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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2022-001195

Adele J. Pope…… Petitioner,

v.

Estate of James Brown and The James Brown 2000 Irrevocable Trust……Respondents.

REPLY TO RETURN TO PETITION FOR WRIT OF CERTIORARI

Respondents' Return asserts that Petitioner has failed to establish the presence of any of the circumstances listed in Rule 242(b), SCACR to support certiorari review by this Court. [Return, *passim*] Respondents assert that there is nothing novel, unconstitutional, or worthy of this Court's consideration in this 2009 estate contract fee claim for $47,972 and $1.47 million, plus interest, which should have been resolved 13 years ago.

Petitioner respectfully disagrees. As set out below, and in the petition for certiorari which Petitioner incorporates herein, this case presents multiple novel and constitutional issues, virtually all stemming from Respondents' attempts to tie it to an unconstitutional, unauthorized 2010 Richland County Case ("Richland 4900") and the two 2011 FOIA cases associated with Richland 4900. [R. 626-38, R4900 Complaint]

Under the Probate Code, the PR had a duty to promptly address Petitioner's part of the $2 million 2009 Joint Protective Claim Robert Buchanan, Jr. and Petitioner filed for themselves and two attorneys who had faithfully served the estate, 2000 Trust and "I Feel Good" charity of entertainer James Brown. [R. 666-7; Complaint, 677-98; 1215] All of the claims were fully

documented first-priority claims. [R. 356-625, Jt. Claim and documentation] All were earning interest at the high legal rate payable under contracts with the Respondents, S.C. Probate Code §62-3-806(d), or both. [R. 27-9 "Payment Order" 1/8/08]

Respondents, through a fiduciary who also serves as trustee of the James Brown Legacy Trust ("Legacy Trust"), hired a $440-an-hour "probate claims expert" and 17 attorneys and took no action for four years. [R. 1028; 1784-5]

On May 29, 2013, the day Tommie Rae Hynie and Louis Levenson, Esq., announced to the lower court their plan to disregard *Wilson v. Dallas*, 402 S.C. 411, 743 S.E.2d 746 (2013), and reinstate the AG's 2008 settlement, Respondents served the "Disallowance" which deprived Petitioner of a fair *Wilson v. Dallas* remand hearing and forced her to file this unnecessary suit.[1] Since May 29, 2013 Respondents have refused to pay any portion of the claim, while attempting to tie it to Richland 4900 and the two 2011 FOIA cases.[2]

Richland 4900 is being pursued by the private law firm of Sweeny, Wingate and Barrow, PA ("SWB"), which purported to act on behalf of the State/AG for the benefit of Legacy Trust "owner-beneficiaries" under a Special Counsel Litigation Retention Agreement with the Attorney General of South Carolina. [R. 1371-2; 1376; 2429-33] Both Governor McMaster and AG Alan Wilson, however have confirmed under oath or in documents in this case that SWB was not a client of the Office of the AG, and there was never authorization to act for the State/AG . [R. 1109; 1315; 1336 (McMaster); 2989-91 (Cook); 3001-2 (Wilson)]

On Page 18 Respondents call SWB's 2010 lawsuit "the Estate's claim against Pope for breach of fiduciary duty." It is nothing of the kind.

[1] R. 767; 802; 1041; 1048; 1390; 1417; 1432; 1435; 1436; 1438; 1058; 1098; 1108; 1169; 1243; 1259; 1262; 1290; 1312; 1313; 1316; 1319; 1348; 1381; 1384; 1387; 1388.
[2] R. 298; 811; 851-2; 859; 944; 959; 1028; 1139-40; 1208-10; 1242-5; 1258; 1260-1; 1266; 2900.

