

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

Case No. 2010-CP-40-4900

Appellate Case No. 2018-02229

RECEIVED

Aug 07 2020

SC 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 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' MOTION TO STRIKE APPELLANT'S FINAL BRIEF
AND FOR OTHER RELIEF**

Introduction

Appellant served and filed her amended initial brief in this matter on August 5, 2019. Appellant served and filed her final brief on July 6, 2020. Respondents, other than the Attorney General, have compared the two versions of the final brief and note at least thirty-three alterations between appellant's amended initial brief and her final brief.

Respondents argue that several of these changes are material as they (1) remove evidence of Appellant's long-standing history of conflict with Ms. Venisha Brown (now deceased), which is the subject of a matter currently pending before the South Carolina Supreme Court and, as a corollary, (2) remove evidence of Appellant's possible violation of the Supreme Court's June 10, 2015 order prohibiting Appellant's further attempts to be involved in the affairs of the Estate of James Brown.

Respondents request the Court issue an order that strikes Appellant's final brief, dismisses the instant appeal in light of Appellant's pattern of rules violations in this and a related appeal, and award Respondents costs and fees for bringing this motion.

Applicable Rules

Rule 211(b), SCACR, states:

(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

Rule 211(b), SCACR.

An available remedy for violations of the appellate court rules is dismissal of the appeal. *See* Rule 260(a), SCACR. When an appeal is dismissed, the respondent is entitled to costs. *See* Rule 222(a), SCACR.

Argument

On their face, Appellant's alterations of her final brief appear innocuous. However, a careful review reveals Appellant's alterations follow a detectable pattern designed (1) to remove all references to Appellant's history of conflicts with Venisha Brown and therefore (2) to remove evidence of her possible violation of the Supreme Court's June 10, 2015 order.

Respondents have prepared two charts as an aid to identifying and understanding Appellant's alterations. **Chart 1** details the alterations. **Chart 2** notes the connection between each alteration and Appellant's potential motivation for each alteration. These are discussed in reverse order below.

1. Motivation to alter her final brief.

Based on Appellant's pattern of vexatious filings in other James Brown Estate related matters, on June 10, 2015, the South Carolina Supreme Court issued an order to Appellant that stated in pertinent part:

Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result in contempt charges.

June 10, 2015 Supreme Court Order, at p. 4 (Appellate Case Nos. 2009-142286, 2013-001649, 2014-000250, 2014-001279).

Venisha Brown, a daughter of James Brown, is a plaintiff in the breach of fiduciary duty action brought against Appellant (Richland Case No. 2010-CP-40-04900, hereinafter “Case 4900”), the underlying case for this appeal. Venisha passed away in 2018. Venisha’s sister, Deanna Brown-Thomas, also a plaintiff in Case 4900, petitioned to be appointed Venisha’s personal representative and trustee in Aiken Case No. 2019-CP-02-00320 (“Aiken 320”). Appellant filed an alleged creditor’s claim against Venisha’s estate and sought to be named the personal representative and trustee. Appellant’s petition was denied from the bench on July 1, 2020.

Appellant’s effort to be named personal representative and trustee of Venisha’s estate is a clear and substantial conflict of interest, because it would have made Appellant effectively both the defendant and a plaintiff in Case 4900 and both the Appellant and a Respondent in the instant appeal. Appellant’s effort to be named Venisha’s personal representative and trustee may also have violated the Supreme Court’s June 10, 2015 order, because the actions Appellant has indicated she would take as personal representative would permit and even necessitate involvement in the affairs of the Estate of James Brown,¹ something the Supreme Court warned Appellant not to do.

Counsel for Brown-Thomas requested the Honorable Clifton Newman, the trial court judge assigned by the Supreme Court to hear and decide all James Brown related cases, to determine whether Appellant’s actions constituted a violation of the Supreme Court’s order. Judge Newman referred the matter to the Supreme Court. On June 29, 2020, counsel for Respondents submitted to the Supreme Court a detailed affidavit outlining Respondents’ concerns. A few days later, on

¹ Venisha Brown is a named beneficiary of the estate plan of James Brown. *See Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013).

July 6, 2020, Appellant filed her final brief with at least thirty-three alterations. Respondents contend the alterations are intended to conceal how Appellant’s own filings implicate her in the very issues under review by the Supreme Court.

2. Discussion of the Alterations in Appellant’s final brief.

a. Altered Footnote 1. (A1)²

Appellant uses Footnote 1 to itemize common abbreviations she uses throughout her brief. Appellant shortened this footnote by removing the last 2.5 lines. She removed: “The Motion to Alter, etc. Ord. Dropping AG as a Party filed 7/19/17 is ‘Mot. 7/19/17;’ Return to Motion to Strike of 11/20/18 is ‘Mot.11/20/18; and Supplemental Motion filed 10/30/18 is ‘Mot. 10/20/18 [sic].’” (*Compare* Appellant’s Final Brief at p. 1 at n. 1 *with* Appellant’s Initial Am. Brief at p. 1 at n. 1; *see also* Chart 1.)

The final portion of the removed citation references an October 30, 2018 Supplemental Motion to Lift Stay (“The Supplemental Motion”), appearing in the Amended Record on Appeal at page 996. In her amended initial brief, Appellant gave The Supplemental Motion a special abbreviation, presumably because it is cited consistently throughout her Brief. In her final brief, she removes almost every mention of The Supplemental Motion, and removes almost all citations to it. (*Compare* Appellant’s Initial Am. Brief at pp. 46-47 *with* Appellant’s Final Brief at p. 44-45 (at least 11 citations to Supplemental Motion have been removed); *see also* Discussion in Parts 2.o. and p., *infra*.)

