

**RECEIVED**

**Feb 02 2023**

**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.

---

**REPLY TO RETURN OF RESPONDENTS  
TO PETITION TO LIFT STAY**

---

**GENERAL RESPONSE TO RETURN<sup>1</sup>**

In their January 2023 Return, Respondents Legacy Trust<sup>2</sup>, Tommie Rae Hynie, and a dozen Legacy Trust owner–beneficiaries,<sup>3</sup> joined by the James Brown Estate<sup>4</sup>, ask this Court not to lift

---

<sup>1</sup> Petitioner incorporates in their entirety all motions to lift stay since September 17, 2017 in Richland County Case 2010-CP-40-4900 (“R4900” or “Richland 4900”), in which counsel of record for all plaintiffs is Sweeny, Wingate & Barrow, PA. (“SWB”).

<sup>2</sup> The names of Respondent James Brown Legacy Trust and others are abbreviated herein. To avoid confusion, the descendants and claimed descendants of entertainer James Brown are generally be referred to herein by their first names, and others are generally be referred to by last or shortened names, and, where applicable, shortened titles.

<sup>3</sup> The existing owners of the Legacy Trust and the apparent stake of each in the Legacy Trust since the Attorney General of South Carolina (“AG” or “Attorney General”) relinquished his 47.5% share on April 24, 2013, are: Forlando Brown (a grandson) and Respondents Daryl, Larry and Yamma Brown, Deanna Brown-Thomas, and the Estate of Venisha Brown, about 9% each, and Respondent Hynie about 46%. Other Respondents, including Tonya Brown Fegan, according to the complaint (“Complaint”) in R4900, which is attached as Exhibit A, also describe themselves as “beneficiaries” and “Affected Parties.” [Complaint, Ex. A, pp. 2,3,5] The Attorney General is described as an owner-beneficiary in the Complaint, and acted openly as such, claiming 47.5% of the damage sought by the Legacy Trust for his (new) charity, until March 14, 2013 when the AG advised the Supreme Court of South Carolina (“Supreme Court”) that he was getting out of R4900. The AG’s April 24, 2013 letter to SWB followed, but was not disclosed to the courts by counsel SWB until released under FOIA by the Attorney General in October 2020.

the Rule 241 stay which has paralyzed this 2010 tort suit since September 12, 2017. Respondents assert that the request to lift the stay to consider constitutional issues raised by defendants Robert Buchanan and Petitioner Adele Pope in 2010 and 2011 and remanded by the Court of Appeals in 2020 was improperly and hastily sought; is unnecessary; and was filed for an “ulterior” purpose.

Respondents describe the parties and purpose of Richland 4900 in a way that bears no relation to the R4900 Complaint, for which no amendment has been sought for almost 13 years. Yet Respondents do not deny facts which show that lifting the stay is necessary to stem the tide of Respondents over whom the Supreme Court is losing jurisdiction and to prevent the issues remanded in 2020 and those in this pretrial appeal from becoming moot. Indeed, Respondents even assert that some of the issues remanded in 2020 have already become moot while the Rule 241 stay has been pending since 2017.

Respondents do not deny that since Supreme Court’s first, later substituted, decision in *Wilson v. Dallas*, in February 2013 this case has been stayed for more than 8 years at the request of the AG and Respondents. Nor do they deny that the remanded issues result from orders of the Honorable L. Casey Manning related to issues which arose in 2010 and 2011, and that decisions of the Supreme Court and the position of Respondents in cases from which Buchanan and Petitioner Pope have been excluded since June 13, 2013 show that most Respondents have, since the 2012 hearings on these motions, reversed the positions they took at the hearings and in the Richland 4900 Complaint.<sup>5</sup> Only Respondents Hynie, James II, the Legacy Trust and the James

---

<sup>4</sup> The James Brown Estate, the James Brown 2000 Irrevocable, and its sub-trusts, including the James Brown “I Feel Good” Trust, Brown’s education charity, are collectively referred to herein as the “James Brown Estate,” unless the context requires otherwise.

<sup>5</sup> See, for example the motions for reconsideration of numerous Respondents and some of James Brown’s DNA-proven children not part of the AG’s 2008 settlement filed in January 2015 after the circuit court, on stipulated facts, declared Hynie to be the spouse of James Brown. [Mots.

Brown Estate appear to remain committed to Hynie’s May 29, 2013 announced plan to disregard the *Wilson v. Dallas* decision and reinstate the AG’s 2008 settlement, the enforcement of which is the goal stated in the R4900 Complaint. [Exhibit A, pp. 5, 6, 7, 8]

Respondents do not deny that they have sought and obtained more than eight years of stays, including the current stay, since the Supreme Court, in the first *Wilson v. Dallas* decision, said that certain Richland 4900 issues should be considered “in the first instance.”

