

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

**RECEIVED**  
OCT 14 2020  
SC Court of Appeals

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

---

Appellate Case No.: 2017-001899

---

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

And

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

v.

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

Of whom Adele J. Pope is Petitioner.

---

**PETITION FOR WRIT OF CERTIORARI**

---

TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE  
SUPREME COURT.

This case, filed over ten (10) years ago, is a component of the South Carolina Attorney General's overstepping of its authority, which this Court first curtailed in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). While that case involved the AG's takeover of a private charity, this case presents an unconstitutional joining of the AG with Tommie Rae Hynie Brown and more than a dozen other private Plaintiffs, sharing a single private law firm, to destroy the reputations and careers of two South Carolina citizens for pursuing the appeal which resulted in this Court's *Wilson* decision. Seven years later, in *Brown v. Sojourner*, this Court finally determined that Tommie Rae was not the surviving spouse of James Brown, despite the AG, Tommie Rae and other Respondents having used her alleged status to justify various inconsistent and improper actions over more than 13 years following James Brown's death.

This Court has thoughtfully and forcefully corrected the legal errors below which threatened the legacy of the late James Brown, whose noble estate plan will hopefully now fund the charitable James Brown "I Feel Good" Trust he created more than 20 years ago. In this case, we respectfully ask that this Court stop the inappropriate and unconstitutional actions of the AG, Tommie Rae and other Respondents which have damaged the career of Petitioner Adele J. Pope for more than a decade and will continue to do so until this matter ends.

To that end, Petitioner respectfully requests that this Court issue a writ of certiorari to review the opinion of the Court of appeals in *Bauknight v. Pope*, Op. No. 2020-UP-216 (filed July 15, 2020; withdrawn, substituted and refiled September 16, 2020).

#### **Certification of Counsel**

The undersigned counsel for Petitioner hereby certifies that Petitioner's timely filed Petition for Rehearing was filed in the Court of appeals, and her Petition was denied by Order of September 16, 2020.

## Summary of Grounds for Granting a Writ of Certiorari

Pursuant to Rule 242(b), certiorari may be granted where a case fits any one of certain listed criteria. This case presents three, as it includes novel issues of law, substantial constitutional issues, and an opinion of the Court of appeals which conflicts with an Opinion of this Court.

The Court of appeals' unpublished July 15, 2020 opinion (No. 2020-UP-216; withdrawn, substituted and refiled September 16, 2020) overlooks a critical fact: **On May 19, 2010, the South Carolina Attorney General, joining and sharing private counsel with Tommie Rae Hynie Brown, Terry Brown and a dozen other private plaintiffs, sued Robert L. Buchanan, Jr., and Petitioner Adele J. Pope for money damages based on alleged torts.** The Opinion treats the AG as a nominal party, citing cases which acknowledge the AG's role in monitoring and protecting charitable trusts. In this action, however, the AG is a plaintiff against two individual citizens in a tort suit and a defendant on counterclaims pending since 2010. Petitioner submits that the Opinion effectively holds that the AG need not play by the rules governing all litigants, in contravention of existing caselaw and in violation of Petitioner's constitutional rights. Further, the Opinion in this matter is in direct conflict with a recent opinion of this Court on the function of Rule 21, and this Court should hear the matter and resolve the inconsistencies.

The Opinion further finds several important Orders unappealable because of Rule 59(e) motions which the circuit court declined to hear or decide. These orders were rendered final (at least as to the AG) by the circuit court's dropping the AG as a party<sup>1</sup> and, further, are unlikely to be able to be heard by the Circuit Judge assigned to these cases 5+ years after the original hearings.

In sum, the court of appeals' opinion sends this decade-old unconstitutional lawsuit back

---

<sup>1</sup> In addition, shortly after dropping the AG as a party, the circuit court granted summary judgment to the AG and all other Plaintiffs/Respondents on Petitioner's counterclaims. This was an effective denial of the Rule 59(e) motions.

to the lower court without addressing the extraordinary constitutional and other issues which have been present, and to which Petitioner has properly preserved her objections, since its commencement on May 19, 2010.

