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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 Clifton B. Newman, Circuit Court Judge

Appellate Case No. 2023-001263

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

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, Appellant.

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Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
Post Office Box 7995
Columbia, South Carolina 29202
Telephone (803) 799-1770
adam@silvernaillawfirm.com
S.C. Bar No. 80219

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

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

Counsel for Appellant Adele J. Pope

Kenneth B. Wingate
Mark V. Gende
Aaron J. Hayes
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
Columbia, SC 29201
Telephone: (803) 256-2253

Counsel for Respondents

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	Case No. 2013-CP-02-1337
	)	
Adele J. Pope,	)	
Plaintiff,	)	
	)	
v.	)	**MOTION TO ALTER, AMEND RECONSIDER AND/OR VACATE ORDER DATED JANUARY 16, 2019**
	)	
Estate of James Brown the James Brown 2000 Irrevocable Trust,	)	
Defendants.	)	

To: DEFENDANTS ESTATE OF JAMES BROWN AND JAMES BROWN 2000 IRREVOCABLE TRUST AND THEIR COUNSEL:

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as she may be heard, Plaintiff will move before the Honorable Doyet A. Early, III, pursuant to Rule 59(e), SCRCP, and all other applicable law, for an order altering, amending, reconsidering and/or vacating this Court's Order dated January 16, 2019, and entering judgment in favor of Plaintiff on her claims herein as set out in her proposed order submitted at the direction of the Court. The grounds of this motion are as follows:

The Court Overlooked or Misapprehended the May 29, 2013 Announced Intention by Tommie Rae, Venisha, Deanna and Others to Disregard the *Wilson v. Dallas* Decision

1. The Court overlooked or misapprehended that on May 29, 2013 Tommie Rae Brown and others announced to the Honorable Doyet A. Early, III (Circuit Court) their intention to disregard the May 8, 2013 decision in *Wilson v. Dallas* and reinstate the 2008 settlement deal brokered by the Attorney General (AG) which dismembered entertainer James Brown's estate plan and put Tommie Rae and Sr. Asst. AG Havird "Sonny" Jones in 75% *de facto* control of entertainer James Brown's assets, through Russell Bauknight, trustee of the James Brown Legacy Trust.

2. The Court overlooked or misapprehended that by August 2013 Peter Afterman, in almost daily contact with Bauknight, had helped Tommie Rae and her son James B. file Termination Rights notices with the U.S. Copyright Office to siphon off U.S.

royalties from more than 90 songs, and by 2016 Venisha Brown, Deanna and others had filed to siphon off U.S. royalties to 246 copyrights, both failing to acknowledge that they had put their Termination Rights proceeds in the AG's Legacy Trust in 2009; that Bauknight and Defendants did nothing to object during a 2-year period; and that these actions confirm the 9-year loyalty of Bauknight & Afterman (at the expense of James Brown) to the AG's Legacy Trust, Tommie Rae and the AG's (New) Charity; and confirm, by AG Jones' praise of Bauknight, the AG's 10-year effort to damage and discredit Robert Buchanan and Plaintiff for challenging AG Jones' plan to put himself and Tommie Rae in control of the James Brown assets to benefit beneficiaries chosen by the AG, and not by James Brown, and now to disregard the rulings and mandates to the AG in *Wilson v. Dallas.*

3. The Court overlooked or misapprehended that in January 2015, on stipulated facts and with Defendants, Yamma Brown and others not proffering Tommie Rae's handwritten admissions of her bigamous marriage, Tommie Rae was declared to be Brown's spouse, with many heirs and others excluded from the proceeding.

4. The Court overlooked or misapprehended that in a Status Report filed by the Circuit Court with the Supreme Court in May 2015 the Circuit Court stated he had not heard any discussion of a settlement, not even Courthouse talk, and that Bauknight and Afterman had provided great benefit to Defendants, even though many were present, including AG Jones, at the May 29, 2013, announced plan to disregard *Wilson v. Dallas* and dismember Brown's estate plan a second time.

5. The Court overlooked or misapprehended that by 2016 Tommie Rae had gotten about $1 million in U.S. royalties; Venisha, Deanna and James B more than $200,000; James B's attorney and GAL had been awarded $700,000.00; and Tommie Rae's lawyer told the Circuit Court that Bauknight should be knighted for what he had done for Tommie Rae and the beneficiaries of the AG's Legacy Trust, but these distributions, although unnecessary, pale in comparison to the $1.5 million - $2 million a year (and half of the assets) the AG proposed to give Tommie Rae and 5 Levenson clients in 2008, and kept trying to give them until, and after, May 8 2013.

6. The Court overlooked or misapprehended that Defendants, through Bauknight, have even attempted to rehabilitate Forlando, Albert Dallas, Esq., and Brown's former music manager Frank Copsidas, both named as witnesses in Richland County Case 2010-CP-40-4900 (Richland 4900), to assist with the attack on Buchanan and Plaintiff, even allowing Dallas to file a time-barred claim under the "October 18 Letter", with knowledge that the 2 claimed about $20 million from a proposed $100 million sale of Brown's music empire under the October 18 letter.

7. The Court overlooked or misapprehended that the AG, Defendants and Bauknight are all claiming that the AG's Legacy Trust no longer exists, but seeking summary judgment in Richland 4900 for the Legacy Trust and its beneficiaries: the AG's (New) Charity, almost 50%; Tommie Rae, just under 25% and 6 former Levenson

clients, just over 25%.

The Court Overlooked the Material Rebuttal Testimony of More Than a Dozen Witnesses, Including Governor Henry McMaster, Attorney General Alan Wilson (AG Wilson), Solicitor General Robert Cook, Sr. Assistant AG Mary Frances Jowers, Expert Wallace Lightsey, Esq, Expert James Hardin III, & Judge (Ret'd) Walter Williams

8. The Court , finding that Plaintiff presented 3 three rebuttal witnesses, overlooked the testimony by deposition designation of more than a dozen rebuttal witnesses, including Governor Henry McMaster, Attorney General Alan Wilson (AG Wilson), Solicitor General Robert Cook, experts Wallace Lightsey, Esq., & James Hardin III, Esq.,and including Defendants' former expert Rita Caughman, Esq., and current SA/ST David Sojourner, Esq., which supports Plaintiff's position that two Attorney General (AG)'s , during the VOID appointment of Russell Bauknight, from May 2009 to May 8, 2013 failed to supervise the 75% control Tommie Rae and AG Havird "Sonny" Jones exercised over the James Brown assets, and used to attack and denigrate Robert Buchanan, Jr. and Adele Pope, and the 75% control they continue to exercise over the James Brown Legacy Trust, including not stopping them from filing an unauthorized tort suit against Buchanan and Pope in the name of the State/AG, but for the benefit of the AG's Legacy Trust, and authorizing Bauknight, Peter Afterman and others to waste millions of dollars to dismember the "I Feel Good" Charity and 7 Grandchildren's Trust so that James Brown's assets would be distributed nearly 50% to the AG's (New) Charity; nearly 25% to Tommie Rae; and another approximately 5% each to 5 Will/Trust contestants formerly represented by Louis Levenson, Esq., and that the Buchanan/Pope defense of James Brown's estate plan allowed the Supreme Court's *Wilson v. Dallas* decision to restore Brown's fortune to his "I Feel Good" Trust and appoint unconflicted PR/Trustees who would understand U.S. Copyright Act Sections 203 and 304 (Termination Rights) and protect the estate plan, but that on May 26, 2009 the Settling Parties announced to Judge Early in open Court their intention to defy the *Wilson v. Dallas* decision (issued May 8) and have since wasted million of additional dollars to denigrate Buchanan and Pope despite the Judge Early's "double approval" and praise of Buchanan's service, all of which was joint with Plaintiff, in an October 2013 *Wilson v. Dallas* remand hearing.

The Rebuttal Testimony of now-Governor Henry McMaster

9. The Court overlooked or misapprehended the rebuttal testimony and documents of **now-Governor Henry McMaster** support the claim of Plaintiff by his strong assertion that he did not authorize the law firm of Kenneth Wingate, Esq. (Wingate) to sue Buchanan and Pope in May 2010 in Richland 4900, and did not authorize Bauknight to sue them in the name of the State/AG; that from September 2008 until January 1, 2011, despite representations to Judge Early that AG McMaster would assure the proper operation of the James Brown Legacy Trust (Legacy Trust), AG Master did not supervise AG Havird "Sonny" Jones at all; relied on AG Jones; and even repeated, AG Jones' false claims against Buchanan and Pope; knew nothing

about the operation of Brown's Estate and 2000 Trust over which he assumed effective fiduciary control from May 26, 2009 to January 2011; did not assure that either AG Jones or someone in his office learn about Copyrights, Termination Rights, Heirs, Taxation of Brown's 2000 Trust and Estate, the 5% Rule applicable to private foundations; the multi-million-dollar income tax problem and charitable administration problems caused by Afterman and Bauknight, with no corresponding estate tax benefit, by the $79 million devaluation of Brown's music empire from its correct, conservative, $84 million to $4.7 million; and AG Jones' joining in the decision to withhold the $79 million devaluation from the Supreme Court from September 2010 until May 2011, after the final briefs were filed.

10. The Court overlooked or misapprehended that Governor McMaster, a former U.S. Attorney, confirmed that it is a crime to make a false statement on a Federal Estate Tax Return to receive a benefit, and agreed with the seriousness of accusing two lawyers of intentionally overstating the value of assets by $79 million on an Estate Tax Return for the purpose of obtaining a $5 million commission, stating that "any sort of false return is --- is serious." [p.84].

11. The Court overlooked or misapprehended that AG McMaster did not know that in September 2010 his office received the Bauknight/Afterman devaluation to $4.7 million, and that AG Jones and others agreed to withhold the $79 devaluation from the Supreme Court until 8 months later, after briefs in *Wilson v. Dallas* were filed.

12. The Court overlooked or misapprehended that Governor McMaster did not oversee or review the presentation by Bauknight to the IRS of a $4.7 million claimed "appraisal" of James Brown's worldwide music empire which contained an undisclosed $3 million overstatement of Brown's TIAA debt, and did not oversee or review Bauknight's claim to the IRS of a $2.8 million charitable deduction for assets going to the AG's (New) Charity, even though the AG's (New) Charity had not been set up; had no IRS recognition; and was contractually obligated to give $2 million of the claimed $2.8 million to the children of settling parties, and other non-charities.

13. The Court overlooked or misapprehended that Governor McMaster learned he was named as a Plaintiff in Richland 4900 after leaving office as AG, but took no action to remove his name from the career-threatening suit that had been brought without his permission, and with the Wingate 23 – 40% contingency fee contract signed only by Bauknight and lawyers who stood to gain about $20 million in legal fees for their clients' baseless claims if they could stop the *Wilson v. Dallas* appeal yet stated:

Q. Well, Mr. McMaster, you sued me six years ago, --
A. Ma'am, I did not sue you.

14. The Court overlooked or misapprehended that the testimony of Governor McMaster was secured on October 19, 2016 by Plaintiff, the *pro se,* and that Plaintiff was

respectful of Mr. McMaster's high office, taking only the time necessary to secure his material testimony, which was admitted under the Circuit Court's pretrial ruling that all Columbia witnesses and experts could appear by deposition, or appear in person if they wished, and was presented with more than 20 additional lay and expert witnesses supporting Plaintiff's partial summary judgment motion of 2017 seeking her SA fee and $1.47 million earned by Plaintiff and her large staff as of May 26, 2009 under her Court-approved contract with Defendants, and, if granted, would have prevented a trial.

15. The Court overlooked or misapprehended that Governor McMaster's sworn testimony and documents confirm Plaintiff's testimony that during the 4-year VOID appointment of Bauknight from May 2009 until May 2013 AG McMaster and AG Wilson both delegated the fiduciary role they assumed over the "I Feel Good" Charity to AG Jones, Bauknight and Afterman, all of whom failed to understand Termination Rights, taxes, the importance of a proper heirs determination, and all of whom violated the duty of loyalty to the 2000 Trust and actively worked against the 2000 Trust during the entire period, and after, in accordance with the May 26, 2013 announced intention to disregard *Wilson v. Dallas* decision and reinstate the 2008 settlement putting Tommie Rae and the AG in control of James Brown's music empire.

The Rebuttal Testimony of Solicitor General Robert Cook

16. The Court overlooked or misapprehended the rebuttal testimony of **Solicitor General Robert Cook,** supports the claim that the work of Buchanan and Pope was appropriate; became extraordinary after August 10, 2008 , when Senior Asst. AG Jones aligned himself with Tommie Rae and the two asserted the right to take 75% control of James Brown's 's assets, proposing to dismember both the 2000 Trust and the plan to protect its 900 copyrights; became more difficult with the Afterman/Bauknight $79 million devaluation prompted by Tommie Rae's advisor's proposal to value the copyrights at $24 million or less and the Image and Likeness at zero to discredit "Bobadele"; and has been worse since the May 29, 2013 announcement of Tommie Rae and the former Levenson clients to Judge Early in open Court of their intention to disregard *Wilson v.Dallas* (decided May 8, 2013) and dismember the "I Feel Good" Trust a second time.

17. The Court overlooked or misapprehended that Solicitor Gen. Cook testified that he did not, and could not have, authorized the filing of Richland 4900, which was brought in May 2010 in the name of the State/AG and with Bauknight claiming to act "on behalf of" the AG, and also acting for Tommie Rae and the James Brown Legacy Trust, and said the following about Richland 4900:

21 A. I would say this: That was a very unique case in
22 terms of the charitable beneficiaries. I know --
23 I know of no other where that has been done.

Q. So let me be clear. In your 40 years of practice, you've never seen a case where a person or entity is named as a plaintiff, but claims not to be a plaintiff? . . .
A. In my 40 years, I have never known of a case like that.. .

Q. Did you approve of the filing of Richland County Case 2010-CP-40-4900 -. . .
Q. -- with the Attorney General named as a plaintiff? . . .22 A. No. I had no authority to approve of it.. .
And:
Q. Is your answer that the Attorney General, in your belief, is not a plaintiff in the Wingate lawsuit? . . .
A. I don't believe he is.

18. The Court overlooked or misapprehended that Solicitor Gen. Cook knew nothing about the proposal of Tommie Rae's advisor to devalue the copyrights to $24 million or less and value Brown's image and likeness at zero to discredit "Bobadele", and the subsequent $4.7 million Bauknight/Afterman $4.7 million valuation, and testified:

Q. Mr. Cook, before we leave the May 6, 2011 Motion to Supplement the Record in the Wilson versus Dallas appeal, I just want to talk a little bit more about what we sometimes call the 4.7 million valuation of James Brown's music empire. What, if anything, today do you know about that?...
A. Nothing.
Q. And you don't recall anything about this motion to supplement the record on May 6, 2011?
A. No...
Q. But you have a pretty extensive experience with appeals?
A. Fairly.
Q. So if you received in September of 2010, information necessary to supplement a record, would it be unusual to delay that motion to supplement the record until May 6, 2011?. . .
A. I can only speak generally that delay is never a good idea.
Q. And if a delay is substantial, such as a claim to $79 million difference in the value of the assets which are the subject of the proceeding, would it be more urgent to advise the court earlier of that substantial change?. . .
A. Only generally, I say you always want to advise the court at the earliest possible moment.

19. The Court overlooked or misapprehended that after Plaintiff had offered to let the

Attorney General and Bauknight "on behalf of" the AG, as well as Defendants, out of Richland 4900 in the fall of 2012, and all had moved to strike the offer, on March 6, 2013, between the two *Wilson v. Dallas* decisions, Plaintiff met with Attorney General Wilson, Solicitor General Cook, and former Chief Deputy AG John McIntosh to urge the AG to take the then-easy steps to correct the serious damage caused (with no corresponding estate tax benefit) both to the "I Feel Good" Charity and to the plan to protect the Charity's 900 copyrights by the Afterman/Bauknight $79 million devaluation, and Bauknight's IRS filings, and the subsequent visit. within the week, of Plaintiff and counsel Adam Silvernail for the same purpose, and Solicitor General Cook remembers:

Q. Mr. Cook, did you and I have a discussion about this very problem in March of 2013?. . .

A. I know we met with you and Mr. McIntosh and General Wilson and I believe myself. I think you had asked not to have Mr. Jones there I believe as I remember. I can't remember every detail of our discussion, but I'm sure you raised it.

Q. Did I raise my concern that valuing James Brown's music empire at about 4.7 million would slash James Brown's charity to almost nothing?

A. I believe you did.

Q. Did you get the idea from that meeting that I was there to be greedy and get myself a big fee?. . .

A. No, I did not.

Q. Did I seem to sincerely want to save the James Brown "I Feel Good" Trust?. . .

A. Yes, you did.

Q. Did you tell me at that meeting that you were hearing some of the things I said for the first time?. . .

A. I don't remember every detail in the meeting, but I remember you saying some of those things and both myself and General Wilson said that.

Q. Do you recall my concern about Mr. Bauknight's having filed documents with the IRS. . . and not changing them as a result of the decision?. . .

A. I can't particularly recall that, but -- you know, I don't doubt what you're telling me.

Q. Might I have told you that it could cause terrible problems for the 900 copyrights James Brown gave the "I Feel Good" Trust?. . .

A. I believe you did. You were very concerned in that meeting. I remember that. You came to us to bring those matters to our attention and you did, generally. I can't remember each one, because as I told you, I'm not involved in all of this, but

you did do that.
Q. Do you know of any reason why, since 2013, there has been a rather vitriolic claim that Bob Buchanan and Adele Pope were merely greedy?. . .
A. No. I will tell you this, as I said in the petition for rehearing: You have a good reputation in the community and that -- and forgive me for saying this, I've never known a Pope who isn't a good lawyer. I knew Mr. Pope. . . I cannot comment on 4900 and its merits or not merits, but, as I said, you are a good lawyer. That's all I can say.

The Rebuttal Testimony of Attorney General Alan Wilson

20. The Court overlooked or misapprehended that AG Alan Wilson's rebuttal testimony and documents support Plaintiff's positions as stated herein; in two partial summary judgment motions; and at trial because AG Wilson was in effective control of all James Brown assets from January 2011 until May 2013 and has controlled the Legacy Trust from 2011 - 2019; had a fiduciary duty to defend the Will and 2000 Trust until May 8, 2013; had a duty to understand how his staff's misstatements about Termination Rights were damaging both needy students and Brown's 7 grandchildren; yet allowed Bauknight to incur millions of dollars in deferred-payment contracts trying to dismember Brown's estate plan; stop the *Wilson v. Dallas* appeal; discredit Buchanan and Pope through an unauthorized lawsuit and baseless felony claims which he lodged "on behalf of" the State/AG; and has actively continued Richland 4900 for 5½ years after telling the Supreme Court on March 14, 2013, that he was getting out of Richland 4900; and has allowed AG Jones to support Bauknight and Afterman as they helped Tommie Rae and James B. siphon off millions of dollars of U.S. royalties from James Brown copyrights since the May 29, 2013 announcement of Tommie Rae and the former Levenson clients of their plan to disregard the *Wilson v. Dallas* decision and reinstate the AG's 2008 settlement which gave them $2 million a year and half of James Brown's "I Feel Good" Charity in exchange for their Termination Rights which can only apply to half of the $3.5 - $4 million royalty stream; and apply only to U.S. royalties, about ½ of Brown's royalties; and has allowed AG Jones to praise Bauknight while he helped Tommie Rae take "I Feel Good" Trust assets, rather than taking appropriate action such as that taken by the Ray Charles Foundation, to protect the "I Feel Good" Trust's copyrights.

21. The Court overlooked or misapprehended that AG Wilson gave the following testimony about Richland 4900:

Q. Are you aware of any tort suit being conducted by the State of South Carolina against a South Carolina citizen other than the Wingate suit?

A. I -- not to my knowledge.
Q. Are you aware of any lawsuit in which the Attorney General is a named plaintiff, in which the Attorney General is not a party to the lawsuit -- not counsel in the lawsuit?

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A. Could you say the question again.
Q. I'm sorry, that was my fault. Are you aware of any lawsuit being waged by the Attorney General of South Carolina in which the Attorney General is not a lawyer of record in the case?
A. There was a case several years ago in which the former treasurer brought a suit against Bank of New York Mellon and the Attorney General was not originally a member, but that the treasurer and the attorney at that time had to sign a litigation retention agreement, but we weren't originally a party of that suit, but that is no longer ongoing.
Q. Are you aware that you are a named party in the Wingate suit?
A. Yes, ma'am.
Q. Have you condoned the continuation of the Wingate suit since January 2011?. . .
A. I remember in that first year that I was in office -- as I stated earlier, I inherited several thousand -- more than several thousand cases, and as I was being briefed by senior staff and attorneys handling cases, this case was brought to my attention. And while I don't recall

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specifically what was mentioned in that meeting -- those meetings at that time, I do know that I authorized the continuation of that suit in order to maintain the status quo of the office from the previous administration to mine.
Q. Did you -- was it explained to you when you authorized the continuation of the lawsuit that the Attorney General was a named plaintiff in the lawsuit?
A. The issue of whether or not we were -- I would assume we were a named plaintiff because it was a lawsuit in which this office was involved. So it was never been raised -- the issue of whether or not we were or were not named has never been an issue until this year.. .
Q. So, well, let me ask you this: As a constitutional principal [*sic.*], is the Attorney General required to control the lawsuits in which he's a party on behalf of the state?

22 A. When the Attorney General and his staff and
23 designees, when we are a party to a lawsuit are
24 involved to the extent we're required by law.
25 This particular lawsuit is a little unique . . .
10 Q. So have you heard that Henry McMaster has said he
11 did not authorize the lawsuit to be brought in the
12 name of the Attorney General?
13 A. I have read Mr. McMaster's first deposition. I
14 have not read his the second deposition.. . .
19 Q. In preparation for this deposition, did you not
20 review the sworn testimony of Henry McMaster in
21 this case made after the deposition which you just
22 read?
23 A. I have not.
24 Q. Do you dispute that he said in that, that he did
25 not authorize the lawsuit to be filed in the name
Page 16
1 of the Attorney General?
2 A. I can't dispute what he said because I haven't
3 read it.
4 Q. Do you dispute that he said he did not authorize
5 Russell Bauknight to bring the Wingate lawsuit in
6 the name of -- on behalf of the Attorney General
7 of South Carolina?
8 A. I would have no way to dispute it because I
9 haven't read it.

And:

17 Q. Have you ever reviewed a pleading filed by
18 Mr. Wingate in the name of the state on your
19 behalf?
20 A. I don't recall reading any pleadings from several
21 years ago. I may have; I may not have. I just
22 don't recall.
23 Q. Who have you relied on for the decisions that
24 you've made or that have been made in your name in
25 the Wingate lawsuit?
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2 A. So, just to give you a broad understanding of how
3 the office works, I have senior staff . . .
19 Q. Well, I appreciate the description of the office,
20 but I want to talk about the lawsuit that the
21 State of South Carolina, through you, the Attorney
22 General, has been waging against Adele Pope for
23 six years for you and two years before that
24 through another Attorney General. So I what
25 specifically, if you -- I want to know on whom you
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have relied for the state to continue the seven-year lawsuit it brought in 2010 against Bob Buchanan and Adele Pope.

And:

A. As I stated earlier, I can't answer specifics about the litigation because I'm personally not aware.

22. The Court overlooked or misapprehended that AG Wilson gave the following testimony of the 75 % voting control he and Tommie Rae have had over the James Brown Legacy Trust since January 2011; over which he has the absolute right to remove and replace the Trustees; which has held the Termination Rights proceeds of Tommie Rae and the Levenson clients since at least 2009; and which was granted partial summary judgment as to Pope's counterclaims in Richland 4900 in 2017 and 2018 although it claims not to exist:

Q. Okay. Have you and Tommie Rae Hynie had 75 percent control of the James Brown Legacy Trust since you took office?. . .

Q. You're unaware that you have had personal control of the James Brown Legacy Trust during your service as Attorney General?

A. You say my personal control and I will go back to my preamble statement that I supervise probably close to 90 attorneys and over 200 personnel . . . -- I just can't answer because I don't have any personal knowledge.. .

...

MR. BLACK: The Estate and Trust needs to put on the record, as well, several times you've discussed the Legacy Trust and, for the record, Judge Early has declared pursuant to an order that there is no Legacy Trust. So to the extent that you're referring to a Legacy Trust you or instructing the witness on the Legacy Trust, our objection is that there is no Legacy Trust pursuant to the court's order.

A. Specifically, to your question, I would have spoken to Bob Cook, possibly John McIntosh a good bit. I would've spoken to Sonny Jones on occasion, maybe Mary Frances Jowers. I would've spoken to Emory Smith. I'm sure there's others I would've spoken to, but the people I spoke to the most were my senior staff, are those who I just listed earlier.

And:

Q. Do you believe that stipulating that Tommie Rae is James Brown's spouse when there is strong evidence she is not has helped protect James Brown's "I Feel Good" Charity or its 900 copyrights?
A. I'm not in a position to answer that question. That's litigating it and I wouldn't have direct knowledge of that.. .

Q. So do you have any knowledge about whether stipulating that Tommie Rae is James Brown's spouse when there is strong evidence she is not would help her protect James Brown's "I Feel Good" Charity --
A. No.
Q. Or its 900 copyrights?
A. No.

23. The Court overlooked or misapprehended that Attorney General Wilson, with others of his staff, added support to Plaintiff's position that both the two AGs and Bauknight breached their fiduciary duty by failing to know or learn anything about Termination Rights, including the basic notion that they apply only to U.S. royalties, and would never have affected the Non-U.S. half of James Brown's royalties, and allowed Bauknight to represent to the Supreme Court that, as a result of Termination Rights, there would be virtually nothing in the "I Feel Good" Trust as of 2023 if the AG's 2008 settlement were not kept in place; that Brown's Estate/2000 Trust had no corpus to speak of ; and that Tommie Rae's elective share claim was a "slamdunk" and she and James B. control Termination Rights, which are automatic, and said:

Q. In eight years, two attorneys general have been involved in the James Brown litigation. During that period, has any member of the AG's staff developed any expertise in, or understanding of,
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the Federal Copyright Act Termination Rights provisions?. . .
A. I would have no way to know that.
Q. Who would know?
A. I don't know.
Q. Did you hear Russell Bauknight's Nexsen Pruet lawyer tell the South Carolina Supreme Court on November 1, 2013 that Copyright Termination Rights are all this estate is about?. . .
A. I don't remember hearing that. I may have, I just don't recall.
...
Q. Do you believe that understanding Termination Rights is critical to the protection of James Brown's "I Feel Good" Charity and its 900

copyrights?. . .

A. I have no way to know that.

Q. Are you currently suing in a lawsuit where you accused Bob Buchanan and Adele Pope of not having

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adequate knowledge of Termination Rights?. . .

A. I am aware that we're in a lawsuit -- that we were in a lawsuit -- are in a lawsuit, excuse me, and that I -- a lawsuit that I authorized in 2011, that brought breach of trust -- breach of duty. And as to the specifics in litigating the facts of that, I cannot answer directly.

Q. Have you not reviewed the complaint in the Wingate suit in preparation for this deposition?

A. I glanced at it.

Q. In that lawsuit, do you accuse Bob Buchanan and Adele Pope of having breached their fiduciary duty by not having an understanding of Termination Rights?. . .

A. All I can say is the complaint speaks for itself. I glanced at it prior to this. I did not read it fully.

Q. Do you take no responsibility for a lawsuit that you have pursued for seven years against a South Carolina citizen -- six years against a South Carolina citizen?. . .

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A. Ms. Pope, I will restate. I am responsible for 8000 cases on average that this office brings. . .

Q. Do you believe that Tommie Rae's elective share claim is a slamdunk?

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A. I have no way to answer that.

Q. Do you agree with the finding of the South Carolina Supreme Court that you, as AG, maintained effective control over the James Brown assets from January 2011 when you took office until at least May 8, 2013?. . .

A. This office disagreed with the Supreme Court. . .

Q. Do you believe that you had a duty to exercise control after you took control of the James Brown Legacy Trust?. . .

A. I'm unaware. I don't know.

Q. Have you, personally, with Tommie Rae, had 75 percent control of the James Brown Legacy Trust

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at least from January 2011 until May 8, 2013?. . .

A. I have no knowledge.

Q. Let me ask you again -- this is question 14. Why have you and Russell Bauknight, the trustee of the James Brown Legacy Trust, told the courts that the James Brown Legacy Trust created by AG McMaster, is private?. . ..

A. And you also asked the question as to why I and Russell Bauknight -- and again, this -- this

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office litigates thousands of cases which you could say "I" am making an allegation, but I am relying on the advice and counsel of attorneys in this office that have involved in this case … procedural reasons and strategic reasons. That -- I can't -- I can't go beyond that because I don't know the answer.

. . .

Q. So the answer is, you do not know whether the Legacy Trust was properly terminated in accordance with law?

A. I don't know the answer to that.

Q. Do you agree that James Brown's fiduciaries have a duty to uphold his Will, which leaves the bulk of his fortune to the "I Feel Good" Charity to educate needy students? . . .

A. I have no way to answer that. May I ask what question you're at?

Q. Do you believe that because of your ability to remove and replace Russell Bauknight at will, you had a fiduciary duty under James Brown's estate plan?. . .

A. I don't know how to answer that question.

Q. Do you agree that your public duty applies to James Brown's "I Feel Good" Charity, which is a private foundation?. . .

A. Again, don't know how to answer that question.

Q. Do you agree that since 2007 the Office of the Attorney General has had access to Tommie Rae's notes, which confirm in her own handwriting that she was married, living in Texas, and thought she might be pregnant before she met James Brown?. . .

A. I don't know the answer to that question.

Q. Do you know that in January 2007, Tommie Rae not only made a contract with her lawyer, Mr. Rosen, but also signed a contingency fee contract with attorney Peter Shahid, who would represent her son?

A. No.
Q. Do you know that since 2013 Mr. Shahid and the GAL he selected, Stephen Slotchiver, have awarded $700,000 in legal fees, payable from James Brown's charity, in addition to Mr. Shahid's contingency fee contract with Tommie Rae?
A. No.
Q. Do you think you have a duty to investigate that?
A. No.
Q. Are you aware that the plan to devalue Brown's music empire from 84 million to 4.7 million actually began with Tommie Rae's lawyer, Alan Medlin, three months before Peter Afterman was hired by Mr. Bauknight?

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A. And again, I cannot comment on specifics of the case because I'm not personally involved in the day-to-day management of the case. I couldn't answer that.
Q. Well, you can answer if you are aware of that?
A. No, I'm not aware of it.
Q. Were you aware that almost immediately after he was hired, Mr. Afterman produced the Afterman Report, which claimed Brown was owed millions of dollars in lost a sampling revenues Greenburg Traurig failed to recover for Brown in the year before his death?
A. No.
Q. Are you aware that Afterman's identification of lost sampling revenues demonstrated, if anything, that the 84 million-dollar value of Brown's music Empire was low?
A. No.
. . .
Q. Have you investigated that Mr. Medlin, Mr. Bauknight, and the AG's staff and Nexsen Pruet were working on the devaluation of Brown's music empire to $4.7 million at the same time Mr. Medlin and your senior assistant, Sonny Jones, were working with the law firm of Ken Wingate to sue Adele Pope and Bob Buchanan for not accepting a hundred million dollar offer for James Brown's assets?
A. I'm going to reread the question because it --
Q. Please. It's question forty-three.
A. Yeah, you've asked me if I've done an investigation in a very long sentence or two, and I'm just not aware of the --
Q. Certainly. Is an important. Take your time.

Forty-three.
A. I will restate, I have no personal knowledge that I can recall.

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Q. You have no personal knowledge of what?
A. Of if there's been an investigation or review by this office. Again, I'm not involved in the day-to-day litigation of the case or any investigations coming out of it.
Q. And you've never investigated, yourself, personally, or ordered an investigation of the devaluation of James Brown's assets from 84 million -- his music empire and related assets from 84 million to 4.7 million?
A. Personally, the only thing I've ever done is the authorization of the lawsuit when I came in, in order to maintain a status quo of the case, but beyond that, I don't get involved in the day-to-day specifics of the litigation
Q. Well, actually, didn't you meet with me on March 6, 2013, when I expressed grave concern about the damage this devaluation did to the James Brown "I Feel Good" Trust?
A. I do remember meeting with you a few years ago. I don't remember when, but I remember we met.
Q. And do you remember that one of the primary subjects was the damage caused by this devaluation of James Brown's assets?
A. And, Ms. Pope, and I apologize to you, I really

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remember meeting with you and I remember you raising a bunch of concerns, but I just don't remember all of the context of that meeting. It's been so long.
Q. Certainly. Are you aware that Sonny Jones and Alan Medlin contacted Ken Wingate in about March 2010 to sue Bob Buchanan and Adele Pope if … they would not drop the appeal of the McMaster Settlement which became Wilson versus Dallas?
A. I'm not aware of what they did before I was Attorney General.
Q. Are you aware of emails that have been produced by your office and Mr. Bauknight which show how Freddie Kingsmore, Sonny Jones and others planned the Wingate lawsuit from March 2010 -- sorry, from March 2010 until it was filed on May 19, 2010?
A. I don't remember seeing emails.
Q. Do you have any evidence to refute the testimony

that Alan Medlin approached Bob Buchanan's lawyer Betsy Gray in March 2010 and said Sonny Jones had hired Ken Wingate, and that Ken was already working on the lawsuit and would sue if Bob and Adele did not resign and drop the appeal of the McMaster settlement?

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A. I have no knowledge whatsoever.

Q. Are you aware from emails that NP lawyer, Freddie Kingsmore was simultaneously working with Alan Medlin to devalue Brown's music Empire to 4.7 million in IRS filings, and sue Bob Buchanan and Adele Pope for not accepting the hundred million-dollar offer for Brown's assets made in 2007?

A. I just do not recall. I'm not aware.

Q. Are you aware that the valid -- among the valid reasons for not accepting the 2007 hundred million-dollar offer, and two additional letters of intent in 2008, included that Greenburg Traurig, Cannon, Dallas, and Frank Copsidas were claiming nearly half of any sale under something known as the October 18th letter?

A. I have no knowledge.

Q. Do you know anything about the October 18th letter?

A. No.

. . .

Q. Thank you. Do you agree that today the Estate and

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2000 Trust are properly asserting in the lawsuit that Mr. Buchanan and Ms. Pope instituted in February -- excuse me. Do you agree that today the Estate and 2000 Trust are properly asserting in the lawsuit Mr. Buchanan and Ms. Pope instituted in February 2008 that the October 18th letter was unconscionable and could not be enforced by GT, the Cannon trustees or Copsidas?

A. I can't agree or disagree. I just don't know.

Q. Do you know anything about the service of Bob Buchanan and Adele Pope at any time between March 7, 2007 and May 26, 2009?

A. Are you --

Q. That's not a question. Just --

A. Would you repeat so I can look at you.

Q. Sure. Sorry. I didn't mean to trick you.

A. Yes, ma'am.

Q. Do you know anything sitting here today about the service of Bob Buchanan and Adele Pope to the

Estate and Trust of James Brown between March 7, 2007 and May 26, 2009.
A. I know nothing firsthand.. .
. . . I know that
senior members of my staff hold you in the highest
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regard and have spoke highly of you, but other than our meeting in 2013 and this meeting, I don't think you and I have ever had any interactions together. So I only know you by your good reputation with Mr. Cook and Mr. McIntosh who -- who have known you much longer than me.
. . .
Q. That would've thrown me off, too.
A. No. We have informal conversations and I was telling you earlier that I only knew you by reputation and as an attorney in the bar in this community, and people that knew you, like Mr. Cook sitting here today, spoke very highly of you. Mr. McIntosh spoke very highly of your legal skills.
As it relates to me being briefed on the staff, I couldn't violate privilege right now
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if I wanted to because I don't remember the contents of those conversations, but I will just give you an idea. When was sworn in January 2011, for the next six months I was drinking from a firehose and I was getting briefed on hundreds and hundreds of civil and criminal cases that were ongoing, not to mention the administration of the office. . .
I have no direct knowledge of the specifics of the case and the reason it was brought, only the -- the recommendation by the staff at that time to maintain a status quo of the case from Mr. McMaster's term and my term. So I authorized it based on those meetings and those briefings I received.
Q. I'm sorry. Thank you. But based on that, let me ask you again, you have not spoken to Governor McMaster about this case; is that correct?
A. I do not remember talking to him about this specific case in a long time.
. . .
Q. So when Attorney General McMaster says he called here after he left office to find out why he was named as a plaintiff, is it your recollection that he did not speak to you?

A. I don't recall talking to him. He may have spoken to John McIntosh or Mr. Cook or another staff member, but I was -- I was not aware that there was ever an issue with the office being listed on the pleadings when I became Attorney General.
Q. And you're saying after you became Attorney General, the first time you became aware that there was an issue about your being a named plaintiff was within the last year or so?
A. I don't ever remember there being an issue with us being on the pleadings until recently.. .
Q. I'm going to hand you -- out of order if you don't

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mind --
A. Sure.. .
(Whereupon, Motion to Dismiss was marked Exhibit No. 2 for identification.). ..
Q. Attorney General Wilson, wasn't the question of the legality of this lawsuit being brought by the Attorney General against private citizens placed in the appellate court in 2011 shortly after you took office?
A. I believe so.
Q. And did you recall that -- do you recall that that happened in February of 2011?

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A. I'm seeing right here February of 2011 on this letter that you just provided me.
. . .
(Whereupon, 02/16/2011 Petition for Writ was marked Exhibit No. 8 for identification.). . .
Q. Yeah, Exhibit 8. Yes, just -- if you'll just tell -- let's say what it is for the record if you will, please. Exhibit 8.
A. Exhibit 8 is entitled, Petition and Memorandum for Writ of Prohibition.
Q. And it is filed in the Wingate suit in the Court of Appeals and what's the date of that document?
A. February 16, 2011.
Q. Okay. And do you remember that the gist of that document was to try to determine whether the Wingate lawsuit was legal?
A. Are you asking me if I remember the gist of it?
Q. Right.

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A. I mean, I don't really recall this because I don't remember reading it.

Q. Wouldn't someone in your office have to take responsibility for putting your name on responses to filings in the appellate court?
A. Yes, that's why I have 90 attorneys that represent my name every day in court and sometimes I'm not even aware of it.
Q. Right, but somebody under the Rules of Professional Responsibility has to take responsibility for acting as a lawyer on your behalf, don't they?
A. Yes, ma'am.
Q. And wasn't the question squarely before the Court whether it was legal for the Attorney General to be using a private lawyer to sue two South Carolina citizens?
A. Again, I just don't -- didn't read it. So you're asking me if I have personal knowledge. If it is what it is, if that's what it is, I don't dispute it.
Q. Well, I'd ask you -- I don't want you to spend all day, but I would like you to glance at it because -- you know, somebody's career was involved here.
A. I am reading the conclusion and you're seeking to

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unjoin the Attorney General from proceeding with the 4900 case.
Q. And, in general, the question before the Court was should the mighty power of the State be used against its citizens in the hands of a private lawyer. That was the question wasn't it?
A. I can only answer you my personal understanding. You're asking me if I'm going to agree with what this says and I haven't read it fully. So if you ask me a question about my view of it --
Q. Well, let's just glance at it and let's take a moment and see if the gist of it is not the concern that the mighty power of the State was delegated to a private lawyer to be used against private citizens?
A. Ms. Pope, if you're saying that's the gist of this, then I will take you at your word.
. . .
Q. So you wanted to keep suing me unless Mr. Bauknight could be put back in?
A. No. First off, I never wanted to sue you. I'm just maintaining the status quo of a lawsuit this office is already involved with prior to me taking office. . .
Q. Okay. So, when Plaintiffs 2 raised with the

appellate court the question of whether it was legal for the Attorney General to be suing private citizens in a tort suit through a private attorney without being the lawyer, who responded for you as Attorney General as shown in Exhibit 2?

A. Ken Wingate signed.

Q. So let's look at that. I want to make sure that we answer that clearly. It suited you in 2011 for Ken Wingate, a private attorney, to file -- file a response to that writ for you, as Attorney General, without your being a signatory and without anyone else in your office being a signatory on that pleading?

. . .

A. I know that members of my staff made the recommendation that I maintain the status quo of this lawsuit, and so based on that recommendation I authorized it. . .

Q. Did you authorize a filing of the Court of Appeals by a private attorney on your behalf?

. . .

Q. Do you agree that -- you said the beneficiaries of "this trust." What trust are you referring to?

A. The "I Feel Good" Trust, the charitable beneficiaries.

Q. Well, did you think that Tommie Rae Hynie was a beneficiary of the "I Feel Good" Trust?

A. Again, I don't have specific information on the specifics of the case.

Q. Do you know whether Tommie Rae Hynie is a beneficiary of the "I Feel Good" Trust or any trust created by James Brown?

A. She was -- I know that she was found by a circuit judge to be the spouse of James Brown. So --. . .

(Whereupon, Wilson's Verification of Answers was marked Exhibit No. 9 for identification.). . .

Q. On May 9th -- May 3rd, I believe it was, 2011, did you verify the Interrogatory Answers that Henry McMaster had given in the Wingate lawsuit?

A. I see my signature here, yes.

Q. Do you understand what one's obligation is when they verify interrogatory answers?

A. Yes, ma'am.

Q. And you understood that you had an obligation to know the truthfulness of the answers you were verifying?
A. Yes, ma'am.
Q. Individually?
A. Well, I verified the answers as I knew them to be based on the briefings from the staff and based on what I had firsthand knowledge of at the time.
. . .
A. Adele Pope's Offer of Judgment to the South Carolina Attorney General and Russell Bauknight as Agent for South Carolina Attorney General.
Q. Do you have any memory of that offer --
A. No.
Q. -- by Ms. Pope -- oh, sorry.
A. No, ma'am.
Q. Do you know that in 2012, Ms. Pope offered to let the Attorney General out of the Wingate lawsuit?
A. I may have known it the time; I just don't recall.
Q. Do you know that instead of responding to the offer, the Attorney General filed the offer and moved to strike it?
A. I obviously can't speak specifically to it because I have no direct knowledge or don't recall.

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Q. Did you know that -- that Ms. Pope offered again after the ruling to let you out?
A. I have no direct knowledge.
. . .

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Q. Do you today not -- I'm not asking you about a signature. Does the State of South Carolina have a contract with the Wingate Law Firm to sue Bob Buchanan and Adele Pope?
A. We do not, to my knowledge, have a signed contract with the Wingate Firm.
Q. Do you have any legal agreement with the Wingate Law Firm to sue Bob Buchanan -- does the State of South Carolina have, in your opinion, any legal agreement with the Wingate Law Firm --
A. A written agreement?
Q. Any legal agreement?
A. I'm not aware of any legal written agreement.
Q. Does that agreement provide that the Office of the Attorney General will be paid ten percent of Mr. Wingate's legal fee?
A. That is what the standard contract says here, yes.
...
Q. Does the State expect it?

A. Not to my knowledge, no.
. . .
Q. All right. Hand you Wilson Number 5, Motion to Strike. That was your Motion to Strike the Offer of Judgment of Ms. Pope; is that correct?
A. It says, "Plaintiff's Motion to Strike Defendant Pope's Offers of Judgment," correct. Yes, ma'am.
Q. What was the date of that?
A. August 13, 2012.
…
Q. Okay. . .
80. Why did you allow Mr. Bauknight, Nexsen Pruet and members of the AG's staff to accuse Bob

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Buchanan and Adele Pope of the federal felony of overstating Brown's assets by $79 million on the sworn Estate Tax Return for the improper purpose of securing a five million-dollar commission?
A. I'm not aware that this office accused you of a felony.
Q. Are you aware that this office accused Bob Buchanan and Adele Pope of overstating James Brown's assets by 79 million on a sworn Estate Tax Return for the improper purpose of securing a five million-dollar commission?
A. I am not aware. I just -- when I say "I'm unaware," is the complaint -- I haven't read the complaint or had a discussion about the 4900 complaint in years so I just don't have recollection of what it alleges.
Q. Well, actually, this happened in 2011 when you took office?
A. That's what I mean, 2011.
Q. It's not in the complaint.
A. Okay. I have no recollection or knowledge.
Q. Do you think it's reckless to accuse someone of overstating assets to the IRS by $79 million for an improper purpose if you haven't investigated to see whether it's true?

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A. Ms. Pope, I can't say if something is reckless or not reckless when I just don't have specific knowledge about the specific facts of what I'm being asked about.
Q. Do you have any knowledge today of whether there was actually an understatement in the James Brown Estate Tax Proceeding by Nexsen Pruet and Mr. Bauknight?
A. I don't have personal knowledge.

Q. Do you know that Nexsen Pruet and Mr. Bauknight have said since 2013 that they do not intend to correct the 4.7 million value claim they made to the IRS?
A. No. I do not know that.
Q. Are you concerned that they told the IRS that James Brown's "I Feel Good" Charity was worth less than $3 million?
A. I'm not concerned because I don't know or have personal information about the facts of the allegation.
Q. Are you concerned that Mr. Bauknight and Nexsen Pruet have refused to change their filing with the IRS in that regard?
A. And, again, I'm hearing all this for the first time and so I just don't have a position because

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I'm not involved at this level so I just don't have a position one way or the other.
Q. Well, didn't you actually on March 6, 2013 tell Mrs. Pope that you were hearing all of this for the first time when she told it to you then?
A. If I said that to you that, then I don't dispute it. I just don't remember what I said to you in 2013.
Q. Did you tell the South Carolina Supreme Court and me, Adele Pope, in March of 2013 that you were seeking to be dropped as a party in the Wingate suit?
A. I told my staff and they have tried to get out of this lawsuit since the Supreme Court ruling.
Q. If you wanted to be dropped as a party, why did you terminate the Wingate Firm in 2013 and then direct them in 2016 to withdraw their motion to be relieved as your lawyer?
A. Where's that question? I'm sorry.
Q. Eighty-six.
A. I don't know the answer to that question.
Q. Do you know the damage to stipulating someone who is not a spouse will be considered a spouse can do to a charity's strategy to protect itself from copyrights -- to protect its copyrights from premature or improper exercise of Federal Copyright Act Termination Rights?
A. I just don't know the answer to that question.
Q. Do you know that Mr. Bauknight has recently admitted that Mr. Afterman is not an expert at sampling issues?
A. I have no knowledge of that.

Q. What action have you taken since the 2017 depositions of Solicitor General Robert Cook and Former Deputy -- Chief Deputy John McIntosh, in which both testified under earth -- oath that they did not authorize the Wingate suit to be brought in the name of AG McMaster?
A. The only thing I've done since that, that I'm aware of is, I read this deposition that was taken in August of 2016. . .
. . .
Q. Has no one told you about Governor McMaster's
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sworn statements in a deposition subsequent to that in which he specifically stated under oath that he did not sue Adele Pope and Bob Buchanan as Attorney General, that he did not authorize his name to be in the caption, that he did not authorize Russell Bauknight to be -- to bring the lawsuit on behalf of the Attorney General, and that he did not learn that he was in the caption until after he left office?
A. I was told that Mr. McMaster had two depositions.
. . .
Q. The question is, did someone in your staff tell you that Henry McMaster was more definitive in his Wingate suit deposition than he was in his later deposition?
A. Yes, ma'am.
...
Q. When was the first staff deposition related to this matter, if you know?
A. I don't know.

The Rebuttal Testimony of Senior Assistant Attorney General Creighton Waters

24. The Court overlooked or misapprehended that the testimony of Sr. Asst. AG Creighton Waters supports Plaintiff's position during the VOID appointment of Bauknight and the period from May 2009 until May 2013 when the AG and Tommie Rae had 75% control of the James Brown assets, both breached their fiduciary duty to the Estate/2000 Trust of James Brown by attacking and suing Buchanan and Pope, who were defending the estate plan, while failing to recover the $17 million taken by felon David Cannon, and even trying to rehabilitate him, along with Dallas and Copsidas, as named witnesses against Buchanan and Pope in Richland 4900.

25. The Court overlooked or misapprehended the Creighton testimony shows that expert Ellison Thomas and Bauknight both understated Cannon's theft by $10 million, giving him credit for 5% of what he took from James Brown, and failing to note the $5 million "check to nobody" he took in 1999, and AG Jones sought

neither restitution or jail time for Cannon, who had taken $17 million from funds Brown gave to needy students.

26. The Court overlooked or misapprehended the complete transcripts which are part of the Waters testimony and the following testimony:

Mr. Waters, my name is Adele Pope and I don't
believe we have met before today, have we?
A. I do not believe so, no.

MS. POPE: I want to ask him about the contents, so I'll look at his 60 pages while he's looking at my 60 pages so we'll try to be efficient.
. . .
(Whereupon, Supplemental Affidavit of Buchanan and Pope was marked Exhibit Waters No. 1
Q. And thank you for taking the time to read it, but were you familiar when you came today with some of the facts contained in that affidavit about David Cannon?
A. I dogeared some pages in here where things -- and I'll speak to those one by one. I need to point out that my involvement in this case didn't really start as a practical matter until after the plea of David Cannon,…
six, there's a reference in paragraph twelve to the $900,000 misappropriation. I do remember. . .
page seven, let's see here. There's a reference to Seventh Decade. All I remember about that is that that was a subsequent entity for managing and holding James Brown's assets. I believe that David Cannon established that company in his name, but I'm not positive. . .
Page 29, there is a reference to Phil Farr, who was a former CPA of Brown.. .
Page 41 refers to the $900,000 misappropriation. . .
investigation. It refers to M and T Bank.
There's a reference to Geronimo Music Management. I know that's one aspect of the restitution that we attempted to -- to assist. . .
can't speak to that. And then obviously the Roatan mansion, but it does refer to Geronimo Music Management. I am generally familiar with that entity,. . .
Q. When you moved to the section which dealt with white-collar crime in 2010, was the matter already pending against David Cannon?

A. I don't know that. I don't know that. . .
Q. Did you learn during 2011 that David Cannon had been named as a witness by the Plaintiffs in a case pending in -- a civil case pending in Richland County in which the Attorney General was a plaintiff?
A. No.
Q. Well, let me -- well, let's go through -- I'm going to mark here Waters exhibit two, which is the documents that you have brought today, and ask you just to take them in chronological order and tell me what happened with David Cannon beginning on October 26, 2011.. .
A. Sure. October 26, 2011, this is an e-mail that I found in my email from Deb Staberg. At the time, she was the executive assistant to John McIntosh, said that John would like to be with you, and there's a number of people on there: me, Sonny Jones, Mary Frances Jowers and Robbie McNair, saying he would like to meet with us in his office this afternoon at three p.m. to discuss the David Cannon plea.. . I don't have any recollection of that meeting.. . .
Q. Was it customary, not customary, or there was no particular pattern for two civil division lawyers to be participating in a meeting the day before a plea?
A. I would say that sometimes that would happen. . .
Q. If you'll just help me make a little bit of a record. Give me the date of the plea, the result of the plea hearing, just in quick summary, if you will, please.
A. Sure. This was on October 27, 2011, . . . the service of three years home confinement, the balance will be suspended and then five years probation. And obviously, as you're well-aware, there was a discussion of whether or not restitution was an issue and the judge, at that particular time, did not award any restitution, and that led to my direct involvement,. . .
Q. Ninety-nine to oh-six --
A. Ninety-nine to oh-six --
Q. It was.
A. That -- you know, he had received approximately $7.7 million beyond what he should have received. . .
Q. But Mr. Thomas' analysis prepared for the State of South Carolina? There was an analysis prepared by Ellis and Thomas?.

A. That's correct.. .
Q. And Mr. Thomas does forensic analyses for your cases such as this?
A. This is the only case I'm aware that he has worked for the State on, at least to my knowledge. . .
Q. Do you know how he came to be hired?
A. I do not.
Q. Good. Let me ask you this -- thank you. And I don't understand anything about what you do, so that's why I'm having to ask more carefully because -- and you're helping me and I appreciate it. So if, in a criminal proceeding, a person is given the benefit of the doubt, shall we say, in a criminal matter, that really doesn't speak to that it would've been appropriate for them to be paid that from a civil perspective?
A. Yeah, many of the cases that I -- yeah, that's correct, as a general matter. Many of the cases that I handle have a civil component. Typically what I do in a criminal realm is look for a net loss.. .
the remedies -- the standards are different and the remedies that are available are much broader than my perspective.. .
Q. Let me ask you that. Did you ever see an e-mail that to Adele Pope sent to Robbie McNair on the morning of the plea hearing?
A. I did not receive that and I think that document is in here. I did not receive that until -- and this is the e-mail in here that's from Sonny Jones to me on July 5, 2012. I forget how this arose,. . .
Q. Did he state rather clearly that he had advised Mr. Bauknight and certain others about the plea hearing and that their election not to come was their election?
A. I think the document speaks for itself. If there's a particular passage you'd like me to comment on, I'll be glad to. But my general recollection was that Robbie told me that he had advised I believe Freddie Kingsmore and Russell Bauknight of the plea,. . .
Q. And when the hearing did actually take place, you wished that Robbie McNair had been there to speak for himself. Did you express that to the court?. . .
A. I -- yeah, I mean, I can't -- I'm trying to remember. I think I called Robbie. He sent me this note. I said I'll provided to the court and -- and that was fine. . . .
Q. That's fine. All right. Then did you continue to

7 **work on the restitution issue?**
8 A. I did. You know, because of the fact that the
9 plea agreement required the state to take no
10 position, essentially, what my job was there to do. . .
15 which we presented evidentiary information about
16 some of David Cannon's assets to include: the
17 Roatan mansion, the Geronimo interest, and maybe
18 some other real estate property . . .
2 that's -- and as it stands right now, because
3 of some issues regarding transfer of that
4 property, it's still pending.. .
6 MR. KENDALL: I just want to let the
7 record reflect I was here by pursuant to an
8 order of the court allowing us to be here, but
9 we are not waiving any right to subsequently
10 reconvene the deposition of this witness
11 pursuant to notice in the 4900 case, should
12 that become necessary. Thank you.

The Rebuttal Testimony of IP Expert Wallace Lightsey, Esq.

27. The Court overlooked or misapprehended that unlike Wallace Lightsey, Esq., and Plaintiff, none of Peter Afterman, Roger Miller nor Jonas Herbsman, Esq., had any litigation experience with Copyrights; knew about the litigation issues related to Termination Rights; knew who the heirs of James Brown are; or had the ability to evaluate the Termination Rights of Tommie Rae and the 5 Levenson clients who placed their Termination Rights in the James Brown Legacy Trust in 2008 or the terms of the August 10, 2008 settlement; that Pope gained enough knowledge, with Buchanan, to prevent the loss of $1.5 - $2 million a year in royalties and half of the "I Feel Good" Charity's assets without the Court's even being told that Termination Rights will never apply to non-U.S. royalties, about half of Brown's royalty income, and that Pope's later assessment of the at-death value of the Termination Rights of Tommie Rae and the parties to the August 2008 settlement was reasonable.

28. The Court overlooked or misapprehended the Lightsey testimony supports Plaintiff's position that she should have been qualified as a Termination Rights experts, and that conducting the appeal which overturned the AG's 2008 settlement provided great value to Defendants:

24 Q Can you tell me about your experience
25 with musical copyright work?
1 A Well, most of my copyright work has been
2 with litigation; in infringement litigation. There
3 have been several cases that involved alleged
4 infringement of musical compositions.
5 I've also done a fair bit of consulting

with a local musician -- talented musician and have assisted him with some of his copyright issues

Q I'll read it for the record: "Not much was known about Termination Rights in 2008 and 2009, even among IP counsel not directly involved in specific matters."
Tell me what you mean by that sentence

A Just what it says and just using my own experience and level of awareness at the time. I, by that time, had been doing a substantial copyright practice for 15-plus years, and, like I said, I had a vague awareness of termination rights, that there was this provision in the Act, but I really did not have any awareness of how it worked or anything near the complexity that's involved with that area of the law.

Q Okay.

A And I'd consider myself, you know, pretty representative of somebody who is a general IP litigation practitioner with significant experience at that time, so just basing it on my own level of awareness and what I read in the literature. I would get, you know, frequent newsletters or electronic newsletters from various intellectual property lawyer associations, and just seeing what people were talking about, what the cases were talking about, I think at that time, even with IP lawyers, there wasn't much awareness of termination rights.

Q Okay. The next sentence says -- well, paragraph 3, sentence 1: "There are ways for charities to limit losses from the exercise by heirs of Termination Rights."
Where does that fit inside of your opinion? What does that sentence have to do with general awareness?

A Well, in connection with this matter, I've attempted to educate myself a little more on termination rights, so I have done some reading and some research on it to learn how these things work. And like I said, I remember hearing about the Winnie the Pooh case. I remember hearing a little bit about the Marvel cases and the Superman case. So I had a vague notion that that — those issues being out there.
When Adele asked me to get involved with this, I tried to learn a little bit more about it. And, in the course of doing that, I feel very strongly that what that sentence says is correct.

. . .

Q Okay. Do you know whether Mrs. Pope made

any inquiry into how to find ways for charities to limit losses from the exercise by heirs of termination rights during her fiduciary service?
A I've read the article that she drafted with Jeff -- Smith? Is that right?
So I've got -- I've got that understanding of what she did.
Q Uh-huh. The next sentence you have here is paragraph 3: "The Ray Charles Foundation case makes clear that a charity owning copyrights has a right to be part of the Termination Rights process because its royalty stream is at stake."
Is that just a -- what are you trying to communicate with that sentence?
A Well, just that the Ninth Circuit in that case held that the foundation had standing to contest a notice of termination by the heirs.
Q Sure.
A As I've said, I do believe, within the general community of lawyers who practice intellectual property, which I do believe I'm representative of -- a good representative of, that there was only a vague awareness of termination rights up until, you know, starting maybe in the mid-2000s; 2006 and later --
Q Okay.
A -- when some of these cases started coming down and we started hearing more about this.
Q Mr. Lightsey, can you describe for me how thick your file is?
A It's, I guess, about 2 or 3 inches.
Q All right. So would you say there are at least a couple of hundred pages in there?
A Probably.
Q And is it fair to say you've done a good bit of thinking about this issue since we first talked?
A Yes.
Q Okay. In researching termination rights, have you thought about whether, in certain instances, a knowledge of state probate law is as important as a knowledge of the copyright law?
A Yes. I think -- my understanding is that when there are questions about who is a child or who is a spouse for purposes of the termination rights, that that's determined by state law.
Q Certainly the spouse, if not the children?
A Uh-huh.
Q Is that correct?
A Yes.

Q So does that mean that if a foundation such as the "I Feel Good" Charity wanted to protect itself in the termination rights area, job one would be not to create a spouse if there isn't one?
A I think -- if there's a question about whether somebody who claims to be a spouse really is or really qualifies, I think that's an essential question, just because of this whole negotiation process I've touched on.
Q And in connection with the determination of heirs under the federal Copyright Act, is it fair to say that even today there has been very little litigation over the issue of how to determine who are children?
A Yeah. I'm not aware of any, other than this litigation.
Q And if, for example, James Brown had a child who was acknowledged in his divorce but not a biological child, to date, do we have any guidance about whether that child would be considered an heir under the federal Copyright Act?
A None that I know of. . .
Q Okay. What if, for example, James Brown had a child who was not born of a marriage and acknowledged only in a will, which the child contested? Do we have any guidance that you're aware of under the federal Copyright Act about that child's entitlement to termination rights?
A No.
Q What if James Brown, in his documents, intentionally disinherited any child who claimed -- who challenged his estate plan? Do we have any court guidance on whether -- the impact of such a provision in the will might affect termination rights?
A None that I know of…
. . .
Q Well, during the early years after James Brown's death -- let's just use him as the example -- could the proper determination of heirs have been as important to termination rights protection as anything else?
A Yeah. I think that would be an essential early step.
Q So if Mrs. Pope was replaced in 2009, would there be any reason to stop that process?
A No. I mean, I think -- I think anybody who was trying to maximize the income for the trust would have to get to a firm conclusion as to who the people are who are entitled to exercise the termination rights so that you can then decide on

6 the best strategy for dealing with that.
1 Q Well, that reminds me. Did the Smith and
2 Pope article suggest a mechanism called splitting
3 heirs?
4 A Yeah.
5 Q Can you explain how what you've just said
6 relates to the term "splitting heirs"?
7 A Well, because the -- a termination has to
8 be done by people who have a majority of the rights
9 to terminate.
10 If there are multiple heirs and the --
11 again, I'm not sure if I'm using the right word.
12 I'm not a probate lawyer. The legatee or devisee
13 or whoever -- the recipient under the will has the
14 opportunity to negotiate and try to get the best
15 deal it can for the trust. So if there are
16 multiple heirs, it's possible to split them up.
17 Some may be more cooperative, some may be less.
18 And if you can split them and get a majority and
19 work out a deal that's good for the trust, that's a
20 good strategy.
21 Q And -- back to the attorney general. If
22 on August 10, 2008 the attorney general stopped the
23 DNA testing process which had been in place since
24 shortly after James Brown's death, would that have
25 helped the protection of the "I Feel Good" Trust
1 termination rights?
2 A I don't see how it could.. .
7 But whatever -- whatever is done, I don't
8 think you'd want to have it subject to a later
9 attack on the grounds that somebody who was part of
10 that didn't really have a termination right.
15 Have you heard of or were you aware of
16 something known as the Peeples' DNA protocol?
17 A Yes.
23 Q Okay. Did you understand that it had
24 been stopped on August 10, 2008 by the attorney
25 general?
1 A I understood that it was stopped.
16 Q Okay. All right. Now, tell me just a
17 little bit about the Ray Charles case.
18 A It was a similar situation with a great
19 songwriter and recording artist. Ray Charles
20 bequeathed his -- I guess the residuary of his
21 estate to a foundation, a charitable foundation,
22 like Mr. Brown did here, and then the statutory
23 heirs under the termination provisions sent
24 termination notices to the publishing companies,
25 and the foundation brought a suit to declare those
1 termination notices ineffective.
2 District court held that the foundation

did not have standing to challenge the termination, and the Ninth Circuit reversed and held that it did have standing because of its interest in the royalty stream.
Q And that case was begun in about 2012?
A That sounds right.
Q And approximately when was it concluded?
A I think the Ninth Circuit decision was in 2015.
Q Okay. Do you know what's happened since 2015?
A No. I did check the district court docket on PACER, I don't know, a month or two ago, and I could not see anything that happened since the remand.
Q We'll mark that, then, as Plaintiff's Exhibit 1, your entire file.
- - -
(File marked Plaintiff's Exhibit Number 1, for identification.)
- - -
MS. POPE: I'd like to hand you Plaintiff's Exhibit 2.
- - -
(Value of Tomirae Federal Copyright Act Termination Rights at Death of James Brown marked Plaintiff's Exhibit Number 2, for identification.)
Q If you'll take a moment to glance at it. And I'll represent that it is my work.
A Okay.
Q I have attempted in this document to recreate the position of James Brown's estate and trust as it was on November 20th, 2007. If the -- and I have concluded that the value of Tomi Rae's federal Copyright Act termination rights at the death of James Brown was negligible based on the facts that were available between the period 2007 and May 26, 2009. If these facts existed and there was fair proof of them on the part of the estate and trust, should they have taken advantage of those facts to protect the copyrights?
A I think certainly, in this type of situation, the trust should challenge -- what's Tomi Rae's last name?
Q Hynie-Brown.
A I would certainly think the trust would challenge her claim.. .
Q Okay. If the -- if the charity is looking to protect itself before it makes a deal

with Tomi Rae, should it not evaluate the strength of her ability to be demonstrated to be the spouse?
A Yes. Absolutely.
Q And only half of the heirs are needed to stop an election; is that correct?
A If they have 50 percent, correct.. .
Q And there must be at least a two-year period when the election is made before the termination can be effective; is that correct?
A That's right. The notice of termination has to be served at least two years before the effective date of termination.. .
Q Okay. And does everybody now kind of understand that termination elections apply only to American copyrights?
A Yes.
Q And James Brown, of course, had worldwide copyrights?
A That's right.
Q And they do not apply to derivative works?
A There's a derivative work exception for derivative works made before the termination.
Q Okay. Now, is it fair to say -- I don't want to spring too much on you -- but both samplings and joint ownerships create further complexity, do they not?
A Yes. That's true.
Q And is it fair to say that the sampling -- a sampling could actually be a small part of a subsequent copyright?
A Yes.
Q And so that that copyright might have a 35-year life of its own?
A Yes.
Q And in that case, in a sampling of a James Brown work, the James Brown rift, let's say, might be a small part of that work?
A Correct.. .
Q And then -- but those works might be -- the termination rights issue could be delayed for many years; is that fair to say?
A Yes.
(Value of Levenson 5 Clients' Federal Copyright Act Termination Rights at Death of James Brown marked Plaintiff's Exhibit Number 3 for identification.)
THE WITNESS: And before you move on, too, another thing I would say that's interesting, and another level of complexity with music in particular, is that sound

24 recordings made before February of 1972 are
25 not covered by federal copyright. They would
1 be subject to common law-copyright. So they
2 are not subject to the termination rights.