² For each alteration uncovered so far, Respondents have assigned a reference number for use in this Motion and Charts 1 and 2.

Appellant's removal of references to The Supplemental Motion is significant because Appellant filed the Motion shortly following the death of Venisha Brown. This Motion asked for a limited lifting of the appellate stay created by the filing of Case No. 2010-CP-40-4900 (although captioned with appeal Case No. 2017-001899). The Motion was an initial attempt by Appellant to interject herself into the administration of Venisha Brown's Estate, wherein she requested the Case 4900 circuit court appoint a receiver and marshal the assets of Venisha Brown, enjoin transfers of Venisha Brown's assets, etc. (R. p. 996-97.) Respondents contend that Appellant's attempt to interfere in Venisha Brown's estate is a Trojan horse effort also to interfere in the Estate of James Brown.

Therefore, the multiple alterations to her final brief, filed only days after Respondents' counsel filed his affidavit calling Appellant's actions into question and citing for support, *inter alia*, Appellant's Affidavit in Support of [her] Supplemental Motion to Lift Stay for Limited Purposes—the very motion she has now sought to banish from her final brief—is an attempt by Appellant in this appeal to cover up (or at least deflect attention from) her long history of conflict with Venisha Brown and potential violation of the Supreme Court's June 10, 2015 order. The seemingly small alteration of Footnote 1 is in reality the first “domino” to fall, causing a chain reaction throughout the remainder of her final brief. *See, e.g.*, Discussion in Parts 2.h. through 2.m., *infra*.

b. Altered Citation on Page 3, First Full Paragraph. (A3)

In this instance, Appellant stated “Plaintiff Legacy Trust is 75% controlled by the AG and Tommie Rae, but the AG has the right to remove and replace its trustee, Bauknight, at will. [R. 1409; *Wilson*].” (Appellant's Final Brief at p. 3.) In the amended initial brief, Appellant supported this sentence with a citation to the Plaintiffs' Memo In Opposition to the Motion to Change Venue,

as well as a citation to The Supplemental Motion. (Appellant’s Initial Am. Brief at p. 3.) The nature of the Supplemental Motion as it relates to Venisha Brown’s Estate is discussed in Part 2.a., *supra*.

In the final brief, Appellant altered the citation string by half. She kept the citation to the Plaintiffs’ Memo In Opposition to the Motion to Change Venue, but dropped the citation to the October 30, 2018 Supplemental Motion and replaced it with a citation to *Wilson v. Dallas*. This is an example of a cleverly altered citation that deflects the reader away from Appellant’s initial reliance on the The Supplemental Motion.

c. Removed Citation on Page 4, First Full Paragraph. (A4)

In this section of her brief, Appellant states her conclusory theory that Venisha Brown’s Estate is the present owner of a 4.79% share of the James Brown Legacy Trust. She originally supported this proposition with a citation to The Supplemental Motion, but removed this citation in the final version of her brief. (*Compare* Appellant’s Final Brief at p. 4 *with* Appellant’s Initial Am. Brief at p. 4.) As it stands in her final brief, the sentence is unsupported by any citation. However, the sentence is clearly tied to Appellant’s self-serving theories concerning the Venisha Brown Estate, which of necessity involve the interests of the James Brown Estate.

d. Altered Citation on Page 10, Carryover Paragraph. (A6)

At the end of this paragraph, Appellant changed a citation from “[*Id.*]” to “*Brown v. Sojourner*, S.C. Sup. Ct. Op. No. 27982 (June 17, 2020).” (*Compare* Appellant’s Final Brief at p. 10 *with* Appellant’s Initial Am. Brief at p. 12.) The changed citation to a brand new case is improper, but the “id” that she replaced was referring back to another reference to The Supplemental Motion. Thus, Appellant has substituted a new citation for her original one.

Respondents assert that this is another attempt to disguise Appellant’s previous attempts to interfere with the Venisha Brown Estate and, by extension, the James Brown Estate. Respondents also note the apparent subtleness with which this alteration was accomplished. Typically, no one would notice an “id” being replaced by a longer citation, and certainly no one would assume the longer citation to be completely different than the original citation. This alteration provides this court with a good example of the sort of tactics employed by Appellant. Even small changes such as replacing an “id” have a significant effect on Appellant’s brief, in light of the issues described in Part 1, *supra*.

e. Altered/Removed Citations on Page 10, Second Full Paragraph. (A7)

In this portion of Appellant’s final brief, she again removes a citation to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant’s prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

f. Removed Paragraph, Page 11. (A11)

On Page 11 of Appellant’s Final Brief, Appellant removed a paragraph that should appear between the paragraphs beginning “On September 12, 2017...” and “In January 2018 ...” The paragraph, as appearing in Appellant’s amended initial brief, is as follows:

On December 6, 2017, the Circuit Court denied Appellant’s motion to lift the stay imposed by the appeal, stating:

The orders on appeal here are wide-ranging, [a]ffecting both the inclusion-exclusion of parties to the suit and to the right of the attorneys to represent those parties. [Order filed 12/6/17, p. 2]

