

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge
The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2010-CP-40-4900

Appellate Case No. 2018-02229

Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

and

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. II; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents,
v.

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

of whom Adele J. Pope is the Appellant.

**RESPONDENTS' REPLY TO APPELLANT'S CONSOLIDATED RETURN TO
RESPONDENTS' MOTION TO STRIKE AMENDED [FINAL] BRIEF AND FOR
OTHER RELIEF AND PETITION FOR RULE TO SHOW CAUSE**

Appellant’s “Consolidated Return to Sweeny, Wingate & Barrow, P.A.’s Motion to Strike Appellant’s Amended [Final] Brief and For Other Relief and Petition for Rule to Show Cause” (hereinafter “Return”) is inaccurate, omits the wider context, and misstates important elements.

I. APPELLANT’S RETURN IGNORES APPELLANT’S HABIT OF ABUSIVE LITIGATION PRACTICES.

a. The Broader Context of Appellant’s Conduct.

Respondents’¹ Petition and Motion were not filed in a vacuum. The Petition and Motion are filed against the backdrop of *two* admonishing orders from the Supreme Court directed to Appellant. Further, the Petition and Motion culminate a series of motions filed to address Appellant’s improper litigation practices in this appeal and a related appeal.²

In the first supreme court order, Appellant was enjoined from frivolous motions and appeals in Estate of James Brown matters in which she had no standing. (*See* Supreme Court Order, June 15, 2015 (attached hereto as **Exhibit A**.) In the second supreme court order, Appellant was admonished for *attempting to become the personal representative of James Brown’s daughter’s estate*, effectively seeking to become both the defendant and a plaintiff in Case 4900 and the appellant and a respondent in this appeal. (*See* Supreme Court Order, August 10, 2020 (attached hereto as **Exhibit B**.) The August 10 order is a contempt petition being held in abeyance pending Appellant’s compliance. (*Id.*)

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

² This case derives from the same underlying civil action as another appellate case, Case No. 2017-001899 (“Case 1899”). This Court recently decided Case 1899 in Respondents’ favor. *See* Op. No. 2020-UP-216, refiled September 16, 2020. Case 1899 also involved a series of motions filed by Respondents related to Appellant’s litigation tactics.

As detailed by Russell Bauknight, current personal representative of the Estate of James Brown and trustee of the 2000 Irrevocable Trust, Appellant's history of abusive litigation tactics against the Estate have had real, significant consequences for the Estate's plan to fund scholarships. (*See* Affidavit of Russell Bauknight, October 1, 2020 (attached hereto as **Exhibit C**); *see also* Affidavit of J. David Black, October 1, 2020 (attached hereto as **Exhibit D**).

In this appeal, this Court (1) struck Appellant's Initial Brief because of irrelevant, unsupported statements; (2) struck Appellant's first Designation of Matter because of numerous documents listed that were not presented to lower court; (3) struck Appellant's first Record on Appeal because it contained over 100 non-designated documents or documents not presented to the lower court; and (4) struck Appellant's first [Final] Brief because it contained at least 33 alterations in violation of Rule 211(b). Due to court orders faulting her conduct, Appellant has been required to file two Initial Briefs, two Designations of Matter, two Records on Appeal, and now three Final Briefs.³

It is disingenuous for Appellant to claim that Respondents (or their counsel) have somehow engaged in unprofessional or improper practices. It is Appellant who has a demonstrable habit of improper litigation practices.

b. The Immediate Context of Appellant's Conduct.

This Court's August 21, 2020 Order required Appellant to conform her final brief to Rule 211(b), SCACR within 20 days. The instant Motion and Petition are based on Appellant's admitted failure to comply with the August 21 order. (*See* Section III, *infra*.) Any other issue raised by

³ Appellant's third version of her final brief, titled "Corrected Final Brief of Appellant," was filed with her Return to the instant Motion/Petition.

Appellant, either in her Return or the supporting Affidavits filed on her behalf, is a distraction from this simple issue. Appellant was given an order and did not follow it.

Appellant argues her lack of compliance is innocent, innocuous, and inconsequential, amounting to a mere embarrassing oversight. Respondents' counsel argues Appellant's conduct is but another example in a long line of willful failure to comply with the rules of the court and now an order. Therefore, both the broad and immediate context of Appellant's conduct are undeniable evidence that her actions are, at best, grossly negligent to the point of willful and intentional. At worst, her actions are overtly willful and intentional.

II. APPELLANT'S RETURN AND SUPPORTING DOCUMENTATION INCORRECTLY FOCUS ON HER LEAD COUNSEL.

Appellant's Return consists of a consolidated memorandum and is accompanied by five affidavits (one of which contains an additional three affidavits as exhibits). These documents incorrectly focus on Appellant's lead counsel. Respondents' Motion and Petition are directed at the conduct of Appellant, not her lead attorney or her other supporting attorneys. Appellant's Return and affidavits suggesting the Motion and Petition are an attack on Appellant's counsel are inaccurate, as shown by a simple reading of the words of the Motion and Petition.

a. Affidavit of [Appellant] Adele J. Pope, Esq.

Notably, Appellant takes full responsibility for the actions of her attorneys. (Affidavit of Adele J. Pope, September 25, 2020, at ¶ 6.) Appellant then proceeds to launch into an irrelevant, self-serving version of the history of this case and related cases. Appellant also attaches Exhibits A, B, C, and [sic] F to her Affidavit. These exhibits are affidavits themselves, of Wallace Lightsey, Daniel Speights, and W. Jeffrey Smith.

Appellant’s Affidavit and exhibits are a perfect example of the type of litigation tactics that Respondents have been battling for years: a confusing, chaotic web of extraneous self-serving statements, exhibits upon exhibits, references to other cases, and affidavits. (*See Amended Record on Appeal, passim.*) Appellant herself, via her Return and exhibits, demonstrates the heart of Respondents’ contention: Appellant does not show regard for even the most basic rules of trial and appellate litigation.

b. Affidavit of Adam T. Silvernail, Esq.

Mr. Silvernail’s Affidavit details, among other things, a recent health issue he experienced. Respondents’ counsel reiterate that they sympathize with Mr. Silvernail’s condition and have always been ready to work with Mr. Silvernail concerning that issue. Respondents respectfully note that the instant Motion and Petition are based on this Court’s August 21, 2020 Order, not the events of previous years. Therefore, his health issue is irrelevant to the Motion and Petition.