20 Q And so it's fair to say that all the
21 works between -- of the sound recordings between
22 '72 and '78 could experience a 56-year life before
23 termination?
24 A That's correct.
7 Q Now, just looking at Plaintiff's 3.
8 Again, this is my work, and it is my evaluation
9 that the termination rights of the five Levenson
10 clients who reached the deal with the attorney
11 general on August 10, 2008 had a value of less than
12 5 percent of the value of James Brown's copyrights
13 on that -- at that time, at James Brown's death.
14 And, again, my reasons that I have set
15 out, you have no specific knowledge about that?
16 A Correct.
17 Q But those reasons were certainly within
18 the purview of a probate lawyer, even if she wasn't
19 an entertainment lawyer; would that be fair to say?
20 A I would think that anybody who is a
21 trustee would want to consider these things.
22 Q Okay. And then again, even if all five
23 of the Levenson clients had been determined to be
24 heirs of James Brown, they would still face many of
25 the same impediments that Tomi Rae would face; is
1 that fair to say?
2 A In general terms?
3 Q Yes.
4 A Yes, as I've talked about.
15 Q Okay. Could I see your file for just a
16 moment, please? I'd like to just go through, if I
17 could, and see if I can summarize what's contained
18 in your file.
19 A Okay.

The Rebuttal Testimony of Estate, Trust & Tax Expert James Hardin III, Esq.

29. The Court overlooked or misapprehended that it was appropriate for James Hardin III, Esquire, and others, including Plaintiff, who were disclosed as experts as well a fact witnesses and had expertise or had provided expert opinions, over the 10-year-period between the Buchanan/Pope's first appointment in 2007 and the trial of her 2009 claim in 2017 and 2018 to testify both as fact witnesses to their prior involvement and in James Brown matters and to render additional expert opinions, even though not paid as experts in this case.

30. The Court overlooked or misapprehended that Hardin's testimony and 30-page expert report of November 18, 2008 provide support for the extraordinary work of Buchanan and Pope following the AG's announced takeover of August 10, 2008, and the propriety of Pope's *pro bono* publico 2-year attempt as a citizen to stop Tommie Rae's announced effort, aided by Bauknight, Afterman, Venisha and others, to disregard the *Wilson v. Dallas* decision as announced to Judge Early in open court on May 29, 2013, and reinstate the AG's 2008 plan which dismembered the "I Feel Good" Charity, and includes:

(Expert Report marked Defense Exhibit
10 Number 1, for identification.). .
13 Number 2, for identification.). . .
4 Q Let's see. I'm gonna go ahead and hand
5 you a copy of what we have pre-marked as Exhibit 1
6 and ask you if you recognize that.
7 A I do.
8 Q Okay. What is that document?
9 A This is a Rule 26(a)(2)(B) Report of
10 Expert Testimony of James C. Hardin, III, and it's
11 in connection with the legal action of Forlando
12 Brown, Plaintiff, versus Adele Pope, individually
13 and As Trustee of the Irrevocable Trust established
14 by James Brown in August 1, 2000, and Robert L.
15 Buchanan, Jr., individually and As Trustee of the
16 Irrevocable Trust established by James Brown in
17 August 1 of 2000.
18 The report is dated --
19 Q It's on page 21. There you go.
20 A -- November the 6th, 2008.. .
3 Q Uh-huh.
4 A The efforts that they had expended with
5 regard to that -- here we go. $317,000 -- the
6 number of hours that they and their staffs had
7 spent.
8 However, prior to that point and in this
9 section D, as in David, beginning on page 12, I had
10 provided what I had understood the compensation
11 provisions were relative to Adele and Bob Buchanan,
12 and they were as I note: That the will provides
13 that they are to -- or excuse me -- the personal
14 representatives, originally Dallas, Bradley and
15 Cannon, quote, "shall receive reasonable
16 compensation for the services rendered and
17 reimbursement for reasonable expenses."
18 So then I go on to state that the term
19 reasonable compensation would be fulfilled, if you
20 will, by the compensation provided statutorily
21 under 62-3-719, and I set forth that standard;
22 which is to say that the compensation is, quote:
23 Not to exceed 5 percent of the appraised value of

the personal property of the probate estate plus the sales proceeds of real property of the probate estate received on sales directed or authorized by will or by court order.
And, of course, in addition and pursuant to that statute: Personal representatives may receive not more than 5 percent of the income earned by the probate estate.
I then go on to note the language contained in the James Brown 2000 Trust regarding compensation, which is contained at Article VIII(iii): "The Trustee shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses."
And as we know, our trust code is -- begs the question thereby -- it in effect echos what was stated in the 2000 trust agreement that, for their services, trustees receive reasonable compensation.
So the statutory and the language of the governing instrument are identical, or largely so.
And I go on to note that when Adele Pope and Bob Buchanan promulgated bylaws to the trust -- and this is following their appointment as personal representative and trustees -- I believe that was in the latter part -- maybe perhaps November of 2007 -- they promulgated bylaws which provided for a collective annual compensation of half of one percent of the trust principal. And I note there my opinion that I felt this was well within the norm for the services of trustees.
I note that the fee schedule of many corporate trustees is higher than that. And, indeed, just to elaborate, in many cases it's three-quarters of one percent, it could be one percent, or even above that.
And then, of course, in addition, as I note here, the -- many, many, many corporate trustees -- not all -- charge an additional percentage on income earned, and they were not in their bylaws seeking any such compensation.
And then finally, often, if a corporate trustee is serving with another person or entity, they typically will charge the entirety of their fee schedule; and then the individual would, on top of that, quite frequently charge, if they were so disposed to charge, compensation of their own; whereas here, I believe this half of one percent was to be collective compensation for the two of them; that is, they would split that compensation.
And then I elaborate on the $317,000 payment.. .

Q Have you ever seen anything like this as the basis for a business valuation?
A I have, including from business appraisers. While, admittedly, it may not be precisely in this format, if you've read one good business appraiser's report, you know that the contents of it, in many respects, two-thirds of it are canned.
And I don't impugn any of that. Those are appropriate valuation approaches they take, and whether it's, you know, initial public offerings or comparables or this, that, and the other.
But, no. In the essence of most of their appraisals, they do look at factors such as some of these, I think.
But I've never seen a business appraisal exactly in this format, no.
Q James Brown died on December 25th, 2006; is that correct?
A Yes, it is.
Q And Bob Buchanan and Adele Pope became special administrators on March 7th --
A Uh-huh.
Q -- and that service lasted until November 20th of 2007; is that correct?
A That is correct.
Q Okay. From then, November 20th, 2007, until August 10, 2008, the attorney general of South Carolina was challenging their appointment; not their service, but their appointment.
Do you recall that?
A I do know that the attorney general did challenge their appointment. I don't know the parameters of the challenge, but --
Q Right.
A -- but yes.
Q Right. And if by September of 2008 the attorney general were representing his right to control the James Brown assets, would that cause serious problems for any fiduciary?
A Yes. And I would state, I believe, my recollection of Wilson versus Dallas where the court found fault not only with the attorney general asserting such direct control over the charitable components, but even over the non-charitable components of the plan; in other words, I think that was ... yeah.
Q Then, I've asked you in the break to glance at Exhibit 2, tab C, which is the supplemental affidavit of Robert L. Buchanan, Jr. and Adele J. Pope in support of permissions and

payment of certain priority expenses of administration, which was signed on July 13, 2009. Have you had a chance just to glance at that affidavit which is 56 pages long and has 18 exhibits?
A I have glanced at the affidavit. I have not yet looked at the exhibits.
Q If Julian Walker made an opinion which is contrary to a statement made by Bob Buchanan and Adele Pope in that affidavit and the accompanying schedules, would you have any reason to believe Bob Buchanan and Adele Pope were not telling the truth?
A No, I wouldn't.
BY MS. POPE:
Q Well -- well -- let me ask more generally.
Would a person reviewing what Bob Buchanan and Adele Pope did between 2007 and 2009 have a lot to look at?
A Yes.
Q Is it possible that such a person might have missed some of the facts or nuances of the situation?
A Yes.. .
Q And is it also true that, so far as you know, where there are two fiduciaries, they must act jointly?
A That's correct.
Q Okay. And would it color any of the answers you've given this morning to know that Judge Early has approved all of Bob Buchanan's actions as both PR/trustee and special administrator?
THE WITNESS: It would.
BY MS. POPE:
Q Would it affect your statements to know in addition Judge Early left room open for Bob in case there is some upset in a case that's generally known as the Wingate case?
THE WITNESS: I'm not familiar with the Wingate case, but, yes, it would color my opinion.
BY MS. POPE:
Q Let's look at footnote 30 in the conclusion of the supreme court's opinion.
A All right.
Q Would you just publish that statement?
A Sure. "We note the AG and/or Bauknight have allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate,

for Wingate to sue Appellants on behalf of the State, Bauknight, and others while also representing private plaintiffs in the suit. We are aware that a suit has been filed in Richland County seeking damages to Brown's estate allegedly arising during Appellants' service as fiduciaries. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this reported arrangement. However, the AG has recently informed this Court, in petitions filed after this Court's initial opinion, that he is now withdrawing as a party in that lawsuit and his office will maintain a monitoring role.

Q Do you know anything about that lawsuit?

A All I know is that I was served with a subpoena duces tecum by an associate in Ken Wingate's firm, and it sought the production of essentially the same documents that I have produced here in this -- this case.

And so I did produce to that gentleman in Mr. Wingate's firm the documents relevant -- essentially the same ones, if not exactly the same ones here, but I have not read any pleadings. I know nothing else about it.

Q Would you agree that in litigation related to charities, the attorney general has a special status even though he is not entitled to control the charity?

A Yes.

Q Okay. And would you expect the supreme court to pay serious attentions to allegations made by the attorney general?

A Yes.

Q Okay. And would you agree that -- that fiduciaries advising and managing charitable trusts want to get along with the attorney general whenever appropriate?

A Yes.

Q Okay. And I'm gonna just ask you to look at the supplemental affidavit we've referred to. And on page 40, this is Roman Numeral XIII.

A I see it.

Q Are the statements in Roman Numeral XIII by Bob Buchanan and Adele Pope about their efforts to work with the attorney general whenever possible -- are those consistent with your memory from 2008 with what was going on?

A Okay. So it's just here at XIII?

Q Right.

A I am familiar with the fact, in the

depositions of yourself and Bob Buchanan, that one or both of you stated that the attorney general was not cooperating. And, as I recall it, it was like Buddy Dallas got to him or colored his opinion strongly against us, thus leading him to oppose our appointment or continued service.
I'm not familiar with the Cannon appeal. I can infer what that's about. I'm not familiar with it.
So those statements would appear, based on my reading, in paragraph 130 and 131, to be -- to be correct.
Q And did you recall that Mr. Buchanan and Ms. Pope had even gone with John Rainey, an important philanthropist, to Attorney General McMaster to urge him not to allow Sonny Jones to, in essence, interfere with the charity by aligning himself with Mr. Cannon and Mr. Dallas?
THE WITNESS: I do recall reading Mr. Rainey's name in the deposition, and so that does ring a bell.
BY MS. POPE:
Q Okay. Now, if the attorney general of South Carolina had told the South Carolina Supreme Court that Bob Buchanan and Adele Pope were seeking a $5 million commission on a $5 million estate, would you expect the supreme court to be disturbed?
A Yes.
Q And if the attorney general had told the supreme court --
Well, let me ask you this: When the attorney general assumed the right to take over the James Brown assets, did the attorney general himself then assume fiduciary responsibility with respect to James Brown's estate and trust?
A I would think that he would.
Q And so to the extent the attorney general supplanted the trustees and placed himself in the decision-making role, whose fault was it if things didn't get done?
A I would think it would be the attorney general's.
Q Okay. And looking at the decision just above the conclusion, we've agreed that the supreme court found, have we not, that -- that the attorney general had obtained virtual control over the would James Brown assets?
A Yes. We would have agreed.
Q Now, let's look at paragraph 175, page 54 of the Buchanan and Pope affidavit.
Do you agree -- well, let's just publish

paragraph 175, what Mr. Buchanan and Ms. Pope had to say in July of 2009.
A "We believe that it is our duty to defend James Brown's Succession Plan for the fiduciaries of his Estate, the Grandchildren's Trust and the 'I Feel Good' Trust. We do not believe, as has been asserted in Court, that the 'I Feel Good' Trust is, or will be, 'the Attorney General's money,' quote unquote. We do not believe, as has been asserted in Court, that the Attorney General has the right to take a private estate, a private trust and a private charitable foundation; change their terms and succession plan; and place them under his personal control."
Q And the supreme court four years later agreed with Mr. Buchanan and Ms. Pope?
A Yes. Wilson v. Dallas, yes.
Q But by then they had been sullied by allegations made by the attorney general?
A I don't know that I —
I mean, I've read the Wilson v. Dallas decision as chastising the attorney general to such an extent that they would doubt his credibility as opposed to believing any allegations he would make. But, again, that -- I mean, I've not read the briefs or the oral arguments or anything.
Q That's true. It's fair to say that you're learning a lot of new information today, right?
A Right.
Q Okay. Good. Well, but in footnote 30 that we've looked at, there is a reference to either the attorney general or Mr. Bauknight entering -- allegedly entering into a contingency fee agreement with Ken Wingate to sue Mr. Buchanan and Ms. Pope?
A Yes.
Q And if I tell you that, in fact, the attorney general did sue Mr. Buchanan and Ms. Pope on May 19, 2010, could that -- the allegations made in that suit, of which the court was aware, have colored the opinion of the court?
A I suppose that would be true, yes, if the court was aware of that or read the pleadings.

Yes.
Q Okay. And -- and if in those pleadings the attorney general had made scurrilous allegations against Mr. Buchanan and Ms. Pope which he had not investigated, would you think it could have colored the supreme court? . . .

THE WITNESS: I would think that it would, even if they had been investigated. Whether they had or had not, I would think it would.

Q And if I told you in the later half of 2016, former Attorney General Henry McMaster said he did not authorize that lawsuit to be brought by Mr. Wingate in the name of the estate or the attorney general, he did not authorize Mr. Bauknight to bring that suit on behalf of the attorney general of South Carolina, and he did not know that the lawsuit was filed until after he left office as attorney general, would that affect your thinking?

THE WITNESS: It would. One issue there in the federal suit that James Brown's assets were worth, at a minimum, $100 million?

A That's true. They did so allege.. .

Q Right. Right. All right. Now, I want to just go through --

Let's look at number 6. Again, you consider it a positive factor where personal representatives and trustees are able to provide the equivalent of legal services without a double charge?

A Yes, I did. I did say that in my affidavit.

Q Okay. If I told you that in the context of James Brown, the termination rights issue is deeply integrated with the issue of an heirs determination in the probate court, would you have any reason to doubt that?

THE WITNESS: No.

Q Okay. Have you read a draft article by Adele Pope and Jeff Smith entitled: Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust Doesn't?

A No, I've not read it.

Q Do you think if you are put to work on a project such as James Brown, one way to acquire expertise is to study?

A Yes.

Q Do you have any reason to know -- Well, let me ask you this: Has anyone told you that just weeks before being told to stand down, Mrs. Pope and Mr. Buchanan had hired Jeff Smith to assist with matters related to copyrights and termination rights?

A I was not aware of that.

Q And are you aware that Mr. Smith is a

16 graduate of the Georgetown Law School and formerly
17 worked in the patent office?
18 A No, I'm not.
19 Q And that Mr. Smith, in addition, has had
20 a lifelong interest in music?
22 THE WITNESS: I did not know that. . .
5 Q Do you recall, in fact, that there were
6 no assets in the trust and that the estate was
7 lending funds to the trust for security and such?
9 THE WITNESS: I do recall that now based
10 on your question, Adele, and the review of the
11 depositions.
12 BY MS. POPE:
13 Q And if Mr. Buchanan and Ms. Pope, looking
14 at C, had failed to file any income tax returns,
15 should they have been immediately corrected rather
16 than perhaps in 2012?
17 A Sure. That is, the returns that should
18 have been?
19 Q Right. Right. If Mr. Walker alleges
20 that Mr. Buchanan and Ms. Pope failed to file tax
21 returns -- if that were true, should there have
22 been an immediate contact made by the attorney
23 general or his new fiduciary to see what the -- why
24 the accountant had not done that?
1 THE WITNESS: Yes. I think so.
6 Q Between the Wilson v. Dallas decision and
7 the order dated June 10, 2015.
8 A That you have an interest as a citizen?. .
20 Q As a citizen and an estate planning
21 lawyer, would you like to see the full value of
22 James Brown's charity used for needy and deserving
23 students in the states of Georgia and
24 South Carolina?
25 A I would.
1 Q Are there circumstances under which
2 citizens have a right to seek to enforce a
3 charitable trust?
4 A Yes, there are.
5 Q All right. And if Mrs. Pope sought to do
6 that until July 10, 2015 but the court felt that
7 she had no standing, would that be the appropriate
8 time to stop that?
9 A It would.
6 Q But you do agree that citizens who
7 believe that a charitable trust is -- is going to
8 be dismembered a second time, at a minimum, have a
9 right to see if they could do something to save it?
10 A I do.. .
22 Q That's all right. Do --
23 And my only question is: Do you recall

24 that the estate tax return was freely discussed and
25 that no questions were raised about value in the
hearings in the Forlando matter, or do you not
2 know?
3 A Well, I just know that they were freely
4 discussed in the depositions --. .
10 Q Okay. That's fine. All right. The
11 Christie sale, Forlando -- Forlando testified that
12 he and family members got together to interfere
13 with the Christie sale.
14 Do you recall that?. . .
16 THE WITNESS: His deposition so stated.
17 BY MS. POPE:
18 Q Right. Even though they were not getting
19 along about most things, they got together to
20 interfere with the Christie sale?
21 A That was my understanding from his
22 deposition, yes.
23 Q Right. And Mr. Dallas also interfered
24 with the Christie sale.
25 Do you recall that?
1 A I do recall that.
2 Q And do you recall the Christie sale took
3 place on July 17, 2008?
4 A I do recall that, yes.
5 Q And the direction to --
6 Well, Mr. Buchanan and Ms. Pope, on
7 July 27th, 2008, filed a motion, did they not, to
8 charge Mr. Dallas and whoever might have caused
9 problems with the Christie sale with the cost of
10 the sale?. . .
12 THE WITNESS: I don't recall that
13 specifically off the top of my head, but I
14 probably did see that in my study in 2008.
15 BY MS. POPE:
16 Q And then just two weeks later, the
17 attorney general assumed the right to control the
18 James Brown assets --. . .
21 Q -- on August 10, 2008?
22 A That's right.
13 Q Okay. Good. Now, do you believe that
14 the attorney general, before justifying a
15 settlement, had a duty to inquire into whether his
16 statements made about termination rights were
17 correct?
. . .
19 THE WITNESS: Yes.. .
21 Q Again, if he assumes the right to take
22 over the assets, he does assume the same
23 responsibility of a fiduciary?

A I believe he does, yes.
Q Okay. Are you aware that the May 26, 2009 order of Judge Early specifically said that he had not ruled on the removal for cause of Mr. Buchanan and Ms. Pope?
A I think I'm aware of that if it came to my attention today, but it was not entered at the time when I was otherwise addressing these points.
Q Do you know anything about the James Brown Legacy Trust?
A All I know from reading the Wilson versus Dallas opinion is that that was an entity that was a product of the attorney general's brokering of the settlement that was undone.
Q Okay. And if the attorney general represented that the Legacy Trust held termination rights, should he be responsible for seeing that they be held properly?. . .
THE WITNESS: Yes.
Q Would that be even more true if the attorney general had the right to remove and replace the trustee of the Legacy Trust at will?
A Yes.
Q Okay. And if the Legacy Trust was a part charitable trust, which was a party to a lawsuit and being managed by a trustee, what -- what action would it be required to take to go away after the Wilson versus Dallas decision?. . .
THE WITNESS: I would say the trustee would need to terminate it and distribute the assets in accordance with either the result of the supreme court's order or perhaps, if they remanded the matter, then in accordance with the lower court order. And I don't recall what happened at the end there.
Q And are there specific statutory provisions for the termination of a charitable trust --
A Yes.
Q -- that must be complied with?
A Yes.
Q Does the size of an estate --
Well, you have testified that the size of an estate and trust are relevant factors in determining the size of a commission.
A Yes.
If a trustee has represented to both the Internal Revenue Service and the supreme court that a trust is only worth 6.5 million or less, should that trustee be allowed to charge a commission based on a larger size?.. .

THE WITNESS: No, I don't think so.
BY MS. POPE:
Q Okay. In general, under Forms 990, are charities required to disclose annually all of their assets and the fair market value of those assets?
A Yes.
Q If a trustee fails to do that or secrets assets, is that a breach of fiduciary duty?
A Yes.
Did -- did the Wilson versus Dallas not provide a mechanism for return of the issue to the lower court for review?
A I believe that it did, yes.
Q And are you aware that Mr. Buchanan's claim was resolved without a disallowance?
A I'm not aware of that.. .
Q Okay. Okay. And there are certainly
. . .
Q If, for example, Philpott Ball were told that the TIAA bond were $19 million at death and it was only 16 or less, would that alone be a problem?
A It would.
Q If persons represented themselves to be music industry experts and, in fact, were not experts, would that affect the opinion?
A I believe it would.
Q And if that opinion were used to --
Well, and let me start off: A closing letter is not an audit, is it?
A No, it's not.
Q So when people say there was an audit and all they got was a closing letter, that's not --
A That's not an audit.
Q That's not an audit, is it?
A Right.
Q Right. And a closing letter says clearly on its face, if there's been any fraud or even a mistake, it's no good?
A That's correct.
Q Right. Right. And do you think if the attorney general were standing by a person making incorrect representations to the IRS, that the IRS might be less likely to bother with it?
A That's correct. I would think so.
Q Because of the Bosch issue?
A That's right.
Q Yeah. Yeah. Okay. And if a fiduciary claimed a $3 million charitable deduction for James Brown's charity with knowledge that 2 million of that was allocated to private individuals, that

12 wouldn't be right, would it?
13 A It would not.
14 Q And if it slipped through an audit, that
15 wouldn't mean that it was right?
16 A No.
17 Q And if the attorney falsely accused
18 Bob Buchanan and Adele Pope of overstating the
19 value of James Brown's assets by $79 million for
20 the improper purpose of securing a $5 million
21 commission, that was an accusation that they had
22 committed a felony?
25 THE WITNESS: It would certainly sound
1 that way, yes.
2 BY MS. POPE:
3 Q Right. And if he did that without even
4 looking at an appraisal that he said supported a
5 $4.7 million claim, that would be reckless?
6 A I would think it would be.

31. The Court overlooked or misapprehended, that Plaintiff offered to submit the expert reports from the period of their PR/Trustee service of Hardin, Caughman and others by stipulation, but Defendants declined, making these depositions necessary.

The Rebuttal Testimony of Estate and Trust Expert Rita Caughman

32. The Court overlooked or misapprehended that expert Rita Caughman, f/k/a Cullum testified that she was hired as an expert by Defendants, through Buchanan and Pope, in 2008, and gave the expert opinion that it is customary and appropriate for the PR/Trustees under a unified estate plan such as James Brown's Will and 2000 Irrevocable Trust to serve in both positions.

33. The Court overlooked or misapprehended that the Caughman expert opinion was necessary after the AG, through a retired Probate Judge, issued an "opinion" that there was a conflict in Buchanan's and Pope's serving as both PR/Trustees, a proposition made by Albert "Buddy" Dallas and adopted by AG Jones until he elected Bauknight for the dual role, and the third, conflicting, role of Trustee of the Legacy Trust, established to hold the Termination Rights proceeds of the Settling Parties and assets of Brown's dismembered 2000 Trust.

The Rebuttal Testimony of Assistant Attorney General Mary Frances Jowers.

34. The Court overlooked or misapprehended that AG Jowers and AG Jones are the two primary persons in the office of two AGs who entered the James Brown proceedings in September 2007 and have remained for 11 years; claimed the right to control the James Brown assets and the music empire from 2008 until 2013; by Circuit Court approval, took effective control, through Bauknight of the James Brown assets and

music empire from May 2008 until May 2013; today maintain the AG's control over the James Brown Legacy Trust and the AGs (New) Charity, as they have since the fall of 2008; authorized and worked on the unconstitutitonal Richland 4900 in May 2010, and have continued it for almost 9 years; and yet AG Jowers, by her sworn testimony, lacks the most basic foundation in either the facts, law or administrative procedures necessary to run, Brown's estate and 2000 Trust or oversee the operation of, Brown's Estate, 2000 Trust or "I Feel Good" Charity and its 900 copyrights.

35. The Court overlooked or misapprehended that AG Jowers' deficiencies as set out in her own sworn testimony, like that of AG Jones, demonstrate the continual breaches of fiduciary duty of two AG's acting *de facto* through Tommie Rae and Sonny Jones, aided by AG Jowers, as Brown's fiduciaries from 2009 until 2013, and their uninformed interference with the operation of the Estate/2000 Trust and improper alliances beginning in November 2007.

36. The Court overlooked or misapprehended that AG Jowers' documents and rebuttal testimony, a small portion of which is set out below, confirm the AG's deficiencies in both oversight and as claimed and acting fiduciary, through Bauknight after May 26, 2009, of Brown's assets and 2000 Trust from 2008 to 2013:

Q. Do you remember -- do you have any idea that he would have appraised either the royalty -- or the copyrights, the royalties or the image and persona of James Brown?
A. I don't remember him doing that.
Q. Now, do you remember that an inventory and appraisement was filed by Mr. Dallas and Mr. Bradley?
A. I don't question that it was, but I honestly -- I just don't remember it.
Q. Do you remember anything about the value of the estate as claimed by anyone in 2007?
A. The only thing I remember is maybe some testimony about a discussion that I thought had been early on about there was some offer for sale, just very early on, for some amount, and that would be the only thing I remember.. .
Q. Do you remember any issue about the failure to file an inventory and appraisement?
A. You know, it sounds vaguely familiar, but other than it sounds vaguely familiar, I don't. I remember there was an appraisal by a guy named Tom Wells at some point. And I don't know if that was before or after, but other than that, I don't remember....
[And of the royalty income stream:]

Q. That was about three -- excuse me, about $3 million a year?
A. I don't know how much it was.
Q. And did you understand those royalties came from the use of approximately 900 copyrighted songs?. . .
Q. Keep going.
A. "This is based on a firm offer filed under seal with the court for confidentiality purposes which offered $100 million for all assets of the Estate
Page 69
and Trust, both real, personable, tangible and intangible. Five hundred million of this purchase price" -- do you want me read the whole thing?
Q. Excuse me. No. I was just going to ask if that's 50 million? I didn't mean to interrupt you.
A. Oh, yes. I'm sorry. "Fifty million of this purchase price believed to be the best evidence of value currently available was allocable to the royalty rights owned by James Brown, LLC.". .

[About the Chritie's sale of July 17, 2008:]

Q. Can you tell me what that is.
A. It is an order of Judge Cureton of July -- looks like July 14, 2008, from the Court of Appeals.
Q. Tell me what you remember about what was happening at the Court of Appeals. Take all the time you need to look at the order.
I remember there were questions about whether the Christie's sale could go forward, should go forward, legally was supposed to go forward, and there was some activity in the Court of Appeals related to that.
Q. And who brought about that activity?
A. I don't remember. It may be in this order. Let's see. It says, "Appellants filed a motion to enforce automatic stay, arguing respondents are not allowed to dispose of property while the order appointing them as PR Trustees is being appealed."
So it appears -- it says "appellants," which would be Dallas and Bradley, as appellants.. .
Q. And there was a motion after the sale to charge Dallas and Bradley with the cost?
A. I didn't remember that. That sounds vaguely familiar maybe, but I don't remember.
Q. Do you remember whether that motion has ever been heard?
I don't remember.

37. The Court overlooked or misapprehended that Jowers testified that she knew nothing about Forlando Brown's frivolous 4-year Federal Court effort to reinstate Cannon and Dallas as Brown's Trustees which Forlando filed on January 2, 2008 and abandoned in April 2012 after wasting about $400,000 of Buchanan's and Pope's malpractice insurance fund preventing a federal injunction against the 2000 Trust until Cannon and Dallas were reinstated:

Q. **And what case is that in?**
A. This is the Forlando Brown federal case.
Q. And did it turn out to be differences in what Forlando was saying in the federal court and what he was saying in the state court?. . .
A. I don't know, because I don't know what he was saying in federal court.
Q. Specifically, did he say on October 31st of 2007 that he had never heard of a hundred million-dollar offer?. .
A. I don't remember that.
Q. Did it turn out, in fact, that he ['d] been part of the offers?. .
A. I don't know who -- I don't know who was part of the offers.

[And of the suits to recover losses from the $17 million Cannon took:]

Q. This is also within box 22. Can you identify this document. I'm sorry, box AG2.
A. This is an amended complaint of Adele Pope and Robert Buchanan as personal -- as PRs and Trustees, and James Brown Enterprises, Inc., versus David Cannon, Albert Dallas, Alfred Bradley, Joel Katz, Greenburg Traurig, Enterprise Bank of South Carolina, and Philip Farr, CPA, dated March 17, 2008, and filed by Kendall Few, or signed by Kendall Few.
Q. You are familiar with that?
A. I had forgotten it. I'm sure I have seen it before.

[And as to the value of the Copyright/royalties and Publicity Right/Image & Likeness:]

Q. And those royalty rights relate to approximately 900 copyrights James Brown owned?
A. Honestly, I don't know exactly what a royalty right is. I think it has to do with his music, but I don't know exactly what a royalty right is.
Q. Let's look at item 6 under miscellaneous personal property. There is a value on that schedule F of almost $46 million. Can you read me or tell me what that applies to.

19 A. Sure. That applies to "persona, image, likeness
20 and other intangible rights not listed in other
21 schedules."

Rebuttal Testimony of Kenneth Wingate, Esq., Counsel for Richland 4900 Plaintiffs

38. The Court overlooked or misapprehended that the testimony, admissions and documents of Kenneth Wingate, Esq., Richland 4900 counsel for all Plaintiffs, including the AG, Bauknight "on behalf of" the AG and the Legacy Trust, confirms that the Court should have found that Defendants' failure to call a single Richland 4900 Plaintiff other than Bauknight, who are under Defendant's control, must be read, like the PBW witnesses who did not appear, as evidence that all would have given testimony adverse to Defendants, including that most are now taking, or have earlier taken, the position that Tommie Rae's ceremony with Brown was bigamous; that they did not see the $4.7 million claimed valuation and/or it was wrong; Brown's music empire was worth $100 million or more when he died; and that the testimony and document of the staff of the AG, Governor McMaster and AG Wilson confirm that that Buchanan and Pope were diligent, competent and loyal to the 2000 Trust, while the AGs, Jones, Jowers, Bauknight and Afterman lacked competence, were reckless in their actions and tax decisions, and failures to file; all sought to discredit Buchanan and Pope in their effort to dismember the 2000 Trust, and did; and all damaged Brown's 2000 Trust; its 900 copyrights; Buchanan and Pope unnecessarily.

39. The Court overlooked that the Circuit Court should have directed Wingate to answer questions he refused to answer, but which, as the following shows, confirm Plaintiff's position that Richland 4900 was unconstitutional and set up and pursued by AG Jones, Bauknight and Tommie Rae without the knowledge or consent of Governor McMaster, then condoned and continued with no oversight for 8 years by AG Wilson, who failed stop either the unconstitutional lawsuit or the actions of AG Jones, as set out below:

9 **Q. All right. Now, Ken, I'm Adele Pope and I'm**
10 the Pro Se Plaintiff in Aiken County Case
11 2013-CP-02-1337. If you don't mind, I'll refer
12 to that case in today's deposition as Aiken 1337.
13 A. Sure.. .
3 The first is the Order of Acting Circuit
4 Judge Jean Toal dated March 1, 2017, related to
5 this deposition; is that correct?
9 **Q. Okay. And you're familiar with the Order?**
10 A. Yes, I am.
11 (Plaintiff's Exhibit No. 2, as previously
12 marked, was presented for identification.)

A. This says 2010-GC-4000073 and I don't know what that is.
Q. Okay. Was the Wingate Suit filed in Probate Court?
A. I don't recall.
Q. Okay. Can you look at Plaintiff's 3 and see if the Plaintiff and the Defendants as named therein are the original Plaintiffs and Defendants in the Wingate Suit?
A. I don't recall.

Q. Is Alan Wilson, in his capacity as Attorney General of the State of South Carolina, your client?
A. Yes.
Q. Is Tommie Rae Brown, individually and on behalf of her minor child, your client?
A. Yes.
Q. Is Daryl J. Brown your client?
A. I'm going to give the same answer, again, Adele, to the best of my knowledge, yes, yes, yes, yes, yes.
Q. Is Janice Vanisha Brown your client?
A. Yes, to the best of my knowledge.
Q. Do you know whether she's a minor or an adult?
A. I do not know.
Q. Is Lindsey Delores Brown your client?
A. To my knowledge, yes.
Q. Is Deanna J. Brown Thomas your client?. . .
Q. Has there been any change in your clients since the commencement of this Wingate Suit on May 19th, 2010?
A. To my knowledge, no.
Q. Was there a change of Attorneys General?
A. Yes. Henry McMaster was the Attorney General. Alan Wilson is now the Attorney General.
Q. Do you believe that Henry McMaster authorized you to bring the Wingate Suit?
A. Yes, I know that he did.. .
Q. Okay. Did you have any conversation with Henry McMaster other than the two meetings you've described?
A. Not that I recall. Most of my communication at that point in time was with the Deputy Attorney General, Sonny Jones, and with Mary Francis Jowers.

Page 22
10 Q. Was Alan Medlin involved in the drafting of
11 the complaint?
12 A. As I recall, he was.
Page 29
13 Q. Did you at first propose that Henry
14 McMaster, as Attorney General, would be a
15 signatory on the contract with your firm?
16 A. I did not propose that.. .
9 Q. Okay. All right. Let me ask you about your
10 client, the James Brown Legacy Trust. Does it
11 exist?
12 A. I'm not handling that part of the
13 litigation. I'm not going to parse with you the
14 kind of question you're angling toward. I have
15 no idea.. .
9 Q. Do you know who the principals of the James
10 Brown Legacy Trust were when you brought the
11 Wingate Suit?
12 A. I do not know…
7 Q. Your Wingate litigation fee agreement to
8 bring the Wingate Suit, which you filed on
9 May 19th of 2010. Do you know who filed the
10 contract with your law firm?
11 A. No, I do not know. Put a document in front
12 of me and we can talk about it.
21 Q. Do you recall that more than a dozen of your
22 clients didn't sign the agreement?
23 A. I don't handle. I didn't handle. I haven't
24 handled. I don't know.
Page 37
9 Q. Were you aware that the statute of
10 limitations had passed as to many of the
11 allegations you made in your complaint?
12 A. I do not --
14 A. I do not intend to answer that question.
15 That does not relate to the authorization to
16 proceed with this lawsuit.
17 Q. You refuse to answer that question?
18 A. Yes, I do.. .
Page 39
1 Q. Do you recall that one of the allegations of
2 the complaint was that Bob Buchanan and Adele
3 Pope should have accepted a
4 hundred-million-dollar offer made for James
5 Brown's assets in 2007?
6 A. Put the complaint in front of me and we'll
7 be glad to look at it paragraph by paragraph.
16 Q. Have you made any effort to determine

whether the allegation that Bob Buchanan and Adele Pope should have accepted a hundred-million-dollar offer was correct or appropriate?

MR. HOWSER: I object and instruct him not to answer; that goes beyond the Order of Justice -- of Judge Toal.

Page 40

Q. Do you know who Alan Medlin in Wingate 5 was referring to by the name of "Adolph"?

A. No.

Q. Did you, in fact, allege that as a result of Bob Buchanan and Adele's Pope (sic) non-acceptance of a hundred-million-dollar offer that at the time of the filing of the suit, the assets were worth tens of millions of dollars less?

Page 41

A. Again, put the complaint in front of me and if it's within the scope of this deposition, we'll talk about it.. .

Q. Were you aware prior to the commencement of

Page 38

this lawsuit that Sonny Jones had a substantial personal bias against Bob Buchanan and Adele Pope?

A. I'm here to talk about the authorization to proceed with the lawsuit.

Q. Do --

A. I do not know.

Q. Do you not know or do you refuse to answer?

A. Both.

Q. Do you recall suing Bob Buchanan and Adele Pope for not accepting a hundred-million-dollar offer?

A. I remember filing a suit against you and Bob Buchanan. The allegations of the complaint speak for themselves.. .

Q. Were you aware at the time that this complaint was being prepared that Alan Medlin was proposing a devaluation of James Brown's assets?

A. I don't know what you're talking about.

Q. Okay. All right. Let's look at Wingate 6. Do you recognize that form?

A. I recognize this as to the form being one portion of a federal estate tax return, a Form 706.

Q. Okay. Do you know anything about the Hynie notes, sometimes called the "Hynie diary"?

16 A. No, I do not.
24 Q. Do you know what the position of the Estate
25 speaking through Bob Buchanan and Adele Pope was
Page 43
1 with respect to the marital status of James Brown
2 and Tommie Rae Hynie?
3 A. I do not.
4 Q. Do you know what the position of the Estate
5 of James Brown with respect to the marital status
6 of Tommy Rae Hynie and James Brown is today?
7 A. I do not.
Page 44
8 Q. Okay. Do you know anything about the
9 marital status of Tommie Rae Hynie and James
10 Brown?
11 A. I do not.
2 Q. Okay. Well, didn't you, in fact, tell the
3 Court at some point before 2013 that if you could
4 not represent the Attorney General, you could not
5 represent anyone?
6 A. I don't know -
22 Q. All right. I'm just going to make a little
23 bit of a record here. This is an email from
24 Sonny Jones to Bob Buchanan dated December 6,
25 2007, regarding a hundred-million-dollar plus
Page 47
1 five percent of the gross profits offer to
2 purchase James Brown's assets. Do you know
3 anything about that?
4 A. This is two or three years prior to my
5 having any involvement. No, I know nothing about
6 this.
7 Q. Right. Do you know anything about the
8 October 18th letter that is referred to in --
9 A. I do not.
10 Q. -- in Mrs. Pope's handwriting? You do not.
11 Do you think that might have been important
12 to determine whether this case that you brought
13 would be barred by the statute of limitations?
16 A. And I'm not going to answer questions about
17 what was considered or what was reviewed. This
18 is a deposition about the authorization to
19 proceed with the litigation…
16 Q. Okay. Does this refresh your recollection
17 about your participation in the Wingate Suit?
18 A. No, it does not, really. I do remember that
19 I appeared at several hearings at different times
20 with either Rett Kendall, my partner, or Mark
21 Gende, and that there would be occasions, as

22 appears in this partial transcript that you've
23 given me, where I'm indicating to the Court that
24 we represent, among others in the court that day,
25 Sonny Jones, an attorney with the South Carolina
Page 51
1 Attorney General's office, who was one of our
2 clients.
3 Q. And Mr. Jones was there and allowed himself
4 to be introduced as your client?
5 A. That is correct.
5 Q. Does anything in there refresh your
6 recollection about your responsibility for the
7 case?
8 A. We can play this game all day long, Adele.
9 You keep trying to put the word "responsibility"
10 in my mouth. I was one of the attorneys of
11 record representing the Plaintiffs who sued you.. .
18 Q. Let's look at Wingate 13, is it?
19 A. 12.
Page 54
16 Q. Okay. Well, the other signatories aren't
17 actually the Plaintiffs, are they?
18 A. I'm going to let you parse that with
19 Mr. Kendall. I've already told you, I was not
20 the person who was dealing with the Agreement for
21 Legal Services.
22 Q. That's not my question, Mr. Wingate. Are
23 the Plaintiffs in the Wingate lawsuit signatories. . .
4 Q. Okay. So -- but I need to know what you
5 know. I'm sorry. I don't want to take any more
6 time than we need, but today's my day to find out
7 what you know. So I need to know what you know
8 about this contract.
9 A. I'm not the one who negotiated it, so I
10 don't know.
Page 57
7 Q. Well, I want you to take all the time you
8 need because this is what we're here about,
9 Mr. Wingate. I want to know everything you knew
10 and know. So all the time it takes you to
11 refresh your memory, please do --
12 A. And I've just answered the question. . .
17 A. I've already answered you that I'm not the
18 one who negotiated, so there's not a memory to be
19 refreshed. I don't understand why you have a
20 hard time understanding that answer.
14 A. I have already told you, I'm not the one who
15 negotiated all those details. I do not know.
16 Q. You do not know whether this is the

17 contract?
18 A. It's what I just said.
24 Q. You do not know. Do you know whether the
25 Attorney General of South Carolina understood
Page 59
1 himself to be bound by this contract?
4 A. I know that Henry McMaster looked me in the
5 eye and said, "You're authorized to file this
6 suit against Adele Pope and Bob Buchanan."
7 Q. "In my name as Attorney General"? . . .
9 A. I don't recall the verbatim words. He
10 looked me in the eye -- the subject of the
11 meeting was: Is there going to be a suit and
12 would Sweeny, Wingate & Barrow, PA, be
13 representing the group of Plaintiffs?
14 As I just referenced in connection with the
15 Judge Manning argument, that a group of parties
16 had a global settlement. They collectively came
17 to us -- one of them was the Attorney General of
18 South Carolina -- and asked us to represent them
19 in suing Adele Pope and Bob Buchanan.
20 Q. Did you know he -- did he know he would be
21 named as a Plaintiff when he gave you that
22 authorization?
Page 60
1 A. His Deputy Attorney General, Sonny Jones,
2 who had been the first contact with me with Alan
3 Medlin, who also was in the meeting with me and
4 with the Attorney General, and who also was the
5 continuous go-between between their office and
6 mine, was present for those conversations, yes.. .
16 Q. Do you know when Alan Medlin and Sonny Jones
17 and others began telling the Appellate Courts
18 that James Brown's music empire was worth only
19 $4.7 million when he died?
20 A. I have no --
23 A. I have no knowledge of that.
24 Q. Okay. Do you think it would have been
25 important to know when you were suing Bob
Page 63
1 Buchanan and Adele Pope for not accepting a
2 hundred-million-dollar offer?
6 A. And I'm not going to answer the question.
11 Q. Okay. Did you represent to the Court, the
12 lower court, you, that it was entirely
13 appropriate for the Wingate firm to be pursuing a
14 tort suit against Bob Buchanan and Adele Pope
15 without the Attorney -- in the name of the
16 Attorney General without the Attorney General

being an attorney of record?
A. And I have no idea what you're talking about, so my answer is: No, I do not recall making that representation.
Q. Yeah. Do you remember Adele Pope ever giving the Attorney General an opportunity to be dismissed as a party to the Wingate Suit?
A. I don't know what you're referring to.
Q. Okay. Now, take a look at Wingate --
A. 15?
Q. -- 15, please, and tell me if you know

Page 66

anything about that.
A. (Reading.) I do not.
Q. Do you know anything about the Wingate firm's filing a Motion to Strike fifteen offers of judgment from Adele Pope?
A. No, I do not.
Q. Okay. Are you -- are you just generally unfamiliar with the claim by all of the Wingate

Page 69

Suit Plaintiffs to the Supreme Court in 2011 that James Brown's assets were worth less than $7 million and his music empire worth less than $5 million?
A. I'm not familiar with those things.
Q. Okay. And if you were suing someone for not accepting a hundred-million-dollar offer, would you have wanted to be familiar with those things?
A. I was going to say, this is -- we're here today to talk about the authorization to sue you and all the nuances of what was done later and who did what and who said what, et cetera, no, I do not know.
Q. Are you familiar with anything inappropriate alleged by anyone that David Bell has done during the course of the James Brown litigation?
A. I have no idea what you're talking about.

Page 71

Q. Do you know who David Bell is?
A. He's an attorney.
Q. Okay. Is he one of the signatories to the Wingate contract?
A. I don't know.
Q. Do you know what Mr. Bauknight presented to the federal court when he was directed to release the Wingate contract?
A. No, I do not.
Q. Did you know that he was required by the

25 federal court to release the Wingate contract?
Page 73
1 A. No.
2 Q. Okay. All right. Have you ever been aware
3 that David Bell filed five false grievances
4 against Louis Levenson?
7 A. I have no knowledge of what you're talking
8 about.
12 Q. Okay. Are you aware of how the Grammy claim
13 got planted with the Kilpatrick Stockton law
14 firm?
15 A. I don't know what you're talking about.
21 Q. Are you aware of how the Kilpatrick Stockton
22 website began to post the Grammy claim in January
23 of 2011?
24 A. No.
25 Q. Do you know the involvement of Mr. Bell
Page 74
1 and/or any of his clients in that posting?
2 A. No.
18 Q. Do you know who made the decision for Henry
19 McMaster not to sign the Wingate Litigation
20 Retention Agreement?
21 A. I don't understand the question and, no, I
22 do not know.
Page 75
2 Q. Okay. Did you appear at a FOIA hearing
3 seeking to intervene in a FOIA suit?
4 A. I do not know.
5 Q. You don't know whether you attended a FOIA
6 hearing?
7 A. No, I don't know.
8 Q. Do you know anything about the efforts of
9 the Wingate Suit Plaintiffs to intervene in FOIA
10 lawsuits?
11 A. No, I was not handling those kinds of
12 things.
23 Q. Okay. Did you ever attend, that you can
24 recall, a hearing related to the -- to the
25 attempts by Wingate Suit Plaintiffs to intervene
Page 76
1 in FOIA lawsuits?
2 A. I do not know.. .
19 MS. POPE: I think that's all the
20 questions I have. Thank you, Ken.
21 THE WITNESS: You're quite welcome.
22 MR. NEWSOME: No questions for this
23 witness.

The Rebuttal Testimony of Philanthropist Judge (Ret'd) Walter Williams

40. The Court overlooked or misapprehened the rebuttal testimony of Philanthropist and Advisory Board member Judge (Ret'd) Walter Williams, who testified that in early 2007 he believed Brown's worldwide music empire to be worth as much as $250 million, but in an early 2007 *Chattaloogan* article quoted only $100 million as a low value; has served on scholarship committees for Morehead College; has valued thousands of estates; and personally knew both Brown and Trustee Bradley, and based his low $100 million on information generally available at the time, and supports Plaintiff's position that both the $99 million and the Harland Howard-style valuation formula presented to the AG and Circuit Court for approval by the SAs were reasonable and produced a conservative at-death value for Brown's worldwide music empire, which earned more than $8 million a year in the 3 years before his death and $7.8 million in royalties during the 8-month PR/Trustee service of Buchanan and Pope despite the AG's direct interference with two potential Publicity Rights contracts, including one slated to bring in $1 - $2 million a year between 2009 and 2011.

41. The Court overlooked or misapprehended that Judge Williams' documents and testimony fully support Buchanan's and Pope's position and include the following:

Q.Yes, sir. Can you tell the -- well, strike that. Judge, can you tell the jury how many estates you have valued in your life?
A. Oh, thousands of them.
Q. Okay.
A. I used to have a pretty good practice of estate administration here in Chattanooga. I suspect that 85 percent of all of the estates of African-Americans in Chattanooga I handled.
Q. Okay.
A. So I have extensive experience in valuing estates.. .
Q. And how did you go about arriving at the value of James Brown's estate?
A. As I indicated, I was at Judge Bradley's home and a group of, I call them investors, and I and Judge Bradley were talking about the James Brown estate. They had indicated that they thought his masters copyright, et cetera, exceeded $250 million. When I spoke to Mr. Wilson in the article, I used 100 million, a more conservative figure.
Q. Okay.
A. But I used it as a minimum, not a maximum.
Q. Okay. And I'm interested in a few things. One is the very first sentence. It says: Former

E-FILED-CHARLESTON-COUNTY-JULY-27-2021-2:13:00-PM-RMG-CHARLESTON-COMMON-PLEAS-CASE#2018CP1002100

20 Chattanooga City Judge Walter Williams has been named to
21 a board to decide how to distribute over $100 million
22 from the estate of soul singer James Brown. Do you know
23 how The Chattanoogan came up with that figure or that
24 statement?
25 A. I mentioned it to John Wilson, who is the
1 editor of The Chattanoogan, I mentioned it to John, and
2 he wanted to do a story about it.

The Rebuttal Testimony of AG Auditor Sandra Matthews

42. The Court overlooked or misapprehended that the documents and testimony of AG Auditor Sandra Matthews support the position of Buchanan and Pope about the personal attacks and vendetta of AG Jones against Buchanan and Pope which is fully documented within the record, and which they attempted with great courtesy to stop in 2008 and 2009, as well as the influence Cannon and Dallas had on AG Jones in 2007 and which is still in play today, with Bauknight's allowing Dallas to change his disallowed 2007 PR/Trustee commission claim to a contract claim under the "October 18 Letter" after the expiration of the statute of limitation, and not resolving the claim even by 2019, where it is now in the S.C. Court of Appeals as a direct result of Bauknight's actions; Bauknight's and the AG's attempts to rehabilitate Cannon, Dallas and former music manager Frank Copsidas by naming them witnesses against Buchanan and Pope in Richland 4900, even though in 2007 the three were seeking more than $25 million from a proposed $100 million sale of the James Brown music empire under the "October 18 Letter", claiming it was a binding contract with Brown; Defendant's use of Laura Woolley, then-partner of Darren Julien, whose January 2008 affidavit claims Dallas was honest and Pope not, as an expert in 2018 to complain about the July 2008 Christie's sale which Dallas, Cannon, Deanna, Jacquelyn Hollander & Forlando interfered with, and chilled, despite the fact that it was approved and directed by 3 separate Court Orders, including an order of the S.C. Court of Appeals; and the appearance in 2019 of Jonas Herbsman, Esq., a transactional lawyer with no litigation experience in Termination Rights, but who Dallas wanted to hire, along with a $60,000 appraiser in New York, just 5 days before he resigned before certain removal based on his coverup of the $17 million David Cannon had stolen.

43. The Court overlooked or misapprehended that the testimony of Matthews included the following:

21 **Q. Now, tell me how you became involved in the James**
22 **Brown matters.**
23 A. Sonny Jones requested of my supervisor that I be
24 allowed to assist him with analyzing financial
25 records that came into his possession or that were
1 involved in the charitable trust.. .
21 **Q. Could you give me the date of that affidavit,**
22 **please?**
23 A. Well, the notarized date is 7/16/2012, but -- no,

that's in the expiration. Sixth day of January 2008. Then I received a copy of an email from Sonny Jones. It's dated January 10, 2008 it's an e-mail he received from Darrell Julian, and Mr. Julian is talking about your performance as Special Administrator. So that was relevant I thought to what you had asked for.

Q. Is that Darren Julian?

A. Yes.

Q. And was Mr. Julian's complaint?

A. He says, "I wanted to warn you that I believe Adele Pope is trying to stir up trouble for some reason. She informed the -- " I mean, do you want me to read the whole thing?

Q. Yes.

A. "She informed the judge that you told her in a phone call that I told you Buddy Dallas told me to go to the press and talk about the James Brown Estate. After our conversation today, I realize that you did not say this, but I wanted to make sure you are careful in what you say to her as she is not being ethical, nor is she being honest in her representations of the James Brown Estate. I informed the attorneys today that what I told you was that the reporter from The Metro called me, and when I asked how she got the information to call me, she said that Buddy Dallas told her that we were being considered to conduct the auction. I don't know Buddy Dallas very well at all, but I do know he has always dealt with me honestly and with the best interest of the James Brown Estate. I'm finding the opposite to be true with Adele. Anyhow, onward and upward and if we do not get the sale at this point I'm not concerned about it as we have a full schedule the way it is."

Q. Tell me how that was relevant to the work that Mr. Jones had asked you to perform.

A. It wasn't.. .

Q. Did Sonny ask you to investigate any action taken by David Cannon, Buddy Dallas or Al Bradley?

A. No.

Q. And did you know -- did you know who owned Seventh Decade?

A. David Cannon.

Q. Do you recall when the criminal investigation of David Cannon was begun?

A. No. I wasn't involved in that.. .

Q. Well, if the record shows that Mr. Jones was

involved in both the criminal and civil matters, that might help explain things?

. . .

A. (No response.)

The Rebuttal Testimony of Everett Kendall, Former Wingate Firm Lawyer

44. The Court overlooked or misapprehended that the rebuttal testimony and documents of Everett Kendall, former member of the Wingate Frim, support the fact that Richland 4900 was unconstitutional and illegal when conceived by AG Jones and Tommie Rae ; confirm that AG Jones and Tommie Rae, aided by AG Jowers, were the prime movers in bringing the unconstitutional lawsuit, with AG McMaster not knowing that he was being named as a Plaintiff, or that Bauknight would claim to speak "on behalf of" the State/AG in Richland 4900; and that AG Jones attempted to justify the claimed propriety of Richland 4900 to the Circuit Court, but his testimony, with the Wingate and Kendall testimony, confirms that the 10% of the legal fee AG Jones was trying to secure under the Wingate Contract without being counsel was improper, as was the lawsuit itself.

45. The Court overlooked or misapprehended that the Circuit Court should have considered Kendall's testimony and required him to answer all questions he refused to answer, including the following, or find that the answer, if given, would damage Defendants and the AG's Legacy Trust:

Q. Okay. So anything that went on in relation to what became the Wingate Suit during the months of March and April, you were not involved in?

A. I do not have any recollection of being involved prior to early May.

Q. Okay. Are you today the attorney for all of the Plaintiffs named there in Wingate 3? [Richland 4900 Complaint]

A. I'm not aware that any of them have dropped out, so my answer is "yes" subject to the fact that I don't -- and I can explain. There's a gap in the time of my involvement in this case and I

Q. So you were not involved in the Wingate Suit from late 2011 until late 2016. Did I hear that correctly?

A. I was aware in broad strokes of ongoing things. I made no court appearances. I did not appear at depositions. I was not active.

Q. Was it [sic.] your first contract presented to Henry McMaster as Attorney General with him as a signatory to the contract?

18 A. I don't recall first what -- I don't recall
19 what was first. And I -- let me also say this.
20 I was not the primary relationship partner and so
21 much of that conversation -- I was involved in
22 some of the drafting of some of the agreements,
23 but I was not involved at the highest level of
24 that conversation.
25 **Q. Who was involved at the highest level of**
1 **that --**
2 A. Ken Wingate was the primary relationship
3 partner.. .

[Speaking of the Tommie Rae handwritten admissions of her bigamous ceremony with Brown:].

25 **Q. Did you on behalf of Russell Bauknight seek**
Page 48
1 to intervene in a FOIA suit by journalist Sue
2 Summer to prevent release of this very document?
3 A. I'm aware that our law firm did.. .
14 Q. Okay. Are you aware that the Wingate firm
15 attempted to prevent release of what became known
16 as the "Hynie diary," certain handwritten notes
17 of Tommie Rae?
21 A. And I just note the public record will say
22 what we did.
23 Q. Would you answer my question?
24 A. No.
Page 49
2 Q. Okay. Are you aware that the Wingate firm
3 has attempted to prevent release of the Wingate
4 contract under the Freedom of Information Act?
8 A. And I'll decline to answer. The public
9 record will speak for itself.
19 Q. Are you aware that the Wingate firm --
20 Sweeny, Wingate & Barrow -- has attempted to
21 prevent release under FOIA of an amendment to
22 your client, the Plaintiff Legacy Trust?
Page 50
1 A. I'll decline to answer and just point, the
2 public record will say what our firm has done in
3 that regard.
6 Q. Look at Wingate 8, please, see if you know
7 anything about that.
6 Q. Did the Attorney General of South Carolina
7 write the Wingate firm in 2013 terminating their
8 service?
9 A. No.
10 Q. Did you file a motion to be relieved -- did
11 the Wingate firm file a motion in 2013 to be

12 relieved as counsel based on the representation
13 that the Attorney General had asserted that he no
14 longer wanted the Wingate firm to represent him?
15 A. We did file a motion. What the specifics of
16 it were, I haven't seen it in a long time. I
17 don't recall all that it says.
18 Q. Did the Attorney General withdraw in 2016
19 that request that you withdraw?
20 A. I'm not aware of that.
23 Q. Are you familiar with Wingate 9, a letter to
24 Bob Buchanan and Adele Pope from Henry McMaster
25 dated July 30th, 2009?

Page 52

1 A. This seems familiar, but I can't -- I can't
2 swear one way or the other. It just seems
3 familiar.

5 Q. Let's look at Wingate 14, a letter from you
6 to the South Carolina Court of Appeals dated
7 February 28th, 2011, and see --
8 A. Okay.
9 Q. -- if that refreshes your memory.
10 A. Okay. (Reading.) I'm aware of this filing.
11 Someone signed this on my behalf, but I was
12 involved in the drafting of it initially.
13 Q. Okay. And had you and Mr. Wingate just told
14 the Court back in the previous August that it was
15 perfectly all right for a private law firm to
16 bring a lawsuit in the name of the Attorney
17 General of South Carolina?
18 A. I don't remember all that we said. I do
19 know that we have taken that position.
20 Q. And did you know that you told the Court
21 that Sonny Jones knew about those things and he
22 was involved in a California case and he said it
23 was all right?

Page 55

1 A. I don't recall the specifics of arguments
2 that were made to the Court. I do recall that
3 Sonny Jones was aware of the retention. I recall
4 that Sonny Jones was involved in the preparation
5 of the response to your motion and I -- so that6 much I'm
aware of. But the specifics of what was
7 said to the Court on a given day, I don't recall.
8 Q. All right. Are you aware of any of the
9 improprieties of David Bell prior to the
10 commencement of the Wingate lawsuit?
11 A. No.
14 THE COURT REPORTER: "Do you know

anything about the amendment to your client, the Legacy Trust, which took place on December 13 -- I'm sorry, at the end of December of 2010 in which was disseminated by Sonny Jones in early 2011?"

THE WITNESS: I don't know that that has anything to do with the authorization for me to bring this lawsuit or to continue the lawsuit.

BY MS. POPE:

Q. Do you decline to answer?

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A. I do.

Q. Who has voted on or authorized participation of the Legacy Trust in the Wingate Suit since January 2011?

A. I'll decline to answer that as not -- as limited to the Attorney General.

Page 60

Q. Did your attorney/client relationship or privilege status with Louis Levenson change when Daryl Brown fired Levenson?

A. We didn't have an attorney/client privilege with Levenson. We had a -- our relationship was with the individuals that he represented and we maintained relationships with the individuals.

Q. Did Daryl Brown fire you in 2011?

A. Not to my knowledge.

Q. Did -- did your relationship with Terry Brown change when he assigned his rights in James Brown's Estate to his son in early 2011? . . .

A. I'll decline to answer. . .

Q. Okay. Did the Wingate firm reestablish any relationship with Terry through John Donsbach or Scott Keniley when Terry hired them.

A. Decline to answer. . .

Q. Has the fact that Venisha Brown has been incarcerated throughout this case been a problem either with Mr. Levenson speaking for her or Deanna Brown Thomas acting through a power of attorney?

A. I'll decline to answer.

Q. Okay. Are you aware of the motion of Bob Buchanan and Adele Pope to value the James Brown copyrights and publicity rights by formula as filed with the Circuit Court in November of 2007 and referenced in the hearing held November 15, 2007?

A. Decline to answer.

23 Q. Are you aware of the inventory and
24 appraisement prepared by tax specialist William
25 Hammond and filed on or about November 15, 2007?
Page 63
4 A. I'll decline to answer.
21 Q. Are you aware of a petition filed by James
22 B. for Review of Compensation of Buchanan and
23 **Pope in March of 2009 in Aiken County?**
Page 65
4 Q. And are you aware of the response filed by
5 Mr. Buchanan and Ms. Pope to that filing?
8 A. Decline to answer.
Page 65
4 Q. And are you aware of the response filed by
5 Mr. Buchanan and Ms. Pope to that filing?
8 A. Decline to answer.
9 Q. Okay. Are you aware of the estate tax
10 return of the Estate of James Brown and
11 attachments filed by William Sellars, CPA?
15 A. Decline to answer.
24 Q. Have you ever heard before 2016 that
Page 68
1 until after he left office?
4 A. I first became aware of that very recently,
5 but it was post his deposition.
23 Q. And I'm not trying to trick you. I just
24 need to get the record straight. Is it correct
25 that there were two motions, either of which
Page 71
1 would have disqualified the Wingate firm?
2 A. That could be.
Page 72
3 Q. Okay.

The Rebuttal Testimony of Graham Foundation Trustee Stephen J. Lambert

46. The Court overlooked that Stephen Lambert, a trustee of the $40 + million Graham Foundation, is both an expert in the duties of the trustees of a large private foundation such as the "I Feel Good" Trust, and a witness to the fine work performed by Pope in assisting the foundation in a 3-year self-study as it entered its 3d generation as a family foundation, and that his testimony shows both the high quality of Pope's work; the damage done to Plaintiff by the unconstitutional Richland 4900; and the failure of Bauknight and the AG to meet even minimal standards from May 2009 to May 2013 in the operation of Brown's "I Feel Good" Charity or the AG's (New) Charity, which was to received nearly half of Brown's assets, less $2 million.

The Rebuttal Testimony of Current James Brown SA/ST David Sojourner, Esq.

47. The Court overlooked or misapprehended that David Sojourner, Esq., on nomination of Bauknight, was hired as SA/ST three months after Levenson and Tommie Rae's lawyer announced in open court on May 29, 2013 their intention to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement which took 50% of Brown's assets for the AG's (New) Charity; nearly 25% for Tommie Rae and left AG Jones and Tommie Rae, through Bauknight and using Brown's "I Feel Good" Trust funds, in control of the James Brown assets.

48. The Court overlooked or misapprehended that Sojourner, by wasting $1.4 million, including $80,000 in the first month, in litigation costs, Sojourner helped make it appear to the Circuit Court that defending the estate plan of James Brown would be too costly, when, with the assistance of *pro bono publico* lead appellate counsel, Buchanan and Pope had defended the estate plan of James Brown from August 2008 until May 2013, including for 7 days of hearings and a 4-year appeal with litigation costs of less than $300,000 because of their extraordinary time commitment and legal expertise, and that Sojourner not only dislikes litigation, but knew nothing about copyrights or Termination Rights; considered protection of the copyrights from Tommie Rae and James B. beyond the scope of his appointment; and declined to respond when Pope sent him a copy of Pope's and Smith's 2011 *Private Foundations, Copyright Heirs, and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* and offered *pro bono publico* to help him understand strategies to protect the "I Feel Good" Trust's 900 copyrights, which he had a duty to protect despite the claimed scope of his appointment.

49. The Court overlooked or misapprehended that the $1.4 million paid to Sojourner and his former law partner, including more than $80,0000 in the first month, for an extremely limited role; the $700,000.00 that Bauknight and Sojourner allowed Peter Shahid and the GAL for James B. to be paid; the more-than $2.5 million paid each year to Bauknight's lawyers; and the more-than $1 million paid Peter Afterman as he helped James B. and Tommie Rae, with Bauknight's almost-daily consultation, to raid the "I Feel Good" Trust's U.S. royalties; stand in stark contrast to the comprehensive roles of Buchanan and Pope; their modest legal fees; the $1.47 million Pope and her large staff earned under her contract with Defendants between November 2007 and May 26, 2009; the $500,300 Buchanan and his small staff earned during the same period; and the less-than $250,000 in legal fees they incurred in defeating $35 million of claims; defending against the AG's attempt to give away $1.5 - $2 million of income a year and half of the "I Feel Good" Trust's assets in the multi-day hearings; and conducting both the Cannon and Dallas appeals.

50. The Court overlooked or misapprehended that the documents and testimony of Sojourner include the following:

Q. **And what is the total legal fees for the defense of James Brown's Will and trust contest during the period ?** [Nov. 2013 – May 2016]
A. ...though the end of April, was $1,370,857.91

And:

Q. Were you paid promptly upon receipt through December 15, 2015?

A. You can see from the statement that --- one, two, three, four – the fifth column over, the first invoice was paid and then Mr. Bauknight paid $60,000 a month for a period of time. And since then, the payments have not been as regular.

Q. Without – well, do you know why?

. . .

....MR. BEACH: And instruct the witness not to answer ...

BY MRS. POPE:

Q. Did Mr. Bauknight advise the court at your appointment hearing that he held the purse strings for you?

A. I don't recall.

And:

Q. **Are you aware that James B. has valued James Brown's Estate at 6.5 million dollars at his death?**

A. Not aware of that.

Q. Would that fact make a request for $700,000 for James B. be even more troublesome?

...