(Initial Am. Brief of Appellant, at pp. 13-14.) This removal is significant, because Respondents' counsel cited to this paragraph at the July 1, 2020 Aiken 320 hearing in opposition to Appellant's petition to be appointed as personal representative of Venisha Brown's Estate, and within days Appellant removed the paragraph from her final brief.

g. Removed Paragraph, Page 27. (A21)

On page 27 of Appellant's Final Brief, she removed a paragraph that should appear right before her "ARGUMENT" section. The paragraph, as appearing in Appellant's amended initial brief, reads as follows:

On July 28, 2018 Daryl Brown made an attempt in Aiken County to receive a distribution of assets he put in the Legacy Trust prior to bringing Richland 4900. [Aff. Daryl Brown. 8/28/18]

(Initial Am. Brief of Appellant, at p. 29.) This removal is significant because a court could conclude, in light of the Supreme Court's Order of June 10, 2015, that Appellant has no appropriate interest in James Brown-related distributions sought by any person in 2018.

h. Removed Citation on Page 30, Second Full Paragraph. (A22)

In this portion of Appellant's final brief, she again removes a citation to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

i. Citation Removed on Page 32, First Full Paragraph. (A23)

In this portion of Appellant's final brief, she again removes a citation to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation

to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

j. Citations Removed on Page 32, Fourth Full Paragraph. (A24)

In this portion of Appellant's final brief, she again removes two citations to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

k. Removed Citation on Page 33, First Full Paragraph. (A25)

In this portion of Appellant's final brief, she again removes a citation to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

l. Removed Citation Page 35, Last Paragraph. (A26)

In this portion of Appellant's final brief, she again removes a citation to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

m. Citations Removed from Footnote 16. (A28)

In this footnote to Appellant's final brief, she again removes six citations to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

n. Citations Removed From Page 42, Second Full Paragraph. (A30)

In this portion of Appellant's final brief, she removes a citation to documents that, based on their title alone, indicate that Appellant has been adverse to Venisha Brown concerning discovery matters in the underlying Case 4900. The removed citation is to "[Non-Appearance, Venisha, pp. 1-3, Legacy Tr., pp. 1-3]." Apparently, Appellant is referencing her belief that Venisha Brown's deposition should have been taken in Case 4900 and that Venisha "refused to show up."

Of course, Appellant's petition in Aiken 320 to be appointed personal representative of Venisha Brown's Estate is in extreme conflict with Appellant's posture towards Venisha Brown in Case 4900.

o. Citations Removed from Page 44, Paragraphs Two Through Five. (A31)

In this portion of Appellant's final brief, she again removes eight citations to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

Significantly, this portion of Appellant's brief describes, in Appellant's own words, the extreme discord between Appellants and the individual Respondents in this case, including Venisha Brown.

p. Citations Removed from Page 45. (A32)

In this portion of Appellant's final brief, she again removes three citations to The Supplemental Motion, located at R. p. 996. For the reasons discussed in Part 2.a., *supra*, any removal of a citation to The Supplemental Motion is an apparent attempt to deflect attention away from Appellant's prior conflicts with/attempts to control the Venisha Brown Estate and, by extension, the James Brown Estate.

Conclusion

Appellant's final brief is substantially different than her amended initial brief with respect to thirty-three alterations in the form of cleverly altered citations, removed citations, and removed paragraphs. Any one of these alterations is enough to violate Rule 211(b), yet Appellant has engaged in a multitude of alterations. Regardless of why Appellant did so, there can be no doubt that Appellant has *per se* violated Rule 211(b) by improperly altering her Final Brief. However, the pattern of Appellant's alterations is abundantly clear: Appellant is attempting to disguise her previous attempted meddling in (and conflicts with) the affairs of the Venisha Brown Estate and, by extension, the James Brown Estate. Whether Appellant's conduct is contemptuous of the Supreme Court's June 10, 2015 is properly before the Supreme Court. What is significant are the alterations to her final brief that are meant to (1) disguise Appellant's long history of conflict with Venisha Brown and (2) her disregard of the Supreme Court's July 10, 2015 order.

The remedy provided by Rule 260(a) is straightforward. Also, the Court of Appeals' inherent power to enforce its Rules is axiomatic. Appellant's Final Brief must be stricken and this

appeal dismissed, should this Court deem that Appellant's conduct in this appeal rises to such a level.³ Respondents are also entitled to costs and fees pursuant to Rule 222(a). Respondents respectfully request that the court grant Respondents' motion and put an end to Appellant's abusive litigation practices in this appeal.

Respectfully submitted,

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August 7, 2020

³ Between this appeal and a related appeal (Case No. 2017-001899), Respondents have filed at least 5 Motions to Strike Appellant's filings. 3 have been granted.