Richland 4900 and the two 2011 FOIA cases moved from Newberry County have only one purpose: to implement the AG's 2008 settlement; blame the damage on Buchanan and Petitioner; and conceal the damage caused by the AG's 2008 settlement. [R 626-38]

In August 2013 Respondents' fiduciary Russell Bauknight, trustee of the Legacy Trust, stated under oath his support for reinstating the AG's 2008 settlement; called Petitioner dishonest; and claimed she "raped" James Brown's estate. [R. 846] By then Respondents' music manager Peter Afterman was helping Tommie Rae Hynie, the largest stakeholder in Richland 4900, siphon off U.S. royalties from James Brown's charity. [R. 2131-3]. Yet the lower court twice denied Petitioner's requests for a non-biased fiduciary to resolve her claim. [R. 242; 285-6]

Two motions for summary judgment which would have ended this case in 2014 or 2017 were denied because of Richland 4900. [R. 242; 285-6]

In 2015 Respondents and SWB even tried to make two FOIA cases, one concealing the Afterman $4.7 million claimed value, part of a mediation of Richland 4900 and this claim case ordered *sua sponte* by the circuit court. [R. 243-4; 1261]

Since 2010 Respondents and the Legacy Trust have used the Afterman $4.7 million value to falsely accuse Buchanan and Petitioner of the federal felony of overstating the value of James Brown's music empire by $79 million to secure a $5 million commission on Brown's $5 million estate.[3] Yet the Afterman valuation has been concealed in both Richland 4900 and a 2011 FOIA case which is on appeal for the second time. [R. 842;845; Appellate Case No. 2021-518]

The Return relies almost exclusively on the testimony of Bauknight, and 9 experts jointly hired by SWB for Richland 4900 and Respondents for this case in 2016. Two of the experts, Tiffany Provence, Esq., and CPA Mark Hobbs, were named in Richland 4900 in 2010.

[3] R. 701; 739; 759; 765; 793; 1334; 1425; 1427; 1443; 814; 842; 845; 958; 967; 974; 978; 1040; 1096

Respondents suggest on page 17 that James Brown's Estate properly ignored a pretrial offer to settle this case for $2.1 million because Richland 4900 and its consolidated FOIA case were not included. They have used Richland 4900 to withhold funds earned prior to May 26, 2009 from Petitioner for 13 years. That is novel, violated the *Wilson* remand instructions, and has now denied both Buchanan and Petitioner a level playing field in the analysis of their service.[4]

The lower court's 2017 denial of summary judgment despite the sworn testimony of Governor McMaster and AG Wilson confirming that Richland 4900 is an unauthorized, unconstitutional use by SWB of state power, and not considering their trial testimony, has deprived Petitioner of the level playing field to which she is entitled.[5]

Respondents' successful request at the eleventh hour that Petitioner not have a jury determine the validity of the $84 million value of Brown's music empire, and the *ex parte* filing by Respondents and discarding by the lower court of tens of millions of dollars of litigation records since 2009, further denied Petitioner a fair review of her claim in this equitable matter.

The following is a brief response to the new matters raised in the Return.

Petitioner Introduces no New Arguments in her Petition, and the Petition Supports a Grant of Certiorari under Rule 242

Respondents assert that the portion of this Court's decision in *In re Estate of Kay*, 423 S.C. 476, 816 S.E.2d 542 (2018) is inapplicable to Petitioner's claim and that somehow her raising of the conflict between *Kay* and the Court of Appeals' opinion in this case is an inappropriate new

[4] Buchanan was paid $500,000 to settle his counterclaims against the Legacy Trust and its owners other than Forlando Brown in Richland 4900 in 2012. [R. 1233-4] A challenge to a condition requiring him not to file a petition for rehearing in *Wilson v. Dallas* has been pending since 2012. [R. 1057; 1427]

[5] In a recent decision, this Court addressed concerns about the AG's Special Counsel Litigation Retention Agreements. *See SC Public Int. Fdn. v. Wilson*, Op. No. 2022-28112 (Sup.Ct. Sep. 14, 2022) The AG's Special Counsel Litigation Retention Agreement with SWB is noteworthy because it was not signed by AG McMaster, who also was not counsel of record. Buchanan and Petitioner alleged this to be a Due Process violation. [R. 626-7; 638]

argument. Respondents are incorrect on both points. Buchanan and Petitioner properly filed their July 17, 2009 Statement of Creditors' Claim in accordance with the applicable Probate Code Sections, as shown on the claim form itself. [R. 356-9]