A. I'm – I'm not sure...I have so many issues with this. I'm strongly opposed to those in every way.

And

Q. Do you know anything about the current value of James Brown's Estate and Trust"

A. I do not.

And:

Q. What role, if any , has your appointment given you to protect the copyrights James Brown gave to the "I Feel Good" Trust?

A. I think none.

Q. Do you have any expertise in the copyright area?

A. None.

Q. Do you believe that in the recent years it has become necessary for estate planners and estate attorneys working with estates which – and trusts which hold copyrights to develop expertise in the copyright termination rights area"

...

A. I'm not particularly familiar with those issues. I have read some about it, and I do believe that this is an important part of estate planning for someone who owns those types of intellectual property.

Q. Do you know any lawyers in South Carolina who have developed expertise in the relationship between estate and trust law and copyright termination rights?

A. None are coming to mind.

Q. Have you received a copy of an article written by William J. Smith and Adele Pope on that issue?

A. I have.

Q. Do you recall the name of the article?

A. I don't

Q. Did it have a name like: "Private Foundations, Copyright Heirs ...Musical Millionaires: Why the James Brown 'I Feel Good' Trust Doesn't"?

A. That sounds familiar.

Q. And did Adele Pope provided [sic.] that to you in 2013?

A. To John Beach, I believe.

Q. And would it be fair to say that you have felt that the issues raised in the article were beyond the scope of your appointment?
A. Well, I don't recall specifically the issues raised in the article, so I believe that the scope of my appointment is limited to defending against the challenges to the Estate and Trust and everything else is left to Mr. Bauknight.
....
Q. Good. What do you know about the five percent payout rule for private foundations?
A. Very little.
Q. You have not accepted any responsibility – you do not have any responsibility in the James Brown matter for preparing the 990-PF? Is that correct"
A. That is correct
Q. And you have no responsibility for the required valuations of the "I Feel Good" Foundation"
A. That is correct.

The Rebuttal Testimony of Senior Assistant Attorney General Havird "Sonny" Jones

51. The Court overlooked or misapprehended that the rebuttal testimony and documents of Sr. Asst. AG Jones confirm that despite his attempted takeover of the James Brown litigation since 2007; 75% control of the Legacy Trust with Tommie Rae since late 2008; and effective control for two Attorneys General of Brown's 2000 Trust, Estate and "I Feel Good" Charity, Jones lacks knowledge of any aspects of the AG's fiduciary duties which both Pope, as an expert, and Tiffany Provence, Esq., confirmed that the AG had from August 8, 2008 until May 8, 2013; that the AG, through Jones, continually violated his duty of loyalty; duty to file proper tax returns; duty to protect the copyrights; duty to require that proper accountings be filed; duty not to claim a $2.8 million IRS estate tax charitable deduction for the AG's (New) Charity when the charity had not even been formed and was obligated to pay $2 million to non-charitable beneficiaries; duty to review an accounting which claimed to devalue Brown's "I Feel Charity" by $79 million, and contained within it a $3 million overstatement of the TIAA debt, and reduced the required scholarships paid from the "I Feel Good" Charity by about $3 million a year under the IRS's 5% Rule; and; and duty to understand that the Afterman/Bauknight $79 million devaluation of the music empire from $84 million to $4.7 million shifted 31% of the "I Feel Good" Charity over to the 7 Grandchildren's Trust under the 2000 Trust's Fractional Share formula, and caused $350,000 a year of unnecessary income tax to be paid; and to see that Bauknight filed the proper income tax returns each year, and paid taxes, or that he, and his spouse who served as the Estate/2000 Trust's CPA, be replaced; and that the failure of Bauknight and Beth Bauknight, CPA, to even pick up the tax file of Court-appointed resigned accountant William Sellars, constituted a serious breach of fiduciary duty.

52. The Court overlooked or misapprehended that the documents and testimony of AG Jones show that as the AG's primary James Brown agent, AG Jones has consistently breached his fiduciary duty to the 2000 Trust and the "I Feel Good" Charity since 2008 by his 5-year "common interest" privilege with Tommie Rae and 10-year "common interest" privilege with Bauknight, where by August 2013 both were actively working with Peter

Afterman to ignore *Wilson v. Dallas,* put Tommie Rae and AG Jones back in 75% control of the James Brown assets, and give almost 75% of Brown's assets to the AG's (New) Charity and Tommie Rae; were claiming that Richland 4900 Plaintiff Legacy Trust did not exist; and were wasting millions of dollars to denigrate Buchanan and Pope and pay Sojourner to make it appear too expensive to defend the estate plan of James Brown.

53. The Court overlooked or misapprehended that the documents and testimony of AG Jones, a small sample of which follows, when combined with that of Governor McMaster, Kenneth Wingate, Esq., and Everett Kendall, Esq., and documents of Tommie Rae's counsel about the devaluation of Brown's copyrights to $24 million or less and right of publicity at zero, show that the AG, through AG Jones, continuously breached its fiduciary duty to both the "I Feel Good" Trust and the 7 Grandchildren's Trust by bringing Richland 4900 without basis or legal authorization to damage Buchanan and Pope and continuing Richland 4900 for 9 years, including for more than 5 ½ years after the AG told the Supreme Court he was getting out of Richland 4900 more than 5 ½ years after Tommie Rae's lawyer and Levenson, with AG Jones present, announced in open court to Judge Early on May 29, 2013, their intention to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement which put AG Jones and Tommie Rae in control of the James Brown music empire; dismembered his "I Feel Good" Charity; and unnecessarily threatened it 900 copyrights through false and misleading statements to the Court about the U.S. Copyright Act, 17 U.S. C. 1701 et seq., and rights under Sections 304 and 203 of the Act ("Termination Rights"):

Q. Would it be fair to say that there were a lot ugly things being said about Mr. Buchanan and Mrs. Pope, but especially Mrs. Pope, by David Cannon and Buddy Dallas at the time this was recorded?. . .

A. I can't recall.. .

Q. Mr. Jones, in Case 1337, Adele Pope is not being paid for services she provided as Special Administrator to James Brown's Estate in 2007 because of the allegations of the Attorney General of South Carolina. This is about Case 1337. Will you tell me if you believe that Bob Buchanan and Adele Pope's failure to sell the James Brown Estate and Trust assets for a hundred thousand [sic.] dollars was in any way improper or either in 2007 or 2008?. . .

THE WITNESS: Many questions there. The allegations in 4900 have not been resolved. You were in the process of trying to get your hearing on 1337. You mentioned that 4900 could have an impact on 1337. 4900 is not moving forward with any type of evidence or whatever as I remember, so the allegations in the complaint are there.

Q. Did you allow yourself to be introduced in open court in a lawsuit that the Attorney General of South Carolina brought against Bob Buchanan and Adele Pope as one -- as a representative of the Attorney General one of the clients of Kenneth Wingate?

A. Yes, ma'am. And an explanation would be, as you mentioned, the Eli Lily case, when the AG has a fee contract with outside counsel, it is a fee contract we enter, it's about 13 pages, a lot of restrictions. It's signed by the AG, signed by the attorney that we hire. And there is a fee contract and the AG, per statutory law and common law, controls that litigation, and it's spelled out in that document…

Q. Well, I'm going to ask the question this way: Do you believe that your duty to the public has been impaired in any way since August 10, 2008 by the Attorney General's relationship with Tommie Rae Hynie Brown?

. . .11 THE WITNESS: Did you -- ask the question again?

A. You said the Attorney General's relationship or I don't understand when you say "Attorney General." You're saying the office or you're saying me?

Q. The office.

A. My role in this case appearing for the office, there's no impeding by any relationship with Tommie Rae, no different than relationship with you or anybody else in the case.

Q. Well, are you sharing with me what you're sharing with everyone else in the case?

A. That's a pretty broad question. Is there anything you've asked that we haven't given you or is there anything we've asked that you haven't given us? I don't -- I can't recall. There is a lot of time in this case.

Defendants' Efforts to Consolidate With Richland 4900 & Force Richland 4900 Settlement and the *Ex Parte* Filings After the May 26, 2009 Announced Intention to Disregard *Wilson*

54. The Court overlooked or misapprehended that Defendants' efforts since 2016 to force Plaintiff to try this case with Richland 4900, with its 17 Plaintiffs, 9 experts who were designated in this Case in late 2016, and 91 witnesses; the Circuit Court's multiple rulings that affidavits and other public documents were confidential and/or had to be filed under seal in both cases; the Circuit Court's *sua sponte* joint mediation directions and ruling that this case would be tried with Richland 4900 or before it; and the Circuit Court's Status Report stating that there had been no discussion of settlement despite the

public announcement to the Circuit Court to the contrary; as well as the Circuit Court's banning Buchanan and Pope from participation in any James Brown Aiken County case except their own claims required Plaintiff to conduct depositions that should have been wholly unnecessary and were intended by Defendants to benefit Tommie Rae, the Legacy Trust and the AG's (New) Charity.

55. The Court overlooked or misapprehended that this claim case, at all times through trial, could and should have been settled for $2.1 million or less, but Defendants, since 2012, and in direct breach of their fiduciary duty to the Will and 2000 Trust of James Brown, have refused to even present a counter-offer; continued to denigrate Buchanan and Pope to in order to retain the AG's and Tommie Rae's unwarranted 75% control over the James Brown assets; and in 2018 admitted to a Federal Court that they had spent (wasted) tens of millions of dollars in litigation costs since 2007, but that such litigation costs have been for the benefit of Richland 4900 Plaintiff Legacy Trust and its beneficiaries, who are not James Brown's beneficiaries.

56. The Court overlooked or misapprehended that the Circuit Court's allowing Bauknight to file an *ex parte* ethics opinion of Nathan Crystal, Esq. a designated expert in this case, ,in July 2013 about the service of Bauknight, which Defendants and Crystal refused to disclose, and the exclusion of Buchanan and Pope from Aiken James Brown cases since June 2010, 3 days after this case was filed, have materially damaged Buchanan and Plaintiff, leaving them without a level playing field, as had the *ex parte* litigation costs filing described below.

57. The Court overlooked or misapprehended that the Circuit Court's ordering in December 2017 that the litigation costs of Defendants since May 26, 2009 be filed; the acceptance of the filing *ex parte* over strenuous objection of Plaintiff; and the review and discarding of the *ex parte* filing by the Circuit Court deprived Plaintiff of material, non-confidential information which is necessary to show both the extraordinary service of Buchanan and Pope between May 8, 2009 and May 2013 in the face of millions of dollars the AG, Bauknight and Tommie Rae were spending from Brown's "I Feel Good" Charity in "deferred pay" contracts to denigrate Buchanan and Pope; conceal Tommie Rae's admissions of her bigamous marriage under FOIA and discovery; conceal (successfully) the details of the Tommie Rae/Afterman/Bauknight $79 million devaluation of Brown's music empire to $4.7 million to discredit "Bobadele" until after the first *Wilson v. Dallas* decision; conceal the planting of the false Grammy © story by Forlando and Bell; and conceal that Bauknight has not filed proper income tax returns to address the approximately $350,000 per year in unnecessary income tax he and Peter Afterman caused with the the $79 million devaluation under the Fractional Share formula of James Brown's 2000 Trust, all as explained by experts Pope and Johnson, as well as by Harley Ruff, Esq. by affidavit at the second Summary Judgment hearing.

58. The Court overlooked or misapprehended that the discarded *ex parte* filing of the litigation costs (under a ruling of Judge Early in 2010) was not confidential; should not have been discarded; and should be reconstructed and filed with the Clerk and a copy

provided Plaintiff for this reconsideration and any appeal, because it provides material proof of the extraordinary service and benefit provided by Buchanan and Pope and the extraordinary, and wholly unnecessary, waste of tens of millions of dollars by Bauknight for the benefit of the James Brown Legacy Trust and its beneficiaries: the AG's (New) Charity; Tommie Rae; and 6 Will/Trust contestants, none of whom is a beneficiary of James Brown's 2000 Trust, his sole residuary beneficiary.

59. The Court overlooked or misapprehended that multiple rulings by the Circuit Court in Aiken 1337, Richland 4900 and the suits against Cannon, GT and others, since the May 29, 2013 announced intention of Tommie Rae and Levenson to defy the *Wilson v. Dallas* decision, including confidentiality rulings and sealing of documents without review, and the Court's declining to re-open these sealed documents, have deprived Plaintiff of the ability to show the full extent of the damage Bauknight, Tommie Rae and the AG, through AG Jones and Bauknight, caused James Brown's Estate/2000 Trust – and more he tried to cause – from August 10, 2008 until May 8, 2013.

60. The Court overlooked or misapprehended that the testimony of many Richland 4900 Plaintiffs and Forlando confirms that the $100 million value was correct and conservative; that James Brown himself told them he was not married; and that his estate plan is valid; that they sabotaged the Christie's sale with Dallas and Cannon; and that they knew these facts in August 2008 when they agreed to "stipulate" that Tommie Rae was Brown's spouse and let the AG give her a quarter of the James Brown assets so that they could get a quarter of Brown's "I Feel Good" Charity's assets for themselves.

61. The Court overlooked or misapprehended that the failure of Defendants to present the Richland 4900 Plaintiffs at trial must be construed as evidence that they would support the positions of Buchanan and Plaintiff.

62. The Court overlooked that the $19 million proposal to settled counterclaims against Tommie Rae, the Levenson Will/Trust contestants, Forlando, the James Brown Legacy Trust and the AG in Richland 4900 was confidential; was not presented to these persons; would have put $10 Million into a safe private foundation for 10 years; would have provided $500,000 a year in James Brown scholarships beginning in 2018, from funds these persons took from James Brown at the expense of Buchanan and Pope; and would have provided a mechanism, if Defendants' chose, to correct the multi-million dollar income tax problems Bauknight and Afterman caused by the $79 million devaluation, but should not have been presented in Court.

63. The Court overlooked or misapprehended that all of Defendants' experts were either conflicted by their service to Tommie Rae's counsel in Richland 4900; lacked the skills, or lacked the facts to understand the service of Buchanan and Pope; and the presentation of Woolley and Herbsman confirms the continuing influence of Albert Dallas since 2007 when the advisors to Cannon and Dallas formed their alliance with Sr. Asst. AG Jones.

64. The Court overlooked or misapprehended that, in addition to those at trial, Plaintiff

presented numerous other facts and expert witnesses in the 2017 Motion for Partial Summary Judgment which should have been granted.

65. The Court overlooked that Plaintiff's motion for partial summary judgment made after the Circuit Court's approval of Buchanan's service and payments, should have been granted as to the SA fee and contract amount to May 26, 2009, which would have ended this unnecessary case, which was brought and continued for the benefit of the Legacy Trust and beneficiaries to advance their May 29, 2013 announced intention to disregard *Wilson v. Dallas,* the day the Disallowance was served.

Plaintiff's Standard of Care Chart Was Proper and Should Have Been Admitted

66. The Court overlooked or misapprehended that the "Standard of Care" Chart proffered by Plaintiff and properly prepared, with all documentation presented to Defendants outlines correctly the fiduciaries who served, and claimed to serve as trustees during the first 18 years of The James Brown 2000 Irrevocable Trust (2000 Trust), as Personal Representatives (PR) under the last will of entertainer James Brown dated August 1, 2000 (Will), and who assumed the role of fiduciaries during the 4-year void appointment of Russell Bauknight from May 26, 2009 to May 8, 2013; was accurate and should have been admitted into evidence.

Plaintiff's Facts as Demonstrated in Two Partial Summary Judgment Motions & at Trial

67. The Court overlooked or misapprehended that from August 1, 2000 to August 10, 2007 David Cannon, Albert Dallas and Alfred Bradley (Cannon PR/Trustees) served as Brown's trustees, and served as PRs from January 2007 after Brown's death on Christmas Day 2006, but Bradley (now deceased) was largely inactive during the first 6 years.

68. The Court overlooked or misapprehended that Cannon resigned as PR/Trustee on August 10, 2007, but later claimed his resignation as Trustee was illegal.

69. The Court overlooked or misapprehended that Dallas and Bradley resigned as PR/Trustee on November 20, 2007, but on November 30, 2007 attempted to rescind their resignations, continuing the attempt in the Circuit Court and S.C. Court of Appeals until Bradley's death and Dallas' abandonment of the appeal in 2010.

70. The Court overlooked or misapprehended that Robert Buchanan, Jr. and Adele Pope served as special administrators (SAs) from March 7, 2007 until November 20, 2007, and their extensive and valuable contributions are outlined in the joint claim of Buchanan and Pope filed in June 2009 which is the subject on this suit, and more than ten orders from the period which are binging on the Attorney General (AG), Defendants, Tommie Rae Brown (Tommie Rae) and the 6 claimed children and 7 grandchildren named or designated in the Will and Trust, all originally represented by Louis Levenson, Esq.

71. The Court overlooked or misapprehended that the SA work of Buchanan and Pope was made more difficult by the alliance of Sr. Assistant Attorney General Havird "Sonny" Jones with felon David Cannon, his co-PR/Trustee Albert "Budddy" Dallas, and their advisors which is fully documented within the record, and includes vicious emails; unwarranted attacks on Buchanan and Pope; and interference by the State/AG Jones in the effort to recover $17 million taken by David Cannon from funds James Brown gave his "I Feel Good" Charity.

72. The Court overlooked or misapprehended that Buchanan and Pope were appointed PR/Trustees by the Honorable Doyet A. Early, III, Chief Judge, Aiken County (Circuit Court) on November 20, 2007 and replaced on May 26, 2009 pursuant to an August 10, 2008 settlement deal brokered by the Attorney General of South Carolina (AG) which the South Carolina Supreme Court (Supreme Court) declared void on May 8, 2013.

73. The Court overlooked or misapprehended that as the Chart shows, from August 10, 2008 until May 8, 2013, the AG assumed the right to take effective control over James Brown's assets; declare heirs; give 50% of Brown's assets to the AG's (New) Charity; give 25% of Brown's assets and income to Tommie Rae; give 25% of Brown's assets to 6 of Brown's 13 claimed children; and contract with Tommie Rae and the six children for central management of their assets , including the proceeds from certain rights under Sections 203 and 304 of the U.S. Copyright Act (Termination Rights) which Tommie Rae and the 6 transferred to the James Brown Legacy Trust (Legacy Trust) between August 10 and January 2009.

74. The Court overlooked or misapprehended that from August 10, 2008 until May 8, 2013 the AG assumed full claim of fiduciary role over the James Brown assets; placed AG Jones and Tommie Rae in 75% control of the James Brown assets; and the State, through AG Jones began and continued until May 8, 2013 a campaign to discredit Buchanan and Pope in order to dismember the James Brown "I Feel Good" Trust and place the James Brown assets under permanent control of AG Jones and Tommie Rae, virtually unsupervised by two Attorneys General, as is fully documented within the record.

75. The Court overlooked or misapprehended that Russell Bauknight served continuously from August 10, 2008 until January 2019 as trustee of the Legacy Trust; pledged his loyalty to the Legacy Trust in April 2009; and his appointment as Trustee of the Legacy Trust was not voided by the Supreme Court, and that the State/AG, acting through Bauknight, committed, by "deferred pay" agreements, millions of dollars from James Brown's "I Feel Good" Charity to pay at least thirteen lawyers, aided by 6 lawyers for Tommie Rae, and others, to devalue James Brown's assets for the purpose of keeping AG Jones and Tommie Rae in control of the James Brown assets by discrediting Buchanan and Pope; withholding valuable information from the Courts about the U.S. Copyright Act; filing a lawsuit in the name of the State/AG which was not authorized by the now-Governor of South Carolina; and secreting through FOIA intervention and interference, all of which is fully documented within the testimony (deposition) and documents of

Governor McMaster, Solicitor General Robert Cook, Attorney General Alan Wilson and other members and former members of the staff of two AGs.

76. The Court overlooked or misapprehended that the Supreme Court's decision not to reinstate Buchanan and Pope; voiding the AG's attempt to appoint Bauknight; and ruling that the AG had assumed effective control of both the James Brown charitable and non-charitable assets between 2009 and 2013, positioning both the AG and Bauknight in a unique role similar to executor de son tort with respect to the Estate/2000 Trust.

77. The Court overlooked or misapprehended that On May 10, 2013, 2 days after the Supreme Court's decision in *Wilson v. Dallas*, the AG and Settling Parties to the AG's 2008 settlement sought the reappointment of Bauknight SA and special trustee (ST) for the purpose, which was publicly announced to the Circuit Court in open Court on May 29, 2013, to disregard the decision of the Supreme Court in *Wilson v. Dallas,* and reinstate AG Jones and Tommie Rae in 75% control of the James Brown assets by continued attacks on the service and reputations of Buchanan and Pope; the continuing of the unprecedented Richland County Case 2010-CP-40-4900 (Richland 4900); continued misrepresentations to the Courts about Buchanan, Pope, the Copyright Act, Jones' lack of authorization to pursue Richland 4900; and public documents sought under FOIA.

78. The Court overlooked or misapprehended that on May 29, 2013 Tommie Rae's lawyer and Levenson announced to the Circuit Court their intention to disregard the Supreme Court's decision in *Wilson v. Dallas*, and asked the Circuit Court to have an in chambers hearing to hear their reasons, but the Court declined to go in chambers, but, at the request of Tommie Rae, the Levenson Will/Trust contestants, and counsel for the James Brown Legacy Trust, controlled by AG Jones and Tommie Rae, the Circuit Court issued Administrative Orders on June 10, 2013 which prevented Buchanan and Pope from any participation, including as attorneys, witnesses and/or lawyers, in the James Brown cases in Aiken County, and directed the Clerk of Court not to accept their filings in any cases other than their own claims cases, all of which is documented in the trial testimony of Plaintiff, AG Alan Wilson, Solicitor General Cook and others.

79. The Court overlooked or misapprehended that in order to leave AG Jones and Tommie Rae in 75% control of the James Brown assets, it was necessary to continue the unauthorized Richland 4900; continue to denigrate Buchanan and Pope; and spend a substantial amount of funds James Brown gave his "I Feel Good" Charity to make it appear reasonable to give away half of the "I Feel Good" Charity, and approximately $2 million a year in income that should go for needy students in exchange for proceeds of Termination Rights under Sections 203 and 304 of the Copyright Act which Termination Rights will never apply to more than half of the $3 - $4 million royalties James Brown left to educate needy students, then reaching a settlement which again gives 50% of the "I Feel Good" Charity into the AG's (New) Charity; 25% to Tommie Rae; and 25% to Levenson clients, as was fully documented in this case prior to denial of two motions for partial summary judgment.

80. The Court overlooked or misapprehended that on July 9, 2013 Bauknight, continuing to serve as trustee of the Legacy Trust, delivered to the Circuit Court an *ex parte* ethics opinion of Nathan Crystal, Esq., a designated expert in this case and in Richland County Case 2010-CP-40-4900 (Richland 4900), which Defendants and Crystal declined to produce, but which gave the Circuit Court comfort with respect to issues of Bauknight's potential conflicts, and that this *ex parte* communication was the first of many filings and orders concealing previously public documents for the purpose of depriving Plaintiff of a fair opportunity to demonstrate the extraordinary effort and result of Buchanan, Pope and their very efficient team, to prevent the loss of $15 - $20 million in income and half of the assets of the "I Feel Good" Charity in just 10 years, which is demonstrated by multiple confidentiality requests and orders, and the Court's orders sealing and declining to unseal documents.

81. The Court overlooked or misapprehended that in October 2013 Bauknight, nominated by Levenson clients seeking to disregard *Wilson v. Dallas*, was appointed PR/Trustee. He has served as PR/Trustee under the Will/2000 Trust since, as he continues to serve as Trustee of the Legacy Trust.

82. The Court overlooked or misapprehended that In October 2013 David Sojourner, Esq., a tax lawyer who does not like litigation, was appointed LSA/LST for the limited purpose of defending James Brown's Will and 2000 Trust in the Will/Trust challenges and defending the spousal and pretermitted child claims of Tommie Rae and her son James B, but Bauknight, trustee of the James Brown Legacy Trust, retained all financial control and control of copyrights and Termination Rights issues.

83. The Court overlooked or misapprehended that in 2015, despite the open announcement to the Circuit Court in May 2013 of the intention to disregard the *Wilson v. Dallas* decision, and as the announced intention to disregard the decision was reaching its conclusion, the Circuit Court advised the Supreme Court that there was no discussion of settlement; that Bauknight was faithfully serving Brown's "I Feel Good" Charity as Peter Afterman helped Tommie Rae siphon off royalties from the "I Feel Good" Trust; and that Plaintiff was seeking a $2 million SA fee, when she sought only about $48,000.

84. The Court overlooked or misapprehended that by 2016 counsel for Tommie Rae was so satisfied with the use of millions of dollars to re-place Tommie Rae in control of the James Brown assets with AG Jones that he told the Circuit Court that the James Brown Legacy Trust existed, even though it was telling the Court of Appeals it does not exist, and that its trustee, Bauknight, should be knighted.

85. The Court overlooked or misapprehended that by directing that Defendants' attorneys fees and costs since May 26, 2009 be delivered in this case; accepting the *ex parte* documents from Defendants; after objection of Plaintiff's counsel, reviewing and discarding them; then rescinding the order, the Court deprived Plaintiff of a level playing field to show that the work of Buchanan and Pope, when considering both the PR/Trustee commission and legal fees, was extraordinary and that Bauknight has wasted millions of

dollars to damage Plaintiff for a claim that could have been resolved in 2009 for $1.47 million and for $2.1 million or less at any time before and during trial.

86. The Court overlooked and misapprehended that the admission by Defendants to the Federal Court in 2018 that tens of millions of dollars have been spent from funds James Brown left his "I Feel Good" Charity confirms the importance of these records both to demonstrate that much of the funds were spent to denigrate Buchanan and Pope and stop the Supreme Court's decision in *Wilson v. Dallas*; Bauknight has served the James Brown Legacy Trust, but been paid from James Brown's funds, since May 8, 2013; Buchanan's and Pope's work was extraordinary; and that the $4.7 million claimed valued for Brown's assets was the work of Peter Afterman and counsel for Tommie Rae to damage Buchanan and Pope, as is more fully set out in the record and deposition testimony of Governor McMaster, Solicitor General Cook, Judge (Ret'd) Walter Williams and others.

87. The Court overlooked or misapprehended that the Circuit Court failed to consider the material testimony and documents of Governor Henry McMaster, Attorney General Alan Wilson, former chief Deputy Attorney General John McIntosh, Solicitor General Robert Cook, Sr. Assistant Attorney General Jones, Sr. Asst. Attorney General Creighton Waters, Asst. Attorney General Mary Frances Jowers, Graham Foundation Trustee Stephen Lambert, Wallace Lightsey, Esq., James Hardin, III, Esq. and others rebuttal witnesses.

88. The Court overlooked or misapprehended that Plaintiff is entitled to her fees and costs as set out in the 2009 Joint Claim of Buchanan and Pope and fully documented in the two contemporaneous affidavits and documents, and the 18 or more orders issued by the Circuit Court at the time.

The 18-Year History the James Brown Trust, Estate and Litigation

89. The Court overlooked or misapprehended that During the first 7 years, trustees of the 2000 Trust were advised by Joel Katz of Greenberg Traurig (GT), music manager Frank Copsidas and other experts helped James Brown have a successful career until his death, but Cannon took $17 million of $84 million that Brown brought in between 1999 and his death; Dallas did not stop the stealing; and Bradley was largely inactive during the period before Brown's death.

90. The Court overlooked or misapprehended that On June 1 and 11, 1999, just days before the execution of the first of James Brown's two estate plans leaving the bulk of his fortune to educate needy students, he borrowed $26 million from the New York Teachers (TIAA), and secured the loan with a pledge of royalties from 800 of the 900 copyrights he owned when he died on December 25, 2006.

91. The Court overlooked or misapprehended that Brown and David Pullman, a financier who helped him secure the TIAA loan, valued Brown's worldwide music empire at $100

million, but by 2003 Cannon had taken $17 million, much from the Morgan Stanley (MS) accounts created with $10 million.

92. The Court overlooked or misapprehended that Brown had made and preserved a voice tape earlier in 1999 confirming his desire to create a charity for the education of needy students of all races; discussed his estate plan with companion Tommie Rae Hynie (Tommie Rae) and all children he acknowledged in his Will before he died.

93. The Court overlooked or misapprehended that Brown gave a power of attorney (POA) to daughter Deanna Thomas, who helped him put together the estate plan; she served with Cannon and Dallas until Brown's death; and she and Cannon gathered his estate planning file in 2006 before Brown's death.

94. The Court overlooked or misapprehended that Brown signed his final estate plan on August 1, 2000 with Tommie Rae and daughter Venisha present. He gave only household goods to 6 children he acknowledged, and devised the residue to the 2000 Trust.

95. The Court overlooked or misapprehended that at Brown's death the 2000 Trust, augmented by devises under the Will, divides by a "Fractional Share" formula to give a fraction of its assets and income to educated the 7 grandchildren to age 35, and the remainder to the "I Feel Good" Charity to provide scholarships to needy students.

96. The Court overlooked or misapprehended that in 2001 Tommie Rae's child was born; and she named James Brown, not her husband, as his father; and he is the only claimed child of James Brown (of 13 or more) born after Brown's vasectomy twenty years before his death.

97. The Court overlooked that The Court overlooked or misapprehended that in 2003 Brown discovered that Tommie Rae was married when they conducted a December 2001 marriage ceremony. They separated; he filed suit to void the ceremony; she counterclaimed for support for herself and her son, James B.; and the case immediately settled with no provision for James B.; a finding they were living together again; and an Agreement by which she agreed never to claim to be Brown's common law spouse.

98. The Court overlooked or misapprehended that in the spring of 2006 the Royal Bank of Scotland (RBS) conducted a professional appraisal of the 800 of Brown's 900 copyrights which were security for the TIAA debt; appraised them at $42 million or more; and projected they would bring in $3.5 million a year.

99. The Court overlooked or misapprehended that on May 3, 2006 RBS was prepared to close on a $25.2 million refinance of the TIAA debt, but Pullman claimed 12 ½% of deal, and stopped the closing.

100. The Court overlooked or misapprehended that In September 2006 Tommie Rae

and Brown separated and she left behind handwritten notes that contained admissions related to her 1997 marriage; living with her husband in Texas; and Brown's refusal to marry her after he discovered her marriage.

101. The Court overlooked or misapprehended that just before Brown died, on December 25, 2006 Cannon and Dallas, with entertainment lawyer Joel katz, Esq.and music manager Frank Copsidas, secured what became known as the "October 18 Letter" under which the 5 would either refinance Brown's $26 million debt to the New York Teachers (TIAA) which was secured by about 800 of Brown's 900 copyrights, or conduct a sale of Brown's assets which would reap about $5 million for Cannon, about $5 million for Dallas, about $15 million for Copsidas, and about $5 million for Katz's firm, Greenberg Traurig (GT).

102. The Court overlooked or misapprehended that after Brown's death, The Cannon PR/Trustees secretly agreed with Katz and Copsidas to run James Brown 2000 Trust by majority, with the plan of conducting a quick sale under the October 18 Letter which would allow Cannon to retire to his $1 million turnkey mansion on Roatan Island in the Carribean which he purchased in 2007.

103. The Court overlooked or misapprehended that in February 2007 the Circuit Court assigned to the James Brown Aiken cases held the first of what would be scores of James Brown hearings, and by then Tommie Rae and her son James B. had filed spousal and pretermitted child claims.

104. The Court overlooked or misapprehended that Counsel for Tommie Rae, who worked with Brown and knew a good bit about his assets, raised concern to the Circuit Court that the Cannon PR/Trustees would sell Brown's music catalogue, which alone could be worth $100 million, for $20 million and escape the jurisdiction.

105. The Court overlooked or misapprehended that Both Tommie Rae and the "Family" asked the Circuit Court to appoint Adele Pope as SA, and on March 7, 2007 the Court appointed Buchanan and Pope.

106. The Court overlooked or misapprehended that as SAs from March to November 2007 Buchanan and Pope stopped the massive stealing; prevented the Cannon PR/Trustees' attempt to move the 2000 Trust to Georgia to escape Court oversight; preserved 80 boxes of historical records from spoliation; uncovered the first $7 million of the $17 million Cannon took; secured the termination of Phil Farr,CPA, who had understated Brown's income by $3 million a year, and the appointment of CPA William Sellars; and (in November 2007) secured income tax returns from 2003 – 2006 in which Farr tried to change the ownership of all James Brown assets from James Brown to the 2000 Trust.

107. The Court overlooked or misapprehended that In September 2007 CPA Phil Farr filed amended tax returns for James Brown for 2003 – 2006, reported all income in

Brown's JBE, Inc., and increasing the reported income in each case by about $3 million, showing taxable income at more than $4 million.

108. The Court overlooked or misapprehended that On October 12, 2007 TJBL, and investment group organized by Dr. Terry Cox, a branding executive, issued the first of three letters of intent to buy Brown's music empire, proposing $100 million plus a 5% "Royalty Legacy"

109. The Court overlooked or misapprehended that earlier in the year Cox had worked both with the Levenson clients and the Cannon PR/Trustees putting together TJBL, an investment group that would issue 3 letters of intent in 2007 and 2008. In 2007 Brown's grandson Forlando Brown became a part owner in TJBL, and in February and March 2008 Brown's son Terry was part of two letters of intent to buy both the Tangible Personal Property (TPP) and music empire for $92 - $102 million. By the spring of 2008 TJBL would be represented by Atlanta law firm Powell Goldstein (PG)

110. The Court overlooked or misapprehended that In November 2007 Buchanan and Pope, as SAs, asked the Circuit Court to approve a valuation method for Brown's estate tax return, which had been due September 25, 2007, but was under a 6-months' extension, for the value of Brown's 900 copyrights and right of publicity (image and Likeness).

111. The Court overlooked or misapprehended that the valuation method proposed by Buchanan and Pope was consistent with the non-professional valuation of the copyrights of songwriter Harlan Howard, done by his 5th wife, who worked with him, and CPA, and submitted to and accepted by the IRS in the estate tax proceeding after Howard died in 2002, and was a multiple, as approved by the CPA, of 12 ½ - 14 times .
Brown's annual revenues ($3 - $4 million) and ½ average annual royalties revenues ($18 million between 2003 and 2006)

112. The Court overlooked or misapprehended that, when added to the value of the Tangible Personal Property (TPP), the claims against GT, MS, the Cannon PR/Trustees the resulting approximately $99 million was consistent with the value placed on the assets by Cox, a brand executive, in connection with planning to secure the assets and issue and initial public offering (IPO), namely:

Image - $40 - $50 million
Copyrights - $36 - $45 million
"Property" $10 - $15 million

113. The Court overlooked or misapprehended that, as in the case of Harlan Howard, experts later confirmed that the $99 million was not high, as would be claimed, and the Howard 2009 case stands for the principle that a correct appraisal is appropriate.

114. The Court overlooked or misapprehended that in 2018 Defendants' expert Roger Miller's at-death value for the 900 copyrights, which he considered a "solid gold"

catalogue was as high as $80 million (15 - 20 x revenues of $3 - $4 million), and Defendants' expert Laura Woolley testified the TPP could be worth $20 million.

115. The Court overlooked or misapprehended that R.B. Alexander should have been qualified as an expert with respect to both the total value and the value of Brown's image and likeness (Right of Publicity), but that the Michael Jackson litigation shows that the IRS and celebrities have valued image and likeness for a celebrity at extremes from $2,220 to more than $140 million.

116. The Court overlooked that Judge (Ret'd) Walter Williams, a philanthropist, member of the 2000 Trust's Advisory Board, and who knew Brown and has valued hundreds of estates, testified (deposition) that $100 million was conservative and the $7.8 million generated in 18 months, even with interference by the Attorney General and former PR/Trustees, supports that value.

117. The Court overlooked or misapprehended that as their efforts to cover up the $17 million Cannon had taken were being discovered, on November 20, 2007 Buchanan and Pope were elevated to the position of PR/Trustees by the Circuit Court, with the consent of Tommie Rae, her son, and the Levenson clients.

118. The Court overlooked or misapprehended that the 18 months of the PR/Trustee service of Buchanan and Pope is fully documented in a 56-page joint affidavit of Buchanan and Pope dated July 13, 2009, and 18 attachments, served on July 14, 2009 in support of their 2009 fee claim, the facts of which were not disputed at trial by any of Defendants' witnesses, and that none of the experts or witnesses appeared to have reviewed the joint affidavit or had any understanding of the role of the AG in the James Brown matters, including the plan on August 10, 2008 to stop the determination of heirs; give half of the assets to private individuals; and put the other half in a (New) charity the AG planned to create, but did not.

119. The Court overlooked or misapprehended that the Affidavit filed July 14, 2009 correctly describes each of the following categories of the service of Buchanan and Pope in detail: Relief Requested; Qualifications of Buchanan and Pope; 1st Thirty Days as PR/Trustees; Crisis at Beech Island Mansion; Estate and Income Tax Issue and 1 ½ years of"straightening out" the tax mess caused by Cannon, Dallas and Farr; Contacts with AG; November 2008 Declaratory Judgment Action; TPP; the Chrisitie's Sale; Engaging Entertainment and Exempt Organization Counsel; Royalties and Clearances; Defense of Claims Against Estate; Duty to Defend Estate Plan; Applying for IRS Recognitions of Brown's "I Feel Good" Charity; and others.

120. The Court overlooked or misapprehended that on the day after their appointment as PR/Trustees, November 21, 2007 the AG, through Senior Assistant AG Havird "Sonny" Jones, claimed (incorrectly) that it was improper for Buchanan and Pope to serve both as PRs and Trustees, and this was the first AG Jones'
6-year attempt to put the James Brown assets under the personal control of the AG, acting

though Jones.

121. The Court overlooked or misapprehended that AG Jones had officially entered Aiken County Case 2007-CP-02-0122 on October 11, 2007 at the invitation of Cannon & Dallas, who claimed that Buchanan and Pope were greedy and incompetent, and had ousted the innocent Cannon from his positions in order to get the $5 million commission payable on Brown $100 million estate.

122. The Court overlooked or misapprehended that AG Jones opposed Buchanan's and Pope's request, beginning when they were still SAs, for approval of the engagement of Kendall Few, Esq., and James Gilreath, Esq., to bring suit for recovery of the millions Cannon had taken between 1999 and 2007, but a Circuit Court Order of January 2008 authorized the engagement of Few & Gilreath.

123. The Court overlooked or misapprehended that the entire history of Buchanan's and Pope's service is well documented, and the facts virtually unchallenged, in the testimony of Pope and the 18 or more orders of the Circuit Court issued before the AG's Settlement was presented , in which the Circuit Court reviewed and approved their every action, all of which Orders are binding on Defendants, the AG, Tommie Rae and the former Levenson clients.

124. The Court overlooked or misapprehended that On November 27, 2007, a week after their appointment, Buchanan and Pope filed the first of many Petitions requesting the Circuit Court for guidance as to the administration of the Estate and 2000 Trust, a procedure that is both authorized by the Probate Code and encouraged by practitioners, particularly where, as in the James Brown case, there is extreme discord among parties.

125. The Court overlooked or misapprehended that because Buchanan and Pope were both attorneys and filed Petitions and requests for guidance without engagement of additional counsel, this procedure provided an important structure for gaining agreement, wherever possible, and court guidance where agreement could not be reached.

126. The Court overlooked or misapprehended that Buchanan and Pope, pro se, had used the procedure of petitioning for guidance and Court order from the Circuit Court successfully as SA, and they continued this procedure, obtaining more than 15 orders and a number of oral directives over their 18-month service.

127. The Court overlooked or misapprehended that, in addition, Buchanan and Pope asked the Circuit Court, because of the daily issues arising among the parties, to pre-set scheduled meeting each month so that notice would not be required, and this procedure worked well, with the Circuit Court often directing one or more of the lawyers to prepare and circulate an agenda and/or prepare and circulate orders.

128. The Court overlooked or misapprehended that on December 6, 2007 AG Jones inquired about the TJBL $100 million offer and said he had heard the sky would fall and

it would go away if not accepted, but Buchanan and Pope explained that the Cannon PR/Trustees, GT, and Copsidas were seeking about $30 million from the sale under the October 18 Letter; financier David Pullman was seeking another 12 ½% under a clause in his 1999 contract; and a sale was not prudent just 3 weeks after their appointment.

129. The Court overlooked or misapprehended that by the time the 2d and 3d TJBL letters of intent were made in early 2008, challenges to the Will/2000 Trust filed by Tommie Rae and the Levenson clients, although without merit, temporarily prevented the Estate/2000 Trust from considering a contract in which they were required to certify good title.

130. The Court overlooked or misapprehended that despite the explanation, in 2010 the AG would claim in the complaint in Richland County Case 2010-CP-40-4900 that Buchanan and Pope should have accepted TJBL's 2007 $100 million offer.

131. The Court overlooked or misapprehended that by December 11, 2007 Buchanan and Pope were in contact with both the IRS and Rick Handel of the S.C. Department of Revenue seeking from both the appointment of a single agent to help solve the individual, corporate, and fiduciary tax mess in which the Cannon PR/Trustees and Phil Farr, CPA had left Brown's estate, including by understating income by $3 million or more each year; by reporting all income in Brown's wholly-owned company, JBE, Inc., rather than in separate entities, then on the 2006 amended income tax return (copy on file with the Court since Nov. 2007) of JBE, Inc, purporting to change the ownership of JBE, Inc. from Brown, individually, to the 2000 Trust.

132. The Court overlooked or misapprehended that virtually all of the Estate's income under Brown's estate plan – until the $4.7 million devaluation – was "paid or permanently set aside" for the "I Feel Good" Charity to educate needy students, and that Pope had an LLM in estate planning and was familiar with income taxation of estates and trusts, as well as charitable tax issues and estate tax issues.

133. The Court overlooked or misapprehended that in late December 2007 Dallas and Bradley, aided by PG, moved to have Judge Early recuse himself; made false claims against Judge Early; and supported the motion with the Affidavit of a former GA Supreme Court Judge.

134. The Court overlooked or misapprehended that the Early recusal motion was just one of many ruthless and improper tactics Dallas, Cannon, PG, Forlando Brown and David Bell would use over the coming years to deflect attention from the $17 million Cannon took and try to secure $10 million for Cannon and Dallas under the "October 18 Letter."

135. The Court overlooked or misapprehended that on January 2, 2008 Forlando Brown, through PG, Bell and two SC lawyers, filed in Federal District Ct. Case No. 3:08-cv-00014-WOB a scathing, false 50-page complaint claiming the Circuit Court's

appointment of Buchanan and Pope was illegal, and seeking to enjoin the 2000 Trust from taking any action until Cannon and Dallas were reinstated as Trustees.

136. The Court overlooked or misapprehended that on January 4, 2008, Buchanan and Pope asked the Circuit Court to conduct a hearing for a full review of both their appointment and service, and if both were not found to be proper, they asked the Court to allow them to resign under circumstances which would not allow Cannon and Dallas to return.

137. The Court overlooked or misapprehended that in the January 8, 2008 Order (Payment Order) the Circuit Court approved the service of Buchanan and Pope as SAs; praised their work; approved their PR/Trustee fee contract to work on a "time + costs" basis for themselves and their staffs; and directed that interest at the legal rate be paid on all amounts after 60 days.

138. The Court overlooked or misapprehended that at the December 21 hearing when the PR/Trustee commission contract had been presented, no objection was made from the polled Interested Parties, and counsel for Tommie Rae praised Buchanan and Pope for seeking Court approval where the Will and 2000 Trust allowed them to enter into a fee contract without seeking approval of the Court.

139. The Court overlooked or misapprehended that in a January 8, 2008 Order the Circuit Court approved Buchanan's and Pope's request to engage James Gilreath, Esq. and Kendall Few, Esq. to seek recovery of losses caused by the $17 million Cannon took, and by the spring of 2008 Few and Gilreath, with Buchanan and Pope, had investigated the takings and other wrongdoing and filed suit against Cannon, Dallas, GT, Morgan Stanley (MS), Farr and Enterprise Bank,

140. The Court overlooked or misapprehended that by February 7, 2008 Buchanan and had begun recovery of the $17 million Cannon took, and would shortly expand the recovery to suits against Morgan Stanley (MS), Farr, Enterprise Bank, but that Sr. Asst. AG Jones maintained an alliance with Cannon and Dallas which allowed them to continue to interfere in the operation of the Estate and 2000 Trust.

141. The Court overlooked or misapprehended that on February 7, 2008 now-Governor McMaster, then AG, gave a WIS-TV interview with Forlando Brown in which, based on incorrect information provided by AG Jones, claimed that Buchanan and Pope were improperly representing the family and the needy students.

142. The Court overlooked or misapprehended that by early 2008 Buchanan and Pope had also disallowed the $15 million frivolous PR/Trustee commission claims filed by the Cannon PR/Trustees; they had sued; and the cases were ready for summary judgment by the time Buchanan and Pope were replaced on May 26, 2009, but, controlled by the AG, through AG Jones, from 2009 – 2013, Russell Bauknight did not resolve the Cannon

claim until 2012 and even allowed Dallas to change his $5 million claim after the Statute of Limitations passed from a PR/Trustee commission claim to a $5 million contract claim.

143. The Court overlooked or misapprehended that when AG Jones allied himself with Tommie Rae in August 2010, but continued his alliance with Cannon and Dallas, even naming them as witnesses in a 2010 suit he and Tommie Rae filed in the name of the State/AG he and Tommie Rae filed without knowledge of now-Governor Henry McMaster, it became extraordinarily difficult for Buchanan and Pope to try to prevent the State/AG from taking control of the James Brown assets; dismembering his "I Feel Good" Charity; giving away a quarter of the assets to Tommie Rae; and concealing through FOIA, the unauthorized suit and otherwise the weakness of Tommie Rae's claims and those of her son.

144. The Court overlooked or misapprehended that in February and March 2008 the Circuit Court issued two *ex parte* orders requested by counsel for Tommie Rae Brown, after Wayne Byrd, Esq., counsel for Dallas, mailed out copies to the AGs of Georgia and SC, and many others, the handwritten admissions of Tommie Rae that she was married, living with her husband in Texas, and possibly pregnant before she separated from her husband and became a companion to Brown.

145. The *ex parte* Orders purported to prevent anyone from discussing or disseminating the handwritten notes; contained no limitation and no findings of privilege or need; and did not address that the handwritten admissions and a typed transcription had been public and widely discussed for almost a full year.

146. The Court overlooked or misapprehended that AG Jones and other members of the AG's staff had full information about Tommie Rae's admission of her bigamous marriage and her begging James Brown to marry her after he discovered her marriage, but when AG Jones and Tommie Rae agreed on August 10, 2008 to "stipulate" that she was Brown's spouse, the two began a 10-year effort, paid for by James Brown's Charity – to shift between $750,000 and $1 million of income a year to Tommie Rae; give her a quarter of Brown's assets despite her weak claims; conceal the clear evidence of the weakness of her claim both by FOIA interference and the unauthorized lawsuit; and denigrate anyone who dared to challenge this decision.

147. The Court overlooked or misapprehended that from August 10, 2008 until May 8, 2013, the relevant period to be considered to determine Buchanan's and Pope's compensation, two AGs, through AG Jones, consistently breached their fiduciary duty of loyalty both to the "I Feel Good" Trust and Brown's 7 Grandchildren's Trust; Improperly delegated and failed to oversee Russell Bauknight and Beth Bauknight, who failed to file proper income tax returns, or even pick up the CPA's file; failed to Study and understand the impact of an improper heirs determination of the copyrights; damaged the copyrights by that failure; failed to exploit James Brown's Image and likeness, rejecting a contract scheduled to bring in at least $1 million a year,

then valuing the image and likeness at zero to discredit Buchanan and Pope; failing to stop overstatement of James Brown's deductions by $3 million in the estate tax proceeding; accusing Buchanan and Pope of a the felony of overstating Brown's assets by $79 million to get a large fee without even reviewing the $4.7 million valuation; failing to consider the Estate of Harland Howard; and otherwise abusing the authority of the high office of the AG for the private benefit of AG Jones and Tommie Rae, and the facts supporting these actions are found within the testimony of Pope and the testimony (deposition) and documents of Governor McMaster, AG Wilson, Solicitor General Cook, and others in this case.

148. The Court overlooked or misapprehended that in Orders of February 20, April 1, July 14, 2008 the Circuit Court and Court of Appeals approved and directed the Christie's sale which took place on July 17, 2008, and the testimony, hearings and orders, along with the Estate/Trust's motion of August 24, 2008, detail propriety of the sale as well as the interference of the Levenson clients, advisors to Cannon and Dallas, Forlando Brown, Powell Goldstein (PG), Jacqueline Hollander, including the motion filed in the S.C. Court of Appeals by Dallas on July 9, 2008 to try to stop the sale, and efforts of Dallas and Darren Julien, who had made contact with the media about the claimed $20 million value of James Brown's 10,000 items of tangible personal property, to discredit Plaintiff.

149. The Court overlooked or misapprehended that in early 2008 Terry and Forlando Brown, with Romunzo Brown, and all aligned with Cannon and Dallas, filed 6 false grievances against Levenson in Georgia and SC, even claiming the Levenson forged a signature on his January 2008 contract with Forlando and other family, and also sought to disqualify Levenson in the Will/Trust challenges he had filed for family.

150. The Court overlooked or misapprehended that a March 2008 Circuit Court Order found that Forlando – not Levenson – had changed positions, and that the acknowledged family's $150,000 + 30% contract with Levenson executed on January 8, 2007 contemplated the Will/Trust contests he brought on December 26, 2009.

151. The Court overlooked or misapprehended that the testimony and documents of rebuttal witness AG auditor Sandra Matthews show that Darren Julien, then-co-worker of Laura Woolley, like Jacqueline Hollander and Forlando,, helped Cannon and Dallas fabricate complaints to chill the Christie's sale to deflect attention from the $17 million Cannon had taken from Brown, and other wrongdoing by Cannon and Dallas.

152. The Court overlooked or misapprehended that Julien submitted an affidavit claiming that Dallas was honest and Pope dishonest, which Dallas provided to AG Jones and AG Jones sent to AG Auditor Matthews.

153. The Court overlooked or misapprehended that like many Dallas documents, the Julien affidavit incorporated by reference an email dated the day after the affidavit was "signed."

154. The Court overlooked or misapprehended that after a full hearing with all Interested Persons represented, in the Order of April 8, 2008, the Circuit Court detailed the entire history of the service of Buchanan and Pope as both SAs and PR/Trustees, and found both their appointment and all service from March 7, 2007 until April 8, 2008 to be both ethical and appropriate, and that nobody sought reconsideration of, or appealed, the findings and conclusions of the Circuit Court.

155. The Court overlooked or misapprehended that filings and orders of 2008 show that Buchanan and Pope projected a realistic budget for defending what they believed were extremely weak challenges to the estate plan; the Circuit Court discussed the deplorable condition in which the Cannon PR/Trustees had left the estate; and virtually every detail of the administration was reported to the Interested Parties; reviewed and approved by the Court; and never challenged, even within the 1-year statute of limitation, by the AG, Tommie Rae or the acknowledged family

156. The Court overlooked or misapprehended that, although tens of millions of dollars of legal fees have been unnecessarily wasted in the process, it is now clear that the Will/Trust challenge of the Levenson clients was wholly without merit, now settled for a "nuisance" payment of $37,500 each, instead of the $750,000 - $1 million per year and quarter of assets proposed by the August 10, 2008 settlement brokered by the AG, through AG Jones.

157. The Court overlooked or misapprehended that Tommie Rae's settlement in 2016 in which she gives up any claim at all to James Brown's estate and 65% of her Termination Rights, if she is finally determined to be Brown's spouse, make clear that the August 2008 proposal to give Tommie Rae $750,000 - $1 million per year and a quarter of the "I Feel Good" Charity's assets was unreasonable and properly rejected by the South Carolina Supreme Court in *Wilson v. Dallas*.

158. The Court overlooked or misapprehended that the record shows that the April 8 Order was prepared with the cooperation of Alan Medlin, Esq., one of Tommie Rae's lawyers, who, along with Levenson, had nominated Pope as SA; approved, with the Levenson clients, her appointment as PR/Trustee; and praised Buchanan and Pope for submitting their PR/Trustee contract to the Circuit Court for approval when the Will/2000 Trust would have allowed them to simply make the contract without Court approval.

159. The Court overlooked or misapprehended that in a March 2008 Order the Circuit Court (Heirs Determination Order) approved the plan of Buchanan and Pope, consented to by the 11 Levenson clients, to advertise for heirs and conduct a critical (and proper) heirs determination under both State and Federal law, the most critical first step for The James Brown "I Feel Good" Charity to create an heirs baseline to protect its 900 copyrights, and unpublished works when published, from unnecessary dissipation from improper and/or premature efforts by claimed heirs to exercise Termination Rights and take the U.S. royalties applicable to a particular copyright.

160. The Court overlooked or misapprehended that, with the Estate's official DNA Protocol in place, 3 heirs under the Copyright Act already acknowledged, and DNA testing costing only $300 per person, the cost of a proper heirs determination under the Copyright Act, if not stopped by the AG in his August 10, 2008 agreement with Tommie Rae and 5 Levenson clients, could easily have been completed worldwide in less than a year.

161. The Court overlooked or misapprehended that in June 2008 Buchanan and Pope engaged of Clemson graduate, Georgetown law Graduate, former examiner at the U.S. Patent and Copyright Office, and lifelong music enthusiast Wm. Jeffrey Smith, Esq., to work with Pope, Ray Gonzalez, Esq., entertainment counsel, on Termination Rights issues which would come into play by 2012, and the engagement gave Brown's "I Feel Good" Charity at least two years to complete the ongoing proper heirs determination and implement its "DNA & Dignity" strategy to protect its 900 copyrights, including by "splitting heirs", a technique coined in 2011 by Smith and Pope in *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...*

162. The Court overlooked or misapprehended that Pope was qualified without objection as an expert in the James Brown settlement hearings; has expertise in Estate, Probate, Fiduciary Litigation, Fiduciary Income Taxation, Estate Taxation, Creation and Operation of Charitable Foundations, including the filing of 990PFs, which require an annual valuation, and has, since at least 2011 expanded her expertise to include the protection of Charities and other entities in connection with Termination Rights, and the interrelationship between State Law and the Federal Copyright Act, and should have been qualified in each of these areas at trial.

163. The Court overlooked or misapprehended that Wm. Jeffrey Smith should have been qualified in the Termination Rights area, and that the testimony of IP Expert Wallace Lightsey, Esq., confirms that expertise in Termination Rights, especially the protection of Charities, is interdisciplinary, combining litigation skills, Probate skills and IP skills.

164. The Court overlooked or misapprehended that where a person has been engaged by and Estate and Trust his or her expertise; has exercise and expanded that expertise in the course of his or her fiduciary service; and is denied compensation for the services by the Estate and Trust, it would be manifestly unjust to rule that the expert could not demonstrate his or her expertise, and how it was used, in support of the unpaid fee and commission claim.

165. The Court overlooked or misapprehended that the Circuit Court Orders, Appellate briefs in the Cannon and Dallas appeals, prepared by Tressa Hayes, Esq., and the record and orders contained in those appeals, as well as the December 2008 attempt to force Judge Early to recuse himself, and the 7-year record in Federal Case No. 3;08-cv-00014-

WOB, with the testimony and filings of Levenson, demonstrate just how powerful and skillful Dallas and Cannon, but especially Dallas, were in enlisting others, including the AGs of Georgia and SC, and a former Ga. Supreme Court Judge, with two powerful Atlanta firms, to launch meritless attacks on Judge Early, Buchanan, Pope and anyone standing in the way of their attempt to conduct a $100 million "fire sale" of Brown's music empire; cover up the $17 million Cannon took; and pay Dallas $5 million; Cannon $5 million; GT $5 Million and Frank Copsidas $15 Million, and they include the false Grammy© claim planted with an Atlanta law firm by Forlando and Bell in January 2011 and which was noted by the Supreme Court in 2013.

166. The Court overlooked or misapprehended that the Circuit Court orders and testimony of AG Jones (deposition) show that between March 2008 and August 2008 Buchanan and Pope, aided by Philanthropist John Rainey, repeatedly and respectfully urged now-Governor Henry McMaster, who was then AG, to address the alliance AG Jones had formed with advisors to the Cannon PR/Trustees, and Governor McMaster took certain action, including approving Buchanan and Pope as permanent Trustees of the 2000 Trust on July 30, 2008 and working with them to appoint a third Trustee, but AG Jones' problematic alliances continued, and increased, until long after May 8, 2013.

167. The Court overlooked or misapprehended that the failure of Bauknight and his spouse Beth Bauknight, CPA, both accountant and custodian of the Estate's records, to collect the file of resigned Court-appointed CPA, allowing it to be destroyed as unclaimed after more than six years, caused the loss of valuable information about the work of Buchanan and Pope to obtain IRS approval of the "I Feel Good" Trust, with minor amendments, prior to the September 2008 filing of the estate tax return, which was critical to the $80 million charitable deduction taken for assets passing to the "I Feel Good" Trust; the extensive work of Buchanan and Pope, with Bauknight, to secure an IRS liaison to address years income and corporate tax problems caused by Farr and Cannon, including understatement of Brown's income by more than $3 million a years, a substantial amount of which was corrected by the filing by Farr of amended tax returns for 2003 – 2006 which are in the ROA in *Wilson v. Dallas* and on file in the circuit court, and the entire file related to the James Brown estate tax return.

168. The Court overlooked or misapprehended that the record shows that immediately upon appointment, Buchanan and Pope asked both the SC Department of Revenue, Rick Handel, Esq., and IRS to assign a person to work with them to untangle the mess that had been caused by the underreporting and jumbled reporting; the IRS assigned Mr. Goodlett who was working with Buchanan and Pope when the "stand down" direction came from Tommie Rae and the AG on August 12, 2008 and still working with them after January 2009 when the Circuit Court limited the appointment of Bauknight to recommendations about the settlement, where the AG had wanted him to take over full operation of the estate, and that the fact that virtually all of James Brown's assets were now "paid or permanently set aside" for the "I Feel Good" Charity allowed Buchanan and Pope to present a persuasive case that the IRS had not been severely harmed by all of the underreporting and misreporting.

169. The Court overlooked or misapprehended that the record shows that Buchanan and Pope hand-delivered their First Semi-Annual Report as PR/Trustees dated May 20, 2008 to AG McMaster and delivered it to all interested persons in May 2009, and that no complaint or objection was made to the Report by the AG or any other person within the 1-year Statute of Limitations.

170. The Court overlooked or misapprehended that The First semi-annual report recounted some of the Buchanan/Pope successes as SAs, including:

1. Central Location of 80+ boxes of James Brown records for review by all Interested Parties, preventing spoliation by the Cannon PR/Trustees

2. Prevention by Buchanan and Pope of a $100 millon "fire sale" of the music Empire under the "October 18 letter" which would have covered Up Cannon's takings and paid Cannon $5 million; Dallas $5 million' Frank Copsidas $15 Million and Greenberg Traurig (GT) $5 million

3. Immediate and Permanent Resignations of Cannon, Dallas and Bradley, all of whom challenged their resignations in appeals which Buchanan and Pope had to brief and which lasted until 2010 or later.

4. Return of $350,000 of the $900,000 taken by Cannon in 2006

171. The Court overlooked or misapprehended that while the resignations of Cannon and Dallas were accepted while Buchanan and Pope were SAs, the Cannon/Bradley attempt to withdraw its resignation began on November 30, 2007 and continued until 2010, and the full history of the that litigation, and the more than 40 filings which ended favorably for the Estate/2000 Trust in 2010 and later are contained in the Custody Receipt signed by Bauknight on June 22, 2009.

172. The Court overlooked or misapprehended that the projections in the first Semi-Annual Report were only partly tied to the sale of 350 items of James Brown's personal property on July 17, 2008, and when the funds came in in September 2008 the most critical problem facing the Estate/ 2000 Trust was the claim of the AG, through AG Jones, of the right to shift $1.5 million - $2 million a year of income and half of the assets Brown left the 'I Feel Good" Charity form Brown's Charity to Tommie Rae and 5 Levenson clients, and give the other ½ of the income and assets to the AG's (New) Charity which, by 2018 had not, according to public records, been established.

173. The Court overlooked or misapprehended that the First Semi-Annual Report noted, on May 20, 2008, that the Estate/2000 Trust had entered into a substantial contract for a Musical Tribute to James Brown, which was correct, because entertainment counsel Ray Gonzalez, Esq., with Neal Israel, had entered into the contract for a 75th Birthday Tribute to James Brown early in 2008, with the hope to fund the project in time for

Brown's birthday, but the AG was supporting the Dallas/Cannon/Forlando challenges to Buchanan's and Pope's authority, as exhibited by the February 7, 2008 television appearance of AG McMaster with Forlando, and the producers asked for the AG's approval of the contract.

174. The Court overlooked or misapprehended that Buchanan and Pope urged AG Jones to give the AG's approval on this important project, but the AG did not approve the project until late April 2008, just days before the originally scheduled TV show.

175. The Court overlooked or misapprehended that when the First Semi-Annual Report was issued, the original date for the 75th birthday Tribute was clearly no longer available, but Buchanan and Pope were working with Gonzalez and Israel to conduct the James Brown Tribute at a later date.

176. The Court overlooked or misapprehended that On August 12, 2008, when the AG and Tommie Rae announced their settlement, directing Buchanan and Pope to "stand down" and "stop administering the estate", Buchanan and Pope urged the AG and Settling Parties to appoint Levenson or another person as liaison to take advantage of opportunities to exploit Publicity Rights opportunities, but they declined to work with Buchanan and Pope, as is shown by a voluminous record and the rejection by the AG of the Corbis/GreenLight 2-year Publicity Rights contract arranged by Buchanann, Pope and Martin Cribb, promoter of deceased celebrities, then with GreenLight, and which was projected to bring in $1 - $2 million a year between 2009 and 2011.

177. The Court overlooked or misapprehended that Eight years later Pope failed to recall that the project had actually been approved, but not funded, but Gonzalez, now head of WarnerMusic Legal, recalled the specific status of the contract in his 2017 deposition.

178. The Court overlooked or misapprehended that in the May 20, 2008 First Semi-Annual Report, Buchanan and Pope urged the Attorney General and Family to explore settlement of the issues they then had in dispute, which were:

1. Which of the 10,000 items of Tangible Personal Property (TPP) belonged to Brown's 2000 Trust and could not be claimed by The 6 named children as "personal and household effects"

2. For the Items of TPP owned by Brown, outright, which were Business Personal Property which would go to the "I Feel Good" Charity, and which were Personal & Household Effects which Would go to the 6 children if the Will was upheld, which they expected.

179. The Court overlooked or misapprehended that as testified to by Laura Woolley, the TPP had a value of up to $20 million, and the original PR/Trustees had claimed that

virtually all TPP, even if owned outright by Brown, was business personal property, which would go into the 2000 Trust, and the AG had joined Dallas and Cannon in that position.

180. The Court overlooked or misapprehended that the May 2008 request that the Family (Levenson clients) and the AG explore settlement of matters as to which they disagreed related to the then-disputed items of TPP which might have belonged to the "I Feel Good" Trust and might have belonged to the Levenson clients, a substantial and contentious issue, and Buchanan and Pope hoped that the AG (for the Charitable beneficiaries) and the 6 original Levenson clients would be able to propose an agreement to this issue.

181. The Court overlooked or misapprehended that in addition to resolving the up-to-$20 million problem, an agreement between the AG and 6 Family members about the contentious TPP ownership issue would have been helpful in the estate tax proceeding, and the estate tax return, with no additional extensions, was due September 25, 2009, and the 6 children, under Brown's estate plan, were required to pay all of the estate taxes on the household goods devised to them.

182. The Court overlooked or misapprehended that although Tommie Rae and the Levenson clients had filed petitions to set aside Brown's Will and 2000 Trust at the time the First Semi-Annual Report was served, motions to dismiss Tommie Rae's Will/Trusts challenges were pending, and a March 2008 Circuit Court Order for a determination of heirs under both State and Federal (Copyright) Law had been issued; Brown's incarcerated son Michael Deon Brown and others were seeking DNA testing; and Tommie Rae's son James B. had declined to take the $300 paid-for DNA test.

183. The Court overlooked or misapprehended that despite the positive note of the Rainey meeting with now-Governor McMaster in May 2008, in the month of June AG Jones continued to sabotage the 2000 Trust, even filing a suit claiming that, because of a May 2008 ruling of the Court of Appeals in the Dallas appeal, the 2000 Trust had no Trustee, and Buchanan and Pope made repeated, respectful requests to now-Governor McMaster regarding the actions of AG Jones.