CHART 1

| <u>Alteration Reference No. for Chart 2</u> | <u>Page</u> (Initial ; Final) | <u>Initial Amended Brief</u> | <u>Final Brief</u> | <u>Comment</u> |
|---|----------------------------------|---|---|-----------------|
| A1 | 1 at n. 1 ; 1 at n. 1 | <p>¹In this brief and citations to the record, this Case, Richland County Case 2010-CP-40-4900 , may be referred to as "Richland 4900", Richland 4900 Plaintiffs other claimed members of James Brown's family will be referred to by their first names to avoid confusion. The full names of all except grandson Forlando are set out in the R4900 complaint, which may be abbreviated "Comp." [Comp, p.1] R4900 Defendants Robert Buchanan, Jr. and Adele Pope may be reference as "B&P". References to the record may shorten Plaintiffs to "Pl" and Defendant or Defendants to "D," and terms such as motion (Mot) and others may be similarly shortened. R4900 Plaintiff James Brown Legacy Trust is referenced herein as "Legacy Trust;" The Motion to Alter, etc. Ord. Dropping AG as a Party filed 7/19/17 is "Mot. 7/19/17;" Return to Motion to Strike of 11/20/18 is "Mot. 11/20/18; and Supplemental Motion filed 10/30/18 is "Mot. 10/20/18."</p> | <p>¹In this brief and citations to the record, this Case, Richland County Case 2010-CP-40-4900, may be referred to as "Richland 4900". Richland 4900 Plaintiffs other claimed members of James Brown's family will be referred to by their first names to avoid confusion. The full names of all except grandson Forlando are set out in the R4900 complaint, which may be abbreviated "Comp." [R 215] R4900 Defendants Robert Buchanan, Jr. and Adele Pope may be referenced as "B&P". References to the record may shorten Plaintiffs to "Pl" and Defendant or Defendants to "D," and terms such as motion (Mot) and others may be similarly shortened. R4900 Plaintiff James Brown Legacy Trust is referenced herein as "Legacy Trust."</p> | FN is shortened |
| A2 | 2-3 at n. 2; 2 at n. 2 | <p>²Ords, Early, 1/23/17, pp. 1-16 [R., p.]; 1/23/17 (Larry), pp. 1-2 [R., pp.]; 1/24/17, pp. 1-2 [R., pp.]; 2/6/17, pp. 1-2 [R., pp.]; 3/7/17, pp. 1-2; [R., pp.]; 3/9/17, pp. 1-2 (Tommie Rae) [R., pp.]; 3/9/17 (Seal), pp. 1-2; [R., pp.]; 6/6/17, pp. 1-2 [R., pp.]; 12/6/17, pp. 1-5 [R., pp.]; 4/8/16, pp, 1-2 [R., pp.]; 7/15/16, pp. 1-2 [R., pp.]; 7/25/16, pp. 1-2 [R., pp.]; 9/13/16, pp. 1-2 [R. pp.]; 9/21/16; pp. 1-3 [R., pp.]; 11/22/16, p. 1 [R., p.]; 12/27/16, pp. 1-2 [R., pp]; Ords, Mann. 11/8/10 (Venue), pp. 1-6 [R., pp.]; 1/7/11, pp. 1-2 [R., pp.]; 10/5/12, pp. 1-3 [R., pp.]; 7/13/12, pp. 1-2 [R., pp.]; 7/5/12, pp. 1, 3 [no page 2] [R., pp.]; 10/13/15, pp. 1-2 [R., pp.]; 3/2/16, pp. 1-2 [R., pp.].</p> | <p>² See Notice of Appeal on file herein, with exhibits.</p> | FN is shortened |

CHART 1

| | | | | |
|----|---------|---|---|---|
| A3 | 3 ; 3 | The Legacy Trust "[r]eceives all assets, royalties, tangible and intangible property," and distributes income and assets according to its ownership interests. [Pl. Memo Opp. (Venue), 8/27/10, pp. 2, Exhibit A, p. 41][R., pp.] Plaintiff Legacy Trust is 75% controlled by the AG and Tommie Rae, but the AG has the right to remove and replace its trustee, Bauknight, at will. [Memo, Venue, 8/27/10, p. 2][R., p.] Mot., 10/30/18, p. 6 [R.p.] | The Legacy Trust "[r]eceives all assets, royalties, tangible and intangible property," and distributes income and assets according to its ownership interests. [R. 1409] Plaintiff Legacy Trust is 75% controlled by the AG and Tommie Rae, but the AG has the right to remove and replace its trustee, Bauknight, at will. [R. 1409; <i>Wilson</i>] | Citation altered by half |
| A4 | 4 ; 4 | [Bauk, Depos., 8/20/13, pp. 37-38; Ret. 10/29/18, p. 1; Mot., 10/30/18, pp. 1, 9] When Brown's daughter Venisha died in September 2018, her estate became the owner of her 4.79% Legacy Trust share. Mot. 10/30/18, pp 2, 16, 17 [R., pp.] Motions to correct the parties as to these and other | [R. 1467] When Brown's daughter Venisha died in September 2018, her estate became the owner of her 4.79% Legacy Trust share. Motions to correct the parties as to these and other changes were | Citation removed |
| A5 | 6 ; 5 | On May 8, 2013 the Supreme Court voided the AG's settlement in its final decision in <i>Wilson, supra</i> . [Brief dtd. 4/23/09] The decision also voided Bauknight's appointments as Brown's | On May 8, 2013 the Supreme Court voided the AG's settlement in its final decision in <i>Wilson, supra</i> . The decision also voided Bauknight's appointments as Brown's PR/Trustee under | Citation removed |
| A6 | 12; 10 | [Mot. 10/30/18, p. 14] Several Richland 4900 Plaintiffs appealed the order. [<i>Id.</i>] | Several Richland 4900 Plaintiffs appealed the order. See <i>Brown v. Sojourner</i> , S.C. Sup. Ct. Op. No. 27982 (June 17, 2020). | Citation altered to <i>Brown v. Sojourner</i> |
| A7 | 12 ; 10 | On May 8, 2015 the Aiken Court delivered a status report to the Supreme Court at the request of the Court. [Mot. 10/30/18, p. 14] Buchanan and Appellant were not asked to respond and did not. [Mot., 10/30/18, p. 14, Ftn. 4] | On May 8, 2015 the Aiken Court delivered a status report to the Supreme Court at the request of the Court. [R. 1543] Buchanan and Appellant were not asked to respond and did not. | Citations (2) altered/ removed |
| A8 | 12 ; 10 | On October 13, 2015 the Circuit Court again exempted individual Plaintiffs from the October 22 mediation and declined to appoint GALs. [Ord. dtd. 10/13/15, pp. 1, 2] No settlement was reached. [Proof ADR, 10/15, p. 1; Aff. Pope, 3/7/16, pp. 3,4] | On October 13, 2015 the Circuit Court again exempted individual Plaintiffs from the October 22 mediation and declined to appoint GALs. [R. 141-2] No settlement was reached. | Citation removed |
| A9 | 12 ; 10 | By order dated March 2, 2016 the Circuit Court stayed Richland 4900. [Ord. dtd. 3/2/16] Appellant moved for reconsideration. [Mot. Filed 3/8/16; Aff. 3/7/16] | By order dated March 2, 2016 the Circuit Court stayed Richland 4900. [R. 147] Appellant moved for reconsideration. | Citation removed |