This Court refers to S.C. Code Ann. §62-3-720 in finding that the PR in *Kay* was entitled to payment for time he (an attorney/PR, like Petitioner) spent litigating in a final hearing, so long as he participated in the action in good faith. Respondents suggest that Petitioner has never sought reimbursement of litigation expenses. [Return, p. 15] Respondents make this allegation while faulting Petitioner for "focus[ing] her efforts as PR/Trustee on litigation. . . ."[6] [Return, p. 4; 22] Buchanan and Petitioner made a proper claim under the Probate Code and Payment Order to be paid for their work, including their protection of the Estate/Trust in litigation. [R. 27-9]

Experts Hired to Support Richland 4900 Presented No Evidence of Mismanagement

Sections A through G of Argument I of the Return rely on Bauknight, the January 2019 appealed order, and some of the 9 experts jointly named in 2016 in Richland 4900 and this case.

None of the 9 experts had personal knowledge of the service of Buchanan and Petitioner, or the 30 orders reviewing and approving that service. All obtained their facts only from Respondents and SWB, whose primary clients are Hynie and former clients of Levenson.

A summary of the testimony of each of Respondents' experts who testified is set out in Petitioners' motion for directed verdict.[7] It is clear that the opinions of all were materially affected by their being told that Hynie was Brown's spouse. Also, none of the experts was familiar with the $4.7 million Afterman valuation or the damage that it did to James Brown's charity. [R. 1287;

[6] Expert James Hardin III testified that the PR/Trustees' providing legal services without a double fee was a positive factor. [R. 1335]

[7] The motion for directed verdict is located at pages 1258-1309 of the record, and the summary of each is found as follows: Provence [R. 1303-5]; Herbsman [R. 1295-8]; Hobbs [R. 1298-1300]; Thomas [R. 1280-3]; Sharpe [R. 1283-7]; Miller [R. 1269-1305].

1296-7; 1299; 1303-4] None knew that Afterman had been working for Hynie since 2013, helping her file public claims to siphon off U.S. royalties from copyrights devised to the "I Feel Good" charity. [R. 2289-90] None knew that family members had opposed Afterman's actions, [R. 1292]

Lack of correct facts impaired Respondents' experts, but on matters not colored by misinformation their testimony supported the testimony and opinions of James Hardin III, Esq.; W. Steven Johnson, Esq.; Judge (Retired) Walter Williams; the Governor; the Attorney General; the Solicitor General; R.B. Alexander; Dr. Terry Cox; Wallace Lightsey, Esq.; and numerous others that the 6-year service of Buchanan and Petitioner was exceptional. [R. 1804-5; 2164; 257]

Respondent's experts, particularly Roger Miller, Bradley Sharpe, and Laura Woolley added strong support to the $84 million value as being correct and conservative. [R. 1269-85; 1302] Even Provence described Petitioner's 200 hours a month as "super human." [R. 1926]

Response to Argument IA, Impartiality (Return, p. 4 – 6)

The arguments related to asserted impartiality rest on Provence's mistaken opinion that Buchanan and Petitioner had some duty to Hynie. This is refuted by James Brown's Will and by *Wilson v. Dallas.* [R. 1304] Provence did not testify about the impartiality issue raised by Brown's "fractional share" clause which sets the allocation of Brown's assets between the "I Feel Good" charity and the trust to educate 7 grandchildren to age 35. [Trust, Article V, R. 2592; 1304] The fair, but conservative $84 million value put 1/42 of Brown's $5 million income and assets into the trust for the 7 grandchildren. This left 41/42 of Brown's assets to the "I Feel Good" charity. [R. 2024-29; 2086-911063; 1143; 1383; 1393; 1429; 1168; 1214; 1272; 1305]