For these reasons, as set out in more detail below, Petitioner respectfully asks that this Court grant a Writ of Certiorari on each of the questions presented below (as well as every subsidiary question fairly comprised therein).

### **Questions Presented**

- I. Where the Attorney General is a named Plaintiff in a lawsuit; is subject to counterclaims; and has actively participated in the case for seven (7) years, may it be excused summarily under Rule 21 based on its allegation that it was misjoined?**
- II. May a single, private law firm co-represent the Attorney General and more than a dozen private Plaintiffs in a tort suit for money damages, where no member of the Attorney General's staff is counsel of record?**
- III. May the Attorney General avoid being deposed in this tort suit he brought jointly with Tommie Rae Hynie and others in 2010, where the AG and its counsel have taken multiple and conflicting positions as to its participation in this case?**
- IV. May the AG and private Plaintiffs be relieved from default on the counterclaims against them in this case, where no satisfactory explanation for the default has been given; no good cause for relief from default has been shown; and they have no meritorious defense to the claims against them?**
- V. Did the court of appeals err in failing to address the substantive and constitutional issues raised and preserved by Petitioner and by remanding this case, which is a continuation of the AG's exceeding its authority as addressed by this Court in *Wilson*, and by allowing this case to proceed indefinitely without final appellate review of the issues presented above.**

## Statement of the Case<sup>2</sup>

### **Pleadings filed in 2010**

The South Carolina Attorney General, along with Tommie Rae Brown and more than a dozen other private Plaintiffs, brought this action against Petitioner and Robert L. Buchanan, Jr., on May 19, 2010, all represented solely by a single, private law firm. [R. 176-188] They sought tens of millions of dollars in damages based on Petitioner and Buchanan's then-pending appeal of the 2008 settlement brokered by former AG Henry McMaster. [R. 178-188]

Petitioner and Buchanan answered, denying all claims by Plaintiffs, and counterclaimed against all Plaintiffs for abuse of process; interference with contract; civil conspiracy; violations of S.C. Code Ann. §62-1-106; and attorneys' fees. [R. 350-370]

### **Default and Relief Therefrom**

Plaintiffs failed to timely respond to the counterclaims and moved for relief from default on November 16, 2010, after an Affidavit of Default was filed. [R. 1513-1515; 373-375; 376-378; 577-579]

On December 17, 2012, the circuit court held a hearing on the motion to set aside entry of default. [R. 52; 558-560; 485-488; 1579-1580; 481-484] By order dated October 13, 2015, the circuit court granted Respondents' motion to set aside entry of default. [R. 51-53]

### **Motion to Disqualify/Enjoin Private Counsel SWB and Bauknight from Speaking for AG**

On May 18, 2011, Petitioner and Buchanan moved to disqualify Sweeny, Wingate & Barrow, P.A. ("SWB"), from serving as sole counsel of record for the AG, Tommie Rae and more than a dozen other private Plaintiffs. [R. 477-480; 1617-1633; 1581-1601; 1689-1743; 481-484]

---

<sup>2</sup> The lengthy procedural history is more fully set out in the Appellant's Brief, on file in the court of appeals and incorporated herein. In compliance with Rule 242, Petitioner offers this brief statement of the case as to the specific orders on appeal.

A hearing was held on the motion to disqualify/enjoin on April 12, 2012. [R. 59-60] On July 5, 2012, the circuit court denied the relief sought in the motion. [R. 59-60; 618-627]

#### **Protective Order as to Deposition of Attorney General Wilson**

In 2016, AG Wilson moved for a protective order barring the taking of his deposition. [R. 33] AG Wilson asserted that he lacked personal knowledge of all or most matters at issue in this case; that all or most of the information he had was privileged; and that the deposition would interfere with his duties as AG. [R. 33-34; 1996; 2008-2019]

On August 29, 2016, a hearing was held on the AG's motion. [R. 33; 1177; 1200-1212] By order dated September 21, 2016, the circuit court granted the AG's motion, preventing his deposition in this case. [R. 33-38]

#### **Order Granting AG Alan Wilson's Motion to Be Dropped as a Party Under Rule 21**

On March 25, 2013, following this Court's opinion in *Wilson v. Dallas*, the AG moved under Rule 21, SCRCPC, to be dropped as a party to this suit. [R. 20; 1800-1803; 961-963; 787-789; 59-60; 1749-1750; 596-601; 54-56; 1755-1764]