Ironically, Mr. Silvernail states that this case involves “masses of procedural motions and ‘gotcha’ litigation.” (Aff. of Adam T. Silvernail, Sept. 25, 2020, at ¶ 11.) One look at the four-volume (initially five-volume) Record on Appeal in the instant case reveals the source for the “masses” of documents: Appellant. Almost everything Respondents have done in this appeal has been just that: a *response* to Appellant’s actions.

c. Affidavit of Charles E. Carpenter, Jr., Esq.

Mr. Carpenter’s Affidavit is premised on a fundamental misapprehension of Respondents’ Motion and Petition. Mr. Carpenter calls this a motion “to hold Adam Silvernail in Contempt.” (Affidavit of Charles E. Carpenter, Jr., September 25, 2020, at ¶ 7.) Respondents have made no such motion. Respondents’ Motion and Petition are directed to Appellant, not her attorneys.

Mr. Carpenter also takes issue with Respondents’ “repeated seeking of harsh sanctions for non-violations of rules.” (*Id.* at ¶ 14.) Respondents note that the Court has repeatedly stricken Appellant’s filings in this appeal for rules violations, and that the supreme court has issued two extraordinary orders concerning her conduct. (*See* Section I.a., *supra.*) Mr. Carpenter’s Affidavit should be discounted by the Court.

d. Affidavit of Daryl Williams, Esq.

The Affidavit of Daryl Williams is founded upon the same erroneous principle as Mr. Carpenter’s Affidavit. (*See* Affidavit of Daryl Williams, filed September 25, 2020, at final paragraph.) Respondents make no motion or petition with respect to Mr. Silvernail. Mr. Williams’s Affidavit should be discounted by the Court.

e. Affidavit of Thomas Pope III, Esq.

To Respondents’ knowledge, Mr. Pope, Appellant’s spouse, is not involved in this appeal or the underlying civil action. Mr. Pope’s Affidavit also references extraneous information. Mr. Pope’s Affidavit should be discounted by the Court.

III. APPELLANT’S ATTEMPTS TO JUSTIFY HER NON-COMPLIANCE ARE WHOLLY INADEQUATE.

Appellant does not deny that her Amended [Final] Brief fails to comply with the Court’s Order of August 21, 2020. (*See* Appellant’s Consolidated Return, filed September 25, 2020, at pp. 2-3.) Rather, Appellant again seeks to excuse her rules and order violations. (*Id.*, *passim.*) Appellant’s excuses and Respondents’ rebuttals are as follows:

- Appellant asserts certain citations were not re-inserted because they were to documents not included in the Record on Appeal. (*See* Return at pp. 2-3.)

Respondents assert that this is nothing more than an improper attempt to improve Appellant’s brief. A court, in reviewing a final brief, is entitled to see that a party is relying on documents outside the record, because such reliance on non-included material bolsters the opposing party’s position.

- Appellant asserts a certain citation was “redundant” in Appellant’s opinion and was therefore voluntarily excluded from the Amended [Final] Brief. (*See* Return at p. 3, first paragraph.) Respondents note that Appellant was ordered to comply with Rule 211(b). If a citation was in the initial amended brief, it should remain in the final brief.
- Appellant asserts that large swaths of removed citations were not corrected by Appellant, due to Appellant’s alleged failure to read the entirety of Chart 1 to Respondent’s original Motion to Strike Appellant’s [Final] Brief. (*See* Return at p. 3.) Respondents note that it was the Court’s granting of this Motion to Strike Appellant’s [Final] Brief that generated the Court’s Order of August 21, 2020. Therefore, Appellant was on notice—from the Court itself—that Appellant’s deficient [final] brief had to be revised. Appellant’s alleged failure to have the entirety of “Chart 1” at her disposal is unpersuasive, since all of the deficiencies noted by Respondents were also addressed in the body of Respondents’ original Motion to Strike Appellant’s [Final] Brief. (*See* Respondents’ Motion to Strike Appellant’s Final Brief and For Other Relief, filed Aug. 7, 2020, at pp. 11-12.)
- Appellant asserts that Respondents’ counsel somehow acted improperly in declining Appellant’s “preview” invitation of Appellant’s Amended [Final] Brief. Appellant contends that the email exchange, attached at Exhibit B to the instant

Motion, absolves Appellant of her responsibility to comply with the Court's August 21, 2020 Order because she offered her Amended [Final] Brief for Respondents' counsel's review prior to filing. (*See* Return at p. 4.)

Appellant has four attorneys, and is an attorney herself. Respondents should not have to bear the expense of proofreading an opposing party's brief. Ensuring compliance with a court order is not a matter to be relegated to opposing counsel under the moniker of alleged "professional courtesy." Appellant is doing exactly what Respondents' counsel anticipated—trying to use the email exchange to absolve herself of responsibility to comply with the Court's order.

- Appellant contends that Respondents have failed to show Appellant's "willful" violation of the Court's Order. As noted above, the email exchange attached to the instant Motion and Petition is evidence of willfulness: Appellant invited Respondents to ratify her [now] admittedly defective brief prior to filing. Furthermore, as argued in Section I, *supra*, the total context of Appellant's actions in this appeal evidence willfulness and intention.
- Finally, Appellant attaches to her Return a "Corrected Final Brief of Appellant," and ask that the Court accept this brief as filed. If the court were to do so, it would be her fifth brief in this appeal. The prejudice to Respondents is clear.

IV. CONCLUSION: RESPONDENTS RESPECTFULLY REQUEST THAT THIS COURT GRANT THEIR MOTION AND PETITION.

Respondents do not file their Motion and Petition lightly. Respondents are responding to a demonstrable habit of rule-breaking and abusive litigation by Appellant. "The right of appeal is a matter of grace and is not an inherent or vested right . . . [t]he rules of court and statutes must be followed in perfecting an appeal." *McCullough v. McCullough*, 242 S.C. 108, 110, 130 S.E.2d 77,

78 (1963) (citations omitted). Appellant, an attorney, is the one responsible for her rules violations. Appellant's Return and supporting documentation fails to account for Appellant's conduct. Appellant's improper conduct has real-world consequences. (*See Exhibits C and D.*)

Respondents respectfully request that this Court grant Respondents' Petition and issue a Rule to Show Cause. Respondents also respectfully request that Court grant the Motion to Strike the Amended [Final] Brief, the Renewed Motion to Dismiss, and the Motion for Fees and Costs.