CHART 1

| | | | | |
|-----|------------|--|--|--|
| A10 | 13 ; 11 | On September 12, 2017, Appellant appealed the order granting the AG's motion to be dropped; the order preventing the AG's deposition; and other orders. [Notice of Appeal, w/ orders] | On September 12, 2017, Appellant appealed the order granting the AG's motion to be dropped; the order preventing the AG's deposition; and other orders. See Appellate Case No. 2017-001899, pending in this Court. | Citation altered |
| A11 | 13-14 ; 11 | On December 6, 2017, the Circuit Court denied Appellant's motion to lift the stay imposed by the appeal, stating: "The Orders on appeal here are wide-ranging, [a]ffecting both the inclusion-exclusion of parties to the suit and to the right of the attorneys to represent those parties." [Order filed 12/6/17, p. 2] | n/a | paragraph appears in Initial Amended Brief that does not appear in Final Brief |
| A12 | 17 ; 15 | They knew they would have to share termination rights with Tommie Rae if she were Brown's spouse, but there was strong evidence that she was not. [Aff. Pope 8/21/12, pp. 1-5] | They knew they would have to share termination rights with Tommie Rae if she were Brown's spouse, but there was strong evidence that she was not. | Citation removed |
| A13 | 18 ; 16 | the AG's (New) Charity for their education. [2008 Agrmt.] They did it so they would get about \$1 million a year and a quarter of Brown's music empire for themselves. [Aff. B. Bauk, Ex. A, p. 1] | their education. [R. 1311-4] They did it so they would get about \$1 million a year and a quarter of Brown's music empire for themselves. | Citation removed |
| A14 | 19 ; 17 | McMaster would carefully oversee the operation of Plaintiff Legacy Trust and protect the needy student beneficiaries James Brown intended to benefit. [Pl. Memo, 8/27/10, Ex. A, pp. 38-40] in fact, neither then-AG McMaster nor AG Wilson would know anything about Brown's estate plan | McMaster would carefully oversee the operation of Plaintiff Legacy Trust and protect the needy student beneficiaries James Brown intended to benefit. In fact, neither then-AG McMaster nor AG | Citation removed |
| A15 | 19 ; 18 | By September 2009 the AG and settling parties, through Bauknight, were using Brown's fortune to lodge a vitriolic attack on Buchanan and Pope. [Ltr., Buchanan and Pope to Klett; Aff. Pope 6/2/11, pp. 2-6; Aff. Pope 11/8/17, pp. 10-12] The attacks continued until this appeal was filed. [Aff. Pope 11/8/17, pp. 10-12] | By September 2009 the AG and settling parties, through Bauknight, were using Brown's fortune to lodge a vitriolic attack on Buchanan and Pope. [R. 1342-5] The attacks continued until this appeal was filed. | Citation removed |

