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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

In the Supreme Court

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

Supreme Court Appellate Case No. 2022-001713

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, Plaintiffs,

Of whom 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

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, are Respondents.

v.

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

Of whom Adele J. Pope is the Appellant.

**APPELLANT’S PETITION FOR ORDER LIFTING STAY TO CONCLUDE FINAL
CONSIDERATION OF 2010 AND SUBSEQUENT MOTIONS
REMANDED BY COURT OF APPEALS IN THIS CASE**

TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES:

Petitioner respectfully petitions this Court pursuant to Rule 241 SCACR and other applicable law for an Order Lifting Stay which will allow the circuit court to issue final orders in motions made in 2010 and 2011 which directly impact the circuit court’s grant of partial summary judgment which is the subject of this 2018 appeal and petition for certiorari. Lifting the stay in Richland 4900¹ will curb the effort of Respondent James Brown Legacy Trust (“Legacy Trust”), its trustee Russell Bauknight², and its primary Beneficiary-Owner Tommie Rae Hynie to deprive the appellate courts of jurisdiction over the Legacy Trust and its Owner-Beneficiaries, and from rendering the issues on appeal in this petition and on remand from the 2017 Richland 4900 appeal moot.

¹ Richland County Case No. 2010-CP-40-4900. [Summons & Complaint, R. 215-229]

² To avoid confusion, descendants and claimed descendants of James Brown are generally referred to herein by their first names, and all others by last names or abbreviated names, and abbreviated titles where applicable.

As described herein, since 2010 Hynie and those aligned with her have used the private law firm of Sweeny, Wingate & Barrow, PA. (“SWB”) and the power of the Office of the Attorney General of South Carolina³ to avoid discovery and conceal public and nonconfidential documents which show that Richland 4900 was never legally authorized by now-Governor Henry McMaster and that the claims of Hynie and others in the Richland 4900 complaint are without merit.

SWB, Bauknight and Hynie have bitterly resisted lifting the stay for any purpose since September 2017, when the third of four Richland 4900 pretrial appeals was filed. [R. 996-1000] The public documents they have been able to suppress in Richland 4900 are now part of the public record, and make clear that the allegations of the never-amended Richland 4900 complaint are without merit. [R.749 - 860]

For example, the public record now shows that the \$4 million at-death valuation of Brown’s “I Feel Good” charity was the result of a massive devaluation scheme proposed by Hynie in 2009 to discredit “Bobadele,” and that there is no legal or factual support for the claim of Hynie and Peter Afterman that Hynie and Respondent James II control tens of millions of dollars of termination rights proceeds under Sections 203 and 304 of the U.S. Copyrights. [R. 1350; 669-70; 979]

This motion to lift the stay is supported by the record of SWB’s and Bauknight’s actions since 2010 on behalf of the State/Attorney General of South Carolina to conceal the AG’s public, unsigned Special Counsel Litigation Retention Agreement with SWB and other public and nonconfidential documents. ⁴ [R. 588, 1471- 75, 1787] It is also based on the record in the four

³ “Attorney General” or “AG.”

⁴ *See*, for example, the history of Hynie’s Richland 4900 deposition, which was delayed until 2016 and in which Hynie was directed not to answer questions about her marriages, and is still not completed. [R. 178-179] Also, the five-year automatic stay has been used to prevent the court from considering the testimony of 9 experts designated jointly by the Attorney General, through

Richland 4900 pretrial appeals since 2011, the 2016 appeal in the Legacy Trust's related FOIA case, and the memorandum which follows. [See Appellate Case Nos. 2016-1708; 2016-1727; 2017-1899]

MEMORANDUM IN SUPPORT OF MOTION TO LIFT STAY

Since September 2017 SWB and Bauknight, acting for the Attorney General, but promoting the interest of Hynie and other Owner-Beneficiaries of Respondent Legacy Trust have sought to deprive the appellate courts of jurisdiction over Hynie, the Legacy Trust and other Legacy Trust Owner-Beneficiaries and to render the issues in the Richland 4900 pretrial appeals moot. [R 987-995] As set out below, the undisputed facts concealed during eight years of stays since *Wilson v. Dallas* show that neither SWB nor Bauknight ever had authority to act for the State/Attorney General, yet both spoke for the Attorney General and concealed public documents in an effort to cover up the \$17 million theft of David Cannon [R. 250]; promote the false claims of Hynie [R. 588]; and blame the damage caused by the AG's 2008 settlement on replaced PR/Trustees Robert Buchanan and Appellant Adele Pope. [R. 588, 642]

