

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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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

Case No. 2010-CP-40-4900

Appellate Case No. 2018-02229

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 the Appellant.

**RESPONDENTS' REPLY TO APPELLANT'S RETURN AND MEMORANDUM
OPPOSING MOTION TO STRIKE AND FOR SANCTIONS**

Introduction

On April 27, 2020, Appellant filed her Return and Memorandum Opposing Respondent's Motion to Strike Appellant's counter-designations as well the record on appeal. This Reply points out the errors in Appellant's Return.

The issues in this appeal are finite and discrete:

- I. Did the Circuit Court err by denying Appellant's Motion to Dismiss where the Court of Appeals previously held that the denial of the Motion to Dismiss is not immediately appealable?
- II. Did the Circuit Court err by granting Respondents' Motion for Summary Judgment as to Appellant's Counterclaims? and
- III. Did the Orders after May 29, 2013, and actions of the Attorney General deprive Appellant of rights under the Due Process Clause?

Argument

1. Appellant's alleged "counter-designations" to the Attorney General's initial reply brief are actually unauthorized supplements to the bound Record on Appeal.

First, Appellant herself termed what she now calls counter-designations as "Supplemental Designations of Matter to be Included in the Record on Appeal." (Appellant's Supplemental Designation of Matter to be Included in the Record on Appeal at p.1.)

Second, Appellant's return argues she is permitted to make counter-designations when replying to the Attorney General's initial brief, pursuant to Rule 209(a), SCRCP. Appellant's argument is a strawman and should be ignored. Respondents actually argue in their motion to strike that Appellant improperly and intentionally included her "counter-designations" in the bound record on appeal, *which she served on the very same day as her Supplemental Designation of Matter*, in an effort to deprive Respondents of the opportunity to review or object to her alleged "counter-designations" prior to being inserted in the bound record on appeal. She did so

because she knows that her “counter-designations” are irrelevant to Appeal 2229, contain matter not presented to the lower court, and are entirely improper.

Furthermore, it strains credulity to accept Appellant’s contention that her alleged “counter-designations” are truly counter-designations. In her response to the Attorney General’s initial reply brief, Appellant has 27 place holders for citations to the record, but her alleged “counter-designations” include approximately 192 documents (see Respondents’ Amended Chart 1 at Exhibit A). What is the justification for the approximately 165 other documents? Even when viewed in the best light, Appellant can claim that only 27 documents are counter-designations. The remaining documents bloat and confuse the bound record on appeal.

2. Despite Appellant’s contentions, all of the Matters in Respondents’ Charts 1 and 2 accurately list documents Appellant improperly included in the bound Record on Appeal.

In responding to Appellant’s return, counsel for Respondents noticed that on Chart 1 at page 4 through the first six items of page 5, most of these documents also should have been marked as “Not Related” to the issues on appeal and also “Not Presented” to the lower court. This oversight is corrected in Respondents’ Amended Chart 1, as well as other corrections noted in this memorandum.

In her return, Appellant attempts to justify only 12 of the 192 documents listed in Respondents’ Chart 1 and ignores the remainder, thereby waiving any argument against the Court striking the unaddressed documents.

Appellant addresses only 4 of the 57 documents on Respondents’ Chart 2, thereby waiving any argument against the Court striking the unaddressed documents.

Chart 2 embodies the allegation that Appellant purposely included a substantial number of documents into the bound record on appeal that had not been designated by any party, and that

her attorney improperly certified the bound record on appeal included no unidentified matter. Appellant does not challenge this allegation and, thereby, waives any argument against it.

A. Appellant’s attempts to rationalize only 12 of the 192 inappropriately designated documents in Respondents’ Chart 1 are unavailing, and she has waived the right to challenge the impropriety of the remaining 180 documents.

(1) Appellant states the “Order of Judge Early re: Tommie Rae diaries” is relevant to the Issues I and II (*see* List of Issues on Appeal, *supra* at the Introduction section)(Return and Memorandum of Appellant Opposing Motion of Respondents to Strike and for Sanctions at p. 13). With respect to Issue I, a motion to dismiss hinges on whether the complaint alleges sufficient facts to state a cause of action. As such, a factual determination is not necessary during the pleading stage of the trial. With respect to Issue II, Appellant’s counter-claims were dismissed when Judge Early granted Respondents’ Motion for Summary Judgment. Appellant alleges that Tommie Rae’s diaries made it clear that Tommie Rae was married to a man other than James Brown. However, for purposes of the summary judgment motion, Tommie Rae could have been married to anyone, and it would not have any effect on the Appellant’s claims that were dismissed. Additionally, Respondents hereby amend Chart 1 to indicate not only is this order not related to the issues on appeal, but also it was *not* present to the lower court in Case 4900 (Amended Chart 1 is attached as Exhibit A).

