

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Sep 18 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.

PETITION FOR A RULE TO SHOW CAUSE

Introduction

On August 21, 2020, Appellant was ordered to submit an amended final brief that complied with Rule 211(b), SCACR. (*See* Order, attached hereto as **Exhibit A.**) Appellant failed to do so, submitting an Amended [Final] Brief replete with uncorrected omissions. (*See* Amended [Final] Brief of Appellant, filed September 9, 2020.) Therefore, Respondents¹ petition this Court to issue a Rule to Show Cause to Appellant, to show cause as to why she should not be held in contempt for violating the Court's order. Should the Court find Appellant in contempt, Respondents request sanctions commensurate with Respondents' attorneys' fees in this appeal, and such other sanctions as the court deems appropriate. Respondents also request dismissal of this appeal as a sanction.²

Applicable Law

“All courts have the inherent power to punish for contempt, which ‘is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.’” *Ex parte Cannon*, 385 S.C. 643, 660, 685 S.E.2d 814, 824 (2009) (quoting *Miller v. Miller*, 375 S.C. 443, 453, 652 S.E.2d 754, 759 (Ct. App. 2007)). “Contempt results from the willful disobedience of a court order, and before a court may find a person in contempt, the record must clearly and specifically reflect the contemptuous conduct.” *Id.* (quoting *Widman v. Widman*, 348 S.C. 97, 119, 557 S.E.2d 693, 705 (Ct. App. 2001)).

“A willful act is one done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be

¹ As used herein, “Respondents” refers to all Respondents save the Attorney General’s Office, which is separately represented.

² This Petition is filed without prejudice to Respondents’ Motion to Strike Appellant’s Amended [Final] Brief, Renewed Motion to Dismiss, and Motion for Fees and Costs (filed September 18, 2020).

done; that is to say, with bad purpose either to disobey or disregard the law.” *Cannon, supra*, at 661, 685 S.E.2d at 824 (quoting *Miller, supra*, at 454, 652 S.E.2d at 759-60) (internal punctuation omitted). “Once the moving party has made out a prima facie case for contempt, the burden then shifts to the respondent to establish his defense and inability to comply with the order.” *Id.* (quoting *Miller* at 454, 652 S.E.2d at 760).

“[C]ivil contempt must be proven by clear and convincing evidence...” *Cannon, supra*, at 661, 685 S.E.2d at 824 (citing *Poston v. Poston*, 331 S.C. 106, 113, 502 S.E.2d 86, 89 (1998)). In cases of civil contempt, “the punishment is remedial and for the benefit of the complainant.” *Id.* at 662, 685 S.E.2d at 824.

One sanction for civil contempt is for a fine paid to the complainant: “[c]ourts may also impose fines on a party held in contempt.” *Cannon, supra*, at 668, 685 S.E.2d at 827 (citing *Cheap-O’s Truck Stop, Inc. v. Cloyd*, 350 S.C. 596, 609, 567 S.E.2d 514, 520 (Ct. App. 2002)). “A fine may also be ‘remedial and civil if paid to the complainant even though the contemnor has no opportunity to purge himself of the fine.’” *Id.* (quoting *Miller, supra*, at 457, 652 S.E.2d at 761). “[A]ny component of a sanction must be directly related to the contemptuous conduct and the loss incurred by the offended party.” *Id.* (quoting *Cheap-O’s Truck Stop* at 609, 567 S.E.2d at 520).

Another sanction for civil contempt is an award of attorneys’ fees: “[c]ourts, by exercising their contempt power, can award attorneys’ fees under a compensatory contempt theory.” *Cannon, supra*, at 667, 685 S.E.2d at 827 (quoting *Cheap-O’s Truck Stop, supra*, at 609, 567 S.E.2d at 520) (internal quotation marks omitted). “The award of attorneys’ fees is not a punishment but an indemnification to the party bringing the action.” *Id.* (citing *Miller, supra*, at 463, 652 S.E.2d at 764-65).

Finally, an appellant whose filings fail to follow the SOUTH CAROLINA APPELLATE COURT RULES is subject to having her appeal dismissed. *See* Rule 260(a), SCACR; *see also* Rule 211(b), SCACR.

Argument

Appellant is in direct and/or constructive contempt of this Court's Order of August 21. The order struck Appellant's Final Brief and ordered her to file another one that complied with Rule 211(b), SCACR:

Respondents' motion to strike Appellant's final brief is granted. *See* Rule 211(b), SCACR (providing the final brief shall be identical to the initial brief except for the addition of references to the record and the correction of typographical errors). Appellant shall serve and file a final brief that complies with Rule 211(b), SCACR, within twenty days of this order.