On May 10, 2013, Respondents' counsel sought a stay of all matters in this case. [R. 1798-1799; 1802; 794-799] After effectively receiving a stay, Respondents formally moved on April 22, 2014 for a stay of this case, which Petitioner opposed. [R. 812-813; 1808-1813]

On August 29, 2016, a hearing was held on the AG's motion to be dropped as a party under Rule 21. [R. 1177-1214; 1217-1233; 20]

By order dated May 31, 2017, the AG's motion to be dropped as a party under Rule 21 was granted. [R. 20] Petitioner's timely motion to alter, amend or vacate the order was denied [R. 1-2]

Petitioner appealed the Orders dropping the AG under Rule 21, as well as the related orders

granting Respondents relief from default; declining to disqualify SWB as counsel for the AG and enjoin SWB and Bauknight from speaking for the State/AG; and denying Petitioner the right to depose AG Wilson.

By opinion issued July 15, 2020, the court of appeals affirmed. Petitioner's timely Petition for Rehearing and Suggestion for Rehearing *en banc* was denied on September 16, 2020.

### **Statement of Facts<sup>3</sup>**

On February 27, 2013<sup>4</sup>, this Court found that the South Carolina Attorney General had overstepped its authority by brokering a settlement which effected a "total dismemberment of [James] Brown's carefully-crafted estate plan and its resurrection in a form that grossly distorts his intent." This Court further found that the settlement was "an unprecedented misdirection of the AG's authority in estate cases." *Wilson v. Dallas*, 403 S.C. 411, 444, 743 S.E.2d 746 (2013)

On August 10, 2008, AG McMaster had entered into a settlement agreement which gave approximately half of James Brown's assets to a group of family members and claimed family members who had made claims "of dubious validity" against his Estate and Trust. The settlement gave approximately a quarter of Mr. Brown's assets given to Tommie Rae Hynie Brown. *Wilson v. Dallas*, 403 S.C. 411, 441, 743 S.E.2d 746 (2013).

After the circuit court approved the settlement, Petitioner and Robert L. Buchanan, Jr. appealed the order, asserting in part that the AG had overstepped his authority in entering into the 2008 settlement. *Id.*

During the course of that appeal, on May 18, 2010, the Plaintiffs engaged SWB to sue

---

<sup>3</sup> The following abbreviated chronology highlights certain facts which appear to have been overlooked in the Opinion below or of the Court of Appeals. herein. Petitioner incorporates and relies on the more complete facts and arguments in her briefs and the record herein.

<sup>4</sup> This Court issued a slightly modified, final decision on May 8, 2013.

Buchanan and Petitioner for, among other alleged torts, having appealed the settlement. (R. 182-186, 1235-53) The case was filed the next day, with SWB as sole counsel for all Plaintiffs, including the AG and Russell Bauknight “on behalf of” the AG. (R. 176-177)

Petitioner and Buchanan answered and counterclaimed against all Plaintiffs, including the AG, for abuse of process, civil conspiracy, intentional interference with contract, violation of S.C. Code Ann. §62-1-106, and attorneys’ fees and costs. (R. 337-369). Plaintiffs defaulted on the counterclaims and moved for relief from their default in November 2010. (R. 373-379). That motion was not decided until October 2015, and the circuit court never decided Petitioner’s motion to alter or amend its order. (R. 49). Petitioner and Buchanan also moved in 2011 to enjoin private firm SWB and Russell L. Bauknight from speaking for the AG. (R. 477) Over a year later, the circuit court denied that motion. (R. 59). Again, the circuit court never took up Petitioner’s timely Rule 59(e) motion.

