

STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

RECEIVED
Apr 28 2020
SC Court of Appeals

The Honorable Doyet A. Early, III, Circuit Court Judge

The Honorable L. Casey Manning, Circuit Court Judge

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.; 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.; 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.

**RETURN AND MEMORANDUM OF APPELLANT OPPOSING MOTION OF RESPONDENTS
TO STRIKE AND FOR SANCTIONS**

On May 19, 2010 the Attorney General of South Carolina (AG), Russell Bauknight “on behalf of” the AG, the James Brown Legacy Trust (Legacy Trust) and others sued Robert Buchanan, Jr. and Appellant Pope in Richland 4900. Richland 4900 is a tort suit seeking tens of millions of dollars for the Legacy Trust and its owners. All were represented by the private law firm of Kenneth Wingate, Esq., Sweeny, Wingate and Barrow, P.A. (SWB)

The Richland 4900 complaint alleges that Buchanan and Pope were improperly appealing a 2008 settlement brokered by the AG in the appeal which would become *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013)

This is a pretrial appeal in Richland 4900. The complaint has never been amended.

SWB moves to strike Appellant’s counter-designations to the brief of the AG and the record on appeal. SWB also seek sanctions. For the reasons set out herein, the relief requested in the motion should be denied.

This return and opposition to the relief requested by SWB is supported by the full record in Richland 4900, including appeals; other matters of which the Court is asked to take proper judicial notice under Rule 201 SCRE; and the following memorandum.

Memorandum in Opposition to Motion of SWB to Strike and for Sanctions

Background

On August 10, 2008 the Attorney General contracted to give about \$2 million a year and half of entertainer James Brown’s “I Feel Good” Charity to Tommie Rae¹ and six Respondents in exchange for half of the U.S. termination rights proceeds under sections 304

¹ To avoid confusion Respondents with the last name Brown will be referred to by first names.

and 203 of the U.S. Copyright act the individual Respondents placed in Respondent Legacy Trust in 2009.

The AG's 2008 settlement posed a greater threat to James Brown's estate plan and "I Feel Good" charity than the \$17 million David Cannon, one of Brown's first trustees, had stolen from Brown between 1999 and 2007.

In 2009 the Aiken Court approved the AG's settlement, based on the "independent" recommendation of Russell Bauknight. Bauknight was already trustee of Respondent Legacy Trust. He replaced Buchanan and Appellant as PR/Trustees.

As required, Buchanan and Appellant appealed the AG's 2008 settlement.

Over the next 10 years two AGs, by inattention, allowed, authorized, and praised Bauknight as he spent tens of millions of dollars from Brown's charity to put the AG's 2008 deal in place; denigrate Buchanan and Pope; and attempted to blame Buchanan and Pope for the reckless or intentional damage caused by the AG's 2008 settlement and a later \$79 million devaluation of Brown's worldwide music empire to \$4.7 million by Bauknight and music manager Peter Afterman. Richland 4900 and FOIA disruption would become central to the AG's strategy.

In 2010 the AG and Legacy Trust and its beneficiary owners filed Richland 4900 to damage Buchanan and Pope so they would abandon the *Wilson v. Dallas* appeal.

In 2011 the AG began using the Afterman \$4.7 million valuation to accuse Buchanan and Pope of a federal felony in Supreme Court filings. The AG also supported, or joined in, Bauknight's incorrect claims to the Supreme Court about the \$4.7 million claimed value of Brown's worldwide music empire; taxes; termination rights under Sections 304 and 203 of the Copyright Act; and Tommie Rae.

In 2012 the AG attacked Appellant when she moved to unseal public admissions of Tommie Rae that she was married when she had a ceremony with Brown. By then Bauknight was working to disrupt FOIA compliance in three separate James Brown FOIA suits.

In March 2013 the AG, the Solicitor General and the Chief Deputy AG learned personally of the \$1 million a year or greater damage caused to Brown's charity by the Bauknight \$4.7 million valuation. The Solicitor General believed that Appellant's concerns for the charity were sincere; that she was competent; and that she was not greedy. The AG did nothing to correct Bauknight or the Afterman appraisal.