Background Facts

a. The Estate Plan of James Brown and Fraud of Hynie and David Cannon

More than 22 year ago, in August 2000, entertainer James Brown finalized his estate plan, leaving the bulk of his fortune to his "I Feel Good" education charity. [R. 260] Among those with Brown when his will and 2000 Trust were executed were companion Hynie, daughter Venisha Brown, and David Cannon, one of Brown's trustees. [R. 260, 298, 1207]

Sixteen years ago, on Christmas Day 2006, James Brown died. [R. 1477]

SWB, in Richland 4900 and Bauknight in Aiken County Case 2013-CP-02-1337 ("Aiken 1337") in January 2017, all of whom were either deposed, testified at trial, or both, in Aiken 1337, and who were told that Hynie was Brown's spouse. [R. 172-3]

Fifteen years ago, Hynie was claiming to be Brown's spouse and had filed five lawsuits seeking more than half of Brown's "I Feel Good" charity for herself and Respondent James Brown II, then a minor. [R. 8-9] Daughter Venisha, with son Terry and others, had hired Louis Levenson, Esq. to file baseless suits to set aside Brown' estate plan.⁵

Fourteen years ago, in January 2009, Russell Bauknight recommended that the circuit court approve a 2008 settlement deal brokered by the Attorney General, including an amendment which proposed to give Hynie, Terry and Venisha about 35% of the assets of the " I Feel Good" Trust in exchange for half of their termination rights proceeds to some of the U.S. royalties to Brown's 900+ song copyrights which they and Respondent James II had assigned to Respondent Legacy Trust.

b. The Attorney General Does Not Sign the Special Counsel Agreement with SWB

Twelve and a half years ago, on May 18, 2010, Bauknight; Alan Medlin, Esq., an attorney for Hynie; David Bell, Esq. who represented both Terry and Forlando Brown⁶; and Levenson, who represented Venisha and 10 others, signed the Attorney General's public Special Counsel Litigation Retention Agreement with SWB. [R. 679] The three lawyers agreed for their 14 clients to pay SWB a 40% contingency on what SWB could get for them from Buchanan and Pope. [R. 679; 960; 1610]

⁵ Terry and son Forlando were originally clients of Levenson, but terminated him in March 2007 and became aligned with Cannon and Dallas in efforts to cover up Cannon's theft. [R. 870, 887] Both also became part of TJBL, an Atlanta investment group seeking to purchase Brown's music empire for \$100 million. [R. 1494; Complaint, p. 6, R. 222]

⁶ For a complete history of the years between 2008 and 2013 in which Bell, a Georgia attorney, represented Terry Brown in efforts to dismember Brown's estate plan through the AG's 2008 settlement, while representing Terry's son Forlando who claimed in federal court that Brown's 2000 Trust should be saved by enjoining it from taking any action until the thief Cannon and co-trustee Albert Dallas were reinstated as trustee, see S.C. Dist. Court Case No. 3-08-cv-00014-WOB

The AG's Special Counsel Litigation Retention Agreement with SWB was extraordinary in many ways, including that it was not signed by the Honorable Henry McMaster, then AG. In addition, the AG would pay SWB 23% or less on the 47.5% charitable share of the SWB recovery, but the AG's office would retain 10% of that contingency fee, even though the AG was not an attorney of record in Richland 4900. [R. 1409]

Also unusual was the provision that Bauknight, speaking both for Brown's Estate/2000 Trust and the Legacy Trust, agreed that funds devised by James Brown to the "I Feel Good" charity would be used to advance SWB's costs to pursue Richland 4900 for the Legacy Trust. [R. 1409; 1547] Hynie and the AG would repay more than 70% of these costs when there was a recovery.

The SWB Agreement, like the AG's other Special Counsel Agreements, said that it was a public document subject to FOIA, and that all other documents used in Richland 4900 were owned by the State of S.C. and subject to release under FOIA by both SWB and the AG. [R. 959-61; 1426; 1705] It also required the AG to approve every pleading, and for SWB to notify the AG of any challenges. The representative of the AG's Office was Sr. Asst. AG Havird "Sonny" Jones ("AG Jones").

Now-Governor McMaster left office as AG in January 2011, and was replaced as AG by the Honorable Alan Wilson. [R. 929] McMaster did not know he was a Richland 4900 plaintiff, nor did he authorize SWB or Bauknight to act on behalf of the State/Attorney General. [*Id.*] He did not know that in September 2010 Bauknight and Legacy Trust music manager Peter Afterman had valued Brown's worldwide music empire as of Brown's death at less than \$4.7 million. [R. 999]

If SWB could stop the appeal of the AG's 2008 settlement, and the music empire and termination rights proceeds brought \$100 million in a sale, Hynie would take nearly \$24 million;

and Terry, Venisha and 10 other Levenson and Bell clients would take about \$28 million. [R. 960; 1409] Hynie and the AG would also remain in 75% control of the music empire or the proceeds of the sale through Bauknight and the Legacy Trust. [R. 1409]