The AG continued as a Plaintiff represented by SWB for seven (7) years. The AG first raised the issue of being removed from this case by motion filed March 25, 2013. (R. 790). This coincided closely with the *Wilson* decision, which the AG cites in his motion as a basis for his desire to exit this case.<sup>5</sup> (R. 791). It is unsurprising that the AG wished to be “dropped” from this extraordinary tort suit, in which Petitioner and Buchanan had raised several constitutional issues related to the AG’s participation and representation by private counsel. Among a number of negative holdings about the AG in *Wilson*, the Supreme Court held:

---

<sup>5</sup> Petitioner files herewith her Motion to Supplement the Record with just-released public documents which bear directly on this timeline but were never produced by the AG or SWB prior to October 2020. Although Petitioner submits that these documents, under the extraordinary circumstances, should be added to the record, she does not rely on them in this Petition, which she submits justifies review by this Court on the current record. If this Court grants a Writ of Certiorari and supplements the Record, Petitioner will discuss the newly-released documents in her briefs herein.

The compromise orchestrated by the AG in this case destroys the estate plan Brown had established in favor of an arrangement overseen virtually exclusively by the AG. The result is to take a large portion of Brown's estate that Brown had designated for charity and to turn over these amounts to the family members and purported family members who were, under the plain terms of Brown's will, given either limited devises or excluded.

...

We find the compromise proposed here is fundamentally flawed because the entire proposal is based on an unprecedented misdirection of the AG's authority in estate cases. *Wilson* at 443.

After being chastised by the Supreme Court for overstepping its bounds in a case which *did* involve enforcement of a charitable trust, the AG was understandably eager to remove himself from this case, in which he sought damages against Buchanan and Petitioner, who had sought to enforce the charity.<sup>6</sup> The circuit court ultimately granted the AG's motion.<sup>7</sup> (R. 19). The circuit court also found that Plaintiff could not depose AG Alan Wilson in this action. (R. 33)

On July 15, 2020, this Court issued its Opinion affirming the AG's dismissal from this case and finding that the orders granting Plaintiffs relief from default, denying Petitioner's motion to disqualify and enjoin SWB and Bauknight for speaking for the State, and denying Petitioner's right to depose AG Wilson are unappealable.

### Argument

#### **I. The Court of Appeals' Analysis of Rule 21 Overlooks the AG's status as a Plaintiff and Counterclaim Defendant herein, and further Conflicts with this Court's Own Previous Holding.**

In the Opinion, the Court of appeals found no error in the circuit court's dropping of the AG as a party, a finding supported by citations to the lower court's ability to *realign* parties under

---

<sup>6</sup> Further, as shown in the complaint by which Respondents are bound under *The Kitchen Planners v. Friedman*, S.C. Ct.App. Op. No. 5738 (July 1, 2020), the purpose of Richland 4900 was to enforce the dismembering of a charity.

<sup>7</sup> Between 2013 and when it was dropped as a party four years later, the AG actively participated in Richland 4900, including in discovery and seeking consolidation of a second FOIA case with Richland 4900. (R. 575-576)

Rule 21, SCRCP, and noting the AG's traditional role in *enforcing* charitable trusts. This case involves the dismissal of a party to a case which has nothing to do with enforcement of a charitable trust.

Respectfully, Petitioner submits that the Court of appeals' finding that the cases cited justify dismissing the AG from a tort suit in which it is a Plaintiff and a Counterclaim Defendant conflicts with the recent holding in *Farmer v. CAGC Ins. Co.*, 819 S.E.2d 142 (Ct.App. 2018). In that case, the Court of appeals found that the circuit court erred in dismissing a corporate defendant (CompTrust) from a lawsuit because it was defunct. "It appears the circuit court was persuaded CompTrust was misjoined not because CompTrust had no connection to the factual or legal issues in the action, but because it had been dissolved." *Id* at 146. The Court reversed, finding that Rule 21 was a mechanical rule which allows the court to realign parties or remove inadvertently added parties with "no connection to the factual or legal issues in the action." The Court found that CompTrust was not misjoined, because the Plaintiff had asserted claims against it. The AG's connection to this case is even stronger. Its involvement began when it filed the suit as a Plaintiff and was increased when Petitioner and Buchanan asserted multiple defenses and counterclaims in this action relating directly to the AG's participation in this case.

