandum of Law in Support of the Motion to Set Aside Entry of Default," dated and filed on 4/11/2012.
- ROA 1666-1672 does not include the attached Exhibit 1 (which is the Affidavit of Kenneth B. Wingate, dated and filed on 11/16/2010, and includes an email dated 11/12/2010 from Rett Kendall as its Exhibit A). Exhibit 1 should either be included following ROA 1672 or have a reference in the ROA Index that it is included in its entirety elsewhere (as you have done with other documents with exhibits attached).
  - ROA 2219-2226 does contain the first page of Exhibit 1, but it should either be included in its entirety following ROA 2226 or have a reference in the ROA Index that it is included in its entirety at ROA 1535-1538.
7. ROA 1765-1797: "Memorandum in Opposition to Motion to Alter, etc. dtd. 11/20/12" (hereinafter "Memo 11/20/12")
- It appears that the "Order of the Hon. Marc H. Westbrook, dtd. 10/25/02" was not included in Memo 11/20/12 and is included at 1771-1772 in error. Please confirm.
  - Exhibit A: "Memorandum in Opposition to Motion to Disqualify" at 1773-1774 should have a reference that it is included in its entirety at 1673.
  - Exhibit B: "Motion for Sanctions" is missing pages 6 and 7. Please include.
  - Exhibit B's Exhibit C should have a reference that it is included in its entirety at ROA 61.
8. ROA 2076-2087: We are unable to determine who designated this "Supplemental Memorandum" and its exhibits or where such document and its exhibits were designated. Please direct us as to who/where. If such document has been previously designated, the exhibit entitled "Notarized Doc. Of Daryl J. Brown, Janise & Lindsey Brown, dtd 10/26/12" does not appear to be notarized, and that descriptor should be removed due to its misleading nature. If such document and its exhibits have not been previously designated, please remove them to avoid any further confusion.

9. Respondents formally designated "All offers of judgment filed by Appellant in Case 4900" and "Plaintiffs' Motion to Strike Defendant Pope's Offers of Judgment, filed on August 13, 2012" (hereinafter "Plaintiffs' Motion"). It appears in the ROA that offers of judgment are included at ROA 592-595 (to AG and Bauknight) and at ROA 632-686 (to others). Some reasonable correction needs to be made for the sake of clarity and confusion avoidance. Since Plaintiff's Motion at ROA 687-703 is a filing that not only included Exhibits A and F, but also Exhibits B-E and G-N, the ROA Index should reflect that Exhibits B-E and G-N are part of Plaintiffs' Motion and can be found in their entirety at ROA 592-595 and 632-686 (with the exception of one of the exhibits). It appears that "Adele J. Pope's Corrected Offer of Judgment to Lindsey Delores Brown and Janis B., a Minor" (hereinafter "Corrected Offer"), dated 7/18/2012, has been omitted from the ROA both as a standalone item and as an exhibit to Plaintiffs' Motion. Please include the Corrected Offer and include a proper correcting reference at ROA 632-686 and at ROA 687.

10. It is our understanding that you will include in a Supplemental ROA the Attorney General's omitted but designated letter dated May 25, 2017.

11. Pursuant to your letter dated August 31, 2018, please identify by number which, if any, documents were withdrawn from the ROA by you.

**Respondents maintain all objections to irrelevant matter included by Appellant in this appeal and the request that all such matter should be stricken from Appellant's Designation, amended initial brief, and other filings. Respondents also maintain the request to the Court of Appeals that the Appellant's appeal be dismissed pursuant to Rule 260(a), SCACR, and/or Rule 269, SCACR.**

Thank you for your assistance in these matters. Please provide a response to this letter as to your position on these issues by Tuesday, October 30, 2018, so that we can assess whether or not a motion is necessary.

Yours truly,

**SWEENEY, WINGATE & BARROW, P.A.**

  
Mark V. Gende

October 25, 2018

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cc: The Honorable Alan Wilson.  
Attorney General  
and  
The Honorable Robert D. Cook  
Solicitor General  
and  
The Honorable J. Emory Smith, Jr.  
Deputy Solicitor General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(via email)

## Paul D Kent

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**From:** Paul D Kent  
**Sent:** Thursday, October 25, 2018 5:29 PM  
**To:** walter@bundymcdonald.com; brent@bundymcdonald.com; adam@silvernaillawfirm.com  
**Cc:** Emory Smith; Mark V. Gende; Rett Kendall; Ken B. Wingate  
**Subject:** Bauknight et al. v. Pope - Appellate Case No. 2017-001899 - Case No. 2010-CP-40-04900  
**Attachments:** Letter from SWB dated 10252018.pdf

Gentlemen,

Please see attached letter dated 10/25/2018.

Paul



Paul D. Kent | *Attorney*  
Sweeny, Wingate & Barrow, P.A.

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Columbia, SC 29211

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