Respondents do not deny that the Attorney General’s public, unsigned Special Counsel Agreement with SWB was not produced in Richland 4900 or its consolidated FOIA case until 2020, even though it was requested in discovery in October 2010 and under FOIA in 2011. Even in 2020, Respondents, through SWB, continued to claim that the AG’s unsigned, public Special Counsel Agreement was the “epitome” of a private document,

Respondents do not deny that in 2023 they are still concealing the 2010 \$4.7 million claimed at-death valuation of James Brown’s music empire, created that year to carry out Hynie’s 2009 plan to produce a massive devaluation of James Brown’s music empire to discredit “Bobadele.” [Pet., p. 4] Even though no Attorney General and no attorney in the Office of the AG has ever seen the Afterman \$4.7 million valuation, which reduced James Brown’s “I Feel Good” charity from about \$80 million to less than \$4 million, the AG and Respondents have used it for 12 years in Supreme Court filings and Richland 4900 to falsely accuse Buchanan and Pope of a federal felony [Pet., p. 17]

In addition to concealing these two pivotal documents, Respondents continue to conceal 145 boxes of public James Brown documents, 80 boxes of which were made public by the

---

Reconsider, Hynie spousal suit, ...248, 249] R4900 plaintiffs said Hynie had “not provided one scintilla of admissible proof: that she was James Brown’s spouse.” [Mot. T. Brown, 2/2/15]

Honorable Doyet A. Early, III, in his August 2007 order. It was these 80 boxes of public documents, now sealed, which confirmed that Brown's music empire was worth \$99 million, but that resigned trustee David Cannon had stolen \$17 million from funds devised to the "I Feel Good" charity; laundered \$5 million through a Barnwell bank; and uttered three forgeries to cover up the theft. [Pet., p. 8]

Respondents do not deny that Hynie's purpose, and that of the Legacy Trust, is for the still-undisclosed \$4.7 million valuation to continue to be used destroy the careers and reputations of Buchanan and Pope. Since at least 2012 Hynie has falsely and publicly accused Pope of stealing and described a mediation in R4900 as an effort to get rid of "the last of the rats."

It is the concealing of the AG's Special Counsel Agreement, \$4.7 million valuation and 145 boxes of public documents, as well as public evidence that Hynie was not the spouse of James Brown, which has prolonged this State/AG action unnecessarily for almost 13 years.

In 2017, while concealing the above public documents and seeking summary judgment without any discovery, the Attorney General and Respondents secured an order from the circuit court to review the more than 50 public CDs Buchanan and Pope had been required to gather to protect themselves in Richland 4900, and to spend five days at Petitioner's home office looking through 120 boxes of public documents Buchanan and Pope had gathered. After five days of inspection, the SWB attorneys failed to copy a single document (other than the CDs).<sup>6</sup>

The issues on remand from 2020 were presented to the lower court at a time when Respondent Legacy Trust claimed, as shown in the Complaint, 100% of the damages sought, with

---

<sup>6</sup> In 2017 the Attorney General and Respondents, through SWB, secured an extraordinary circuit court order which struck an affidavit of Pope from the public record without review and then directed that all other affidavits filed by Pope (and none by anyone else) were to be filed under seal, to be considered at trial. [Order Ref. January 17, 2017 Affidavit, 3/9/17, p. 2] Even the reference to the stricken affidavit has disappeared from the public record.

more than 70% to go to Hynie, the “spouse,” and the AG’s (new) charity. The Legacy Trust was described to the circuit court as a “charitable trust settlement entity.” See **Exhibit B**, p. 1. The AG and Respondents, while concealing evidence that Hynie was not Brown’s spouse, were making the same claims to the Supreme Court in *Wilson v. Dallas*.<sup>7</sup> Hynie continued to make her spousal claims to the Supreme Court until 2020. See *Brown v. Sojourner*.

Respondents do not deny that the 2016 Richland 4900 [FOIA] appeal, like the 2011 R4900 constitutional challenge which was dismissed as premature, might have been avoided if the Attorney General and Respondents had not, after consolidating a FOIA case with R4900, withheld numerous public documents, including:

- the AG’s public, unsigned Special Counsel Agreement with SWB;
- SWB’s 2012 letter advising the AG not to release the AG’s public Special Counsel Agreement with SWB under FOIA; and
- The AG’s April 24, 2013 letter to SWB advising that the Office of the Attorney General had never hired SWB in R4900; that the AG would not pay any portion of SWB’s contingency fee; and that SWB would likely have to disgorge under *Wilson v. Dallas* the funds the James Brown Estate had advanced to SWB for Hynie and other Legacy Trust owners.

Respondents freely admit that since 2017 they have resisted multiple efforts to lift the stay imposed by the third R4900 appeal, and do not want the Supreme Court to see these public

---

<sup>7</sup> In 2011, most Respondents had actual knowledge that the representations Hynie was making in *Wilson v. Dallas* were incorrect, and were working with Hynie, the AG and Legacy Trust attorneys to conceal the public documents to show that they were incorrect. Hynie, the Attorney General and Respondents told the Supreme Court in *Wilson v. Dallas* that Hynie was the spouse of James Brown; that Hynie and Respondent James II controlled termination rights worth tens of millions of dollars; that Hynie’s elective share claim was a “slamdunk;” that termination rights were all the case was about, even though they related only to the U.S. half of Brown’s \$5 million annual royalties; that the AG’s 2008 settlement saved taxes when it actually made the James Brown Estate pay tens of thousands of dollars of unnecessary income taxes each year; and that, but for the AG’s 2008 settlement there would be no assets in James Brown’s “I Feel Good” education charity in 2023.

documents, or even the opinions of the experts jointly engaged by the AG, Hynie and the James Brown Estate in 2017.<sup>8</sup>

This is a pretrial partial summary judgment appeal. The summary judgment was granted to the Attorney General, but the AG has since been dropped as a party under Rule 21; the Legacy Trust has begun to disappear; and Hynie has escaped to London, U.K. with \$1 million in termination rights proceeds which the Legacy Trust claimed (from 2009 until 2013) to own.