The day after Bauknight and the three lawyers signed the AG's Agreement with SWB, the Attorney General sued Buchanan and Pope in Richland 4900, a tort suit brought exclusively to benefit the Legacy Trust and its Owner-Beneficiaries to whom Buchanan and Petitioner never owed any duty. [R. 215-229, R. 1490]

When Buchanan and Pope moved to dismiss the complaint, SWB introduced AG Jones to the circuit court as a representative of the Attorney General, one of SWB's approximately 15 clients. [R. 961-962] The circuit court was told that the AG and all parties believed Richland County was the proper venue. [R. 1044-45] SWB described the Legacy Trust as the "Charitable Trust Settlement Entity," and assured the court that Richland 4900 was legal. [R. 462; 652; 1057-58; 1376; 1409; 1461]

c. SWB, Forlando, and the First Richland 4900 Pretrial Appeal (2011)

By January 2011, the month AG Wilson took office, SWB was claiming that the AG's public Special Counsel Agreement with SWB was the "epitome" of a private document, and would do so for a decade. [R. 475; 484; 967] The AG and others, through SWB, had secured a circuit court order declining to dismiss Richland 4900, describing Respondent Legacy Trust as a "Charitable Trust Settlement Entity" controlled by the AG. [R. 1057-58] Bauknight and Peter Afterman, at Hynie's suggestion, had devalued Brown's music empire from \$84 million to \$4.7 million. [R. 999, 582-583] Forlando had secretly become owner of his father's Legacy Trust interest and right of first refusal to buy the music empire Forlando and the TJBL investors had valued at \$100 to \$150 million in 2008; [R. 888] By then the Legacy Trust had been amended to

allow Terry, and then Forlando, to begin a purchase/sale under the AG's 2008 settlement, and four Georgia law firms had been helping Forlando, Terry, and Dallas conceal Cannon's theft and pursue the federal suit to enjoin Brown's 2000 Trust until the thief Cannon and Dallas were reinstated as trustees. [R. 1267, 1374, 1235, 958]

That month a false claim about the proper withdrawal of Brown's Grammy© from a 2008 sale at Christie's of about 350 of Brown's 10,000 items of personal property⁷ was planted with an Atlanta law firm, while Bauknight and Afterman valued all 10,000 items of Brown's tangible personal property at less than \$.5 million. [R. 951- 952]

In 2011 Attorney General Alan Wilson, through SWB, opposed an early appeal and writ of prohibition in which the Court of Appeals was asked to declare Richland 4900 unconstitutional and illegal. Without advising AG Wilson, SWB took the position for the AG that the constitutional challenge was premature. [R. 924] The first Richland 4900 pretrial appeal was dismissed without prejudice. [R. 924]

By the end of 2011 numerous attorneys, including 17 working for Bauknight, were working to cover up Cannon's theft, forgeries and money laundering; make Hynie appear to be the spouse of James Brown; enforce the AG's 2008 settlement; and blame the damage on Buchanan and Pope in Richland 4900 . [R. 722, 862, 1235, 1282, 1663, 960]

Neither SWB nor Bauknight advised AG Wilson of the constitutional challenge to Richland 4900, or that the devaluation of the music empire from \$84 million would cause massive

⁷ Cannon, Dallas, Forlando and three Georgia law firms were actively involved in chilling the small 2008 sale, in which the 350 items sold for about \$800,000, and Dallas even filed a motion with the Court of Appeals to try to stop the sale about nine days before it was to take place. [R. 71-3]

income tax problems and cause the charity to lose \$1 million a year in scholarships, even if the AG's 2008 settlement were voided. [R. 945, 1005]

The union of Hynie and Forlando after the secret 2010 Legacy Trust amendment was a turning point in Richland 4900, after which the effort to conceal both public facts and public documents intensified. [R. 588-89, 888, 923, 936, 952]

In October 2011 Cannon, who had been named by the AG as a witness in Richland 4900, was allowed to enter an *Alford* plea to some of the takings; the AG sought no jail time or restitution, and Bauknight did not file a victims' statement for the needy students who had lost \$17 million. [R. 954, 963, 968, 487]

d. SWB, Bauknight, AG Jones and the AG's FOIA staff (2011 – 2022)

By 2011 SWB and Bauknight, acting for the State/AG, were already concealing 145 boxes of public James Brown Historical Documents which told the story of the \$17 million Cannon had stolen, Hynie's bigamy, and the damage the AG's 2008 settlement had caused Brown's "I Feel Good" charity. [R. 1345] In addition, SWB and Bauknight, using the AG's voice in Richland 4900, created, then repeated, the false claims which were being made by Hynie and the settling parties to the Supreme Court in *Wilson v. Dallas*. [R. 1005]