On May 8, 2013 the Supreme Court issued its final opinion in *Wilson v. Dallas*. The decision voided the AG's 2008 settlement and Bauknight's appointments under Brown's estate plan. Footnote 30 of the opinion states:

We note that the AG and/or Bauknight have allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate, for Wingate to sue Appellants on behalf of the State, Bauknight and others while also representing private plaintiffs in the suit. We are aware that a suit has been filed in Richland County seeking damages to Brown's estate allegedly arising during Appellant's service as fiduciaries. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this reported arrangement. However the AG has recently informed this Court, in petitions filed after this Court's initial opinion, that he is now withdrawing as a party in that lawsuit and his office will maintain a monitoring role.

By May 10, 2013 the AG and other Richland 4900 Plaintiffs had secured Bauknight's reinstatement as Brown's fiduciary and asked to stay the FOIA cases and Richland 4900 while the Aiken Court completed its work.

On May 29, 2013 Tommie Rae and all of the now-owner-beneficiaries of the Legacy Trust (other than Forlando Brown), through counsel, announced to the Honorable Doyet A.

Early, III, their plan to disregard the Supreme Court's *Wilson v. Dallas* decision and reinstate the AG's 2008 settlement which the Supreme Court had voided three weeks earlier.

In 2014 Bauknight spoke daily with Peter Afterman and paid him as he helped Tommie Rae and her son attempt to siphon off Brown's royalties as well as the termination rights proceeds owned by the Legacy Trust since 2009.

In 2015 the Aiken Court failed to inform the Supreme Court of the May 29, 2013 announced plan of most Richland 4900 Respondents to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement. The Aiken Court's May 2015 status report stated, in part:

The Order requesting this status report inquired whether any proposed settlement agreement has been submitted for Court approval. The answer is an unequivocal no. *No lawyer, party or anyone else has discussed, mentioned, suggested or inquired of me anything about settlement. Neither am I aware of any rumor or "courthouse talk" of any proposed settlement.* Status Report, p. 4[emphasis supplied]²

In 2016 the AG sought summary judgment as to Appellant's counterclaims. At the same time the AG remained active in discovery and also sought to be dropped as a party under Rule 21.

That year the Legacy Trust sought partial summary judgment in Richland 4900 while securing a ruling that it does not exist in a FOIA case.

That year now-Governor Henry McMaster testified emphatically under oath that he did not authorize Wingate to bring Richland 4900 in the name of the State/AG; did not authorize Bauknight to speak on behalf of the State/AG in Richland 4900; and did not even know he was a named Plaintiff in Richland 4900 until after leaving office in January 2011. The AG still declined to take any action to end Richland 4900.

² Buchanan and Pope were not asked by the Court to respond to the status report and did not. Others, however, advised the court of other inaccuracies contained in the status report.

In 2017, Solicitor General Cook confirmed under oath that in March 2013 Pope had informed the AG of the damage caused to Brown's charity by the Bauknight/Afterman devaluation, and that he believed Appellant was sincere, concerned about Brown's charity, and competent.

That year AG Wilson testified under oath that he knew nothing about the operation of the Legacy Trust; did not disagree with Appellant's memory of the 2013 meeting; and knew nothing about anything Buchanan or Appellant were alleged to have done wrong.

In a January 31, 2017 deposition Bauknight testified about Richland 4900:

**Q. Well, it says "Russell L. Bauknight as Trustee of
11 the James Brown 2000" --**

12 A. Ah, okay. Well, I can explain this caption to
13 you, I believe. "Russell Bauknight," that's me,
14 "Trustee of the James Brown 2000 Irrevocable Trust
15 and the James Brown Legacy Trust" -- which existed
16 at the time was filed -- "and as Personal
17 Representative of the Estate of James Brown."

...

6 The reason that the Legacy Trust was listed
7 there and the reason that Henry McMaster is
8 listed there is that though Judge Early had
9 approved the settlement agreement, we knew you
10 were going to appeal it and everyone in this
11 case that was a party to the settlement
12 agreement was in fear that you would somehow
13 come back into power, Ms. Pope, and they knew
14 that the first thing you would do is drop the
15 lawsuit against yourself and if you did that,
16 if we didn't have Henry McMaster there
17 protecting the charity, there'd be no one to
18 prevent you from coming back. So that's the
19 reason he was listed here as part of that
20 charity. And it ultimately was reversed when
21 the Supreme Court sent that back down to Jack
22 Early or Judge Early to take more testimony,
23 the Legacy Trust ceased to exist. . .