CHART 1

| | | | | |
|-----|---------|--|---|--|
| A16 | 20 ; 18 | By October 2009, with the stay of Buchanan's and Pope's appeal lifted, and an order preventing their payment for the appeal secured, Bauknight and a dozen lawyers were managing Brown's music empire for the Legacy Trust beneficiaries. [Memo 8/29/16 (Re: Depos, AG)] | By October 2009, with the stay of Buchanan's and Pope's appeal lifted, and an order preventing their payment for the appeal secured, Bauknight and a dozen lawyers were managing Brown's music empire for the Legacy Trust beneficiaries. | Citation removed |
| A17 | 21 ; 19 | 11/5/12, p. 4] The projected cost for this project, already in place pursuant to a March 8, 2008 order, was thousands, not millions, of dollars. [Ord. 3/8/08] | rights. [R. 1477-88; 815-817] The projected cost for this project, already in place pursuant to a March 8, 2008 order, was thousands, not millions, of dollars. | Citation removed |
| A18 | 21 ; 19 | The acknowledged children agreed to stipulate that Tommie Rae was Brown's spouse despite strong evidence to the contrary. [Email, Pope to Levenson, 11/5/12; Depos., Deanna, pp 65-68] They also knew that James was the only claimed child born in the twenty years between Brown's vasectomy and his death and had refuse a paid-for \$300 DNA test. [Email, Pope to Levenson, 11/5/12, p. 4] But they agreed to stipulate that he was an heir. [2008 Agmt.] | The acknowledged children agreed to stipulate that Tommie Rae was Brown's spouse despite strong evidence to the contrary. They also knew that James was the only claimed child born in the twenty years between Brown's vasectomy and his death and had refuse a paid-for \$300 DNA test. But they agreed to stipulate that he was an heir. [R. 1311-4] | Citations (2) removed |
| A19 | 24 ; 22 | In December 2010 the AG and settling parties presented a single brief in <i>Wilson v. Dallas</i> . They did not disclose the \$4.7 million valuation. [Ret. To. Mot. Protective Ord., Ex. A, p. 1] | In December 2010 the AG and settling parties presented a single brief in <i>Wilson v. Dallas</i> . They did not disclose the \$4.7 million valuation. | Citation removed |
| A20 | 24 ; 22 | In 2011 the AG, and Bauknight "on behalf of" the AG, began to accuse Buchanan and Pope | In 2010 the AG, and Bauknight "on behalf of" the AG, began to accuse Buchanan and Pope | Date changed |
| A21 | 29 ; 27 | On July 28, 2018 Daryl Brown made an attempt in Aiken County to receive a distribution of assets he put in the Legacy Trust prior to bringing Richland 4900. [Aff. Daryl Brown. 8/28/18] | n/a | Paragraph appears in Initial Amended Brief that does not appear in Final Brief |

CHART 1

| | | | | |
|-----|---------------------------|--|--|-----------------------|
| A22 | 32 ; 30 | The AG and Bauknight, who claimed to be acting for the "I Feel Good" Trust, had the duty to <i>defend</i> this false claim against Buchanan and Pope - not bring it. [Mot., 10/30, 18, pp. 7 - 17] | The AG and Bauknight, who claimed to be acting for the "I Feel Good" Trust, had the duty to defend this false claim against Buchanan and Pope - not bring it. | Citation removed |
| A23 | 34 ; 32 | millions of dollars for the Legacy Trust and "on behalf of" the AG to continue to attack Buchanan and Pope increased the damage to both Buchanan and Appellant. [Mot. 10/30/18, pp. 9, 16, 19] | millions of dollars for the Legacy Trust and "on behalf of" the AG to continue to attack Buchanan and Pope increased the damage to both Buchanan and Appellant. | Citation removed |
| A24 | 35 ; 32 | The action of SWB and Bauknight claiming to act "on behalf of the AG" was exacerbated by the years spent concealing the SWB contract; interfering in FOIA cases to prevent its release [Mot. 10/30/18, pp. 11, 12, 16]; and standing in the way of a deposition of Governor McMaster, where he would confirm that he did not authorize SWB to file suit in the name of the State/AG or Bauknight to act "on behalf of" the AG. [Mot., 10/30/18, p. 18] | The action of SWB and Bauknight claiming to act "on behalf of the AG" was exacerbated by the years spent concealing the SWB contract; interfering in FOIA cases to prevent its release; and standing in the way of a deposition of Governor McMaster, where he would confirm that he did not authorize SWB to file suit in the name of the State/AG or Bauknight to act "on behalf of" the AG. | Citations (2) removed |
| A25 | 35 ; 33 | concealed his role as he took the opposite position in Federal Court, and, trading on the wide reach of Cannon and Dallas, planted the false Grammy (c) claim with an Atlanta firm. [Mot. 10/30/18, p. 3, n. 2] [R., p.] | concealed his role as he took the opposite position in Federal Court, and, trading on the wide reach of Cannon and Dallas, planted the false Grammy © claim with an Atlanta firm. | Citation removed |
| A26 | 38 ; 35 | statutory requirement that it be brought in Aiken County. The complaint should have been dismissed in 2010. [Mot. 10/30/18, p. 19] | statutory requirement that it be brought in Aiken County. The complaint should have been dismissed in 2010. | Citation removed |
| A27 | 41 at n. 15 ; 38 at n. 15 | ¹⁵ The lower Court's Order Approving Settlement Agreement specifically noted that the "court ha[d] not heard the [removal action] pending the settlement approval." (May 26, 09 Order at 9). | ¹⁵ The lower Court's Order Approving Settlement Agreement specifically noted that the "court ha[d] not heard the [removal action] pending the settlement approval." | Citation removed |