By 2011 documents to refute false claims about termination rights, the value of termination rights, the value of Brown's music empire, Hynie's bigamy and the fact that Richland 4900 was not legally authorized, were being suppressed in Richland 4900 discovery, under FOIA, in Supreme Court and Court of Appeals filings, and in Forlando's Case No. 3-08-cv-00014-WOB. [R. 598 - 599]

A 2012 filing by SWB of 100 media articles and public posts showed the extent to which the AG, Bauknight, Hynie and Forlando were going to silence and discredit all voices, and suppress

all documents, that refuted their claims of Hynie's spousal status; Cannon's innocence; and the incorrect assertion that the AG's 2008 settlement was good for Brown's "I Feel Good" charity.⁸
[R. 544- 622]

e. *Wilson v. Dallas*, the April 14, 2013 Letter, and Hynie's May 29, 2013 Plan

Between the February 27, 2013 first decision in *Wilson v. Dallas* and the final May 8 decision, Pope and her counsel met with AG Wilson, Solicitor General Robert Cook and Chief Deputy John McIntosh to discuss the double damage to Brown's "I Feel Good" charity by the IRS claims that Hynie was Brown's spouse and the devaluation of Brown's charity from \$80 million to less than \$4 million. [R. 994, 1006, 1736]

In his petition for rehearing in *Wilson v. Dallas* the Attorney General continued to support the AG's 2008 settlement, but announced he was getting out of Richland 4900 and hoped to conclude the FOIA cases in a short time. [R. 1006]

On April 24, 2013 the Attorney General, through Chief Deputy McIntosh, confirmed to SWB that AG had never hired SWB in Richland 4900; had no attorney-client relationship with SWB; and would not pay any portion of the fee set out in the AG's unsigned Special Counsel Agreement with SWB. [See Exhibit 2-B to Motion to Expedite, filed in this case on November 5, 2020.] Further, the AG advised SWB that if the *Wilson v. Dallas* decision remained the same, SWB would have to disgorge the funds Bauknight had advanced to SWB for Richland 4900.

⁸ The Court is asked to take judicial notice of a statement of Bauknight to the Honorable Clifton B. Newman in a case from which Buchanan and Pope have been excluded since 2013. Bauknight claimed Pope was seeking a \$19 million PR/Trustee fee when she had actually offered numerous times to settle her fee claim for \$2.1 million or less. [See p. 91, Transcript of 11/2/20 hearing, Case No. 2008-CP-02-1647, on file in the Aiken County Circuit Court as Exhibit 9 to Memo. Supp. Mot. to Extend Time, filed 2/24/21]

Ignoring the AG's April 24 letter, on May 10, 2013 AG Jones helped reinstate Bauknight as Brown's fiduciary; and on May 29, 2013 Hynie's attorney Medlin and Levenson announced to the Honorable Doyet Early their plan to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement. [R. 720, 992, 1009, 1543, 1739; 1742]

Bauknight and two Legacy Trust attorneys, including the Legacy Trust's "probate claims expert," were at the May 29 hearing, along with AG Jones, Bell and numerous others, including media representatives. [R. 720; 1742]. After Hynie's plan was announced, one Legacy Trust attorney joined Hynie and Levenson in a request that Buchanan and Petitioner be excluded from all James Brown hearings. [R. 887, 1003] Two weeks later they were excluded from all James Brown Aiken County hearings except their own fee cases. [R. 887; 184; 1543]

f. The *Wilson v. Dallas* remand and Orders Issued Between 2013 and February 2019

In 2013 the Aiken Circuit Court held a brief *Wilson v. Dallas* remand hearing attended by Bauknight's two attorneys who had joined Hynie and Levenson in the May 29 request to exclude Buchanan and Pope from James Brown cases. The Aiken Circuit Court praised the service of Buchanan from 2007 until 2013, all of which was joint with Pope. The court stated its ruling in the short record, finding that there was no basis for disgorgement of any of the full SA fee and partial \$550,000 PR/Trustee fee Buchanan had been paid for his work from November 2007 until May 2009. The circuit court "double approved" the payments to Buchanan, and left open the possibility of Buchanan's re-entry into Richland 4900 to pursue his counterclaims against the Legacy Trust, Hynie and Richland 4900 plaintiffs other than James Brown's Estate/2000 Trust under a pending 2012 motion which has still not been heard. [R. 721; 1543-45; 1610]