184. The Court overlooked or misapprehended that despite the work of Forlando, Dallas, GT, Bell, Cannon & others to sabotage the Christie's sale, with Levenson present, the Christie's sale of 350 of 10,000 of Brown's items generated close to $800,000, but Bauknight/Afterman would later tell the IRS and Supreme Court that the value of these 10,000 items was zero, or near zero, and the AG, through Jones, would repeat that claim to the Supreme Court.

185. The Court overlooked or misapprehended that, with Levenson present, the Grammy © which was properly entered into the Christie's sale, was withdrawn to prevent paying a legal fee of about $5,000 to defend a $20,000 sale, and was returned to the S.C. State museum, but a fraudulent act of Forlando – one of many – resulted in the Supreme

Court's misunderstanding of what happened.

186. The Court overlooked or misapprehended that Levenson, with knowledge that older Grammys© could be sold, and had been, and with assurances from Christie's legal counsel of the propriety of the sale and urging that the item be left in, Buchanan and Pope had withdrawn it without penalty, years later the Levenson clients would join in the false claim – planted by Bell and Forlando on an Atlanta firm website – that Robert Potter, Esq. had "halted" the Grammy© sale.

187. The Court overlooked or misapprehended that Robert Potter did not know about the false Grammy© claim planted in January 2011 by Forlando and Bell on his firm's website, but it appears to have been through an Atlanta partner dealing with Forlando at the time, and who was also working on another case with AG Jones.

188. The Court overlooked or misapprehended that, pursuant to the February 2008 Order directing the Christie's sale, thousands of James Brown items were placed on loan in 4 museums for up to three years, where they were insured; cared for; cleaned; restored; and displayed, enhancing the name and likeness of James Brown.

189. The Court overlooked or misapprehended that especially significant were the two James Brown Exhibits at the I. P. Stanback Museum and Planetarium which received broad attention, and the exhibit at the Augusta Museum of History.

190. The Court overlooked or misapprehended that the July 13, 2009 joint affidavit of Buchanan and Pope, which contains a sworn, accurate statement of the facts as they existed in 2009 when it was prepared, and its exhibits, contain some of the filings of AG Jones and some of the communications with Gov. McMaster addressing concerns for AG Jones' actions.

191. The Court overlooked or misapprehended that on July 14, 2008 the S.C. Court of Appeals rejected Dallas' efforts to stop the Christie's sale set for the 17th, and confirmed Buchanan's and Pope's full authority to act, ending the 6-week claim the AG was making that there was no Trustee of the 2000 Trust.

192. The Court overlooked or misapprehended that on July 30, 2008 now-Governor McMaster wrote Buchanan and Pope confirming his support for Buchanan and Pope as permanent Trustees of the 2000 Trust.

193. The Court overlooked or misapprehended that without notifying Buchanan and Pope, the AG, Tommie Rae and 5 of Brown's 13 or more claimed children conducted a mediation on August 10, 2008 at which AG Havird "Sonny" Jones, who lacked any expertise in Copyright Law or Taxation, agreed to transfer about $1.5 - $2 million of income a year, and half of the assets, from Brown's "I Feel God" Charity for needy students to Tommie Rae and the 5 Levenson clients; stipulate that they, and Tommie Rae's son, were Brown's heirs "for all purposes"; and put their assets together for

collective investment in the James Brown Legacy Trust (Settlement Entity).

194. The Court overlooked or misapprehended that on August 10, 2008 when the AG reached an agreement to shift 50% of the assets and income, at least $1.5 - $2 million a year, out of the "I Feel Good" Charity and to Tommie Rae and 5 Levenson clients, this dramatically changed the entire income tax picture, and, if approved, would require amended income tax returns relating back to Brown's death, and Buchanan and Pope urged the AG and Settling parties to appoint a liaison to address these important issues, but they declined, as shown by the correspondent of Tax Lawyer Heyward Carter, confirming that their appointee would be responsible for these tax returns..

195. The Court overlooked or misapprehended that if Buchanan and Pope had accepted without question the AG's settlement as reached on August 10, 2008, and the settlement had been put in place right away, by today (2019) between $15million and $20 million (½ of the $3 - $4 million income per year x 10) would have already been paid to Tommie Rae and 5 Levenson clients; the "I Feel Good" Charity would have no Assets; Tommie Rae and the 5 Levenson clients would own 50% of James Brown's assets, and the AG's (New) Charity would own the other half.

196. The Court overlooked or misapprehended that the likelihood that a "stipulation" that Tommie Rae would be considered to be Brown's spouse "for all purposes" would have gone unchallenged by the DNA-proven children and other children, and the grandchildren (children of deceased children) who did not get a piece of the $3 - $4 million annual royalty stream in the AG's settlement, was low and the current federal suit filed by DNA-proven heirs against Tommie Rae, James B. and Bauknight confirms the problem.

197. The Court overlooked or misapprehended that in August 2008 Buchanan and Pope obtained an Order, after notice to creditors, providing for education payments to Forlando and some of the older children from the Christie's proceeds, but Levenson objected to the Order; Forlando was asked to notify the Court if he needed funds; and he never did.

198. The Court overlooked or misapprehended that despite this ruling, to advance the smokescreen Cannon and Dallas set up, and their effort to get a $5 million commission each, Forlando continued until April 2012 to claim that he was an impoverished student merely seeking to carry out his grandfather's wishes.

199. The Court overlooked or misapprehended that on or about August 18, 2008 Buchanan and Pope filed a motion asking the Circuit Court to require the AG and Settling Parties to disclose the terms of the AG's settlement, which they had requested, but which were still secret, but it would be months before details were known.

200. The Court overlooked or misapprehended that in his September 2008 deposition

Forlando Brown testified that offers of $150 million were still available for the James Brown assets.

201. The Court overlooked or misapprehended that on September 24, 2008 CPA William Sellars filed the Estate Tax Return of the Estate of James Brown, showing the "Music Empire" of Brown on Schedule F2 of the return at $84 million reflecting an approximately $99 million less the TIAA debt of about $15 million.

202. The Court overlooked or misapprehended that the "Music Empire" was reported unallocated between its parts, each of which was, and still is – subject to a fairly wide range of value, as follows:

a. ROYALTY INTERESTS – 900 copyrights spanning 6 decades; under
Harland Howard style formula: $37.5 Million to $56 million;
Roger Miller: $45 - $80 million
Dr. Terry Cox: $36 - $45 million
October Offer: $50 million
[Afterman/Bauknight: $23.7]

b. IMAGE AND PERSONA
Harlan Howard style formula: $37.5 Million to $56 million;
Dr. Terry Cox: $40 - $50 million
October Offer: $50 million
[Afterman/Bauknight: Zero, or near zero]

c. GERONIMO, LLC, JBE, INC., OTHER ENTITIES - included in above

d. CLAIMS AGAINST CANNON PR/TRUSTEES, GT, MS, RELATED TO $17 MILLION TAKEN BETWEEN 1999 AND 2007:
$1 - $10 million, as estimated on Extension Request

e. TANGIBLE PERSONAL PROPERTY, BUSINESS (CHARITY) & HOUSEHOLD (DEVISED TO 6 CHILDEREN):
$2 million to $10 million
Christie's valuation (partial) $1.4 million
Offers of Terry Brown: $2 million
Woolley Estimate $20 Million
[Afterman/Bauknight: Zero, or Near Zero]

203. The Court overlooked or misapprehended that The "Music Empire" was reported to the IRS unallocated by both Buchanan and Pope in 2008 and by Bauknight in the fall of 2010, two years later. In each case, the number on Schedule F was reduced by the TIAA debt, with the following result:

BUCHANAN & POPE:		$99 Million
	LESS	($15 Million) TIAA Debt
James Brown Music Empire		$84 Million

AFTERMAN/BAUKNIGHT $23.7 Million
LESS ($ 19 Million) TIAA Debt
James Brown Music Empire $4.7 Million

204. The Court overlooked or misapprehended that the claimed $4.7 million value was not released by the AG/Bauknight until May 2011, and, according to Bauknight, nobody at the AG's office ever reviewed the claimed valuation for which Peter Afterman was the claimed music industry "expert."

205. The Court overlooked or misapprehended that it was not known until March 14, 2013, when James B., filed his Petition for Rehearing in *Wilson v. Dallas* that the claimed $19 million debt for the approximately $15 million TIAA debt was known.

206. The Court overlooked or misapprehended that Bauknight began moving to intervene in FOIA cases in 2011 to keep the $4.7 million claimed value from being seen, even though the South Carolina Probate Code (SCPC) required that he file the appraisal with the Amended Inventory & Appraisement (I&A) he filed in Brown's Estate in May 2011.

207. The Court overlooked or misapprehended that by November 25, 2008 the 5 Levenson clients and Tommie Rae had contributed the proceeds of their rights under Sections 203 and 304 of the U.S. Copyright Act (Termination Rights), which rights, if any, relate only to U.S. royalties, which make up only half of Brown's $3 - $4 million annual copyrights, because the non-U.S.royalties make up the other half.

208. The Court overlooked or misapprehended that Neither AG Jones nor anyone in the AG's office had any knowledge of Termination Rights, or the importance of completing the heirs determination under State and Federal Law, and which, at the request of Buchanan and Pope, had been authorized by Circuit Court Order just 4 months earlier.

209. The Court overlooked or misapprehended that one important fact about Termination Rights was that they would never apply to the non-US royalties from James Brown's 900 copyrights, which make up about half of Brown's $3 - $4 million annual royalty income, and they do not apply to Brown's Publicity Rights, the right to exploit his famous name and persona and other rights.

210. The Court overlooked or misapprehended that In August 2008 it would be 4 years before the first proceeds from Termination Rights would come in, and they would not be vested in Tommie Rae, her son, or the 5 Levenson clients unless and until a proper Termination Notice was made, usually two years in advance.

211. The Court overlooked or misapprehended that Termination Rights would slowly

come into play and the "I Feel Good" Charity had available to it in 2008, and today, many strategies to curb the impact, such as "splitting heirs", as described by Wm. Jeffrey Smith and Pope in their 2011 article *Private Foundation, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't....*

212. The Court overlooked or misapprehended that as testified by Pope, and in rebuttal by IP expert Wallace Lightsey, Esq., a proper determination of heirs is a critical first step to the protection of a Charity's copyrights from dissipation by Termination Rights, and the AG's settlement halted that important process, causing problems which have not been resolved more than 10 years later.

213. The Court overlooked or misapprehended that in August 2008 there was substantial evidence the Tommie Rae was not Brown's spouse, including Brown's death certificate and her own handwritten admissions, which had been reviewed by the AG, but sealed under the two *ex parte* Circuit Court orders.

214. The Court overlooked or misapprehended that at the August 10, 2008 settlement the AG declared Deanna Thomas, and Yamma, Venisha, Daryl, Larry Brown, who were acknowledged by Brown in his Will, along with James B., as Brown's children, but James B. had refused a paid-for $300 DNA test and there were other potential challenges to the claims of Tommie Rae the other 5 settling parties which AG Jones failed to take into account before proposing to give the $1.5 - $2 milion a year and half of the Charity's assets.

215. The Court overlooked or misapprehended that by 2018 Deanna and Yamma were suing to confirm that Tommie Rae was not Brown's spouse; had rejected Brown's acknowledgment of Larry and Daryl claiming they were not-DNA-proven children, and Venisha died in 2018.

216. The Court overlooked or misapprehended that in a 2015 Order, filed in 2018, the Circuit Court found James B. to be a child of James Brown because the SA/ST who was defending Brown's Estate/2000 Trust in the James B. claims failed to present evidence of James Brown's vasectomy from the 1980s, even though Levenson had the vasectomy records.

217. The Court overlooked or misapprehended that the value of the contribution of Tommie Rae and the 5 Levenson clients to the James Brown Legacy Trust (Settlement) was both minimal and speculative in 2008; Roger Miller leaves the valuation of individual Termination Rights to lawyers, who must evaluate the chances of success, other heirs, etc., and Pope valued the Termination Rights of Tommie Rae and the Levenson clients at less than 5% of the total, worldwide copyright value as of Brown' death, and there is no evidence that the Legacy Trust, which has owned these proceeds since 2008 has ever valued them.

218. The Court overlooked or misapprehended that while the Settling Parties

confirmed to the Circuit Court in 2008 that they had put their Termination Rights proceeds in the Legacy Trust, in 2016 Tommie Rae testified that she had been paid $1 million for the "sale" of three songs, which did not go into the Legacy Trust, and the same is true for about $70,000 each paid to Deanna, Yamma and Venisha.

219. The Court overlooked or misapprehended that the ownership and voting control of the Legacy Trust (Settlement) after Terry Brown joined the AG's settlement in January 2009 was:

VOTING CONTROL: AG & Tommie Rae, 75% (50/25)
(Others under 5%)

OWNERSHIP OF INCOME/ASSETS: AG's (New) Charity 47.5%
Tommie Rae 23 /%
Others: Under 5% each

220. The Court overlooked or misapprehended that The AG's Settlement of August 10, 2008 provided for the replacement of Buchanan and Pope with a Trustee selected by the AG and Settling Parties

221. The Court overlooked or misapprehended that On August 12, 2008 Tommie Rae and the AG announced the settlement and directed Buchanan and Pope to "stand down" and stop administering the estate because a settlement had been reached.

222. The Court overlooked or misapprehended that the record shows that immediately after August 12, 2008, with knowledge that the AG's settlement (if properly disclosed to the IRS) generated millions of dollars of estate taxes, Buchanan and Pope urged the AG and Settling Parties to have their accountant prepare the estate tax return in draft for their review, but the AG and settling parties declined, saying they had no accountant.

223. The Court overlooked or misapprehended that William Sellars, CPA, who had been appointed by the Court in 2007 before Buchanan and Pope became PR/Trustees, agreed to complete the Estate Tax Return, which was filed September 24, 2008, but advised the Court that since Bauknight, a CPA and his former Partner, was involved, he would resign after the September 2008 filing of the Estate Tax Return.

224. The Court overlooked or misapprehended that in September 2008 the AG asked that Buchanan and Pope join the AG in a Probate Court suit to get rid of Cannon and Dallas, but that they declined because of jurisdictional issues because they were defending attempts by Cannon and Dallas in the Court of Appeals to void their resignations as Trustees of the 2000 Trust.

225. The Court overlooked or misapprehended that in September 2008 the AG filed suit to terminate the appointments of Dallas and Cannon, duplicating what the

Estate/2000 Trust was doing in the Appellate Court; mentioning the AG's 2008 Settlement, but not asking for approval; and not naming Buchanan and Pope as parties.

226. The Court overlooked or misapprehended that Buchanan and Pope moved to intervene and, within the 30-day period the AG amended his Petition in the Case which would become *Wilson v. Dallas*; adding other Settling Parties as Plaintiffs; and seeking, in addition to Cannon and Dallas, to remove Buchanan and Pope; and setting out some, but not all, of the allegations that would be made nearly 2 years later in Richland 4900.

227. The Court overlooked or misapprehended that by November 25, 2008 the AG had revealed the details of the settlement, which was not complete; were asking the Court to put the "independent" CPA Bauknight in full control of the operation of James Brown's assets pending approval of the settlement; and failed to disclose to the Court that Bauknight was already trustee of the Legacy Trust and holding the Termination Rights proceeds of Tommie Rae and the 5 Levenson Will/Trust contestants.

228. The Court overlooked or misapprehended that the Circuit Court announced in November 2008 that it would appoint Bauknight as SA, but did not indicate whether the appointment would put him in full control, as requested by the AG, and this uncertainty affected Buchanan's and Pope's ability to deal with royalty clearances until the SA appointment Order was issued January 2009, appointing Bauknight for the limited purpose of reviewing and recommending the AG's Settlement, and ruled that Buchanan and Pope would remain in control of the assets..

229. The Court overlooked or misapprehended that Bauknight was invited to look at the estate tax return in January 2009 immediately after his appointment, but refused, and was told about all of the income and estate tax issues, but there is no evidence that he filed a single tax return – including no amended returns relating back to Brown's death – to reflect that in May 2009 settlement shifted between $ 1.5 million and $3 million of income a year from being "paid or permanently set aside" for the "I Feel Good" Charity to being taxable income because it was going to Tommie Rae and the former Levenson clients.

230. The Court overlooked or misapprehended that Bauknight used his wife and partner Beth Bauknight, as CPA, and they failed to file the proper income tax returns and amended income tax returns, and, in addition, hired expert Mark Hobbs, CPA in 2010 and never told Hobbs of the failure to file these returns; never showed the Will and 2000 Trust to Hobbs; and never picked up the Sellars file, leaving Hobbs with the impression that Sellars had done only payrolls matters, rather than comprehensive service.

231. The Court overlooked or misapprehended that despite great uncertainty about their authority to act, Buchanan and Pope continued to stabilize the clearances; that they brought in $7.83 million of royalties during their 8-month service; and the TIAA debt was properly service at nearly 8% and reduced from about $15 million at Brown's death

to $11.3 million, prior to application of the escrow account, on May 26, 2009 when, according to their final accounting, Buchanan and Pope delivered $99 million of assets to Bauknight.

232. The Court overlooked or misapprehended that despite the AG's announced intention to take over the operation of the James Brown assets in August 2008, that fall Buchanan and Pope were able to proceed with the claims cases, and resolved $35 million of claims in favor of the Estate/2000 Trust, and, in addition, before being replaced on May 26, 2009, they had the $5 million Cannon claim, the $5 million Dallas claim and the $5 million Bradley claim, all of which were baseless, in position for summary judgment.

233. The Court overlooked or misapprehended that Bauknight did not resolve the baseless Bradley claim until after his death, the Cannon claim until 2016, and allowed Dallas, after the passage of the statute of limitations, to change his $5 million claim from a PR/Trustee commission to a contract claim, which is still pending, and that the 2010 naming of Cannon and Dallas as witnesses in Richland 4900, with the modification of the Dallas claim, damaged Brown's Estate and 2000 trust.

234. The Court overlooked or misapprehended that at the September 9, 2009 hearing, the following was stated by Tommie Rae and the AG, through counsel:

> [p: 29 Counsel for Tommie Rae]
> WE'RE UNANIMOUS AS MR. WILKINS POINTED OUT ON THIS ISSUE, WE DO NOT WANT THEM [Buchanan and Pope] TO BE FIDUCIARIES AND IF THEY PREVAIL – IF THEY WIN ON APPEAL AND THEN WE GO BACK AND TRY THOSE WILL AND TRUST CONTESTS … AND THEY WIN THOSE , THEN EVERYTHING GOES TO CHARITY WHICH YOU BELIEVE .ACCORDING TO YOU ORDER AND WE BELIEVE.. THE ATTORNEY GENERAL HAS THE AUTHORITY TO REPRESENT THE CHARITIES IN THAT CASE.
> THE ATTORNEY GENERAL DOESN'T WANT THEM. EVEN IF THEY WIN ALL THE WAY OUT, THE ATTORNEY GENERAL WOULD BE THE LAST PERSON STANDING AND THE ATTORNEY GENERAL'S OFFICE DOES NOT WANT THEM AS FIDUCIARIES.
> P. 33
> MR. NICHOLSON: YOUR HONOR, JASON NICHOLSON ON BEHALF OF THE ATTORNEY GENEERAL'S OFFICE… I WON'T PLOW THE SAME GROUND AS MR. WILKINS AND MR. MEDLIN…[P.38]..SO, LIKE I SAID, I DON'T WANT TO PLOW THE SAME GROUND.. BUT WE DO INCORPORATE THEIR ARGUMENTS.

The Circuit Court Overlooked Material Rebuttal Testimony of Governor McMaster, AG Alan Wilson, Solicitor General Robert Cook and Other AG Staff

235. The Court overlooked or misapprehended that the testimony by deposition of Governor McMaster, AG Alan Wilson, Solicitor General Cook, Former Chief Deputy John McIntosh, Sr. Assistant AG Creighton Waters, AG Jones, AG auditor Sandra Matthews, and Asst. AG, with documents from those depositions, along with other depositions, were submitted to rebut the claims of Bauknight that he and Peter Afterman had benefitted James Brown's Estate/2000 Trust during and after his 4-year void appointment as PR/Trustee, and while he was serving the Legacy Trust.

236. The Court overlooked or misapprehended that the testimony was presented in conformity with the Court's ruling that witnesses from the Columbia area, including the AGs staff, could testify by deposition without prejudice to their right to appear if they elected, but no AG staff elected to appear.

237. The Court overlooked or misapprehended that, although their testimony will be referenced in later sections, a brief indication of the material statements of some follows:

Governor McMaster – knows that James Brown's image and likeness is of great value; met Brown; and is a fan of his music, but does not have, and never had, personal knowledge of the James Brown litigation; knows nothing about the James Brown Legacy Trust; never oversaw any action taken by AG Jones or other staff; and emphatically denied having authorized the law firm of Kenneth Wingate, Esq. (Wingate) to sue Buchanan and Pope in the name of the State/AG or authorizing Bauknight to sue in Richland 4900 "on behalf of the Attorney General of South Carolina. Learned that he was a Richland 4900 Plaintiff after leaving office in January 2011 and called the Office of AG Wilson to inquire. He was given some explanation by a person he does not recall, but took no further action. Relying on AG Jones, the Governor still believes that the Supreme Court was incorrect in *Wilson v. Dallas*, but knows nothing about Termination Rights; the justification for the 2008 settlement; or the amounts involved.

Attorney General Alan Wilson – Authorized the continuation of Richland 4900 when he took office on January 11, 2011 for the purpose of maintaining the "status quo;" but was not told at the time that Buchanan and Pope were asking the Court of Appeals to review the constitutionality of Wingate, as a private law firm, to be sole counsel for the State/AG, as well as Tommie Rae and others nonresidents; knows nothing about the operation of the James Brown Estate/2000 Trust 9 years, or the operation of the Legacy Trust over which the AG's office has had effective control since 2008; does not recall anything about the meeting with Pope on March 6, 2013, in which she advised of the reduction in charitable scholarships and other tax problems caused by Bauknight's $79 million devaluation of Brown's assets, and proposed quiet solutions to the problems, but does not dispute her recollection of the meeting; does not recall his March 2013 call to her to tell her almost six years ago to say he was getting out of Richland 4900 had not been shown the deposition of Governor McMaster where he emphatically denied authorizing Richland 4900 to be

brought by the State/AG.

Former Chief Deputy McIntosh - Does not recall 2 meetings with Pope in March 2013, including attendance of Adam Silvernail, Esq., at second; did not and could not authorize Richland 4900.

Solicitor General Robert Cook - has never seen a case like Richland 4900 in his long career; although his name appears on many pleadings, he had no actual involvement in James Brown matters until the Petitions for Rehearing after the First Wilson v. Dallas decision; recalls meeting on March 6, 2013 with Attorney General Wilson, Pope and her concerns related to the IRS filings by Bauknight which reduced annual charitable scholarships under the IRS's 5% Rule by millions of dollars; believed Pope to be competent and concerned about the "I Feel Good" Charity, not greedy and incompetent as some of the documents which contain his name indicate. Prepared Petition for Rehearing for AG in Wilson v Dallas, relying on AG Mary Frances Jowers.

Sr. Asst. AG Havird "Sonny" Jones - Testified he shared a "Common Interest" privilege with Tommie Rae and her lawyers from August 10, 2008 until May 8, 2013, and continues to have a "Common Interest" with Bauknight despite public announcement on May 29, 2013 of Levenson clients and Tommie Rae of intention to disregard *Wilson v. Dallas* and reienstate AG's 2008 settlement; has exercised 75% control of Legacy Trust with Tommie Rae since 2009.

Sr. Asst. AG Creighton Waters - Testified about 2011 Cannon Alford plea and AG's and Bauknight's not seeking either jail time or restitution, and no presentation of Victim's Statement, and subsequent actions.

Hearings on the AG's 2008 Plan to Give Half of the "I Feel Good" Trust's Assets and $3 - $4 Million Annual Income to Tommie Rae and 5 Levenson Clients

238. The Court overlooked or misapprehended that the Circuit Court Orders, testimony, and filings of Buchanan and Pope between August 12, 2008 and the May 26, 2009 Order (Settlement Order), with the transcript, give a complete picture of the effort of Buchanan, Pope, Expert Harley Ruff, Esquire, to urge the AG and the Court to consider that shifting $1.5 - $2 million of income a year, and half of the James Brown assets to Tommie Rae and 5 Levenson clients not only dismembered James Brown's estate plan, but severely damaged the plan they had begun in March 2008 with the heirs Order and in June with Smith to protect the "I Feel Good" Trust's 900 copyrights from dissipation by Termination Rights claims asserted by claimed heirs.

239. The Court overlooked or misapprehended that in his rebuttal testimony (deposition), AG Jones testified that he shared a "common interest" privilege with Tommie Rae, the Settling Parties and their counsel from August 10, 2008 until May 8, 2013, and today shares a "common interest" privilege with Russell Bauknight, Trustee of

the Legacy Trust, and that at the settlement hearings AG Jones violated the State/AG's assumed duty of loyalty to the 2000 Trust.

240. The Court overlooked or misapprehended that the testimony of Governor McMaster confirms that he knew nothing of the assurances made to the Circuit Court that, as AG, he would personally see to the proper management of the Legacy Trust, and he did not provide oversight of any kind from 2008 until January 11, 2011.

241. The Court overlooked or misapprehended that the Settlement Hearings which took place over 7 days were brought under the Summons and Complaint of AG McMaster and others, which later became *Wilson v. Dallas,* and that it was the burden of the AG and other Plaintiffs – not Buchanan and Pope – to demonstrate to the Court that the binding settlement agreement they had entered into qualified for approval under the facts and applicable law.

242. The Court overlooked or misapprehended that the day before the hearing Levenson called Buchanan and threatened him with Rule 11 sanctions and other problems if Buchanan and Pope did not go along with the AG's settlement.

243. The Court overlooked or misapprehended that the AG and Plaintiffs called Russell Bauknight as their first witness, and that he approved the settlement, including an agreement reached that morning to give Terry Brown a 10-year right of first refusal (ROFR).

244. The Court overlooked or misapprehended that Bauknight did not disclose that he was already holding the Termination Rights proceeds of Tommie Rae and the now-former Levenson clients in the Legacy Trust as its Trustee, and was presented as an "independent" reviewer of the settlement.

245. The Court overlooked or misapprehended that Bauknight, a CPA, had not looked at the income or estate tax returns; did not know Brown had brought in more than $8 million a year for at least 4 years before his death; did not know the value of Brown's assets, although he had "heard" $80 million; knew nothing about the music business, sampling revenues; Copyrights, Right of Publicity; or Termination Rights; knew nothing about James Brown's wishes as stated in two successive estate plan; knew nothing about the strength of the claims of Tommie Rae and the Levenson clients; but, nevertheless, recommended that the "I Feel Good" Trust be dismembered: 52½% of its $3 - $4 Million of income each year and 52 ½% of its assets be given to Tommie Rae and the 6 Will/Trust contestants; 47 ½% be given to a (New) Charity to be created by the AG; and that the AG, Tommie Rae and the 6 put their assets into the Legacy Trust (Settlement Entity) to be controlled *de facto* 75% by Tommie Rae and AG Jones

246. The Court overlooked or misapprehended that Plaintiff AG and the other Plaintiffs then called Pope, who had extensive knowledge regarding private foundations, fiduciary income tax issues, estate planning, heirs litigation and other relevant areas, and

was qualified without objection by anyone as an expert.

247. The Court overlooked or misapprehended that Pope and Harley Ruff, Esq., both testified to the serious excise tax and estate tax problems to be caused by the AG's settlement, and presented pie charts to show the tax consequences, but that nobody addressed the massive income tax problem which would be caused if Brown's Music empire were worth only $4.7 million and the entire Estate and 2000 Trust were only $6.5 million because such a calculation would have been considered nonsensical at the time based on more than 100 representations in the record by counsel for Tommie Rae, and others, and because the Estate Tax Return had been fully explored in 2 days of Federal Court hearing in November and not a whisper of suggestion of the massive $79 million value was suggested.

248. The Court overlooked or misapprehended that Ruff was specifically engaged by Buchanan and Pope, who did not think it appropriate to spend funds to bring exempt organization counsel Alan Rothschild, and asked to review the tax consequences from a neutral point of view, not as an adversary of the settlement, which he did.

249. The Court overlooked or misapprehended that at some point, Buchanan and Pope did become aware of a July 2008 meeting in which Dr. Cox had stated to AG Jones and counsel for Tommie Rae that Brown's assets were worth only $65 million at death, but the Cox investors, in early 2009, were showing interest in a "Right of First Offer" which was stopped by Tommie Rae.

250. The Court overlooked or misapprehended that at some time after Terry Brown got the ROFR on January 30, 2009, Buchanan and Pope did hear rumors that Terry was considering a devaluation of the assets, and that was reported to the AG.

251. The Court overlooked or misapprehended that the Settling Parties did not present a Copyright Expert and AG Jones stated that he was the first to admit that he knew nothing about Termination Rights, and the only evidence presented by the AG and other Plaintiffs was an article about the Superman Case.

252. The Court overlooked or misapprehended that Pope vigorously studied about Termination Rights during the settlement hearings, but could only give the opinion that it was unwise to "stipulate" that a person was a spouse, or any other heir; that the AG's settlement was clearly leaving out heirs who had already been DNA-proven; and that completing the proper heirs determination was appropriate.

253. The Court overlooked or misapprehended that Buchanan and Pope urged the parties to take a short time to complete the heirs determination, then have a settlement, and Buchanan testified that the Agreement, as then-drafted had a number of problems, and that settlement is best after the parties have had a fair opportunity to evaluate the strength of the competing claims, which had not happened.

254. The Court overlooked or misapprehended that the AG and Settling Parties either did not understand, or withheld from the Court, certain material facts about Termination Rights including: The Court overlooked or misapprehended that

f. A stipulation that they would not hurt 3 DNA-proven children by the Settlement.
[Incorrect, because stipulating Tommie Rae was the spouse threatened to cut their Termination Rights in half]

g. Termination Rights apply only to U.S. Copyright royalties, which are only about half of the $3 - $4 million annual James Brown royalties.
[This meant $1.4 - $2 million of the annual royalties would never be Subject to dissipation by Termination Rights election.]

255. The Court overlooked or misapprehended that the AG and other Plaintiffs were invited by the Court to present a tax expert to refute Pope and Ruff, but they declined, electing to pass up resumes of 5 tax lawyers who were advising them.

256. The Court overlooked or misapprehended that in April 2009 Bauknight confirmed to the Court that if appointed PR/Trustee under Brown's Will/2000 Trust he would be loyal to the Legacy Trust.

257. The Court overlooked or misapprehended that Baunight also claimed in April 2009 that he had gained expertise in Termination Rights but did not change his position.

258. The Court overlooked or misapprehended that as the hearings proceeded from January to May 2009, Buchanan and Pope urged the AG and Settling Parties to enter into a Publicity Rights contract with GreenLight which resulted from a settlement conference with Martin Cribb a high-profile promoter of deceased celebrities, under a 2-year Publicity Rights contract approved by Gonzalez and recommended by Brown's Chicago entertainment lawyer of 10 years or more, Jay Ross, Esq., but they declined.

259. The Court overlooked or misapprehended that although the GreenLight Publicity Rights contract was projected to bring in $1 - $2 million a year, on May 19, 2009 Tommie Rae filed a motion stating her rights under the settlement could be "destroyed"; the AG and Tommie Rae rejected the settlement, as did their Trustee, Bauknight.

260. The Court overlooked or misapprehended that Bauknight gave no reasonable excuse for rejecting the $1 - $2 million a year contract; Peter Afterman presented no Publicity Rights contracts between May 2009 and May 2011; and he even valued the Publicity Rights at zero, or near zero for Bauknight's IRS filings.

261. The Court overlooked or misapprehended that the Circuit Court, assured both by Bauknight, and by the AG, through AG Jones that giving away $1.5 - $2 million a year

in income and half of the assets of the "I Feel Good" Charity, in exchange for half of the Termination Rights of some of the claimed heirs that only apply to half of the copyrights and will not even come into play until 2012, approved the settlement on May 26, 2009.

262. The Court overlooked or misapprehended that the recitations in the May 26, 2009 Settlement Order make clear that the Circuit Court was misinformed about Termination Rights, and that AG Jones had a view of the role of the AG which was greater than allowed by statute.

263. The Court overlooked or misapprehended that the Circuit Court specifically held that it did not hear the portion of the AG's and Plaintiffs' complaint seeking the removal of Buchanan and Pope, and that they were removed in accordance with the contract of the AG and Settling parties.

264. The Court overlooked or misapprehended that during the settlement hearings Buchanan and Pope served an Offer of Judgment that would have given about 15 percent of the Estate and 2000 Trust to the acknowledged children and James B; would have left their Termination Rights intact for future negotiations; would have given Tommie Rae over 5% of the Estate/2000 Trust, but no separate Termination Rights; and would have immediately begun the flow of education benefits to the 7 grandchildren.

265. The Court overlooked or misapprehended that the offer made by Buchanan and Pope, if accepted, would have prevented the waste of tens of millions of dollars of litigation costs over 10 years (and future costs), of which the Settling Parties would have had about 15%, which is more than the settlement reached by any of the parties to date.

266. The Court overlooked or misapprehended that the Buchanan/Pope settlement proposal was rejected, and a proposal in March 2010 to give the AG and Settling Parties everything they got in the settlement agreement if the minors had GALs and the Appellate Court approved the substitution of the AG's Judgment for theirs in a non-adversarial presentation was ignored.

267. The Court overlooked or misapprehended that within a week of May 26, 2009 Tommie Rae and the AG, through AG Jones, had assumed 75% control of the James Brown music empire; Levenson had moved into the sidelines; and the AG's appointee, Bauknight, had hired a dozen lawyers on a "deferred pay" basis to carry into effect the James Brown Legacy Trust; Buchanan and Pope had met with Bauknight and his tax lawyer and delivered the urgent tax and related files.

268. The Court overlooked or misapprehended that within another week or so, by Mid-June the GreenLight 2-year contract had been rejected, causing a loss of at least $1 million a year for two years; Few and Gilreath had been directed to have no confidential conversations with Buchanan and Pope, who had uncovered the $17 million takings; and Buchanan and Pope had offered, because of the numerous inquiries, to meet once a week with the Legacy Trust's lawyers to help in any way they could with the transition.

269. The Court overlooked or misapprehended that within the month Buchanan and Pope had transferred $99 million dollars of assets to Bauknight; had fully accounted for the $7.83 million which had come in during the 18-month period; delivered all financial records, including the full TIAA copyright files; and Bauknight had signed a 95-page Custody Receipt showing that on or before June 22, 2009 he had received 145 boxes, and the Custody Receipt gave Bauknight detailed information about all pending litigation and all assets and activities of the Estate and 2000 Trust, and complete financial information, including the status of the action to get the PG and GT files

270. The Court overlooked or misapprehended that Plaintiff is qualified now, as a Termination Rights expert, to evaluate the numbers in the AG's settlement, which Roger Miller does not have, and confirm that the AG's 2008 settlement had dismembered not only Brown's estate plan, but the copyrights.

271. The Court overlooked or misapprehended that the case of *Brown-Thomas vs. Hynie*, Dist. Ct. 1:18-cv-02191-JMC demonstrates the problems caused and millions wasted by the AG's and Bauknight's failure to complete a proper heirs determination, which is the first step in the protection of the copyrights, as the Plaintiffs now include those excluded from the AG's 2008 Settlement, and Defendant Bauknight admits in that suit that tens of millions of dollars have been spent

The Joint Claim and Supporting Affidavits of Buchanan and Pope

272. The Court overlooked or misapprehended that on March 3, 2009, during the Settlement hearings, James B. served Buchanan and Pope with a Petition for Review of Compensation, and Buchanan and Pope responded.

273. The Court overlooked or misapprehended that immediately after the Settlement Order Tommie Rae, who had known in near-real-time everything Buchanan and Pope had done, sought discovery as to their fees, but Buchanan and Pope needed to turn their attention to what *pro bono publico* lead Appellate Counsel James B. Richardson, Esq, described as the most complicated appeal of his distinguished career.

274. The Court overlooked or misapprehended that in July 2009 Buchanan and Pope filed a timely Creditor's Claim against the Estate and 2000 Trust seeking both payment of the amount due them under the contract and a future discretionary commission, as well as future attorneys' fees and costs for the conduct of the appeal which became *Wilson v. Dallas*.

275. The Court overlooked or misapprehended that Buchanan's approximately $0.5 million in contract fees and additional $1.6 million, or a total of $2.1 million for 5 years of service was reasonable for Buchanan, as was Pope's $1.47 million due under the contract, and additional approximately $1.4 million discretionary request.

276. The Court overlooked or misapprehended that the full court-approved SA fees, costs and partial PR/Trustee commission under the contract which Buchanan was paid before May 26, 2009 was proper, as was Pope's partial SA commission.

277. The Court overlooked or misapprehended that Buchanan's total $2.1 million commission request for the 5+ year of his service under these extraordinary circumstances was proper and the settlement he reached in 2012 was based on hardship, and, as the Court found in October 2012, does not diminish the fine quality of his extraordinary service.

278. The Court overlooked or misapprehended that Pope's $2.8 million commission for all of her years of service – not 18 months – was a reasonable request when $1.47 was already due under her court-approve contract.

279. The Court overlooked or misapprehended that Buchanan and Pope timely asked in June 2009 that the Court award the already due amounts under their Court-approved agreement with Defendants, which was a first priority expense, from the first monies to come in, and that the remainder be paid later, and that the consideration was delayed by Defendants' securing an order preventing any payment, then filing Richland 4900 and telling the Richland County Court that all matters in Aiken County were concluded.

280. The Court overlooked or misapprehended that at all times Plaintiff has desired to settle this matter, which should have been handled pursuant to the Wilson v. Dallas remand directions.

281. The Court overlooked that the more than 18 Orders in which this Court approved the actions of Buchanan and Plaintiff, with the participation of the AG and all Interested Parties, cannot 9 years later be discarded by testimony of non-lawyer experts who had no participation in the hearing.

282. The Court overlooked or misapprehended that the combined legal fee and PR/Trustee fees request of Buchanan and Plaintiff for their 5+ years of service are extraordinarily modest by comparison to the $1.4 million paid to the post-*Wilson v. Dallas* SA/ST and the $700,000 GAL/attorney fee award to James B., who has a maximum 1/20 interest on Brown's Estate which he valued at $5 million.

Overlooked Facts During Bauknight's 4-Year Void PR/Trustee Appointment (May 2008 – May 2013)

283. The Court overlooked or misapprehended that for the four-year period during Bauknight's void appointment as PR/Trustee from May 2009 until May 2013, both Tiffany Provence, Esq., and Plaintiff, experts in the area, testified that the person(s) who benefitted the Estate/2000 Trust should be paid, and only Buchanan and Pope did so.

284. The Court overlooked or misapprehended that the AG, through AG Jones, and

Bauknight both continuously breached their fiduciary duty to the Estate/2000 Trust by engaging more than a dozen lawyers and experts to help dismember the 2000 Trust in favor of the Legacy Trust, and that – at a minimum --- Bauknight had a duty to be impartial as between the 2000 Trust and the Legacy Trust but failed to do so.

285. The Court overlooked or misapprehended that Governor McMaster, in his sworn rebuttal testimony, emphatically confirmed Pope's testimony that Richland 4900 was improper because as AG he never authorized the firm of Kenneth Wingate, Esq., to bring Richland 4900 in the name of the State/Attorney General; never authorized Bauknight to bring Richland 4900 "on behalf of the Attorney General"; never knew anything about the AG's Legacy Trust or its beneficiaries; and did not even know he was a named Plaintiff in Richland 4900 until after he left office in January 2011.

286. The Court overlooked or misapprehended that the sworn deposition testimony of Pope, AG Alan Wilson and Solicitor General Cook confirms that in March 2013 Pope and counsel provided competent evidence of the serious breaches of fiduciary duty of Bauknight and AG Jones, including the damage done to needy students by the $79 million devaluation, which reduced the annual required payments to needy students by $3 million or more a year; that Solicitor General Cook recalls that Pope was concerned with protecting the "I Feel Good" Trust, and not "greedy" as claimed by Bauknight, but the AG has since declined to curb the announced intention of Tommie Rae and the Levenson client , with the collusion of AG Jones, to give Tommie Rae $750,000 or more a year and a quarter of Brown's assets, and the same to the Levenson Will/Trust contestants.

287. The Court overlooked or misapprehended that from 2011 until 2015 the AG's office and Bauknight coordinated to interfere with both FOIA and discovery to prevent the release of several documents which, had they been timely released, would have made short work of Richland 4900 and the AG's attempts to give $2 million a year and half of the "I Feel Good" Trust's asset to Tommie Rae and the Levenson clients, namely:

a. The Wingate Litigation Retention Agreement, which confirms AG McMaster's testimony that he did not authorize SWB to bring Richland 4900 In the name of the State/AG, and did not authorize Bauknight to act "on behalf of" the AG, and which was released by a federal judge in the fall of 2013;

b. The handwritten admissions of Tommie Rae that she was married, living with her husband; and possibly pregnant before falsifying a marriage certificate and conducting a ceremony with Brown, and that she begged Brown to marry her when he learned of the marriage, but he refused;

c. The claimed $4.7 million valuation, which has been kept under lock and key while being used to lodge a false felony claim against Buchanan and Pope;

288. The Court overlooked or misapprehended that by 2011 Pope had become an expert in the Interplay of Termination Rights under Sections 203 and 304 of the

U.S.Copyright Act, probate law and the protection of charities owning copyrights, which, according to IP expert Wallace Lightsey, Esq., and Pope, is interdisciplinary and draws as much from State probate law as from entertainment law, and that none of Brad Sharp, Jonas Herbsman,Esq.,; Tiffany Provence,Esq.; Mark Hobbs, Esq.; Bauknight;, AG Jones; AG Jowers; Afterman, Miller or any member of the AG's office had or has such expertise.

289. The Court overlooked or misapprehended that Wm Jeffrey Smith is qualified as an expert in the area of Termination Rights by virtue of his training at Georgetown Law Center, his work as an examiner at the U.S. Patent and Copyright Office, his lifelong interest in all genres of music, including having been a Deejay at Clemson and having attended Woodstock, and based on his 2011 co-authorship of *Private Foundations,Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...*

290. The Court overlooked or misapprehended that after Tommie Rae sued Buchanan and Pope in 2010, in 2012 Pope asked the Aiken Circuit Court to void the two gag orders issued in 2008 preventing disclosure of Tommie Rae's handwritten admission about her bigamous marriage, and both Bauknight's and Tommie Rae's lawyers attacked the filings, claiming they were "works of fiction" and even tried to prevent a hearing.

291. The Court overlooked or misapprehended that in 2010 Bauknight, Tommie Rae and the AG, with others, named Cannon, Dallas, Katz and Copsidas as witnesses against Buchanan and Pope, and later allowed Dallas to change the nature of his $5 million claim from PR/Trustee commission to contract after the statute of limitations, a breach of duty, even though 4 of the 5 were being sued by Defendants; Copsidas was part of the coalition wanting a "fire sale' of the James Brown assets to get $15 million; and Few and Gilreath, for the Estate/2000 Trust had targeted Copsidas and Katz with respect to the "October 18 Letter" under which they were claiming exorbitant fees.

292. The Court overlooked or misapprehended that the rebuttal deposition testimony of Solicitor General Cook, Governor McMaster and AG Wilson, with the Pope testimony, confirms that Solicitor General Cook has never seen a case like Richland 4900; that it is unprecedented for a private law firm to be pursuing the interest of Tommie Rae and other nonresidents in the name of the State/AG with Bauknight claiming to act "on behalf of" the State/AG with no participation or control by the AG, and with no written contract for the 23% - 40% contingency.

293. The Court overlooked or misapprehended that the rebuttal depositions of Solicitor General Cooke and Governor McMaster confirm Pope's testimony that it was reckless and unnecessary for AG Jones and Bauknight, claiming to speak on behalf of the State/AG, to falsely accuse Buchanan and Pope of the federal felony of overstating the value of James Brown's assets on the federal estate tax return for the improper purpose of securing a large commission, especially where Bauknight claims that nobody but he, Afterman and 3 lawyers he engaged for the AG's Legacy Trust have seen the claimed

valuation, and nobody in the AG's office looked at it.

294. The Court overlooked or misapprehended that in 2011, after a meeting in the office of AG Jones, Cannon, who had stolen $17 million and uttered a 2008 forgery to cover it up, was allowed to plead guilty to only a small part of the charges, and neither restitution nor jail time was sought.

295. The Court overlooked or misapprehended that Ellison Thomas served as the State's criminal expert in the Cannon plea case; and gave Cannon credit for 5% of everything he stole as salary; failed to include the $5 million "check to nobody' Cannon stole in 1999; and concluded that Cannon had only stolen $7 million – instead of the correct $17 million.

296. The Court overlooked or misapprehended that Bauknight sought neither jail time nor restitution from Cannon until family members complained, and did not even file a victim's Statement for the $17 million Cannon had taken from needy students..

297. The Court overlooked or misapprehended that in September 2010 the Afterman $4.7 million appraisal arrived and Bauknight, Tommie Rae and AG Jones, without the knowledge of Solicitor General Cook, agreed to withhold it from the Supreme Court until after the final briefs were filed, "a time of our choosing," and that the appraisal was withheld from the Supreme Court for eight months, until the following May, 2011.

298. The Court overlooked or misapprehended that the appraisal was treated by the AG, Bauknight and Tommie Rae as not yet received in both their initial brief and a request to supplement the ROA before May 2011.

299. The Court overlooked or misapprehended that Solicitor General Cook was not informed of AG Jones' participation in withholding material from the Supreme Court for that period of time, and testified in rebuttal that it is always best to notify the Appellate Court as soon as reasonable about new material.

300. The Court overlooked or misapprehended that in January 2011 the IRS issued a closing letter to Bauknight, not catching the overstatement of the TIAA debt by about $3 million undisclosed within the $4.7 million valuation, along with the zero value of Brown's image and likeness; the zero value of Brown's Rolls Royce and 10,000 items of tangible personal property, and the zero value of his $17 million claim against Cannon, GT and others.

301. The Court overlooked or misapprehended that there is no evidence within the filings to indicate that Bauknight ever notified the IRS that 50% of Brown's assets were going to the AG's (New) Charity, and not to the "I Feel Good" Charity, and further, that $2 million of the $2.8 million charitable deduction Brown claimed as going to the AG's (New) Charity was actually going to grandchildren, and did not qualify for a charitable deduction.

302. The Court overlooked or misapprehended that these matters were of no concern to Buchanan and Pope but for the fact in 2010 the AG and Bauknight "on behalf of the AG" has sued them for tens of millions of dollars claiming they should have accepted the $100 million offer, and that the James Brown assets were worth much less in 2010, and by 2011 was claiming to the Supreme Court that the assets were worth $4.7 million; there were never any offers; and Buchanan and Pope had committed the federal felony of overstating the value by $79 million to get a $5 million commission from a $5 million estate and $6.5 total assets.

303. The Court overlooked or misapprehended that while a fiduciary may expect false claims from disgruntled claimed heirs and devisees, Solicitor General Cook and Governor McMaster both confirm Pope's position that the name and mighty power of the State attached to such accusations, especially when the State official has not even reviewed the claimed valuation, are career-threatening because of the high credibility of the office.

304. The Court overlooked or misapprehended that during 2011, including in oral argument before the Supreme Court, in *Wilson v. Dallas* neither the AG nor Bauknight reported to the Supreme Court that Termination Rights will never affect Brown's non-U.S. royalties, about half of his $3 - $4 million income, and have no effect on Brown's image and persona, claims against GT and others, and other assets, and made misleading and incorrect representations to the Court about Termination Rights.

305. The Court overlooked or misapprehended that in May 2012 the Circuit Court conducted a hearing on the Tommie Rae gag order, but ruled that he lacked jurisdiction to address it because of the pending appeal in *Wilson v. Dallas.*

306. The Court overlooked or misapprehended that in 2012, with substantial hardship from years of dedicated service under Brown's Will and Trust, Buchanan had advised Pope that he needed the $500,000 he had earned under the contract by May 26, 2009 more than he would ever need a $2.1 million full commission which he had request at the conclusion of their service, and Pope fully supported his decision.

307. The Court overlooked or misapprehended that when the AG, Tommie Rae and Bauknight moved to enforce a settlement with Buchanan in May 2012, Pope opposed certain terms, asserting that it was improper for the AG to require Buchanan not to file a Petition for Rehearing in *Wilson v. Dallas,* if needed, and the motion for Buchanan's re-entry into Richland 4900 was pending in 2018 when Judge Early granted final summary judgment in that case before hearing the Buchanan motion.

308. The Court overlooked or misapprehended that in a deposition given in Federal District Court Case no. 3:08-cv-00014-WOB on August 20, 2013 Mr. Bauknight lodged vitriolic attacks on Plaintiff, defended the AG's settlement voided by *Wilson v. Dallas;* and even asserted that Forlando Brown, who now owns the interest of Terry Brown in the

Legacy Trust, had done nothing wrong in his 4-year Federal Court attempt to reinstate felon David Cannon and his Co-Trustee Albert Dallas as trustee of Brown's 2000 Trust.

309. The Court overlooked or misapprehended that at the same deposition Bauknight claimed the transfer from Terry Brown to Forlando did not happen, although AG Jones had confirmed to the Settling Parties in January 2011 that it did; and revealed that Peter Afterman was the music industry "expert" who provided information to PBW on the claimed $4.7 million at-death valuation of James Brown's music empire.

310. The Court overlooked or misapprehended that Bauknight, through counsel, told the Supreme Court in 2011 that the $4.7 million value was correct; that James Brown's estate and 2000 Trust had no corpus to speak of; that Termination Rights were all this estate is about; and that Tommie Rae and her son controlled the Termination Rights and her elective share claim was a "slamdunk"; and represented to the Supreme Court that if Tommie Rae were not found to be Brown's wife, then the Levenson settling parties would get all of the Termination Rights.

311. The Court overlooked or misapprehended that the zeal of Bauknight and Afterman to assure that Tommie Rae is determined to be Brown's spouse has caused the waste of millions of dollars, and Bauknight had a duty to advise his counsel that Termination Right will never apply to Brown's Non-U.S. Royalties.

312. The Court overlooked or misapprehended that Bauknight, with knowledge that it was incorrect, allowed counsel he hired for the Legacy Trust, but paid for from the Estate/2000 Trust, to suggest to the Court that Termination Rights were automatic; that in 2012 Brown's "I Feel Good" Trust would automatically lose its royalties to "Please, Please, Please" and that by 2023 the "I Feel Good" Trust would have almost nothing if the AG's settlement giving $1.5 - $2 million a year and more than half the assets to Tommie Rae, Terry and the Levenson clients were not upheld.

313. The Court overlooked or misapprehended that Bauknight had known nothing about Termination Rights, the value of James Brown's assets, or James Brown's wishes when he recommended that Judge Early approve the AG's settlement deal in January 2009, but had re-appeared later in the settlement hearing asking the Court to allow him to testify about what he knew about Termination Rights.

314. The Court overlooked or misapprehended that Bauknight knew in 2011, or should have known, that Termination Rights apply only to U.S. Copyright, which make up only about half of James Brown's worldwide music royalties, so that $1.5 million - $2 million of the "I Feel Good" Trust's annual royalty stream will never be diminished by Terminations Rights, but Bauknight failed to tell his attorney, who failed to tell the Supreme Court, this important fact.

315. The Court overlooked or misapprehended that Bauknight, through counsel, told the Supreme Court that nobody was trying to buy the James Brown assets and that the

Estate and 2000 Trust had no corpus to speak of , even though Defendants' expert Roger Miller testified that it was known in the industry that James Brown's 900-copyright catalog was "solid gold', and that "frothy" investors were seeking to purchase assets such as Brown's copyrights for 15 – 20 times revenues, as much as $80 million, or more, for the copyrights alone.

316. The Court overlooked or misapprehended that Bauknight, through counsel, also told the Supreme Court that a "closing letter" he got from the IRS was the result of an extensive audit, and that this IRS document proved that Buchanan and Pope were incorrect when they claimed that the AG's settlement would cause tax problems.

317. The Court overlooked or misapprehended that Bauknight withheld very valuable information from the Supreme Court that would not be known until after the first *Wilson v. Dallas* decision, namely that within the Afterman $4.7 million valuation of the music empire was an undisclosed claim that Brown's TIAA debt was $19 million when he died, a $3 million overstatement.

318. The Court overlooked or misapprehended that, in addition, to get the refund which Bauknight claimed proved that the AG's settlement saved taxes, Bauknight had claimed a $2.8 million charitable deduction for the funds which would pass to the AG's (New) Charity, which was a problem for two reasons: first, there is no evidence that the AG's (New) Charity even existed, and second – that the first $2 million going to the AG's (New) Charity, even if it existed, would probably have disqualified the AG's (New) Charity.

319. The Court overlooked or misapprehended that, in addition to the above problems, Bauknight, through counsel, failed to tell the Supreme Court that, under the Fractional Share formula of James Brown's 2000 Trust, devaluing James Brown's music empire from $84 million to just over $4.7 million shifted almost 1/3 of Brown's annual $3 - $4 million income and assets out of the "I Feel Good" Charity, depriving needy students of scholarships while trapping nearly $1 million a year of income a year in the 7 Grandchildren's Trust where it will be unnecessarily taxed at a high rate until slowly returning to the "I Feel Good" Charity as the 7 grandchildren reach age 35.

320. The Court overlooked or misapprehended that it is not known whether this shifting of about 31% out of the "I Feel Good" Charity into the 7 Grandchildren's Trust was reckless or intentional.

AG/Bauknight Damage to Copyrights by 5+-year Delay in Heirs Determination

321. The Court overlooked or misapprehended that a proper determination of heirs is required in any Will/Trust contest; whenever a pretermitted child makes a claim that might require payment, but the AG, through AG Jones, assumed the right to control the James Brown litigation without meeting this important SCPC requirement.

322. The Court overlooked or misapprehended that, according both to Pope, IP lawyer Wallace Lightsey, Esq. and others, a proper determination of heirs is a critical first step for a charity to protect is copyrights from premature and/or defective attempts to exercise Termination Rights, and the AG, through AG Jones, and Bauknight breached their fiduciary duty to Brown's Estate and the James Brown's 2000 Trust by recklessly declaring heirs on August 10 2008; stopping the heirs determination from 2008 until May 2013; then entrusting the heirs determination to persons either with no understanding of the Copyright Act Termination Rights provisions or a commitment to reinstate the AG's arbitrary 2008 selection of heirs, or both.

323. The Court overlooked or misapprehended that Bauknight and AG Jones wasted millions of dollars James Brown gave his "I Feel Good" Charity and considerable taxpayer dollars in their effort to prevent disclosure, under FOIA or otherwise, of public materials that undermine the heir status of "heirs" the AG has determined to favor, including, for example, efforts to prevent disclosure of the handwritten admissions of Tommie Rae Hynie about her marriage.

324. The Court overlooked or misapprehended that the losses caused by the failure to properly determine heirs with simple procedures, such as requiring DNA testing of non-presumed heirs, and obtaining vasectomy records in possession of Levenson have resulted in large unnecessary losses, including a $700,000 legal/GAL award for the lawyer/GAL for James B., not a presumed heir, even though he refused paid-for $300 DNA testing

325. The Court overlooked or misapprehended that Bauknight's daily contact with a "music expert" who is both working for an employer who would like to control the James Brown catalog at the cheapest price and has helped two claimed heirs (James B. and Tommie Rae) siphon of more than $1 million, and has sought to gather others has wasted more than $2 million in payments to Peter Afterman and the 2 claimed heirs.

326. The Court overlooked or misapprehended that the AG/Bauknight's attempt, between 2008 and 2013, to shift between $7.5 million and $10 million of royalties, in addition to 52 ½% of the assets, from the "I Feel Good" Trust, although aborted by the decision in *Wilson v. Dallas*, was a breach of fiduciary duty.

327. The Court overlooked or misapprehended that Bauknight's support for Tommie Rae's attempt to reinstate the AG's 2008 settlement, giving nearly a quarter of the "I Feel Good" Trust income and assets to Tommie Rae has caused additional millions of damage because of the need to silence and discredit Pope and other with copyright expertise.

328. The Court overlooked or misapprehended that none of experts designated in By Defendants in 2016 in Aiken 1337, including Brad Sharp, Roger Miller, Mark Hobbs, Jonas Herbsman, Esq., Ellison Thomas, Nathan Crystal, Esq., or Tiffany Provence, Esq., had the adequate cross-disciplinary expertise or knowledge of the facts to address this failure of both the AG/Fiduciary and Bauknight to meet the standard of care required of

fiduciaries..

The Court's Aid in Efforts of Defendants to Disregard *Wilson v. Dallas*

329. The Court overlooked or misapprehended that in March 2010 counsel for Tommie Rae threatened Buchanan with a suit by the AG if they did not drop the appeal which became *Wilson v. Dallas*.

330. The Court overlooked or misapprehended that Buchanan and Pope responded, offering to give the AG and Settling Parties the entire settlement if only the minors had a GAL and the Court of Appeals, in a non-adversarial presentation, allowed the AG to substituted his judgment for Buchanan and Pope in recommending the settlement, but the AG and Settling Parties refused to respond.

331. The Court overlooked or misapprehended that on May 19, 2010 the AG and Bauknight "on behalf of the AG" sued Buchanan and Pope for tens of millions of dollars for benefit of the Legacy Trust, but now-Governor McMaster testified under oath on rebuttal that he did not authorize Wingate to sue in name of State/AG, and did not authorize Bauknight to sue " on behalf of" AG, and only learn he is a Plaintiff after leaving office. Private Wingate firm is attorney for all Plaintiffs, including the AG, minors and respondents.

332. The Court overlooked or misapprehended that Solicitor General Robert Cook testified in rebuttal that he has never known a case like Richland 4900.

333. The Court overlooked or misapprehended that in January 2011 AG Wilson took office and authorized Richland 4900 to maintain the status quo, but knows nothing about suit and testified (rebuttal) that he doesn't know there was a challenge.

334. The Court overlooked or misapprehended that in 2011 Newberry County Court confers with Richland County Court and transfers FOIA case seeking Wingate contract to Richland County, consolidated with Richland 4900, making Richland 4900 even more unusual.

335. The Court overlooked or misapprehended that in 2012 Buchanan reached a settlement, and the AG required that he not file a Petition for Rehearing, if needed, in *Wilson v. Dallas*; and Pope objected to this condition.

336. The Court overlooked or misapprehended that in 2012 the Aiken Circuit Court declined to void 2008 gag orders preventing dissemination of Tommie Rae handwritten admissions about her first marriage.

337. The Court overlooked or misapprehended that in October 2012 minors and incarcerated Venisha were exempted from mediation in 4900 and from GALs.

338. The Court overlooked or misapprehended that on February 27, 2013 Supreme Court in first *Wilson v. Dallas* decision issued directive to AG to end Wingate Suit and FOIA "in the first instance."

339. The Court overlooked or misapprehended that after a visit from Pope to discuss the problems caused by the $4.7 million valuation, including the reduction of annual scholarships by more than $3 milion a year, AG Wilson notified the Supreme Court and Pope that he was getting out of Richland 4900, but he did not.

340. The Court overlooked or misapprehended that on May 10, 2013, two days after the *Wilson v. Dallas* decision, AG and Richland 4900 Plaintiffs asked the Court to stay the proceeding, deferring to the Aiken County Court, and it did so, not holding hearings in both the FOIA and main case.

341. The Court overlooked or misapprehended that on May 29, 2013 Tommie Rae and Levenson announced in open court to the Aiken Circuit Court their intention to disregard the *Wilson v. Dallas* decision; ask the Aiken Circuit Court to ban Buchanan and Pope from the proceedings, and they do. After the hearing, Defendants served the Notice of Disallowance, requiring Pope to file suit.

342. The Court overlooked or misapprehended that on June 13, 2013, 3 days after Aiken 1337 filed, Aiken Circuit Court excludes Buchanan and Pope, directing Clerk not to accept filings in any cases except their claims case.

343. The Court overlooked or misapprehended that on July 8, 2013 counsel for Bauknight files *ex parte* ethics opinons of Nathan Crystal which gives comfort to Aiken Circuit Court about Bauknights conflicts, but Bauknight and Crystal refuse to disclose to Pope.

344. The Court overlooked or misapprehended that the Aiken Circuit Court denied request for SA/ST to defend suit, even though Defendants' PR/Trustee still Trustee of Legacy Trust, and dismissed all claims except fee claim under Rule 12, even though compliant set out conflicts in detail.

345. The Court overlooked or misapprehended that in October 2013 the Aiken Circuit Court "double approves" and praises service of Buchanan, all of which was joint with Pope, and finds no disgorgement under *Wilson v. Dallas.*

346. The Court overlooked or misapprehended that in October 2013 Bauknight, nominated by 3 Levenson Will/Trust contestants seeking to disregard *Wilson v. Dallas,* and after questioning only by Circuit Court, is appointed PR, and Trustee by the Court, and SA/ST was appointed to defend Tommie Rae and James B. claims.

347. The Court overlooked or misapprehended that by August 2013 Peter Afterman helps Tommie Rae and James B. to file Termination Notices to terminate U.S. royalties

to more than 90 copyrights between 2015 and 2023.

348. The Court overlooked or misapprehended that in September 2015 Peter Afterman solicited Levenson clients and DNA-proven clients to siphon of U.S. copyrights from "I Feel Good" Trust.

349. The Court overlooked or misapprehended that by 2015 SA/ST Sojourner has billed $1.4 million with law partner; taken one deposition; and allowed Tommie Rae to be declared spouse without proferring handwritten admissions about her marriage.

350. The Court overlooked or misapprehended that the South Carolina Supreme Court requested a Status Report and Judge Early, based on representations of Bauknight reported the Following:

a. Bauknight had brought Estate/2000 Trust from brink of insolvency, when he had actually rejected a Publicity Rights Contract slated to bring in $1 - $2 million a year, and then valued Publicity Rights at zero, or near zero.
b. Bauknight had properly filed all income tax returns, where there was no evidence he had properly filed any income tax returns, and he did not even pick up the Sellars tax file, allowing it to be destroyed.
c. Bauknight had reduced the TIAA debt by$14 million, when it was only $11.3 million before escrow.
d. Buchanan "settled the case against him" for $500,000, but he was paid, did not pay…
e. Pope seems to be asking for a $2 million SA fee, when the request was about $48,000
f. Pope seems to be asking for $5 million PR/Commission
g. Heirs Determination appeared to be complete

351. The Court overlooked or misapprehended that in 2015 the Aiken Circuit Court, after conferring *sua sponte* directed mediation of this case with Richland 4900, which has about 15 Plaintiffs not parties to this suit.

352. The Court overlooked or misapprehended that the Court declined to grant partial summary judgment in two separate requests, even for SA fee.

353. The Court overlooked or misapprehended that the Aiken Circuit Court issued a Rule to Show Cause to a journalist after the journalist published Tommie Rae's handwritten admissions, but the Supreme Court stopped the ruling.

354. The Court overlooked or misapprehended that by 2016 James B. had been determined to be a child and his GAL and lawyer awarded $700,000.00 even though he claimed estate was $5 million; had only 1/ 20 interest, or less; and had a contract with

Tommie Rae.

355. The Court overlooked or misapprehended that by 2016 Tommie Rae's lawyer claimed that Bauknight should be knighted for what he had done for the James Brown Legacy Trust beneficiaries, but Bauknight told the Court in the FOIA case that the legacy Trust does not exist.

356. The Court overlooked or misapprehended that by 2016 $2 million or more in Termination Rights owned by James Brown Legacy Trust was distributed to Tommie Rae, James B. and 5 others, and Tommie Rae and James B. moved to London.

357. The Court overlooked or misapprehended that in 2017 Richland 4900 Court dismissed AG as a party under Rule 21, SCRCP 7 years after he sued Buchanan and Pope.

358. The Court overlooked or misapprehended that in Richland 4900 court finalized Summary Judgment against all Pope counterclaims while stay from earlier appeal pending.

359. The Court overlooked or misapprehended in 2015 Aiken Circuit Court determined Tommie Rae is spouse; declares James B. child; and confers with Richland Circuit Court to *sue sponte.*

The *Wilson v. Dallas* Decision and Delays of Defendants

360. The Court overlooked or misapprehended that, for good reason, the Supreme Court voided the AG's Settlement in its first, later substituted decision in *Wilson v. Dallas*

361. The Court overlooked or misapprehended that the fact that now Tommie Rae has given up all interest in the Estate/2000 Trust and all except 35% of her Termination Rights, if any, and other have settled for $37,500 make it clear there was no basis for the AG to have given them nearly $2 million a year in income and 52 ½ % all of the "I Feel Good" Trust's assets.