...

8 . . . And Henry McMaster has
9 looked at what's going on in the estate and

10 trust for the benefit of the charity -- not
11 Henry McMaster, but the Attorney General has
12 looked at that. They're very satisfied.
13 They've clearly said they're very satisfied
14 with what I'm doing it by administration.

...

18 **Q. So who gave them --**

19 A. But I'm not their agent.

20 **Q. -- permission to bring a suit on behalf of Henry**

21 **Dargan McMaster?**

22 A. I don't know the legalities, but you're well aware

23 of how all of that came about. You've had these

24 discussions. I'm not a lawyer.

In 2017 and 2018 detailed evidence of Bauknight's failures to account; allowing Brown's tax files to be destroyed; failure to file proper amended tax returns; and other problems became part of the record at the Aiken 1337 trial, as did the testimony of the Governor, the Solicitor General, the AG, the former Chief Deputy, Wallace Lightsey, Esq., James Hardin III, Esq., Judge (Retired) Walter Williams; Steve Johnson, Esq; SA/ST David Sojourner, Esq.; Rita Caughman, Esq.; and others. Bauknight's admission that tens of millions of dollars in litigation costs had been incurred since Brown's death became known.³

In 2018 Respondents Venisha, Yamma, and Tonya Brown and Deanna Brown Thomas sued Respondents Tommie Rae, James and Bauknight in federal court over the termination rights proceeds all had put in the Legacy Trust in 2009. SWB continued to claim to represent them all.

³ At the Aiken 1337 trial, Bauknight was directed by the Court to file all of the Estate/2000 Trust's litigation records from May 26, 2009. After resisting the filing and being told he could redact portions if he wished, Bauknight filed them *ex parte* with the circuit court. After review of the records, when Appellant's counsel objected to the *ex parte* filing, the circuit court discarded the records and rescinded the oral order. No sealed copy was retained for appeal, but the court's action is an issue in Appellate Case 2019-000362.

In January 2019, the Aiken Court overlooked the testimony of the Governor, the Solicitor General, the AG, Lightsey, Hardin, Sojourner, and numerous others; criticized Appellant and Buchanan for appealing the AG's 2008 settlement; and said they were not entitled to any pay.

In 2019 Tommie Rae told the Supreme Court the Estate/2000 Trust wanted her to be Brown's spouse. In an affidavit filed in the Supreme Court Peter Afterman claimed termination rights were worth tens of millions of dollars and there would be nothing in the "I Feel Good" Charity in 6 years if Tommie Rae were not declared Brown's spouse. This was the same, incorrect termination rights argument made to the Court in *Wilson v. Dallas* in 2011. It ignored that termination rights will never apply to the non-U.S. royalties of the "I Feel Good" Charity, about half of the \$4 + million annual royalty stream that was coming in in 2008. Nor will they ever apply to Brown's right of publicity or other assets.

In 2019 the Court of Appeals reversed the FOIA case seeking the public Wingate contract since 2011, but the AG still refuses to release it. SWB continues to claim that the Wingate contract is private, even though it says on its face that it is public. And the AG is asking the circuit court to strike public affidavits critical of the AG's handling of this 9-year-old FOIA case.

In January 2020 the AG filed a brief in this case which fully supports the actions of SWB, Tommie Rae and Bauknight, and virtually overlooks the critical sworn testimony of the Governor, the Solicitor General, the AG himself, and other AG staff.

In April 2020 the Supreme Court denied certiorari in a FOIA case involving the Legacy Trust, confirming that the AG makes no claim for any charity from the Legacy Trust.

The Issues in this Appeal

The SWB motion presents charts which, without basis, assert that more than 200 documents are not related to this appeal. A glance at the short summary of the facts above, and the issues in this appeal, confirms that this is not the case. The issues, which span the entire 10-year history of the case, are:

- I. The lower court erred in failing to dismiss the complaint.
- II. The lower court erred in granting summary judgment as to Buchanan's and Pope's counterclaims.
- III. The Acts After the May 29, 2013 Announcement Deprived Buchanan and Pope of their Due Process rights.

Counter-Designations to the AG's Brief Are Not a Supplement to the ROA

Respondents' motion to strike and for sanctions treats Appellant's counter-designation of matters to the brief of the AG as an unauthorized supplement to the ROA. It is not.