From 2010, when Respondents advised the Supreme Court that an appraisal of $12 million or less was expected within a few weeks, Buchanan and Petitioner expressed concern about the damage that would be caused to James Brown's "I Feel Good" charity by a massive devaluation. [R. 763; 1077; 1101-2; 2072; 2148] Buchanan and Petitioner pointed out that the $1 million a year

was not needed to educate 7 people, and the overage would be unnecessarily taxed by tens of thousands of dollars each year before it was returned to the "I Feel Good" Trust as the 7 grandchildren reached age 35. [R. 1244-5; 1429][8]

Buchanan and Petitioner clearly laid out their plan for James Brown's Beech Island mansion and 60-acre home estate, including a sale to a museum purchaser, hopefully with family involvement.[9] [R. 2671] The 10,000 items of tangible personal property were cared for, with over 45 boxes of music items sent for sound storage in Nashville to be near entertainment counsel Ray Gonzalez, Esq., for preservation and exploitation. [R. 1614; 2670] Thousands of the 10,000 items of personal property were placed on loan to four museums, including the I.P. Stanback Museum at S. C. State which had two acclaimed exhibits. [R. 377; 468; 1407; 2802; 3095]

Response to Argument IB, Financial Management (Return, P. 2-3)

The Return bases its conclusions about financial management on statements of three experts named in 2016 and overlooks the lengthy expert report prepared by James Hardin in late 2008 in S.C. Dist. Case 3-08-cv-00014-WOB, as well as Hardin's rebuttal testimony supporting the correct $84 million value. [R. 1062-3; 1347-60; 2443-84].

CPA Ellison Thomas essentially balanced the checkbook, pointing out the payments to Buchanan, Hayes, Bailey and Petitioner which had all been confirmed as correct years earlier. [Chart, R. 3024-5] Thomas was clear he found nothing wrong, and his chart had not included the $7.83 million in royalties Buchanan and Petitioner earned. [R. 1281] Buchanan's and Petitioner's

[8] The lawsuit referenced on p. 4 was not a suit against anybody, but a declaratory judgment suit for court guidance as to the plans of Buchanan and Petitioner, many of which were adopted without objection. [R. 1396-7; 2670-1]

[9] Bauknight's custody receipt refutes testimony on page 5 that he did not receive documents. [R. 2794-5; 1804; 855; 935-6; 1422]

$5+ million in royalties surpassed Bauknight's $3.5-$4 million a year as reported by Respondent's expert Bradley Sharpe. [R. 1284]

Expert Jonas Herbsman, Esq., a New York transactional attorney whose firm Dallas tried to hire for a valuation in 2007, is cited in the return while IP attorney Wallace Lightsey, Smith, Hardin, Steven Johnson, R.B. Alexander, Dr. Terry Cox and others who had actual knowledge of how Buchanan and Petitioner handled the management are not mentioned. [R. 2366-99; 2811-15; 2860-72; 2989-3023]

Herbsman didn't know anything about the Harlan Howard estate or IP litigation. He did not know that Buchanan and Petitioner opposed the AG's 2008 settlement because it stopped their termination rights work with Smith and a court order to properly determine heirs under the Copyright Act they secured in March 2008. [Order, 3/8/08, R. 86-9; 1295-8] The AG's 2008 settlement stopped the heirs determination; determined that Hynie held 50% of the termination rights; and left out no fewer than five identified heirs, including three DNA-proven daughters and an incarcerated son in California. [R. 676, 2919-20; 1409-12; 1420]

Herbsman, like Roger Miller, Petitioner and Wallace Lightsey, confirmed that termination rights apply only to U.S. royalties, and was not told that only about half of Brown's royalties are U.S. royalties. [R. 1323] By 2017 only Respondents' fiduciary, SWB and Afterman were claiming that Hynie was the spouse and that she and her son controlled termination rights. [R. 1628; 1739; 2942; 2946] There was overwhelming evidence of proper financial management by Hardin, Lightsey, Smith, Alexander, Judge (Retired) Walter Williams, Steven Johnson, Esq., and others. [R. 2366-2400; 2443-84; 2717; 2720-44; 2811-15; 2860-73]

Response to Argument 1C Regarding Expert Advice (Return, p.7)