(2) Appellant states that Judge Couch’s Order, dated September 22, 2009, is relevant because it “suggests” (*Id.*) that Appellant’s due process rights were violated. However, Issue III on appeal is limited to actions taken by the Attorney General *after* May 29, 2013, meaning actions taken before that date are irrelevant to the issue. Additionally, Respondents hereby amend Chart 1 to indicate not only is this order not related to the issues on appeal, but also it was *not* present to the lower court in Case 4900 (Exhibit A).

(3) Appellant states that Respondents' Motion to Strike Appellant's affidavit is relevant because it is an example of Respondents' attempt to suppress facts that they "did not like." (*Id.*) Appellant does not assert which issue on appeal this motion is relevant to, and Appellant fails to allege what specific portion of Respondents' Motion is helpful to any of her positions on Appeal.

(4) Appellant states that a "Motion for Judgment on the Pleadings" is "material to all three issues on appeal" (*Id.*) because it was an attempt to prevent the release of a fee agreement, a copyright valuation, and an amendment to the purported Legacy Trust. As is typical, Appellant makes conclusory, self-serving, and vague generalizations and does not explain how these documents would have any bearing on the issues on appeal.

(5) Pope's Motion to Compel is listed by Appellant, but is not discussed in her brief. Appellant claims it is discussed "below" in her Return, but it is not. (*Id.*)

(6) Respondent's "Motion for Protective Order (Venisha Brown)" (*Id.*) was presented to the lower court and was improperly indicated in Respondents' Chart 1 as not presented to the lower court. This oversight is corrected in Respondents' Amended Chart 1 (Exhibit A). However, this document still is not related to the issues on appeal, because the court granted summary judgment to Respondents by employing the legal principles of *res judicata* and collateral estoppel based on the South Carolina Supreme Court's holdings in *Wilson v. Dallas*. The Court's analysis required no additional discovery.

(7) Appellant asserts that an e-mail chain between Deanna Brown-Thomas, Louis Levinson, Esq. and others is proof that Respondents filed a frivolous lawsuit and that the document is material to Issue II (*Id.* at 13, 14). Whether Respondents' suit is frivolous, which is expressly denied, has absolutely no bearing on Respondents' success in securing summary

judgment as to Appellant's counterclaims, which is the substance of appellate Issue II. Thus, this document is not related to the appeal. Furthermore, Respondents should have also indicated the document was *not* presented to the lower court, and adds this to Amended Chart 1 (Exhibit A).

(8) Appellant states that "Graham Windsor Group, 2007" is relevant to Issues II and III on appeal because it provides a valuation of James Brown's copyrights (*Id.* at 14). This document was created in 2007, long before the May 29, 2013 date outlined in Issue III. Furthermore, this document contains no actions taken by Respondents. Therefore, it cannot remotely relate to any of Appellant's counterclaims when it does not describe any affirmative act taken by Respondents. Furthermore, Respondents should have also indicated the document was *not* presented to the lower court, and adds this to amended Chart 1 (Exhibit A).

(9) Appellant lists "Letter of Attorney General Jones to Wayne Byrd" and directs to "see below;" however no defense of the letter's inclusion is given. (*Id.*)

(10) Appellant states the Attorney General's letter regarding the special trustee is relevant since it relates to every issue on appeal (*Id.*). However, this letter was written before May 29, 2013, so it cannot be related to Issue III. Further, documents other than the allegations set forth in the Complaint cannot be considered in a Motion to Dismiss, resulting in the letter being irrelevant to Issue I. The letter is also not related to Issue II because the contents of the letter have no factual bearing on the Appellant's counterclaims.

(11) Appellant is correct that the "Affidavit of Beth Bauknight" was presented to the lower court (*Id.*), which is corrected in Respondents' Amended Chart 1. However, the affidavit is not related to any of the issues on appeal. The affidavit on its face says nothing about values and is merely an affidavit providing Appellant's accountings to the court. Appellant justifies the affidavit's alleged relevance by referring to its 141 pages, presumably the referenced exhibits;

however, these exhibits are not designated nor were they included in Appellant's bound record on appeal. The affidavit by itself is irrelevant to the appeal.

