

89919

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

RECEIVED
MAY 31 2019
SC Court of Appeals

Appellate Case No. 2018-002229

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. II; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; 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. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; 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 Appellant.

**MOTION TO STRIKE INITIAL BRIEF, MOTION AND RELATED
DOCUMENTS OF RESPONDENTS FILED BY SWEENEY,
WINGATE & BARROW, P.A. AND FOR RELATED RELIEF**

For each reason set out herein, Appellant respectfully moves this Court for an Order granting the following relief:

1. Striking the Brief, Designations and Motion to Strike of Respondents, through Sweeny, Wingate & Barrow, P.A. (collectively, "Wingate") served May 24, 2019;
2. Declaring that Wingate may not act for the Attorney General and Bauknight may not act on behalf of the Attorney General;
3. Declaring that Wingate may not act for the James Brown Legacy Trust because it is currently claiming in this Court that it does not exist.
4. Requiring Wingate, within sixty days, or such period as the Court deems reasonable, to substitute as Respondents the successors in interest to Respondent James Brown Legacy Trust; the Estate of Venisha Brown; all former Minor Respondents (if they agree); Forlando Brown, so that this matter will be pursued by the real party in interest.
4. To the extent the above is not timely completed, reversing the summary judgment and other orders as to the noncompliant parties; dismissing the Complaint; and remanding the matter to the Circuit Court to complete discovery and proceed to trial on Appellant's counterclaims.
5. Staying any response by Appellant until ten days after the parties are corrected and brief, if any, are filed.
6. Ruling that Appellant may file only six copies of the record on appeal (ROA).

The grounds of this motion are:

1. Wingate lacks standing to speak for any individual Respondent Except Bauknight.
2. To the extent the Wingate has the authority to speak for the Attorney General of South Carolina, it does so in direct defiance of the Constitution of the State of South Carolina.
3. The appearance of the Attorney General after dismissal as a party does not correct the unwaivable constitutional violations of a suit brought by a private law firm in the name of the State/Attorney General; pursued not under the direct control of the Attorney General; where the Attorney General was not counsel of record for eight years; with Co-Plaintiffs who are non-residents, including minors without GALs, and where the Suit is brought for the benefit of the following private parties:

- a. **47.5% to the Attorney General's (New) Charity** which has never been formed or qualified by the IRS; which claims it is private; for which a \$2.8 million estate tax charitable deduction was claimed

by Legacy Trust trustee Russell Bauknight (Bauknight) in IRS filings in the Estate of James Brown; but which has never made required IRS filings; and has never accounted either to the Court or to the taxpayers of South Carolina.

b. 23.75% to Tommie Rae

c. 4.79% to Venisha Brown (Venisha), Deceased

d. 4.79% to Terry Brown (Terry)

e. 4.79% to Deanna Brown Thomas (Deanna)

f. 4.79% to Daryl Brown (Brown)

g. 4.79% to Larry Brown (Larry)

h. 4.79% to Yamma Brown(Yamma)

4. To the extent Wingate has authority to speak for the Attorney General of South Carolina, it does so in violation of the Attorney General's statutory duty.

5.. Wingate lacks standing to make any filing on behalf of Venisha Brown, who is deceased, and as to whom he has unclean hands.

6. Wingate lacks standing to make any filing for James B. and for four former minors who have not ratified its actions.

7. Wingate lacks standing to act for the claimed nonexistent James Brown Legacy Trust.

8 Wingate lacks standing to act for Forlando Brown (Forlando) or Terry Brown (Terry)

9. The purported Respondents Brief, Motion and Designations were filed on behalf of Respondents who never signed the 40% Wingate Contingency fee contract; have publicly repudiated the claims made in the Richland 4900 Complaint; and have admitted publicly to many of the facts which support the counterclaims which are the subject of this action.

10. The Wingate Contract is void as to the State of South Carolina and all parties who did not sign it.

11. Wingate has pursued this matter since at least 2013 with actual knowledge that it has an irreconcilable conflict and cannot protect either the taxpayers of South Carolina or James Brown's Estate and 2000 Trust.

12. Wingate had known since 2016 of Governor McMaster's sworn testimony that he did not authorize Wingate to bring Richland 4900 in the name of the State/Attorney General is not a "contested matter,"

13. The actions sought will preserve the jurisdiction of this Honorable Court over the Parties, which they voluntarily conferred in 2010, and over the valuable termination rights proceeds from royalties to more than 200 copyrights which were placed in Respondent Legacy Trust in 2009.

14. For each reason stated in the Returns to Motion of Wingate and the Attorney General filed herewith; the Motion to Strike as to the Attorney General; and the Affidavit Filed herewith.

The grounds of this motion are that Rule 17 SCRPC requires that matters be pursued in the name of the real parties in interest, and this motion will ensure that this happens.

In support of the motion, Appellant incorporates her Returns to the Motions to Strike of Wingate and of the Attorney General; the Affidavit

Respectfully Submitted,

Charles E. Carpenter, Jr.
Carpenter Appeals & Trial Support, LLC
4825 Portobello Rd.
Columbia, SC 29206
Telephone: (803) 758-2886
charlie@carpenterappeals.com
SC Bar No. 1133

Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernailfirm.com
SC Bar No. 80219



William Jeffrey Smith
1216 Crenshaw Street
Newberry, SC 29108
Telephone: (803) 597-0209
Email: wjstv@mindspring.com
SC Bar No. 0005225

Daryl L. Williams
Gertz & Moore, LLP

1416 Laurel Street (29201)
Post Office Box 456
Columbia, SC 29202
SC Bar No. 6121

Attorneys for the Appellant

May 31, 2019

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

RECEIVED
MAY 31 2019
SC Court of Appeals

Appellate Case No. 2018-002229

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. II; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; 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. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; 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 Appellant.

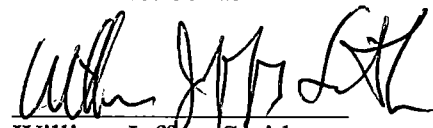
CERTIFICATE OF SERVICE OF MOTION TO STRIKE INITIAL
BRIEF, MOTION AND RELATED DOCUMENTS OF
RESPONDENTS FILED BY SWEENEY, WINGATE & BARROW,
P.A., AND FOR RELATED RELIEF

I certify that on May 31, 2019 I have served MOTION TO STRIKE INITIAL BRIEF, MOTION AND RELATED DOCUMENTS OF RESPONDENTS FILED BY SWEENEY, WINGATE & BARROW, P.A., AND FOR RELATED RELIEF by hand delivery on counsel listed below:

Alan Wilson Attorney General Robert D. Cook Solicitor General J. Emory Smith, Jr., Esquire Deputy Solicitor General Office of the Attorney General 1000 Assembly Street Columbia, South Carolina 29201	Kenneth B. Wingate, Esquire Mark V. Gende, Esquire Sweeny, Wingate, and Barrow, P.A. 1515 Lady Street Columbia, SC 29201
--	--

Charles E. Carpenter, Jr.
Carpenter Appeals & Trial Support, LLC
4825 Portobello Rd.
Columbia, SC 29206
Telephone: (803) 758-2886
charlie@carpenterappeals.com
SC Bar No. 1133

Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernailfirm.com
SC Bar No. 80219



William Jeffrey Smith
1216 Crenshaw Street
Newberry, SC 29108
Telephone: (803) 597-0209
Email: wjstv@mindspring.com
SC Bar No. 0005225

Daryl L. Williams
Gertz & Moore, LLP
1416 Laurel Street (29201)
Post Office Box 456
Columbia, SC 29202
SC Bar No. 6121

Attorneys for the Appellant