The Court of appeals further found that the circuit court "correctly determined that the Attorney General's interest in protecting the charitable beneficiaries was being served by Bauknight as the current Trustee and representative." (Op. at 5). This finding demonstrates a clear misapprehension of this extraordinary case. At the time Richland 4900 was filed, Bauknight was acting under an appointment as Trustee which was thereafter voided by the Supreme Court in *Wilson*. By contrast, Petitioner and Buchanan, while having been replaced by Bauknight, were not managing the assets of the Trust but were actively protecting the James Brown's estate plan and

charity during Bauknight's 4-year void appointment. The AG, the Legacy Trust and numerous private individuals, brought this case against Buchanan and Petitioners, South Carolina citizens, seeking money damages for the James Brown Legacy Trust and its beneficiaries, not for the benefit of the charity. The AG was never a "nominal" or monitoring party to this case; it is a named Plaintiff, represented by private counsel shared with private resident and non-resident Plaintiffs. No amendment to the complaint has ever been sought or granted. For those reasons, this case is entirely distinguishable from the cases cited in the Opinion to support this Court's holding.

Petitioner submits that allowing the AG to simply exit this case, effectively dissolving the counterclaims against it after 7 years, allows the State to play by different rules from other litigants. The Supreme Court held in *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000), "[a]s a party to the lawsuit, the Attorney General, acting as an embodiment of the State, becomes subject to the authority of the court. Once the State subjects itself to the jurisdiction of the court, the court has [] authority" over it. This Court's opinion overlooks the AG's status as a Plaintiff/Counterclaim Defendant herein in allowing it to walk away from the claims against it under a procedural rule.

Further, the Court of appeals has recently held that a party cannot take action contrary to its own pleadings. In *The Kitchen Planners v. Friedman*, S.C. Ct.App. Op. No. 5738 (July 1, 2020), the Court summarized that principal as follows:

"[I]t is well settled that parties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise." *Postal v. Mann*, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992)); *see also Johnson v. Alexander*, 413 S.C. 196, 202, 775 S.E.2d 697, 700 (2015) ("Parties are generally bound by their pleadings and are precluded from advancing arguments or submitting evidence contrary to those assertions."); *Postal*, 308 S.C. at 387, 418 S.E.2d at 323 ("The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the action.").

The AG, in addition to being a Plaintiff, is defined in his own Complaint herein as a “Beneficiary Plaintiff,” just like the fourteen individual Plaintiffs in this case. (R. 178, ¶3(a)). The Plaintiffs’ never-amended prayer seeks no enforcement of a charity, but simply asks for “a judgment against” Buchanan and Petitioner for the Legacy Trust and its owners. (R. 188). Only after the issuance of the *Wilson* decision chastising the AG for grossly overstepping his authority in that case did the AG seek to be dropped from this case.<sup>8</sup> Petitioner submits that bringing this case through private counsel shared with private individuals is a more extraordinary overstepping of the AG’s authority than its actions giving rise to *Wilson*.

The Supreme Court in two decisions<sup>9</sup> has said that James Brown’s estate plan should be upheld.<sup>10</sup> The purpose of the never-amended Complaint in Richland 4900, by which the AG is bound under *The Kitchen Planners, supra*, was to dismember James Brown’s estate plan, and the AG should not be allowed to escape liability for its part in Richland 4900.

**II. The Remaining Orders on Appeal are Ripe for Review by this Court and should be Reversed.**

This Court recently held in *Brown v. Sojourner*, S.C. Sup.Ct. Op. No. 27982 (June 17, 2020), issued less than a month prior to the Court of appeals’ Opinion herein:

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.

... [T]he circuit court shall promptly proceed with the probate of Brown’s estate in accordance with his estate plan.

---

<sup>8</sup> The AG, while seeking to be dropped, continued to actively participate in discovery in this case, even obtaining summary judgment on the counterclaims.

<sup>9</sup> Buchanan and Petitioner have consistently raised Constitutional arguments related to the AG’s participation in this case and representation by shared private counsel SWB, beginning with their Motion to Dismiss on June 22, 2010. (R. 193-203).

<sup>10</sup> *Wilson* and *Brown v. Sojourner*, S.C. Sup.Ct. Op. No. 27982 (June 17, 2020).