Respondents do not deny that the effort of Respondents to conceal public documents through discovery noncompliance and stays increased after SWB's own former R4900 "client," now-Governor Henry McMaster, confirmed emphatically in his Aiken 1337 deposition.<sup>9</sup> in October 2016 that he had never authorized SWB to bring Richland 4900 in the name of the State/AG.

By the time this fourth, 2018 appeal was filed, stays in Richland 4900 had been in place for five years, while public documents had been concealed since R4900 was filed in 2010. Among them was AG Wilson's April 24, 2013 letter advising SWB that the Office of the Attorney

---

<sup>8</sup> In 2019 the Attorney General and Respondents, through SWB, even moved to strike Petitioner's motion to lift stay, and asked the circuit court to impose sanctions against Petitioner for seeking an order lifting the stay. The motion quoted heavily from the January 2019 circuit court order in Aiken County Case 2013-CP-02-1337 ("Aiken 1337") in which the circuit court, at the request of the James Brown Estate, endorsed the AG's 2008 settlement which dismembered James Brown's noble estate plan; found that Buchanan and Pope had breached their fiduciary duty by opposing and appealing the AG's 2008 settlement in the case which became *Wilson v. Dallas*, and with no support in the record and testimony of the AG's own experts to the contrary, found that the AG's worldwide music empire that brought in more than \$5+ million a year was worth less than \$4.7 million when James Brown died. The Attorney General and Respondents, speaking through, SWB, even incorrectly characterized the motion to lift stay as one of "Pope's contemptuous attempts to involve herself in resolution of the Estate and Trust." [Mot. Strike, 2/1/19, pp. 10 – 14]

<sup>9</sup> Aiken 1337 was filed in June 2013 after a "Disallowance" was served on Pope on May 29, 2013, just moments after the plan to reinstate the AG's 2008 settlement was announced to Judge Early by Hynie's counsel and Levenson.

General had never hired SWB in Richland 4900; would not pay SWB's fee under the AG's Special Counsel Agreement; never had an attorney-client privilege with SWB; and that SWB would likely have to disgorge under *Wilson v. Dallas* the funds which the James Brown Estate had advanced for Hynie and other Legacy Trust owners. [Pet., pp. 10-11] That letter had been concealed for more than four years, and would be concealed for two more years by the AG. It has never been produced in Richland 4900 or to Petitioner in multiple FOIA requests.

Respondents are pursuing a pre-conclusion-of-discovery partial summary judgment in a nearly 13-year-old case which they assert can be decided based solely on *Wilson v. Dallas* without additional facts. Yet, facts such as the facts about the January 2011 planting of the false Grammy© claim noted by the Supreme Court in *Wilson v. Dallas* on the website of a Georgia law firm are important. Also important is the relationship of the Legacy Trust owners with the thief David Cannon and the aid given Cannon in his efforts, with four Georgia law firms, to conceal his \$17 million theft; sell the music empire for \$100 million; reap another \$25 million for the Cannon trustees, their music manager and a law firm; and for Cannon to escape to the turnkey mansion in the Caribbean he was having built with funds devised to James Brown's "I Feel Good" charity.<sup>10</sup>

There is no dispute that while the 2017 stay has been in place Respondents Hynie and James II have moved to London, U.K.; the Attorney General has been dismissed as a party to Richland 4900; and one Respondent died four years ago and her estate has not been substituted as a R4900 plaintiff, as she was for eight years. Also, the Legacy Trust, through trustee Russell

---

<sup>10</sup> At least four Georgia law firms dealt with thief David Cannon, grandson Forlando Brown and others both in Forlando's S.C. Dist. Ct. Case No. 3-08-cv-00014-WOB seeking to reinstate Cannon as trustee of Brown's 2000 Trust, and in the efforts of Cannon and his resigned co-trustee Albert Dallas to secure a \$100 million sale of Brown's music empire that would conceal Cannon's \$17 million theft from funds devised to Brown's "I Feel Good" charity, and reap another \$25 million for Cannon, Dallas, music manager Frank Copsidas and one of the Atlanta law firms.

Bauknight, began to claim under oath in 2016 that it never existed. Yet it had told the circuit court in 2012 that it was managed in Richland County and held tens of millions of dollars of termination rights proceeds.

By 2017 attorney Louis Levenson, Esq., who signed SWB's 40% contingency agreement for 11 Respondents, had been terminated, placing in jeopardy the Court's jurisdiction over the 11 Respondents. Yet SWB attorneys, under oath, stated that year that Governor McMaster had hired SWB, and that they knew of no changes in SWB's R4900 clients between 2010 and March 2017.

The Return asserts that Petitioner has an unidentified "ulterior purpose" for lifting the stay, but the facts show the request to lift the stay is a transparent attempt to end an unconstitutional lawsuit filed by the Attorney General and Respondents almost 13 year ago because Buchanan and Pope were performing the duty required of them by James Brown's estate plan and "I Feel Good" charity.

As set out below, Respondents present no valid reason to deny lifting the stay, and it should be lifted.

### **RESPONSE TO SPECIFIC ALLEGATIONS IN THE RETURN**

#### **a. The Procedural History Omits Major Parties, Issues and Procedural Facts.**

On Page 2 of the Return, Respondents describe Richland 4900 as follows:

The underlying action.....("Case 4900" ) is the Estate of James Brown's (and several of Brown's' children's and grandchildren's) suit against Pope for the substantial damages she caused due to multiple breaches of fiduciary duty while administering the Estate as co-Personal Representative. (the other co-Personal Representative reached a settlement with the Estate and had been out of the case for over 10 years.)