These items were designated pursuant to Rule 209(a), SCACR, which allows a party to designate material along with each initial brief. The rule expressly includes initial reply briefs. The designation of these additional matters was appropriate where needed to respond to the Respondents' briefs.

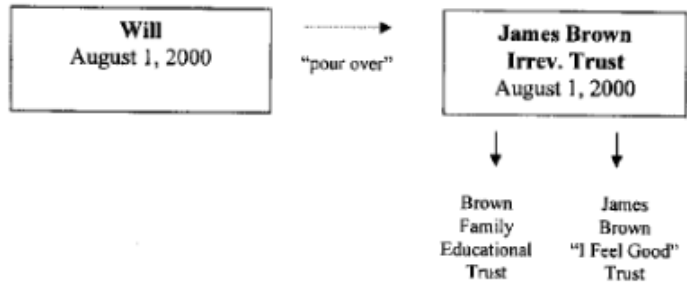
On January 8, 2020 the Attorney General submitted a brief which adopted the brief of Respondents Tommie Rae and the claimed-nonexistent Legacy Trust. The brief gave State support to Russell Bauknight's \$79 million devaluation of James Brown's music empire to \$4.7 million and the consequent shifting of about \$1 million a year and nearly 1/3 of the assets out of Brown's charity and over to a trust for family members. It provides continuing

State support for the false felony claim which the AG began to make against Buchanan and Appellant in 2011 and continues to make.

The AG's brief, like the complaint in Richland 4900 which it supports, seeks to blame Buchanan and Appellants for the damage caused by the reckless, or intentional, acts of Bauknight, Peter Afterman and others in whom the AG has chosen to place his trust since 2008.

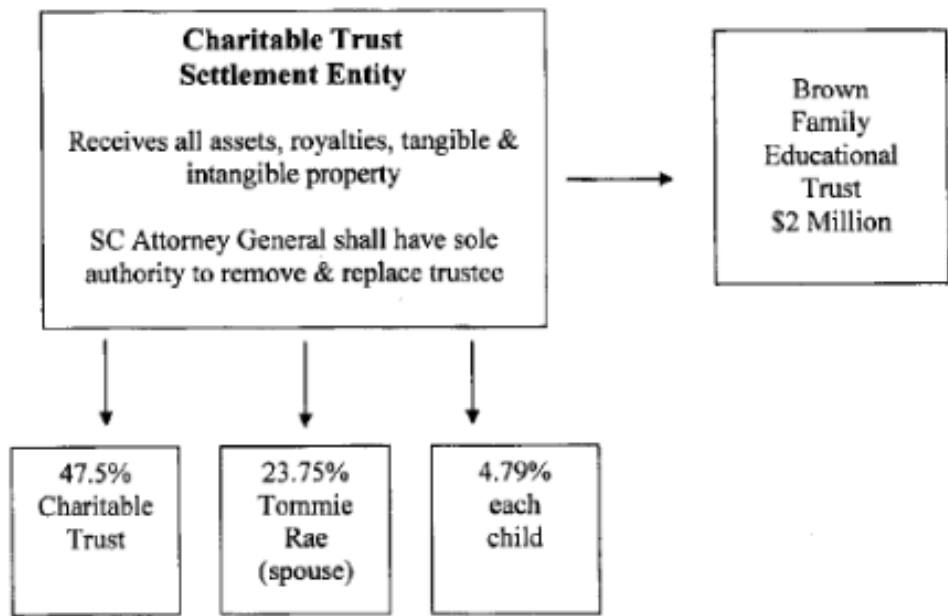
The AG's brief is especially troublesome because it takes positions directly contrary the clear reading of the U.S. Copyright Act; the testimony of the AG's own experts designated in Richland 4900; the sworn 2016 testimony of Governor Henry McMaster; the sworn 2017 testimony of Solicitor General Cook; and even the sworn 2017 testimony of AG Wilson himself.

It is also troublesome because of the 2020 change in the Legacy Trust. The AG's 2008 settlement proposed to change James Brown's estate plan from:



To:

The Charitable Trust is diagramed as follows:



In 2020, however, the State/AG continues to attack Buchanan and Pope for the benefit of the Legacy Trust even though not a penny of the damages it seeks from Appellant will go for any public purpose or to any charity. The Attorney General is using the power of the State and the prestige of his high office for the benefit of private individuals he favors.