(Exhibit A.) This Order came about as a result of Respondents' Motion to Strike Appellant's Final Brief and For Other Relief, filed on August 7, 2020 and incorporated by reference herein in its entirety. This Motion was premised upon the presence of at least 33 alterations between Appellant's Amended Initial Brief (filed August 5, 2019) and Appellant's Final Brief (filed July 6, 2020). (*See Chart 1* to Respondents' Motion to Strike and for Other Relief (supplemental copy attached hereto as **Exhibit B**.) Such alterations are an express violation of Rule 211(b), SCACR. Several of the alterations take the form of deleted citations. (*Id.* at **Chart 1**.) Appellant's Amended [Final] Brief still omits a number of citations that should have been included. (*Compare, e.g.,* Amended Initial Brief of Appellant at pp. 46-7 *with* Final Brief of Appellant at p. 44 *and* Amended [Final] Brief of Appellant at p. 45.) Specifically, Appellant has failed to correct the alterations noted at **Chart 1** Reference Nos. A5, A7, A8, A9, A18 (partial), A28 (partial), A31, A32, and A33.

The record in this case is clear, convincing, and unambiguous. Appellant chose to submit an Amended [Final] Brief that falls well short of the requirements of the August 21 Order. Further,

counsel believes Appellant's willfulness is demonstrated by Appellant's attempt to obtain Respondents' counsel's ratification of her defective Amended [Final] Brief prior to submitting it. *See* email exchange, attached hereto as **Exhibit C**. Appellant's counsel asked Respondent's counsel to ratify the brief at 3:33 pm on September 8, the day before the brief was formally served. (*Id.*) At 8:59 am on September 9, Respondents' counsel respectfully notified Appellant that counsel would not prospectively review Appellant's brief. (*Id.*) Appellant then served her defective Amended [Final] Brief at 2:25 pm on September 9. The email of 3:33 pm on September 8 served no purpose other than to invite Respondents' counsel to do what the Court had ordered Appellant to do: correct her brief and bring it into conformity with Rule 211(b). Simply stated, Appellant chose to email Respondents' counsel about the brief, when Appellant should have simply fixed the brief in accordance with the Court's Order. It is reasonable to conclude that because Appellant sought to shift the burden of compliance with the Court's order—and then proceeded to file a brief that did not comply—Appellant did not intend to comply with the Court's order in the first place.

Conclusion

Appellant has willfully failed to comply with a court order. Respondents request that the Court issue a Rule to Show Cause to Appellant. Respondents request that the Court hold Appellant in contempt and award sanctions against Appellant, to include attorneys' fees and any other sanction deemed appropriate by the Court. If requested by the Court, Respondents' counsel will submit an affidavit of attorneys' fees related to this appeal. Respondents request the additional sanction of dismissal of this appeal. *See* Rule 260(a), SCACR.

Signature block on following page.

Respectfully submitted,

s/ Mark V. Gende

Kenneth B. Wingate, S.C. Bar No. 8004

Mark V. Gende, S.C. Bar No. 72835

Sweeny, Wingate & Barrow, P.A.

1515 Lady Street (29201)

Post Office Box 12129

Columbia, South Carolina 29211

(803) 256-2233

kbw@swblaw.com

mvg@swblaw.com

ATTORNEYS FOR RESPONDENTS

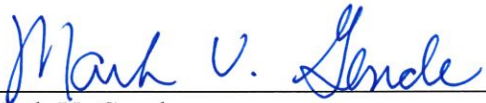
Columbia, South Carolina

September 18, 2020

VERIFICATION

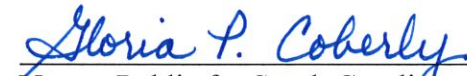
The foregoing Petition, and the facts stated therein, are true to the best of my knowledge, information, and belief. I am over 18 years of age and competent to testify concerning matters in this Petition. I am counsel of record for Respondents in the above-captioned appeal and the underlying civil action.

FURTHER AFFIANT SAYETH NOT.



Mark V. Gende

SWORN TO and subscribed before me
this 18th day of September, 2020.



Notary Public for South Carolina
My Commission Expires: 4/24/2022

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,

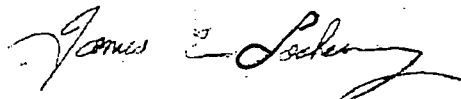
Of whom Adele J. Pope is the Appellant.

Appellate Case No. 2018-002229

ORDER

Appellant's "petition for an order lifting automatic stay" is denied.

Respondents' motion to strike Appellant's final brief is granted. *See* Rule 211(b), SCACR (providing the final brief shall be identical to the initial brief except for the addition of references to the record and the correction of typographical errors). Appellant shall serve and file a final brief that complies with Rule 211(b), SCACR, within twenty days of this order. Respondents' motion to dismiss this appeal and for costs and fees is denied.