(12) With respect to "Plaintiffs' Responses to First Request to Admit of Plaintiff Pope, dtd (sic) 9/23/10," (*Id.*) this occurred *before* May 29, 2013, thereby making it irrelevant to Issue III. Additionally, a discovery dispute would not alter the outcome of a Motion to Dismiss hearing (Issue I), and a purported discovery dispute once a matter is in suit does not and cannot bear on any of the alleged legitimacy of Appellant's counterclaims (Issue II).

It bears repeating that Appellant challenges only 12 of the 192 documents Respondents assert are improperly included in her alleged counter-designations. Appellant has, thus, waived the right to challenge impropriety of her designating the remaining 180 documents.

B. Appellant's attempts to rationalize only 4 of the 57 inappropriately designated documents listed in Respondents' Chart 2 is unpersuasive; she has waived the right to challenge the impropriety of the remaining 53 documents; and Appellant does not challenge the serious allegation that the 57 documents are improperly included in the bound record on appeal having not been designated by any party.

(1) Appellant argues that "Order of Jg. Early dtd. 11/13/08" is relevant to summary judgment (*Id.* at 15), but she does not address the fact that this Order was not presented to the Circuit Court in Case 4900. Appellant is erroneous in arguing the Order's relevancy to Issue II because her counterclaims concern Respondents' alleged improper acts, which are expressly denied, and not any alleged proper acts of Appellant.

(2) Appellant argues that "Form 4, Order of Jg. Early, dtd. 7/15/16" is relevant to Issue II and III because the document demonstrates the Attorney General's retaliatory action against Appellant (*Id.*). The Form 4 Order, however, concerns a motion to consolidate and does not make any findings involving the Attorney General or other Respondents' actions.

(3) Appellant provides a summary of what she believes her affidavit dated 2/9/16 stands for, but she does not state how it is relevant to any of the issues on appeal (*Id.*). This affidavit, however, concerns a deposition, not actions taken by the Attorney General or other Respondents and is, therefore, irrelevant to the issues on appeal.

(4) The “Order, Tommie Rae Summary Judgment” was not presented to the Circuit Court in Case 4900. Appellant does not rebut this argument, and instead, she argues it is relevant to Issues II and III on appeal (*Id.*). However, the Order does not discuss Appellant’s counterclaims, nor does it make any findings regarding any of the Attorney General’s actions towards Appellant.

Appellant simply ignores the allegation that she included 57 documents in the bound record on appeal that had not been previously designated by any party, and that her attorney improperly certified that the bound record on appeal complied with Rule 210(g) when it does not.

As argued in Respondents’ motion to strike, Appellant has engaged in a systematic, unrepentant disregard of the rules of the South Carolina Court of Appeals, and she should not be allowed to flagrantly disregard the rules without consequence.

3. Request to Stay Briefing Schedule

Appellant does not contest Respondent’s request to stay the briefing schedule for final briefs until twenty days after the Court decides Respondents’ Motion to Strike and Appellant provides a proper bound record on appeal.

4. Sanctions

Rule 269, SCACR, permits, at the Court’s discretion, to impose sanctions when a document fails to comply with the Appellate Court rules. As demonstrated above and in

Respondents' motion, Appellant has included improper material in the record on appeal that was either not presented to the lower trial court or irrelevant to the issues on appeal and has made a false certification about the bound record on appeal.

On July 26, 2019, this Court granted Respondents' motion to strike Appellant's amended initial brief and designation of matter, stating that "the amended designation of matter shall not include matter which was not presented to the circuit court, and the amended initial brief shall not include references to matter which was not presented to the circuit court (Exhibit B)." Appellant has continuously disregarded this Order and the Appellate Court Rules throughout the appeal process, resulting in the necessity of sanctions to discourage such improper conduct.

Conclusion

For the foregoing reasons, Respondents ask this Court: (1) to strike Appellant's Supplemental Designation to the extent it contains non-relevant material and/or material not presented to the lower court; (2) to order that Appellant prepare and serve a Record on Appeal that contains none of the contested items listed in her Supplemental Designation nor any material not previously designated by any party as noted in Respondents' Amended Chart 1 and Chart 2; (3) to stay the briefing schedule for final briefs until twenty days after the Court decides this motion and Appellant provides a properly amended Record on Appeal, if the Court so directs; and (4) for attorney's fees and costs for bringing this motion.