CHART 1

| | | | | |
|--|---|---|---|--|
| <p style="text-align: center;">A28</p> | <p style="text-align: center;">42-43 at n. 16 ; 40 at n. 16</p> | <p>¹⁶Any comparison to the Forlando case is further complicated by the fact that Bauknight's service to the 2000 Trust was declared void by the Supreme Court. [Mot. 10/30/18, p. 11][R., p.]; that he served as agent for Terry Brown from 2010 in Richland 4900, and secretly became the agent for Forlando in January 2011 [<i>Id.</i> at 13][R. p.]; that he condoned Forlando's false statements to Judge Bertelsman in the Forlando Suit, including the false claim that Forlando had no assets, when he owned nearly 1/25 of the 2000 Trust, which had been enhanced from about 1/300 by the Bauknight/Afterman \$79 million devaluation to \$4.7 million. [<i>Id.</i> at 7][R. p.] that Bauknight withdrew the 2000 Trust's claims against Forlando for legal fees for his 4-year attempt to reinstate felon Cannon and his co-trustee Dallas as trustees of the 2000 Trust. [<i>Id.</i> at 13] that in his August 2013 deposition Bauknight claimed that Appellant had "raped" the estate of James Brown' that Terry had not transferred his interest to Forlando; that Appellant was not truthful; and that Forlando had done nothing wrong in his 4-year effort to reinstate Cannon and Dallas as trustees of the 2000 Trust. [<i>Id.</i>] It is further complicated by the fact that Bauknight and SWB continue to act for Forlando/Terry in Richland 4900 after Terry's transfer to Forlando; after John Donsbach, Esq., appeared for Terry/Forlando; and even after Donsbach was "terminated" by Terry/Forlando, a device Terry and Forlando, aligned with Cannon and Dallas, have used to</p> | <p>¹⁶Any comparison to the Forlando case is further complicated by the fact that Bauknight's service to the 2000 Trust was declared void by the Supreme Court; that he served as agent for Terry Brown from 2010 in Richland 4900, and secretly became the agent for Forlando in January 2011; that he condoned Forlando's false statements to Judge Bertelsman in the Forlando Suit, including the false claim that Forlando had no assets, when he owned nearly 1/25 of the 2000 Trust, which had been enhanced from about 1/300 by the Bauknight/Afterman \$79 million devaluation to \$4.7 million; that Bauknight withdrew the 2000 Trust's claims against Forlando for legal fees for his 4-year attempt to reinstate felon Cannon and his co-trustee Dallas as trustees of the 2000 Trust; that in his August 2013 deposition Bauknight claimed that Appellant had "raped" the estate of James Brown' that Terry had not transferred his interest to Forlando; that Appellant was not truthful; and that Forlando had done nothing wrong in his 4-year effort to reinstate Cannon and Dallas as trustees of the 2000 Trust. It is further complicated by the fact that Bauknight and SWB continue to act for Forlando/Terry in Richland 4900 after Terry's transfer to Forlando; after John Donsbach, Esq., appeared for Terry/Forlando; and even after Donsbach was "terminated" by Terry/Forlando, a device Terry and</p> | <p style="text-align: center;">Citations (6) removed</p> |
|--|---|---|---|--|

CHART 1

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|-----|---------|--|---|-----------------------|
| A29 | 44 ; 42 | this action related to the alleged "judicially created conflict" of SWB, which has been sole counsel of record for all Plaintiffs since the commencement of this case. [Ltr. of Gende, dtd. 3/27/13] As | this action related to the alleged "judicially created conflict" of SWB, which has been sole counsel of record for all Plaintiffs since the commencement of this case. As a result of their counsel's | Citation removed |
| A30 | 45 ; 42 | on August 18, 2016. [Mot. Alt, , pp. 3, 4, 5] Other Respondents have refused to show up for properly noticed depositions and others have yet to be scheduled and taken. [Non-Appearance, Venisha, pp. 1-3, Legacy Tr., pp. 1-3] Indeed, discovery in this action was begun anew by Order | Other Respondents have refused to show up for properly noticed depositions and others have yet to be scheduled and taken. Indeed, discovery in this action was begun anew by Order of | Citations (2) removed |

CHART 1

| | | | | |
|-----|------------|---|--|-----------------------|
| A31 | 46-47 ; 44 | <p>Plaintiffs knowingly engaged in the false heirs determination [Mot. 10/30/18, p. 6]; false claims about termination rights [<i>Id.</i>]; false claims about Buchanan and Pope; and other known false representations to the Courts, beginning before the commencement of this action, and continuing until the appeal was filed [<i>Id.</i> , pp. 3, 9, 17]. Buchanan and Appellant were clearly damaged thereby. [<i>Id.</i> , 10, 11, 18] In addition, the fraud on the Supreme Court, following the claimed zero value of Brown's Right of Publicity and Tangible Person Property to the IRS and the securing of an ill-gotten "refund" proximately caused injury to Defendant as required by the Code. [<i>Id.</i> , p. 10, ftn 5] Even innocent former minors have benefitted from the §62-1-106 termination rights and valuation fraud on multiple courts made on their behalf. [<i>Id.</i> at pp. 4, 7,18] Forlando's Federal lawsuit, referenced in a footnote, bears no relation to Richland 4900, except that Forlando and Bell have both engaged in deception in two cases. [<i>Id.</i> at p.9] For example, Forlando has agreed under oath that offers of \$150 Million were available in late 2008 and that the \$4.7 million claim is "bogus" while Bauknight, his (undisclosed) agent in Richland 4900, told the Supreme Court that the \$4.7 million value claim was correct. [<i>Id.</i> at pp. 10, 18] In short, Forlando and Terry have repeatedly defrauded the Court, and been supported and joined in by the Legacy Trust and its Beneficiary Plaintiffs, including with the false Grammy Claim; have benefitted from</p> | <p>Plaintiffs knowingly engaged in the false heirs determination; false claims about termination rights; false claims about Buchanan and Pope; and other known false representations to the Courts, beginning before the commencement of this action, and continuing until the appeal was filed. Buchanan and Appellant were clearly damaged thereby. In addition, the fraud on the Supreme Court, following the claimed zero value of Brown's Right of Publicity and Tangible Person Property to the IRS and the securing of an ill-gotten "refund" proximately caused injury to Defendant as required by the Code. Even innocent former minors have benefitted from the §62-1-106 termination rights and valuation fraud on multiple courts made on their behalf. Forlando's Federal lawsuit, referenced in a footnote, bears no relation to Richland 4900, except that Forlando and Bell have both engaged in deception in two cases. For example, Forlando has agreed under oath that offers of \$150 Million were available in late 2008 and that the \$4.7 million claim is "bogus" while Bauknight, his (undisclosed) agent in Richland 4900, told the Supreme Court that the \$4.7 million value claim was correct. In short, Forlando and Terry have repeatedly defrauded the Court, and been supported and joined in by the Legacy Trust and its</p> | Citations (8) removed |
|-----|------------|---|--|-----------------------|