A glance at the Richland 4900 Complaint makes clear that this description, and the entire 10-page return, incorrectly identify the parties to Richland 4900 and misstate the purposes of Richland 4900 as found in pleadings and motions filed over a dozen years. Further, facts about

the roles of Buchanan, the Attorney General, the Legacy Trust and Hynie in Richland 4900 are either missing or incorrect.

The AG, Hynie and Legacy Trust have been central to the suppression of public documents in Richland 4900 for a decade. All Respondents, through SWB, have worked with the James Brown Estate since May 29, 2013 to carry out the announced plan of Hynie and Levenson to reinstate the AG's 2008 settlement. When Levenson was terminated by the 11 Respondents, SWB continued to do Hynie's bidding while speaking for the AG and the 11 Respondents. This continued even after some of the Respondents sued Hynie and Bauknight.

Buchanan has played a critical role in Richland 4900. He also remained in the Forlando suit, in which Forlando sought to reinstate thief David Cannon as James Brown's Trustee, until 2016.

The undisputed facts based on the testimony of both Governor McMaster and AG Wilson show that Hynie was the *de facto* fiduciary of the Legacy Trust from 2009 until 2020, and Hynie continues to be SWB's primary client. With a 46% Legacy Trust share, Hynie is the largest stakeholder in Richland 4900.

From 2010 until 2013 both the AG and the James Brown Estate openly supported Hynie's patently false claims in Richland 4900, the parallel FOIA cases and *Wilson v. Dallas*. The management of the music empire was supposed to be 25% Hynie and 50% the AG, but the facts show it was Hynie, not the AG, making the decisions. Most important was the \$79 million devaluation of the music empire from \$84 million to \$4.7 million by Peter Afterman to discredit "Bobadele."

The false felony claim based on the still-hidden \$4.7 million valuation became the backbone of Hynie's May 2013 effort with the James Brown Estate to reinstate the AG's 2008 settlement and blame the damage on Buchanan and Pope.

On April 24, 2013 the AG removed himself, but Hynie, the SWB and Bauknight did not even blink. They continued to use the power and the prestige of the AG's office for what is now a decade.

In May 2016, the 3-year stay was lifted and in less than a year both FOIA cases were dismissed; SWB was disrupting Aiken 1337; and the Attorney General, Hynie and the James Brown Estate had jointly named nine new experts in Aiken 1337 and R4900, including two in California and two in New York.

In March 2017 when they were ordered to testify, two SWB attorneys failed to disclose either the AG's April 24, 2013 letter to SWB or its contents. Kenneth Wingate, Esq., stated under oath that he had been hired by Governor McMaster, when McMaster was AG, and knew of no changes in SWB's Richland 4900 clients since 2010 other than the change of AG from Governor McMaster to AG Wilson in January 2011.

By the time the September 12, 2017 stay was imposed, the attempt to consolidate Aiken 1337 had not gone well. At least 30 depositions supported the work of Buchanan and Pope, including seven of the AG's and Hynie's experts. And 11 Respondents were calling Hynie a "bigamist" and claiming she was entitled to nothing from the James Brown Estate.

Bauknight was already telling the FOIA Court in the FOIA case seeking the claimed \$4.7 million valuation, under oath, that the Legacy Trust never existed. [Pet., p. 13] Once the Legacy Trust had secured its 2016 summary judgment in 2018, it began to disappear.

By 2018 all 9 of the joint experts engaged by SWB in Richland 4900 and the James Brown Estate in Aiken 1337 had either been deposed, testified in Aiken 1337, or both. [Pet., pp. 3, 16] The same was true of Governor McMaster, Chief Deputy AG John McIntosh, Solicitor General Robert Cook, Sr. Asst. AG Creighton Waters, Sr. Asst. AG Clyde “Sonny” Jones, Asst. AG Mary Frances Jowers, and AG auditor Sandra Matthews. [Pet., p. 12] There was no basis for Hynie’s spousal claim, the claimed \$4.7 million valuation or the patently false termination rights claims which Hynie had been making, and the AG and James Brown Estate repeating, for almost a decade.

The AG’s expert Roger Miller confirmed that Brown’s copyrights alone were worth \$80 million - \$100 million when Buchanan and Pope were replaced in May 2009, and the termination rights of all heirs just \$8.8 million ten years after Brown’s death. The AG’s expert put Brown’s 10,000 items of personal property at as much as \$20 million, consistent with the \$800,000 price for just 350 items in 2008 after Dallas, Cannon and others had used the media and other tactics to chill the sale, including a Court of Appeals filing nine days before the sale.

In 2017 and 2018 Pope offered to end her relationship with the James Brown Estate with the payment to her of \$2.1 million for six years’ work, the costs of the *Wilson v. Dallas* appeal and the 30+ Aiken 1337 depositions necessary to deal with the nine new experts.<sup>11</sup> Bauknight refused, and the James Brown Estate conducted an 8-day trial, apparently to prove that declaring Hynie the spouse of James Brown and recommending the AG’s settlement in January 2009 had been a good idea.

---

<sup>11</sup> The *pro bono publico* service of James Richardson, Jr. as lead appellate counsel in *Wilson v. Dallas* greatly reduced the cost of the 4-year appeal, but Buchanan, Pope and their staffs provided substantial support and paid costs to lighten the load for *pro bono* counsel.