(Signature Page Immediately Follows)

Respectfully submitted,

s/ Mark V. Gende

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Columbia, South Carolina

May 5, 2020

Exhibit A

AMENDED CHART 1

DOCUMENTS APPELLANT DESIGNATES FOR THE FIRST TIME IN HER SUPPLEMENT

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Order of Jg. Early dtd. 2/20, 2008 re: Tommie Rae diaries	X	X
Order, Hon. Roger Couch, dtd. 9/22/09 State of S.C. vs. Eli Lilly	X	X
Order of Jg. Addy, dtd. 1/11/2012 [Transf. Venue of Nby. FOIA 11-364 to Richland]	X	X
Order of the Hon. William O. Bertelsman, dtd. 3/28/14 Case 3:08-cv-00014-WOB	X	X
Order of Jg. Early & Jg. Manning, filed 1/20/15 [Joint Mediation]	X	
Order of Supreme Court dtd. April 20, 2015, In Re: Estate of Brown	X	X
Order of the Honorable Donald W. Beatty, dtd. 3/24/16 [Aiken 1337]	X	X
Form Order of Jg. Early, dtd. 7/27/16 [Deny Mot. to Dismiss FOIA Richland 4900]	X	X
Order of Jg. Early, dtd. 9/13/16 Denying Defendant's Mot. for Sanctions	X	
Order of Jg. Early, dtd. 11/22/16 [Deny 59 Motion]	X	
Order of Jg. Early, dtd. 12/27/16 Granting Plaintiffs' Motion for Protective Order Concerning Deposition of Larry Brown	X	
Order of the Hon. Jean H. Toal, 3/1/2107	X	X
Defendant's Rule 59, etc. Motion (Denying Motion to Change Venue), Nov. 19, 2010	X	
Motion to Stay Proceedings, dtd. Nov. 30, 2010	X	
Initial Brief of Appellant (Buchanan/Pope) Wilson v. Dallas	X	X
Bauknight's Responses to Second Set of Requests for Production, dtd. June 24, 2011	X	
Ex. 17: Dead or alive — James Brown...threats to property rights thrive	X	X
Affidavit (Pope) Oppo. Mot. to Intervene and for other relief, 11-36/00379, 11/7/11	X	X
Ltr. of Silvernail to Smith, re: Pope v. Wilson FOIA case, Dec. 9, 2011	X	X
Ltr. Pope to AG Wilson, 5/12/12 re: Release of T.R. diaries & \$4.7 million does	X	X
Ltr. of Pope to AG Wilson dtd. May 11, 2012, re: \$4.7 million value	X	X
Ltr. of Chief Deputy AG McIntosh dtd. May 1, 2012 to Pope	X	X
Email of Pope to Rosen, dtd. May 12, 2012 re: Service of subpoena	X	X
Motion to Enforce Settlement Agreement, May 18, 2012	X	
Report (Pope) Required by Order of July 5, 2012, Aug. 6, 2012	X	
Return (Pope) to Motion for Direction from Court... Trial Publicity, Aug. 28, 2012	X	
Plaintiff's Mot. to Strike Additional Affidavits of Defendant Pope, Sept. 12, 2012	X	
Objection to Motion of Plaintiffs to Avoid Physical Presence at Mediation, etc., 11/3/12		
Proof of ADR, dtd. October 19, 2012	X	