The suggestion that Ray Gonzalez, Esq., now head of Warner Music Legal, was not competent entertainment counsel is simply incorrect. [R. 2659-60] The same is true of other

experts, including Smith, a Georgetown Law graduate and co-author of *Private Foundations, Copyright Heirs and Musician Millionaires: why the James Brown "I Feel Good" Trust doesn't…* [R. 2860-74] Buchanan and Petitioner carefully engaged and used experts. [R. 2659-60; 2860-74]

Reducing the TIAA (Pullman) to Less than $9.4 Million (Return, p. 8)

The Return on page 4 calls the TIAA loan ("Pullman Bond") an "albatross" and describes the "enormity of the debt." It was not that. It was a $26 million loan with 7.95% interest secured by a royalty stream from Brown's major copyrights. [R. 1392; 1520] The TIAA debt was $15 million when Brown died and reduced to under $9.4 million when Buchanan and Petitioner were replaced. [R. 1414; 1439-40]

Buchanan and Petitioner, seasoned attorneys, did not need an expert to read the TIAA loan documents for them. In 2007 they had negotiated with the loan trustee to prevent an event of default over the first $900,000 of Cannon's theft, which they had discovered.

The big TIAA mistake was the claim of Respondents, Afterman, and later the circuit court in its status report to the Supreme Court, that the TIAA debt was $19 million when Brown died and $14 million when Buchanan and Petitioner were replaced. [R. 2128; 993; 996] This made a nearly-$4 million mistake in the already-erroneous $4.7 million Afterman valuation. [R. 993; 996; 1306]

Statements by Bauknight about his accomplishments were not supported by any record, and the discarded tens of millions of dollars of litigation records made comparison of his service with the efficient service of Buchanan and Petitioner impossible.

Response to Clearance Issues, C2, and Bradley Sharpe

At $700 an hour Bradley Sharpe interpreted an inaccurate excel spreadsheet provided to him by Respondents 8 years after Buchanan and Petitioner approved their last clearance. [R. 1859-

60] He also used the incorrect $19 million TIAA figure in a "bridge" analysis trying to show the difference between the $84 million and the $4.7 million. [R. 1306; 3090]

Sharpe talked about clearances, the purpose of which is to bring in royalties. [R. 384] He confirmed Buchanan's and Petitioners' $5+ million a year was high by testifying that Respondents' royalties after they were replaced were only $3.5-$4 million a year. [R. 1284] Sharpe speculated that Peter Afterman, who was paid $20,000 a month by Brown's estate while he worked for Hynie, was the reason for Bauknight's "success." [Return, p. 9].

Sharpe did say one important thing. He revealed Roger Miller's $8.8 million valuation of the termination rights of *all* heirs[10], which had been concealed for a year. [R. 1285] He confirmed Petitioner's testimony that termination rights of the settling parties were less than 5% of the estate. [R. 2396] Sharpe had never heard of the valuation formula proposed in 2007 or the Harlan Howard case. [R. 1283-5]

Response to Issue I D Regarding Preservation of Assets (P. 10)

Mr. Herbsman was simply not informed that the copyrights had been catalogued; that the Stanback Museum had two fine exhibits of James Brown's items; or that meticulous records were made of everything, increasing the number of James Brown boxes from 80 when Buchanan and Petitioner became PR/Trustees to 145 when they were replaced in May 2009. [R. 2095; 2098]

Buchanan and Petitioner were the only trustees since Brown's death who kept and filed "accurate records of the assets, liabilities and/or income and expenses" of James Brown's Estate and 2000 Trust. Those records included every dime of attorneys' fees and litigation costs. [R. 1902]

[10] Miller left the allocation of the $8.8 million among heirs to the lawyers.