362. The Court overlooked or misapprehended that By August 24, 2013 Peter Afterman, with whom Bauknight testified he is in almost daily contact, had helped Tommie Rae and James B. filed public Termination Notices in the U.S. Copyright Office, attempting to siphon off U.S. royalties from 90 copyrights from the "I Feel Good" Trust.

363. The Court overlooked or misapprehended that by September 2013 Peter Afterman was soliciting not only Settling Parties, but LaRhonda, Jeanette and Nicole, to join Tommie Rae in siphoning off U.S. royalties from the "I Feel Good" Trust, as confirmed by Levenson in his 2016 deposition and public posts by these DNA-proven heirs.

364. The Court overlooked or misapprehended that in September 2013 a letter was sent to the Circuit Court by counsel for some heirs protesting Peter Afterman's conflict of interest in helping Tommie Rae siphon off royalties, but Bauknight continued to pay him tens of thousands of dollars each month from Brown's Estate/2000 Trust.

365. The Court overlooked or misapprehended that Bauknight was nominated as PR/Trustee by 3 Levenson clients from among those those announcing their intention to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement deal, and was interviewed for the PR/Trustee position with no person other then the Circuit Court allowed to ask questions.

366. The Court overlooked or misapprehended that on or about October 12, 2013, the Circuit Court convened a *Wilson v. Dallas* remand hearing for Buchanan, from which Plaintiff was excluded under the June 13 Administrative Orders, in which the Circuit Court, based on the Court's then-recollection, praised the work of Buchanan, all of which was joint with Plaintiff, based on the Court's personal recollection; "double approved" the full SA fees and approximately $550,000 of partial PR/Trustee commissions which had been paid Buchanan; and even left open the door for Buchanan's re-entry into Richland 4900.

367. The Court overlooked or misapprehended that Defendants stated that the payments were a settlement in Richland 4900 but presented no evidence that the Legacy Trust, the AG or any other Richland 4900 Plaintiff had paid Buchanan, and the Court directed counsel for Defendants to provide an order setting out its ruling, with input from Buchanan, but no Order was ever issued.

368. The Court overlooked or misapprehended that the only fee reported by Defendant in response to the *Wilson v. Dallas* mandate was the $500,000 paid to Buchanan, even though Bauknight had engaged more than a dozen lawyers on a "deferred pay" basis , as well as many experts, and by 2018 admitted to a Federal Court that tens of millions of dollars had been spent from funds Brown gave the "I Feel Good Charity since 2007.

369. The Court overlooked or misapprehended that the Circuit Court's memory about Buchanan's fine service, all of which was joint with Plaintiff, and Defendants' failure to claim any of the issues he paid experts to raised three years later suggests that Bauknight continues to apply millions of dollars of James Brown's money to carry out Tommie Rae's announced intention on May 29, 2013 to disregard *Wilson v. Dallas* and retake a quarter of the "I Feel Good" Charity even though she has relinquished her entire interest in the Estate and all but 35% of her Termination Rights, which will never apply to more than half of Brown's copyrights.

370. The Court overlooked or misapprehended that it would be manifestly unjust to allow the same Circuit Court to approve all of Buchanan's and Pope's service in 2008 and 2009; in 2013 vigorously approved Buchanan's 2009 joint claim with Plaintiff under the 2009 claim and based on a 2007 contract approved in 2008, then allow millions of

dollars to be spent on experts hired in 2016 and later to advance the position of the James Brown Legacy Trust and the announced intention to disregard the *Wilson v. Dallas* decision.

371. The Court overlooked or misapprehended that while Plaintiff has no interest in the outcome of the current James Brown litigation among others, she has a distinct interest in establishing that her service was proper and that preventing the AG from giving away more than half of a charity she and Buchanan had a duty to defend, including $1.5 - $2 million of income a year based on lack of understanding or Misunderstanding of Termination Rights.

372. The Court overlooked or misapprehended that Defendants are bound as to the contract portion of Plaintiff's claim by the ruling of the Circuit Court in the Buchanan remand; by the unappealed Order approving her service; and by failure of the AG and Interested Parties to protest those orders.

373. The Court overlooked or misapprehended that the delay in the resolution of Plaintiff's claim is the direct result of Defendants filing Richland 4900; claiming for 4 years that there were no matters pending; securing an Order from the Circuit Court preventing payments; urging the Aiken Circuit Court not to conduct hearings; spending million of dollars for the James Brown Legacy Trust while not addressing Plaintiff's and Buchanan's claims; and the unnecessary Disallowance served on the day that Tommie Rae's counsel and Levenson announced their intention to disregard the *Wilson v. Dallas* ruling, when a *Wilson v. Dallas* remand hearing was adequate.

374. The Court overlooked or misapprehended that the May 29, 2013 announced intention of Tommie Rae and the Levenson clients to Judge Early of their intention to disregard Wilson v. Dallas and reinstate the AG's 2008 settlement for the benefit of the James Brown Legacy Trust, resulted in Bauknight's using James Brown's funds for the benefit of Tommie Rae and the Richland 4900 Plaintiffs, causing repeated delays.

375. The Court overlooked or misapprehended that Defendants' efforts to delay and combine this case with Richland 4900 , which has 17 Plaintiffs and has claimed there will be 91 witnesses, caused substantial delay.

The AG's August 2008 Settlement with Venisha Brown Illustrates the Damage Caused by the Failure of the AG to Complete Heirs Determination or Understand Termination Rights

376. The Court overlooked or misapprehended that Venisha Brown's actions and death in September 2018 illustrate the damage caused by the AG's giving her 5% of James Brown's assets on August 10, 2008 and Venisha's putting her Termination Rights and Household Goods in the Legacy Trust:

Sept. 2008 – AG gives Venisha 5% of James Brown's 2000 Trust (900 copyrights; Image & likeness; TPP; claims against GT, etc.)
B+P do not oppose; Venisha puts Termination Rights proceeds in Legacy Trust
Legacy Trust gets nothing from Venisha

Sept. 2009 – Venisha gets equity increase, but no cash because TIAA debt being paid.
Legacy Trust gets nothing from Venisha

Sept. 2010 – Sept. 2011
Venisha gets increased equity but no cash because TIAA debt being paid off.
Legacy Trust gets nothing from Venisha

Sept. 2012 - Venisha gets $150,000 or more & owns 5% of James Brown assets
$2.4 million judgment against Venisha threatens Legacy Trust.
Legacy Trust gets nothing from Venisha

Sept. 2013 – Venisha gets $150,000 or more & owns 5% of James Brown assets
$2.4 million judgment against Venisha threatens Legacy Trust.
Legacy Trust gets nothing from Venisha

Sept. 2014 – Venisha gets $150,000 or more & owns 5% of James Brown assets; same as 2013

Sept. 2015 – Venisha gets $150,000 or more & owns 5% of James Brown assets –
Venisha & others put $70,000 each Termination Rights proceeds from 5 copyrights in Legacy Trust.
Tommie Rae 2015 election in Legacy Trust, Temination Rights U.S. royalties to 5 of 900 copyrights)

Sept. 2016 - Venisha gets $150,000 or more & owns 5% of
Venisha files Termination Notice to 246 songs U.S. royalties Only; payable from 2018 – 2026. Gets vested interest in about 1/20 of U.S. royalties which will go into Legacy Trust
Legacy Trust gets nothing from Venisha

Sept. 2017 - Venisha gets $150,000 or more & owns 5% of James Brown assets – same as 2013, 2014

Sept. 2018 - Venisha gets $150,000 then dies owning 5% of

Legacy Trust which has no TIAA debt; has $8 million in bank and owns 895 copyrights with 246 subject to losing U.S. royalties (about half of royalties) between 2018 and 2026; Image and likeness.

377. The Court overlooked or misapprehended that in 2011 Bauknight told the IRS and Supreme Court that the Personal and Household effects Venisha put in the Legacy Trust had a value of zero, and in 2018 Venisha's sister, Deanna Thomas, through counsel, told the Court that Venisha's Estate had little or no value, even though Venisha had a VESTED interest in the U.S. royalties and Termination Rights proceeds to 246 copyrights between now and 2026 which she put in the Legacy Trust in 2008.

378. The Court overlooked or misapprehended that Daryl (whose status as an heir under the Copyright Act is being challenged) demonstrates that what Venisha and her Estate would get from the Legacy Trust is multiples more than what the Legacy Trust gets from Venisha, and these same losses apply to Daryl and Larry (whose status as an heir under the Copyright Act is being challenged).

379. The Court overlooked or misapprehended that giving away between $15 million and $20 million of income and 50% of the assets over 10 years in exchange for Termination Rights proceeds of Tommie Rae and 6 others when 2 might not be children; Tommie Rae's spousal status could be challenged by excluded heirs based on "stipulation" not being binding; and Termination Rights of at least 6 outsiders will dilute Termination Rights proceeds.

380. The Court overlooked or misapprehended that Roger Miller testified that settlements are good, as Buchanan and Pope believed, but did not even know who Brown's heirs are, and was NOT speaking of a situation where, as here, the heirs have not even been determined and the persons who negotiated the settlement for the Charity had no knowledge or expertise and relied on parties directly adverse to the Charity to negotiate for the Charity.

The $2 Million Cost of the AG, Tommie Rae, Bauknight and Sojourner Not Requiring James B. take a $300 Paid-for DNA Test

381. The Court overlooked or misapprehended that the AG declared James B. an heir of James Brown even though he had refused a $300 paid-for DNA testing and is the only claimed child born after Brown's vasectomy in the 1980s; refused DNA testing in 2004 when James Brown demanded it.

382. The Court overlooked or misapprehended that Levenson had James Brown's medical records, but was seeking to disregard *Wilson v. Dallas* and reinstate the AG's 2008 settlement as announced to Judge Early in open Court on May 29, 2013.

383. The Court overlooked or misapprehended that James B's lawyer for his GAL Shahid failed to disclose that he was under contract with Tommie Rae, but was Also awarded $700,000.00 in legal and GAL fees in 2016 despite the refusal of James B. to take paid-for test 8 years earlier.

384. The Court overlooked or misapprehended that Bauknight paid SA/ST Sojourner $1.4 Million NOT to protect the copyrights in the James B. and Tommie Rae proceedings, but wanted high costs to make the "settlement" appear reasonable to the Court, and Sojourner claimed protecting the copyrights was beyond the scope of his representation.

385. The Court overlooked or misapprehended that a 2015 Order filed in the Aiken Court in 2018 found James B. to be child because Sojourner had not presented evidence of vasectomy.

Gonzalez was available to Work on Warner-Chappell and Other Matters, but Stopped by the Attorney General's Direct and Damaging Interference

386. The Court overlooked or misapprehended that Gonzalez was an entertainment lawyer of extraordinary ability, a former Warner Music executive, and now has returned to CA as the head of Warner Music Legal; worked well, efficiently and diligently for Buchanan and Pope; agreed to serve as a Successor Trustee, and was named with Ronald Stanley, Esq.; billed modestly, and was twice not paid by Bauknight, in 2009 and again in 2011 when Bauknight secured the Gonzalez file; did not pay Gonzalez, even though requested; and directed Gonzalez to retrieve from Buchanan and Pope any evidence that the file had been requested, but that both Buchanan and Pope refused to destroy this evidence because they had been sued; the AG had just claimed the at-death value of the music empire was $4.7 million; and the Gonzalez file was valuable evidence that there was no basis for the $4.7 million value.

387. The Court overlooked or misapprehended that the AG's interference with all normal operations of the music empire, which his deposition shows he still knows nothing about, began November 21, 2007 and continued until May 26, 2009.

The Waste of $10+ Million to "Prove" That James Brown's Music Empire Was Worth Less than $4.7 Million and Make Tommie Rae Brown's Spouse

388. The Court overlooked or misapprehended that James Brown brought in $9.4 million in 2001; $5.2 million in 2002; $13 million in 2003; $10.4 Million in 2004; $8.3 million in 2005; $9 Million in 2006; and that Buchanan and Pope averaged more than $5 million per year in the 18 months that they served as PR/Trustees, and that if Bauknight had brought in even $4 Million per year for the next 9 years, by the time of his trial testimony he should have accounted for, or been able to account for, $36 Million dollars, but has never done so; has not even filed an accounting since 2016; yet he testified in this

claims case that his service during his void appointment was superior to that of Buchanan and Pope; they were not entitled to any commission; the $4.7 million value was correct and that he and Peter Afterman had increased the value of the Estate/2000 Trust, but he did not know the size of the Estate/2000 Trust for any period since death, or now, except that there is $8 million after a settlement last year of Buchanan/Pope's suit against GT and others, made more difficult for Few and Gilreath by Afterman's "expert" sampling testimony which had to be withdrawn.

Unnecessary Delays Caused by Defendants in Resolving Plaintiff's Claim

389. The Court overlooked or misapprehended that in 2012 Plaintiff offered to let the AG, Bauknight "on behalf of" the AG and Defendants out of Richland 4900, but they refused, and have delayed the resolution of Richland 4900 since that time, and the resolution of this case – for the benefit of Richland 4900 – since 2013.

390. The Court overlooked or misapprehended that Summary judgment as to the $1.47 million should have been granted in BOTH summary judgment motions, as the liquidated amount, with interest and costs, including attorneys' fees, as set out in the joint claim.

Conduct of the Trial

391. The Court overlooked or misapprehended that because Plaintiff was allowed to testify fully about the actions of Buchanan, Pope and others on direct, there was no need on direct to present the evidence of Governor McMaster, AG Jones, AG Jowers, Solicitor General Cook, former Chief Deputy John McIntosh, James Hardin III, Wallace Lightsey, Esq., Thomas Pope III, Rita Caughman, Esq, David Sojourner, Esq., Buchanan or others to corroborate her still-largely-undisputed testimony, which was recounted and supported by contemporaneous time records and a showing of the modest legal and other fees that are contained in the Claim and supporting documents.

392. Only when Bauknight -- speaking for Defendants while simultaneously serving the James Brown Legacy Trust and its beneficiaries: Tommie Rae, the AG's (New) Charity, Deanna, Yamma, Daryl, Terry, Larry and the Estate of Venisha – asserted unnecessary false claims about Buchanan and Pope; Louis Levenson, Esq.,a lawyer for Will/Trust contestants with little memory appeared as a fact witness, and seven experts hired in 2016 to help Tommie Rae and Bauknight in the unauthorized 4900 Case with virtually no understanding of the role of the AG in the disruption and dismembering of the 2000 Trust, and not even knowing who Brown's heirs were, or reviewing his estate plan; Fractional Share formula; or Bauknight's tax returns, testified that rebuttal testimony became necessary.

The Rebuttal Witnesses Confirm the Extraordinary Work of Buchanan& Pope From August 2008 Until May 2013 During the Void Bauknight Appointment

393. The Court overlooked or misapprehended that all of the witnesses presented on

rebuttal, including those legally "hostile" confirm that Buchanan's and Pope's service as PR/Trustees and in the Wilson v. Dallas appeal; their modest legal fees, including *pro bono publico* lead counsel; their own tireless contributions of time and money; and the resulting saving of the 2000 Trust from a settlement which not only dismembered the Estate Plan but gutted the plan to protect the "I Feel Good"charity's 900 copyrights was extraordinary.

The $84 Million Value Was Correct & $4.7 Million Incorrect & Damaging

394. The Court overlooked or misapprehended that the value of $24 million or less was not a professional appraisal, but from an August 2009 email of Tommie Rae's lawyer who also proposed to value the Publicity Rights at zero, or near zero, which happened.

395. The Court overlooked or misapprehended that in the midst of the devaluation Defendants sued Buchanan in Richland 4900 for not accepting a $100 million offer and are estopped to deny that there was a $100 million offer within a year of Brown's death.

396. The Court overlooked or misapprehended that the $42 million appraisal of 800 copyrights by RBS in 2006 supports the $99 million value.

397. The Court overlooked or misapprehended that AG Jones, led by Tommie Rae, and without properly reading the Harlan Howard case, misused it to damage Buchanan and Pope where, after Howard's death in 2002 the IRS had accepted a non-professional valuation of his copyrights by Hoawrd's 5th wife and CPA which was nearly identical to the valuation formula presented to Judge Early by Buchanan and Pope as SAs on November 14 and 15, 2007, for the estate tax valuation, and produced a result for James Brown's 900 copyrights which was in line with a professional appraisal of 800 of the copyrights at $42 million or more completed by the Royal Bank of Scotland (RBS) in the spring of 2006, the year of Brown's death.

398. The Court overlooked or misapprehended that, instead of engaging a Termination Rights expert such as Roger Miller, who was modestly priced, Bauknight hired Peter Afterman, who was found by the sister of Tommie Rae's lawyer, and who would position himself to represent Tommie Rae and her son, James B., beginning in 2013, in their attempt to siphon off royalties belonging to the "I Feel Good" Trust.

399. The Court overlooked or misapprehended that Peter Afterman had no qualifications for the valuation job, especially the valuation of Termination Rights, and the resulting $4.7 million claimed value, as reported to the Supreme Court in 2011 and explained by James B. to the Supreme Court in his Petition for Rehearing in *Wilson v. Dallas* March 2013, valued James Brown's worldwide music empire, Schedule F on the Estate Tax Return, as follows:

900 Copyrights	$23.7 million
Image and Likeness	ZERO or near zero
Claims against GT, Etc.	ZERO, or near zero

Iconic Tangible Personal Property	ZERO, or near zero
Sampling Revenues	ZERO, or near zero of the s and income of the
LESS: Claimed Value of TIAA Debt	$19 million (approx. $3 million overstmt)
CLAIMED VALUE OF MUSIC EMPIRE	$4.7 million

400. The Court overlooked or misapprehended that while valuing the entire music empire at $4.7 million, Peter Afterman was simultaneously claiming to be an expert on "sampling" valuation in Defendants' case against Greenberg Traurig (GT) and Joel Katz, Esq.; valued the uncollected sampling revenues at more than $10 million, which he did not add to the $4.7 million; but was withdrawn as an "expert" after challenges.

401. The Court overlooked or misapprehended that the PBW valuation was indefensible, and that nobody testified to support or defend it for that reason.

The State/Attorney General's Unauthorized Suit Against Buchanan and Pope

402. The Court overlooked or misapprehended that Richland 4900 was unconstitutional, unauthorized and it was a breach of duty for Buaknight to claim to act on behalf of the AG.

403. The Court overlooked or misapprehended that Governor McMaster, Solicitor General Cook, former Chief Deputy John McIntosh cofirm that there was no legal authorization for Bauknight to act as Pr/Trustee.

Forlando's Alliance With the Legacy Trust After Forlando Given Terry's ROFR

404. The Court overlooked or misapprehended that the planting of the Grammy© was intended by Forlando and Bell to defaud the Court, and did so.

405. The Court overlooked or misapprehended Forlando and Bell conducted a plan for the entire period from January 2008 until today to deceive the Court to aid in the coverup of Cannon's takings, Dallas' improper acts and his own improper acts such as the false grievances against Levenson and other acts within the record.

Bauknight's FOIA Intervention and the Legacy Trust's Claims Not to Exist

406. The Court overlooked or misapprehended The FOIA intervention and evasion which began in 2011 and continues today has benefitted the James Brown Legacy Trust and caused damage.

The AG's Felony Claims Against Buchanan and Pope

407. The Court overlooked or misapprehended The AG breached his fiduciary duty by not reviewing the Bauknight/Afterman $79 million devaluation of the James Brown music empire, which is entirely unsupported by the facts, and by then using the $4.7

million to falsely accuse Buchanan and Pope of a federal felony.

408. The Court overlooked or misapprehended Bauknight, claiming to act on behalf of the Attorney General also breached his fiduciary duty, when he had actual knowledge that the TPP could not be worth zero, or near zero, and that the TIAA debt was overstated within the appraisal.

Buchanan and Pope Did Not Need an Expert to Understand the TIAA Debt

409. The Court overlooked or misapprehended Buchanan and Pope properly managed the TIAA loan package, and were both lawyers capable of understanding it, and worked with TIAA to prevent an event of default over the Cannon $900,000 theft of 2006, and to secure a loan to begin investigation of recovery from Cannon,

410. The Court overlooked or misapprehended no income taxes were due that were appropriate to borrow from the TIAA loan until the AG shifted nearly $2 million of income to non-charities, nor were any estate taxes due from the TIAA asset until the AG's settlement was approved.

The Experts Hired in 2016 Lacked Expertise or Facts to Address Issues From 2009

411. The Court overlooked or misapprehended that none of the experts had the experience of the attempted State/Attorney General takeover of the operation of a Trust/Estate; unauthorized litigation and other fact-specific issues.

412. The Court overlooked or misapprehended the total return for the 18 months of service, in excess of $7.8 million was extraordinary in light of the interference, and the only two clearance pointed out as missed 9 years later were in periods where either the Court of Appeals or the Circuit Court had issued a stay or directive that Left Buchanan and Pope temporarily without clear authority to act.

413. The Court overlooked or misapprehended that neither accountant was shown the estate tax return and Provence lacked the skills to address the complex tax and accounting problems

For the foregoing reasons, Plaintiff respectfully requests that this Court alter, amend, reconsider and/or vacate its January 16, 2019 Order, and enter judgment in Plaintiff's favor on her claims herein as set out in her proposed order submitted on November 28, 2018. This motion is based on the entire record herein, including any memoranda and/or affidavit(s) submitted herein prior to the Court's ruling on this matter, as well as applicable case law an Rules,

especially Rule 59(e).

Respectfully submitted,

s/ Walter H. Bundy
Walter H. Bundy, Esquire
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, South Carolina 29485
(843) 212-0525 an
walter@bundymcdonald.com

s/ Adam T. Silvernail
Law Office of Adam T. Silvernail, LLC
1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202-7995
(803) 779-1770
adam@silvernaillawfirm.com

Attorneys for Plaintiff

January 22, 2019

ELECTRONICALLY FILED - 2021 Jul 27 2:12 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

EXHIBIT F

RECEIVED
JUL - 1 2013
Referred to
Answered

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803)-413-0753

ELECTRONICALLY FILED - 2013 JUN 27 2:12 PM - RICHLAND COMMON PLEAS - CASE#2010CP4005983

June 26, 2013

The Honorable Alan Wilson
Attorney General for the State of South Carolina
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549

Re: The James Brown "I Feel Good" Trust"

Dear Attorney General Wilson:

In 1988 a "Free James Brown" movement erupted after entertainer and South Carolina resident James Brown was sentenced to 6 years in jail. Upon his release Brown resurrected and continued his brilliant 7-decade career until his death in 2006.

Twenty Five years later a movement to free Brown's "I Feel Good" Trust is needed. Despite two ironclad estate plans, Brown's $100 Million "I Feel Good" private foundation has for 6 years been attacked – then controlled by -- those who agree the "I Feel Good" Trust is just what James Brown wanted, but still seek to dismantle it.

As former Attorney General McMaster and the six of his 10 children Mr. Brown acknowledged in the Will told the Richland County Court in 2010:

> ...the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown. [Mem. Opp. P.2, 8/27/10]

The historic May 8 decision of our South Carolina Supreme Court appeared to save the "I Feel Good" Foundation, restoring the $50 Million these challengers proposed to take from scholarships for needy students.

Events since your office withdrew from the Aiken County cases on May 29 suggest the "I Feel Good" Trust is in jeopardy again.

Won't you lead the movement to save the "I Feel Good Trust?"

Bob: Saving the "I Feel Good" Trust is now the "slam dunk" if Mr. Baukknight would stop working for Tommie Rae her child + against the "I Feel Good" Trust. Can't AG Wilson do something to stop this before it becomes a decades-long blight on our State and our Profession?
Adele Pope

++

The quickest path to assuring that "I Feel Good" Trust's entire $100 Million will be used for needy students is to support Formal Probate of Brown's 1999 Backup Will.

The "will and trust contest" should never have been made to appear to be a contest between Brown's noble 2000 Estate Plan and some of his claimed heirs. Unless simply dismissed, the contest should have been between the two valid Wills. Thanks to *Wilson v. Dallas*, the contest should be dismissed, or the questions presented be:

1. Should the $100 Million "I Feel Good" Trust be dedicated solely to scholarships for needy students studying in S.C. and Georgia as set out in the 2000 Will and 2000 Irrevocable Trust?

OR

2. Should the $100 Million "I Feel Good" Trust be dedicated solely to scholarships for needy students at Voorhees, U.S.C. Aiken and U.S.C. Salkehatchie as set out in the 1999 Will and now irrevocable 1999 Trust?

Wilson v. Dallas added the following important question to this dialog:

What 3 persons are capable of dedicating full time – sharing annually ½% of the value of the "I Feel Good" Foundation once saved (as approved by the IRS) – to

1. Finish using the $285,000 Education Funds for Brown's 7 designated Grandchildren – many of whom have suffered since 2006;

2. Manage, with industry and other advisors, Brown's Royalties to more than 800 songs and Publicity Rights of equal value;

3. Vigorously Defend the "I Feel Good" Trust against all challenges; and

4. Deal fairly, but at arms' length, with Brown's 10 Heirs-at-death on Copyright matters?

As you know, if formal probate of the 1999 Backup Will is not sought within 10 years of Brown's death, it cannot be admitted. And almost 7 years have already passed.

I urge you to encourage and support this effort.

Thank you for your consideration.

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Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

RECEIVED
SEP - 9 2013
S. Jones
Referred to Bob Cook
A. Whitsett
Answered T. Navarro
J. McIntosh

September 5, 2013

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

CERTIFIED MAIL

Re: Request Under South Carolina Freedom of Information Act ("FOIA")
For Documents Requested in 2011:
(1) Wingate Litigation Retention Agreement
(2) Less-than $4.7 Million Appraisal of James Brown Music Empire

And New FOIA Request:
(1) Documents Related to Decision to Sue Buchanan and Pope (2010 and 2013)

Dear Attorney General Wilson:

It is my understanding that yesterday Russell Bauknight, who remains today of record as acting "on behalf of the Attorney General of South Carolina" in at least one case, repeated the allegation that the at-death value of Mr. Brown's music empire was less than $4.7 million. Mr. Bauknight apparently went on to assert that this value, based on the "appraisal" he obtained, resulted in a refund of $10,000 he claims Bob Buchanan and I improperly paid to the IRS with the Estate Tax Return.

We did not have the opportunity to challenge Mr. Bauknight's statements at the hearing.

Bob and I, through CPA Williams Sellars, filed a proper Estate Tax Return for the Estate of James Brown in September 2009. We properly valued Brown's music empire at approximately $84 million. We properly claimed an Estate Tax Charitable Deduction of about $82 million. That is what Mr. Brown gave to The James Brown "I Feel Good" Foundation under his valid Will and 2000 Trust.

As you know, the Attorney General used the Bauknight "appraisal" for almost two years to falsely accuse Bob and me of the federal felony of intentionally overstating Mr. Brown's music empire to the IRS by $79 million for the improper purpose of obtaining a $2.1 million commission for him and a $2.8 million commission for me. Mr. Bauknight continues to make this false claim.

In March 2013 the Attorney General told the South Carolina Supreme Court in *Wilson v. Dallas* that you expected to resolve the FOIA matters within a few months. Yet FOIA requests pending since 2011 still include: the "appraisal" and related documents, and the Wingate Litigation Retention Agreement.

Just days after the May 8 decision Mr. Wingate and Mr. Bauknight asked that the FOIA matters be delayed for what may be years.

The "appraisal" and the Wingate Agreement are also of immediate interest because David Bell, Esquire, is seeking to re-enter *pro hac vice* as co-counsel for Forlando Brown in Federal Case No.3:08-cv-00014-WOB.

Four years after bringing suit on January 2, 2008, Forlando dropped his frivolous claims. But the counterclaims remain and are approaching trial.

Mr. Bell has represented Forlando and his father Terry Brown while the two took opposite positions on material James Brown issues, namely:

Terry says Mr. Bauknight's less-than $4.7 million value is correct. Forlando says our $84 million value was conservative. [See My Ltr to AG Wilson, 5/11/12.]

Terry says Tommie Rae was Brown's spouse; Forlando says not.

Terry is trying to intervene in a FOIA Suit. Forlando is not.

AG McMaster and Terry's 2011 amendment of the Legacy Trust and assignment of Terry's rights in the Estate to Forlando – who values the assets at 20 times the value placed by Terry – demonstrate the need for public review of the "appraisal." [Exhibit .A]

Forlando asserts publicly the less-than $4.7 million value is "bogus." I believe the AG's release of the "appraisal" and the Wingate Agreement – will help clear up who is right as between Terry and Forlando. I believe it will also begin to bring the false claims against Bob and me to an end.

New FOIA Request

In your March 2013 Petition for Rehearing in *Wilson v. Dallas,* you advised the Supreme Court that former AG McMaster sued Bob and me (in May 2010) on the last day before the Statute of Limitations because he was advised that he would breach his fiduciary duty as AG if he did not (the "Wingate Suit").

Please provide me under the S.C. FOIA all documents, including but not limited to emails, telephone record notes, &/or other electronic communications on which the

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Attorney General based this opinion as stated to the Supreme Court in March 2013.

Please also provide me with documents (as defined) which identify communications in which the need and/or decision to bring the Wingate Suit is mentioned, invited, encouraged and/or advised. This would, of course,

include all documents identifying the parties who gave advice to AG McMaster to sue, as stated to the Supreme Court in March 2013, and the content of such advice.

I stand ready to pay the per-page cost of these documents, but request that they be provided without charge, as they are in the public interest.

Thank you for your consideration.

Sincerely,

Adele Pope

Adele J. Pope

AJP/ja

Enclosure: Emails re: Terry's January 2011 Assignment to Forlando

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Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

ELECTRONICALLY FILED - 2024 Jul 22 2:12 PM - RICHLAND - COMMON PLEAS - CASE#2010CP400900

September 16, 2013

RECEIVED
SEP 17 2013
McIntosh, Jones, Cook (Ann)
Referred to
Answered
Dan Hare

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Re:

Request for Meeting Re: Bauknight Claim that AG Wilson never saw Appraisal on which False Felony Claim Based.

Mr. Bauknight's Continuing Interference with FOIA Rights

Dear Attorney General Wilson:

I ask to meet with you at your earliest convenience to deal with actions of Russell Bauknight taken within the last 30 days to perpetuate the false felony claim lodged against Robert Buchanan, Jr. and me by your office between 2011 and 2013.

Mr. Bauknight still speaks of record "on behalf of" the Attorney General of South Carolina in Richland County Case 2010-CP-40-4900 (the "Wingate Case"). Until that is corrected, the State/AG appears to bolster Mr. Bauknight's actions.

Your office assured the S.C. Supreme Court in March 2013 that the FOIA cases would proceed expeditiously.

Instead, on May 10 Mr. Bauknight told the Court in the Wingate Suit that the Supreme Court (by omitting the FOIA footnote) has no further interest in FOIA compliance. He asked Jg. Manning to delay the FOIA cases for what may be years.

Then on September 11, 2013 Mr. Bauknight asked the Federal Court to impose a confidentiality Order on two public documents requested under FOIA since 2011:

a. The Wingate Litigation Retention Agreement; and

b. The appraisal claiming the at-death value of James Brown's worldwide music empire was less than $4.7 million.

In an August 20 federal deposition Mr. Bauknight claimed – for the first time – that your office never saw the less-than $4.7 million appraisal which served as the basis of the felony claim lodged against Mr. Buchanan and me for two years.

Mr. Bauknight clings to the notion that James Brown's worldwide music empire was worth less-than $4.7 million at death – not the correct value of approximately $84 Million. He clings to the notion that Ms. Hynie and her child control the Termination Rights. He clings to the false felony claims. His August 20 deposition says, in part:

> That's poppycock. Pure speculation from your client [Pope]. Fantasy...I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that $50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take $5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value. . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T....
>
> ...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent....Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client.

These are strong words for one speaking "on behalf of" the State/AG. It is doubly troubling when the less-than $4.7 million appraisal has been under "lock and key" for three years despite the requirement of the S.C. Probate Code to file it.

Mr. Bauknight's claims about Ms. Hynie's control of the Termination Rights has been shown to be wrong. You have now asked to be dropped from the lawsuit the State/AG filed against us in 2010 based on somebody's (false) claim that AG McMaster would breach his fiduciary duty if he did not sue us on May 19, 2010.

It is time to undo the damage done by these false felony claims, and the above two public documents are one place to start.

Since October 2012 we have discussed the damage caused by the State/AG's adoption of Mr. Bauknight's false claim that Bob and I intentionally overstated the value of Brown's assets by $79 million on the Estate Tax Return for the improper purpose of securing a $5 million commission. Section 7206 of the IRC says:

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I.R.C. § 7206 - FRAUD AND FALSE STATEMENTS

Any person who -

(1) DECLARATION UNDER PENALTIES OF PERJURY – Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that is made under penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

...

shall be guilty of a felony and, upon, conviction thereof, shall be fined ... , or imprisoned not more than 3 years, or both, together with the costs of prosecution. [Emphasis supplied.]

If it is true that you have not looked at the appraisal, and that you relied on Mr. Bauknight's guidance, I ask that we look at it together and assess whether there is an easy way to set these matters straight.

I ask that we meet at your earliest convenience to discuss this serious matter. I am sending this letter to my counsel Adam Silvernail, as I would like for him to join us.

We are available almost any morning at your convenience, and on most Tuesday and Thursday afternoons with a little notice.

Thank you in advance for the opportunity to speak with you.

Sincerely,

Adele J. Pope

AJP/ja
cc: Adam Silvernail, Esq.
Robert Buchanan, Jr., Esq.

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Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

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RECEIVED
OCT 21 2013
Referred to McIntosh, S. Jones, Ca
Answered (JM)

October 17, 2013

The Honorable Alan Wilson
South Carolina Attorney General
John W. McIntosh, Esquire
Robert D. Cook, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

Re: Request for Meeting Re: James Brown "I Feel Good" Trust

1. $500,000.00 payment to Kenneth Wingate, Esq. in 2012
2. Toberoff Letter of September 23, 2013
3. Bauknight less-than $4.7 million appraisal

Dear Attorney General Wilson, John, Bob:

I request that you revisit John's October 1 statement that "[i]t appears a meeting will ... serve no purpose."

Attorney General Wilson is in the position to help bring the troublesome tenure of Russell Bauknight as fiduciary under the Will of James Brown and for The James Brown "I Feel Good" Trust to a smooth ending.

Attorney General Wilson can and should ask for review under *Wilson v. Dallas*, of Five Hundred Thousand ($500,000.00) Dollars Mr. Bauknight paid from the Estate to Sweeney, Wingate and Barrow, PC on November 6, 2012.

I learned of the Wingate payment yesterday. Mr. Bauknight noted it on a sworn accounting for the year 2012 dated May 22, 2013. The accounting was not filed until October 8, 2013.

The Wingate firm was paid $500,000.00 for suing me – purportedly on behalf of the State/AG, the Estate and 12+ others, including Tommie Rae Hynie.

Since the Wingate Suit was filed in 2010, Mr. Bauknight and the Wingate Firm: (1) Failed to timely answer my counterclaims (Wingate) & are seeking relief from default; (2) have refused to produce any discovery documents;(3) have bitterly fought the deposition of Ms. Hynie; and (4) have bitterly supported 5-year-old Gag Orders the voiding of which (Ms. Hynie's counsel confirms) will irreparably harm her claims.

Ms. Hynie's interests are in direct conflict with the "I Feel Good" Trust. Yet Mr. Bauknight continues to be her co-plaintiff and to act on her behalf in the Wingate Suit.

On May 22, the day the 2012 accounting was prepared and signed, it was clear that the Wingate payment was what the S.C. Supreme Court was asking Judge Early to review in the *Wilson v. Dallas* mandate.

Yet the Wingate payment was not revealed for nearly 5 months while Mr. Bauknight sought and obtained fiduciary appointments without review of his actions.

TODAY Mr. Bauknight and Mr. Wingate not only represent Ms. Hynie, Terry/Forlando Brown and others in the Wingate Suit (4900). They also represent them in three FOIA suits in which they are trying to intervene and prevent release of:

1. The Litigation Retention Agreement for the Wingate Suit;

2. The Legacy Trust, with amendments, created by AG McMaster (and amended by him on January 7, 2011 at the time of Terry's transfer of his interest in Brown's Estate to Forlando);

3. The less-than $4.7 million appraisal that should have been filed in the Probate Court in 2010.

4. The State's copy of the widely-disseminated, so-called "Hynie 'diary.'"

Mr. Bauknight's 2012 accounting also failed to state or value the assets either at the beginning or end of 2012 – putting all together at $1. In short, he did not account.

Mr. Toberoff's letter of September 23 correctly outlines that Ms. Hynie was not James Brown's spouse. And she does not hold any Copyright Act Termination rights.

Fair, arm's length negotiations between the Estate/2000 Trust and the real heirs of James Brown – as and when such negotiations are in the best interest of the "I Feel Good" Trust – will best serve James Brown's noble gift to needy students.

Won't you please allow me to meet with you to outline how this procedure should work. Attorney General Wilson's guidance could save the "I Feel Good" Trust and set it quickly on a path to pay millions in scholarships for needy students each year.

Thank you for your consideration.

Sincerely,

Adele Pope

Adele J. Pope

Enclosure: Ltr. to Mr. Bauknight (10/16/23)

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Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

September 26, 2014

Henry Dargan McMaster, Esquire
Post Office Box 11063
Columbia, South Carolina 29211

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Re: Saving the James Brown "I Feel Good" Trust

Dear Henry and Attorney General Wilson:

I ask you both to work together to save the "I Feel Good" Foundation by ending the needless litigation in the James Brown cases by Christmas 2014 – 8 years after Brown's death.

With your combined strength it could be done in three shorts months, or less, in a way which will allow all who believed their actions helped protect Brown's "I Feel Good" Foundation dignity. It could, and should, also provide those who knew they were working to dismember the "I Feel Good" Trust a measure of dignity if they cooperate.

To save the "I Feel Good" Trust in this short time will require the prestige of the Office of the Attorney General and a team who will:

1. Face Facts

2. Reject all Vendettas. Focus on saving the "I Feel Good" Foundation and its Copyrights to 800+ songs for scholarships for needy students.

3. Develop a Plan that rewards everyone who cooperates with dignity – even if not the dollars they had hoped for.

4. Then ask the Supreme Court to take S.C. Court of Appeals Cases 2013-001649 and 2014-000250; grant Certiorari in Case 2014-001279; and approve the proposal.

5. Return to Circuit Courts to finish up; and the accept first "I Feel Good"

Trust Scholarship applications to go to needy students in late 2015.

Attached as Exhibit A is one possible plan. It is intended only as a suggestion.

With a little thought, this or a similar plan could end three lawsuits (2 FOIA) and four pending appeals within weeks.

More important, Brown's 7designated grandchildren will get the education funds they should have gotten by the end of 2008. Attorneys wanting $20 million in legal fees from the "I Feel Good" Foundation for very weak claims will have to look elsewhere. The "I Feel Good" Trust and royalties from its Copyrights to 800+ songs will be secured for scholarships for needy students for decades. And James Brown's example of hard work; respect for education; and generosity will enrich our State for decades.

If this is to be done quickly, the team forging the proposal for the Supreme Court to consider should be somewhat fluid, and should include:

A. Only those who have, by *pro bono publico* commitment, fiduciary office, public office or similar situation, committed to save the "I Feel Good" Foundation and see it enforced according to the terms of Brown's documents.

B. Only those who can meet two hours a week for 5 weeks. No delays!

C. Only those who support, and have withdrawn all challenges to, the Will and 2000 Trust.

D. Only presumed heirs (marriage or DNA-proven) who qualify under C, above, and claimed heirs awaiting DNA testing.

E. No more than 1 lawyer per person, fewer if possible.

F. A commitment to meet for 2 hours weekly in Columbia for five weeks. [I offer to do the clerical work in between.]

Within 5 weeks there could be resolution of my two FOIA suits, the Wingate Suit; and four appeals related to what has happened since *Wilson v. Dallas*. It could also get the Estate/2000 Trust 85% of the way through the heirs cases; Will/Trust suits; claims; and the Federal Copyright Act termination rights work to save the Royalties.

A perfect first meeting would include: 1. Henry (or John Rainey for Henry); 2. AG

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Wilson, Bob Cook or Mary Frances Jowers; 3. Dave Sojourner and Earl Ellis; 4. Russell and Tanya Gee or Billy Newsome; and me[1].

Do not believe the myth that I want to meddle and fight forever. Bob Buchanan and I have wished a hundred times that Judge Early had not elected in November 2007 to "elevate" us to PR/Trustees. My 4 grandchildren – all born since then – are my top priority. My 5th arrives next week. Having another 2,000+-hour, *pro bono publico* James Brown year is nowhere near the top of my wish list.

But there was a job to be done in 2007. And there is a job to be done now. An immediate and carefully crafted plan to save the "I Feel Good" Trust which has the support of the high office of the Attorney General is needed. Please let me help you do that.

Thank you for your consideration.

Sincerely,

Adele Pope

Adele J. Pope

AJP:ja
Enclosure: Exhibit A - Sample Proposal
cc: Robert L. Buchanan, Jr.

[1]Other possible supporters of the Will/2000 Trust who might qualify include son Daryl Brown, who has withdrawn his challenges to the Will/2000 Trust; claimed granddaughter Tonya; and daughters Jeanette and Nicole. Bob also qualifies, but might not have time. Some of the grandchildren who are clients of Ken Wingate may qualify.

If John Donsbach's responses to be filed for son Terry and grandson Forlando shortly, support the estate plan, they may also may qualify.

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EXHIBIT G

Law Office of
ADAM T. SILVERNAIL
LLC

July 21, 2021

Via U.S. Mail:
WJBF-TV
Newsroom
Television Park
Post Office Box 15365
Augusta, Georgia 30919

Re: Retraction of False Story

Dear Madam or Sir:

I am an attorney for Adele J. Pope, who has asked me to follow up her telephone conversation of July 17 with Gary Nipple, in which she notified him that the story by Katherine Wideman, which was posted on July 5, 2021, included at least one damaging falsehood about Mrs. Pope. Specifically, the article states that Mrs. Pope "filed a lawsuit in the amount of $16 million dollars, which has been deemed an egregious amount by a judge and ultimately denied."

As Mrs. Pope informed Mr. Nipple, she has never filed a lawsuit in the amount of $16 million against James Brown's Estate. This statement is false and defamatory. We ask that you immediately print a retraction of this statement; it appears from your journalistic integrity policy that a retraction should be given the same attention as the initial story. I would also ask that I be provided a copy of or link to that retraction once it is printed (my contact information is shown on this letterhead).

Thank you for your prompt attention to this matter.

Sincerely,

Adam T. Silvernail

cc: Adele J. Pope, Esquire

1905 Marion St (29201) · PO Box 7995 Columbia, SC 29202 · adam@silvernaillawfirm.com · (803) 779-1770

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ELECTRONICALLY FILED - 2023 Apr 12 4:47 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

THE 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
Court of Appeals Appellate Case No. 2018-002229
Civil Action no. 2010-CP-40-04900

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

And

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

v.

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

Of whom Adele J. Pope is the Appellant.

Expert Affidavit
of
Walter H. Bundy, Jr.

ELECTRONICALLY FILED - 2023 Apr 12 4:47 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

PERSONALLY appeared before me Walter H. Bundy, Jr., who being duly sworn, deposes and states as follows:

1. I was admitted to the South Carolina Bar in 1978. I hold a Juris Doctor from the University of South Carolina School of Law, where I was a Member of the Society of Wig and Robe. I am a Fellow of the American College of Trial Lawyers. Prior to founding Bundy McDonald, I was a founding partner of the law firm of Smith, Bundy, Bybee, and Barnett. I started my legal career under Gedney M. Howe, Jr., who died in 1981.

2. Along with Adam Silvernail, I represented Adele J. Pope in this action which was filed against Adele and Robert Buchanan, Jr. in 2010 by the Attorney General and numerous others in connection with her fee request for the six years of service to the Estate of James Brown. I was involved in the case from 2015 to 2019.

3. I am familiar with the work of Adele and Adam Silvernail, and I regard both Adele and Adam as people of high ethical character and professionalism.

4. I was familiar with Adele's and Bob's actions to protect the James Brown Estate and "I Feel Good" charity, which is one of the most convoluted and complicated matters that I have been involved with. I also had the opportunity to assess experts who spoke very well of Adele's efforts in this estate. These people include Jim Hardin, Jim Richardson, and Steve Johnson. All of these lawyers, who have each practiced law even longer than I have, thought very highly of Adele, as do I.

5. I think that the use of sanctions by opposing counsel in cases has become an unfortunate and totally unnecessary development. In this James Brown Estate case, I am aware of the fact that, including the Attorney General and the firm of Sweeny, Wingate & Barrow, multiple Motions for Sanctions have been filed against Adele and her counsel.

6. It is my opinion as an experienced trial lawyer who is familiar with many of the records in the James Brown Estate that there is no basis whatsoever for Adam, Adele, or her counsel to be sanctioned for having been vigorous in support of the estate plan of James Brown, in pursuing her fee for service as Personal Representative, or for pursuing her rights under the Freedom of Information Act (FOIA).

7. Bob and Adele vigorously fought the fact that the Respondents' claimed that the estate valuation should be $4.7M when in fact the assets were sold a year ago for $90M. Bob and Adele were also vindicated when they opposed the claim by Tomi Rae Hynie that she was the wife of James Brown. It was very peculiar to me that the Respondents thought she could possibly be the wife when she was never divorced from her husband when she married James Brown. The Supreme Court

apparently agreed with my assessment when it found that she was not the spouse. I realize that Adele and Bob had no part in the case at the time that the Supreme Court made its ruling about Hynie, but it was a position that they had taken from 2008 until the Supreme Court's decision in Wilson v. Dallas.

8. It is my strong belief that lawyers should not be dissuaded from taking vigorous positions as long as they are ethical and professional. This is the case with Adele and Adam – they have certainly taken stances that were unpopular with Respondents, but that is the nature of litigation. Their actions to protect James Brown's charity were vindicated.

9. I understand that this affidavit may be used at a hearing on April 14, 2023, where the Court will consider Respondents' Motion for Sanctions against Adele, Adam, and her counsel, as well as other motions which revisit issues raised by Bob and Adele many years ago.

10. I regard Adele and Adam as highly ethical professionals who are undeserving of any sanction.

SWORN to before me this 11)
day of April 2023)
)
Kathy Jo Wentland)
Notary Public for South Carolina
My commission expires: 10-24-2032

Walter H. Bundy, Jr.

ELECTRONICALLY FILED - 2023 Apr 12 4:47 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

ELECTRONICALLY FILED - 2023 Apr 12 4:50 PM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

THE 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
Court of Appeals Appellate Case No. 2018-002229
Civil Action no. 2010-CP-40-04900

Russel 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. an d Carrington L.; Tonya Brown; Venisha Brown; Larry Brown, and Terry Brown

And

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

v.

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

Of whom Adele J. Pope is the Appellant.

Expert Affidavit
of
Thomas H. Pope III

PERSONALLY appeared before me Thomas H. Pope III who being duly sworn, deposes and states as follows:

1. I am the senior member of the law firm of Pope Parker Jenkins, P.A. (formerly Pope & Hudgens, P.A.) where I have practiced since 1977. I have been a member of the South Carolina Bar since November 1974.

2. I graduated from the University of South Carolina School of Law in 1974. I worked as an Associate at the law firm of Glenn Porter & Sullivan, a litigation firm in Columbia, South Carolina, until 1977.

3. Since 1974, my practice has focused almost entirely on litigation. I estimate that I have tried over 100 cases to conclusion, whether by jury verdict or non-jury. I have handled trials and appeals in both state and federal courts, including the family courts of South Carolina. I have represented attorneys in Office of Disciplinary Counsel matters (and also its predecessor The Grievance Committee). My resume is attached as Exhibit A

4. This affidavit is submitted in opposition to Respondents' Motion for Sanctions filed on April 6, 2023. The Respondents have previously filed multiple motions against Pope and her counsel for sanctions in this and other Brown cases.

5. Motions for sanctions, in my experience, should be very sparingly used. In almost every document-intensive case I have handled, I have utilized Rule 37 SCRCP when opposing parties do not provide full discovery responses. I always begin, consistent with Rule 11, with a request for the information from opposing counsel. If they need more time, I always agree to an extension. If that does not result in production, I often call or write counsel again. Then, if ignored, I file and serve a motion to compel with a letter advising counsel that I will withdraw the motion if they will make full production before the hearing on the motion. The entire process is professional. I have only sought sanctions in one case (McNair v. South Carolina Department of Transportation) where opposing counsel ignored my multiple pleas for discovery responses. In my last communication with counsel in that case, I informed him that I would have to move for his Answer to be stricken unless he complied with the motion. He did not respond and his Answer was stricken. I believe that honorable attorneys should never use sanctions motions as a weapon.

6. In this case, Sweeney, Wingate & Barrow has employed sanctions motions as a weapon and without factual or professional basis for doing so. Never in my experience (48 years) have I seen or heard of a case where a lawyer sought multiple sanctions motions against opposing parties or counsel. I think the conduct of counsel for Respondents here is inappropriate.

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7. My deposition was taken by a lawyer for the James Brown Estate on April 11, 2017, by one of counsel for Respondents in which I pointed out the incredible amount of work of Adele (and Bob, who as a sole practitioner almost went broke with the enormity of the assignment as co-Personal Representative until he reached the point that he had to settle to go back to his law practice). Attached as Exhibit B is this deposition and incorporated by reference.

8. The Respondents attack Adele, Adam, Daryl Williams, and Charlie Carpenter in their motion. All four of these lawyers are highly ethical, top-quality, consummate professionals who have never engaged in improper, unprofessional behavior in this case or any other case.

9. Adam, Daryl, and Charlie have filed pleadings or motions for Adele throughout this case which have been opposed by Respondents, but all had good grounds to support them. The last thing that Adele and these lawyers want is a delay. Adele has not been paid for approximately six years of joint work with Bob Buchanan which was praised by experts Steve Johnson and Jim Hardin.

10. I am generally familiar with the work of Adam, Charlie, and Daryl in the Brown Estate since 2007. I have reviewed the two Supreme Court opinions, one which reversed the "settlement" proposed by Respondents which destroyed the testamentary intent of James Brown's Will. See Wilson v. Dallas (Opinion No. 2009-142286, May 8, 2013). In that case, Buchanan and Pope were vindicated in appealing the Court-approved settlement which dismembered that estate. From 2007 until Wilson v. Dallas, Buchanan and Pope had consistently and vigorously insisted that Tomi Rae Hynie was not the spouse of decedent James Brown. Hynie did not have proof of a legal marriage to Brown, which Respondents knew. Bob and Adele argued that point and also the point that the Respondents' insistence or "making her the wife" would destroy the estate plan, severely reducing the assets going to the "I Feel Good" Trust for poor children. They were vigorous in their position and Respondents early on (i.e., from 2008) resented that Bob and Adele were upsetting their "little plan" by asserting Hynie was not the wife.

11. Even though Bob and Adele were not involved at the time, the Supreme Court in 2020 vindicated Adele's and Bob's position by reversing the lower court again and finding that Hynie was not decedent Brown's spouse.

12. The history of this case shows that for six years Bob and Adele were vigorous in their defense of James Brown's estate plan and charity. It also shows that she and Adam have been ethical and professional.

13. Bob and Adele challenged the valuation of the Brown Estate proposed by Respondents of $4.7M. First, the estate was sold in 2021 for $90M. Second, the expert for Respondents, Roger Miller of New York City, testified in his deposition that the valuation of Brown's music alone (not counting image, persona, and personal assets) was $60M to $80M because Mr. Brown was receiving $3.5M of annual royalties at the time of death, and $5M-plus when Bob and Adele served, which amount would be multiplied by a factor of 15-20 to arrive at the value of his music. Further, Adele's expert Steve Johnson (one of South Carolina's premier probate lawyers) stated that:

    a. The Brown Estate was the most complicated estate he had ever seen (in his 35 years of practice);

    b. Adele did an excellent job as Personal Representative and Trustee of the Brown Estate, for which she deserved to be paid; and,

    c. As a practitioner who deals often with the IRS, the estate was simply "lucky" to have the $4.7M valuation accepted by the IRS.

14. I have represented a number of attorneys in disciplinary matters and I consider myself to be well familiar with the Code of Professional Conduct.

15. Litigation can be contentions; that is the nature of litigation. I am familiar enough with the record in this matter to say that Respondents have been unnecessarily vicious and personal in their attacks on Adele, Adam, Daryl, and Charlie. They have conducted themselves professionally, and their conduct should not be sanctioned.

SWORN to before me this 11th)
day of April 2023)
)
Mika Elizabeth Brooks Alexander)
Notary Public for South Carolina
My commission expires: 1/29/2025

Thomas H. Pope III

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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.

AFFIDAVIT OF DEBORAH WILLIAMS SPENCE

PERSONALLY APPEARED BEFORE ME, DEPORAH WILLIAMS SPENCE, who, being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge.

3. I am over 21 years of age.

4. I am the widow of Floyd D. Spence, who died on August 16, 2001, after being in a coma for seven days.

5. My husband and I began seeing each other on March 15, 1980. At the time he was a widower. We married on July 3, 1988, and remained married until his death.

6. I worked in the First National Bank trust department, "Columbia Trust," which became SCN, for approximately seven years, beginning as a trust tax specialist and later becoming a Trust Tax Officer.

7. I was recommended for the post at First National by Stanley Abblebaum, who was my instructor at a MidlandS Tech Legal Assistant program, and I worked under Douglas "Randy" Jones, who was the head of the Trust Tax Department.

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8. In my professional work I was trained to read wills and trusts; prepare fiduciary income tax returns, forms 1041; assist with compiling information for estate tax returns, forms 706; and take various administrative actions related to the relationship between the estate tax returns and subsequent income tax issues as reported on the forms 1041 for trusts and estates.

9. In the preparation of the forms 1041, which Randy Jones and I prepared, and the Forms 706 which he prepared and with which I assisted, I learned the importance of valuation, stepped-up basis, and the tax consequences of the language in the relevant instruments, and how that language impacted the treatment of beneficiaries on the forms K-1 associated with the fiduciary income tax returns, and related issues.

10. I learned from my experience the importance of correct estate tax valuations where the bulk of an estate is going to either a qualified charity or a surviving spouse, and there is an unlimited marital deduction or charitable deduction which may avoid all estate taxes.

11. Where there will be little or no estate taxes it is critical that a fair market value at death (or alternate valuation date) be determined to set the "basis" for future sales so that there will not be unnecessary taxes generated on capital gains on future sales.

12. Also, I worked extensively on issues related to allocation among trusts, using either the "fractional share" or "pecuniary" formula, as directed by the relevant instruments.

13. I had a durable power of attorney to act for my husband.

14. While my husband was in the irreversible deep coma which ended with his death, a lawyer and real estate broker with whom my husband and I had worked for some time brought in a lawyer who gave me certain advice over a period of two or three day, and which I followed.

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15. Shortly after my husband's death I became concerned that counsel had not given me competent advice but he was unable to help me because he had undertaken to represent my husband's estate.

16. I consulted with the firm of McMaster and Thompson, which recommended that I engage Adele Pope, which I did.

17. Adele accepted the engagement, and for the next five years succeeded in invalidating an Agreement Among Successors to Decedent which had been signed before my husband died and securing a settlement which, in my opinion, was the best she reasonably could have done to undo some of the damage from the pre-death agreement.

18. The litigation involved numerous complex issues, including:

a. an under-valuation of the assets which caused substantial tax and basis problems;

b. The application of a pecuniary formula intended to reduce my share of my husband's estate;

c. the division of real estate and business property;

d. withheld and altered documents; and

e. the disqualification of a law firm which had previously given estate planning advice to my husband and me.

19. Despite the intensity of differences among the parties and certain witnesses, Adele, at all times, conducted herself ethically and with decorum and counseled me to do so.

20. Adele carefully and consistently advised me of the impossibility of total recovery, and urged me to move toward a resolution as soon as it could reasonably be accomplished.

21. One important facet of the representation was Adele's suggestion, with which opposing counsel agreed, that my husband's adult sons and I have a series of meetings with counsel and the parties present to try to reach an acceptable settlement.

22. After approximately three sessions, with time between to consider options, we reached a settlement and an Agreement under which one of my husband's sons and I jointly and civilly served as personal representatives and completed the administration of my husband's estate, which was in itself a complex task.

23. After my husband's estate administration was substantially complete in 2007, I continued to seek Adele Pope's advice, and she continue to consult with me on occasion.

24. Over the course of the intense representation, I had dealings with the members of Adele's staff, including Adam Silvernail, Fletch Rinehart, and Samantha Luck, and was impressed by the intelligence, cordiality and efficiency of Adele's entire staff.

24. At all times in the last 21 years I have observed that Adele Pope is ethical, professional, qualified, hard working, and a serious and honest lawyer who would not engage in frivolous or unnecessary actions or personal attacks on lawyers or parties.

25. Because I myself had substantial fiduciary tax experience, I appreciated that Adele respected my input as a client.

FURTHER DEPONENT SAYETH NOT.

Deborah Williams Spence
DEBORAH WILLIAMS SPENCE

SWORN TO before me this 11th
day of April, 2023

_____ (L.S.)
Notary Public for South Carolina
My Commission expires: 2/27/2027

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STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
	)
COUNTY OF RICHLAND	)
	) Case No.: 2010-CP-40-4900
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 and others	)
	) AFFIDAVIT OF
and	) JOSEPH A. McDONALD
	)
ALAN WILSON, in his capacity as Attorney General of South Carolina; and others, Plaintiffs.	)
	)
v.	)
Adele J. Pope	)
	)

PERSONALLY APPEARED BEFORE ME, JOSEPH A. McDONALD, who being duly sworn, deposes and says:

1. I am over 21 years old and this affidavit is based on my personal knowledge and belief.

2. I served as a professor at Newberry College for many years, and am now retired, but involved in a number of projects within the Newberry, S.C. community.

3. My wife Mary Grant McDonald and I are trustees of the Grant-McDonald Foundation which we created in 2015 with the assistance of Adele J. Pope.

4. In the creation of the Grant-McDonald Foundation, which had certain legal complexities, I had an opportunity to observe the legal work and demeanor of Ms. Pope, including in the legal proceeding in which we were required to seek approval of the Attorney General of South Carolina related to creation and initial funding of the Foundation.

5. I have had subsequent contacts with Ms. Pope because our offices are located next door to each other, and she has, when asked, readily agreed to consult with me on other charitable projects.

6. Based on my observation, all legal work in which I have been involved with Ms. Pope has been of high quality, conducted in a professional and ethical manner, and efficient.

7. Some time back I agreed to have my name submitted as a witness in a James Brown matter in which Mrs. Pope is involved, and reviewed the statement of my possible testimony, but I have not been called on to give testimony.

FURTHER DEPONENT SAYETH NOT.

Joseph A. McDonald

SWORN TO before me this 7th day of April, 2023

_____(L.S.)
Notary Public for South Carolina
My commission expires: 2/27/2027

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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.

AFFIDAVIT OF SAMANTHA M. LUCK

PERSONALLY APPEARED BEFORE ME, SAMANTHA M. LUCK, who, being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge.

3. I am over 21 years of age and have been an attorney since 2010.

4. I have served as a public defender in Richland and Lexington Counties, and am currenty employed by the South Carolina Human Affairs Commission as staff counsel.

5. I hold a B.A. in Political Science from the University of South Carolina and J.D. from the University of South Carolina Law School.

6. For almost 20 years I have known Adam Silvernail, Esq. and Adele J. Pope, Esq.

7. Adam Silvernail began working as a student worker for the Law Office of Adele J. Pope, P.C. shortly after I began working there, and we worked together in the firm for several years.

8. Almost everyone who worked with Mrs. Pope during this period went on to be an attorney or an accountant, including Adam and me, and Mrs. Pope encouraged all of us to do so.

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9. Over the years the things I remember most about working with Mrs. Pope and Adam is that we all worked hard, we were courteous to clients, we kept confidences of the clients, and we were never asked to participate in anything unethical or inappropriate.

10. In addition to encouraging me to continue on to law school, Mrs. Pope helped me when I applied.

11. Mrs. Pope and her husband both also took an interest in my son's interest in law school and encouraged me to encourage him, as I did, and he is now completing his first year as a law student at the University of North Carolina at Chapel Hill.

12. Over the many years I have worked with and known Mrs. Pope and Adam I have never observed even a hint of impropriety in either of their professional dealings; consider them both fine lawyers; and would trust both with any legal matter that arose.

FURTHER DEPONENT SAYETH NOT.

SAMANTHA M. LUCK

SWORN TO before me this 11th day of April, 2023

_____ (L.S.)
Notary Public for South Carolina
My Commission expires: 2/27/2027

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

The Honorable L. Casey Manning, Circuit Court Judge

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, Respondents.

v.

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

Of whom Adele J. Pope is Appellant.

AFFIDAVIT OF ADAM T. SILVERNAIL

PERSONALLY APPEARED BEFORE ME Adam T. Silvernail, who being duly sworn, deposes and says:

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1. I am over the age of eighteen (18), competent to testify and give this affidavit of my own personal knowledge.

2. I am a member of the South Carolina Bar, having been admitted in November 2010, and shortly thereafter joined Daryl L. Williams as counsel for Defendant/Appellant Adele J. Pope in this case.

3. Adele is currently represented by Charles E. Carpenter, Jr., Daryl L. Williams, Wm. Jeffrey Smith and me, and this has been the makeup of our team for several years.

4. I have also represented Adele in other matters related to the Estate and Trust of James Brown, including FOIA cases in this Court, appeals from the Circuit Court, and a case in the Federal District Court, later appealed to the Fourth Circuit Court of Appeals.

5. My practice has been devoted primarily to litigation involving estates, trusts and/or property for more than a dozen years. These matters are very often hotly litigated and emotional, and clients often focus on personal slights, real or perceived, rather than the legal issue before the Court. For my entire career, I have worked with clients to avoid unnecessary or inflammatory "mudslinging" where the evidence is irrelevant to the matter before the Court. I have never had to do so in any case where I have represented Adele.

6. I do not advertise, maintain a website or subscribe to any referral service; all of my clients come from person-to-person referrals. The vast bulk of those are from other attorneys, many of whom I have worked with in other matters.

7. I am very fortunate to have started my career by working with James B. Richardson, Jr. on the appeal that would result in *Wilson v. Dallas*, 743 S.E.2d 746 (2013). Jim, who is one of the most experienced, talented and honorable lawyers I have known, mentored me early in my practice.

8. Jim and Adele also frequently gave my name when other attorneys were looking for a probate litigator, and I had the opportunity to work with many of the best probate lawyers very early in my career.

9. Richland 4900 was one of the first cases I became involved in as an attorney, and remains the most extraordinary case I have ever been involved in.

10. This case is extraordinary procedurally and substantively, in that it is the only action I have been able to locate in which the South Carolina Attorney General shared private counsel with numerous private individual clients, without anyone from the AG's office appearing on the pleadings.

11. This case has also been extraordinary in that the Plaintiffs brought the action, then spent years delaying discovery by refusing to appear at depositions, filing dozens of motions for protective orders, and refusing to produce non-confidential documents without onerous confidentiality orders.

12. We have made extensive attempts to obtain proper discovery and move this case forward, as well as seeking appellate intervention and review of important, novel and Constitutional issues as necessary.

13. From 2010 until 2013, the Circuit Court processed motions filed in this case in approximately the manner I have seen in other civil proceedings, albeit with a larger than usual number of motions filed.

14. After the *Wilson v. Dallas* decision was issued, however, Sweeny, Wingate & Barrow, P.A. ("SWB"), which has represented all Plaintiffs from the inception of this suit, took the position that it had a "judicially created conflict" and that this case would need to be stayed until all litigation among its various clients (in which some of SWB's clients were adverse and/or

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actively litigating against others) was resolved. We sought hearings on various matters, but SWB's request and subsequent insistence that discovery not proceed resulted in a *de facto* stay of the case until it was reassigned to the Honorable Doyet A. Early, III in March 2016.

15. At the time Judge Early took the case over, there was a massive backlog of motions, including pending Rule 59 motions never decided by Judge Manning, who had previously been assigned to the case. Judge Early ordered that discovery would "begin anew" in an effort to avoid the morass of discovery disputes which had arisen in the nearly 6 years the case had been pending.

16. Within a couple of months after Judge Early took over the case, Plaintiffs moved for summary judgment on all of our counterclaims, asserting that no discovery or factual inquiry was necessary. Judge Early eventually agreed and granted summary judgment in July 2017. That Order remains on appeal, with a Petition for Certiorari pending before the Supreme Court.