Respectfully submitted,

s/ Mark V. Gende

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

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

Aaron J. Hayes, S.C. Bar No. 100114

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ATTORNEYS FOR RESPONDENTS

Columbia, South Carolina

October 2, 2020

Exhibit A

The Supreme Court of South Carolina

Ex parte: Adele J. Pope, Appellant,

In re: Estate of James Brown, a/k/a James Joseph
Brown, Respondent.

Appellate Case No. 2013-001649

and

Adele J. Pope, Appellant,

v.

Estate of James Brown, Deceased; The James Brown
2000 Irrevocable Trust; Russell L. Bauknight,
Individually, as former Executor de son tort, and in every
current and former fiduciary status claimed or held as to
the Estate of James Brown and The James Brown 2000
Irrevocable Trust, Respondents,

and

Robert L. Buchanan, Jr., Interested Party.

Appellate Case No. 2014-000250

and

Alan Wilson, in his Capacity as Attorney General of South Carolina;
and others, Plaintiffs,

v.

Albert H. Dallas and others, Defendants,

Of whom Adele J. Pope, Individually and on behalf of Others under
South Carolina Trust Code Section 62-7-405, is Petitioner,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and Tommie Rae Hynie are Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested Persons.

In Re: The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d August 1, 2000.

Appellate Case No: 2014-001279

and

Alan Wilson, in his capacity as Attorney General of the State of South Carolina, Daryl J. Brown, on behalf of his minor children, Lindsey B. and Janise B., Deanna J. Brown Thomas, on behalf of her minor child, Jason L., Yamma N. Brown, on behalf of her minor children, Sydney L. Carrington L., and Tonya B., Vanisha Brown, Larry Brown, Tommie Rae Hynie Brown, James B., through his Guardian ad Litem, Respondents,

v.

Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, Adele J. Pope and Robert L. Buchanan, Jr., Personal Representatives of The Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N. M. Paris, LaRhonda Petitt, Jeanette Mitchell and Russell L. Bauknight, as Special Administrator and Special Trustee for The Estate of James Brown and The James Brown 2000 Irrevocable Trust, Defendants, of whom Robert L. Buchanan, Jr. and Adele J. Pope, as Personal Representatives of The Estate of James Brown and Trustees of The James Brown 2000 Irrevocable Trust are, Appellants, and Albert H. Dallas,

Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of The James Brown 2000 Irrevocable Trust, Terry Brown, Romunzo Brown, Forlando Brown, Cinnamon N. M. Paris, LaRhonda Pettitt, Jeanette Mitchell and Russell L. Bauknight, as Special Administrator and Special Trustee for The Estate of James Brown and The James Brown 2000 Irrevocable Trust are, Respondents.

In re: The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d August 1, 2000.

Appellate Case No. 2009-142286

ORDER

By order dated February 19, 2015, this Court stayed all proceedings in the Aiken County Circuit Court involving the Estate and Trusts of James Brown and the marital status of Tommie Rae Hynie a/k/a Tommie Rae Brown. We hereby lift that stay.

This Court greatly appreciates the attention the Honorable Doyet A. Early, III, has paid to the management of these complicated and contentious matters and expects the actions in the circuit court to continue as expeditiously as possible as set forth in the status report and in accordance with this Court's opinion in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Judge Early shall order payment of any personal representative and trustee distributions that have been finally determined.

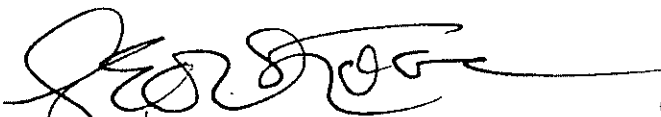
Adele J. Pope has filed a motion seeking confirmation that the stay does not affect Richland County cases in which she is involved. Because we lift the stay, we deny Pope's motion as moot.

In addition, Pope has filed a motion to reopen another case involved in the Estate and Trust. In that case, the Court of Appeals dismissed Pope's appeal because she was not an aggrieved party. This Court denied Pope's petition for a writ of certiorari, and the remittitur was sent on October 28, 2014. We deny Pope's motion to reopen the case because this Court no longer has jurisdiction over the matter. *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893) (the appellate court has no

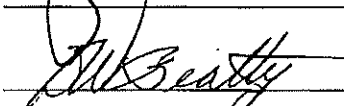
jurisdiction in a matter when the remittitur was properly sent).

By opinions filed simultaneously with this order, we affirmed Pope's appeals in Appellate Case Nos. 2013-001649 and 2014-000250. David C. Sojourner, Jr. has filed a motion to intervene in those appeals. Based on the affirmance of the circuit court's orders, we deny the motion to intervene as moot.

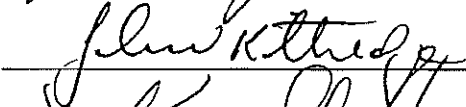
Pope is hereby prohibited from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, such as the above actions, in which she clearly has no standing. We caution Pope that continued attempts to involve herself in the resolution of the Estate and Trust may result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




C.J.



J.



J.



J.

Pleicones, J., not participating

Columbia, South Carolina

June 10, 2015

cc:

Adele J. Pope, Esquire
Eugene C. Covington, Jr., Esquire
Robert N. Rosen, Esquire
Albert P. Shahid, Jr., Esquire
William W. Wilkins, Esquire
J. David Black, Esquire
Fred Lewis Kingsmore, Jr., Esquire
Burl F. Williams, Esquire
John Andrew Donsbach, Sr., Esquire

Corey Ty Landon Smith, Esquire
David G. Cannon
James B. Richardson, Jr., Esquire
David Lawrence Michel, Esquire
Tressa T.H. Hayes, Esquire
Louis Levenson, Esquire
Robert D. Cook, Esquire
S. Alan Medlin, Esquire
Alan McCrory Wilson, Esquire
T. Heyward Carter, Jr., Esquire

Exhibit B

The Supreme Court of South Carolina

In the Matter of Adele Jeffords Pope, Respondent.