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Plaintiffs' Motion to Strike Affidavit of Pope dtd. 12/11/2012, Dec. 18, 2012	X	
Motion for Judgment on the Pleading (FOIA), Dec. 20, 2012	X	X
Motion for Summary Judgment (Pope) as to James Brown Legacy Trust & Trustee, 3/22/13	X	
Ret. & Opp (Pope) to Request for Stay & Request for Expedited Hearing, etc., 3/29/13	X	
Status Report of Defendant Pope, dtd. March 25, 2013	X	
Motion (Sweeny, Wingate, Barrow, PA) to be Relieved as Counsel, AG Only, 5/10/13	X	
Notice of Appearance, Donsbach for Terry Brown, dtd., Nov. 26, 2014	X	
Plaintiffs' Motion to Strike Affidavit of Pope dtd. Feb. 19, 2016, dtd.2/26/16	X	
Motion to Quash and Mot. for Prot. Order (subpoenas to Jowers, Jones, McIntosh), 4/8/16	X	X
Return & Memo. Opposing Motion to Quash Subpoenas, Jowers, etc., dtd. 4/9/16	X	X
w/ Ex. A Email Chain Smith/ Pope, dtd. 4/9/16	X	X
Ex. B: U.S. Copyright Office, Termination Notices, Tommie. Rae, James II, served 8/26-29/13, recorded, Copyright Office, 8/28 - 8/31/15	X	X
Mot.(Richland 4900 Plaintiffs) to Consolidate w/Aiken 1337 for discovery, 4/11/16	X	
Mot. to Postpone Deposition of Tommie Rae, dtd. April 25, 2016	X	
Plaintiffs' Reply to Defendants' May 2, 2016 Memorandum, dtd. May 16, 2016	X	
Response to Plaintiffs' Brief, (FOIA) May 16, 2016	X	X
Motion for Protective Order (Tommie Rae), June 22, 2016	X	
Plaintiffs' Mot. to Alter, Etc., Attorney General Mot. to Dismiss (FOIA), July 1, 2016	X	X
Motion for Protective Order as to Deposition of the Attorney General, dtd. July 18, 2016	X	
Mot. for Protective Order (to Quash Depos. of Tommie Rae), dtd. 7/28/16	X	
Aiken 1337 Plaintiff's Ret. to Mot. of Der s. for Prot. Order (Sojourner Depos.), 8/1/16	X	X
AG's Petition for Rehearing, Wilson v. Dallas	X	
Motion to Supplement the Record on Appeal, Wilson v. Dallas	X	X
w/ Ex.A: Transcript of Hearing September 28, 2008	X	X
Transcript of Hearing, November 25, 2008	X	
Transcript of Hearing, January 30, 2009	X	
Complaint, Estate/2000 Trust vs. Cannon, Dallas, etc., 2/8/08	X	X
Ex. G, Calculation of Potential Costs, Proposed Refinancing Transaction	X	X
Portion, Accounting, Interim #1A, May 20, 2009	X	X

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Pope's Motion to Compel, (Interrogatory Verifications, etc) dtd. August 11, 2016	X	
Motion for Protective Order (Deposition, Venisha Brown), Aug. 11, 2016	X	
Mot. for Prot. Order (Deposition of Lt. Gov. McMaster), Aug. 25, 2016	X	
Mot. for Confidentiality Order, dtd., Nov. 22, 2016	X	
Return of Aiken 1337 Plaintiff to Joint Motion to Consolidate Expert Discov., 1/17/17	X	X
Mot. for Protective Order (Deposition of Deanna Brown-Thomas), March 3, 2017	X	
Pope Response to Mot. of Pl. Tommie Rae for Protective Order, 12/30/2016	X	
Plaintiffs' Mot. to Strike Affidavit of Pope, dtd. Jan. 23, 2017	X	
Deposition Privilege Log of Kendall	X	X
w/ Deposition of Kendall (condensed), March 6, 2017	X	X
Deposition Privilege Log of Wingate	X	X
w/Deposition of Wingate, March 6, 2017	X	X
Rule 59, etc. Motion of Pope, Tommie Rae protective order, 3/24/17	X	
Ret. And Opposition of Tommie Rae to Rule 59 Motion, dtd. 4/20/17	X	
Mot. of Defendant to Alter, Amend, Etc., Order re: Kendall/Wingate Depos, 6/16/17	X	X
Mot. Protective Order, Tiffany Provence, June 15, 2017	X	
Mot. for Protective Order, Jason Brown-Lewis, June 26, 2017	X	
Pope Return to Jason Brown-Lewis Mot. for Prot. Order, June 27, 2017	X	
Am. Mot. for Protective Order, Provence, dtd. June 28, 2017	X	
Plaintiffs' Mot. to Strike, dtd. August 7, 2017	X	
Memorandum of Law in Opposition to Motion to Lift Stay, dtd. Nov. 10, 2017	X	
Notice of Filing of Original Depos. Transcripts, Oct. 19, 2017	X	
Ret. And Opposition to Motion to Strike Memorandum and Smith Opinion, dtd.10.19/17	X	
Motion of Donsbach to be Relieved as Counsel, dtd. Oct. 10, 2018	X	
Transcript of Hearing, December 21, 2007	X	X
Transcript of Hearing, September 28, 2008	X	X
Transcript of Hearing, January 11, 2012	X	X
Transcript of Hearing, March 31, 2014	X	X
Transcript of Hearing, May 17, 2016	X	X
Certificate of Trust, James Brown 2000 Trust, filed August 7, 2001	X	
Durable Power of Attorney, James Brown, to Deanna & others filed 2/25/01	X	
Consent Order of Dismissal, Brown vs. Hynie Ahmed Brown, 2004	X	X
Minutes of Trustees, 2000 Trust, January 3, 2007	X	
Affidavit of Daryl J. Brown, dtd. January 24, 2007	X	
Pinnacle Media and Entertainment, LLC, \$200 Million Prospectus, 2007	X	