The Richland 4900 complaint which names the AG and Russell Bauknight "on behalf of" the AG as a Plaintiff, but has no charitable or public purpose, and on which the AG was not even an attorney of record, should be dismissed. An AG who uses his public office for private benefit should not be entitled to summary judgment as to the Buchanan/Pope

counterclaims for abuse of process; intentional interference with contract; or others. The AG's continuing Due Process violations are clear.⁴

“Appear Not to Have Been Previously Designated” and “Not Related” Claims

With no indication as to how Respondents arrived at the terms, SWB asserts that more than 220 documents in the ROA are “not related” to the appeal; that numerous documents “appear not to have been previously designated;” and that about 110 documents were “not presented.” There is simply no basis for any of these claims. Nor does SWB suggest how it arrived at the claims.

The circuit court record in this case includes the entire record of a 2011 FOIA case which was consolidated with Richland 4900 in 2012, but which does not appear on the public website. It includes numerous filings with large attachments. Among them are more than 150 pages of documents filed in the probate court before removal, filed on July 26, 2010, and another 250 pages related to the motion to transfer venue.

Scores of documents which SWB arbitrarily labels “not related” are, in fact, directly related to the multiple grounds of Buchanan and Appellant for dismissal of the complaint, including constitutional grounds; improper venue; and that another action was pending between the parties.

A random glance at just the first two items on each page which SWB asserts are not related makes clear that the claim is without merit.

⁴ Although SWB alleges that the instant motion is filed on behalf of “Respondents (other than the AG),” Appellant notes that SWB client Russell Bauknight continues to be captioned in this matter as speaking “on behalf of” the AG and has never sought a change of the caption during the near-decade since he brought this case in that capacity.

Chart I:

Page 1:

Order of Jg. Early re: Tommie Rae diaries – the role of the State/AG and the circuit court in concealing these public documents in which Tommie Rae admitted she was married to someone else is related to issues I & II.

Order of Jg. Couch, dtd. 9/22/09 – This circuit court order used by the AG and SWB to convince the Honorable L. Casey Manning in 2010 that the claim by Buchanan and Pope that Richland 4900 was unconstitutional and violated their Due Process rights was without merit. The order actually suggests otherwise.

Page 2:

Plaintiffs' Mot. to Strike Affidavit of Pope dtd. Dec. 18, 2012 - This was just one example of the repeated requests, without basis, of the AG and other Respondents, to suppress facts they did not like.

Motion for Judgment on the Pleadings (FOIA) - SWB asserts that this motion is both not relevant and not presented to the lower court. That is incorrect. As it shows [ROA 730] the AG presented this order jointly to the court in Richland 4900 FOIA and another FOIA case to prevent release of the Wingate contract, \$4.7 million valuation, and the Legacy Trust 2011 amendment. It is material to all three issues on appeal.

Page 3:

Pope's motion to compel (Interrogatories) – see below

Motion for Protective Order (Venisha Brown) - SWB asserts that its own motion for a protective order as to Venisha Brown was not related and was not presented to the lower court. That is incorrect. Both support the position that summary judgment was both premature and inappropriate as to Venisha. The AG sought summary judgment before these and many other discovery issues were addressed.

Page 4:

Email chain, Deanna ...Levenson, March 7, 2007 – This shows that Deanna Brown Thomas and other Levenson clients knew from 2007 that their challenges to the estate plan were baseless, but filed frivolous

challenges to the estate plan. Levenson then signed the Wingate 40% contract for a dozen Plaintiffs, many of whom did not even know he was signing it, to sue Buchanan and Pope for an improper purpose. It is material to issue II, at least.

Graham Windsor Group, 2007 – This is clearly related to the Due Process issue and the summary judgment issue. It shows that the AG and other Respondents had actual knowledge that Brown’s worldwide music empire was conservatively valued at \$99 million less a \$15 million TIAA debt, but engaged in a civil conspiracy proposed by Tommie Rae’s lawyers to devalue the music empire by \$79 million to damage “Bobadele,” which they did. They also used the fabricated \$4.7 million to lodge a false felony claim in the Supreme Court, a violation of Section 62-1-106.