Appellate Case No. 2020-000764

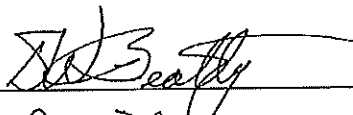
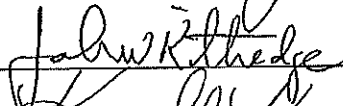
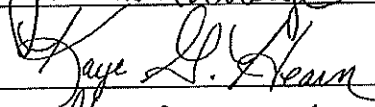
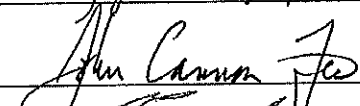
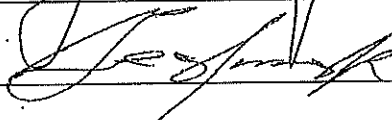
ORDER

The Honorable Clifton Newman presided over a hearing on a petition by Deanna Brown-Thomas seeking to be appointed personal representative of the estate of her sister, Venisha Brown, both daughters of James Brown. Respondent answered the petition as a creditor, and subsequently filed several motions, including a motion to have herself named as the personal representative of Venisha Brown's estate. Counsel for Deanna Brown-Thomas moved to hold Respondent in contempt of this Court's order dated June 10, 2015. In that order, this Court prohibited Respondent from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, in which she clearly has no standing, and cautioned Respondent that continued attempts to involve herself in the resolution of the Estate and Trust of James Brown may result in contempt charges. Judge Newman did not rule on the motion for contempt, but asked this Court to determine whether Respondent's action seeking to have herself named as personal representative of Venisha Brown's estate violates this Court's order dated June 10, 2015.

Upon request from the Clerk of Court, Mark V. Gende, counsel for Venisha Brown's estate, provided the Court with an affidavit to support the request for a finding of contempt. *See Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 267, 442 S.E.2d 611, 617 (1994) (stating charges of constructive contempt are brought by a rule to show cause which must be based upon an affidavit or verified petition). This affidavit asserts that Respondent's actions are in violation of the June 10, 2015 order.

We decline to issue a rule to show cause at this time and hold that request in abeyance pending Respondent's future compliance with this order and our order dated June 10, 2015. We direct Respondent to cease all attempts to become involved in the estate of Venisha Brown. In addition to having no standing in

appeals or actions involving the Estate and Trust of James Brown, we find Petitioner has no standing in any proceeding related to the estate of Venisha Brown. We further find that because Venisha Brown's estate is engaged in litigation against Respondent, Respondent's attempt to become the personal representative of the estate may involve a conflict of interest. See Rule 1.7(a)(1), (2), RPC, Rule 407, SCACR (providing "a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."). If Respondent fails to conform to these instructions as ordered and takes any further action with respect to any case related to the Estate of James Brown, which includes any proceeding in the estate of Venisha Brown, a rule to show cause will be issued, and any and all violations of the orders of this Court will be considered as grounds for holding her in contempt.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
August 10, 2020

cc: Joyce Farr Cheeks, Esquire
Eddye L. Lane, Esquire
Mark V. Gende, Esquire
Adele Jeffords Pope, Esquire
The Honorable Clifton Newman

Exhibit C

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

Common Pleas 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

AFFIDAVIT OF RUSSELL L. BAUKNIGHT

PERSONALLY APPEARED BEFORE ME Russell L. Bauknight who, first being duly sworn, deposes and states as follows:

1. I am over the age of 18 and competent to testify to the matters set forth in this affidavit.
2. Since May 26, 2009, I have served in a fiduciary capacity representing the James Brown Estate and James Brown August 1, 2000 Irrevocable Trust. I currently serve as Personal Representative and Special Administrator of the Estate and as Trustee and Special Trustee for the Trust.
3. On July 17, 2009, the Appellant in this matter, Adele Pope, along with Robert Buchanan, filed a claim against the Estate of James Brown asserting entitlement to \$4,993,151 for personal representative and trustee commissions for approximately eighteen months of service.
4. After reviewing Ms. Pope's claim, I served her with a notice of disallowance of that claim on May 29, 2013 in my fiduciary capacity, finding the "requested fees and commissions were not earned and therefore are not due and owing." In June 2013, Ms. Pope filed a Petition for Allowance of her claim in Aiken County under Case Number 2013-CP-02-1337 ("Case 1337").
5. Ms. Pope's claim for PR/Trustee fees was rejected by Judge Doyet A. Early, III, in a carefully reasoned, 60-page opinion issued in January 2019. Judge Early made his decision after presiding over a trial lasting 13 days, during which numerous witnesses testified and multiple exhibits were entered into evidence.¹ After an exhaustive analysis, Judge Early concluded that Ms. Pope was not entitled to any award of PR/Trustee fees because "any benefits

¹ Additionally, Judge Early presided over all matters related to the Estate and Trust from 2007 until his retirement in 2019.

[she] provided to the Estate and Trust [were] overwhelmed and surpassed by the detriment she caused.” (Order of Jan. 16, 2019, at 60.)

6. While Ms. Pope’s claim for commissions was pending, I filed an action against her on May 19, 2010, for breach of fiduciary duty, breach of trust, and negligence related to her administration of the Estate and Trust. The litigation seeks to recover damages inflicted upon the Estate and Trust as a result of Ms. Pope’s breaches of her fiduciary duties during her time as the PR/Trustee. This action is currently pending in Richland County under Case Number 2010-CP-40-4900 (“Case 4900”).

7. On May 8, 2013, the South Carolina Supreme Court issued its opinion in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). The Court affirmed, reversed, and remanded the lower court’s May 26, 2009 order confirming the James Brown Estate and Trust Settlement Agreement.

8. As Personal Representative and Trustee, I am bound by the South Carolina Supreme Court’s decision in *Wilson*, which found:

We are also aware that [Ms. Pope and Mr. Buchanan] have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, [Ms. Pope and Mr. Buchanan] sought and obtained permission from the circuit court to sell iconic assets from Brown’s estate in order to raise funds, and a large portion of the amount raised went first to pay [Ms. Pope’s and Mr. Buchanan’s] own attorneys’ fees. [Ms. Pope and Mr. Buchanan] also unsuccessfully attempted to sell Brown’s GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing [Ms. Pope and Mr. Buchanan] that it was a longstanding policy that the award could not be sold by recipients or anyone acting on their behalf. These actions and the extreme discord between the parties convince us that [Ms. Pope’s and Mr. Buchanan’s] continued service as fiduciaries is not in the best interests of the estate.

Id. at 448-49, 743 S.E.2d at 766-67.