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Email chain, Deanna Brown Thomas, Louis Levenson, Esq., March 7-15, 2007	X	X
Grahm Windsor Group, Terry Cox PhD., Developing the James Brown Legacy, 2007	X	X
Ltr. Poowell Goldstein to Dallas, July 10, 2007, re: Change of Situs of 2000 Trust	X	X
w/ proposed Declaration to Change Situs	X	X
Supplement Order Related to Disbursement of Realty Proceeds, August 19, 2007	X	X
Ltr. of TJBL to Dallas/Bradley, dtd. October 12, 2007	X	X
Email Yount to AGS Jones, others, Nov. 10, 2007 re: \$18 Million Wm. Morris Revenues	X	X
Return and Recommendation of Special Administrators, Nov. 14, 2007	X	X
Inventory & Appraisalment, Est. of James Brown, Nov. 15, 2007	X	X
Ltr. of Pope to Phil Farr, CPA, dtd. June 15, 2007, w/ handwritten notations	X	X
Email Wm. Hammond to Pope/Buchanan, cc: Babcock, dtd. 6/15/07	X	X
Ltr. Lewis & Babcock to Dallas/Bradley, Nov. 16, 2007 re; possible resignations	X	X
Email Sonny Jones to Buchanan/Pope, cc others dtd. Nov. 21, 2007	X	X
Ltr. Pope to Sonny Jones dtd. Nov. 21, 2007	X	X
Affidavit Wm. Hammond, dtd. Nov. 30, 2007	X	X
Email Sonny Jones to Buchanan/Pope, etc. 12/6/07, re: attached \$100 Million Offer	X	X
Pet. to Set Aside Trust, Tommie Rae, December 19, 2007	X	X
Complaint, Forlando Brown vs. Buchanan/Pope, Trustees of 2000 Trust, Jan. 2, 2008	X	X
Email, AG Mary Fr. Jowers to Buchanan/Pope, others, Feb. 13, 2008 re: Christie's sale	X	X
Email Cox to Buchanan/Pope w/ copies to AG Jones, others, dtd. 2/29/08	X	X
w/ TJBL Ltr. of Intent to Purchase, between \$90 and \$100 Million, etc.	X	X
Ltr. Buchanan/Pope to Attorney General McMaster, March 10, 2008	X	X
Application, Hardship Extension of File/Pay Estate Tax Return, James Brown, 3/24/08	X	X
Ltr. of TJBL on behalf of Terry Brown (TPP purchase, \$2 million), dtd. 3/27/08	X	X
Email from Forlando Brown to Buchanan/Pope, dtd. April 3, 2008	X	X
Order Denying Mot. to Reconsider Appt. Buchanan/Pope, April 8, 2008, p.1 only	X	X
Ltr. Wayne Byrd to Levenson, w/ copy to Jg. Early, May 1, 2008	X	X
First Semi-Annual Report of PR/Trustee to Devisees, AG, etc, May 20, 2008	X	X
Ltr. Estate (Buchanan/Pope) to AG McMaster, dtd., June 13, 2008	X	X