Page 5:

Ltr. of AG Jones to Wayne Byrd re: Em Pet. for Special Trustee - see below

Ltr. of AG Jones July 7, 2008 re: Sp.Trustee – These are material to the issue that Richland 4900 was baseless and unconstitutional; that, as Governor McMaster had testified, it was not legal or authorized by the AG; and was the vendetta of an employee of the AG against Buchanan and Appellant which had begun on November 21, 2007 when they first suggested that AG Jones did not have the authority to take over the James Brown litigation. This relates to issue I and III, as well as summary judgment.

Page 6:

Affidavit of Beth Bauknight – This document was filed by Respondents on October 1, 2010 but is asserted by Respondent to be both not related and not presented to the lower court. Both assertions are incorrect. This 141-page document shows that Buchanan and Pope brought in \$7.83 million, mostly in royalties, in the 18 months they served as PR/Trustees. This was more than \$5 million per year, and provides critical evidence that Bauknight and others violated Section 62-1-106 when they told the Supreme Court in 2011 that Brown’s worldwide music empire was worth only \$4.7 million, and that Buchanan and Appellant were greedy felons.

Plaintiffs’ Responses to First Request to Admit of Plaintiff Pope, dtd 9/23/10 – The refusal of the Plaintiffs to admit the authenticity of documents which had been in the public record and were clearly authentic is an early example of the total lack of cooperation of the AG and other Respondents in discovery matters, beginning immediately after the suit was filed. This refusal to cooperate has characterized the actions of the AG and other Respondents for 10 years.

Chart 2:

Page 1:

Order of Jg. Early dtd. 11/13/08 [Dismissing Pullman Claim] – This is relevant to summary judgment. It shows part of the \$35 million of claims against James Brown’s Estate which Buchanan and Pope resolved during their period as PR/Trustee.

Fm. 4 Order of Jg. Early [Mot Consolidate Aiken1337 – Richland 4900] – This is relevant to show that the AG was continuing to retaliate against Buchanan and Appellant in July 2016 with the unconstitutional Richland 4900 complaint for the benefit of private individuals; and was seeking to consolidate Appellant’s SA and PR/Trustee fee claim to prevent her from being paid even for her work in 2007 as SA until she relinquished her counterclaims in Richland 4900.

Page 2:

Affidavit of Pope, dtd. 2/19/16 – this is another example, among many, of the AG’s active participation, through SWB, in Richland 4900, to damage Buchanan and Appellant after the May 29, 2013 announcement.

Order, Tommie Rae Summary Judgment 1/13/15 – The Tommie Rae summary judgment order, issued without even a proffer of her handwritten admissions that she was married to someone else at the ceremony with Brown relates to issues II and III. It shows that after Buchanan and Pope were excluded from the James Brown hearings on June 13, 2013, just after the May 29, 2013 announced plan to disregard *Wilson v. Dallas*, the plan to reinstate the AG’s 2008 agreement progressed rapidly until 2015 while the AG used Richland 4900 and FOIA to discredit and damage Buchanan and Appellant.

Respondents’ 9-Year Efforts to Secure Sanctions Against Buchanan and Pope

In addition to lodging the false felony claim against Buchanan and Pope in 2011, the AG, Bauknight and SWB have engaged in a 9-year effort to secure sanctions against Buchanan and Pope which continues today. There is no basis for the requested sanctions, and they should not be granted.

Where the State's highest legal officer, and the officer charged with the prosecution of crimes, is a party, there is reason to be especially temperate.

The AG and Bauknight first sought sanctions against Buchanan and Appellant in January 2011 when Buchanan and Pope filed a brief, in response to one served on them by felon David Cannon. The brief was intended to support James Brown's estate in an effort to collect about \$1.2 million in legal and SA fees Cannon was directed by Judge Early to pay in April 2008. By then, Cannon was under indictment, but the AG and other Respondents, through SWB, had named Cannon as a witness in Richland 4900. Sanctions were not awarded.

In the summer of 2011, when Appellant sought a copy of the Legacy Trust, counsel for Bauknight threatened Appellant with sanctions if she pursued her FOIA requests. She did, and in the fall of 2011 SWB asked the FOIA court to impose sanctions on Appellant. It did not.