17. Plaintiffs' counsel has repeatedly threatened or moved for sanctions against Adele and/or her counsel.

18. This began in January 2012, when SWB moved for sanctions against us in a FOIA case to which its clients were not parties. That case arose after Adele made a FOIA request for public documents from the AG, and the AG refused to produce documents to her under FOIA. SWB moved to intervene on behalf of its private clients, for the extraordinary purpose of stopping the AG from releasing the public Wingate Special Counsel Litigation Retention Agreement, which has subsequently been Ordered released by this Court in that FOIA case. I believe this motion – filed approximately a year after I began practicing law – was intended to intimidate me (then a young lawyer) into abandoning my client. The motion was never heard or decided, and SWB eventually abandoned its attempt to intervene in the FOIA case.

19. Although SWB has repeatedly accused me of acting unethically or unprofessionally

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in this and related cases since 2012, Kenneth B. Wingate, Esq., has referred multiple clients to me in the intervening years. Although I may have been contacted more recently by potential referrals I did not take on, I know that Ken referred one of his own clients to me in 2019 to handle a matter on which, if I remember correctly, he had a conflict.

20. Most recently, SWB moved for sanctions and a finding of contempt in the Court of Appeals in Case No. 2018-2229, alleging that Adele and I were attempting to somehow manipulate the Court through a clerical error in our Final Brief. I attach a copy of the affidavit I filed in response to that motion, which sets out the details of the matter, as **Exhibit A.**

21. The 2020 motion for sanctions was denied, and none of the motions or requests for sanctions made by SWB against Adele and/or her counsel have been granted.

22. In my entire career, which now spans more than 12 years, I have never been the subject of any motion for sanctions filed by anyone other than Plaintiffs or their counsel. Nonetheless, Plaintiffs' counsel has consistently and repeatedly threatened, requested or moved for sanctions, as well as alleging more than once that my client or I have acted unethically.

23. This case has become extremely procedurally complex, with multiple appeals, multiple reassignments, and an unusual volume of discovery disputes. While our team has taken all reasonable measures to protect our client, I do not believe we are the reason this case has gone on for more than 13 years.

24. For example, in 2017 Plaintiffs were allowed to examine every document in Adele's possession or control, which amount to more than 100 boxes. Plaintiffs' counsel spent 4 days at Adele's home and office; although they copied dozens of CDs containing electronic material, they have never attempted to copy a single page from her boxes of records.

25. Our motions to lift the stay have all been made in good faith and based on

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developments giving new or further reasons to lift the stay. For example, we learned in late 2020 that public documents which had never been released show that the AG told SWB in 2013 that SWB had never represented the AG. **See Exhibit B.** This was a shock, since SWB had continued as sole counsel of record for the AG for years after that, without disclosing the letter to the parties or the Courts.

26. I have never filed a document indicating another lawyer's signature without his or her permission. In this case, all members of our team have been involved in every filing. I have acted as the lead counsel in recent years, both because of my extensive familiarity with the history of this case and because of my availability.

27. We are aware and sensitive to the fact that Charlie Carpenter is a caregiver to his wife, who requires full-time care. Charlie has nonetheless made himself available to review filings and discuss the case.

28. Likewise, Daryl Williams has dealt with health and family issues, as well as working toward retirement.

29. During 2018 and 2019, when I was also dealing with a life-threatening health condition, Daryl and Walter H. Bundy, Jr. (who was then co-counsel) primarily handled the matter, but kept me informed of everything they did; I participated as much as possible during my treatments and recovery.

30. I take very seriously the allegations, and deny, made by SWB that I have acted improperly, and I certify that I have never filed any document to delay this case or for any other improper purpose. Every filing we have made has been in accordance with the Rules of Civil Procedure, the Rules of Professional Conduct and the normal standards of practicing law.

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FURTHER DEPONENT SAYETH NOT.

Adam T. Silvernail

SWORN TO BEFORE ME THIS
11th day of April, 2023.

Notary Public for South Carolina
My Commission expires: 10/27/2027

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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.

AFFIDAVIT OF WILLIAM JEFFREY SMITH
IN OPPOSITION TO MOTION OF PLAINTIFFS/RESPONDENTS
FOR SANCTIONS

PERSONALLY APPEARED BEFORE ME, WILLIAM JEFFREY SMITH, who being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge.

3. For approximately four years I have served with Charles Carpenter, Esq., Adam Silvernail, Esq., and Daryl Williams, Esq., as counsel for Defendant Adele J. Pope in the above matter.

4. I am a graduate of Clemson University, where I obtained a B.S. in electrical engineering and served as a deejay for the Clemson radio station, business manager of the student magazine, and president of the Philosophy Club.

5. I worked for a number of years in the U.S. Patent and Trademark Office as a patent examiner during which time I obtained a law degree from Georgetown University Law Center, and during which I concentrated my studies in intellectual property.

6. I have been aware of and approved every action taken in "Case 4900" since I became part of the counsel team in this case, and deny the allegations made by the law firm of Sweeny,

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Wingate & Barrow, P.A. ("SWB") that the request to lift stay or any filing made herein on behalf of Defendant/Appellant is not appropriate.

7. I affirmatively assert that the motions to lift stay were both appropriate to the facts, law and circumstances, and were made in good faith for the proper purpose, including to proceed expeditiously with the conclusion of this case brought almost 13 years ago against Robert Buchahan, Jr. and Adele Pope by the Attorney General of South Carolina, Tommie Rae Hynie Brown, the James Brown Legacy Trust and its 14 owner-beneficiaries against Robert Buchanan, Jr. and our client almost 13 years ago.

8. I affirmatively assert that the delays in this case have been largely the result of SWB's recognition on May 10, 2013 that it was judicially conflicted by the *Wilson v. Dallas* decision and that this case must come to a halt until all James Brown matters in Aiken Count are concluded.

9. I further assert that if SWB had released the public April 24, 2013 letter to SWB from from the Honorable Alan Wilson, through Chief Deputy AG John McIntoish confirming that the Office of the AG had never engaged SWB to act for the State/AG in Richland 4900, and that the AG had no attorney-client relationship with SWB, this judicially created conflict – and this case – would have ended a decade ago.

10. The April 24, 2013 Letter of AG Wilson and other revelations in 2020 and later which are outlined in the motion to lift stay, and which were concealed by SWB and Russell Bauknight while acting for the State/AG for more a decade, have delayed this case for years..

11. I crave reference to, and incorporate, each filing for a motion to lift stay and the supporting documentation for the details of why such filings were necessary to prevent the issues on appeal from Richland 4900 from becoming moot and to prevent the appellate courts from losing jurisdiction over the Plaintiffs in Richland 4900, including:

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a. Plaintiff James Brown Legacy Trust ("Legacy Trust"), which claims it does not exist;

b. The 14 Plaintiffs who are owner-beneficiaries of the Legacy Trust;

c. The 1 Plaintiff who died in 2018 and whose estate had not yet been made a party;

d. Plaintiff Attorney General of South Carolina or the State Actors for the AG;

e. 11 Plaintiffs for whom Louis Levenson, Esq., signed SWB's 40% Special Counsel Litigation Retention Agreement;

f. 4 Levenson clients who testified under oath they were not told they were Plaintiffs;

g. Tommie Rae Hynie Brown, a resident of London, U.K., the principal owner-beneficiary and/or successor of the Legacy Trust, after the AG.

h. At least 6 Richland 4900 Plaintiffs to whom Mr. Buchanan and Ms. Pope never owed a fiduciary duty, including the Legacy Trust and Ms. Hynie Brown.

12. In June 2008 Plaintiff Estate of James Brown engaged me to help protect James Brown's "I Feel Good" charity, which was valued at about $80 million as of Mr. Brown's death, by working with the then- PRs to develop a plan to address "termination rights" under Sections 203 and 304 of the U.S. Copyright Act which might impact the charity's U.S. royalties to some of James Brown's songs as early as 2012.

13. I understood the facts and position of the James Brown Estate to be:

a. James Brown died on Christmas Day 2006 with an estate valued at $100 million, a $15 million debt to TIAA, and a valid Will and 2000 Trust which left a big fraction of his fortune to the James Brown "I Feel Good" charity, about $80 million.

b. James Brown had no spouse and about 12 claimed children, as shown on a chart called "The Family Circle" published in a newspaper a year after Mr. Brown's death. (Ex. A)

c. Mr. Buchanan and Adele Pope had secured an order to complete a proper heirs determination under S.C. law and federal law.

d. The "Peeples' Protocol" was the estate's official DNA-testing procedure which had identified 3 daughters, and DNA testing was being sought at a modest price for other claimed children.

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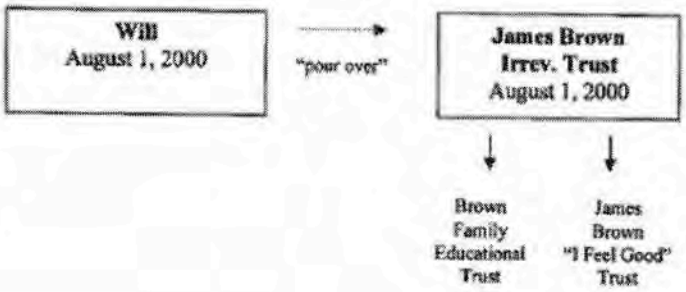
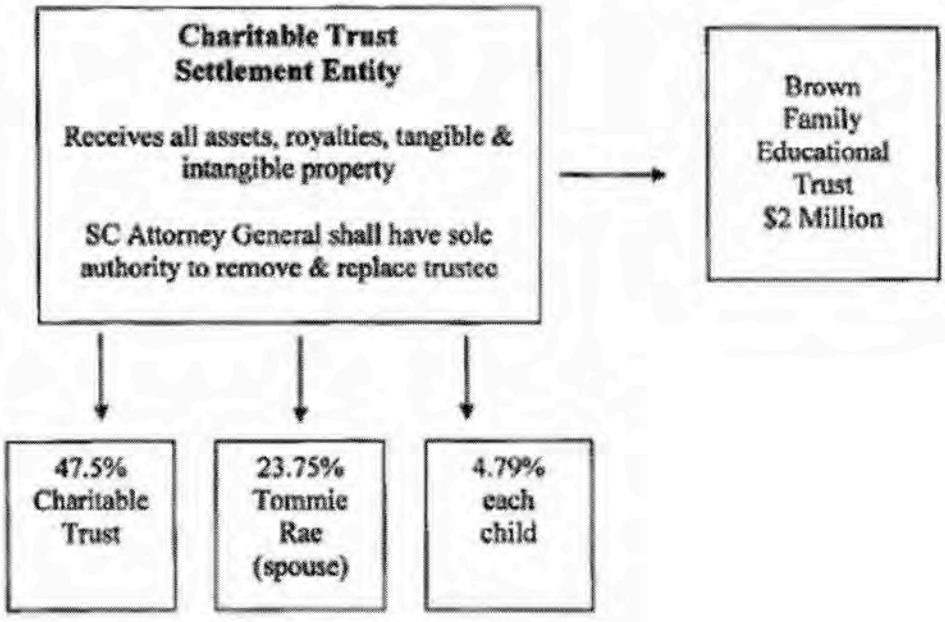
14. In August 2008 the Attorney General of S.C. ("AG") stopped the DNA testing protocol for settling parties; I stopped working for Mr. Brown's estate; and by 2010 Judge Doyet Early had approved the changes made by the AG's 2008 settlement.

15, The changes made by the AG's 2008 settlement were described to Judge Casey Manning by the AG and all other Richland 4900 plaintiffs, through SWB, as follows:



The Charitable Trust is diagramed as follows:



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16. Plaintiff James Brown Legacy Trust ("Legacy Trust") was described as the "Charitable Trust Settlement Entity" which was managed by Russell Bauknight in Richland County.

17. In 2010 I learned that the AG and Respondents were claiming to the Supreme Court that James Brown's assets were worth $12 million or less when he died.

18. In April 2011 I co-authored a draft of *Private Foundations, Copyrights Heirs and Musical Millionaires: why the James Brown Brown "I Feel Good" Trust doesn't.*. with Ms. Pope.

19. *Private Foundations.*. describes the triple damage done to James Brown's charity by the AG's claiming that Plaintiff Hynie Brown was the spouse; failing to complete a proper heirs determination under the Copyright Act; and reducing the value of Brown's assets from $100 million to $12 million.

20. In 2011 SWB, speaking for the Attorney General, Ms. Hynie Brown, the Legacy Trust and all Richland 4900 plaintiffs, secured the dismissal of the first Richland 4900 appeal as premature based on the above asserted facts.

21. In that appeal Mr. Buchanan and Ms. Pope claimed that Richland 4900 was an illegal, unconstitutional state action because SWB was sole counsel for the AG; Ms. Hynie Brown; and the Legacy Trust and its other owner-beneficiaries.

22. In May 2011 the Attorney General and all Richland 4900 Plaintiffs asked the Supreme Court to supplement the record in *Wilson v. Dallas* to accept that James Brown's worldwide music empire was worth less than $4.7 million.

23. A motion was promptly made to disqualify SWB as counsel because SWB represented both the AG and Terry Brown, who was given a right to buy the music empire by the AG in the 2008 settlement.

24. *Private Foundations...* described how bad a sale at $12 million would be for Brown's charity, but a sale at $4.7 million would have been even worse.

25. In 2011 I began reading articles by Sue Summer, a *Newberry Observer* reporter, about the efforts of Mr. Buchanan and Ms. Pope to obtain the claimed $4.7 million valuation under FOIA and otherwise, and by 2012 Ms. Summer had also filed her own FOIA suit to try to obtain Plaintiff Hynie Brown's handwritten admissions that she knew she was not the spouse of James Brown.

26. I supported both FOIA efforts with affidavits because I felt like it did not honor James Brown's legacy to reduce his "I Feel Good" charity by almost $80 million dollars, then let a family member chosen by the Attorney General buy the charity's assets for almost nothing.

27. In 2012 Ms. Pope offered to let both the Attorney General and the Estate/2000 Trust of James Brown out of Richland 4900, but SWB refused the offers and moved to strike them.

28. In 2013 I learned that Plaintiff Hynie Brown and Mr. Levenson – speaking for about 11 Richland 4900 Plaintiffs – had announced their plan to Judge Early to disregard the Supreme Court's *Wilson v. Dallas* ruling and reinstate the AG's 2008 settlement.

29. From a scholarly perspective, and a perspective of respect for James Brown's legacy, I felt that there was no basis to, essentially, give away half of James Brown's charity to half of his claimed children for half of their termination rights.

30. In 2015 Judge Early declared that Ms. Hynie Brown was the spouse of James Brown, and both the James Brown Estate, the 11 Levenson Plaintiffs, and Plaintiff Terry Brown claimed that she was not Brown's spouse, but SWB – speaking for the Attorney General, Ms. Hynie Brown and the 14 Plaintiffs who said Ms. Hynie Brown was not the spouse of James Brown continued to claim that she was.

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31. In 2015 I learned that Judge Early had issued a Rule to Show Cause to reporter Sue Summer, who is my neighbor and whose husband is a longtime friend, saying that Ms. Summer should be punished for violating Judge Early's 2008 gag order prohibiting discussion of Ms. Hynie's bigamy admissions, but the South Carolina Supreme Court declined to enforce the subpoena.

32. After Ms. Summer published the handwritten admissions, called the "Hynie's diaries" I believed they fully supported the position that James Brown's Estate had taken back in 2008 that Plaintiff Hynie Brown was not the spouse of James Brown and that she was not entitled to any portion of James Brown's assets, or to the termination rights.

33. In 2016 I continued to follow Ms. Summer's articles in the *Newberry Observer* and attended a few James Brown hearings and understood that many of James Brown's children, including the DNA-proven children, were claiming that Ms. Hynie Brown was not James Brown's spouse, but SWB – acting for those same children – continued to assert that Ms. Hynie Brown was the spouse and that the AG's 2008 settlement should be reinstated.

34. By the end of 2016 The Honorable Henry McMaster, then Lt. Governor, had been deposed two times. In both depositions he found nothing wrong with the service of Mr. Buchanan and Ms. Pope, and stated clearly to Ms. Pope about this case: "Ma'am, I did not sue you."

35. In 2016 Judge Early also dismissed two FOIA suits, delaying for years the delivery by the Attorney General of three important public documents:

a. The $4.7 million claimed valuation which the AG and Plaintiffs had been using since 2010 to falsely accuse Mr. Buchanan and Ms. Pope of a federal felony.

b. The AG's public Wingate Special Counsel Litigation Agreement with SWB;

c. The 2010 Amendment to the Legacy Trust.

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36. At some point before I was deposed on March 14, 2017 in Mrs. Pope's fee case, I was designated as a termination rights expert in that case,

37. At my deposition taken by Burl Williams, Esq., attorney for Plaintiff James Brown Estate, I answered questions about issues I have mentioned above, and also about my concern that the AG's 2008 settlement and the 2010 $4.7 million valuation simply overlooked James Brown's enormously valuable image and likeness.

38. I testified that my belief after studying what was going on with The Ray Charles Foundation, the Whitney Houston Estate, and the Michael Jackson Estate, that the actions taken by Mr. Buchanan and Ms. Pope were sound and those of the AG damaged James Brown's charity.

39. In 2017, before re-activating my law license, I had some involvement with more than 30 depositions taken in her fee claim case, including depositions of 7 of the 9 experts in this case and attended most of the fee case trial which began in September 2017.

40. The current appeal in this case was filed on or about September 12, 2017, as the sworn documents, testimony and admissions of the Governor, AG Wilson, Chief Deputy AG John McIntosh, Solicitor General Robert Cook, and numerous experts and lay witnesses supported the positions Mr. Buchanan and Ms. Pope had taken for the James Brown Estate back in 2008, and since, namely:

a. Tomirae Hynie Brown was not the spouse of James Brown, but SWB and James Brown's Estate had told their 9 experts that she was.

b. There was abundant evidence that the value of $100 million less the TIAA debt was both reasonable and conservative, and that 41/42 should have gone to the "I Feel Good" charity.

c. The AG's plan to give Ms. Hynie Brown and 5 Levenson clients $1 million a year income and half of the "I Feel Good" charity for half of the termination rights which were worth less than $4.4 million would have dismembered the charity.

d. The AG's attempt to determine heirs, including the intentional exclusion of 3 DNA-proven daughters and incarcerated son Michael, was bad for the charity.

41. The testimony of Plaintiffs/Respondents' termination rights expert in this case, Roger Miller, formerly of Bicycle Music, fully supported my position.

42. Mr. Miller testified that Mr. Brown's music catalogue was "solid gold" and "frothy" investors were willing to pay 15 – 20 times annual royalties at Brown's death for the copyrights.

43. Mr. Miller's testimony rejected the $4.7 million valuation; put the copyrights alone at $75 - $100 million when Mr. Buchanan and Ms. Pope delivered the assets to Mr. Bauknight in 2009; set the termination rights of *all* heirs at only $8.8 million in 2017; and did not attempt to value the valuable image the TJBL investors had valued at $40 illion or more in the year after Brown died.

44. By 2018 11 Richland 4900 Plaintiffs had terminated Mr. Levenson, who signed the 40% contingency fee contract with SWB for them, and were suing Plaintiffs Hynie Brown and the James Brown Estate/2000 Trust and her son over claimed "backroom" termination rights deals, but SWB continue to represent the adversaries, taking Ms. Hynie Brown's side for the AG.

45. In 2019 most Plaintiff's did not agree with the positions taken by SWB for Ms. Hynie Brown and the AG, but the court in Ms. Pope's fee case did, finding that Mr. Buchanan and Ms. Pope had breached their fiduciary duty by appealing the AG's 2008 settlement.

46. In late 2018 I re-activated my law license and agreed to serve as additional counsel, to add my IP expertise to the fine team of litigators and appellate lawyers, including Daryl Williams,

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Esq., who, with Elizabeth Gray, Esq., and Cal Watson, Esq., had formulated the positions now before this Court on remand, namely:

a. Should Judge Casey Manning reconsider his decision not to disqualify SWB and Russell Bauknight from acting on behalf of the State/AG where the sworn testimony of Governor Henry McMaster and the April 24, 2013 letter confirm that neither SWB nor Bauknight was ever legally authorized to act for the AG in this case ?

b. Should any Richland 4900 Plaintiff be relieved form default where all participated in and condoned Plaintiff Tommie Rae Hynie Brown's fraud on multiple courts; concealed the evidence of her bigamy; participated in her proposed $79 million devaluation of the music empire to discredit "Bobadele;" and allowed SWB to pursue this case on behalf of the State/AG while concealing the AG's Special Counsel Litigation Retention Agreement which was not signed by AG McMaster?

47. In 2020 the music manager of Respondent Estate/2000 Trust continued to work for Respondent Hynie, claiming that she and her son controlled termination rights worth tens of millions of dollars, but most Respondents disagreed, as did I, and so did the DNA-proven children.

48. In 2021 I considered the false claim made by the James Brown Estate and the media in London, U.K. that Ms. Pope was seeking nearly ten times the actual $2.1 million she had offered in both 2017 and 2018 to end her entire dispute with Plaintiff James Brown Estate/2000 Trust.

49. By 2021 the position of Mr. Buchanan and Ms. Pope since 2008, that Plaintiff Hynie Brown was not the spouse of James Brown and was not entitled to any termination rights was confirmed by the Supreme Court even though they had no role in the case..

50. I have studied "The Curious Case of James Brown," the 2021 S.C. Bar CLE presentation of termination rights expert Professor Lee-Fort Tritt, which contained certain factual errors because he relied solely on certain inaccurate media reports, and have also reviewed a more recent draft of Professor Tritt's law review article which is in progress.

51. While my contribution to the legal team has been largely related to termination rights and IP issues, I have been consulted and support every action taken.

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FURTHER DEPONENT SAYETH NOT.

William Jeffrey Smith

SWORN TO before me this 11th day of April, 2023

_____ (L.S.)
Notary Public for South Carolina
My Commission expires: 6/27/29

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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.

AFFIDAVIT OF ADELE J. POPE

PERSONALLY APPEARED BEFORE ME, ADELE J. POPE, who, being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge, and my opinions are given to a reasonable degree of professional certainty within my areas of expertise.

2. I have been a teacher, a trust officer and a lawyer, and hold a B.S. in Spanish from Mary Baldwin University (formerly College), an M.A.T. from the University of Virginia, a J.D. from the University of South Carolina Law School, and an LLM in Estate Planning from the University of Miami.

3. I have advised the trustees of The Graham Foundation of Greenville, S.C. on various projects over more than fifteen years, and the deposition of trustee Steve Lambert taken by counsel for Plaintiff James Brown Estate describes that foundation's satisfaction with my work.

4. I am a trustee with my daughter of the very small Small Change Foundation, and have created and/or advised the trustees of The Pope-Brown Foundation, The Bill and Mary Carter Charitable Foundation, and the Grant-McDonald Foundation.

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5. On December 25, 2006, when entertainer James Brown died I had held a Martindale Hubbard AV rating for 10 years, and have now held that rating for more than 25 years.

6. I am the co-author of *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" doesn't...* (April 2011 draft) which is on file in this case.

7. I have recently consulted with Professor Lee-Ford Tritt about his 2021 CLE presentation to the S.C. Bar and draft law review article entitled "The Curious Case of James Brown."

8. I did not consult with, help prepare, or attend Professor Tritt's CLE presentation to the S.C. Bar in 2021, and my interaction with Professor Tritt since then relates solely to U.S. Copyright Act termination rights issues and their relationship to a proper determination of heirs under state and federal law, with which we are both familiar.

9. In January 2007 the *Chattanooga Times* reported that Judge (Retired) Walter Williams was appointed to the advisory board to help distributed the $100 million fortune of entertainer James Brown to charity.

10. In his 2017 deposition taken by counsel for Plaintiff James Brown Estate Judge Williams confirmed that he was a graduate of Howard University Law School, a former attorney for the IRS, and a philanthropist who had helped raise and distribute other scholarship funds, and that he had valued numerous estates.

11. I was present in January 2017 when Judge Williams testified at his deposition that he had met James Brown and discussed their love of education, had additional information from former trustee Albert Bradley and investment bankers, and believed the $100 million value to be low.

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12. When Judge Williams was asked in 2017 by counsel for the James Brown Estate about the work Robert Buchanan, Jr. and I had performed for James Brown's estate, he said it was more than he would have done.

13. This was four years after Russell Bauknight had claimed under oath that I had "raped" James Brown's Estate and had called me dishonest, and more than six years after the Attorney General, Plaintiff Hynie Brown, and 11 Plaintiffs/Respondents, clients of Louis Levenson, Esq., had begun to accuse Mr. Buchanan and me of the federal felony of overstating the value of James Brown's assets to the IRS by $79 million in order to secure a $5 million commission on James Brown's $5 million estate.

14. Judge Williams' testimony came just a few months after the sworn testimony of the Honorable Henry McMaster, which I heard and which is of record in my fee case, that "Ma'm I did not sue you," in this case, Richland 4900.

15. At the same deposition in October 2016 Governor McMaster, a former U.S. Attorney for S.C. and prosecutor, agreed with me that to accuse someone of making a false statement to the IRS is serious; that the AG's opinions carry substantial weight and prestige in the courts; and that he had no knowledge of anything Mr. Buchanan and I had done wrong; knew nothing about Respondent Legacy Trust; did not authorize SWB to act for the State/AG; and thought the actions that Mr. Buchanan and I described in our First Semi-Annual Report to the AG and Trustees sounded reasonable.

16. The sworn testimony of Judge Williams came almost 7 years after this lawsuit was brought against Mr. Buchanan and me by the Attorney General, Mr. Bauknight "on behalf of" the Attorney General, Ms. Hynie Brown and 12 descendants of James Brown, all represented by SWB

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and filed without a signed Special Counsel Litigation Retention Agreement between the AG and SWB.

17. The sworn testimony of Judge Williams came just under 4 years after the Honorable Alan Wilson, through Chief Deputy John McIntosh, had written SWB on April 25, 2013 to confirm that the Office of the Attorney General had never hired SWB to bring Richland 4900; that the Office of the Attorney General had no attorney-client privilege with SWB; and that if the Supreme Court's decision in *Wilson v. Dallas* were not reversed SWB would likely have to disgorge the funds the James Brown Estate had advanced to SWB for Richland 4900.

18. SWB concealed the AG's April 25, 2013 letter while acting for the State/AG in this case until the fall of 2020, when it was released under FOIA by the Attorney General.

19. In February 2007 a professor and colleague in the American College of Trust and Estate Counsel who was counsel for Plaintiff Hynie Brown asked if I would consider serving as SA for the James Brown Estate, and I consented to be nominated.

20. The professor identified Plaintiff Tommie Rae Brown as "Mrs. Brown," a position she took from 2006 until 2020, but in March 2007 her public handwritten notes confirmed that she was not Mrs. James Brown and I, along with many others, viewed them.

21. On March 7, 2007 my law school classmate, the Honorable Doyet Early, III, called, asked me if I would serve as SA with Mr. Buchanan, and appointed us as SAs that day.

22. Mr. Buchanan and I had no obligation as SAs to defend Mr. Brown's Will or 2000 Trust or determine his heirs, as our job was limited to overseeing the actions of the trustees of the 2000 Trust and reporting problems to the court.

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23. The task was relatively easy, and by November 2007 all three trustees had resigned and we had uncovered more than half of the $17 million stolen by trustee David Cannon, $5 million of which was laundered through a Barnwell, S.C. bank.

24. On November 20, 2007 Ms. Hynie Brown and all individual Respondents, then represented by Louis Levenson, Esq., and David Bell, Esq., approved Judge Early's elevation of Mr. Buchanan and me to the status of PR/Trustees, with the duty to "vigorously defend" James Brown's estate plan and charity with the same authority as if we had been appointed by Mr. Brown.

25. The Attorney General of South Carolina did not oppose our appointment as PR, but did not want Mr. Buchanan and me to be James Brown's trustees, and the difficulty began.

26. In January 2008 Judge Early approved the engagement of Kendall Few and James Gilreath to recover the damage from David Cannon's theft, but the same month James Brown's young grandson filed Case 3-08-cv-00014-WOB to enjoin James Brown's 2000 Trust from taking any action until the thief David Cannon and his co-trustee Albert Dallas were reinstated.

27. From 2008 until its conclusion in 2015 Mr. Buchanan and I worked with attorneys Daryl Williams, Elizabeth Van Doren Gray, Cal Watson, and Robin Braithwaite to prevent the return of David Cannon and Albert Dallas as trustee, and each document we filed was carefully considered and filed.

28. Our task was made more difficult by the AG's WIS-TV interview supporting the return of Mr. Cannon as trustee; the AG's naming Mr. Cannon as a witness against Mr. Buchanan and me in this case; and the 2013 sworn statement of the AG's trustee, Russell Bauknight, that our actions in Case No. 3-08-cv-00014 were baseless and meritless and that I had "raped" James Brown's estate.

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29. I emphatically deny that any action taken be Mr. Buchanan and me in Case No. 3-08-cv-00014-WOB was baseless or meritless and affirm that all actions were taken in good faith, for a proper legal purpose, and to protect James Brown's Trust and "I Feel Good" charity.

30. Between December 19 and 26, 2007 Plaintiff Hynie Brown and 11 Plaintiffs, Levenson clients, filed four suits to set aside the Will, 2000 Trust and "I Feel Good" charity of James Brown, and Mr. Buchanan and I took the position at all times that those suits lacked merit and should be resolved promptly or settled for a small amount.

31. Despite our beliefs about the merits of the four Will/Trust contests, after the Attorney General attempted to give the will contestants more than half of Brown's charity for termination rights I reasonably believed were worth less than 5% of the value of Brown's estate, Mr. Buchanan and I – and then I alone – made numerous offers to settle that were far more than the ultimate settlement, all of which were rejected, and many of which were simply ignored.

32. I emphatically deny that I, or my counsel, have ever wanted to prolong this case or any case, and affirm that since June 10, 2015 I have abandoned all efforts to encourage the Attorney General to save James Brown's "I Feel Good" charity; have wanted only to conclude the two lawsuits filed against Mr. Buchanan and me in 2008 and 2010; have wanted the documents I requested under FOIA in 2011; and want to be reasonably paid for my six years of service, but, like any other citizen of South Carolina, I would be happy to see James Brown's charitable legacy given the same credit as his cultural legacy.

33. In 2011 my current counsel Mr. Smith and I co-wrote *Private Foundations* because it was an interesting scholarly pursuit and because I hoped to convince the new Attorney General that the termination rights claims being made by Plaintiff Hynie Brown and those aligned with her were incorrect and were damaging to Mr. Brown's charity.

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34. In 2013 I personally met with Attorney General Wilson, the Chief Deputy AG and Solicitor General Robert Cook, and Mr. Silvernail and I later met with the Solicitor General and the Chief Deputy, to discuss our concerns about the incorrect claims Plaintiff Hynie Brown was making, and the need to correct them.

35. By the time I deposed Attorney General Wilson, Chief Deputy McIntosh, and Solicitor General *pro se* in my fee case in 2017, I had honored the Supreme Court's June 10, 2015 order for about 1 year and done nothing as a private citizen to try to encourage the AG to save the "I Feel Good" charity, as I had done between 2013 and June 10, 2015.

36. The sole purpose of the depositions of Attorney General Wilson, Solicitor General Cook and AG McIntosh, each of which was taken with extreme courtesy and respect for their high positions and busy schedules, was to affirm that Mr. Buchanan and I had reasonably protected Mr. Brown's 'I Feel Good" charity and estate plan from 2007 until 2013, and that I – without expectation of pay – had continued to urge the AG to protect James Brown's charity until June 10, 2015.

37. I honor the charitable legacy James Brown left our state, and I also honor the lawyers who helped me honor that legacy actively until June 10, 2015 and -- since June 10, 2015, not be punished for having done so.

38. Adam Silvernail was an undergraduate clerk in office when Judge Early asked me to become SA, and has faithfully, ethically and at personal cost served as my counsel in various James Brown matters since he became a lawyer.

39. Daryl Williams has intelligently, wisely, and ethically spoken for Mr. Buchanan and me, and defended the actions we took, since Case No. 3-08-cv-00014 was brought 15 years ago to

paralyze James Brown's 2000 Trust so that the thief David Cannon could be reinstated as its trustee.

40. James Richardson, Esq., worked *pro bono publico* as lead counsel in *Wilson v. Dallas*, vindicating James Brown's "I Feel Good" charity even though the Attorney General and James Brown's entire acknowledged family sought to dismember it.

41. Charles Carpenter took on a significant petition to the U.S. Supreme Court without pay because the termination rights claims in the James Brown's Estate were important, and Mr. Buchanan and I were being blamed for having raised them.

42. Jeffrey Smith has been denigrated and demeaned since 2011, before he returned to the practice of law, because he correctly assessed, with Mr. Buchanan and me, that the AG's stipulation that Respondent Hynie Brown was the spouse of James Brown and giving her a quarter of the "I Feel Good" charity in exchange for termination rights she did not have threatened James Brown's "I Feel Good" charity.

43. I honor these ethical, intelligent attorneys as much as I honor the charity of James Brown.

FURTHER DEPONENT SAYETH NOT.

Adele J. Pope

SWORN TO before me this 11th day of April, 2023

(L.S.)

Notary Public for South Carolina
My Commission expires: 2/27/2027

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STATE OF SOUTH CAROLINA
On Remand from the SC Supreme Court

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

The Honorable L. Casey Manning, Circuit Court Judge

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, Respondents.

v.

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

Of whom Adele J. Pope is Appellant.

AFFIDAVIT OF CHARLES E. CARPENTER, JR.

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PERSONALLY APPEARED BEFORE ME Charles E. Carpenter, Jr., who being duly sworn, deposes and says:

1. My name is Charles E. Carpenter Jr. My South Carolina Bar Number is #1133. I am over the age of 21 years and am of sound mind.
2. I have been licensed to practice law in Virginia since 1969 and in South Carolina since 1972. I have practiced extensively in both trial and appellate proceedings.
3. I have never moved for sanctions against another lawyer and not lawyer has ever moved for sanctions against me until this case.
4. I believe I know the difference between appropriate lawyer conduct and inappropriate lawyer conduct.
5. I served as a Member, South Carolina Supreme Court Board of Commissioners on Grievances and Discipline, 1986- 1988.
6. After that initial service, I was asked to become a Member of the Executive Committee of the South Carolina Supreme Court Board of Commissioners on Grievances and Discipline, 1988 – 1989. I had the privilege of working with and learning from the Honorable Michael Duffy of the US District and the Honorable Karen Williams former Chief Judge of the United States Court of Appeals of the 4th Circuit.
7. I served as a Member of the South Carolina Supreme Court Board of Law Examiners.
8. I take my obligations to the Bar and the Courts seriously.
9. I served as President of the American Academy of Appellate Lawyers.
10. I am a former Member of the American Law Institute.
11. I was an Invited Delegate, to the National Conference on Appellate Justice, Washington, SC – 2005.

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12. I became involved in this matter in 2019 and, along with co-counsel Adam T. Silvernail, Daryl L. Williams and Wm. Jeffrey Smith, have represented Adele J. Pope since then.

13. Our team has worked together on all filings in this case, and no document has been filed without my knowledge and approval.

14. I have known Adele for more than twenty years and have observed her high ethical standards. I have seen no difference during the time I have represented her in this case.

15. I have likewise observed each of my co-counsel to act thoughtfully and ethically in all actions taken in this case.

16. Our motions to lift the stay in this action have each been filed in accordance with all applicable rules; for proper purposes; and based on information or developments which, in my professional view, justified lifting the stay.

17. I have been kept informed by Adam Silvernail. In a related litigation I previously represented Adele in filing a Petition for Certiorari to the United States Supreme Court in 2015. My involvement there should show that was directly involved. The relevant factual history is set out in the portion of that Petition attached hereto as **Exhibit A.**

18. I believed the facts set out in that document were accurate based on the record, and I have seen no evidence to date which would change my view that those facts are accurate.

19. For context, I attach the entire Petition for Certiorari as **Exhibit B.**

FURTHER DEPONENT SAYETH NOT.

Charles E. Carpenter, Jr.

SWORN TO BEFORE ME THIS
12th day of April 2023.

Notary Public for South Carolina
My Commission expires: 6/27/29

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EXHIBIT A

ELECTRONICALLY FILED - 2023 Apr 13 11:12 AM - RICHLAND - COMMON PLEAS - CASE#2010CP4004900

No. 14-_____

In the Supreme Court of the United States

In re: THE ESTATE OF JAMES BROWN
A/K/A JAMES JOSEPH BROWN

ADELE POPE, ET AL.,

Petitioners,

–v–

JAMES B., ET AL.,

Respondents.

On Petition for Writ of Certiorari
to the Supreme Court of South Carolina

PETITION FOR WRIT OF CERTIORARI

CHARLES E. CARPENTER, JR.
COUNSEL FOR PETITIONERS
CARPENTER APPEALS & TRIAL SUPPORT, LLC
4825 PORTOBELLO ROAD
COLUMBIA, SC 29206
(803) 758-2886
CHARLIE@CARPENTERAPPEALS.COM

FEBRUARY 17, 2015

SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

B. Federal Statutes (App.26a)

Federal Copyright Act provisions:

- 17 U.S.C. § 101
- 17 U.S.C. § 203
- 17 U.S.C. § 304

C. South Carolina Statutes (App.32a)

- South Carolina Code Section 62-7-405. Persons who may enforce a charitable trust.

STATEMENT OF THE CASE

James Brown, composer and entertainer, created and acquired more than eight hundred federal copyrights spanning the fifty years from 1956 until his death in 2006. This creative span of time includes the two critical periods for Termination Rights under the Federal Copyright Act, which are, pre-January 1, 1978 and post-January 1, 1978 under Sections 203 and 304.

The Termination Rights make transfers and assignments of American copyrights subject to limited "claw back" rights for the heirs of the deceased creator of the copyright to terminate the transfers and assignments.

Termination rights for copyrights acquired before 1978 begin to mature after fifty six (56) years. For post-1977 copyright transfers the termination rights begin to mature after thirty five (35) years.

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The first post-1977 Termination Rights mature in 2013. There is a minimum two year notice requirement before Termination Rights can be exercised so a critical time is just arriving.

In the case of a deceased songwriter leaving only children, the Termination Rights may be exercised by a majority of the children. The children of a deceased child represent their parent. In the case of a married songwriter leaving a widow and children the Termination Rights may be exercised by a majority in which the widow counts for fifty per cent (50%) and the child or children count for the other fifty per cent (50%).

When James Brown died on December 25, 2006 he left his $100 million worldwide music empire to his "I Feel Good" Foundation to provide scholarships for needy children in South Carolina and Georgia. About half of the value of the music empire was in Brown's copyrights from 1956 until his death.

Brown's fiduciaries, Adele Pope and Robert Buchanan were developing an heir's baseline under the Federal Copyright Act to protect the Foundation's copyrights as Termination Rights issues would begin to vest in 2012 and 2013. Under the estate's official DNA protocol, three daughters had been identified and acknowledged by the estate, Jeanette, La Rhonda and Nicole. Son Michael, incarcerated in California, was seeking to be DNA tested.

In 2007 Brown's fiduciaries found a copy of handwritten notes by Tommie Rae Hynie discarded at Brown's home which completely refuted her claim to be Brown's wife. These notes have come to be

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called the Hynie Diary. The AG received a copy of these notes in early 2008.

In late December 2007, Brown's companion, Tommie Rae Hynie and five purported Brown children represented by Louis Levenson, had brought an action to attack Brown's estate plan to acquire the assets for themselves.

In February and March 2008, at the request of Tommie Rae Hynie's lawyer, without notice or hearing, Judge Doyet Early issued gag Orders to stop discussion and dissemination of public handwritten notes of Hynie which confirmed she was not Brown's wife.

On August 10, 2008 the South Carolina Attorney General ("AG") asserted the right to take over the litigation filed by Tommie Rae and five Brown children. The AG, a gubernatorial aspirant, who is now the Lieutenant Governor, sought to create an entirely new trust, which he named the "Legacy Trust", over which he would have total administrative control. This would create rich patronage opportunities for the AG to replace and choose the person who would engage legal representation, administrative services, compliance services, investment services, business and contract work, regulatory matters, tax matters and more.

The AG declared Brown's companion, Tommie Rae Hynie, to be Brown's spouse "for all purposes" and agreed to give her a quarter of the "I Feel Good" Trust assets worth millions. Quite an incentive to agree. The AG gave the Levenson clients another quarter of the "I Feel Good" assets to agree to the

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"settlement." No mention was made of the Copyright Act or Termination Rights.

In January 2009 son Terry joined the AG's settlement and was given a right of first refusal to buy Brown's music empire. Brown's trustees Adele Pope and Robert Buchanan, Jr. warned the AG of potential devaluation by the settling parties which would undermine the "I Feel Good" charity, but the AG paid no heed.

James Brown is known around the world for his music and his performances as the Hardest Working Man in Show Business and the Godfather of Soul. But his testamentary intent in leaving his music empire to help educate needy children in South Carolina and Georgia reflects his life-long concerns about education, poverty and civil rights. His estate plan connects his talent to his testamentary goals.

Many Americans know of the remarkable speech Robert F. Kennedy made in Indianapolis the night Martin Luther King Jr. was assassinated. The speech was responsible for the fact that Indianapolis did not riot that night. The story is often told that Indianapolis was the only major city in America that did not riot. It is a stunning story, true as far as it goes, but it is not the whole story.

There was one other person in one other major American city that helped prevent racial turmoil as word of the assassination reached Boston the following night. The man was James Brown. Here is what he did that night, what he said that night, and how it shows what he meant to do in his estate plan.

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James Brown was in Boston as the news of the murder of Martin Luther King, Jr. arrived and the city was on the verge of ignition. Just as Bobby Kennedy planned to speak, James Brown planned to perform. The city of Boston thought it might be prudent to cancel the concert. James Brown insisted that it go on. The decision was also made to broadcast the concert into everyone's homes on T.V. to attract people away from roaming the streets and to let them see James Brown perform.

During his performance in Boston and after the performance he did two things of interest. He stepped between some upset fans and the Boston police and calmed down a situation that few men other than James Brown could possibly have done.

He also took time to tell people how he had climbed out of poverty and discrimination in South Carolina and Georgia. James Brown took a moment to speak directly to the people. He pointed out a radio station in Augusta, Georgia and said: "I used to shine shoes outside that radio station. Now I own that radio station." Then he paused and said, "That's black power."

James Brown is a credit to his home state of South Carolina. His estate plan, if it can be followed, will be the largest private foundation dedicated solely to providing education scholarships created by a son of South Carolina in her history. It is no accident that James Brown included all needy children.

It is no credit to South Carolina that its Attorney General would highjack half of that gift to trade to people outside the scope of James Brown's

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plan in exchange for gaining control over all of James Brown's assets and his gift to the children he wanted to help. James Brown did not plan to be the benefactor of the Attorney General of South Carolina nor did he plan to be the benefactor of his most recent companion, Tommie Rae Hynie, or those allied with them who would dismantle his estate plan.

Judge Early conducted settlement hearings in 2009. Adele Pope and Robert Buchanan opposed the settlement because it was inconsistent with two valid estate plans executed by Brown in 1999 and 2000 both leaving the bulk of his estate to the "I Feel Good" Trust. Also they opposed the settlement because the AG's stipulation that Tommie Rae Hynie was a spouse damaged the "I Feel Good" Foundation in its ability to protect itself from Copyright termination elections. Judge Early signed an Order approving the settlement. Pope and Buchanan appealed.

From 2009 to 2013, Adele Pope and Robert Buchanan were the only ones opposing the "settlement" and trying to protect James Brown's directives and the children he sought to help.

In 2010, the AG, Brown's companion Tommie Rae Hynie, and the AG's own newly created "Legacy Trust," sued Adele Pope and Robert Buchanan for millions of dollars to try to stop the appeal of the AG's settlement.

In 2011 the AG's selected and appointed fiduciary, Russell Bauknight, backed by the AG, obtained an estate tax closing letter from the IRS after claiming Tommie Rae was Brown's spouse and that Brown's worldwide music empire had a value of

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less than $4.7 million at death. Bauknight claimed this was so even though Brown had generated more than $5 million a year for the last three years before his death and the copyrights alone had created royalties of $3 million a year for more than a decade.

In 2011 Adele Pope and a colleague circulated for pre-publication *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust Doesn't . . . Private Foundations* explained the delicate dance between charities which hold copyrights and family members with respect to Termination Rights. It also addressed the damage threatened to the "I Feel Good" Foundation by its devaluation from the correct $84 million at-death value to a fraction of that value, to be followed by a sale to Terry.

In 2011, the AG, his trustee and others claimed to the S. C. Supreme Court that Pope and Buchanan had intentionally overstated Brown's music empire to the IRS by $79 million for the improper purpose of obtaining a $5 million commission, a federal felony.

In oral arguments in 2011, the AG's trustee told the S.C. Supreme Court that Federal Copyright Act Termination Rights are "all this case is about." He claimed that non-wife companion Tommie Rae's elective share claim was a "slam dunk." He claimed that Tommie Rae and her son, James B., controlled the termination rights to the eight hundred copyrights.

Beginning in 2011 the Attorney General and the Legacy Trust he created began delaying production of open records under the SC FOIA by attempting to consolidate all James Brown FOIA cases with the

suit against Pope and Buchanan, subjecting the documents to discovery, and asserting that SC FOIA was subordinate to discovery rights.

Among the documents the AG refused to produce were the handwritten notes of Tommie Rae Hynie, discarded in Brown's mansion when they last separated, which her counsel characterized as her "diary"; and which would completely refute her claim as the wife. The AG also refused to produce the $4.7 million at-death appraisal of the music empire presented to the Internal Revenue Service.

On May 8, 2013, the South Carolina Supreme Court issued its opinion in *Wilson v. Dallas,* 403 S.C. 411, 743 S.E.2d 746 (2013). The Court voided the AG's settlement, voided the appointment of Bauknight who was the AG's selected trustee, did not replace Pope and Buchanan; and indicated that Brown's noble estate plan appeared to be what Brown wanted.

The case was remanded for appointment of fiduciaries in accordance with Brown's documents. Both Brown's will and trust required three fiduciaries who would vigorously defend Brown's estate plan.

For almost two years, the only person who seeks to protect the estate plan has been Adele Pope. No action has been taken to appoint three trustees to defend Brown's estate plan as directed by Brown and the South Carolina Supreme Court.

While the decision of the South Carolina Supreme Court seemed to save the "I Feel Good" Foundation, the case has unfolded to the opposite

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result due to the continued improper acts of the Attorney General and his chosen trustee Russell Bauknight.

Judge Doyet Early, having been reversed for approving an improper settlement created by the Attorney General without any valid authority, was probably less than pleased with the result Ms. Pope obtained from the South Carolina Supreme Court. In any event, he seems amenable to enabling the AG and Tommie Rae Hynie to repeat the same result.

Judge Early whose approval of the unlawful settlement was voided, has on remand:

1. Reappointed the AG's selected administrator,
2. Failed to appoint three persons as directed and as required by James Brown,
3. Left a single administrator, chosen by the AG, with exclusive control to award lucrative work to those who acquiesce in the government plan instead of the estate plan.
4. Declared Tommie Rae Hynie to be Brown's wife,
5. Excluded Tommie Rae's own writings in her own hand that refute any claim she is the wife,
6. Kept in force a universal gag order to prevent anyone speaking of the Tommie Rae's hand written admissions,
7. Failed to give notice and hearings to those who seek to challenge the "settlement,"

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8. Refused to require Bauknight to produce or account for the $4.7 million appraisal.

If Adele Pope is excluded from this case there will be nobody to hold the Attorney General, his single selected trustee Bauknight, and Brown's companion from doing whatever they want. There will not be three trustees because those people don't want anyone else as a check on Russell Bauknight, even though James Brown anticipated the danger of a single trustee. There will be no Guardian ad Litem to assert the interests of those heirs who are being ignored. They will get no notice of anything, they will get no opportunity to be heard in opposing what the AG and Tommie Rae want.

There will be nobody to object to anything in the state court proceeding and it can violate rights of the excluded persons at will. It will cease to be an adversary proceeding.

What this means for the Federal Copyright Act is that the provisions in the Federal Copyright Act can be easily circumvented by an excluded companion and an ambitious AG by just creating a lawsuit and then "settling it"; thus substituting their plan for the Federal Copyright Act's intent and the Copyright owner's intent.

At a status conference, after remand, on May 29, 2013 attorney Levenson and counsel for Tommie Rae announced their intention to reinstate the AG's 2008 settlement which the Court had just voided. Hearing this intention to reinstate the void settlement, the AG announced his pleasure with Bauknight and his intention to withdraw from the cases before Judge Early.

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This AG's suggestion of withdrawing is disingenuous in more than one way. The AG is still involved in the litigation and still hopes to achieve a settlement that will put control of James Brown's assets and gifts to deserving children in the hands of the AG's chosen single trustee. Were the AG to actually step back, his plan is still being fulfilled by the actions of his chosen trustee. For the responsible government officer to tell his chosen lieutenant what he wants done, and delegate that task to the subordinate, does not in any meaningful way remove the Attorney General's presence from the case.

He might like to have some deniability but he should not be allowed to have it. By June 13, 2013, without notice or hearing, Judge Early had reappointed Bauknight as Brown's sole fiduciary. He also issued Orders purporting to prevent Pope and Buchanan from participating in any way in any James Brown trust or estate case. Judge Early has even directed the Clerk of Court to remove three Motions previously filed by Pope from the public record and not to accept any additional filings by her.

At the moment the AG has not withdrawn and he continues to actively resist the FOIA litigation that will expose the absence of support for the concocted spousal determination. The AG continues to hide behind the unlawful gag orders as his excuse for not producing the handwritten notes of Tommie Rae Hynie that confirm she was not James Brown's surviving spouse.

The AG also has continued to support the suit against Pope and Buchanan, Richland County Case 2010-CP-40-4900.

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Pope is an appropriate participant in this case for multiple reasons. She is an appropriate "other" under the South Carolina Probate Code and is the only person trying to sustain James Brown's estate plan. She is the only person seeking to be Guardian ad Litem for heirs that are being ignored and excluded by the AG, his trustee and Brown's last companion Tommie Rae Hynie.

In addition, one of the techniques the AG and his trustee and Tommie Rae Hynie have used to force out Pope is a direct action against her for millions of dollars. Much of her exposure in that lawsuit is determined by what is determined in this case. To seek to take her property without allowing her notice and a chance to participate is an overwhelming violation of her rights that has the AG's and Tommie Rae Hynie's intended collateral consequence of having no adversary in their efforts to take over James Brown's estate plan and the Copyright Termination Rights under the Federal Copyright Act.

In an adversarial system designed to be a search for the truth there are many litigants who would find it easy sledding to advocate without an adversary but that is not what due process envisions. It is in part for the protection of an adversary as your Petitioner seeks here; however, it is also for the integrity of the judicial system as the Preamble to the Constitution says is the second purpose of the Constitution. The first purpose is to establish a more perfect union. The second purpose is to establish justice. That cannot happen when the party most aggrieved is not allowed to participate.

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By October 1, 2013, without any of the required notice or service, and with only Judge Early allowed to ask questions at the "hearing," the AG's chosen trustee, Bauknight, would again have the irreconcilably conflicted positions of trustee of Brown's trust; personal representative under Brown's will; and trustee for Tommie Rae and the Levenson clients under the Legacy Trust created by the AG to take over Brown's assets.

Most of Levenson's clients admitted in September 2013 that they knew Tommie Rae was not Brown's spouse. (App.53a,56a) But they continued the alliance with Tommie Rae to maintain the claim that the parties to the AG's settlement controlled the Copyrights.

At the AG's selected trustee Bauknight's request, Judge Early appointed their next selected person, David Sojourner, Jr., as limited special trustee, purportedly to protect the estate plan. As was the case with Bauknight's own appointment, made at the request of the AG and Tommie Rae Hynie, Judge Early appointed Sojourner as limited special trustee at Bauknight's request, and, no heirs were served with the petition; notified of the hearing; or allowed to ask questions.

Shortly thereafter, Sojourner himself followed the pattern and procured an *ex parte* appointment from the probate court as limited special administrator.

Under his limited appointment, Sojourner's job was to defend the estate and trust in the spousal proceeding and the challenges to the estate plan.

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With his law firm paid $125,000.00 per month by Bauknight for his first two months, Sojourner set out to carry out the AG's and Tommie Rae's plan to dismember the "I Feel Good" Trust and destroy its copyrights a second time by making Tommie Rae the spouse and defeating the interest of Brown's real heirs.

In the fall of 2013 Petitioner, Adele Pope, moved to be appointed as GAL for Petitioners, and asked for a hearing. Judge Early refused to grant a hearing or rule on the Motion.

Between December 2013 and February 2014, Sojourner defeated the interest of three DNA proven daughters acknowledged by the estate in 2007. One, LaRonda, was deceased and the Order terminating her claims was consented to by a lawyer she had terminated prior to her death. Michael Brown was not made a party nor were petitioner James Curtis, nor was a daughter from Brown's first marriage.

Petitioner Pope appealed Judge Early's Orders. Sojourner moved to dismiss. He disavowed any obligation to protect the "I Feel Good" Trust's copyrights.

On June 16, 2014, the South Carolina Court of Appeals dismissed Petitioner's appeal, noting that Pope had not been appointed GAL. On August 29, 2014 the South Carolina Court of Appeals denied Petitioners' petition for rehearing. On November 20, 2014 the South Carolina Supreme Court denied Certiorari to Petitioners.

On January 13, 2015 Judge Early issued an order declaring Tommie Rae to be Brown's spouse.

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No Petitioners were parties to the proceeding, nor was a single grandchild of James Brown a party. Pope and others supporting the estate plan had been ejected by Judge Early. Judge Early refused to consider Tommie Rae's handwritten notes even though they had been made public and widely disseminated for months in 2007 and 2008 before he issued gag orders which prevented their discussion and dissemination.

Judge Early has declined for more than three years to rule on Pope's Motion to declare the three ex parte gag Order's void.

On January 30, 2015 a journalist received and published Tommie Rae's handwritten notes, making clear that Tommie Rae did not believe she was married to Brown at the time of his death. Despite this, the AG advised that he would not seek to alter or amend the Tommie Rae spousal order.

THE REASONS A WRIT OF CERTIORARI SHOULD BE GRANTED

When state action and state courts use unconstitutional processes to make and unmake "spouses" and "children" within the meaning of the Federal Copyright Act, the intent of Congress in carrying out its Article I duties is destroyed.

When a self-interested state Attorney General is allowed by a state court to control ownership and administration of Copyrights and Copyright Termination Rights contrary to Congress's intent and

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EXHIBIT B

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No. 14-_____

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In re: THE ESTATE OF JAMES BROWN
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ADELE POPE, ET AL.,

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–v–

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Respondents.

On Petition for Writ of Certiorari
to the Supreme Court of South Carolina

PETITION FOR WRIT OF CERTIORARI

CHARLES E. CARPENTER, JR.
COUNSEL FOR PETITIONERS
CARPENTER APPEALS & TRIAL SUPPORT, LLC
4825 PORTOBELLO ROAD
COLUMBIA, SC 29206
(803) 758-2886
CHARLIE@CARPENTERAPPEALS.COM

FEBRUARY 17, 2015

SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

QUESTIONS PRESENTED

The appealed orders undermine Congress' intent in adopting Copyright Act, 17 U.S.C. § 203 and § 304, and create federal statutory and constitutional questions that only this Court can resolve. Reversal of the appealed orders is necessary to provide for national uniformity for the exercise of Termination Rights under the Copyright Act.

The appealed orders do major damage to clear and substantial federal interests articulated in the Copyright Act Termination Rights provisions. In enacting § 203 and § 304 Congress intended for all heirs to benefit from Termination Rights, and to be free from improper State action or collusion. Sections § 203 and § 304, of the Copyright Act give limited rights for heirs to enjoy certain benefits from copyrights thirty-five and fifty-six years after assignments.

The opportunity to exercise those rights are not developing as Congress provided. State lower courts and State officials should not be allowed to distort the national policy behind the Federal Copyright Act Termination Rights provisions.

Where federal copyrights are devised to a charity, due process demands that the charity and heirs as defined in the Copyright Act be identified, properly represented and made parties to a state spousal proceeding and given notice and an opportunity to be heard.

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The Question that is presented is:

Whether a manifestly unjust state spousal determination made without due process notice and hearing or equal protection under law for children, incarcerated children, and others, can bind heirs, creditors, charitable foundations and others and can be used to subvert Termination Rights under the Federal Copyright Act?

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PARTIES TO THE PROCEEDING

Petitioners in this proceeding are the proposed GAL for identified and unidentified children and claimed children of entertainer James Brown, as defined in the Federal Copyright Act, who are not challenging Brown's estate plan. They include an incarcerated son (Michael); a claimed son seeking DNA testing (James Curtis); and other children who were being identified when the AG asserted the right to take over and determine heirs in the Brown testacy proceeding in 2008 (the "Doe" Petitioners).

Petitioner Adele Pope ("Pope") is a former co-trustee of the "I Feel Good" Trust and a creditor of Brown's estate. She is a proponent of the estate plan of James Brown, which gives his music empire to the "I Feel Good" Trust. Pope has worked *pro bono publico* since May 8, 2013, as an "other" under Section 62-7-405 of the South Carolina Trust Code ("SCTC"). Section 62-7-405 allows the AG and "others" to enforce charitable trusts.

Respondent Tommie Rae Hynie is a companion of James Brown. James B. is Tommie Rae's son. Terry Brown (Terry) is a son of Brown. And David C. Sojourner, Jr. ("Sojourner") is the claimed limited special administrator.

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OPINIONS AND ORDERS BELOW

The South Carolina Supreme Court's Order Denying Certiorari, Appendix to Petition ("App") 1-2 is unreported. The decision of the South Carolina Court of Appeals dismissing the appeal (App.4a) is unreported. The three unreported orders of Judge Early which are the primary subject of this petition are:

1. Order Severing Omitted Spouse Claim, Elective Share Claim and Pretermitted Child Claim dated. December 16, 2013 (App.22a);
2. Order Dismissing Cross-Claims of Cinnamon Nicole Parris and La Rhonda Pettit, dated January 8, 2014 (App.20a); and
3. Order Determining Parties to Severed Omitted Spouse Claims, Elective Share Claim, and Pretermitted Child Claim, dated February 7, 2014 (App.11a)

JURISDICTION

The Supreme Court of South Carolina issued its opinion on November 20, 2014. This Court has jurisdiction under 28 U.S. Code § 1257 - State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision

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could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The text of the following relevant constitutional and statutory provisions are reproduced in the appendix (App.25a):

A. Constitutional Provisions (App.25a)

- U.S. Constitution, Article I, Section 8 - Copyright and Patent Clause
- U.S. Constitution, Article VI Supremacy Clause
- U.S. Constitution, Amendment V Due Process Clause
- U.S. Constitution, Amendment XIV Due Process and Equal Protection

B. Federal Statutes (App.26a)

Federal Copyright Act provisions:

- 17 U.S.C. § 101
- 17 U.S.C. § 203
- 17 U.S.C. § 304

C. South Carolina Statutes (App.32a)

- South Carolina Code Section 62-7-405. Persons who may enforce a charitable trust.

STATEMENT OF THE CASE

James Brown, composer and entertainer, created and acquired more than eight hundred federal copyrights spanning the fifty years from 1956 until his death in 2006. This creative span of time includes the two critical periods for Termination Rights under the Federal Copyright Act, which are, pre-January 1, 1978 and post-January 1, 1978 under Sections 203 and 304.

The Termination Rights make transfers and assignments of American copyrights subject to limited "claw back" rights for the heirs of the deceased creator of the copyright to terminate the transfers and assignments.

Termination rights for copyrights acquired before 1978 begin to mature after fifty six (56) years. For post-1977 copyright transfers the termination rights begin to mature after thirty five (35) years.

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The first post-1977 Termination Rights mature in 2013. There is a minimum two year notice requirement before Termination Rights can be exercised so a critical time is just arriving.

In the case of a deceased songwriter leaving only children, the Termination Rights may be exercised by a majority of the children. The children of a deceased child represent their parent. In the case of a married songwriter leaving a widow and children the Termination Rights may be exercised by a majority in which the widow counts for fifty per cent (50%) and the child or children count for the other fifty per cent (50%).

When James Brown died on December 25, 2006 he left his $100 million worldwide music empire to his "I Feel Good" Foundation to provide scholarships for needy children in South Carolina and Georgia. About half of the value of the music empire was in Brown's copyrights from 1956 until his death.

Brown's fiduciaries, Adele Pope and Robert Buchanan were developing an heir's baseline under the Federal Copyright Act to protect the Foundation's copyrights as Termination Rights issues would begin to vest in 2012 and 2013. Under the estate's official DNA protocol, three daughters had been identified and acknowledged by the estate, Jeanette, La Rhonda and Nicole. Son Michael, incarcerated in California, was seeking to be DNA tested.

In 2007 Brown's fiduciaries found a copy of handwritten notes by Tommie Rae Hynie discarded at Brown's home which completely refuted her claim to be Brown's wife. These notes have come to be

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called the Hynie Diary. The AG received a copy of these notes in early 2008.

In late December 2007, Brown's companion, Tommie Rae Hynie and five purported Brown children represented by Louis Levenson, had brought an action to attack Brown's estate plan to acquire the assets for themselves.

In February and March 2008, at the request of Tommie Rae Hynie's lawyer, without notice or hearing, Judge Doyet Early issued gag Orders to stop discussion and dissemination of public handwritten notes of Hynie which confirmed she was not Brown's wife.

On August 10, 2008 the South Carolina Attorney General ("AG") asserted the right to take over the litigation filed by Tommie Rae and five Brown children. The AG, a gubernatorial aspirant, who is now the Lieutenant Governor, sought to create an entirely new trust, which he named the "Legacy Trust", over which he would have total administrative control. This would create rich patronage opportunities for the AG to replace and choose the person who would engage legal representation, administrative services, compliance services, investment services, business and contract work, regulatory matters, tax matters and more.

The AG declared Brown's companion, Tommie Rae Hynie, to be Brown's spouse "for all purposes" and agreed to give her a quarter of the "I Feel Good" Trust assets worth millions. Quite an incentive to agree. The AG gave the Levenson clients another quarter of the "I Feel Good" assets to agree to the

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"settlement." No mention was made of the Copyright Act or Termination Rights.

In January 2009 son Terry joined the AG's settlement and was given a right of first refusal to buy Brown's music empire. Brown's trustees Adele Pope and Robert Buchanan, Jr. warned the AG of potential devaluation by the settling parties which would undermine the "I Feel Good" charity, but the AG paid no heed.

James Brown is known around the world for his music and his performances as the Hardest Working Man in Show Business and the Godfather of Soul. But his testamentary intent in leaving his music empire to help educate needy children in South Carolina and Georgia reflects his life-long concerns about education, poverty and civil rights. His estate plan connects his talent to his testamentary goals.

Many Americans know of the remarkable speech Robert F. Kennedy made in Indianapolis the night Martin Luther King Jr. was assassinated. The speech was responsible for the fact that Indianapolis did not riot that night. The story is often told that Indianapolis was the only major city in America that did not riot. It is a stunning story, true as far as it goes, but it is not the whole story.

There was one other person in one other major American city that helped prevent racial turmoil as word of the assassination reached Boston the following night. The man was James Brown. Here is what he did that night, what he said that night, and how it shows what he meant to do in his estate plan.

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James Brown was in Boston as the news of the murder of Martin Luther King, Jr. arrived and the city was on the verge of ignition. Just as Bobby Kennedy planned to speak, James Brown planned to perform. The city of Boston thought it might be prudent to cancel the concert. James Brown insisted that it go on. The decision was also made to broadcast the concert into everyone's homes on T.V. to attract people away from roaming the streets and to let them see James Brown perform.

During his performance in Boston and after the performance he did two things of interest. He stepped between some upset fans and the Boston police and calmed down a situation that few men other than James Brown could possibly have done.

He also took time to tell people how he had climbed out of poverty and discrimination in South Carolina and Georgia. James Brown took a moment to speak directly to the people. He pointed out a radio station in Augusta, Georgia and said: "I used to shine shoes outside that radio station. Now I own that radio station." Then he paused and said, "That's black power."

James Brown is a credit to his home state of South Carolina. His estate plan, if it can be followed, will be the largest private foundation dedicated solely to providing education scholarships created by a son of South Carolina in her history. It is no accident that James Brown included all needy children.