Woolley and the Damage by Dallas and Others to the Christie's Sale (p. 12)

On pages 10–12 of the Return, Respondents assert that the 2008 Christie's auction of 350 of James Brown's 10,000 items of tangible personal property ("TPP") constitutes "mismanagement". [Return, p.10–12] They cite Laura Woolley, an expert who knew nothing about the sale, but was a colleague of Darren Julien, an auctioneer who was not chosen to conduct it.[11] [R. 2092-3; 2154-5; 2654-8; 1374]

Woolley was unaware of sabotage of the Christie's sale by Dallas, whom Julien said was honest, or the false Grammy© claim planted in January 2011 with an Atlanta firm. [R., 1301-1302]

Woolley's testimony did support the $84 million value with her $20 million value of the tangible personal property. [R. 1302][12]

The $84 Million Value of the Music Empire was Correct and Conservative (p. 12)

In 2013 Forlando Brown saw the $4.7 million Philpott Ball/Afterman valuation and declared it "bogus." [R. 719-20; 757;764; 774; 834; 844; 861] Buchanan and Petitioner agreed in more subtle terms. [R. 1269; 1968-70; 2030-32]

Hynie's son explained the $4.7 million to the Supreme Court in 2013 while seeking a rehearing in *Wilson v. Dallas.* The Copyrights were just under $23.7 million; everything else was zero, or near zero; and that was reduced by an overstated $19 million for the TIAA debt. [James B's Petition for Rehearing, *Wilson v. Dallas*]

Respondents' own experts Miller, Woolley, Sharpe and Herbsman added to the chorus of all earlier trustees, the TJBL investors, Hardin, Johnson, CPA Sellars, Williams, Smith, Alexander

[11] Julien's removed itself from consideration after a controversy between former trustee Dallas and Levenson arose over a *Metro Spirit* interview given by Julien. [R. 2092; 2654-7]

and many of the 33 people deposed and presented in the 2017 summary judgment motion, that the $84 million was correct and conservative. [R. 2618-20; 2652-3; 2891-9]

The massive devaluation was proposed by Hynie's attorney in 2009, carried out by Afterman in 2010, then adopted by the circuit court in 2019 at the request of Respondents through a fiduciary serving as trustee and agent for Hynie in Richland 4900.

Sharpe's "bridge" analysis did nothing to hold up the $4.7 million valuation. [R. 3090] The $4.7 million valuation was not admitted at trial because there was nobody to support it. Bauknight testified that he had not had any other professional valuation done except the $4.7 million, and he had no idea of the current value of the James Brown assets or its annual income. [R. 1848-50] In 2021 the *New York Times* reported that Brown's assets had sold for $90 million.[13]

Buchanan and Petitioner handed $99 million less a $9.4 million TIAA debt to their successor. [R. 1997-8; 2031; 2752-5] They properly valued the assets, honoring the neutrality they owed the "I Feel Good" charity and the 7 grandchildren who would borrow the "I Feel Good" Trust's assets only for education and only to age 35, when it would return to the charity.

The Appeal of the AG's 2008 settlement was neither Ill Informed Nor Self-Interested

Respondents say that the appeal of the AG's 2008 settlement was self-interested. It was not. In 2008 the AG proposed to give $1 million a year and a quarter of the "I Feel Good" charity to Hynie in exchange for half of her termination rights, worth zero. [R. 1387; 2022-3] Five Levenson clients went along; got another $1 million a year and quarter of the "I Feel Good" charity; and agreed to give the AG's new charity half of their termination rights. [R. 1421] That

[13] Sisario, Ben and Knopper, Steve, "After Years of Infighting, James Brown's Estate is Sold," *New York Times*, December 13, 2021. https://www.nytimes.com/2021/12/13/arts/music/james-brown-estate-primary-wave.html (last accessed October 5, 2022).

was much less than $4.4 million, because the Levenson clients were only about half of Brown's heirs. [R 2919] Three DNA-proven daughters, an incarcerated son and a grandchild were simply left out. [R. 995; 763; 966]

As *Private Foundations* described in 2011, this was not good for Brown's charity, especially if a son was given the right to buy the music empire at fair market value and the value was set at $4.7 million.