9. Despite being removed for cause, Ms. Pope has disregarded the Supreme Court's decision in *Wilson* from virtually the moment it was issued. Notwithstanding her removal, Ms. Pope has continued to act as an officious intermeddler in Estate and Trust matters. The record reflects many instances of interference by Ms. Pope, including:

- a. Her appeal of the lower court's orders after *Wilson v. Dallas* without filing a motion to intervene;
- b. Her appeal of Judge Early's interim appointments of me and David Sojourner (as special administrator and special trustee for purposes of certain litigation matters), even though no other interested person challenged these appointments, the order was interlocutory, and Ms. Pope lacked standing. The Court of Appeals dismissed her appeal and her petition for writ of certiorari was denied.
- c. The complaint filed by Ms. Pope in Case 1337 raised many issues that are unrelated to her claim for fees and in which she had no standing. The bulk of the complaint was dismissed as a matter of law. Ms. Pope appealed the order, which was affirmed by the Court of Appeals.

10. Ms. Pope's continuous, unwarranted interference in matters in which she has no conceivable interest resulted in the Supreme Court issuing an Order prohibiting her from further interfering in the administration of the Estate and Trust:

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*.

Supreme Court Order, June 10, 2015 (emphasis added).

11. In its recent decision holding that Tommie Rae Brown "is not the surviving spouse of [James] Brown," *In re: Estate of James Brown*, ___ S.E.2d. ___, 2020 WL 3263381, at *12 (S.C. Sup. Ct. June 17, 2020), the Supreme Court expressed deep concern over the fact that the primary goal of James Brown's estate plan—the establishment of a charitable trust to provide

educational scholarships to needy children in South Carolina and Georgia to further their education—is not being fulfilled:

While the inability to readily determine Brown’s heirs has needlessly diminished Estate assets, we are concerned that it has also had detrimental effects on numerous unknown persons who are not parties to this appeal. Brown’s estate planning documents indicated that he intended the bulk of his wealth to be used to support his charitable trust, which he specifically declared was to “be used solely for the tuition, educational expenses, and financial assistance of . . . children, youth, or young adults ([w]ho are both qualified and deserving)” of financial assistance to further their education in South Carolina and Georgia. *Wilson v. Dallas*, 403 S.C. 411, 417, 743 S.E.2d 746, 750 (2013). The ongoing litigation since Brown’s passing has thwarted his expressed wish that his estate be used for educational purposes, a fact confirmed by the parties in this case, who acknowledged that no scholarships have been paid for students to date, a point we find both extraordinary and lamentable.

Id. at *11.

12. To understand why no scholarships have been awarded, one need look no further than Ms. Pope’s unrelenting litigation activities. Lawyers for the Estate and Trust must spend an inordinate amount of time responding to a constant barrage of filings in matters where Ms. Pope has no interest; that are repetitive of previous filings on which relief has already been denied; or that otherwise violate applicable procedural rules. The following examples are hardly an exhaustive list:

- a. Ms. Pope has repeatedly moved to lift the stay currently in place in Case 4900, which is a direct result of *her own appeal* (Appellate Case No. 2018-001899). Every single one of these motions has been denied.
- b. Ms. Pope has also repeatedly sought to challenge the confidentiality of certain documents, despite explicit findings by both the circuit court and the federal district court that the disclosure of the documents would be detrimental to the interests of the Estate.
- c. Ms. Pope has filed numerous improper interlocutory appeals that have been dismissed.

- d. On September 1, 2016, the court in Case 1337 entered a protective order in response to Ms. Pope's "attempt[] to introduce discovery and thousands of other documents from nearly a dozen unrelated James Brown cases into this matter by requesting blanket stipulations" from the Estate and Trust. The trial court "remind[ed] [Ms.] Pope that the purpose of this case is not to re-litigate prior Estate and Trust matters or to reinsert herself into other Estate and Trust proceedings."
- e. Ms. Pope's responses to motions filed by the Estate and Trust are invariably disproportionately long because they are filled with Ms. Pope's skewed version of the facts and argument on irrelevant matters, supported by self-serving affidavits and a stack of exhibits. For example, in the appeal of Case 1337 (Appeal No. 2019-000362), Ms. Pope responded to a three-page supplemental motion with a 17-page memorandum and an additional 59 pages of exhibits.

13. The real impact of Ms. Pope's conduct is to make the post-remand estate litigation exponentially more expensive and time consuming for all concerned as she routinely disregards the rules in her litigation activities. Responding to Ms. Pope is like responding to a non-lawyer, *pro se* litigant. Pope, however, is a lawyer.

14. Ms. Pope is forcing the Estate and Trust to incur costs that it should not have to incur, and in doing so expend funds that would otherwise be deposited into a scholarship reserve. As Judge Early pointed out in his order in Case 1337 denying Ms. Pope's claim for PR/Trustee fees, her conduct in that matter caused undue delay and expense:

[Ms.] Pope identified twenty-two (22) individuals that would appear as expert witnesses at this trial, and two of these individuals in [Ms.] Pope's expert witness disclosure included herself and her husband. Moreover, [Ms.] Pope deposed a number of individuals from the South Carolina Attorney General's Office, taking the position that these individuals were witnesses in this case. At trial, however, no one from the Attorney General's office appeared as a witness. Further, from her list of twenty-two expert witnesses, [Ms.] Pope offered four witnesses and only one was found qualified to testify in Court—Mr. Steven Johnson.

[Appellant's] valuation witness (Mr. Alexander) was disqualified from providing expert opinion testimony. In addition, [Ms.] Pope identified Mr. Smith as an expert witness in copyright and termination rights. [Ms.]

Pope hired Mr. Smith during her administration to advise on those issues. The Defendants called Mr. Smith as a fact witness to establish his lack of qualifications to provide this advice to the Estate and Trust. On cross-examination, counsel for [Ms.] Pope sought to qualify Mr. Smith as an expert in copyright and termination rights. The Defendants objected to Mr. Smith offering opinion testimony, and this Court sustained the objection. . . . [Ms.] Pope also attempted to offer *herself* as an expert witness at trial. The Court sustained Defendants' objection to [Ms.] Pope offering expert testimony in her case. . . .

The Court again notes that thirty-seven (37) depositions were taken in advance of trial, with [Ms.] Pope noticing twenty-five (25) of these depositions. The Defendants believed they needed to take twelve (12) depositions based upon the representations from [Ms.] Pope in discovery. Against the backdrop of the number of witnesses [Ms.] Pope put up in her case—two live witnesses and four witnesses by deposition—the *inescapable conclusion is that this case was extremely expensive, and unnecessarily so, for the Estate and Trust to defend.*

(Fee Order, at 15-16 (citations omitted; second emphasis added).)