It is no credit to South Carolina that its Attorney General would highjack half of that gift to trade to people outside the scope of James Brown's

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plan in exchange for gaining control over all of James Brown's assets and his gift to the children he wanted to help. James Brown did not plan to be the benefactor of the Attorney General of South Carolina nor did he plan to be the benefactor of his most recent companion, Tommie Rae Hynie, or those allied with them who would dismantle his estate plan.

Judge Early conducted settlement hearings in 2009. Adele Pope and Robert Buchanan opposed the settlement because it was inconsistent with two valid estate plans executed by Brown in 1999 and 2000 both leaving the bulk of his estate to the "I Feel Good" Trust. Also they opposed the settlement because the AG's stipulation that Tommie Rae Hynie was a spouse damaged the "I Feel Good" Foundation in its ability to protect itself from Copyright termination elections. Judge Early signed an Order approving the settlement. Pope and Buchanan appealed.

From 2009 to 2013, Adele Pope and Robert Buchanan were the only ones opposing the "settlement" and trying to protect James Brown's directives and the children he sought to help.

In 2010, the AG, Brown's companion Tommie Rae Hynie, and the AG's own newly created "Legacy Trust," sued Adele Pope and Robert Buchanan for millions of dollars to try to stop the appeal of the AG's settlement.

In 2011 the AG's selected and appointed fiduciary, Russell Bauknight, backed by the AG, obtained an estate tax closing letter from the IRS after claiming Tommie Rae was Brown's spouse and that Brown's worldwide music empire had a value of

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less than $4.7 million at death. Bauknight claimed this was so even though Brown had generated more than $5 million a year for the last three years before his death and the copyrights alone had created royalties of $3 million a year for more than a decade.

In 2011 Adele Pope and a colleague circulated for pre-publication *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown "I Feel Good" Trust Doesn't . . . Private Foundations* explained the delicate dance between charities which hold copyrights and family members with respect to Termination Rights. It also addressed the damage threatened to the "I Feel Good" Foundation by its devaluation from the correct $84 million at-death value to a fraction of that value, to be followed by a sale to Terry.

In 2011, the AG, his trustee and others claimed to the S. C. Supreme Court that Pope and Buchanan had intentionally overstated Brown's music empire to the IRS by $79 million for the improper purpose of obtaining a $5 million commission, a federal felony.

In oral arguments in 2011, the AG's trustee told the S.C. Supreme Court that Federal Copyright Act Termination Rights are "all this case is about." He claimed that non-wife companion Tommie Rae's elective share claim was a "slam dunk." He claimed that Tommie Rae and her son, James B., controlled the termination rights to the eight hundred copyrights.

Beginning in 2011 the Attorney General and the Legacy Trust he created began delaying production of open records under the SC FOIA by attempting to consolidate all James Brown FOIA cases with the

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suit against Pope and Buchanan, subjecting the documents to discovery, and asserting that SC FOIA was subordinate to discovery rights.

Among the documents the AG refused to produce were the handwritten notes of Tommie Rae Hynie, discarded in Brown's mansion when they last separated, which her counsel characterized as her "diary"; and which would completely refute her claim as the wife. The AG also refused to produce the $4.7 million at-death appraisal of the music empire presented to the Internal Revenue Service.

On May 8, 2013, the South Carolina Supreme Court issued its opinion in *Wilson v. Dallas,* 403 S.C. 411, 743 S.E.2d 746 (2013). The Court voided the AG's settlement, voided the appointment of Bauknight who was the AG's selected trustee, did not replace Pope and Buchanan; and indicated that Brown's noble estate plan appeared to be what Brown wanted.

The case was remanded for appointment of fiduciaries in accordance with Brown's documents. Both Brown's will and trust required three fiduciaries who would vigorously defend Brown's estate plan.

For almost two years, the only person who seeks to protect the estate plan has been Adele Pope. No action has been taken to appoint three trustees to defend Brown's estate plan as directed by Brown and the South Carolina Supreme Court.

While the decision of the South Carolina Supreme Court seemed to save the "I Feel Good" Foundation, the case has unfolded to the opposite

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result due to the continued improper acts of the Attorney General and his chosen trustee Russell Bauknight.

Judge Doyet Early, having been reversed for approving an improper settlement created by the Attorney General without any valid authority, was probably less than pleased with the result Ms. Pope obtained from the South Carolina Supreme Court. In any event, he seems amenable to enabling the AG and Tommie Rae Hynie to repeat the same result.

Judge Early whose approval of the unlawful settlement was voided, has on remand:

1. Reappointed the AG's selected administrator,
2. Failed to appoint three persons as directed and as required by James Brown,
3. Left a single administrator, chosen by the AG, with exclusive control to award lucrative work to those who acquiesce in the government plan instead of the estate plan.
4. Declared Tommie Rae Hynie to be Brown's wife,
5. Excluded Tommie Rae's own writings in her own hand that refute any claim she is the wife,
6. Kept in force a universal gag order to prevent anyone speaking of the Tommie Rae's hand written admissions,
7. Failed to give notice and hearings to those who seek to challenge the "settlement,"

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8. Refused to require Bauknight to produce or account for the $4.7 million appraisal.

If Adele Pope is excluded from this case there will be nobody to hold the Attorney General, his single selected trustee Bauknight, and Brown's companion from doing whatever they want. There will not be three trustees because those people don't want anyone else as a check on Russell Bauknight, even though James Brown anticipated the danger of a single trustee. There will be no Guardian ad Litem to assert the interests of those heirs who are being ignored. They will get no notice of anything, they will get no opportunity to be heard in opposing what the AG and Tommie Rae want.

There will be nobody to object to anything in the state court proceeding and it can violate rights of the excluded persons at will. It will cease to be an adversary proceeding.

What this means for the Federal Copyright Act is that the provisions in the Federal Copyright Act can be easily circumvented by an excluded companion and an ambitious AG by just creating a lawsuit and then "settling it"; thus substituting their plan for the Federal Copyright Act's intent and the Copyright owner's intent.

At a status conference, after remand, on May 29, 2013 attorney Levenson and counsel for Tommie Rae announced their intention to reinstate the AG's 2008 settlement which the Court had just voided. Hearing this intention to reinstate the void settlement, the AG announced his pleasure with Bauknight and his intention to withdraw from the cases before Judge Early.

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This AG's suggestion of withdrawing is disingenuous in more than one way. The AG is still involved in the litigation and still hopes to achieve a settlement that will put control of James Brown's assets and gifts to deserving children in the hands of the AG's chosen single trustee. Were the AG to actually step back, his plan is still being fulfilled by the actions of his chosen trustee. For the responsible government officer to tell his chosen lieutenant what he wants done, and delegate that task to the subordinate, does not in any meaningful way remove the Attorney General's presence from the case.

He might like to have some deniability but he should not be allowed to have it. By June 13, 2013, without notice or hearing, Judge Early had reappointed Bauknight as Brown's sole fiduciary. He also issued Orders purporting to prevent Pope and Buchanan from participating in any way in any James Brown trust or estate case. Judge Early has even directed the Clerk of Court to remove three Motions previously filed by Pope from the public record and not to accept any additional filings by her.

At the moment the AG has not withdrawn and he continues to actively resist the FOIA litigation that will expose the absence of support for the concocted spousal determination. The AG continues to hide behind the unlawful gag orders as his excuse for not producing the handwritten notes of Tommie Rae Hynie that confirm she was not James Brown's surviving spouse.

The AG also has continued to support the suit against Pope and Buchanan, Richland County Case 2010-CP-40-4900.

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Pope is an appropriate participant in this case for multiple reasons. She is an appropriate "other" under the South Carolina Probate Code and is the only person trying to sustain James Brown's estate plan. She is the only person seeking to be Guardian ad Litem for heirs that are being ignored and excluded by the AG, his trustee and Brown's last companion Tommie Rae Hynie.

In addition, one of the techniques the AG and his trustee and Tommie Rae Hynie have used to force out Pope is a direct action against her for millions of dollars. Much of her exposure in that lawsuit is determined by what is determined in this case. To seek to take her property without allowing her notice and a chance to participate is an overwhelming violation of her rights that has the AG's and Tommie Rae Hynie's intended collateral consequence of having no adversary in their efforts to take over James Brown's estate plan and the Copyright Termination Rights under the Federal Copyright Act.

In an adversarial system designed to be a search for the truth there are many litigants who would find it easy sledding to advocate without an adversary but that is not what due process envisions. It is in part for the protection of an adversary as your Petitioner seeks here; however, it is also for the integrity of the judicial system as the Preamble to the Constitution says is the second purpose of the Constitution. The first purpose is to establish a more perfect union. The second purpose is to establish justice. That cannot happen when the party most aggrieved is not allowed to participate.

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By October 1, 2013, without any of the required notice or service, and with only Judge Early allowed to ask questions at the "hearing," the AG's chosen trustee, Bauknight, would again have the irreconcilably conflicted positions of trustee of Brown's trust; personal representative under Brown's will; and trustee for Tommie Rae and the Levenson clients under the Legacy Trust created by the AG to take over Brown's assets.

Most of Levenson's clients admitted in September 2013 that they knew Tommie Rae was not Brown's spouse. (App.53a,56a) But they continued the alliance with Tommie Rae to maintain the claim that the parties to the AG's settlement controlled the Copyrights.

At the AG's selected trustee Bauknight's request, Judge Early appointed their next selected person, David Sojourner, Jr., as limited special trustee, purportedly to protect the estate plan. As was the case with Bauknight's own appointment, made at the request of the AG and Tommie Rae Hynie, Judge Early appointed Sojourner as limited special trustee at Bauknight's request, and, no heirs were served with the petition; notified of the hearing; or allowed to ask questions.

Shortly thereafter, Sojourner himself followed the pattern and procured an *ex parte* appointment from the probate court as limited special administrator.

Under his limited appointment, Sojourner's job was to defend the estate and trust in the spousal proceeding and the challenges to the estate plan.

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With his law firm paid $125,000.00 per month by Bauknight for his first two months, Sojourner set out to carry out the AG's and Tommie Rae's plan to dismember the "I Feel Good" Trust and destroy its copyrights a second time by making Tommie Rae the spouse and defeating the interest of Brown's real heirs.

In the fall of 2013 Petitioner, Adele Pope, moved to be appointed as GAL for Petitioners, and asked for a hearing. Judge Early refused to grant a hearing or rule on the Motion.

Between December 2013 and February 2014, Sojourner defeated the interest of three DNA proven daughters acknowledged by the estate in 2007. One, LaRonda, was deceased and the Order terminating her claims was consented to by a lawyer she had terminated prior to her death. Michael Brown was not made a party nor were petitioner James Curtis, nor was a daughter from Brown's first marriage.

Petitioner Pope appealed Judge Early's Orders. Sojourner moved to dismiss. He disavowed any obligation to protect the "I Feel Good" Trust's copyrights.

On June 16, 2014, the South Carolina Court of Appeals dismissed Petitioner's appeal, noting that Pope had not been appointed GAL. On August 29, 2014 the South Carolina Court of Appeals denied Petitioners' petition for rehearing. On November 20, 2014 the South Carolina Supreme Court denied Certiorari to Petitioners.

On January 13, 2015 Judge Early issued an order declaring Tommie Rae to be Brown's spouse.

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No Petitioners were parties to the proceeding, nor was a single grandchild of James Brown a party. Pope and others supporting the estate plan had been ejected by Judge Early. Judge Early refused to consider Tommie Rae's handwritten notes even though they had been made public and widely disseminated for months in 2007 and 2008 before he issued gag orders which prevented their discussion and dissemination.

Judge Early has declined for more than three years to rule on Pope's Motion to declare the three ex parte gag Order's void.

On January 30, 2015 a journalist received and published Tommie Rae's handwritten notes, making clear that Tommie Rae did not believe she was married to Brown at the time of his death. Despite this, the AG advised that he would not seek to alter or amend the Tommie Rae spousal order.

THE REASONS A WRIT OF CERTIORARI SHOULD BE GRANTED

When state action and state courts use unconstitutional processes to make and unmake "spouses" and "children" within the meaning of the Federal Copyright Act, the intent of Congress in carrying out its Article I duties is destroyed.

When a self-interested state Attorney General is allowed by a state court to control ownership and administration of Copyrights and Copyright Termination Rights contrary to Congress's intent and

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without the safeguards of due process of law or equal protection of the law, this Court should declare that the Federal Copyright Act and Amendment XIV of the U.S. Constitution are the supreme law that applies, and the unconstitutional state proceedings are void and should only be recognized when the state processes comply with the procedural rights guaranteed by the Constitution.

Congress could not have intended to allow unlawful state proceedings to control the exercise of Copyright Termination Rights under the Federal Copyright Act.

This problem is not only important, it is imminent and needs to be addressed now. The Court's consideration of Copyright Termination Rights and the effect of improper state spousal determinations is critical because Termination Rights are vesting now and will continue to vest in the future.

It is not a single year or single case problem. Many estates, transferees, or assignees have multiple copyrights that were acquired over an extended time like is the case with James Brown. Those estates, transferees, and assignees face a rolling stream of maturing Copyright Termination Rights as the years of each copyright progress.

Starting with copyrights from the mid-1950's forward there is a pending landslide of presently maturing Copyright Termination Rights. They should not become targets for disappointed heirs and ambitious attorneys general to join forces and take over these assets and rights with unconstitutional processes.

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The Federal Copyright Act is, of course, national, and spousal probate determinations and estate plan administration are state in scope. But the spousal determinations at the state level can be outcome determinative and drive how the Federal Copyright Act works.

Citizens should not have their Constitutional rights and the application of the Federal Copyright Act vary by the vagaries of state venues.

Congress should not have its Constitutionally assigned responsibility of providing for copyrights twisted by the vagaries of state venues. The mandate is found in Article I of the Constitution and the fulfillment of the duty is the Federal Copyright Act.

There is a real and not imagined danger here. Generally we rely on attorneys general to protect the property rights of people. However, in this specific arena, an attorney general is encumbered with a built-in self-interest in controlling property that has attractive patronage opportunities that can directly conflict with an estate plan of large valuable copyright holders.

A disgruntled ex-spouse or hoped to be spouse who potentially controls one half of Copyright Termination Rights can go to the state AG or the state AG can go to that would be spouse, bring an action and quickly "settle the case" and substitute that "settlement" in lieu of both Congressional intent and a decedent's estate plan.

This is not a remote or unusual situation. It is just newly arrived. It is important enough that this case from Aiken, South Carolina has been

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investigated and reported upon by the NEW YORK TIMES and multiple other media outlets. *See* the extended news article by Larry Rohter and Steve Knopper, *Downbeat Legacy for James Brown, Godfather of Soul: A Will in Dispute*, THE NEW YORK TIMES, Dec. 13, 2014.

This case is a model case for the coming wave of maturing Termination Rights. It is being closely watched and reported. Rohter and Knopper in their NEW YORK TIMES article say among other things:

> The bulk of his estate, worth millions of dollars—perhaps tens of millions—was to go to a trust to provide scholarships to needy children . . . But nearly eight years after his death, at 73, on Dec. 25, 2006, the I Feel Good Trust has not distributed a penny to its intended recipients.
>
> The disputes prompted the South Carolina government to seize control of Mr. Brown's estate, jettison his instructions and redirect half of his assets. Last year the state's Supreme Court overruled those actions, calling them an unprecedented overstepping of authority that threatened to undermine public confidence in the probate process.

NEW YORK TIMES, Dec. 13, 2014.

There is much more in this NEW YORK TIMES article, some of which will be included here, not for the purpose of establishing facts, which are within the province of the Courts, but to show the national attention this case is receiving, which is one of the

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reasons it is an appropriate case for review by this Court under a Writ of Certiorari.

> In 2000, the year he signed his will, Mr. Brown explained on an audio tape how he hoped his scholarship fund would burnish his legacy and benefit both white and black children. The will also put aside $2 million in scholarships for his seven grandchildren and divided his personal property, like costumes and household effects, worth perhaps another $2 million, among the six children he recognized.
>
> [. . .]
>
> By the end of 2007 all three executors had resigned . . .
>
> The state district court replaced the original executors with two South Carolina estate lawyers, Adele Pope and Robert Buchanan.
>
> **The State Steps In**
>
> In 2008, Henry McMaster, then the South Carolina attorney general, intervened. . . .
>
> Under a proposed settlement with the family, he redirected a quarter of the estate's assets to Mr. Brown's children and grandchildren and a quarter to the singer Tommie Rae Hynie, . . .
>
> But last year the South Carolina Supreme Court threw out the attorney general's settlement. It described the state's entry into administration of the estate as "an

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unprecedented misdirection" of the attorney general's authority that had led to "the total dismemberment of Brown's carefully crafted estate plan and its resurrection in a form that grossly distorts his intent." . . .

The court also voided Mr. Bauknight's appointment, though it left open the door to his reappointment. It directed the lower court to appoint a new panel to oversee the estate in accord with Mr. Brown's wishes.

[. . .]

"It's pernicious," said Virginia Meeks Shuman, who teaches estate law at the Charleston School of Law. "This idea that you can just completely disregard the testator's wishes is fine if we are going to live in a country where people don't have a right to say what happens with their assets when they die."

[. . .]

Ms. Pope is still in court these days, pushing to have Judge Early follow the terms of Mr. Brown's will. Ms. Hynie and five of the six children whom Mr. Brown recognized, on the other hand, are trying to secure a settlement similar to the scuttled state plan. One of Mr. Brown's sons, Daryl, and a grandson, William, differ from the rest of the family on that issue, arguing that the officials had tried to replace a dead man's priorities with their own.

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> "They didn't do that to Strom Thurmond's estate," William Brown said. "They didn't do it to Elvis Presley's estate. What's wrong with that picture?"

NEW YORK TIMES, Dec. 13, 2014.

A hopeless tangle of confused and conflicting commercial disasters need to be prevented before they occur rather than awaiting some hoped for but impossible fix after it is too late. Federal Copyright Termination Rights under the Federal Copyright Act cannot wait to develop over time by percolating up through the Courts. The Termination Rights are maturing as this is written and there is a national need for this Court to determine the Constitutional and Copyright Act boundaries for proceedings in the states that make spousal determinations.

Spousal determinations are no stranger to the Constitution as courts have been visiting this aspect of state processes in many ways in recent years. Federal Copyright Termination Rights are difficult enough without having clever attempts to distort them through inappropriate state processes. It is not just the claims that are in active litigation that need this Court's guidance. All copyright owners, their agents, lawyers, tax advisors, business advisors, investment advisors, estate planners and others need to know how to proceed when deciding whether to exercise Termination Rights.

This issue is now urgent and nationally important. This case is not only a proper vehicle with which to address the problem, it is a model case to hear and decide. In terms of Federal Copyright Law it is not just an Aiken, South Carolina case. James

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Brown copyrights run the spectrum. They are extended in time across the pre-1978 and post-1978 periods under the Act. The state action and state procedures are stunning clear unconstitutional processes designed to subvert the Federal Copyright Act and James Brown's estate plan.

CONCLUSION

Where a decedent leaves copyrights to a charity, due process and fundamental fairness in state spousal proceedings are essential to carry out the intent of Congress that the Copyright Act Termination Rights be uniformly applied nationwide and that private foundations and other charities be properly administered. The appealed orders were entered in a lower court spousal proceeding in which the court refused to conduct a hearing on a GAL request; refused to hear motions of heirs and others to intervene; directed the clerk to remove unheard motions from the public record; directed the clerk to reject and return any attempted filings; stripped heir status from a deceased, DNA-proven daughter; and suppressed material evidence that James Brown had no spouse by refusing to conduct a hearing to void a patently unconstitutional 6-year-old gag order.

A Writ of Certiorari should be granted to consider whether the appealed orders should be declared void and the matter remanded with direction that all Petitioners be made parties to the spousal and heirs proceedings which might result in a spousal determination which affects the Federal

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Copyrights and the Termination Rights under Federal Copyright Act.

Respectfully Submitted,

CHARLES E. CARPENTER, JR.
COUNSEL FOR PETITIONERS
CARPENTER APPEALS &
TRIAL SUPPORT, LLC
4825 PORTOBELLO ROAD
COLUMBIA, SC 29206
(803) 758-2886
CHARLIE@CARPENTERAPPEALS.COM

FEBRUARY 17, 2015

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ORDER OF THE SUPREME COURT OF SOUTH CAROLINA DENYING PETITION FOR WRIT OF CERTIORARI (NOVEMBER 20, 2014)

THE SUPREME COURT OF SOUTH CAROLINA

In re: THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

HENRY DARGAN MCMASTER,

Plaintiff,

v.

DARYL J. BROWN, LINDSEY DOLORES BROWN, VANISHA BROWN, LARRY BROWN, DEANNA J. BROWN THOMAS, JASON BROWN LEWIS, YAMMA N. BROWN, SYDNEY LUMAR, CARRINGTON LUMAR, TONYA BROWN, TERRY BROWN, ROMUNZO BROWN, FORLANDO BROWN, TOMMY RAE HYNIE BROWN, JAMES JOSEPH BROWN II, JEANETTE MITCHELL, MICHAEL DEON BROWN, RUSSELL L. BAUKNIGHT, ADELE POPE, DAVID SOJOURNER, LISA SIMS,

Defendants,

Of whom MICHAEL DEON BROWN, JAMES CURTIS, JANE DOE and JOHN DOE Numbers I, II, III, and IV, by their proposed guardian ad litem, and ADELE POPE, as

Creditor/Proponent of the Will of James Brown dated June 15, 1999, and on behalf of others under S.C. Trust Code § 62-7-405,

are Petitioners,

and

JAMES JOSEPH BROWN II, TERRY BROWN, TOMMIE RAE HYNIE BROWN, and DAVID SOJOURNER, JR.,

are Respondents.

Appellate Case No. 2014-001896

Lower Court Case Nos. 2008-CP-02-01647, 2013-CP-02-02850, 2013-CP-02-02851, 2013-CP-02-02849

Petitioner Adele Pope seeks a writ of certiorari to review the order of the Court of Appeals dismissing her appeal. The petition is denied.

/s/ signature not legible
For the Court
Pleicones, J., not participating

Columbia, South Carolina

November 20, 2014

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cc:

The Honorable Jenny Abbott Kitchings
Robert N. Rosen, Esquire
Adele Jeffords Pope, Esquire
David B. Bell, Esquire
Albert P. Shahid, Jr., Esquire
John Fisher Beach, Esquire
John Andrew Donsbach, Sr., Esquire
Matthew Day Bodman, Esquire
The Honorable Liz Godard

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ORDER OF THE SOUTH CAROLINA COURT OF APPEALS
(JUNE 16, 2014)

SUPREME COURT FOR THE STATE OF SOUTH CAROLINA

IN RE: THE ESTATE OF JAMES BROWN, A/K/A JAMES JOSEPH BROWN,

MICHAEL DEON BROWN, JAMES CURTIS, JANE DOE and JOHN DOE NUMBERS I, II, III, and IV, and ADELE POPE,

Appellants,

v.

JAMES B., TERRY BROWN, TOMMIE RAE HYNIE BROWN, and DAVID SOJOURNER, JR.,

Respondents.

Appellate Case No. 2014-000794

Adele Pope has filed a notice of appeal from the following orders of the circuit court:

(1) Order of February 7, 2014, determining parties to severed omitted spouse claim, elective share claim, and pretermitted child claim (Case No: 2008-CP-02-1647);

(2) Order of January 8, 2014, dismissing cross-claims of Cinnamon Nicole Parris and

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LaRhonda Pettit without prejudice (Case No. 2008-CP-02-1647);

(3) Order of December 16, 2013, severing omitted spouse claim, elective share claim, and pretermitted child claim (Case No. 2008-CP-02-1647); and

(4) Form Orders of February 26, 2014, and March 10, 2014, denying Pope's motions to alter, amend, and vacate orders dismissing heirs of James Brown and others from proceedings of James B. and Tommie Rae Hynie.

Pope signs her notice of appeal as "Attorney for Appellants." However, "Appellant" Michael Deon Brown's attorney, David B. Bell, has notified this Court that Pope does not represent Michael Deon Brown and he asks that his client's name be removed from the caption of this appeal.[1] As to the remaining "Appellants," they are not parties to Case No. 2008-CP-02-1647. In fact, the circuit court's administrative orders of June 13, 2013,[2] remove Pope from all

---

[1] We further question whether Pope represents James Curtis, Jane Doe and John Doe Numbers I, II, III, and IV. In her filings, Pope contends she is filing the appeal as a "proposed guardian ad litem" and as "Creditor/Proponent of the Will of James Brown." We note that nothing in our file indicates Pope has been appointed as the guardian ad litem for any of the "Appellants."

[2] The administrative orders were issued in response to our supreme court's decision in *Wilson. v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Pope's appeal from these orders, appellate case number 2013-001649, is currently pending before this court.

James Brown Estate and Trust litigation, specifically including Case No. 2008-CP-02-1647, noting any litigation regarding Pope's fee petition will be assigned a separate case number. Because "[o]nly a *party aggrieved* by an order, judgment, sentence or decision may appeal" and an appeal may only be taken "as provided by law[ ] from final judgment, appealable order or decision," this appeal is dismissed. Rule 201, SCACR (emphasis added); *see also Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ("An appeal filed by one who has ceased to be a party to a suit is a mere nullity." (internal quotation marks and citation omitted)).

/s/ Paul E. Short, Jr.
FOR THE COURT

Columbia, South Carolina
June 16, 2014

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ORDER OF THE SOUTH CAROLINA COURT OF APPEALS DENYING PETITION FOR REHEARING (AUGUST 29, 2014)

THE SOUTH CAROLINA COURT OF APPEALS

In re: THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

HENRY DARGAN MCMASTER,

Plaintiff,

v.

DARYL J. BROWN, LINDSEY DOLORES BROWN, VANISHA BROWN, LARRY BROWN, DEANNA J. BROWN THOMAS, JASON BROWN LEWIS, YAMMA N. BROWN, SYDNEY L[redacted], CARRINGTON L[redacted], TONYA BROWN, TERRY BROWN, ROMUNZO BROWN, FORLANDO BROWN, TOMMY RAE HYNIE BROWN, JAMES [redacted] B[redacted], JEANETTE MITCHELL, MICHAEL DEON BROWN, RUSSELL L. BAUKNIGHT, ADELE POPE, DAVID SOJOURNER, LISA SIMS,

Defendants,

Of whom MICHAEL DEON BROWN, JAMES CURTIS, JANE DOE and JOHN DOE Numbers I, II, III, and IVE, by their proposed guardian ad litem, and ADELE POPE, as Creditor/Proponent of the Will of James Brown

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dated June 15, 1999, and on behalf of others
under S.C. Trust Code § 62-7-405,

are the Appellants,

and

JAMES [redacted] B[redacted],
TERRY BROWN, TOMMIE RAE HYNIE BROWN,
and DAVID SOJOURNER, JR.,

are the Respondents.

Appellate Case No. 2014-000794

After careful consideration of the petition to rehear the dismissal of this appeal, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

/s/ Paul E. Short

/s/ H. Bruce Williams

/s/ Jasper T. Cuerton

Columbia, South Carolina
August 29, 2014

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COURT OF COMMON PLEAS ORDER (MARCH 10, 2014)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

HENRY DARGAN MCMASTER,

Plaintiff,

v.

DARYL J. BROWN, LINDSEY DELORES BROWN, JANISE VANISHA BROWN, VANISHA BROWN, LARRY BROWN, DEANNA J. BROWN THOMAS, JASON BROWN LEWIS, YAMMA N. BROWN, SYDNEY L[redacted],

Defendants,

Case No. 2008CP021647

DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

IT IS ORDERED AND ADJUDGED

Adele J. Pope's Motion for to Alter, Amend and Vacate Order Dismissing Heirs of James Brown and others From proceedings of James B. and Tommie Rae Hynie is denied.

/s/ Doyet A. Early, III
Circuit Court Judge

March 10, 2014

COURT OF COMMON PLEAS ORDER (FEBRUARY 24, 2014)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

In re THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

Case No. 2008CP021647

IT IS ORDERED AND ADJUDGED by the Court: Adele J. Pope's Motion for to Alter, Amend and Vacate Order Dismissing Heirs of James Brown and others from proceedings of James B. and Tommie Rae Hynie.

/s/ Doyet A. Early, III
Circuit Court Judge

February 24, 2014

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ORDER DETERMINING PARTIES TO SEVERED OMITTED SPOUSE CLAIM, ELECTIVE SHARE CLAIM, AND PRETERMITTED CHILD CLAIM (FEBRUARY 7, 2014)

COURT OF COMMON PLEAS FOR
THE SECOND JUDICIAL CIRCUIT

IN RE: THE ESTATE OF JAMES BROWN,
A/K/A JAMES JOSEPH BROWN

Case No. 2008-CP-02-1647

This matter comes before the Court on the Motions of Petitioner Tommie Rae Brown to Determine Parties (the "Motions to Determine Parties") to Ms. Brown's Omitted Spouse Claim and Elective Share Claim filed against the Estate of James Brown ("Estate"). These motions are filed in this, the underlying case, in response to this Court's December 16, 2013 Order Severing Ms. Brown's Omitted Spouse Claim (new Case No. 2013-CP-02-02849), Elective Share Claim (new case no. 2013-CP-02-02850), and James B[redacted]s Pretermitted Child Claim (new case no. 2013-CP-02-02851) (collectively, the "Severed Actions").

Terry Brown, a son of James Brown, as well as a named devisee under the Last Will and Testament of James Brown (the "Will"), filed a response to the

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Motions to Determine Parties asserting that he should be made a party to the Omitted Spouse Claim and the Elective Share Claim.

On or about January 3, 2014, Terry Brown also filed a motion to intervene in the Omitted Spouse Claim and the Elective Share Claim pursuant to Rule 24 of the South Carolina Rules of Civil Procedure. The Court's ruling on the present motions makes Terry's Brown's motion to intervene moot.

On January 8, 2014 the Court heard oral arguments on the Motions to Determine Parties. At that time the Parties agreed that, although James [redacted] has not filed a motion to determine parties to his pretermitted child claim, the Court's ruling on these motions will govern all of the Severed Actions. After carefully considering the Motions to Determine Parties, the supporting and opposing Memoranda filed with this Court, and the oral arguments made by all counsel, the Court rules as follows.

Tommie Rae Brown asserts that the Court must exclude from the Severed Actions all Parties to the underlying case except David C. Sojourner, Jr., and then only in Mr. Sojourner's capacity as Limited Special Administrator of the Estate (LSA)[1]. In support, Ms. Brown cites, among other authorities, Sections 62-1-403(2)(ii) and 62-7-303 of the South Carolina Probate and Trust Codes, respectively, for

[1] Indeed, Tommie Rae Brown asserts that the Court should exclude Mr. Sojourner, in his capacity as Limited Special Trustee ("LST") of the James Brown August 1, 2000 Irrevocable Trust Agreement ("Trust"). See, Memorandum of Tommie Rae Brown re Motion for Determination of Parties: Omitted Spouse Share Matter, pp. 3-4.

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the proposition that the LSA is the only party to the Severed Actions other than the Petitioners in those actions. Those statutory provisions. read in relevant part:

§ 62-1-403 Pleadings, when parties bound by others; notice

[. . .]

(2) Persons are bound by order binding others in the following cases:

[. . .]

(ii) *To the extent there is no conflict of interest between them or among persons represented*,

[. . .]

orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and

orders binding a personal representative[2] bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate.

[emphasis added]

---

[2] Because Mr. Sojourner has been appointed as LSA instead of personal representative, references in the SCPC to the personal representative apply here to the LSA.

§ 62-7-303 Representation by fiduciaries and parents.

(a) *To the extent there is no conflict of interest between the following beneficiary representatives and the person represented or among those being represented with respect to a particular question or dispute*:

[. . .]

(4) A trustee may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust;

(5) a personal representative of a decedent's estate *may* represent and bind persons interested in the estate with respect to questions or disputes involving the decedent's estate . . . .

[emphasis added]

In accordance with § 62-1-403, if the devisees of the Will ("Devisees") are not made parties to the Severed Actions, then orders issued in the Severed Actions would only bind the Devisees where there are no conflicts of interest among them or between them and the LSA. Likewise, under § 62-7-303, the LSA may represent and bind non-party Devisees, but, again, only if there is no conflict among them or between them and the LSA.

There are patent conflicts among certain Devisees, between certain Devisees and Tommie Rae Brown, and between certain Devisees, Tommie Rae Brown on the one hand and the LSA and LST on the other. Among others, four of the devisees, Deanna Brown

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Thomas, Yamma Brown, Vanisha Brown, and Larry Brown (the "Contesting Devisees"), along with Tommie Rae Brown, assert claims against the LSA and LST to set aside the Will and Trust, alleging undue influence, fraud, lack of intent, and illusory trust. Devisee Terry Brown expressly opposes these claims, supports the Will and Trust, and affirmatively seeks the Court's enforcement of the Will's uncontestability (in terrorem) clause against the Contesting Devisees. Devisee Daryl Brown also appears to support the Will and Trust.

Given the existence of these undeniable conflicts, Sections 62-1-403 and 62-7-303 suggest that orders issued in the Severed Actions will not bind the Devisees if they are not made parties. Likewise, because of these conflicts, Section 62-7-303 may or may not give the LSA the authority to "represent and bind" the Devisees in relation to the Severed Actions.

If the Devisees, Tommie Rae Brown, and James [redacted] are made parties to all Severed Actions, then orders issued in those actions will bind them, removing the uncertainty caused by Section 62-1-403 if they are not made parties.

Likewise, making the Devisees, Tommie Rae Brown, and James [redacted] parties to the Severed Actions also removes the uncertainty placed upon the LSA and LST by Section 62-7-303. Making the Devisees, James [redacted] and Tommie Rae Brown parties to all Severed Actions, in turn, allows the LSA and LST to more effectively satisfy his fiduciary obligation to defend the Estate and Trust against the Will and Trust Challenges, as established in this

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Court's October 1, 2013 Interim Order and the Probate Court's October 10, 2013 Interim Order Appointing Limited Special Administrator.

Tommie Rae Brown argues that, because she has waived her right to any personal and household effects of every kind as described in the Will, only she, the Estate and the Trust are "interested persons," under Section 62-1-201(2). As such, Ms. Brown argues that only she and the LSA can be parties to the elective share or omitted spouse claims. The definition of "interested person" does not support this assertion:

> (23) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. *The meaning as it relates to particular persons may vary from .time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding*.

[emphasis added]

The Devisees meet this definition in several ways. They are "heirs." They are also "devisees." They are also "children." They are also "beneficiaries." In these capacities, they also have

certain "priority for appointment as personal representative" under Section 62-3-203.

Moreover, the Devisees have "a property right in or claim against [the Estate] . . . which may be affected by the proceeding." A threshold determination that must be made in both the elective share and omitted spouse claims is whether Tommie Rae Brown is James Brown's surviving spouse. This determination could have a profound effect upon the Devisees' property rights, in or claims against both the Estate and the Trust.

As a child of James Brown and a named Devisee of the Will, Terry Brown has an interest in seeing that his father's estate plan is carried out.

As children and intestate heirs of James Brown, Terry Brown and the other Devisees have potential property interests and/or claims against the Estate that "may be affected" by the Severed Actions. The Contesting Devisees and Tommie Rae Brown each seek to set aside the Will on grounds of undue influence, fraud, lack of intent, and illusory trust. They request that the Court set aside the Will and order that the Estate pass by the laws of intestate succession. See, for example, Tommie Rae Brown's December 19, 2007 Petition to Set Aside Informal Probate filed in a direct predecessor to this case. If Tommie Rae Brown is finally adjudged to be James Brown's surviving spouse, then she could take fully 50% of the Estate under the laws of intestate succession, reducing by half any claim that Terry Brown and the other Devisees might have under those laws.

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The LSA's primary duty is defined by the Court's October 1 and 10, 2013 Appointment Orders, which is to defend James Brown's Estate against the claims made in the Will and Trust Challenges. In executing this duty, the LSA must act in the best interest of the Estate and successors to the Estate. Section 62-3-703(a). The LSA must execute his duty as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the Estate and Trust, exercising reasonable care, skill, and caution. Sections 62-3-703(a) and 62-7-804.

In light of these obligations and the uncertainty that would be created by excluding the Devisees from the Severed Actions, in an abundance of caution, the Court believes it should resolve that uncertainty by allowing the Devisees to the Will, Tommie Rae Brown, and James [redacted] to participate fully as named parties in each of the Severed Actions. The Court sees no legal impediment to exercising its discretion in this fashion and finds that such action is in the best interests of the parties, while serving the goal of judicial economy.

For the reasons outlined above, it is hereby:

ORDERED that Tommie Rae Brown be designated as the Petitioner in the Severed Actions for her omitted spouse, 2013-CP-02-02849, and elective share, 2013-CP-02-02850, claims;

ORDERED that James [redacted] be designated as the Petitioner in the Severed Actions for his pretermitted child claim: 2013-CP-02-02851;

ORDERED that David C. Sojourner, Jr., in his capacity as Limited Special Administrator and

Limited Special Trustee, be designated as a Respondent in each of the Severed Actions: 2013-CP-02-02849, 2013-CP-02-02850, and 2013-CP-02-02851; and

ORDERED that all Devisees of the Will, who are Deanna Brown Thomas, Yamma Brown, Vanisha Brown, Larry Brown, Terry Brown, and Daryl Brown, be designated as Respondents in each of the Severed Actions: 2013-CP-02-02849, 2013-CP-02-02850, and 2013-CP-02-02851.

IT IS SO ORDERED.

/s/ Doyet A. Early, III
Chief Administrative Judge
Second Judicial Circuit

February 7, 2014
Bamberg, South Carolina

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ORDER DISMISSING CROSS-CLAIMS OF CINNAMON NICOLE PARRIS AND LARHONDA PETTIT (WITHOUT PREJUDICE) (JANUARY 8, 2014)

COURT OF COMMON PLEAS FOR
THE FIFTH JUDICIAL CIRCUIT, STATE OF
SOUTH CAROLINA, COUNTY OF AIKEN

IN RE: THE ESTATE OF JAMES BROWN
A/K/A JAMES JOSEPH BROWN

Case No. 2008-CP-02-1647

This matter comes before the Court by way of the December 18, 2013 Motion ("Motion") of David C. Sojourner Jr., (the "LSA") as Limited Special Administrator of the Estate of James Brown a/k/a James Joseph Brown (the "Estate") and as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust") to dismiss the defenses cross-claims, and request, for relief asserted by Cinnamon Nicole Mernickle Parris ("Parris") and LaRhonda Pettit a/k/a LaRhonda Waller ("Pettit") through three pleadings they jointly filed in this matter dated February 1, 2008, April 25, 2008 and April 25, 2008, as attached to the LSA's Motion. The LSA, Parris, and Pettit hereby consent to resolve this Motion through dismissal of Parris and Pettit as parties, and dismissal of their defenses, cross-claims, and requests for relief all without prejudice.

NOW THEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED that Parris and Pettit, along with their said defenses, cross-claims, and requests for relief, are hereby dismissed without prejudice.

AND IT IS SO ORDERED.

/s/ Hon. Doyet A. Early, III
Chief Administrative Judge
Second Judicial Circuit

January 8, 2014
Aiken, South Carolina

WE CONSENT:

/s/ John F. Beach
Adams and Reeses LLP
1501 Main Street, 5th Floor (29201)
Columbia, SC 29202

Attorneys for David C. Sojourner, Jr., as Limited Special Representative of the Estate of James Brown and Limited Special Trainee of the James Brown August 1, 2000 Irrevocable Trust Agreement.

Date: January 8, 2014

WE CONSENT:

/s/ James Mikon Griffin, Esq.
Lewis Habock and Griffin LLP
PO Box 11208
Columbia, SC 29211

Attorneys for Cinnamon Nicole Mernickle Parris and LaRhonda Pettit.

Date: January 8, 2014

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ORDER SEVERING OMITTED SPOUSE CLAIM, ELECTIVE SHARE CLAIM AND PRETERMITTED CHILD CLAIM (DECEMBER 16, 2013)

IN THE COURT OF COMMON PLEAS, SECOND JUDICIAL CIRCUIT, STATE OF SOUTH CAROLINA COUNTY OF AIKEN

In Re: THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

Case No. 2008-CP-02-1647

This matter comes before the Court on the Motions of Petitioner Tommie Rae Brown and Stephen M. Slotchiver as Guardian *ad Litem* for Petitioner James B[redacted] to sever their respective claims as contemplated by the Court's Administrative Order dated June 13, 2013. Ms. Brown entered a Motion to sever her claims to an omitted spouse's share of the Estate pursuant to S.C. Code Ann. § 62-2-301 and to an elective share of the Estate pursuant to S.C. Code Ann. § 62-2-201 et seq., James B[redacted] entered a Motion to sever his claim seeking a share of the Estate as a pretermitted child pursuant to S.C. Code Ann. § 62-2-302. After considering Petitioners Motions and supporting Memorandums of Law, it is hereby:

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ORDERED that Petitioner Tommie Rae Brown's claim for an omitted spouse's share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an omitted spouse's share; (2013CP0202849)

ORDERED that Petitioner Tommie Rae Brown's claim for an elective share, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an elective share; (2013CP0202850)

ORDERED that Petitioner James B[redacted] claim for a pretermitted child share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Petitioner James B[redacted]'s claim to a pretermitted child's share of the Estate; (2013CP0202851)

ORDERED that each claim severed by this Order shall be deemed a continuation of each respective pending claim for all purposes, and under no circumstances shall any severed claim be treated

as having been filed on the date the respective new case numbers are established; and further, it is

ORDERED that the discovery in the severed cases shall proceed on a consolidated basis with each other and also with the claims remaining as part of Case No. 2008-CP-02-1647; and all cases shall be subject to scheduling orders that will be issued by the Court.

IT IS SO ORDERED

/s/Doyet A. Early, III
Chief Administrative Judge
Second Judicial Circuit

December 16, 2013
Columbia, South Carolina

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RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

A. CONSTITUTIONAL AMENDMENTS

1. U.S. CONSTITUTION, FIFTH AMENDMENT

The Fifth Amendment creates a number of rights relevant to both criminal and civil legal proceedings. In criminal cases, the Fifth Amendment guarantees the right to a grand jury, forbids "double jeopardy," and protects against self-incrimination. It also requires that "due process of law" be part of any proceeding that denies a citizen "life, liberty or property" and requires the government to compensate citizens when it takes private property for public use.

2. U.S. CONSTITUTION, FOURTEENTH AMENDMENT SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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3. U.S. CONSTITUTION, ARTICLE I SECTION 8

The Congress shall have the power. . . .

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

4. U.S. CONSTITUTION ARTICLE VI

[. . .]

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

B. FEDERAL STATUTES

1. 17 U.S. CODE § 101—DEFINITIONS

Except as otherwise provided in this title, as used in this title, the following terms and their variant forms mean the following:

> A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

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2. 17 U.S. CODE § 203—TERMINATION OF TRANSFERS AND LICENSES GRANTED BY THE AUTHOR

(a) Conditions for Termination.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

[. . .]

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, as follows:

(A) The widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest.

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them.

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of

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such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

[. . .]

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of Termination.—Upon the effective date of termination, all rights under this title that were covered by the terminated grants revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of

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subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not

join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

[. . .]

3. 17 U.S. CODE § 304—DURATION OF COPYRIGHT: SUBSISTING COPYRIGHT

(a) Copyrights in Their First Term on January 1, 1978.—

(1)

(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 67 years, which—

[. . .]

(c) Termination of Transfers and Licenses Covering Extended Renewal Term.—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by subsection

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(a)(1)(C) of this section, otherwise than by will, is subject to termination under the following conditions:

[. . .]

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, as follows:

(A) The widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest.

(B) The author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them.

(C) The rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

[. . .]

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from

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the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. , the notice shall be signed . . . . if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2), and the notice shall be served not less than two or more than ten years before that date.

[. . .]

C. SOUTH CAROLINA STATUTES

1. SOUTH CAROLINA CODE SECTION 62-1-201. GENERAL DEFINITIONS

Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in this Code:

(23) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

2. SOUTH CAROLINA CODE SECTION 62-7-405.

(a) A charitable trust may be created for the relief of distress or poverty, the advancement of education or religion, the promotion of health, scientific, literary, benevolent, governmental or municipal purposes, or other purposes, the achievement of which purposes is beneficial to the community.

[. . .]

(c) The settlor of a charitable trust, the trustee, and the Attorney General, among others may maintain a proceeding to enforce the trust.

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RETURN AND OPPOSITION OF APPELLANTS TO MOTION TO DISMISS (APRIL 17, 2014)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

In re: THE ESTATE OF JAMES BROWN A/K/A JAMES JOSEPH BROWN

MICHAEL DEON BROWN, JAMES CURTIS, JANE DOE and JOHN DOE Numbers I, II, III, and IV, by Their Proposed Guardian *ad Litem*, and ADELE POPE, as Creditor/Proponent of the Will of James Brown dated June 15, 1999, and on behalf of others under S.C. Trust Code § 62-7-405,

Appellants,

v.

JAMES B., TERRY BROWN, TOMMIE RAE HYNIE and DAVID SOJOURNER, JR.,

Respondents.

Case No. 2013-CP-02-1647
Case No. 2013-CP-02-2849
Case No. 2013-CP-02-2850
Case No. 2013-CP-02-2851

Appeal from Aiken County Court of Common Pleas

Before: The Honorable Doyet A. EARLY, III
Circuit Court Judge

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Appellants oppose the Motion to Dismiss this appeal made by Adams and Reese, LLP on behalf of David Sojourner, Jr., for the following reasons:

1. Movant lacks standing to seek dismissal because of his void ex parte claimed appointment, and because he has unclean hands.
2. James Brown's incarcerated son Michael and all Appellants are Aggrieved by the appealable Orders, and have standing.
3. Michael and other Appellants are entitled to be parties and served, and the claimed heirs to have a guardian ad litem ("GAL").
4. SCTC Section 62-7-405 Gives Appellant Pope Additional Standing Because Movant and Bauknight have placed the 1999 Will in jeopardy.

Each of these issues is discussed below.

BACKGROUND

This is an appeal of public importance because it addresses whether the State, after the withdrawal by Attorney General Alan Wilson ("AG Wilson") and aided by Movant and Russell Bauknight, may continue to deny the Due Process, Equal Protection, First Amendment and statutory rights of Appellants which was the State's policy from August 10, 2008 until the decision of May 8, 2013 in *Wilson v. Dallas,* 403 S.C. 411, 743 S.C.2d 743.

The State's policy threatened to dismember James Brown's "I Feel Good" Private Foundation. It also threatened the "I Feel Good" Trust's rights to

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more than 800 published and unpublished songs (the "Royalties"). The State did this by creating by "stipulation" a spouse, rather than confirming James Brown had no spouse. The Estate/"I Feel Good" Trust were prevented from contracting with the least expensive HALF of Brown's real heirs who were not challenging the estate plan to protect for decades the $3+ million annual flow from the Royalties to needy students as James Brown intended.

But for the actions of the State, Movant and Bauknight, the challenges to Brown's 2000 and 1999 estate plans, under the *Wilson v. Dallas* remand, would likely be over. Under IRS distribution guidelines, $2 million or more would now be distributed each year for scholarships for needy students.

Instead, since later 2012 nearly $2 million has been paid to Bauknight, Movant's counsel and other attorneys to favor Hynie; attempt to defeat the "I Feel Good" Trust's ability to protect its copyrights through a court-ordered proper heirs determination approved before the McMaster Settlement; conceal a fabricated $4.7 million valuation; and allow Bauknight to continue to serve, sue and prevent FOIA compliance as claimed agent for the State/AG, Hynie and her son.

In the 14 months from November 2012 until the end of 2013 AG Wilson stood silent as Bauknight and Movant paid from funds Brown gave to the "I Feel Good" Trust:

a. $563,000.00 to the firm of Kenneth Wingate, in addition to a 40% contingency fee, in a pending suit brought by the State/AG in 2010 to stop the *Wilson v. Dallas* appeal.

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b. More than $750,000.00 to Bauknight's attorneys, Nexsen Pruet, while Bauknight serves as agent for Hynie and her son.

c. $350,000.00 to Bauknight's firm; and

d. In the first three months after Movant's appointment, more than $250,000.00 to Adams & Reese, LLP.

When compared with the approximately $200,000 spent in five years to defend against the McMaster Settlement in seven days of lower court hearings and a 4-year appeal which allowed the *Wilson v. Dallas* decision, these expenditures are extraordinary.

The Attorney General', in the face of this, has officially withdrawn from the Aiken County cases, abandoning his statutory duty to protect the "I Feel Good" Trust in more than a dozen pending cases. Yet he remains in—and stalls—three FOIA cases, and is trying to consolidate them with the Wingate Suit.

I. Movant Lacks Standing to Seek Dismissal Because of His Void *Ex Parte* Claimed Appointment, and Because He Has Unclean Hands

a. Movant's Appointments are *Ex Parte* and Violate Due Process

Movant lacks standing to seek to dismiss this important appeal as claimed limited special administrator. His claimed authority is an October 10, 2013 *ex parte* Order which was issued by The Honorable Sue H. Roe, Probate Judge for Aiken County ("Judge Roe").

The October 10 Order was secured by delivery of a petition to Judge Roe. There was no summons; no service; no hearing.

In an extraordinary order Judge Roe dispensed with a hearing; made significant findings; and issued the *ex parte* order.

The October 10 Order then appears to have been handed to a Nexsen Pruet attorney for service on all Interested Persons. But it was never served.

After the October 10 Order was discovered in the public records, a Motion to Alter or Amend (void) was filed. Judge Roe then filed a *sua sponte* Order removing the Motion to circuit court. To date, the matter is unresolved.

Movant's claimed appointment as limited special trustee, in an order which is currently under appeal, is arguably more troublesome. It results from a petition by Bauknight which contained a summons directed to "All Necessary Parties." Neither the petition nor the summons gave any indication of who those Necessary Parties were.

The petition and summons were not served on any Appellant, all of whom were either proven heirs, claimed heirs awaiting the Peeples DNA Protocol, or Creditors who had filed a Demand for Notice and were entitled to be served.

Arguably more egregious, Movant did not serve James Brown's six adult grandchildren and minor who are beneficiaries of $285,000 education trusts under the 2000 Trust, even though four of them have

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never been made parties to any Aiken County James Brown case.[1]

Those seven—like Appellants—have Federal Copyright Act rights which may be damaged for decades (after their parents die) if non-wife Hynie is once again allowed to be called the wife when their own parents have confirmed since the *Wilson v. Dallas* decision that she is not.

Movant's petition, summons and appointment orders re-started a tradition employed by Hynie and her counsel in 2007—not naming any parties in the captions and orders; then claiming the parties who were not named or served are bound. This practice was stopped by Judge Early's Order of April 8, 2008 in Aiken County Case 2007-CP-02-0122 ("Case 122"). It began again after the *Wilson v. Dallas* decision.

Movant adopts this unfortunate practice, which is prohibited by the Due Process clause of the constitutions of South Carolina and the USA and the SCPC and SCTC. Movant refers to the *four* cases which are the subject of this appeal—and a host of others—as the "Underlying Action." There are more than a dozen "Underlying Actions." Those actions are required to have parties. The parties are required to be named. And served.

Movant's service list is as troublesome as the claim that it is appropriate to file petitions and obtain orders which give no indication who is to be bound or served.

---

[1] Some adult grandchildren are Co-Plaintiffs with Attorney General Wilson, Hynie and her son in Richland County Case 2010-CP-40-4900 (the "Wingate Suit").

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James Griffin, Esquire, is served. In June 2013 Mr. Griffin filed a Motion to be relieved as counsel by one living daughter of James Brown and one now—deceased daughter, La Rhonda. Both were officially acknowledged by the Estate of James Brown in 2007 after passing the official Peeples DNA Protocol.

Movant serves William Barr, Esquire, who represents another acknowledged daughter who passed the official Peeples DNA Protocol in 2007and was officially recognized by the Estate.

These three DNA-proven daughters constitute HALF of the HALF of James Brown's real heirs who are not challenging the estate plan with whom termination rights agreements should have been made from 2009-2013 to save the "I Feel Good" Trust's copyright for decades. And should be made now.

These three, like Appellants (other than Pope), were never served with the pleadings or made a party to Case 2008-CP-02-1647 ("Case 1647" or *"Wilson v. Dallas.')*. Nor were they served or made a parties to the Hynie claim; Hynie's son's claim; nor to the Levenson Intestacy Suit, Case No. 2008-CP-02-0872.

Movant also serves David Bell, Esquire, who is a Georgia attorney who has been admitted pro hac vice in some of the many cases in which he represents Forlando Brown and Terry Brown. From time to time Mr. Bell claims he represents others in multiple cases: Daryl; Forlando; Romunzo; first wife Velma; daughter Lisa - even Michael.

But he protects only Terry/Forlando.

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There are a dozen State Court "Underlying Actions" in Aiken County. There are also three pending Freedom of Information Act ("FOIA") suits which the Estate/2000 Trust and Hynie are seeking to consolidate with the State/AG's and Hynie's tort suit against Robert Buchanan, Jr. and Appellant Pope, Richland County Case 2010-CP-40-4900 (the "Wingate Suit")

Movant, while seeking to be appointed to protect what may be the largest-ever private foundation in South Carolina dedicated solely to needy students, ignores the requirements of the South Carolina Probate Code ("SCPC"), the South Carolina Trust Code ("SCPC") and the fundamental fairness required of the Due Process clauses.

By inattention or design Movant is advancing the cause of Hynie and her son. And the second dismemberment of the "I Feel Good" Trust.

His appointments violate fundamental Due Process and should be declared void.

b. Movant has Unclean Hands

Within three months of securing the troublesome claimed appointments Movant paid Adams and Reese more than $250,000.00. Yet:

1. Movant declined to meet with Appellant, who has worked *pro bono publico* since May 2013, to discuss the history—and strength of the Estate/"I Feel Good" Trust's defense to the Hynie claims, and those of her son.

2. Movant worked with Levenson to undo the already-official heirs status of Brown's three

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DNA-proven daughters La Rhonda, Nicole and Jeanette, At the same time Levenson's clients were conducting media campaigns confirming they were Brown's children.

3. Movant ignored the March 8, 2008 Order of Judge Early in which the Estate/"I Feel Good" Trust's plan to properly identify all non-presumed heirs, and make Federal Copyright Act termination rights agreements with the most cooperative HALF *who were not challenging Will*, was being implemented. [See Exhibit D, p.2, F.1, p.3 Emphasis supp.]

4. Movant worked to prevent the appointment of a GAL for Michael and James Curtis, even though a GAL was <u>required</u> for Michael and a GAL for all who DOE Defendants in the Levenson Intestacy Suit.

5. When it was called to Movant's attention that the 1999 Will needed to be protected and was in jeopardy of the 10-year rule, he did nothing.

6. Movant failed to recognize that jurisdiction to determine whether Hynie is Brown's spouse—at the request of AG Wilson and Hynie—now rests in Richland County, and the deposition Hynies has evaded for seven years is pending.

7. Movant failed to proceed with dismissal of Hynie's son's claim on the basis that he is not a presumed child; was born of his mother's marriage to someone other than

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Brown; and has refused the Peeples DNA Protocol for seven years.

8. Movant tried to prevent the appointment of a GAL for incarcerated son Michael, encouraging David Bell, Esquire, to usurp for Terry Brown and Forlando Brown the Estate's termination rights agreements.

9. With knowledge from Marc Toberoff, Esquire, that Hynie and her son were attempting to usurp termination rights elections, did nothing.

Movant failed to acknowledge the conflict of Bauknight's continued service as agent for Hynie and her son in four lawsuits. He failed to distance himself after Bauknight's August 20, 2013 testimony in a federal court deposition about whether bringing the *Wilson v. Dallas* decision to the S.C. Supreme Court: *Dallas* was helpful produced:

> That's poppycock. Pure speculation from your client [Pope]. Fantasy . . . I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that $50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take $5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value . . . She has no clue what she was dealing with and put stuff in the

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> paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. . . . You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T . . . .
>
> . . . [Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent . . . .Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client. [Emphasis supplied.]

Movant has aligned himself with those committed to allowing the State to retake James Brown's private assets and give away half of what James Brown gave solely for scholarships for needy students based on false claims about the value, the heirs and the Federal Copyright Act. Movant has ignored the following facts, and other evidence, which shows these claims to be without merit.

1. Before James Brown's Death

Before 1984

> Brown supports Appellant Michael Deon Brown under various Court Orders.

1984

> Brown gets vasectomy after fathering more than a dozen children, including the following who were ignored by the State/AG in 2008 Settlement and

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thereafter by Bauknight and Movant: 1. Lisa (first marriage); 2. Michael (incarcerated); 3. LaRhonda; 4. Nicole; 5. Jeanette; 6. James Curtis (subject to Peeples DNA Protocol confirmation);

Early 1999

After 3 years of planning, Brown makes voice tape of intentions to create "I Feel Good" Trust.

June 15, 1999

James Brown executes first Will/Trust. "I Feel Good" Trust is revocable. Leaves music empire for scholarships for needy students.

August 1, 2000

James Brown makes minor modifications to "I Feel Good" Trust. Makes Trust Irrevocable. Funds 2000 Trust with Beech Island Estate. Hynie witnesses Advisory Board documents as future Ms. James Brown.

Memoranda of Trust filed in two states.

Fall 2000

According to sworn statement of Albert Dallas, Hynie's witness in Wingate Suit, Hynie becomes pregnant when she and Brown are separated and she is in Las Vegas. Returns pregnant.

June 2001

Hynie has son in Las Vegas. Born during concealed marriage to Javed Ahmed and before ceremony with Brown. James B. is only child claimed to be fathered by Brown in 22 years between vasectomy and Brown's death.

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December 2001

Hynie conceals her marriage on license application, and obtains license to marry Brown. Executes prenuptial agreement waiving all State and Federal rights. Conducts ceremony with Brown.

2003

Brown discovers Hynie married. They separate. Hynie promises to produce divorce papers in six weeks, but fails to do so.

2003

Hynie's counsel Robert Rosen, Esq. writes James Brown's attorney to say she has filed $5 million lawsuit against Brown. [Pleadings not found in public records.]

2004

Brown commences suit to void ceremony. Hynie counterclaims seeking separate maintenance and support for her son. Brown asks for DNA testing. Case settles immediately. Court finds they are living together and incorporates agreement which does not acknowledge Hynie's son; does not provide any support for either Hynie or her son; and in which she agrees never to claim to be Brown's common law spouse.

[While Suit pending, Hynie obtains annulment in Charleston, S.C. Husband never personally served, and later claims he did not know about it.]

2003-2006

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Hynie and at least six of Brown's claimed children discuss estate plan with James Brown. All admit (in Wingate Suit):

> "... the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown."

2003-2006

Brown earns $3 million a year from Royalties and, in addition, grosses $18 million during period on road shows.

April 2006

Professional appraisal conducted in connection with Royal Bank of Scotland proposed loan values Brown's Royalties at $42+ million. Publicity Rights have about same value.

Summer 2006

Hynie, Brown and trustee/attorney Dallas have 3-way conversation in which Dallas confirms that since they are not married Hynie has only the rights of a guest in Brown's Beech Island home estate.

Hynie leaves. Abandons handwritten notes in Brown's home.

Dec. 25, 2006

Brown dies owning worldwide music empire valued by all James Brown trustees (except Bauknight) at approximately $100 million less

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1999 TIAA Debt (about $15 million. Paid in full in 2011.).

2. Between James Brown's Death and AG McMaster's Settlement

February 2007

Hynie and son file defective claims in wrong court. [Case 122]. No Summons. No service.

By August 2007

Estate officially recognizes La Rhonda, Jeanette, and Nicole after they complete Estate's official Peeples DNA Protocol. Hynie's son refuses to take Protocol. Appellant Michael (incarcerated) seeks to be tested and part of proceeding. DNA testing delayed by other factors.

Aug.'07 - Feb.'08

Contents of Hynie's unwritten notes ("Diary") widely disseminated, copied, at central location. Also typed copy of same disseminated widely.

October 11, 2007

Order of Judge Early allows AG McMaster to enter Aiken Case 122.

Dec. 26 2007

Levenson files Suit for "administration in intestacy." ("Levenson Intestacy Suit")

Early 2008

Bell files six grievances in 2 States against Levenson.

Feb.-March 2008

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Jg. Early issues Gag Orders to stop discussion of widely disseminated Hynie "diary."

March 2008

Judge Early signs order, with Estate/2000 Trust's consent, to complete Heirs proceeding even though Brown's two valid estate plans intentionally exclude all heirs and past and future spouses from Music empire. Gives entire residue to "I Feel Good" Trust.

Estate then pays for DNA testing for Hynie's son. He continues to refuse Peeples DNA Protocol.

August 10, 2008

Michael still awaiting DNA testing. Most heirs and devisees not served in Levenson Intestacy Suit. Buchanan and Pope seeking alternate probate of backup 1999 Will, in addition to dismissal of Levenson Suit and similar defective suits filed by Hynie.

August 10, 2008

AG McMaster reaches settlement which "stipulates" Hynie is treated as Brown's spouse; exempts Hynie's son and other non-presumed children from DNA testing. Gives half of "I Feel Good" Trust to Hynie & Levenson clients.

Dismembers both "I Feel Good" Trust and plan to confirm Brown has no spouse and reach Federal Copyright Act termination agreements with most cooperative HALF (or half + 1) of Brown's properly-identified heirs NOT challenging the Estate Plan

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January 30, 2009

Bell/Terry join settlement. Bell/Forlando claim to oppose.

May 26, 2009

Judge Early approves AG's Settlement.

3. The *Wilson v. Dallas* Appeal, Wingate Suit & FOIA Suits

Aug. '08-May '13

Hynie speaks "as one" with two Attorneys General.

Aug. '08-May '13

Buchanan, Pope and small team defend against McMaster Settlement and appeal, resulting in *Wilson v. Dallas* decision. Total legal cost of defense about $200,000 because Buchanan/Pope spend much of their time on appeal and James Richardson, Esq. serves *pro bono publico* as lead appellate counsel.

May 19, 2010

AG McMaster, Hynie and his Legacy Trust sue Robert Buchanan, Jr. and Pope through private law firm of Kenneth Wingate, Esquire ("Wingate") for tens of millions of dollars for conducting *Wilson v. Dallas* appeal and other claimed wrongdoing.

January 2011

Sr. Assistant AG Jones, Bell, Bauknight coordinate secret transfer from Terry to Forlando of right of first refusal AG McMaster

gave Terry to buy music empire and amendments to Legacy Trust.

Transfer concealed under FOIA and from Courts.

April 2011

Draft professional article of Wm. J. Smith and Appellant Pope, "Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown 'I Feel Good' Trust doesn't . . . " explains Private Foundations holding copyrights must "split heirs" to protect the Foundations' copyrights under the Federal Copyright Act termination rights provisions. "Splitting Heirs" involves a proper heirs-at-death procedure, which the Estate had in progress when AG McMaster took over; then "splitting heirs" by making termination rights agreements with the most cooperative HALF of a Settlor's heirs. This is necessary both to protect the Foundation and to comply with self-dealing restrictions IRS imposes on private foundations.

[Circulated to professionals for review, but publication withheld pending *Wilson v. Dallas* appeal, which changed result.]

2011

S. C. Court of Appeals dismisses as premature Buchanan/Pope's claim that Wingate may not serve as sole attorney for State/AG and Hynie, and Bauknight may not sue as agent for State/AG.

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2011

Bauknight files I&A claiming Brown's music empire worth less than $4.7 million. AG Wilson and Bauknight, speaking for State, begin to falsely accuse Buchanan and Pope of federal felony of intentionally overstating Brown's music empire to IRS on estate tax return by $79 million in order to secure a $5 million commission.

July 2011

Supreme Court declines to supplement the record with Wilson/Bauknight claimed $4.7 million value.

2011-2014

AG Wilson/Bauknight refuse to release $4.7 million appraisal which Bauknight required to file.

July 2011

Bauknight's counsel threatens Pope with lawsuit, sanctions for seeking Legacy Trust documents under FOIA.

Fall 2011

Bauknight, for Hynie and others, moves to intervene in two FOIA suits brought by Appellant Pope; transfer them to Richland County; and consolidate them with Wingate Suit.

April 2012

Forlando drops frivolous 4-year-old injunction suit. Tells Federal Judge he has no assets.

July, 2012

Judge Early declines to rule 2008 Gag Orders void or expired based on *Wilson v. Dallas* appeal.

2012

James Curtis writes Pope asking to be DNA tested as Brown's son. Provides background. AG Wilson and Bauknight informed.

Summer 2012

"Longtime Friend" of James Brown discusses contents of Hynie "diary" with journalist.

AG Wilson, through Wingate, violates Shield Law to subpoena sources and notes of journalist. Hynie makes false accusation that Appellant Pope was the "longtime friend."