Petitioner submits that in light of this Court's observations and directives, as well as the principles of judicial economy<sup>11</sup>, this Court should review the circuit court's orders relieving Plaintiffs from their default on the counterclaims and denying Petitioner's motion to enjoin SWB and Russell L. Bauknight from continuing to purport to speak for the State because pending Rule 59(e) motions had never been decided by the circuit court.

The pending Rule 59(e) motions were filed July 27, 2012 (Denying injunction/disqualification, R. 618) and October 20, 2015 (Relief from Plaintiffs' default, R. 829). These motions were presented to the Honorable L. Casey Manning, who was then assigned to the case. Despite the fact that Judge Manning remained assigned to this case until March 2016 (R. 46), his Honor never heard or decided the Rule 59(e) motions. The case was then assigned to the Honorable Doyet A. Early, III, who retired in February 2019, and is now assigned to the Honorable Clifton B. Newman. Under Rule 63, SCRPC, Judge Manning would now be under a "disability" to hear this case. *See Ness v. Eckerd Corp.*, 350 S.C. 399, 566 S.E.2d 193 (Ct.App. 2002). The Rule provides, "The successor judge *may* proceed upon certifying familiarity with the record and

---

<sup>11</sup> *See Edge v. State Farm Mut. Auto. Ins. Co.*, 366 S.C. 511, 517, 623 S.E.2d 387, 390 (2005) (entertaining a discretionary appeal of a motion to dismiss in the interest of judicial economy because a related issue in a cross-appeal was properly before the court); *Brown v. County of Berkeley*, 366 S.C. 354, 362 n.5, 622 S.E.2d 533, 538 n.5 (2005) (holding that interlocutory orders may be considered on appeal when they are companion to reviewable issues, but finding the motions to dismiss unreviewable because they lacked a sufficient nexus or companionship" to justify the exercise of immediate appellate review); *Morris v. Anderson County*, 349 S.C. 607, 610-11, 564 S.E.2d 649, 651 (2002) (holding that the appellate court may, as a matter of discretion, consider an unappealable order along with an appealable issue where such a ruling will avoid unnecessary litigation, but declining to address the appeal based on concerns of creating an impermissible advisory ruling); *Pitts v. Jackson Nat'l Life Ins. Co.*, 352 S.C. 319, 338, 574 S.E.2d 502, 511-12 (Ct. App. 2002) (entertaining an appeal from a denial of summary judgment because it was so closely connected with other issues properly before the court).

determining that the proceedings may be completed *without prejudice to the parties*" [emphasis supplied]. As stated above, the grant of summary judgment, if not the dismissal of the AG, effectively denied the Rule 59 motions. Even if it did not, Petitioner submits that a different judge cannot give a meaningful review of these motions 5+ years after the underlying orders were issued. These orders should be considered final and appealable, and this Court should reverse them for the reasons stated in Petitioner's briefs.

The court of appeals also found that the circuit court order denying Petitioner the opportunity to depose Alan Wilson, the current AG, was not immediately appealable.<sup>12</sup> Pursuant to S.C. Code Ann. §14-3-430, intermediate Orders involving the merits of a case may be reviewed along with a final, appealable Order. The Supreme Court has found that for an order to involve the merits of a case, it "must finally determine some substantial matter forming the whole or a part of some cause of action or defense." *Mid-State Distribs., Inc.*, 310 S.C. at 334, 426 S.E.2d at 780 (quoting *Jefferson v. Gene's Used Cars, Inc.*, 295 S.C. 317, 318, 368 S.E.2d 456, 456 (1988)).

In this extraordinary case, the order denying Petitioner the right to take Mr. Wilson's deposition, especially in conjunction with his dismissal as a party, affects the merits of the action. Petitioner's ability to depose the current AG regarding these matters is a substantial right. The order should be reviewed and reversed for the reasons set forth in Petitioner's briefs. The counterclaims in this case, including abuse of process, relate to the actions of the AG and others in bringing and maintaining this case.

**III. This Court should review the important and constitutional issues, raised and preserved by Petitioner since the commencement of this case, related to the AG's role in this case, and his sharing of private counsel with private Plaintiffs, to avoid the years of additional litigation which will be caused by the court of**

---

<sup>12</sup> Further, prior to the filing of this appeal, AG Wilson had actually submitted to and completed a deposition in Aiken County Case No. 2013-CP-02-1337, a case which the AG was seeking to consolidate with Richland 4900.