15. As Judge Early also noted, Ms. Pope's unreasonable approach to settlement forced the Estate to shoulder the cost of a lengthy trial:

[Ms.] Pope has claimed that Defendants have engaged in undue delay in this case. The Court rejects that claim and finds that Defendants have not been a source of undue delay. Indeed, the Court finds that [Ms.] Pope has caused undue delay through unreasonable settlement demands and that her actions required Defendants to resolve this case through a trial. Def. Ex. 116 (demanding \$19,000,000.00 to settle); *see also Wilson*, 403 S.C. at 448-49, 743 S.E.2d at 766-67 (noting the "\$5 million in fees [sought] for services as fiduciaries for a relatively short interval of time"). Defense Exhibit 116 is a non-privileged settlement offer that [Ms.] Pope made on September 6, 2017 during the trial of this case. [Ms.] Pope demanded \$9 million for herself and \$10 million for the Pope Brown Foundation, a charity that [Ms.] Pope is affiliated with that is completely unrelated to the entertainer James Brown. May 8-9 Transcript, p. 309, ln.19- p. 310, ln.1; p. 310, ln.10-14; *see also* Plaintiff's Motion for Directed Verdict filed June 14, 2018, referring to Pope's settlement demand as the "\$19 million solution."

16. With the Supreme Court's decision in *In re Estate of Brown*, Ms. Pope's claims and her continuing attempts to involve herself in the administration of the Estate are the key remaining obstacles to fulfilling the goals of Brown's estate plan.


17. Delay in funding scholarships is not the only harm done by Ms. Pope's litigation conduct. As the court-appointed fiduciary for the Estate and Trust, I cannot simply ignore her filings, no matter how frivolous or repetitive they are. Unlike Ms. Pope, I am not a lawyer, so I must retain counsel to respond to Ms. Pope's filings. The amount of time counsel must spend responding to Ms. Pope is increased exponentially by her flagrant disregard of the rules of trial and appellate court procedure. As explained in a recent filing in Appeal No. 2019-000362:

Respondents [the Estate and Trust] cannot be expected to sit idly by while Appellant [Ms. Pope] attempts to gain a strategic advantage by asserting new arguments in her Initial Reply Brief, making factual assertions without supporting citations to the Record on Appeal ("ROA"), and introducing matters that are as irrelevant as they are inflammatory. . . . Respondents seek merely to protect their right to litigate this appeal within the parameters established by the Rules. Appellant's Return demonstrates that she is capable of complying with the Rules — e.g., by providing ROA citations for factual assertions (Return, at 11-18) — she simply chooses not to. Respondents respectfully submit that this is not Appellant's choice to make, and they ask the Court to strike her Initial Reply Brief or, alternatively, grant Respondents leave to file a surreply brief.

18. The Supreme Court's decision in *Wilson v. Dallas* foreclosed Ms. Pope's right to remain involved in Estate and Trust proceedings in which she does not have any legal interest other than her pending claim for commissions and fees totaling almost \$5 million. Ms. Pope's unrelenting efforts to remain involved in Estate and Trust matters over which she has no legal interest is needlessly wasting valuable resources and court time. And her involvement is not needed, warranted, or legitimate.

19. Ms. Pope's litigation activities show a lack of respect for the law and are needlessly wasting Estate and Trust resources. Even worse, Ms. Pope's self-aggrandizing meddling in Estate and Trust matters is making it impossible to accomplish James Brown's legacy of providing scholarships to needy students.

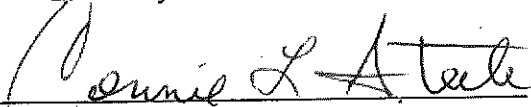
FURTHER AFFIANT SAYETH NAUGHT.



Russell L. Bauknight

SWORN TO BEFORE ME

This 1st day of October, 2020



Notary Public for South Carolina

My Commission Expires: August 9, 2029

Exhibit D

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

Common Pleas 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

AFFIDAVIT OF J. DAVID BLACK

PERSONALLY APPEARED BEFORE ME J. David Black who, first being duly sworn, deposes and states as follows:

1. I am over the age of 18 and competent to testify to the matters set forth in this affidavit.

2. Nexsen Pruet, LLC represents Russell L. Bauknight in his fiduciary capacity representing the James Brown Estate and James Brown August 1, 2000 Irrevocable Trust. Mr. Bauknight was appointed as personal representative of the Estate and trustee of the Trust on May 26, 2009.

3. Among other matters, Nexsen Pruet has represented the Estate and Trust in litigation concerning the claim of the Appellant in this matter, Adele Pope, for an award of fees for her 18 months of service as PR/Trustee. That claim was litigated in Aiken County under Case Number 2013-CP-02-1337 ("Case 1337").

4. Ms. Pope was removed from her position as PR/Trustee, for cause, on May 26, 2009. As of that moment, she no longer had any beneficial interest in the Estate. At all times, her status, *at most*, has been as a potential creditor of the Estate, based on her claim for fees in Case 1337. On January 16, 2019, Judge Early issued a detailed, 60-page order denying Ms. Pope's fee claim on the grounds that "any benefits [Ms.] Pope provided to the Estate and Trust [were] overwhelmed and surpassed by the detriment she caused." (Order of Jan. 16, 2019, at 60.)

5. Despite having no basis for continued involvement with the affairs of the Estate and Trust following her removal in 2009, Ms. Pope has been unrelenting in her efforts to insert herself in matters where she has no standing or, conversely, to broaden the scope of Case 1337 to include matters that have nothing at all to do with her claim for fees.

6. Ms. Pope's interference with the administration of the Estate and Trust began immediately after her removal. For example, in the second half of 2009 Ms. Pope (with her co-

PR/Trustee, Robert Buchanan) opposed Mr. Bauknight's motion to be substituted as the Respondent in appeals by Dallas, Bradley, and Cannon, the three original PR/Trustees. In opposing Mr. Bauknight's motion, Ms. Pope took a position (that she *should* remain as PR/Trustee during her appeal) contrary to what she argued when she moved to be substituted for Dallas, Bradley, and Cannon (that they *should not* remain as PR/Trustees during their appeals).