By the end of 2018 several Respondents had sued Hynie, James II and the James Brown Estate in federal court over alleged “backroom” copyright termination deals. Bauknight told the court that tens of millions of dollars had been spent in litigation costs.<sup>12</sup>

From 2018 until 2023 Hynie, Afterman and the James Brown Estate battled with Respondents and DNA-proven children in matters in which Buchanan and Pope have had no role since 2013, and in which Petitioner has had no interest since June 10, 2015.

In January 2019 the James Brown Estate proposed, and the circuit court in Aiken 1337 signed, an order which gave the James Brown Estate everything Hynie had been seeking since the May 29, 2013 announced plan to reinstate the AG’s 2008 settlement. Overlooking the testimony of the Governor, the AG and a dozen fact and expert witnesses, as well as about 40 of its own orders, the circuit court endorsed the AG’s 2008 settlement; claimed it was beneficial for Brown’s charity; claimed that the only credible evidence at the Aiken 1337 trial was that Brown’s worldwide music empire was worth less than \$4.7 million when he died; and held that Buchanan and Pope had breached their fiduciary duty to James Brown’s “I Feel Good” charity by opposing and appealing the AG’s 2008 settlement.

In 2019 the Legacy Trust was let out of the 2011 FOIA suit seeking the \$4.7 million valuation, based on Bauknight’s May 2016 affidavit asserting that the Legacy Trust had never existed.<sup>13</sup> [Pet., p. 13] By 2022 SWB was removing the name of the Legacy Trust from Richland 4900 pleadings.

---

<sup>12</sup> Details of the tens of millions of dollars spent by the James Brown Estate between May 2009 and December 2017 were filed *ex parte* with the circuit court in Aiken 1337, reviewed by the circuit court judge, then discarded without a sealed copy being retained for any appeal.

<sup>13</sup> SWB presented a caption to the Court Reporter and a proposed order to the circuit court which deleted the Legacy Trust as a party to Richland 4900, and also deleted the fact that Bauknight continues to act “on behalf of” the Attorney General of South Carolina. Other names in the caption were correct. The remaining Respondents do not deny that they now join the Legacy

In 2019 Afterman, working for Hynie's attorneys since 2019, told the Supreme Court that Hynie and James II controlled termination rights worth tens of millions of dollars, not the \$8.8 million stated by her own expert.

In 2020 the Court of Appeals affirmed the dismissal under Rule 21 of the AG from Richland 4900, and in October of that year the AG released a cache of documents under FOIA, including the AG's April 24, 2013 letter to SWB, that had been requested in Richland 4900 and under FOIA years earlier.

In 2020, after millions of dollars had been spent by the James Brown Estate to prove otherwise, the Supreme Court declared that Hynie was not the spouse of James Brown.

On September 16, 2020 the Court of Appeals affirmed the dismissal of the AG, and that order became final in 2021, when the AG was dismissed as a party to R4900.

In May 2021 all of Brown's acknowledged children filed Waivers and Releases in cases from which Buchanan and Pope have been excluded since 2013 confirming that they have received all that they were entitled to receive from the James Brown Estate and releasing the Estate from any claims.

In 2021 both a London newspaper and Bauknight, in a hearing in a case in which Pope is not a party made the false claim to the circuit judge that Pope had demanded \$19 million from the James Brown Estate, and even compared her to David Cannon. An Augusta station repeated the false \$19 million London claim, but corrected it, and the *New York Times* did not repeat the false

---

Trust, which formerly claimed to hold tens of millions of dollars of termination rights proceeds, in the claim that it never existed.

\$19 million claim Bauknight was making when it announced the \$90 million sale of Brown's music empire in December 2021.<sup>14</sup>

**b. Buchanan and Pope Never Had a Duty to Hynie or Legacy Trust Owners**

In a single sentence on p. 3, Respondents' brush past the issue of "duty," but fail to note, as *Wilson v. Dallas* made clear, that the duty of Buchanan and Pope was to the estate plan and "I Feel Good" charity of James Brown. Neither ever owed a duty to Hynie, the Legacy Trust, or its owner-beneficiaries.

**c. The Return Omits Relevant Facts About the Default and Disqualification Orders**

The orders granting the AG and other R4900 plaintiffs relief from the 2010 default and declining to disqualify SWB and enjoin Bauknight as requested in 2011 were all made based on Hynie's false claims which were adopted by the James Brown Estate, the AG, and – at the time – all Respondents.

When the motions were heard in 2012 the AG and Respondents were supporting the incorrect claims Hynie was making to the Supreme Court in *Wilson v. Dallas* and concealing the AG's Special Counsel Agreement and numerous public documents from Judge Manning. Before the last of the orders to be considered on remand was issued, the AG and Respondents, through SWB, were also concealing the AG's April 24, 2013 letter to SWB confirming that SWB was never hired by the State/Attorney General in R4900.

---

<sup>14</sup> Petitioner is unaware of any claim by the James Brown Estate that the recently-filed Pullman claim for \$11.5 million, or the \$700,000 claim of the GAL for Respondent James II, both filed since the 2021 \$90 million sale, are delaying the distribution of James Brown "I Feel Good" scholarships, and Pope's \$2.1 million claim, which was never an impediment to scholarships and less than the annual legal fees, could have been dispensed with six years ago in 2017.