There were many other instances. In Aiken 1337 Bauknight sought sanctions against Appellant when she asked the circuit court to release the claimed \$4.7 million Afterman appraisal after Louis Levenson, Esq., testified under oath that he had reviewed it years earlier. Sanctions were not granted.

The use of sanctions requests to help secure delays and advantages is especially troublesome where the claim of both SWB and Bauknight that they are acting legally for the AG has been challenged by sworn testimony of the Governor and the fact that the AG did not sign the Wingate contract.

With or without the AG, there had been no showing of anything improper in Appellant's reply designations to the AG or the ROA, much less something "pervasively improper" or which demonstrates a "consistent pattern of disregard for rules."

The request for sanctions should be denied.

SWB's Attempted Acts Under the Unconstitutional Richland 4900 Complaint

Appellant preserves, and does not waive, her position that any act of SWB so long as the name of the AG remains on the Richland 4900 caption, and any act by Bauknight "on behalf of" the State/AG is unconstitutional, illegal and improper. Because the violation is constitutional, this Court is, at any time, free to declare the Richland 4900 complaint, and the acts of SWB void.

SWB's Attempts to Act Under the Wingate Contract are Improper

On May 18, 2010 Levenson signed the Wingate 40% contract for about a dozen Plaintiffs, many of whom did not even know he had signed it. Included among them was Venisha Brown, who was incarcerated. Also among them were 4 minors.

SWB and Wingate refused to allow GALs to be appointed for Venisha and the former minors. None ever ratified either the acts of Levenson or the acts of SWB. SWB has unclean hands with respect to these Respondents and should not act.

SWB's Attempts to Act for the Legacy Trust are Improper

In 2020 the Supreme Court's denial of certiorari left Bauknight and the Legacy Trust where they wished to be—claiming not to exist and owing nothing to the AG or any charity. The successors in interest have not yet been joined as parties. They are: Tommie Rae; Forlando; Deanna Brown-Thomas; the Estate of Venisha; Terry; Larry and Daryl. Until they are properly joined as successors and brought under the jurisdiction of the Court as to the

assets formerly managed by the Legacy Trust, SWB should not be seeking sanctions, or any other relief for the Legacy Trust. Bauknight has unclean hands in seeking any relief.

Bauknight Cannot Act on Behalf of Respondents Who Are Suing Him

SWB's filings for Bauknight "on behalf of" Respondents Tonya, Brown-Thomas, Venisha, and Yamma, who are suing him, and their children, including the within motion, should not be permitted. The conflict of interest where Bauknight is sided with Respondents Tommie Rae and James is patent.

CONCLUSION

SWB's motion to strike Appellant's counter-designation of matter in response to the brief of the Attorney General, incorrectly characterized as a supplemental designation, is without merit. The same is true of the motion to strike the ROA. The designations were properly presented to the lower court; are relevant to this appeal; and were properly included within the ROA. No sanctions should be granted. The final briefs should be presented and this pretrial appeal should be concluded.

Respectfully submitted,

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April 28, 2020

Counsel for Appellant Adele J. Pope

STATE OF SOUTH CAROLINA

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Of whom Adele J. Pope is Appellant.

Proof of Service

The undersigned counsel for Appellant certifies that he has served a copy of the Return to Respondents' Motion to Strike and for Sanctions on all Respondents on the date shown below, by emailing the same to their counsel, addressed as follows:

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April 28, 2020



Bauknight, et al v. Pope, Appellate Case No. 2018-2229

1 message

Adam Silvernail <adam@silvernailfirm.com>

Tue, Apr 28, 2020 at 10:21 AM

To: "Mark V. Gende" <MVG@swblaw.com>, "Ken B. Wingate" <kbw@swblaw.com>, Emory Smith <ESmith@scag.gov>

Cc: Adele Pope <adele@popelawfirm.com>, Charles Carpenter <charlie@carpenterappeals.com>, Daryl Williams <dwilliams@gertzandmoore.com>, Jeff Smith <wjstv@mindspring.com>

Counsel:

Attached and served on you is the Return to Motion to Strike and for Sanctions, with Proof of Service. A copy of this email will be filed with the Proof of Service.


Adam

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RECEIVED
Apr 28 2020
SC Court of Appeals

2 attachments

 **Pope 2229 Appeal POS.pdf**
86K

 **Pope 4900 Appeal Return Motion Strike Sanctions.pdf**
255K