CHART 1

| | | | | |
|-----|---------|---|---|-----------------------|
| A32 | 47 ; 45 | Trust and its Beneficiary Plaintiffs, including with the false Grammy Claim; have benefitted from the fraud; and Buchanan and Appellant have been damaged. [<i>Id.</i> at 10-18] The AG has joined, with knowledge of its falsity, the false \$4.7 million claim to the Supreme Court and other Courts. [<i>Id.</i> at pp. 10, 11] From January 2011 until after the <i>Wilson</i> decision in 2013 Respondents all secreted from the Court the SWB contract and made false statements about its contents. [<i>Id.</i> at 10-12] | Beneficiary Plaintiffs, including with the false Grammy Claim; have benefitted from the fraud; and Buchanan and Appellant have been damaged. The AG has joined, with knowledge of its falsity, the false \$4.7 million claim to the Supreme Court and other Courts. From January 2011 until after the <i>Wilson</i> decision in 2013 Respondents all secreted from the Court the SWB contract and made false statements about its contents. | Citations (3) removed |
| A33 | 49 ; 46 | Court of the announced intention to reinstate the 2008 settlement. [Status Report, pp. 1-6] The Circuit Court has issued numerous orders which advance the May 29, 2013 announced intention to dismember James Brown's estate plan. [Notice of Appeal, all Exhs.] This has deprived Buchanan | intention to reinstate the 2008 settlement. [R. 1543-5] The Circuit Court has issued numerous orders which advance the May 29, 2013 announced intention to dismember James Brown's estate plan. | Citation removed |

CHART 2

| <u>Alteration Reference No. from Chart 1</u> | <u>Removal of Material Related to Appellant's Conflict with Venisha Brown Estate</u> | <u>Removal of Material In Potential Conflict with Supreme Court's June 10, 2015 Order</u> | <u>Potential Other Violation of Rule 211(b)</u> | <u>Unidentified Reason</u> |
|--|--|---|---|----------------------------|
| A1 | X | X | | |
| A2 | | | X | |
| A3 | X | X | | |
| A4 | X | X | | |
| A5 | | | X | |
| A6 | X | X | | |
| A7 | X | X | | |
| A8 | | | | X |
| A9 | | | | X |
| A10 | | | X | |
| A11 | X | X | | |
| A12 | | | | X |
| A13 | | | | X |
| A14 | | | X | |
| A15 | | | X | |
| A16 | | | X | |
| A17 | | | X | |
| A18 | | | X | |
| A19 | | | X | |
| A20 | | | X | |
| A21 | | X | | |
| A22 | X | X | | |
| A23 | X | X | | |
| A24 | X | X | | |
| A25 | X | X | | |
| A26 | X | X | | |
| A27 | | | X | |
| A28 | X | X | | |
| A29 | | | X | |
| A30 | X | X | | |
| A31 | X | X | | |
| A32 | X | X | | |
| A33 | | | X | |

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

Case No. 2010-CP-40-4900

Appellate Case No. 2018-02229

RECEIVED

Aug 07 2020

SC 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 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 August 7, 2020 I served Respondents' Motion to Strike Appellant's Final Brief and for Other Relief 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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Columbia, South Carolina

August 7, 2020

From: [Gloria Coberly](#)
To: [Charles Carpenter](#); "adam@silvernaillawfirm.com"; [Jeff Smith](#); [Daryl Williams](#); "esmith@scag.gov"; "sjones@scag.gov"
Cc: [Mark V. Gende](#); [Ken B. Wingate](#)
Subject: Russell L. Bauknight, et al. v. Adele J. Pope; Appellate Case No. 2018-02229; Our File: 4077-7389
Date: Friday, August 07, 2020 2:33:00 PM
Attachments: [Respondents' Motion to Strike Appellant's Final Brief and for Other Relief.pdf](#)
[Chart 1.pdf](#)
[Chart 2.pdf](#)
[Letter to Clerk of Court.pdf](#)

Dear Counsel:

Attached please find a motion, which is being e-filed with the Court of Appeals today.

Sincerely,
Gloria Coberly



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Aug 07 2020
SC Court of Appeals

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Aug 07 2020

SC Court of Appeals

August 7, 2020

Reply to: Main Office

Mark V. Gende
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mvg@swblaw.com

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

Re: *Russell L. Bauknight, et al. v. Adele J. Pope*
Appellate Case No. 2018-02229
Our File: 4077-7389

Dear Ms. Kitchings:

Enclosed please find our firm's check for \$50.00, which represents the motion filing fee of Respondents' Motion to Strike Appellant's Final Brief and for Other Relief, which was e-filed on August 7, 2020.

Sincerely,

SWEENEY, WINGATE & BARROW, P.A.



Mark V. Gende

MVG/gpc
Enclosure
cc: Counsel of Record