In 2012 the disqualification order was issued, and three years later in 2015, when the first post-*Wilson* stay had been in place for a year and a half, the order relieving the Attorney General, Hynie, the Legacy Trust, its owners, and others from default was issued.

**d. The Activities of Richland 4900 Have Been Curtailed Since *Wilson v. Dallas*.**

On page 3 of the Return, Respondents suggest that the Rule 241 stay, “curtailing activity in Case 4900” had little impact until 2018. In fact, virtually all activity in Richland 4900 has been curtailed by stays obtained by the AG and Respondents since *Wilson v. Dallas*.

From 2013 the focus of Hynie the James Brown Estate and Respondents aligned with Hynie was to reinstate the AG’s 2008 settlement. Since 2017 it has been to secure summary judgment as to the counterclaims and then for Hynie, James II and the Legacy Trust to disappear<sup>15</sup>

By 2021 the James Brown Estate was calling Aiken 1337 a “companion case” to Richland 4900 and refusing to pay Pope’s \$47,972 unpaid SA fee which had been ordered in three court orders, with interest since March 2008.

Hynie is in London with \$1 million, and other Respondents have no motivation to conclude Richland 4900. And Petitioner is 79 years old.<sup>16</sup> The Legacy Trust which assured the Courts from 2009 until 2016 that it held millions in termination rights proceeds wants to disappear.

Both the Governor, a former U.S. Attorney for S.C., and the Attorney General agree that it was serious to use the prestige and power of the State’s chief prosecutor to falsely accuse Buchanan

---

<sup>15</sup> On February 1, 2017, before the summary judgment order was final, Respondent Legacy Trust told the Court of Appeals in its FOIA brief in Appellate Case No. 2016-1727:

The trial court also correctly determined that the Legacy Trust no longer exists following the South Carolina Supreme Court’s ruling in *Wilson v. Dallas* and that all FOIA documents sought from the Legacy Trust are in Appellant’s possession, making this case moot. [ p. 12]

<sup>16</sup> Buchanan and Petitioner have spent nearly a quarter of their legal careers being slandered in Richland 4900 for properly performing fiduciary roles they never sought.

of a federal felony. But the Attorney General, who never saw the \$4.7 million valuation which supports the false felony claim, has still declined to release it under FOIA, and the James Brown Estate had not released it in discovery for 12 years.

The stay which has been in place for eight of the nearly-10 years since *Wilson v. Dallas* suits everyone except the two South Carolina citizens who were sued nearly 13 years ago for doing what James Brown's estate plan and the law required of them: conducting the appeal which became *Wilson v. Dallas*.<sup>17</sup>

## **RESPONSE TO ARGUMENT OF HYNIE, BROWN'S ESTATE AND OTHERS**

### **I. HYNIE AND BROWN'S ESTATE ADMIT EFFORTS TO RENDER ISSUES MOOT**

Respondents do not deny that Respondents named felon David Cannon as a witness against Buchahan and Pope in 2010 and, with Forlando Brown, took steps in Richland 4900, Forlando's Dist.Ct. Case No. 3-08-cv-00014 and elsewhere, including with the false planted GRAMMY© claim, to cover up Cannon's \$17 million theft and make it appear that it was Buchanan and Pope – not Cannon – who had raided James Brown's estate and charity.

Respondents do not deny that facts are needed in this case. In April 2011 they told the circuit court:

- b. The number of witnesses for plaintiffs. Despite the fact that this case is nearly a year old, the number of potential witnesses is still being determined. Plaintiffs have currently named approximately ninety-one (91) fact witnesses. . .
- c. The number of witnesses for defendants: Defendants have named approximately sixty-three (63) witnesses at this time. Plaintiffs also expect Defendants to name expert

---

<sup>17</sup> Petitioner notes that the R4900 plaintiffs count the repeated attempts to lift the stay differently from Petitioner, but the impact is the same. Petitioner has repeatedly sought to lift the stay to prevent issues from being rendered moot which the R4900 plaintiffs claim on pages 5 and 6 are moot, and to keep the claimed non-existent Legacy Trust and its owner-beneficiaries, including Hynie, from escaping the jurisdiction of the appellate courts. Each effort has been met with bitter opposition, and even a sanctions request, by SWB and Bauknight, acting for the State/Attorney General, but to advance the private goals of Hynie and those aligned with her.

witnesses to rebut Plaintiffs experts.

d. Anticipated time needed to try case. The parties expect this case to require several weeks of trial, most likely three to five weeks, possibly more. [Motion, 5/28/11, R4900]

Respondents do not deny that they have withheld hundreds of public documents for a decade that were material to the four pretrial appeals, and may even have prevented them and resolved R4900.

Respondents do not deny that both the AG and James Brown Estate rejected and filed 2012 offers of Pope to let them out of Richland 4900 at no cost and to have Judge Early determine her fees, but Respondents now claim Petitioner has caused delays.

Respondents do not deny that the stay supports the slander and media attacks by Hynie and those aligned with her, including her false public claim that Pope has stolen from Brown's estate and that a mediation was to get rid of "the last of the rats," along with Bauknight's claim that Pope had "raped" James Brown's estate and was dishonest.

Respondents do not deny that the AG's Special Counsel Agreement was clear: If *Wilson v. Dallas* was overturned, the parties on whose behalf Bauknight was acting, would become the Richland 4900 plaintiffs, but that has not happened in almost 10 years.