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Ltr. of AG Jones to Wayne Byrd, dtd.6/26/08 re: Emerg.Pet. for Appt. for Sp. Trustee	X	X
Ltr. of AG Jones to Jg. Early, July 7, 2008, re: recommendations for Sp. Trustee	X	X
Ltr. Estate (Buchanan/Pope) to AG McMaster dtd. June 27, 2008	X	X
Ltr. Estate (Buchanan/Pope) to AG McMaster, AG Jones, July 25, 2008	X	X
Ltr. Attorney General to Buchanan/Pope, July 30, 2008 re: approval as trustees	X	X
Email chain, Rosen, etc., 7/31- 8/1/08 re: DNA order, Cox meeting	X	X
Email Sonny Jones to Judge Early, others, dtd/ 8/12/08, re: Settlement of 8/10/08	X	X
Email of Rosen to Pope, others, 8/12/2208, Re: settlement, request to "stop all work"	X	X
Ltr. from Estate/2000 Trust (Buchanan/Pope) to AG McMaster, others, 9/2/08	X	X
Excerpts, Depos. of Forlando Brown, 9/27/08, Federal Suit	X	X
U.S. Estate Tax Return, Schedule F, Est. of James Brown, Sept. 24, 2008	X	X
Ltr. Estate (Buchanan/Pope) to AG McMaster, etc.,dtd. 10/20/08 re: royalty, image, etc.	X	X
Amended Petition for Removal Restraint, Nov. 7, 2008	X	X
Email Chain Medlin, Buchanan, etc. dtd. 2/18 - 2/19/09	X	X
Petition of James Brown III for Review of Compensation	X	X
Ltr. from IRS (Goodlett) to Buchanan/Pope dtd. March 24, 2009	X	X
Ltr. of Estate/2000 Trust (Buchanan/Pope) to AG McMaster, 4/10/09 re: Corbis Contract	X	X
Email Chain, Hayes to Jg. Early, others, 5/14 - 5/15/09, Subject: Corbis Hearing	X	X
Interim Accounting #1, Nov. 20, 2007 - May 20, 2009	X	X
Final Accounting (Reserving Rights), May 21 -27, 2009	X	
Ltr. Buchanan/Pope to Bauknight, June 22, 2009	X	
Custody Receipt of Bauknight, June 22, 2009	X	X
Ltr. of Buchanan/Pope to Klett, June 24, 2009 re: Reasons for Approval of Corbis	X	X
Memorandum to Bauknight from Buchanan/Pope, July 14, 2009	X	X
Supp. Affid. of Buchanan/Pope in Support of Commissions, July 13, 2009	X	X
Email of Medlin to AG Jones, others, dtd. Aug. 30, 2009, re: Tax Valuation	X	X
Indictment, David G. Cannon, February 2010	X	X
Order for Release of Info. Related to Attys' Fees & Other Comp, 3/15/2010	X	X
Motion for Judgment for Costs (against Cannon), May 3, 2010	X	X
Certificate of Service, May 24, 2010	X	X
First Request to Admit to Plaintiffs, Aug. 12, 2010	X	X

DOCUMENT NAME	NOT RELATED	NOT PRESENTED
Affidavit of Beth Bauknight, dtd. October 1, 2010	X	
Plaintiffs' Responses to First Request to Admit of Plaintiff Pope, dtd. 9/23/10	X	
Initial Brief of Appellants, Wilson v. Dallas October 22, 2010	X	X
w/ Chart 1— James Brown's Intentions in Last Will & Trust	X	X
Chart 3- How the Proposed Settlement Destroys/Ignores James Brown's Intentions	X	X
Affidavit of Williams, dtd. November 30, 2010	X	X
Confirmation and Amendment to Settlement Entity (Legacy Trust), Jan 4, 2011	X	
Assignment of Terry Brown to William Forlando James Brown, Int. Est. of J13, 1/3/11	X	X
Affidavit of Pope Supporting Disqualification, Injunction & Related Relief, May 18, 2011	X	
w/ Ex. B: How Bauknight's Sale to Terry Destroys "I Feel Good" Fdn. (3/11)	X	X
Ex.C: Ltr., Black to Pope, July 15, 2011, Re; Requests for Does under FOIA	X	X
Affidavit of Pope Supporting Production of Legacy Trust, Contract w/AG, etc., Aug. 1, '11	X	X
Order of Jg. Early dtd. Feb. 20, 2008 re: Tommie Rae diaries	X	X
Ltr. Pope to Wilson, Sojourner, Bauknight, dtd. April 3, 2014 re: Settlement Proposal	X	X
Ltr. of Pope to. Potter dtd., June 26, 2014	X	X
Affid. of Pope Opposing Mot. of AG, Others to Stay, and Supp. Summ. Jmt., etc, 4/29/14	X	X
Affidavit Supporting Sum. Jmt, Damages, Offset, Transfer Termination Rights, 5/28/15	X	X
Memorandum in Supp. of Mot. to Amend Ans, Jmt Pleading, etc., [FOIA], 5/22/16	X	X
Affid. Pope in Supp. Motion to Alter, etc.[FOIA] Order Granting AG Mot. Dismiss, 7/1/16	X	X
Motion to Enforce Settlement Agreement, dtd. May 18, 2012	X	
Affidavit of Pope (Oppose Motion to Strike Offers of Jmt.), Aug. 15, 2012	X	
Affidavit of Pope (Oppose Striking Offers of Judgment, etc), August 21, 2012	X	
w/ Exhibit B: S.C. attorney general sued in James Brown case	X	
Emails F. Brown to Kenily, to Jg. Early, Sept. 27, 2013 (Re: Tommie Rae Terminations)	X	X
Ltr. to Pope to Attorney General and others, dtd. April 3, 2014	X	
Form 4 Order of Jg. Toal, 3/1/2017 (Wingate/Kendall Depositions)	X	X
Email Bundy to Jg. Early, dtd. Nov. 15, 2018 re: Outstanding Motions	X	
Ret. of Appellant to Mot. of AG, others to Strike Mot. to Lift Stay, Nov.20, 2018	X	