FOR THE COURT

Columbia, South Carolina

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

FILED
Aug 21 2020

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

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|----|---------|---|---|---|
| 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

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|-----|------------|--|--|--|
| 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

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|-----|---------|--|---|--|
| 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

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|-----|---------------------------|--|--|-----------------------|
| 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

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|-----|------------------------------|---|---|-----------------------|
| A28 | 42-43 at n. 16 ; 40 at n. 16 | <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> | Citations (6) removed |
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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

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| 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

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| 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 |

From: [Adam Silvernail](#)
To: [Mark V. Gende](#)
Cc: [Ken B. Wingate](#); [Aaron J. Hayes](#); [Adele Pope](#); [Charles Carpenter](#); [Daryl Williams](#); [Jeff Smith](#)
Subject: Re: Bauknight v. Pope, Appellate Case No. 2018-2229
Date: Wednesday, September 09, 2020 9:47:38 AM

Dear Mark:

I am disappointed that you find my invitation to avoid needless motions practice to be a 'burden.' As you recall, you sifted through our previous brief to locate every single change; made no attempt at contacting me or any other counsel for Mrs. Pope to resolve the issues; and filed a motion 30 days later, accusing us of an elaborate scheme to manipulate the Court of Appeals by omission of certain citations to a document which was still cited multiple times in the brief.

Because we anticipate that you will once again carefully review our brief to see if you can find any matter with which to take issue, I thought we might be united in allowing that review prospectively, rather than burdening your clients, mine, and especially the Court with another completely avoidable round of motions practice. Given your unwillingness to collaborate, however, I will proceed with filing and serving the brief; I trust you will find upon your later review that it addresses all points noted in your motion.

Take care.

Adam

On Wed, Sep 9, 2020 at 8:59 AM Mark V. Gende <MVG@swblaw.com> wrote:

Adam:

I decline your invitation to shift the burden for the integrity of your brief from yourself and the other attorneys working on this matter for Mrs. Pope to us.

Mark V. Gende, Esq.

Sweeny, Wingate, & Barrow, PA

1515 Lady Street

Columbia, South Carolina 29201

803.256.2233 – Phone

803.256.9177 – Facsimile

From: Adam Silvernail <adam@silvernailfirm.com>

Sent: Tuesday, September 08, 2020 3:33 PM

To: Mark V. Gende <MVG@swblaw.com>; Ken B. Wingate <KBW@swblaw.com>

Subject: Bauknight v. Pope, Appellate Case No. 2018-2229

Dear Mark and Ken:

Attached please find a PDF of our Amended Final Brief. I ask that you confirm everything addressed in your motion to strike has been addressed, so that we can put this matter to bed.

Note that there are a handful of citations from the initial brief to documents which did not end up in the Record, possibly because of the same issue which led to the incorrect final brief in the first place. I have reverted those to the original references.

These items were included in your chart but unmentioned in your motion, which appears primarily preoccupied with the omitted references to the Supplemental Motion.

I intend to file this before the close of business tomorrow, so I ask that you let me know if you see any issue before 4 o'clock tomorrow.

Adam

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Law Office of Adam T. Silvernail, LLC

1905 Marion Street (29201)

Post Office Box 7995

Columbia, South Carolina 29202-7995

803/779-1770

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Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
803/779-1770

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Sep 18 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 September 18, 2020 I served Respondents' Petition for a Rule to Show Cause (Verified) 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:

Charles E. Carpenter, Jr., Esquire
Carpenter Appeals & Trial Support, LLC
4825 Portobello Road
Columbia, SC 29206
(803) 758-2886
charlie.ceclaw@gmail.com

Adam T. Silvernail, Esquire
Law Office of Adam T. Silvernail, LLC
P. O. Box 7995
Columbia, SC 29202
(803) 779-1770
adam@silvernailfirm.com

William Jeffrey Smith, Esquire
1216 Crenshaw Street
Newberry, SC 29108
wjstv@mindspring.com

Daryl L. Williams, Esquire
Gertz & Moore, LLP
1416 Laurel St.
Columbia, SC 29202
(803) 252-1524
dwilliams@gertzandmoore.com

Attorneys for Appellant

J. Emory Smith, Jr., Esquire
Clyde H. Jones, Jr., Esquire
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211
(803) 734-3596
esmith@scag.gov
sjones@scag.gov

**Attorneys for Respondent
Attorney General**

s/ Mark V. Gende
Mark V. Gende, SC Bar No. 72835
Kenneth B. Wingate, SC Bar 8004
SWEENEY, WINGATE & BARROW, P.A.
1515 Lady Street
Columbia, SC 29211
(803) 256-2233
mvg@swblaw.com
kbw@swblaw.com

Columbia, South Carolina
September 18, 2020



SWEENEY WINGATE & BARROW P.A.

September 18, 2020

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x7121
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

RECEIVED

Sep 18 2020

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find our firm's check for \$100.00, which represents the motion filing fees of Respondents' Motion to Strike Appellant's Amended [Final] Brief, Renewed Motion to Dismiss, and Motion for Costs and Fees; and Petition for a Rule to Show Cause, both of which were e-filed on September 18, 2020.

Sincerely,

SWEENEY, WINGATE & BARROW, P.A.



Mark V. Gende

MVG/gpc

Enclosure

cc: Counsel of Record