Respondents do not deny that they have helped Hynie and the James Brown Estate denigrate Buchanan and Pope in the media; continue to make the false felony claim; and worked to assure that Pope not be paid a penny for six years' work, and that Bauknight has asserted:<sup>18</sup>

Ms. Pope, you personally are the sole reason the estate and trust has not paid a single scholarship. . . You personally are the reason poor children don't get a free education provided by Mr. James Brown. It's you. That's on you. You are the sole reason this thing is still in court and the

---

<sup>18</sup> Bob's and Adele's Correct \$84 Million Value for James Brown Assets [Bauknight Exhibit D 4, 1/31/17].

sole reason we are expending legal fees. [ Bk. Depos., A1337, p 31]<sup>19</sup>

Respondents do not deny that their counsel failed to disclose the April 24, 2013 letter of the AG confirming SWB was never hired by the AG, even though Judge Toal ordered them to testify about their authorization to commence and continue Richland 4900 for the AG.

The Respondents do not deny that the Rule 241 stay has exacerbated the damage to Buchanan and Petitioner and rewarded both the AG and Respondents for concealing public documents. The remand issues relate directly to the \$4,697,736 claimed value which was disclosed to the Supreme Court on May 4, 2011 and is still concealed in 2023. The questions that \$79 million devaluation raised then, and which remain, are:

- a. Should SWB be disqualified as counsel in Richland 4900?
- b. Should Bauknight be enjoined from purporting to act as agent for the Attorney General and/or the State of South Carolina in Richland 4900?
- c. Should the Attorney General have been dismissed as a party plaintiff in Richland 4900 in 2011?
- d. Should a day certain for the deposition of Governor McMaster and Attorney General Wilson have been set for their depositions if they failed to appear?
- e. Following the depositions, should leave be granted to amend the answer and/or counterclaims ... in connection with the sworn devaluation of the James Brown assets to less than 1/12 their actual value and the false allegations associated therewith [ the false felony claim]?

The vigorous enforcement of the stay has put on hold the critical constitutional and legal issues which the AG and Respondent have evaded since they arose in 2010 and 2011, namely:

- a. Should the Richland 4900 Complaint have been dismissed in 2010 as unconstitutional

---

<sup>19</sup> Aiken 1337 Depos, Russell Bauknight, 1/31/17. Also see portions of Bauknight's August 20, 2013 deposition in U.S. Dist. Ct. Case 3-08-cv-00014-WOB in which Bauknight defends the \$4.7 claimed value of Brown's music empire; denounces Buchanan's and Pope's \$99 million and the valuation formula very similar to that used in the estate of songwriter Harlan Howard, and says of James Brown's music empire: "There's no way to sell these assets..." [ R 4900, Opinion/Affidavit of expert Wm. Jeffrey Smith, dated July 14, 2007 pp. 4 -8.

and for other reasons?

b. Should Hynie, the Legacy Trust and its owner-beneficiaries who joined Hynie in her effort to take a quarter of Brown's "I Feel Good" charity and devalue it by \$79 million to discredit the fiduciaries protecting the charity, and who had knowledge that Hynie was not Brown's spouse, be relieved from default as to the counterclaims for abuse of process and civil conspiracy"?

Most Respondents have now made claims about Hynie's "bigamy," "fraud" and "backroom" termination rights deals, but are using the stay to render these important constitutional issues moot. Respondents even boldly stated on page 5 of the Return that they are "moot already."

The issues on remand are serious constitutional issues which need to be finally decided, including the use and abuse of the AG's Special Counsel Agreement.

The Supreme Court has recently considered the use of AG's Special Counsel Litigation Retention Agreements with private attorneys even where there is strict adherence to the Due Process and FOIA obligations in those Agreements by special counsel. The Richland 4900 AG's Special Counsel Agreement appears to be the longest-used Special Counsel Agreement; the only Special Counsel Agreement not signed by the AG; and the only one which has never appeared on the AG's public website.

To allow private plaintiffs who have enjoyed, without authority, the prestige and power of the State/Attorney General for almost 13 years to render issues related to the use of that public power moot by a stay running from 2017 until 2023 would be manifestly unjust.

Respondents do not address, and do not deny, that Hynie and James II did not simply escape to London, U.K., but took with them more than \$1 million in termination rights proceeds and a circuit court award of a \$700,000 legal war chest for James II from what he claimed was a \$5 million estate. Hynie's obligation to complete her deposition is almost seven years in arrears.

Respondents do not deny that SWB openly admits that it has removed the name of Respondent James Brown Legacy Trust from the caption of filings, and claims that this is proper.

## **II. REPLY TO RETURN’S POSITION RELATED TO JURISDICTION OF COURT**

Respondents are likely aware that the trial judge to whom the issues were remanded in 2020, arriving in 2021, has been embroiled in a complex criminal matter, and that Judge Manning has retired. Yet they assert that Petitioner’s asking the Supreme Court to lift the stay was improper. That is not the case. There has been nothing hasty or inappropriate about the request that the stay be lifted.

It if were ever applicable, the overused phrase “justice delayed is justice denied” applies to Richland 4900.

It is undisputed that the James Brown Estate has the ability to spend, and has spent, tens of millions of dollars to prove what it intends to prove. To the extent that proof does not include blaming the damage on Buchanan and Petitioner, it is of no consequence to the two persons sued by the State of South Carolina, the Legacy Trust and its owner-beneficiaries in 2010.