As this Court's *Wilson* opinion made clear, the AG's 2008 settlement dismembered Brown's estate plan. The overlooked testimony of the Solicitor General in 2017 was that Petitioner was competent, concerned about Brown's charity and not greedy. [R. 1266;1314] The people who called Buchanan and Petitioner liars, incompetent and greedy either wanted to cover up Cannon's theft, make Hynie the spouse of James Brown, or both. [R. 799; 846; 1839; 1246]

On June 10, 2015 Petitioner ended efforts to persuade the AG or anyone else to stop the Hynie/Levenson announced plan, and Petitioner has no interest in that now. It would, however, be manifestly unjust to deny payment of her $1.47 million claim. It is unjust for Respondents to hold Petitioner's $47,972, with interest – now $119,000 – until the never-ending Richland 4900 finally ends.

The $2.1 million offer was Valid and Richland 4900 is Primarily for Hynie

On page 17 and 18 Petitioners describe Richland 4900 as "the Estate's claim against Pope for breach of fiduciary duty." That is incorrect. [R. 626-38] It is an unconstitutional lawsuit pursued since 2010 by SWB in the name of the State/AG under a Special Counsel Litigation Retention Agreement which was never signed or authorized by the AG. [R. 1314-6]

The offer to settle this case for $2.1 million was made before and during trial. [R. 2138-9; 2154] The false accusation that Petitioner seeks $19 million from Respondents is simply wrong.

The Status of the Hynie/Levenson May 29, 2013 Plan at Trial (p. 18- 21)

Respondents' Return spends 4 pages suggesting that the May 29, 2013 announcement never happened. This denial first surfaced after 2019, but Bauknight and two attorneys, including the probate claims expert and a signatory to the Return were there. [R. 1259] One served the Disallowance when the status hearing concluded, and the other joined Hynie's attorney Alan Medlin, Esq., and Levenson in a request to exclude Buchanan and Petitioner from all James Brown Aiken hearings. [R. 1259] The request, almost in its entirety, was granted two days after the complaint in this case was filed on June 11, 2013. [R. 216-8] The Aiken Clerk was even directed to return any attempted filings by Buchanan and Petitioner in all cases except their claims. [R. 217]

In 2017 Hynie was (temporarily) the spouse; $1 million a year and nearly 1/3 (31%) of the "I Feel Good" Trust had been shifted to the Trust for former Levenson clients; and Levenson was called to testify in this case. He said that Buchanan and Petitioner had no duty to defend Brown's estate plan. [R. 1244; 1291] Petitioner has no interest in the outcome of the plan, but it has disrupted the level playing field to which Buchanan and Petitioner were entitled for the review of their service.

Everything About the Relationship of this Claim to Richland 4900 and FOIA is Novel

From page 14 to page 23 the Return Respondents assert that Petitioner's arguments are new and that there is nothing novel or unconstitutional about the 13-year delay in resolving Petitioner's share of a $2 million claim to benefit Hynie and other Richland 4900 plaintiffs. Yet today, calling Richland 4900 a "companion case," Respondents are holding $119,000 of Petitioner's $47,972 2007 SA fee. *See* Appellate Case No. 2020-000967. The AG's public Special Counsel Litigation Retention Agreement with SWB, was concealed for a decade, and confirms

that Richland 4900 was not authorized by the AG. [R. 723; 2430] The concealed Afterman $4.7 million valuation used to accuse Buchanan and Petitioner of a federal felony since 2010 is now the subject of its second FOIA appeal. *See Pope v. Wilson*, Appellate Case No. 2021-518. The Legacy Trust was granted partial summary judgment in Richland 4900 after the same court held it did not exist in a FOIA case. [R. 1313] This is just a sampling of the novel issues.

Perhaps the most novel part is that the circuit court overlooked the sworn testimony and documents of Governor McMaster, AG Alan Wilson, the Chief Deputy, the Solicitor General and other AG staff confirming that Richland 4900 was never authorized to be brought in the name of the State. This fact was concealed by SWB and Respondents for the entire duration of this case.

Conclusion

This case presents numerous novel and constitutional issues, and the orders appealed conflict with *Wilson* and *Kay*. The matter should be reviewed by the Court and the requested fee, with interest at the legal rate as requested, granted.

Respectfully submitted,

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