One of Bauknight's two attorneys was directed to present the court with an order satisfactory to Buchanan which would outline the ruling. The order was never filed. Instead, over

the next six years, the circuit court issued more than fifty orders and directives which increasingly supported Hynie's May 29, 2013 efforts and reversed the circuit court's earlier findings about Buchanan and Pope. [R. 1543-46, 174] Many of the orders and directives concealed public and nonconfidential documents. [R. 167-171, 176-179, 474-476]

In January 2019 the circuit court, at the request of Bauknight and disregarding the testimony of the Governor, the AG, the Solicitor General, and more than a dozen experts and lay witnesses, held that the only credible evidence was that Brown's worldwide music empire which earned \$5 million a year was worth less than \$4.7 million when Brown died, and that Buchanan and Pope had breached their duty to Respondent Brown's Estate/2000 Trust by opposing the AG's 2008 settlement.⁹

g. The Hynie Spousal Orders and Status Report to the Supreme Court (2015)

Between October 2013 and January 2015 an SA/ST chosen by Bauknight to defend against claims of Hynie and James II who knew nothing about termination rights or the value or operation of Brown's music empire, billed \$1 million; took one deposition; and allowed Hynie to be declared the spouse of James Brown in a circuit court summary judgment hearing in which the facts were stipulated and the SA/ST failed to proffer Hynie's handwritten bigamy admissions. [R. 1009] At the same time, Bauknight's music manager Afterman helped Hynie and James II siphon off more than \$1 million of U.S. royalties that they had assigned to Respondent Legacy Trust in 2009. [R. 1741]

⁹ The orders on appeal in Aiken 1337, now before this Court, track the history of the Aiken Circuit Court's change of opinion from full support for the PR/Trustee service of Buchanan and Pope to its 2019 finding, disregarding the testimony of the AG, the Solicitor General and the AG's own experts, that Buchanan and Pope should not have opposed or appealed the AG's 2008 settlement. [See Appellate Case No. 2022-1193, petition for certiorari pending]

In 2015 the circuit court declared Hynie the spouse of James Brown. [R. 731] The next day two circuit courts, *sua sponte*, directed that a joint mediation be held in Richland 4900 and Aiken County Case 2013-CP-02-1337 (“Aiken 1337”). [R. 133-5]

That year the circuit court also issued a rule to show cause to a journalist who re-released Hynie’s public handwritten bigamy admission which had been suppressed by an *ex parte* gag order secured by Hynie in 2008.¹⁰ [R. 551; 588; 614; 826] The circuit court, in a May 8, 2015 filing, failed to recall and report to the Supreme Court the May 29, 2013 announced plan of Hynie and Levenson to reinstate the AG’s 2008 settlement. [Status Report, R. 1544]

In 2015, based on misrepresentation made in a 2012 hearing, the circuit court, during a stay requested by SWB for the AG and all others, issued an order granting Hynie, the Legacy Trust and all other Richland 4900 plaintiffs relief from default as to Buchanan’s and Petitioner’s counterclaims. [R. 143-5; 1409; 1519; 1541; 1547]

h. The Post-*Wilson* Stay lifted and the Second (FOIA) Richland 4900 Appeal (2016)

In 2013, acting for the AG and all Richland 4900 plaintiffs, SWB obtained a 3-year *de facto* stay of Richland 4900 and the two related FOIA cases the AG had moved from Newberry County. [R. 147-8; 151]

In March 2016 Richland 4900 and both FOIA cases were assigned to Judge Early, and the stay was lifted. [R. 149-51] In May 2016 Bauknight, under oath, claimed that the Legacy Trust never existed. By July the circuit court had dismissed both FOIA cases and the second Richland

¹⁰ The Supreme Court declined to enforce the rule to show cause, and Hynie’s long-public bigamy admissions, suppressed by an *ex parte* 2008 circuit court order, returned to the public domain. [Order dtd. 3/4/15, Appellate Case Nos. 2015-000186 and 2015-000215] The AG, however, continued to refuse to release Hynie’s handwritten bigamy admissions, a copy of which the AG has possessed since early 2008, under FOIA or in Richland 4900 discovery.

4900 appeal, the FOIA case seeking the AG's unsigned, public Special Counsel Agreement with SWB, was filed. [*See* Court of Appeals Case No. 2016-1708]

That year now-Governor Henry McMaster stated emphatically under oath in Aiken 1337 that he never authorized SWB to bring Richland 4900 in the name of the State/AG and never authorized Bauknight to act for the AG. [R. 945; 988] McMaster did not learn he was a Richland 4900 plaintiff until after leaving office as AG in 2011. [R. 924]

i. Dismissal of the Attorney General under Rule 21 and the Third Appeal (2017)