7. The Court of Appeals "declin[ed] to accept this line of reasoning" and granted Mr. Bauknight's motion for substitution. Going a step further, the Court of Appeals also commented on the impropriety of Ms. Pope's efforts to continue as PR/Trustee:

The circuit court explicitly removed Pope and Buchanan as PRs and trustees and appointed Bauknight. In doing so, the circuit court relieved Pope and Buchanan of any fiduciary duty to the Estate or the Trust. It is, therefore, questionable whether Pope and Buchanan have any interest in the management of the Estate or the Trust because the circuit court has discharged them.

It is, however, unquestionable that Bauknight, as the court-appointed PR/trustee, does have an interest in ensuring the proper management of the Estate and Trust. . . . Moreover, as Judge Early stated, "[I]t is important to allow for consistent administration of the Estate and Trust," and "to interfere with Bauknight's continuing administration of the Estate and Trust would not be in the best interests of the Estate, the Trust, or the beneficiaries." If third parties transacting with the Estate and the Trust cannot be certain who possesses the power to bind the Estate and Trust, there will be a chilling effect on the continued operation and management of the Estate and Trust. Furthermore, to restrict Bauknight's ability to exercise control during the pendency of Pope and Buchanan's appeal will certainly prejudice the Estate and Trust.

(Order of Feb. 12, 2010, at 7-8.)

8. Ms. Pope's appeal of the Settlement Agreement culminated in the South Carolina Supreme Court's decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). In *Wilson*, the Supreme Court affirmed the trial court's removal of Ms. Pope and Mr. Buchanan for cause:

We are also aware that [Ms. Pope and Mr. Buchanan] have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, [they] sought and obtained permission from the circuit court to sell iconic assets from Brown's estate in order to raise funds, and a large portion of the amount raised went first to pay [Ms. Pope's and Mr. Buchanan's] own attorneys' fees. [Ms. Pope and Mr. Buchanan] also unsuccessfully attempted to sell Brown's GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing [Ms. Pope and Mr. Buchanan] that it was a longstanding policy that the award could not be sold by recipients or anyone acting on their behalf. These actions and the extreme discord between the parties convince us that [Ms. Pope's and Mr. Buchanan's] continued service as fiduciaries is not in the best interests of the estate.

Id. at 448-49, 743 S.E.2d at 766-67.

9. On remand from the *Wilson* decision, Judge Early attempted to proceed with the Estate and Trust litigation. However, his progress was stifled by Ms. Pope's dogged insistence on remaining involved in the litigation, despite the Supreme Court's clear holding that she was properly removed and that her continued involvement "is not in the best interests of the estate." Ms. Pope filed several documents with the trial court, including motions, memoranda, and proposed scheduling orders concerning the James Brown Estate and Trust litigation.

10. In response to Ms. Pope's improper filings, Judge Early issued an order directing the Clerk of Court to remove Pope's filings from the pending Estate and Trust litigation:

Despite the South Carolina Supreme Court's Opinion, Ms. Pope has now filed several documents with this Court. . . . These actions and filings will not be considered by this Court. . . . It is the Order of this Court that Ms. Pope does not have standing to proceed with the motions she has filed since the Supreme Court's opinion has issued. Accordingly, this Court hereby directs the Clerk of Court to remove Ms. Pope's filings from these cases pursuant to the Supreme Court's Opinion removing her as party to these proceedings.

(Order of June 13, 2013.)

11. Ms. Pope's continuing attempts to involve herself in Estate and Trust matters, in which she has no conceivable interest, eventually resulted in the Supreme Court issuing an

extraordinary order prohibiting her, on threat of contempt, from further meddling in the administration of the Estate and Trust:

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.*

(Supreme Court Order, June 10, 2015 (emphasis added).)

12. Unfortunately, the Supreme Court's June 2015 order has not had any perceptible effect on Ms. Pope's conduct. She has continued her attempts to participate in matters in which she has no standing, just as she has continued to add unrelated matters to the litigation in Case 1337, including on appeal. Recently, the Estate and Trust moved to strike Ms. Pope's initial reply brief on the grounds that it failed to properly cite to materials in the record, presented issues not raised in her opening brief, and contained argument regarding numerous issues not relevant to the appeal. The Court of Appeals granted the motion (as well as the Estate and Trust's motion to strike the Record on Appeal), and directed Ms. Pope to file an amended initial reply brief that complies with the Appellate Court Rules.

13. Even in Case 1337—where, at least, she is a party—Ms. Pope's tactics have drawn rebuke from the court. In 2016, the Estate and Trust were forced to seek the court's protection from Ms. Pope's numerous attempts to require stipulations and to introduce thousands of documents from nearly a dozen unrelated lawsuits into that case. The Estate and Trust argued that the discovery requests and stipulations were irrelevant, unnecessary, and improper in light of the Supreme Court's opinion in *Wilson*, affirming Ms. Pope's removal for cause, and its subsequent June 10, 2015 order threatening Mrs. Pope with contempt charges for continued interference with the administration of the Estate and Trust. Granting the motion for protection, Judge Early stated:

This Court is very aware of these Orders and accordingly reminds [Ms.] Pope that the purpose of this case is not to re-litigate prior Estate and Trust matters or to reinsert herself into other Estate and Trust proceedings. Rather, the sole purpose of this narrow case is to determine what, if any, fee [she] is owed for her prior fiduciary service which concluded with her for cause removal on May 26, 2009[.]

(Order of Sept. 1, 2016, at 3.)

14. In addition to their improper subject matter, many of Ms. Pope's filings forego reasoned argument in favor of invective and spurious accusations against the integrity of opposing counsel, other attorneys not of record, parties, witnesses, and elected officials. These statements are made completely without specific citation to any evidence in the record (apart from Ms. Pope's ubiquitous boot-strapping affidavits).

15. Judge Early criticized Ms. Pope's penchant for vitriol in his order denying her petition for PR/Trustee fees in Case 1337:

Mrs. Pope has engaged in a pattern of personal attacks on . . . former Attorney General and current Governor Henry D. McMaster and current Attorney General Alan M. Wilson, as well as Assistant Deputy Attorney General C. Havird "Sonny" Jones, Jr. and other attorneys in that office. These disparaging personal attacks grew to include the other parties in the James Brown litigation and their counsel, and ultimately this Court. This Court has presided over all matters involving the Estate and Trust since Mr. Brown's death on December 25, 2006. These personal attacks have occurred at many of the motions hearings and in the trial of this case. A few examples:

"Your honor, the \$4.7 million valuation was fabricated by counsel." May 8-9 Transcript, p. 36, ln. 2-3.