**appeals' remand.**

Since the filing of her motion to dismiss this case in 2010, Petitioner has repeatedly raised and preserved constitutional issues stemming from the commencement and continuation of this case. [R. 478-480; 1581-1588; 1634-1665; 1689-1691] Petitioner sought early review of those issues, which the court of appeals declined as premature. [R. 74] The decade of improper and wasteful litigation since Petitioner first presented these issues to the court of appeals resulted from the AG's assertion, and the court of appeals' agreement, that the concerns Petitioner Buchanan raised in 2011 about the State/AG's participation and representation in this case were premature. Nonetheless, the court of appeals' 2020 opinion again declines to substantively address these matters.

In the meantime, this Court has extensively discussed the AG's overstepping of its authority in the *Wilson* decision, reversing the settlement which Respondents brought *this* case to keep in place. It has further found that Tommie Rae's status as the alleged surviving spouse of James Brown – which she, the AG and other Respondents used for more than 13 years to justify various improper actions – was specious. *See Sojourner, supra.*

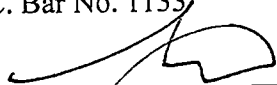
The novel and important issues presented by this case should be reviewed by this Court now, as the court of appeals' remand is otherwise likely to add years of litigation clouded by constitutional issues which have been raised and preserved since 2010. The AG's participation and representation in this case are inconsistent with all notions of Due Process under the U.S. and South Carolina Constitutions, as well as the separation of powers provisions of the South Carolina Constitution. U.S. Const., amend. I and amend. XIV, S.C. Constitution, Article 1, § 8.

## CONCLUSION

For the reasons set forth above, Petitioner respectfully asks that the Court grant a Writ of Certiorari to review the orders appealed from, so that the constitutional and other important issues they present may be finally decided without another decade of improper, expensive and needless litigation passes.

Respectfully submitted,

Charles E. Carpenter, Jr.  
Carpenter Appeals & Trial Support, LLC  
4825 Portobello Road  
Columbia, SC 29206  
Telephone: (803) 758-2886  
[charlie@carpenterappeals.com](mailto:charlie@carpenterappeals.com)  
S.C. Bar No. 1133



---

Adam T. Silvermail  
Law Office of Adam T. Silvermail, LLC  
Post Office Box 7995  
Columbia, South Carolina 29202  
Telephone (803) 799-1770  
[adam@silvermaillawfirm.com](mailto:adam@silvermaillawfirm.com)  
S.C. Bar No. 80219

William Jeffrey Smith  
1216 Crenshaw Street  
Newberry, SC 29108  
Telephone: (803) 597-0209  
Email: [wjstv@mindspring.com](mailto:wjstv@mindspring.com)  
SC Bar No. 0005225

Daryl L. Williams  
Gertz & Moore, LLP  
1416 Laurel Street (29201)  
Post Office Box 456  
Columbia, SC 29202  
SC Bar No. 6121

*Counsel for Petitioner Adele J. Pope*

October 14, 2020

STATE OF SOUTH CAROLINA  
In the Supreme Court

**RECEIVED**

OCT 14 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

---

Appellate Case No.: 2017-001899

---

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 Petitioner.

---

**PROOF OF SERVICE**

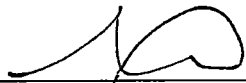
---

I certify that on October 14, 2020, I have served the **Petition for Writ of Certiorari** and **Motion to Supplement to Record on Appeal** by hand delivery on counsel listed below, as well as filing a copy of the **Petition for Writ of Certiorari** in the Court of Appeals:

Kenneth B. Wingate, Esquire  
Mark V. Gende, Esquire  
Sweeny, Wingate & Barrow, P.A.  
1515 Lady Street  
Columbia, SC 29201

J. Emory Smith, Jr., Esquire  
Office of the Attorney General  
1000 Assembly Street  
Columbia, South Carolina 29201

October 14, 2020

  
\_\_\_\_\_  
Adam T. Silvernail  
*Attorney for the Appellant*