In 2016 SWB and Bauknight continued to speak for the State/AG while AG Jones entered a special appearance for the sole purpose of seeking dismissal under Rule 21 SCRPC; praised Bauknight; praised SWB; and asserted that naming the AG as a Richland 4900 plaintiff had been a strategy decision. [Hearing 8/29/16; R. 1181] AG Jones did not disclose the April 24, 2013 letter of AG Wilson to SWB. AG Jones also rejected the offer of Pope's counsel to be dismissed with prejudice from Richland 4900. The dismissal Order was granted, reconsideration denied, and the third Richland 4900 appeal filed on September 10, 2017. [Notice of Appeal, Appellate Case No. 2017-1899]

In addition to appealing the AG's Rule 21 dismissal, Appellant appealed orders granting a 2010 motion of the AG and all other plaintiffs, through SWB, to be relieved from default as to the counterclaims of Buchanan and Pope, and denying 2011 motions to disqualify SWB as Richland 4900 counsel and enjoin Bauknight from speaking for the Attorney General in Richland 4900. [Notice of Appeal, Appellate Case No. 2017-1899]

By the end of 2017 Pope had moved to lift the stay, but the motion was opposed by the Attorney General, through SWB and Bauknight, and all other Richland 4900 plaintiffs. [R. 206-210; 987-995; 996-1040]

j. The Fourth Pretrial Appeal and the Second Motion to Lift Stay (2018)

By 2018 a stay had been imposed in Richland 4900 for most of the five years since *Wilson v. Dallas* and the actions of the AG, SWB, Bauknight and Hynie to suppress public and nonconfidential documents was increased and fully supported by the circuit court. [R 165-71; 176-9]

On October 30, 2018 Petitioner filed a supplemental motion to lift stay, providing further evidence that the Richland 4900 Plaintiff/Respondents were seeking to deprive the appellate courts of jurisdiction over them and render the issues on appeal from Richland 4900 moot. [Exhibit B to Respondents' Return to Motion to Lift Automatic Stay, filed in this case on 8/10/20] The Attorney General, Respondent Hynie and all other Respondents moved on November 9, 2018 to strike the motion and opposed the lifting of the stay. [*Id.*] The stay was not lifted. [*Id.*]

On December 6, 2018 Petitioner filed a Supplemental Memorandum in Support of Lifting Stay. [*Id.*; R. 1746]

On December 17, 2018 Petitioner filed S.C. Court of Appeals Case No. 2018-002229. Petitioner appealed the circuit court's grant of summary judgment to the Attorney General, Hynie and all Richland 4900 Plaintiffs, as well as more than 20 orders issued since May 29, 2013 which advance Hynie's May 29, 2013 announced plan to reinstate the AG's 2008 settlement and use Richland 4900 to blame the damage she caused on Buchanan and Pope.¹¹

¹¹ The circuit court, on motion of the AG, Hynie and others, granted all Richland 4900 Plaintiffs summary judgment as to the counterclaims of Buchanan and Petitioner based solely on *Wilson v. Dallas*; while the Rule 241 stay was in place; with knowledge that Governor McMaster had stated under oath that he never authorized SWB to bring Richland 4900 in the name of the State/Attorney General; with knowledge that 11 Respondents were claiming that Hynie was not the spouse of James Brown and was not entitled to any relief she seeks in Richland 4900; and with the parties not properly joined. [R. 188-203; 1749]

The partial summary judgment order was issued without hearing motions dating back to 2010 to correct the parties; after a new circuit judge had announced that discovery would begin anew; without considering the undisputed facts and admissions of the Respondents and the Attorney General's nine experts; and based solely on *Wilson v. Dallas*. [R. 188-203]

On February 1, 2019 the Attorney General and all Respondents moved to strike Petitioners October 2018 motion to lift stay. [Mot. Strike, 2/1/19] The Attorney General, through SWB and Bauknight, with Hynie and others, characterized the statements in the motion to lift stay as "irrelevant" or containing "gross misrepresentations." The Attorney General and all Respondents claimed that the motion was "wholly contemptuous." [*Id.*, p.7] The AG's and Respondents' motion cited the Supreme Court's June 10, 2015 order and also cited the January 19, 2019 Aiken 1337 circuit court order which had found Buchanan and Pope breached their fiduciary duty by opposing the AG's 2008 settlement. [Mot. to Strike pp. 7 – 11].

The Attorney General, Hynie and others, through SWB, said " now is the time for the Supreme Court to consider whether contempt charges are appropriate. " [Mot. Strike, p. 14]

On February 26, 2019, the circuit court issued its Order Denying Defendant's Motions to Lift Stay Pursuant to Rule 241, SCACR and Denying Plaintiffs' Motions to Strike Defendant's Motion to Lift Stay, All in Connection with Appellate Case No. 2017-001899 and 2018-2229. [Order, 2/26/19]

In 2019 Richland 4900 and Aiken 1337 were assigned to the Honorable Clifton Newman.