The remand issues, however, relate directly to the use of State power to damage Buchanan and Pope for the benefit of Hynie and Legacy Trust owners.

Under the current facts, the Supreme Court is clearly the proper forum to consider a lifting of the stay so that the remand issues may be finalized expeditiously in this pretrial appeal.

## **III. THE MOTION TO LIFT STAY HAS NO “ULTERIOR PURPOSE”**

The Richland 4900 plaintiffs argue on page 9 that R4900 is under a broad stay and that the “prosecution of any matters in the trial court other than (potentially) the 1899 remand would be improper.” Petitioner respectfully submits that the Supreme Court is best able to determine the appropriate scope of the lifting of the stay so that the remand issues may be properly considered.

On pages 8 and 9 of the Return, Respondents argues that Petitioner has an “ulterior purpose” for filing this petition to lift stay which has been in place in R4900 since September 12, 2017. This is not correct.

The Oxford Dictionary defines “ulterior” as something hidden, and there is nothing hidden about the petition. Further, the purposes and motives of Buchanan and Pope in Richland 4900 have always been clear.

From 2010 until 2013 their purpose was to prevent Richland 4900 from getting in the way of the important duty of appealing the AG’s 2008 settlement. From May 29, 2013 until June 10, 2015 Petitioner worked to persuade the Attorney General, the Governor and anyone who would listen not to allow Hynie and 11 Respondents to carry out the May 29, 2013 announced plan to disregard the Supreme Court’s ruling and reinstate the AG’s 2008 settlement. That purpose was open and not ulterior. It ended abruptly on June 10, 2015.

Since June 10, 2015 Petitioner’s sole and often-stated purpose is to end all ties with the James Brown Estate and be reasonably paid for six years’ work.<sup>20</sup> She twice offered to settle for \$2.1 million, but Bauknight and media from London to Augusta have claimed she seeks \$19 million.

By contrast, both the AG and the James Brown Estate were offered the chance to leave Richland 4900 in 2012 and allow Judge Doyet Early, III, to determine Petitioner’s fee. Both not only rejected the offers but filed the offers and moved to strike them.

---

<sup>20</sup> Petitioner believes that 33 depositions and Aiken 1337 testimony shut out by the stay which is the subject of this petition, including the testimony of the Solicitor General, the Governor, the Attorney General and the nine experts jointly designated by the AG, Hynie, and the James Brown Estate in R4900 and Aiken 1337, make clear that Buchanan and Petitioner, who never sought any post with the James Brown Estate, were competent to accept the posts; earned a respectable \$5+ million a year on an \$84 million estate; fully and timely accounted; and positioned the Supreme Court to save for Brown’s “I Feel Good” charity – based on Bauknight’s testimony in Aiken 1337 – about \$2 million a year, beginning in 2011, and more than \$45 million from the \$90 million sale of Brown’s music empire in 2021.

In 2013 Respondents, including the James Brown Estate, could have ended R4900 when the Attorney General walked away. They did not. They continued to use the power and prestige of the Office of the AG and the false felony claim to damage both Buchanan and Pope, while concealing the documents to show Hynie's claims were without merit.

By 2017 Aiken 1337 had become the vehicle for the James Brown Estate to prove that Buchanan and Pope should not have appealed the AG's 2008 settlement, so a \$2.1 million offer to settle in 2017, and the same offer in 2018, was rejected.

Respondents cannot ascertain what the ulterior motive is because there is none.

### **CONCLUSION**

On February 8, 2017 Solicitor General Robert Cook testified that in forty years with the AG's office he had never seen a case like Richland 4900. Neither AG Wilson, nor the Chief Deputy, nor any other AG staff refuted Cook's testimony or suggested that either Petitioner or counsel had any ulterior motive.

Yet Cook's emails clustered around the commencement of Richland 4900 were sealed, as have been thousands of public documents since this case began.

Buchanan and Petitioner spent six years doing what they were appointed to do. They did not seek any role with the James Brown Estate. The public documents show that there was no basis for this suit, which was brought against Buchanan and Pope nearly 13 years ago.

The James Brown Estate learned from the \$17 million Cannon theft that secrecy was never helpful to James Brown's charity. It has not been helpful in Richland 4900. The millions of dollars spent to denigrate two fiduciaries who sought no more than to do their duty in the protection of James Brown's estate plan and to be paid a maximum of \$2.1 million for Buchanan and \$2.8 million for Pope for six years' work has gone on for nearly 13 years.

There is no ulterior purpose here. Lifting the stay is needed to curtail the loss of jurisdiction over the parties to the R4900 appeals and to help prevent the remanded issues and the issues in this appeal from becoming moot. The request to lift the stay was appropriate and necessary. Respondents provide no sound reason why it should not be granted.

As requested in the petition, the Supreme Court should 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 trial court judge with proper jurisdiction.

Respectfully submitted,

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

s/Adam T. Silvernail  
Adam T. Silvernail  
Law Office of Adam T. Silvernail, LLC  
Post Office Box 7995  
Columbia, South Carolina 29202  
Telephone: (803) 779-1770  
S.C. Bar No. 80219

William Jeffrey Smith  
1216 Crenshaw Street  
Newberry, SC 29108  
Telephone: (803) 597-0209  
SC Bar No. 0005225

Daryl L. Williams  
Gertz & Moore, LLP  
Post Office Box 456  
Columbia, SC 29202  
S.C. Bar No. 6121

February 2, 2023

*Counsel for Petitioner Adele J. Pope*