"I learned it because -- the Attorney General of South Carolina breached his duty and entered into an inappropriate collusion between Sonny Jones and Tommie Rae's lawyers to raid the "I Feel Good" Trust.["] June 4-5 Transcript, p. 43, ln.16-20.

"I do not - I believe that -- that Sonny Jones and Alan Medlin coopted the authority of the Attorney General of South Carolina while he wasn't looking, for the sole purpose of sullyng me." May 8-9 Transcript, p. 177, ln. 25 - p. 178, ln. 3.

[“]Q: The Supreme Court noted that you were seeking a \$5 million fee for a relatively short period of time and that was one of the grounds for removal in this case, isn’t that true?

“A: That was one of the false claims that was made by the attorney general because the attorney general knew -- he knew because he had filed the documents in this case. And again, it was made by other people, but the damage was the attorney general of South Carolina, the highest officer of this estate accusing us of wanting a \$5 million commission on what he said was a \$5 million estate.” Pope Cross- Examination, May 8-9 Transcript, p. 181, ln. 3-13.

“No, we created a huge fund and sadly, the Attorney General did nothing about it and sat by and refused to correct Sonny Jones as he committed perjury and helped Mr. Bauknight help Tommie Rae take U.S. Royalties again from -- more than a million dollars already to her.” June 4-5 Transcript, p. 27, ln. 23- p.28, ln. 2

[“]The Court: Who perpetrated the fraud on the Supreme Court?

Ms. Pope: The Attorney General of South Carolina and the Estate. The other people agreed with those figures. They were false.

The Court: The Estate is represented by who?

Ms. Pope: Nexsen Pruet.

The Court: Billy Wilkins?

Ms. Pope: Yep – I’m sorry. Yes, sir.[“] Aug. 15, 2017 Transcript of Motions Hearing, p. 62, ln. 4- 12 (accusing William W. “Billy” Wilkins, former Chief Judge of the U.S. Court of Appeals for the Fourth Circuit, of fraud on the South Carolina Supreme Court).

“Unfortunately, the Supreme Court’s June 10th Order was based on false representations by Judge Early. I don’t believe they were intentional, but they were false. Judge Early told the Court he had never heard even a whisper of settlement. The truth is in open court on May 29th of 2009 – 2013, Mr. Medlin and Mr. Levenson had openly, in open court, told Judge Early they wanted to go in-camera and reinstate the very settlement that had just been overturned by remittitur just a day or two earlier.” June 4-5 Transcript, p. 39, ln. 12-20.

(Order of Jan. 16, 2019, at 17 (explanatory parentheticals omitted).)

16. Further, Judge Early found that Ms. Pope's litigation conduct in Case 1337 made the litigation far more time-consuming and expensive:

[Ms. Pope] identified twenty-two (22) individuals that would appear as expert witnesses at this trial, and two of these individuals in [Ms. Pope's] expert witness disclosure included herself and her husband. Moreover, [Ms. Pope] deposed a number of individuals from the South Carolina Attorney General's Office, taking the position that these individuals were witnesses in this case. At trial, however, no one from the Attorney General's office appeared as a witness. Further, from her list of twenty-two expert witnesses, [Ms. Pope] offered four witnesses and only one was found qualified to testify in Court—Mr. Steven Johnson.

[Ms. Pope's] valuation witness (Mr. Alexander) was disqualified from providing expert opinion testimony. In addition, [Ms. Pope] identified Mr. Smith as an expert witness in copyright and termination rights. [Ms. Pope] hired Mr. Smith during her administration to advise on those issues. The Defendants called Mr. Smith as a fact witness to establish his lack of qualifications to provide this advice to the Estate and Trust. On cross-examination, counsel for [Ms. Pope] sought to qualify Mr. Smith as an expert in copyright and termination rights. The Defendants objected to Mr. Smith offering opinion testimony, and this Court sustained the objection. . . . [Ms. Pope] also attempted to offer *herself* as an expert witness at trial. The Court sustained Defendants' objection to [Ms. Pope] offering expert testimony in her case. . . .


The Court again notes that thirty-seven (37) depositions were taken in advance of trial, with [Ms. Pope] noticing twenty-five (25) of these depositions. The Defendants believed they needed to take twelve (12) depositions based upon the representations from [Ms. Pope] in discovery. Against the backdrop of the number of witnesses [Ms. Pope] put up in her case—two live witnesses and four witnesses by deposition—*the inescapable conclusion is that this case was extremely expensive, and unnecessarily so, for the Estate and Trust to defend.*

(Order of Jan. 16, 2019, at 15-16 (citations omitted; second emphasis added).)

17. The extraordinary orders discussed above reflect the degree to which Ms. Pope has persistently flouted procedural rules and the accepted norms of litigation practice in South Carolina. The great irony is that while Ms. Pope claims she is the only person seeking to fulfill James Brown's goal of using his wealth to fund scholarships, the reality is that she is the person

most responsible for the fact that scholarships are not yet being funded and the goals of James Brown's estate plan are not yet being fulfilled.


FURTHER AFFIANT SAYETH NAUGHT.



J. David Black

SWORN TO BEFORE ME

This 1st day of October, 2020



Notary Public for South Carolina

My Commission Expires: August 9, 2029

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Oct 02 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 October 2, 2020 I served Respondents' Reply to Appellant's Consolidated Return to Respondents' Motion to Strike Amended [Final] Brief and for Other Relief and Petition for a Rule to Show Cause 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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October 2, 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: Bauknight v. Pope; Appellate Case No. 2018-02229
Date: Friday, October 02, 2020 2:43:00 PM
Attachments: [Respondents' Reply to Appellant's Consolidated Return to Motion to Strike.pdf](#)
[Exhibit A.pdf](#)
[Exhibit B.pdf](#)
[Exhibit C.pdf](#)
[Exhibit D.pdf](#)

RECEIVED
Oct 02 2020
SC Court of Appeals

Dear Counsel:

Attached please find Respondents' Reply to Appellant's Consolidated Return to Respondents' Motion to Strike Amended [Final] Brief and for other Relief and Petition for Rule to Show Cause (along with Exhibits A-D), which is being filed today with the South Carolina Court of Appeals.

Sincerely,
Gloria Coberly



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