In 2019 the two 2011 James Brown FOIA cases were remanded to the circuit court. After resistance, SWB was ordered to release the AG's unsigned Special Counsel Litigation Retention Agreement. [Exhibit A, p. 6] The AG was ordered to release the same public document under the 2011 FOIA request. [Exhibit A, p. 8]

The 2011 FOIA request for the claimed \$4.7 million valuation, Legacy Trust 2010 amendment and related documents, was, on motion of the Attorney General, dismissed a second time. It is now the subject of Court of Appeals Case No. 2021-000518.

The AG claims that he never received FOIA requests related to the devaluation of the music empire from \$84 million to less than \$4.7 million. [See Appellate Case No. 2021-000518]

The Attorney General, SWB and Bauknight, in multiple capacities, continue to withhold the claimed \$4.7 million valuation even though it has been shared with Hynie, other will contestants and Forlando, who declared it “bogus,” and has been used in Richland 4900 for a decade to falsely accuse Buchanan and Petition of the federal felony of overstating the value of Brown’s music empire to the IRS by \$79 million to get a \$5 million commission on Brown’s claimed \$5 million estate. [See Appellate Case No. 2021-000518]

In June 2020 Bauknight persuaded the circuit court that Richland 4900 and Aiken 1337 are “companion cases” so that he could withhold \$119,000 and accruing interest of Petitioner’s money for the benefit of Hynie, Forlando and other Legacy Trust Owner-Beneficiaries. The \$119,000 is Petitioner’s \$47,972 SA fee, with interest, awarded in three court orders. [See Appellate Case No. 2021-00160; R. 1011]

In October 2020 the Attorney General released under FOIA to another citizen the April 24, 2013 letter which both SWB and Bauknight, acting for the State/AG, had concealed for seven years, including in court-ordered depositions of two SWB attorneys. [See Exhibit 2-B to Motion to Expedite, filed in this case on November 5, 2020.]

In 2020 the following issues were remanded to the circuit court from Court of Appeals Case No. 2019–001899:

- Should the 2012 order denying the 2011 motion to disqualify SWB as counsel in Richland 4900 be altered, amended or vacated?

- Should the 2012 order denying the 2011 motion declining to enjoin Bauknight from speaking on behalf of the Attorney General in Richland 4900 be altered, amended or vacated?

- Should the 2015 order granting the 2010 motion of the Attorney General, Hynie, the Legacy Trust, and all other Richland 4900 beneficiaries relief from default as to the counterclaims of Buchanan and Petitioner be altered, amended or vacated?
[*Bauknight v. Pope*, S.C. Ct.App. Op. No. 2020-UP-216 (July 15, 2020)]

In 2021 SWB and Bauknight, speaking for the State/AG, secured an order holding that Judge Casey Manning should hear the remanded issues, even though he has had no involvement with Richland 4900 since March 2016 and has now retired. [Exhibit B]

On November 2, 2022. Petitioner filed the motion to lift stay which is the subject of this Petition. [Exhibit C, Petition to Lift Stay, with verification and Exhibits]. It was presented to the circuit court by email on November 2, 2022 [Exhibit D]

On November 3, 2022, speaking for all Richland 4900 Plaintiffs, SWB opposed lifting the stay and suggested that SWB would submit a memorandum in opposition to the motion. [Exhibit E].

SWB asked the circuit court to summarily dismiss the effort to reverse the ruling assigning the above questions to Judge Manning. SWB stated in part:

You already have the ability to take action on the remanded issues and have started the process via order dated August 21, 2021, your (*sic.*) referred the remanded issues to Judge Manning for disposition. On the cusp of Judge Manning’s ruling, Ms. Pope filed a motion to reconsider your August 21, 2021 referral order.

Plaintiffs, therefore, request that your Honor deny the “Petition for Expedited Lifting of Stay,” deny Ms. Pope’s motion to reconsider your August 21, 2021 Order, and allow Judge Manning to dispose of the remanded issues as was this Court’s plan all along. These orders could be accomplished quickly with Form 4 orders, and no more hearings are required on these well-briefed, decade-old procedural issues.

Almost two months have elapsed since the Petition to Lift Stay was filed, and more than a year has elapsed since Petitioner sought reconsideration of the re-assignment of the 2020 remanded issues to Judge Manning. SWB and Bauknight, acting for Hynie and others, are now holding \$119,000 of Petitioner's money and about \$9,000 a year of interest until the conclusion of this 12 ½ -year-old case brought by the State/Attorney General and now being conducted solely for the benefit of SWB's private clients, primarily Hynie and Forlando. [See Appellate Case No. 2021-00160; R. 1011]

Hynie and James II are now residents of London, U.K., and most minor Respondents are now adults who have repudiated the claims they made in Richland 4900, along with their parents, and terminated Levenson, who signed the 40% contingency fee with SWB for them. [R. 998] In addition, all persons named in the Will of James Brown have now filed notices that they have received all assets to which they are entitled under Brown's Will and from his estate.