Exhibit B

The South Carolina 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. 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 children 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 children Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents,

v.

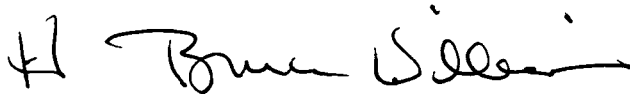
Adele J. Pope and Robert L. Buchanan, Jr., Defendants,

Of whom Adele J. Pope is the Appellant.

Appellate Case No. 2018-002229

ORDER

Respondents' motion to strike Appellant's initial brief and designation of matter is granted. Within thirty days of this order, Appellant shall serve and file an amended initial brief and an amended designation of matter in compliance with Rules 208 and 209(b) of the South Carolina Appellate Court Rules (SCACR). Specifically, the amended designation of matter shall not include matter which was not presented to the circuit court, and the amended initial brief shall not include references to matter which was not presented to the circuit court. *See* Rule 209(b), SCACR (providing the designation of matter may only include documents and materials which may properly be included in the record on appeal); Rule 210(c), SCACR (providing the record shall not include matter which was not presented to the lower court or tribunal). Further, the amended initial brief shall include references to the transcript or other documents properly included in the record on appeal to support all salient facts alleged. *See* Rule 208(b)(4), SCACR ("The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may properly be included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. . . . In the initial briefs, these references should be . . . by the page of the material referenced."). Within thirty days of service of Appellant's amended initial brief and designation of matter, Respondents shall serve and file their amended initial briefs.



FOR THE COURT

Columbia, South Carolina

FILED

July 26, 2019

cc:

Adam Tremaine Silvernail, Esquire
William Jeffrey Smith, Esquire
Daryl L. Williams, Esquire
Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Everett Augustus Kendall, II, Esquire
Clyde H. Jones, Jr., Esquire
J. Emory Smith, Jr., Esquire
Charles E. Carpenter, Jr., Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

May 05 2020

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

Case No. 2010-CP-40-4900

Appellate Case No. 2018-02229

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 the Appellant.

PROOF OF SERVICE

I certify that on May 5, 2020 I served Respondents' Reply to Appellant's Return and Memorandum Opposing Motion to Strike and for Sanctions by depositing a copy of it in the United States Mail, postage prepaid, and by e-mailing a copy of the same, to the following attorneys of record:

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To: ["charlie@carpenterappeals.com"](#); ["adam@silvernaillawfirm.com"](#); ["wjstv@mindspring.com"](#); ["dwilliams@gertzandmoore.com"](#); ["esmith@scag.gov"](#); ["sjones@scag.gov"](#)
Cc: [Mark V. Gende](#); [Griffith Doolittle](#); [Ken B. Wingate](#)
Subject: Bauknight v. Pope, Appellate Case No. 2018-02229; Our File 4077-7389
Date: Tuesday, May 05, 2020 4:21:00 PM
Attachments: [Respondents' Reply to Appellant's Return and Memo Opposing Motion to Strike and for Sanctions.pdf](#)
[Exhibit A - Amended Chart 1.pdf](#)
[Exhibit B - Order.pdf](#)
[Proof of Service.pdf](#)

Dear Counsel:

Attached please find:

Respondents' Reply to Appellant's Return and Memorandum Opposing Motion to Strike and for Sanctions;

Exhibit A;

Exhibit B; and

Proof of Service

All of which are being e-filed today with the Court of Appeals.

Sincerely,

Gloria Coberly on behalf of Mark Gende

RECEIVED
May 05 2020
SC Court of Appeals



Gloria P. Coberly | *Legal Assistant to Mark V. Gende and William A. Neinst*

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