ARGUMENT

Rule 241(a) provides that the service of a notice of appeal "acts to automatically stay matters decided" in the order(s) appealed from. When Petitioner initially moved to lift the automatic stay in 2017 in the circuit court, the motion was denied based on the circuit court's finding that the then-pending appeal (Appellate Case No. 2017-1899) created an automatic stay applying "to all matters being litigated in [Richland 4900]." [R. 209]

On April 21, 2021, this Court declined to review the court of appeals' decision in Case No. 2017-1899, but remanded the matter with the note that "[t]he motions currently pending before the Honorable Clifton B. Newman in the circuit court may now be resolved." [Order, dtd. 4/21/21, Case No. 2020-1383] On August 22, 2021, Judge Newman entered an order assigning the long-pending undecided motions for reconsideration to the Honorable L. Casey Manning. [Order, dtd.

8/22/21] Petitioner moved to alter or amend Judge Newman's order based on jurisdictional and procedural concerns, and the circuit court has not heard or decided that motion.

Petitioner filed a motion in the circuit court to lift the stay pursuant to Rule 241(d)(1) on November 2, 2022, but that motion has also not been heard or acted upon by the circuit court in nearly 2 months. Rule 241(d)(1) provides that "unreasonable delay by the lower court . . . shall constitute an extraordinary circumstance" justifying the appellate court's consideration of lifting the stay. In light of the pending Petition for Certiorari, Petitioner submits that the circuit court has unreasonably delayed consideration of her request that the stay be lifted.

Pursuant to Rule 241(c)(2), the Court should consider whether an order lifting the stay "is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." The primary issue before this Court is whether all Respondents should have been granted summary judgment on Petitioner's and Buchanan's counterclaims in 2017, where discovery was incomplete and where motions relating to the proper joinder of parties have remained undecided for years. Proceeding with the ultimate disposition of this appeal without lifting the stay to finally determine a 2011 motion to disqualify SWB and to prevent Bauknight from acting for the Attorney General while he serves Hynie would not promote either justice or judicial economy. Nor would failure to finalize a 2010 motion with virtually no support in fact or law which let the Legacy Trust, Hynie and others to whom Buchanan and Petitioner never owed a duty out of default as to their counterclaims without even properly joining the parties. There is a clear attempt by all Respondents to render these decade-old issues moot.

Petitioner respectfully submits that it would be manifestly unjust to allow the remanded issues to become moot while Respondents Hynie, James II, Tonya Brown and the Legacy Trust, to whom Buchanan and Petitioner never owed any duty, are being allowed to escape the

jurisdiction of the Supreme Court and circuit court while Bauknight and SWB hold Petitioner's funds for their benefit. This is especially so because this is an appeal of a pre-conclusion-of-discovery grant of partial summary judgment in a case which, through no fault of Buchanan or Pope, has been plagued with delay, stays, and discovery noncompliance.

Counsel understands that Respondents have asked for an extension until the 26th of January, 2023 to respond to the Petition for Certiorari; does not oppose a delay until that time for Respondents to address this Petition; but submits that the issues on remand are an integral part of this Petition for Certiorari, and are filing this petition now, rather than after January 26, 2023, to avoid further unnecessary delay.

For every reason stated in the four petitions to lift stay, Petitioner respectfully submits that judicial economy, as well as the retention of jurisdiction over the parties and the issues on appeal, will be served by lifting the stay so that the parties may be properly joined and the 2010 and 2011 issues that were remanded more than a year ago can be promptly decided.

Conclusion

For the foregoing reasons and each reason stated in the verified motion to lift stay filed herewith, and based on the sworn testimony on file herein and the public admissions of Respondents, Petitioner asks that the Court lift the stay imposed in Richland 4900 since 2017 and take such related action as will insure that the remanded issues are promptly determined by a circuit court judge with proper jurisdiction.

Respectfully submitted,

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Counsel for Petitioner Adele J. Pope

STATE OF SOUTH CAROLINA

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VERIFICATION

COUNTY OF NEWBERRY

The undersigned Petitioner Adele J. Pope hereby certifies that I have read the allegations in the forgoing Petition and that they are true based on my knowledge and belief.

Adele J. Pope
Adele J. Pope

SWORN TO BEFORE ME THIS 28th Day
of December, 2022.

[Signature] (L.S.)

Notary Public for South Carolina

My Commission expires: 2/27/2027

RECEIVED

Dec 30 2022

S.C. SUPREME COURT