July 2012

Hynie's witness in Wingate Suit, former trustee Albert Dallas, confirms that Hynie not spouse, and that she, Brown and he discussed it in 2006. Confirms Brown knew Hynie's son not his, and asked for DNA testing after death.

2012 -2013

AG Wilson, Bauknight and Hynie file bitter filings in Appellate Court claiming Hynie is spouse, while trying to prevent voiding of Gag Orders on ground that it will cause Hynie's claim irreparable harm.

July 2012

Hynie's deposition noticed in Wingate Suit.

Summer, Fall .

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AG Wilson, through Wingate, moves to strike settlement offers which would have removed Estate/2000 Trust and grandchildren with $285,000 trusts from Wingate Suit. Possibly prevented *Wilson v. Dallas* decision.

Nov.-Dec, 2012

Bauknight pays Wingate $563,000 from Estate, in addition to 40% contingency. Conceals until October 2013.

4. Between February 27 and May 8, 2013 *Wilson v. Dallas* Decisions

Feb. 27, 2013

First *Wilson v. Dallas* decision is issued. Voids McMaster Settlement and remands.

March 6, 2013

Appellant Pope visits AG Wilson. Urges him to correct improper valuation on estate tax return; stop Bauknight's damage to Royalties by claiming Hynie spouse and ignoring HALF of real heirs.

March 2013

AG Wilson calls to say he is withdrawing from Wingate Suit. Does not withdraw. Does nothing to correct false $4.7 million value or protect real heirs and Royalty copyrights.

March 2013

James B. files Petition for Rehearing claiming Bauknight's less-than $4.7 million value correct.

March 2013

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AG Wilson tells Supreme Court AG McMaster did not authorize State's Wingate Suit against Buchanan and Pope.

AG Wilson tells Supreme Court he expects FOIA suits to be concluded shortly.

May 8, 2013

Final *Wilson v. Dallas* Suit voids McMaster Settlement and voids Bauknight appointment. Remands matter for review of commissions and attorneys' fees and appointment in accordance with Brown's documents.

5. Since the Final *Wilson v.Dallas* Decision of May 8, 2013

May Oct, 2013

Bauknight and Movant secure appointments which deny rights of Appellants, heirs, devisees and all Others who support estate plan.

2013

Bauknight claims Forlando did nothing wrong by seeking for 4 years to enjoin 2000 Trust until Cannon Group returned.

May 2013

State/AG Wilson, through Wingate, asks Richland County Court to stay Wingate Suit and two FOIA Suits until all Aiken matters concluded.

June 13, 2013

Judge Early and Clerk issue June 13 Orders without notice, service of any petition on heirs,

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devisees and beneficiaries, and no notice or hearing.

After June 13

Series of Orders which continue to violate rights of Appellants without service, notice hearing.

Judge Early decline to hold Gag Order hearing. In fall, refuses hearing on Petition for GAL for Michael, DOE Defendants, James Curtis.

Late June 2013

Clerk refuses to file Pope's motion to alter June 13 Order, on direction of Judge Early. After discussion, dismisses herself to make call; returns; and allows motion to be filed in correct case.

June 2013 & later

Cannon's counsel writes to support Pope's attempts to protect "I Feel Good" Trust by alternate formal probate of 1999 Will, which a incorporates by reference almost-identical "I Feel Good" Trust. Cannon's counsel supports, but cannot help.

July 2013

Son Daryl launches website to save "I Feel Good" Trust. Bauknight, and later Movant, take no action to preserve this admission.

September 2013

Copyright expert Marc Toberoff confirms Hynie not spouse. Suggests Bauknight is allowing Hynie and son to usurp Estate's termination rights.

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Fall 2013

Appellant learns Michael's heir status in jeopardy. Files motion to be *pro bono publico* GAL for Michael, James Curtis and DOE Defendants not challenging estate plan. Michael calls from prison to thank.

October 8, 2013

Judge Early "double approves" $600,000+ paid to Buchanan. No disgorgement. Does not preclude voiding settlement in Wingate Suit.

October 8, 2013

Bauknight files accounting which reveals $563,000 payment to Wingate.

October 10, 2013

Judge Roe issues *ex parte* Order. No service. No summons. No hearing. No notice. No parties named in Order.

December 16, 2013

Judge Early severs Hynie and Son's claims.

December 2013

La Rhonda dies. Movant goes to January hearing and presents "consent" Order signed by lawyer who advised Judge Early 6 months earlier that he had been terminated by La Rhonda; asked to be relieved; and asked the Court to give her time to secure counsel.

By December 2013

Adams and Reese paid $250,000.000+ for three months' service.

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More than a year after the first *Wilson v. Dallas* decision the Attorney General Wilson has abandoned the "I Feel Good" Trust and Sojourner and Bauknight:

1. Failed to comply with *Wilson v. Dallas* to have Judge Early review 40% contract and $563,000 payment to Wingate; payments to Nexsen Pruet, Adams and Reese, and others.

2. Failed to comply with *Wilson v. Dallas* by securing ex parte appointments for Sojourner and Bauknight as described.

3. Are spending funds James Brown gave to the "I Feel. Good" Private Foundation at a rate of about $2 million per year to dismember "I Feel Good" Trust and defeat status of HALF of James Brown's real heirs who are not challenging Brown's estate plan and with whom Federal Copyright Act contracts could be made for 1/10 that amount.

4. Are continuing State/AG McMaster's 2010 Wingate Suit seeking tens of millions of dollars from Buchanan and Pope for conducting the *Wilson v. Dallas* appeal through private Wingate firm.

5. Have worked with AG Wilson to continue three FOIA suits; consolidate them with the Wingate Suit; and delay FOIA compliance for years, concealing the following, and other, public documents:

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a. Attorney General Wilson's copy of the so-called Hynie "diary," provided to AG McMaster after the Hynie "Diary" Gag Orders and which he considered in the 2008 settlement.

b. The Legacy Trust Amendments made by AG McMaster in January 2011, days before leaving office, related transfers.

c. The Bauknight $4.7 "appraisal."

6. Through the creation of entities for which Bauknight is not accounting, and reporting Brown's assets at less than $1 million (most at $1.00), Bauknight is concealing the value of the "I Feel Good" assets to the detriment of needy students.

Movant has unclean hands. He is working against the "I Feel Good" Trust.

II. James Brown's Incarcerated Son Michael and all Appellants are Aggrieved by the Orders, Which are Appealable; and have Standing

Movant complains that Appellants are not parties to the "Underlying Action." Any failure to participate is a direct result of the June 13 Orders and failure of summons, service and notice in the above four cases, and others, which is caused directly by the State, assisted by Movant, denying Appellants' Due Process, First Amendment and Equal Protection Rights, as well as their rights under the S. C. Probate Code ("SCPC") and S.C. Trust Code ("SCTC").

Appellants are all Interested Persons under the SCPC Section 62-1-201 (23). All are aggrieved

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because their substantial and valuable property interests have been finally damaged by the orders which are the subject of this appeal. All are materially affected by being shut out of Hynie's claims, the claims of her son, and the Levenson Intestacy Suit. None has challenged Brown's estate plan. All are required by the law and the constitutions to be allowed to:

1. Participate as parties in the James B. claim and both Hynie claims because they are heirs or creditors and the claims affect their property interests.
2. Be served, have an opportunity to respond, and participate fully in the Levenson Intestacy Suit, Hynie and Jams B. claims.
3. Seek a stay of the proceeding until the Summary Judgment that Hynie is not Brown's spouse and James B. not Brown's Child can be decided in the Wingate Suit because Attorney General Wilson, Bauknight, Hynie and James B. have prevailed in their assertion that these matters must be heard in Richland County.

It is undisputed that Michael, incarcerated in California, must have a GAL to protect his interest in the Hynie, Levenson Intestacy and James B. proceedings. And that none of Appellants are being protected.

The orders which are the subject of this appeal finally determine Michael's and other Appellants' rights to participate in these important cases.

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The rights of all heir/Appellants to enter into fair arms'-length contracts with the Estate/ "I Feel Good" Trust and cooperate in termination rights elections under the Federal Copyright Act is materially and adversely affected by these orders. Cooperation of HALF (or half + 1) is all that is needed to assure that Brown's $3+ million annual Royalties will flow to needy students for decades. Hynie, her son and those contesting the 2000 and 1999 estate plans are being treated unfairly by the State, as they have been since August 10, 2008.

The Estate/"I Feel Good" Trust and the AG should be providing proper treatment to the cooperative HALF not challenging the estate plan, currently:

1. Lisa, 2. Michael, 3. La Rhonda, 4. Nicole, 5. Jeanette, James Curtis (Subject to Peeples Protocol) 6. La Rhonda's 2 daughters and DOE Defendants being identified.

S.C. Code Section 14-3-330 provides appeals may be taken from:

> . . . (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions . . .
>
> (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be

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> taken or discontinues the action, . . . or (c) strikes out an answer or any part thereof or any pleading in any action;

Appellant Pope has multiple bases for standing to participate in all James Brown cases now pending in Aiken County, including:

1. Appellant Pope is a Creditor Appellant has not been paid for the six years she devoted about 80% of her professional time to protecting James Brown's Estate/2000 Trust and "I Feel Good" Trust, including her allowed and court-approved claim.

   While she has been serving *pro bono publico* since May 2013, she has a right to be paid for her contracted, allowed, and court-ordered SA payments and payments for her service to May 26, 2009. Her material property rights are affected by everything related to Hynie and her son for so long as the claimed fiduciary of the Estate/2000 Trust is Hynie's co-plaintiff in the Wingate Suit or the Wingate Suit, FOIA suits in which the Estate/2000 Trust, with Hynie, is seeking to intervene, and the Forlando Federal Suit remain unresolved.

   After her faithful service to the "I. Feel Good" Trust, the Attorney General of South Carolina is still allowing Pope's career and reputation to be ruined by false felony claims by a person claiming to represent the State/AG and Hynie. The same is true of Buchanan. Pope is materially aggrieved by

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being shut out of the proceeding to confirm that Hynie and her son are not heirs.

2. Appellant Pope has Special Interest Standing Under § 62-7-405. Appellant has devoted time, effort and study to protect the "I Feel Good" Trust. AG Wilson has withdrawn from its protection. Bauknight has declared his intention to dismantle it—again. Appellant is qualified as an "Other" and is willing to serve *pro bono publico*.

3. Appellant Pope has a Counterclaim with Proposed Offset against Bauknight as agent for Terry, Hynie and others in the 2010 Wingate Suit brought by Bauknight.

4. Appellant Pope has a counterclaim in the Forlando Suit. While the federal court has recently praised the work of Buchanan and Appellant but declined to charge Forlando Brown's trust share with 4-year cost of his attempt to return the Cannon Trustees, that matter is not final.

5. The State, Hynie and Estate are still interfering with FOIA rights.

This appeal, and all since June 13, 2013, demonstrate why "Others" under Section 62-7-405 are allowed to help enforce charities. The Settlor is dead. The Attorney General has turned his back on the "I Feel Good" Trust. And its claimed trustee Bauknight has an irreconcilable conflict.

The probate and circuit courts, at the request of Bauknight and Movant, are continuing the State's pattern of ignoring Due Process, First Amendment

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and Equal Protection and statutory rights of all creditors, heirs and others who support the "I Feel Good" Trust. And overlooking about $2 million a year being spent to dismember it—again.

Appellants incorporate the Initial Brief filed in Appellate Case No. 2013-002582 dated February 11, 2014; the Reply to Return to Petition for Rehearing in Appellate Case No. 2013-2582, filed February 28, 2014; the Initial Brief filed in Appellate Case No. 2013-1649 on February 21, 204; and the Return and Opposition of Appellant to Motion to Dismiss filed in Appellate Case No. 2014-00250 on March 21, 2014 as additional support for their standing and the fact that the orders may be appealed now.

Ill. Michael and the Claimed Heirs are Entitled to GAL

Rule 17 (c), SCRCP provides, in pertinent part, as follows: "A person imprisoned outside this State shall appear by guardian ad litem in an action by or against him; . . . "

Appellant Pope asked to be appointed GAL for Appellant Michael and other claimed heirs who are not challenging the estate plans when it became clear that Movant was aiding Hynie, her son, and Levenson in their attempts to defeat both the rights of heirs and the Royalty copyrights of the Estate/1 Feel Good" Trust.

Movant and David Bell, Esquire, then asserted he did not need a GAL. But Michael, unsolicited, called Appellant Pope from prison to thank her. She declined to talk to him, but said she would report to

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the Court. She did. Judge Early declined to appoint her or to hold a hearing.

Bell has a troublesome history with the State and Federal Courts in the seven years since Brown's death, Bell has filed six grievances against Levenson. Bell even made the false claim that Forlando's 30% contingency fee agreement with Levenson was forged.

Bell and client Forlando Brown then brought suit in federal court claiming (falsely) Forlando was not a party to any State Court Suit. They attached to Forlando's verified complaint a fabricated post-death second "Schedule B" which made it appear that Brown's publicity rights—worth nearly $50 million—had been placed in the 2000 Trust before Brown died.

Forlando and Bell used the fabricated second Schedule B; the claim that Forlando had no State Court remedy; and two false affidavits of Bell as the backbone for trying to enjoin the 2000 Trust <u>for four years</u> until the Cannon trustees were reinstated.

Since 2011 Bell and his sponsor, with Forlando as the real party in interest, have been making simultaneous conflicting material representations to different James Brown courts, including:

<u>Forlando's Position</u>

> $100 million is a conservative at-death value for Brown's music empire; the $4.7 million claimed value is "bogus."
>
> Hynie was not Brown's spouse; knew it; and begged him to marry her after Brown

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discovered she was married when they had a ceremony.

He was part of 2 offers to buy the music empire for $90 - $100 million, and $150 million offers were still available in 2008

Terry's Position

Bauknight's claimed $4.7 million value for the music empire is correct.

Hynie is Brown's spouse

There were no offers To buy Brown's music empire.

In 2014, after these false claims hit their mark, and Buchanan and Pope were not reinstated, Mr. Bell boasted to the federal court that the *Wilson v. Dallas* decision was a permanent stain on their careers. This was correct.

The Attorney General not only allowed this extraordinary deception. He enabled it by refusing FOIA compliance for nearly three years.

Under the SCPC James Curtis, who is a Levenson Intestacy DOE Defendant identified in 2012 and awaiting DNA testing, should have a GAL, along with other DOE Defendants. [See Exhibit D. The Order of Judge Early makes clear that the purpose of the Levenson Intestacy Suit was to finish the proper heirs determination for to protect the Royalty Copyrights. Footnote 1 references "the position of Defendant PR/Trustees . . . that the action to set aside the Will and Trust is without merit." But it then confirms " . . . however, . . . the determination of the lawful heirs of James Brown may have being

on other rights and obligations of the parties." Then the notice to be published states in relevant part:

> Nature off Action: The purpose of this action is to determine all lawful heirs at law of James Brown, including lawful heirs at law who may be entitled to right under state and federal laws.

Had AG McMaster and David Bell, Esquire, not claimed that an Order of the Honorable Jasper Cureton dated May 28, 2008 in the Dallas appeal stopped all action of the 2000 Trust, Michael and the Doe Defendants might have gotten a GAL. And the Defendants might have all been served in the Levenson Intestacy Suit. Instead, matters involving the 2000 Trust were stayed until the Order of Judge Cureton dated July 14, 2018—the third order approving the Christie's sale—was issued.

In that Order Judge Cureton made clear the Buchanan and Pope had full authority to proceed with Trust matters, as well as Estate matters.

Less than a month later AG McMaster claimed the authority to take over the operation of James Brown's private property; "stipulated" that Hynie was Brown's wife; and started "speaking as one" with Hynie and her son.

The Estate/"I Feel Good" Trust's protection of its copyright was put on hold for almost four years. Since May 8, 2013 Bauknight—still agent for Hynie and her son—has continued the State's destruction of the Royalty copyright protection plan. With the help of Movant.

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As demonstrated in Exhibit E, it is time to protect the "I Feel Good" Trust; serve the Defendants in the Levenson Testacy Suit; make Michael, James Curtis and the DOE Defendant, by their GAL, parties; and prevent a second dismembering of the "I Feel Good" Trust. It is troubling—and incorrect—for a person claiming to be protecting the Estate/2000 Trust to claim that these Orders are not appealable. They possess every element of finality as to all Appellants—heirs, creditors and all "Others" who want to see the "I Feel Good" Trust enforced.

IV. Movant and Bauknight have Placed the 1999 Will in Jeopardy

It is hard to understand that Movant, claiming to protect James Brown's noble estate plan, would tell the court that the proposal of "Others" under SCTC Section 62-7-405 to support alternate probate of James Brown's backup June 15, 1999 which Movant, AG Wilson and Bauknight refuse to support "has never been recognized by any court," and is "nonsensical, and equally without merit."

One can only suspect that Movant either is unaware of the contents of the 1999 Will or seeks to destroy the "I Feel Good" Trust.

The 1999 Will, along with the voice tape James Brown made in contemplation of its execution, make James Brown's estate plan ironclad.

In two separate wills and two separate trusts over two year—and in the voice tape—Brown made his intentions clear: He wanted to give his music empire solely to the "I Feel Good" Trust to education needy students. He wanted to exclude from his music

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empire all past and future spouses and all heirs—acknowledged and not. And he wanted his fiduciaries to vigorously enforce his estate plan. With In Terrorem forfeiture clauses, if necessary.

Brown said this in four separate documents. Both wills incorporate the terms of the accompanying trust. Each will standing alone creates the "I Feel Good" Foundation even if the trusts themselves are revoked.

This is not nonsensical or without merit.

Movant has joined with Bauknight in jeopardizing the 1999 Will of James Brown which just strengthens Brown's plan to leave his entire music empire to the "I Feel Good" Trust. If not protected, this 1999 Will may be voided under the 10-year rule of the SCPC.

The 2000 estate plan and 1999 Will and the trust it incorporates—with Brown's own voice tape—make his estate plan one of the strongest in reported cases—or known to Appellant Pope in more than 35 years of trust and estate experience.

There is simply no reasonable basis for Movant to reject *pro bono publico* support if he, himself, will not advance the 1999 will as a backup to Brown's noble estate plan.

Request for Court to Require Documents to be Produced by Clerk

Appellants respectfully requests that the so-called Hynie "diary," a copy of which is in possession of AG Alan Wilson, be produced under the Supreme Court's Order 2014-04-15-02. Since the Attorney General has advised the Court that AG McMaster

considered it in making his decision in 2008, it should be made public.

Appellants also request that Movant be required to produce the less-than $4.7 million appraisal Bauknight filed under seal after *Wilson v. Dallas.*

The State has spent taxpayer dollars to prevent release of these document for years. Recently-revealed accounting figures suggest "I Feel Good" Trust scholarship funds are being used to assure they not come to light.

CONCLUSION

Appellants reject all arguments made by Movant. For the reasons stated herein, Appellants request that the Court deny the Motion to Dismiss this appeal.

Appellants also respectfully request that this Honorable Court, *sua sponte*, direct that the so-called Hynie "Diary" and $4.7 million James Brown music empire appraisal, be filed in this appeal.

Respectfully submitted,

/s/ Adele J. Pope
1228 Walnut Street
Newberry, SC 29108
(803) 413-0753
adele@popelawfirm.com
S.C. Bar No. 4501

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Attorney for Appellants

April 16, 2014

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LETTER FROM POPE TO THE HONORABLE ALAN WILSON AND OTHERS (APRIL 3, 2014)

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

April 3, 2014

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

David C. Sojourner, Jr., Esquire
c/o John Beach, Esq.
Adams and Reese, LLP
1501 Main Street, 5th Floor
Columbia, South Carolina 29201

Russell L. Bauknight
% William Newsome
Nexsen Pruet
1230 Main Street, Suite 700
P.O. Box 2426
Columbia, South Carolina, 29202-2426

Re: Saving The James Brown "I Feel Good" Private Foundation.—Proposal for $200,000 per year settlement in lieu of $2 million per year legal fees to Adams & Reese and Nexsen Pruet

Dear Attorney General Wilson, Dave and Russell:

On September 13, 2012 the State of South Carolina, speaking through AG Wilson and three

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assistants (including Sonny Jones, who signed for AG Wilson), joined Tommie Rae Hynie and Terry Brown (Matt Bodman) in the following representations to the South Carolina Supreme Court:

> "This appeal is an unabashed attack on Mrs. Tommie Rae Brown, the surviving spouse of James Brown . . . And while Pope can use her word processor to change the caption, there is nothing she can do to change the facts establishing Tommie Rae's marriage to James Brown . . . . Pope has inappropriately used her brief . . . to carry out a back-door challenge to the family's settlement agreement which is the subject of the *Wilson v. Dallas* appeal before the Supreme Court . . . " [Emphasis supplied]

Then there were pages of "setting the record straight" trying to prove that Ms. Hynie had been Brown's wife. AG Wilson claimed AG McMaster's due diligence included:

> Reviewing a copy of the diaries at issue before the protective orders.
>
> AND:
>
> . . . Pope clings to her frivolous allegation that there was an impediment to the marriage of James and Tommie Rae . . .

Just 5 months later the first *Wilson v. Dallas* decision suggested that challenging Ms. Hynie's claim was not that frivolous.

Between the September filing and the *Wilson v. Dallas* decision, *in a suit brought by Henry*

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McMaster as Attorney General of South Carolina, and Russell Bauknight as the AG's claimed agent, Russell Bauknight paid $563,000 from the funds James Brown gave to the "I Feel Good" Trust to the firm of Kenneth Wingate. To protect Ms. Hynie.

The $563,000 was in addition to Ken Wingate's 40% contingency.

TODAY - April 3, 2014, a year after *Wilson v. Dallas*—Mr. Wingate is still speaking for the State of South Carolina. Russell Bauknight, *still* claims to speak both for AG Wilson and Ms. Hynie in the Wingate Suit.

And Nexsen Pruet and Adams and Reese are being paid at an annual rate of about $2 million a year to fight against (1) a plan to save the entire "I Feel Good" Trust; (2) the copyrights to its Royalties to more than 800 songs; AND (3) the HALF of James Brown's real heirs who will make the plan work.

I urge you not to waste another $2 million this year. The problem can be solved in a matter of months for about $200,000—with very little legal costs. It is mostly a matter of pulling out the orders and motions pending when AG McMaster took over the operation of Brown's estate and Trust. Adams and Reese refuses to do that. But charge a quarter of a million dollars in 3 months. With nobody checking on it.

The plan is clear and simple. It will probably bring the Estate litigation to a close in less than a year—except for a possible appeal by Ms. Hynie. Of little concern. It is:

1. MAKE COPYRIGHT DEALS ONLY WITH THOSE NOT CHALLENGING THE WILL AND 2000 TRUST.
2. PROTECT THE BACKUP 1999 WILL & TRUST WHICH MAKE THE ESTATE PLAN IRONCLAD.
3. MAKE AGREEMENTS WITH NON-PRESUMED, DNA-PROVEN CHILDREN WHO WILL ACTIVELY SUPPORT THE ESTATE PLAN AND HAVE CHALLENGED MS HYNIE'S SPOUSE STATUS: Tonya (subject to Peeples DNA Protocol"); La Rhonda (now children); Nicole; Jeanette; James Curtis (subject to Peeples Protocol); Michael.
4. CONTRACT WITH ONLY HALF (Or Half + 1) of the Children: That's all you need to protect the copyrights.
5. ONLY CONTRACT WITH THOSE WHO ACCEPT REASONABLE OFFERS. DON'T BE RUSHED.
6. VOID THE 6-year old GAG ORDERS. YOU DON'T HAVE TO LOOK AT THE original HYNIE "DIARY". AG WILSON and loads of others have copies. And Forlando Brown and Albert Dallas have already discussed the contents in the media AND under oath in sworn statements/depositions. [Remember, everyone knows what the contents are. And two AGs never even complied with the Gag Orders by turning in their copies.]

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7. DON'T REQUIRE JAMES B. TO TAKE A DNA TEST. JUST MOVE TO DISMISS HIS CLAIM BECAUSE HE DID NOT ATTACH A SUMMONS; FILED IT IN THE WRONG COURT; DID NOT SERVE THE AFFECTED HEIRS, AS REQUIRED; AND IS NOT JAMES BROWN'S PRESUMED CHILD BECAUSE HE WAS NOT BORN OF ANY MARRIAGE. And he did not even serve the Estate or 2000 Trust with a Summons and Complaint

   (It will be his problem to decide whether he takes the DNA test. If so, do not let Adams and Reese disclaim knowledge of the chain of custody. Remember, James B's counsel has already announced once to the media that he passed a DNA test with improper chain of custody.)

   The $300 James B. problem, as a result of the action of Mr. Bauknight and two AGs—and now Adams and Reese—has been allowed to become a 7-year $1 million dollar problem—at the expense of needy student beneficiaries of the "I Feel Good" Trust.

8. STOP WASTING HUNDREDS OF THOUSANDS OF DOLLARS TO FIGHT DNA-PROVEN AND ACKNOWLEDGED CHILDREN. [Instead, make them a fair offer. If they don't accept it, wait 6 months and make it again.]

9. MAKE THE FOLLOWING OFFERS in exchange for: (1) Termination Rights

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Cooperation; (2) Support of the 2000 Estate Plan;(3) and Support of the Estate/2000 Trust's position that James Brown died without a surviving spouse. [AND TR waived all claims even if a spouse.]

A. To the FIRST of DARYL or TERRY to accept: $50,000 a year for life;

B. To the SECOND of Daryl or TERRY, if he accepts within 30 days $20,000 a year for life.

C. TO THE FIRST FOUR of Nicole, Jeanette, LaRhonda (now daughters), Michael PLUS any of James B., Tonya and James Curtis who take and pass DNA test under the Peeples DNA Protocol): $20,000 per year for life.

There is simply no reason to pay $2 million in legal fees each year to fight this simple, fair—and kind—way to save the "I Feel Good" Trust and allow that $2 million to be flowing each year to scholarships for needy and deserving student beneficiaries of the "I Feel Good" Trust, as James Brown intended.

I am willing to help *pro bono publico* with saving the "I Feel Good" Trust. Please call on me if I can do that.

Thank you for your consideration.

Sincerely,

/s/ Adele J. Pope

DNA & DIGNITY

(Proposed Plan for "I Feel Good" Foundation to Protect its Royalties for Needy Students)

1. **The "I Feel Good" Foundation's Position and Protocol.**

   a. James Brown died unmarried on December 25, 2006. [Toberoff, etc.]

   b. Termination rights agreements will be made only with DNA-proven or Presumed children who support James Brown's noble estate plan.

   c. Current candidates (subject to abandoning any claims) are:

      a. DNA-Proven: 1. LaRhonda (daughters), 2. Jeanette, 3. Nicole;

      b. First marriage: 4. Terry, 5. Larry, 6. Lisa;

      c. Second marriage: 7. Deanna, 8. Yamma;

2. **Offer—But do not require—Peeples DNA Protocol for 30-60 days.**

DNA testing under the Estate's official Peeples DNA Protocol, paid for by the Estate, to be offered for 30-60 days to: 9. Michael (incarcerated), 10. James Curtis, 11. Tonya, 12. James B., 13. DOE Defendants identified as likely heirs by the GAL, Levenson Intestacy Suit.

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3. Dignity & Reconciliation for Termination Rights Cooperation of Excluded Heirs.

After above 30-60-days, offer to the first six to accept of: La Rhonda, Jeanette, Nicole, Lisa and anyone passing Peeples DNA Protocol listed above, in exchange for agreement for lifetime termination rights cooperation:

1. Full recognition as heirs by the Estate and "I Feel Good" Foundation at a ceremony to be conducted at Brown's home estate in Beech Island.
2. [If possible] VIP Invitation to, and additional recognition, at the opening of South Carolina screening of "Get on Up!"
3. $10,000 per year for life, effective 2011.

4. Offer Termination Rights Agreements to some Children Acknowledged in Will.

Make the offer set out above to the first two children acknowledged in the Will to accept—but with payment of $50,000 per year for life, commencing upon execution of termination rights agreement and withdrawal of against the Will, 2000 Trust and Estate.

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5. **If two Acknowledged Children do not accept, re-offer to all Excluded Heirs.**

6. **Consider "splitting heirs" and other available strategies to protect the Royalties for Needy Students as James Brown directed.**

7. **Update Protocol at death of each child, and as needed.**[1]

---

[1] This proposal is consistent with the "Splitting Heirs" technique described in Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't. . . . Also see: The Aspen Institute (supp. 2013). The artist as philanthropist. strengthening the next generation of artist-endowed foundations.

The Estate/2000 Trust's plan to protect its rights to more than 800 published and unpublished songs (the "Royalties") was started by Brown's original PR/Trustees in 2007. They established the Estate's official "Peeples DNA Protocol." Using the Peeples DNA Protocol, the Estate identified and officially acknowledged La Rhonda, Jeanette and Nicole. Others were excluded. Incarcerated son Michael's request for testing was interrupted by the AG's 2008 Settlement.

Buchanan & Pope continued the plan to protect Brown's Royalties. They consented to a March 8, 2008 Order of the Hon. Doyet A. Early, III which would have proceeded with the official Heirs determination in the Levenson Intestacy Suit although Brown had two valid Wills.

Four months. Later—and for nearly five years—the AG's 2008 Settlement stood as an impediment to a proper protection plan for the Royalties.

The completion of a properly-documented Heirs baseline during the probate process would have given the "I Feel Good" Foundation—and gives all charities who have been devised Copyrights—maximum flexibility to:

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1. Contract with the half, or half + 1 needed to protect the copyrights ("Splitting Heirs") -5 or so in the case of the "I Feel Good" Foundation

2. Avoid later costly federal litigation with a proper Heirs baseline.

A proper heirs determination was particularly important in this case because all fiduciaries, all children and others had overwhelming evidence that Brown died without a spouse. And his companion's child was not a presumed child. [He is the only claimed child born in the 22 years between Brown's vasectomy and death . . He has refused DNA testing under the Peeples Protocol for 7 years.] Yet the AG "spoke as one" with the two from August 2008 until May 2013. His appointee became their agent in four separate lawsuits. The AG's contract "stipulated" that both the companion and her son were heirs. The State/AG exempted companion's son from DNA testing under the Peeples DNA Protocol. The State/AG contracted to join them in attempting to defeat the interests of real heirs.

Since February 27, 2013 the Estate/"I Feel Good" Trust has been in a position to complete the Peeples DNA Protocol for non-presumed heirs and make Termination Agreements under the above, or a similar, plan. To do so will provide appropriate respect and recognition for all DNA-proven non-presumed children excluded by Brown.

It will also be good for the "I Feel Good" Foundation.

For under $200,000 per year (and with almost no attorneys' fees), the above plan would have secured the "I Feel Good" Foundation's Royalties (about $3 million a year) for needy students for decades. Starting in 2011. It still can.

To accomplish the same result the AG's 2008 agreement proposed to give away 52 1/2% of the "I Feel Good" Foundation—about $40 million at the time.

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PETITION FOR REHEARING TO THE SOUTH CAROLINA COURT OF APPEALS (JUNE 25, 2014)

IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA

MICHAEL DEON BROWN, JAMES CURTIS, and JANE DOE and JOHN DOE Numbers I, II, III and IV, by their proposed Guardian *ad Litem*, and ADELE POPE, as Creditor/Proponent of Will of James Brown dated June 15, 1999 and on behalf of Others under S.C. Trust Code § 62-7-405,

Appellants,

v.

JAMES B., TERRY BROWN, TOMMIE RAE HYNIE and DAVID SOJOURNER, Jr.,

Respondents.

IN RE: THE ESTATE OF JAMES BROWN, a/k/a JAMES JOSEPH BROWN

Appellate Case No. 2014-000794

Before: The Honorable Doyet A. EARLY, III
Circuit Court Judge

Appellants respectfully petition this Honorable Court to Rehear and reinstate the appeal dismissed

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by Order of the Honorable Paul E. Short, Jr. for the Court dated June 16, 2014 (the "Dismissal Order"). A copy of the Dismissal Order is attached as Exhibit A.

Because they were enjoined from participation in the hearings which resulted in the orders which are the subject of this appeal, and the Clerk of Court; the Honorable Doyet A. Early, III, has directed that unheard motions filed between May 8 and June 10, 2013 be removed from the public record; and, as Chief Administrative Judge, has directed the Clerk to unfile and return motions filed by Appellants and persons not parties to an action in violation of their Due Process and Equal Protection rights. Appellants respectfully request that the Court take judicial notice pursuant to Rule 201(d) SCRE, of all filings in cases related to the estate of entertainer James Brown (the "Estate") and the James Brown 2000 Irrevocable Trust (the "2000 Trust") documents since Brown's death on December 25, 2006.

Appellants request that the Court's judicial notice under Rule 201(d) include the Appendix filed herewith, the Petition for Certiorari and Appendix on filed in S.C. Supreme Court Case 2014-001279; the Return and Opposition to Motion to Dismiss and Initial Brief of Appellant in Appellate Case No. 2014-000250; and the filings of Appellant in Appellate Case No. 2013-001649.

Because the Attorney General ("AG") has denied compliance under the South Carolina Freedom of Information Act ("FOIA") as to public James Brown documents since 2011; is seeking to have three FOIA suits transferred to Richland County and made a part of Richland County Case 2010-CP-40-4900 (the

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"Wingate Suit"); and is denying FOIA compliance as to matters which are the subject of discovery motions in the Wingate Suit, all of which damages the property rights of all Appellants, Appellants respectfully ask that this Court take judicial notice of; sua sponte direct the unsealing of (where sealed), and consider the following documents:

1. The so-called Hynie "diary"—widely known handwritten notes of Tommie Rae on which AG McMaster relied in his 2008 decision to give 25% of Brown's "I Feel Good" Trust to Tommie Rae.

2. The $4.7 million claimed at-death "appraisal" of Brown's worldwide music empire on which AG Wilson based his false felony claims against Robert Buchanan, Jr. and Appellant Pope, and based on which Russell Bauknight and the AG told the S.C. Supreme Court that the amount Brown gave to the "I Feel Good" Trust was less than $3 million.

3. The Wingate Litigation Retention Agreement-a copy of which is produced at page 440 of the Appendix.

4. The ethics opinion of Prof. Nathan Crystal which Bauknight delivered ex parte to the circuit court on July 8, 2013, and which purportedly asserts Bauknight may defend the estate plan of James Brown while he continue to be a fiduciary for Tommie Rae Hynie and agent (without GAL) for her son.

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5. The AG's Legacy Trust and amendments, which sued Buchanan and Appellant Pope for tens of millions of dollars to stop the *Wilson v. Dallas* appeal.

6. The Peeples DNA Protocol test results for James B.

7. The commission and fee agreements related to the AG's 2008 Settlement, as ordered produced by the Clerk on March 15, 2010, but which are missing from the Clerk's office. [See Appendix, p. 121]

The Dismissal Order should be vacated and the appeal reinstated for each of the reasons set forth below.

1. The Court overlooked or misapprehended that each Appellant is aggrieved by the appealed orders; each Appellant has standing to Appeal; and the appealed orders are immediately appealable because they finally determine material rights of Appellants; continue the injunction of orders issued in fourteen James Brown cases on June 13, 2013 (the "June 13 Orders"); continue the State's violation of Due Process, First Amendment and Equal Protection rights of all Appellants begun by action of the South Carolina AGI on August 10, 2008; and place all Appellants, The James Brown "I Feel Good" Trust and the "I Feel Good" Foundation's royalty copyrights to more than 800 songs in direct jeopardy. [See Private Foundations, App. p. 196]

2. The Court overlooked or misapprehended that the only reason Appellants are not parties in the cases in which the appealed orders were issued, and

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Appellant Pope is not their GAL, is that they have been enjoined since June 13, 2013 by improper State Action from participating in the hearings which resulted (and are resulting) in:

a. The June 13 Orders which are the subject of Appellate Case No. 2013-001649, by which Appellant Pope was deprived without proper notice, hearing or cause, from participating in any James Brown Estate or Trust case even though she was illegally sued by the Estate, 2000 Trust and Attorney General ("AG") in 2010; had pending counterclaims for the destruction of her career and reputation in that pending suit; is an attorney with special expertise in the relationship of State Probate Law and the termination rights provisions of the Federal Copyright Act; has not been fully paid for her 2007 SA service to the Estate even though her claim was allowed and court approved; has not been paid a dime of her allowed, court-approved partial PR/Trustee commission due since May 26, 2009; and has worked *pro bono publico* since May 8, 2013 to enforce the "I Feel Good" Foundation and aid any heirs, devisees or beneficiaries seeking to uphold James Brown's noble plan to leave his $100 million music empire to the "I Feel Good" Foundation to be used solely to provide millions (under IRS guidelines) of dollars of scholarship funds to needy students each year.

b. The June 13 Orders and subsequent orders, which are the subject of this appeal, which purport to prevent Robert Buchanan Jr. and Appellant Pope from restoring their good reputations the AG has acknowledged they had when he brought an illegal suit against them in 2010; prevent Buchanan from voiding a "settlement" where $500,000 in "I Feel Good" Trust funds were used to secure release from Buchanan's counterclaims for Tommie Rae Hynie ("Tommie Rae"), her son, Bauknight and the AG's Legacy Trust.

c. The June 13 Orders and appealed orders, by which Buchanan and Appellant Pope continue to be aggrieved because the State/AG, through the law firm of Kenneth Wingate, Esquire, ("Wingate") is seeking to prolong by stay for what may be five years of more the false claims in the Wingate Suit which have destroyed their reputations and careers and have already resulted—through inappropriate State action—in their replacement without existence or showing of cause in the May 26, 2009 being converted into removal which alludes to the State/AG's false allegation that they sought a $2.1 commission and $2.8 commission from a $5 million estate and that the false allegation that there was something improper about the Christie's sale where the AG himself asked this Court to proceed with the sale; the sale was properly conducted; the sale was approved by three Court orders; but the AG/Wingate—two

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years later and in order to derail the *Wilson v. Dallas* appeal—made (and continues) the false allegation that there was something improper about the Christie's sale.

d. The June 13 Orders and the appealed orders, which allow the State/AG to continue to sue Buchanan and Pope in the Wingate Suit for tens of millions of dollars for not accepting a 2007 $100 million dollar offer to buy Brown's music empire while telling the South Carolina Supreme Court that the music empire was worth less than $4.7 million, and that there were no offers.

e. The June 13 Order and the appealed orders, which allow the State/AG, Bauknight—and now his appointee David Sojourner ("Sojourner") to make the false claim that Tommie Rae and her son are heirs of James Brown—when they are not—and that Appellant/heirs Michael, James Curtis, the DOE Defendants, and DNA-proven and Estate-acknowledged daughters Jeanette, LaRhonda, and Nicole are not.

f. The June 13 Orders and the appealed orders, which allow the AG to accuse Buchanan and Pope of a career-threatening felony based on a public appraisal which the AG has never seen; and the AG and Bauknight are concealing under FOIA.

g. The June 13 Orders and the appealed orders, which allow Bauknight, by false value claims, to reduce the amount of required scholarships for needy students

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from the "I Feel Good" Trust from over two million per year to less than $100,000.

h. The June 13 Orders and appealed orders, which are allowing David Bell, Esquire ("Bell") and Tommie Rae—with the permission of Sojourner and Bauknight—to usurp the Federal Copyright Act termination rights agreement the Estate/2000 Trust should now have with Michael, LaRhonda, Jeanette, Lisa, Nicole, James Curtis (subject to DNA confirmation) and identified DOE Defendants which will protect the "I Feel Good" Foundation's copyrights to 800+ songs for decades.

i. The June 13 Orders and appealed orders, are allowing the Bauknight and Wingate to continue to wield the power and authority of the State/AG through the Wingate Suit and the AG's Legacy Trust to bring about a second takeover of Brown's private property and the "I Feel Good" Trust which will take $50 million from scholarships for needy students; destroy the property rights of all Appellants; and threaten private philanthropy and private property rights in the State of South Carolina.

j. As is shown at page 479 through 506 of the Appendix, the continuation <u>today</u> and possibly for years to come, of the illegal Richland County Case 2010-CP-40-4900 (the "Wingate Suit") which is an unconstitutional delegation of the State's power to a private law firm serving non-

residents of South Carolina; has deprived all Appellants and Buchanan of the dignity and respect under the laws of South Carolina and the Constitutions of South Carolina and the U.S. which their civil status and/or service to Brown's estate plan and the "I Feel Good" Foundation demands; and of their property rights.

k. The June 13 Orders and appealed orders which purport to prevent Brown's heirs, devisees, creditors and others under Section 62-7-405, including Buchanan and Pope from enforcing the "I Feel Good" charitable foundation even though the AG has withdrawn his support; the Settlor is deceased and the claimed Trustee is irreconcilably conflicted by his service as a fiduciary and agent for Tommie Rae, an agent for her son (without GAL) in the Wingate Suit.

l. The June 13 Orders and appealed orders which prevent Buchanan and Pope from restoring their careers and reputations by refuting the State/AG's career-threatening false claim that the two committed the federal felony of intentionally overstating the value of James Brown's worldwide music empire by $79 million (at about $84 million) for the improper purpose of obtaining a $2.1 million commission for Buchanan and a $2.8 million commission for Pope for 4-6 years of service to Brown's.

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m. The June 13 Orders and appealed orders which deny all Appellants the right to demonstrate that Bauknight's less-than $4.7 million at-death value of James Brown's music empire was knowingly false and fabricated, and the AG's reliance on the fabricated value to attack Buchanan and Pope and seek their removal as fiduciaries without even looking at the false appraisal was reckless.

n. The June 13 Orders and appealed orders, which prevent Buchanan and Pope from demonstrating that AG McMaster should not have relied on the false claim made to him on May 19, 2010, as reported to the S. C. Supreme Court, that he would breach his fiduciary duty as Attorney General if he did not sue Buchanan and Pope in the Wingate Suit for conducting the *Wilson v. Dallas* appeal.

o. The June 13 Orders and appealed orders which prevent all Appellants from demonstrating that the State/AG, Bauknight and Sojourner are seeking to benefit Tommie Rae and her son, damage Appellants; and damage the "I Feel Good" Foundation by trying to take away the acknowledged status of James Brown's real heirs who passed the Estate's official Peeples DNA Protocol, even though Appellants and Brown's DNA-proven daughters provide the "I Feel Good" Foundation with the ability to obtain for about $100,000 per year what AG McMaster

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proposed to secure by giving Tommie Rae and the Levenson clients more than $50 million of the "I Feel Good" Foundation—cooperation in the Estate/"I Feel Good" Trust's was fabricated

p. The June 13 and appealed orders which help reinstate the AG's 2008 settlement and takeover of Brown's private property and private foundation and the unnecessary payment from the $50 million taken from the "I Feel Good" Trust of more than $20 million that should be used for scholarships for needy students to Levenson, Bell, and counsel for Tommie Rae, even though the claims of their clients were without merit.

q. The June 13 Orders and appealed orders purport to prevent Buchanan, Pope and Appellant from exercising their rights under the South Carolina Freedom of Information Act ("FOIA"), where the State/AG has blocked FOIA compliance since 2011; supported the intervention by Bauknight as agent for Tommie Rae in FOIA suits; and attempted to transfer all FOIA cases seeking James Brown documents to Richland County and consolidate them with the illegal Wingate Tort Suit to prevent release of public documents under FOIA.

r. The June 13 Orders and appealed orders have allowed Tommie Rae, Bauknight and Louis Levenson, Esquire ("Levenson") to proceed unimpeded—and aided by Sojourner and Bauknight—with their

announced intention to reinstate the State takeover of James Brown's private property by the AG and the placing of Brown's property under the control of the State; followed by the claim—being made today in FOIA Suits—that the property taken over by two AG s and 9 or more taxpayer-paid attorneys is private and not subject to FOIA.

s. The June 13 Orders and appealed orders continue to condone the State/AG's and Russell Bauknight's mishandling of the criminal proceeding of felon David Cannon where the $5 million Cannon took in 1999 was never part of the $12 million indictment; no restitution was sought from Cannon; funds Brown gave the "I Feel Good" Trust were used for Levenson to visit Cannon's $1 million retirement home on Roatan Island in the Caribbean; Cannon was induced NOT to support the 2000 estate plan and backup 1999 Will, but to support the AG/State's rewriting of Brown's estate plan and takeover of Brown's private property; and—while under indictment—Cannon was named as the State/AG's witness against Buchanan and Pope in the Wingate Suit brought to stop the *Wilson v. Dallas* appeal.

t. The June 13 and appealed orders allow the State/AG to sue South Carolina citizens for tens of millions of dollars for the benefit of the AG's Legacy Trust created with assets taken from a South Carolina citizen's

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estate; treat non-heirs the AG favors as heirs to the detriment of real heirs; direct no DNA testing of non-presumed heirs; destroy the reputations and careers of properly-serving fiduciaries by false felony claims based on a false appraisal the AG has not even seen; insure the removal of the proper fiduciaries by the Supreme Court by a fabricated lawsuit; knowing false and unsupported claims that an $80+ million foundation is worth less than $3 million; condone false representations by his appointed trustee to the IRS about the properly-serving fiduciaries; condone false statements to the Supreme Court about the value of the asset, the heirs and the Federal Copyright Act termination rights provisions and false claims about the alleged impropriety and claimed greed of the properly-serving fiduciaries; then claim that the illegal suit the State/AG has conducted for three years against the two people who dared to put the Supreme Court in a position to prevent the State takeover of Brown's private property was not properly authorized and the State/AG, <u>but allow Wingate and Bauknight to continue the suit for years under the name of the State/AG</u>.

u. The June 13 and appealed orders are allowing the State/AG, through agent Bauknight, to continue to extend for years his 4-year destruction of the careers of Buchanan and Pope by seeking a stay in the Wingate Suit in Richland County until all

matters are concluded in Aiken County while—at the same time—telling the Aiken Court that Buchanan and Pope cannot be paid until the Wingate Suit in Richland County is concluded. [See App., p. 479 - 506]

v. The June 13 and appealed orders allow the State/AG to continue its 3-year denial of FOIA rights to all citizens wanting to know what went wrong with the Attorney General's oversight of James Brown's "I Feel Good" Trust by denying James Brown FOIA requests then, when FOIA suits are filed, allowing Bauknight to intervene and attempting to consolidate them with the Wingate Tort Suit.

3. The Court overlooked or misapprehended that Appellant Pope is aggrieved by the Dismissal Order which improperly prevents Appellant Pope from serving as an attorney in the James Brown cases; protecting herself in the Wingate Suit from false felony claims lodged by the State/Attorney General and other State actors; deprives her without Due Process of the right to represent Michael and the other Appellants as *pro bono publico* guardian ad litem ("GAL"); and prevents her from protecting herself against the false claim that Tommie Rae Hynie was Brown's spouse and Tommie Rae's son was Brown's son, even though he is not presumed to be a son and has refused official DNA testing.

4. The Court overlooked or misapprehended that the Dismissal Order, like the June 13 Orders and appealed orders, allows the circuit court to refuse a hearing on the appointment of a GAL to protect the

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interest of Appellants Michael, James Curtis and the DOE Defendants, which has deprived them of their property right to prove that Tommie Rae is not Brown's spouse; and to be represented *pro bono publico* by a GAL or attorney who has expertise in the relationship between the Federal Copyright Act termination rights provisions and State Probate Law, and who is willing to serve them *pro bono publico*;

5. The Court overlooked or misapprehended that the Dismissal Order:

a. Deprives Appellants and all others under South Carolina Trust Code Section 62-7-405 of the right to protect the "I Feel Good" Foundation as embodied in the 2000 estate plan and 1999 backup Will, which set out James Brown's often-stated and well-known desire to leave his entire $100 million music empire to the "I Feel Good" Foundation, as set out in four valid documents executed over two years and a voice tape of James Brown.

b. Continues the unconstitutional and fundamentally unfair State action of declaring Tommie Rae Hynie the spouse of James Brown and her son a child of James Brown where Tommie Rae was not the spouse and her son—a non-presumed heir—has refused DNA testing under the Estate's official Peeples DNA Testing Protocol is presumed NOT to be a child or heir under the Federal Copyright Act.

c. Results in the flagrant violation of both the letter and Spirit of the Supreme Court's

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decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.C. 2d 746 (2013) which voided the proposed dismembering of the "I Feel Good" Foundation in favor of Tommie Rae and others.

d. Prevent Appellants from filing motions to become parties; protest the failure of service on them; participate in the proper election of a fiduciary as directed by *Wilson v. Dallas*, and by which the circuit court and clerk have violated their constitutional right of access to the courts by removing and cancelling their unheard motions from the public records; voiding same; and returning them as if unfiled. [See Appendix, p. 501-506].

e. Allows Sojourner, claiming authority under an ex parte SA order and an unconstitutional ST appointment of the probate court and circuit courts respectively, to favor Tommie Rae and her son and prevent them from protecting their property rights under the Federal Copyright Act to show that Tommie Rae was not Brown's spouse, and reach fair termination rights with the Estate/"I Feel Good" Trust that will provide each of them $20,000 or more each year for life; provide their children the same or a greater benefit under the Copyright Act after their deaths, even though all were intentionally excluded by Brown from his two valid estate plans; and provide them the satisfaction of being identified as Brown's real heirs under the

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March 15, 2008 Order of Judge Early in the Levenson Will/Trust contest which—until the June 13 Orders—was Case 2008-CP-02-0872 ("Case 872").

f. Makes it appear, by improper action of Sojourner, that Tommie Rae and James B. timely and/or appropriately filed their Elective Share, Omitted Spouse and Omitted child claims, when neither filed an appropriate claim; both filed the claims in the wrong court; neither attached the required Summons to the Petition; neither named the known heirs, as required by the South Carolina Probate Code ("SCPC"); neither served any heir or devisee, including Appellants; and such petitions should be summarily dismissed as defective both procedurally and factually

g. Deprives Appellants of their right to demonstrate to the Courts that Tommie Rae is entitled to nothing under the estate or the Copyright Act because she is not Brown's spouse; is not a heir of James Brown either under State Law or the Federal Copyright Act; and even if the spouse has waived all right under the Copyright Act; and even if such waiver were declared invalid, is entitled to no more than 1/3 of $4.7 Million LESS expenses of administration, value she placed on Brown's music empire in filings with the S.C. Supreme Court.

h. Deprive Appellants of their right to contract with a fiduciary who is NOT serving

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Tommie Rae; who is protecting the Estate/"I Feel Good" Trust and who will make fair termination rights deals with the HALF (or half + 1) of Brown's real heirs who are NOT challenging Brown's noble plan to leave his entire music empire to the "I Feel Good" Trust.

i. Deprives them of the right to support the estate plan and "I Feel Good" Trust under both the 2000 estate plan and 1999 Will which makes the estate plan ironclad and which Sojourner has placed in jeopardy under the 10-year rule of the SCPC.

3. The Court overlooked or misapprehended that Bell has not; cannot; and will not protect the rights of Michael, who is incarcerated in California; is entitled to a GAL under Rule 17 (c) SCRCP; who has called Pope unsolicited to express his appreciation for Pope's actions; whose former attorney in California (who protected his rights as a minor child of James Brown) asked Appellant Pope to contact Michael to serve as Michael's attorney, but Pope declined—instead notifying the circuit court of the contacts and applying to serve as *pro bono publico* GAL under Rule 17 (c).

4. The Court overlooked or misapprehended that Bell has made numerous material and false filings with State and Federal Court and Grievance Boards since 2007 to obtain the assets of the "I Feel Good" Trust for Forlando and Terry Brown while claiming to support the noble estate plan of James Brown; is not protecting the interest of Michael in the pending proceedings; and is actively attempting—and being

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allowed by Sojourner—to siphon off the Estate/"I Feel Good" Trust's rights to properly recognize Michael and reach a fair termination rights agreement with Michael—and his son after his death.

5. The Court overlooked or misapprehended that Bell, a Georgia attorney, is presently working to secure for Forlando/Terry the James Brown assets in at least 10 James Brown cases; is actively engaged in the practice of law in South Carolina; and has repeatedly violated the pro hac vice requirements of the South Carolina Supreme Court since 2007.

6. The Court-overlooked that a GAL for Michael would be necessary even if Bell were Michael's attorney because to adequately protect Michael's interest, and that of his son, to be part of both the State and Federal Copyright Act baseline heirs of James Brown; to confirm Brown had no spouse; and to allow only those non-presumed children who agree to take, and pass, the Peeples DNA protocol to be considered heirs, he must be actively represented involved in at least seven James Brown South Carolina cases by someone who represent his interest and is not—like Bell—aligned with Tommie Rae and her son in the Wingate Suit. [See Wingate Litigation Retention Agreement signed by Bell to stop the *Wilson v. Dallas* appeal which restored Michael's rights. The Wingate Suit is still pending, and Bell is still partnered with Tommie Rae. See App. p. App., pp. 422-440.]

7. The Court overlooked or misapprehended that Bell is currently protecting the interest of Terry and Forlando Brown in more than 10 James Brown cases,

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most in violation of pro hac vice rules, but has not moved to make Michael a party the Tommie Rae and James B. Cases, confirming that his claim is to suppress Michael's rights—not protect them—defeating Michael's right to protect himself and his son against Tommie Rae under State law, which is necessary to secure his position under the Federal Copyright Act.

8. The Court overlooked or misapprehended that Bell's improper acts and fraud on the courts since 2007 include, but are not limited to:

a. In September 2007, filing a known false stipulation for Forlando and Terry that Brown's wholly-owned company JBE, Inc., was NOT in Brown's 2000 Trust when both Bell and Forlando had actual knowledge from the trustees who established the 2000 Trust with Brown that JBE, Inc. was in the Trust.

b. On January 2, 2008, attaching a known fabricated second Schedule B to the 2000 Trust, created by Dallas and Cannon after Brown's death, to the claimed copy of the 2000 Trust filed in the Forlando Federal Suit, to make it appear that Brown's Publicity Rights—about half of the $100 million music empire—had been transferred to the 2000 Trust before Brown died. [They had not.]

c. In 2008 blaming his false 2007 stipulation on Buchanan and Pope, even though there was no basis to do so.

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d. In early 2008 claiming to the Federal Court that Forlando was. an impoverished student desiring to carry out the noble estate plan of his grandfather James Brown when Forlando was actually seeking to dismember the "I Feel Good" Trust and—with no monetary contribution—had been given a 39% ownership in TJBL, the entity seeking to acquire the "I Feel Good" Trust assets.

e. In 2008 filing two false affidavits with the federal court that were material in preventing Forlando's fabricated claims from being dismissed in 2008 and allowing the attempt by Bell and Forlando to enjoin the 2000 Trust until felon David Cannon and Albert Dallas were reinstated to threaten the 2000 Trust until they were dismissed in 2012. Bell did so with knowledge that a federal injunction would have derailed the *Wilson v. Dallas* appeal.

f. In 2008, to achieve a civil result in the James Brown cases, Filing six false grievances against Levenson in two states, including claiming falsely that Levenson forged a signature on the 30% contract Forlando, Terry and brother Romunzo had reached with Levenson in January 2007 to help them dismember the "I Feel Good" Trust.

g. In 2009, after Terry joined the AG's 2008 settlement and acquired a right of first refusal to buy the music empire (the

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"ROFR"), threatening a judicial grievance against Mr. Buchanan if he did not immediately resign as PR/Trustee and abandon support of Brown's estate plan.[Buchanan is a federal magistrate. He reported the matter both to Judge Early and to the appropriate Federal body.]

h. Secretly signing the Wingate Litigation Retention Agreement on May 19, 2011, to try to derail the *Wilson v. Dallas* appeal (and Michael's rights) when he had knowledge Wingate was not authorized to file suit on behalf of the State/Attorney General and Bauknight had no authority to speak for the State.

i. Making the known false claim to the Supreme Court that Tommie Rae and her son controlled the termination right to Brown's 800+ songs when he knew from Private Foundations and his own investigation that the claim was false.

j. Making the knowing false claim to the S. C. Supreme Court in 2011 for Terry that Brown's music empire was worth less than $4.7 million when Brown died, when he had actual knowledge that counsel for Oprah Winfrey was discussing a possible payment of $200 million for Brown's music empire as he was making the false representation.

k. Making the known false claim to the S.C. Supreme Court that Tommie Rae was Brown's spouse and that she and her son controlled the Federal Copyright Act

termination rights when he had actual knowledge that she was not the wife; had begged Brown to marry her after he discovered she was married when they had a 2001 ceremony; and that she and Brown were actually separated for the last time months before his death.

l. Making the false claim to the S. C. Supreme Court in 2011 that there was never an offer to buy Brown's music empire when his client Terry had participated in THRE $90 million—$100 million offers as part of TJBL in late 2007 and early 2008; where his client Forlando had testified under oath that $150 million offers were available in late 2008; and while he was involved with an inquiry by Oprah Winfrey's counsel that did not proceed only because Bauknight—having told the IRS and the Supreme Court that the music empire was worth $4.7 million—was unwilling to proceed with the sale.

m. Authorizing the law firm of Kenneth Wingate, Esquire ("Wingate") to sue Buchanan and Pope for conducting the *Wilson v. Dallas* appeal which restored Michael's rights as an heir, and to make the false claim that there were problems with the Christie's sale when he had actual knowledge the Christie's claim was false; Forlando had reasonable opportunities to withdraw any item—including the Grammy—from the sale, but did not do so; and Forlando had testified under oath that the family, although feuding over other

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issues, got together to sabotage the Christie's sale and did not even buy items they later decided they wanted, although they had funds to do so.

n. Authorizing Wingate to make the false claim that there were problems with the Christie's sale for the sole purpose of discrediting Buchanan and Pope when he had actual knowledge that the Christie's sale was authorized by three unappealed Court Orders, including one of this Court.

o. Authorizing Wingate to sue in the name of the State/AG and Bauknight to claim the mighty power of the State as the AG's agent, when Bell had actual knowledge that the Wingate Suit was not authorized, and that the private Wingate firm could not legally sue Buchanan and Pope as the State's sole attorney while also representing Tommie Rae, her son and other non-residents.

p. Colluding with Bauknight in 2011 to conceal from State and Federal Courts, and from release under FOIA, the amendment of the Legacy Trust by AG McMaster in early 2011 and transfer from Terry to Forlando of the ROFR", which Forlando knew to be worth more than $100 million, but which Bell's client Terry was telling the S.C. Supreme Court was worth less than $4.7 million.

q. Colluding with Bauknight and Sojourner after the *Wilson v. Dallas* decision to

> prevent the protection of the 2000 Trust and 1999 backup Will, and to siphon off termination rights agreement which should belong to Michael, the DNA-proven daughters, and the Estate/"I Feel Good" Trust.

9. The Court overlooked or misapprehended that the appeal involves both the specifically designated orders and:

> All Orders issued as part of, and from and after the injunction imposed by Orders of the Honorable Doyet A. Early, III and the Honorable Liz Godard dated June 13, 2013, which are the subject of an appeal pending in the South Carolina Court of Appeals, affecting Appellants.

10. The Court overlooked that the circuit court violated the property rights of all Appellants and damaged the "I Feel Good" Foundation by its disregard for the remand mandate of *Wilson v. Dallas*.

11. The Court overlooked or misapprehended that on May 8, 2013 the S.C. Supreme Court issued its final *Wilson v. Dallas* decision. The decision:

a. Voided Bauknight's fiduciary appointments under the Will and Trust;

b. Remanded the matter for the appointment of fiduciaries in accordance with Brown's documents, and for review of attorneys' fees and other costs in relation to the matter.

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12. The Court overlooked or misapprehended that the final *Wilson v. Dallas* decision deleted a footnote in the February 27, 2013 decision which related to:

a. The Wingate Suit where Buchanan and Pope were sued by the AG, Tommie Rae, Bauknight as agent for both, and the AG's Legacy Trust on May 19, 2010, for tens of millions of dollars. The claimed wrongdoing, included:

(1) conducting the *Wilson v. Dallas* appeal;

(2) claimed problems with the 2008 Christie's sale which the AG had asked this Court to approve;

(3) failure to accept a 2007 $100 million offer for Brown's assets.

b. A FOIA Suit filed by Appellant Pope in 2011 to obtain:

(1) A copy of the AG's Legacy Trust, which had sued Buchanan and Pope, with amendments;

(2) A copy of the $4.7 million at-death valuation of Brown's music empire on which AG Wilson was basing the false claim that Buchanan and Pope had committed a federal felony ("FOIA #1")

(3) Which Suit had been transferred to Richland County at the request of the AG and in which Bauknight, for Tommie Rae and James B., is seeking to intervene and stop FOIA compliance.

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c. A second FOIA Suit ("FOIA #2") filed in August 2011 in which the AG and Bauknight:

(1) Were successful in having FOIA #2 moved from Newberry County to Richland and consolidated with the Wingate Suit;

(2) Appellant has sought since 2011 the public Wingate Litigation Retention Agreement used to sue Buchanan and Pope in 2010.

13. The Court overlooked or misapprehended that on May 10, 2013 the AG's and Tommie Rae's attorney of record, in a suit also secretly brought by Bell, Wingate, told the Honorable L. Casey Manning, Jr., Presiding Judge in the Wingate Suit:

> . . . the new Supreme Court opinion upholds the for-cause removal of . . . Pope as a fiduciary of the James Brown Estate. In upholding her for-cause removal the court relies on some of the very same allegations made by the Case 4900 Plaintiffs against Mrs. Pope . . . Because of her for-cause removal, she can have no further part in the Estate and Trust.
>
> AND
>
> [T]he Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 of the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be

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> heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. While the court does recognize that the Attorney General is contesting releasing some documents pursuant to FOIA, the court no longer puts any primacy or priority on any court hearing these matters . . . the claim of privilege must be decided before any court can make a determination of the application of any FOIA claim.
>
> . . . Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that Case 4900 be held in abeyance in its entirety until all the underlying issues related to the Plaintiffs are resolved by the Aiken Court. [Emphasis supplied.]

14. The Court overlooked or misapprehended that before a May29, 2013 status conference, at which no testimony was allowed and of which no record was made, the circuit court directed that anyone with ideas about the post-*Wilson v. Dallas* conduct of the James Brown cases was required to file a formal motion by May 26, 2013.

15. The Court overlooked or misapprehended that Appellant Pope was the only person to file such a motion. She filed three reasonable motions dealing with several of the Aiken James Brown cases, including Dallas' $6 million commission claim suit; and the appointment of a special administrator/ special trustee ("SA/ST") to protect the Will and 2000 Trust where Bauknight was aligned with Hynie. The motions addressed the issue of Bauknight being an

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agent for Tommie Rae in the Wingate and FOIA Suits.

16. The Court overlooked or misapprehended that Appellant Pope contacted Bell, Dallas and others to garner support for the estate plan, and the 1999 backup Will, which is in jeopardy under the 10-year rule, and which only Buchanan and Pope have protected and sought admission to probate in the unlikely event that the2000 estate plan is set aside.

17. The Court overlooked or misapprehended that these persons could not or would not protect the 1999 Will, which—along with James Brown's own voice tape—made estate plan establishing the "I Feel Good" Trust ironclad. Cannon's counsel supported Pope's action, but said Cannon was unable to help.

18. The Court overlooked or misapprehended that Appellant Pope called to the attention of the Court that Tommie Rae and all former challengers of the Will/2000 Trust had admitted in writing in the Wingate Suit:

> . . . the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. **This objective as the often stated and well-known desire of James Brown**. [Emphasis supplied.]

19. The Court overlooked or misapprehended that on May 29 counsel for Tommie Rae and Louis Levenson, Esq. ("Levenson"), asked the Honorable Doyet A. Early, III to go in camera and reinstate the AG's 2008 settlement which the Supreme Court had

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just declared void., and which dismembered the "I Feel Good" Trust.

20. The Court overlooked or misapprehended that the claim that giving $50 million of the "I Feel Good" Trust to the Levenson clients, clients of David Bell, Esq. ("Bell") and Tommie Rae was good for the "I Feel Good" Trust was wholly without merit, and based on the following material claims:

a. That Brown's music empire was worth less than $4.7 million. [It was conservatively valued at about $84 million at Brown's death.]

b. The Tommie Rae was Brown's spouse. [She was not.]

c. That Tommie Rae and her son controlled the Federal Copyright Act termination rights to Brown's 800+ songs. [This was false.]

d. That nothing would be in the "I Feel Good" Trust in 2023 if the AG's 2008 settlement were not approved. [This is false.]

e. That Michael, Jeanette, La Rhonda, Nicole, Lisa, James Curtis are not heirs and have no claim to the termination rights. [This is false.]

f. That the $3+ million annual royalty stream could not be secured for decades, as all fiduciaries prior to Bauknight had shown, by confirming that Brown died without a spouse and reaching Federal Copyright Act termination rights agreements with the

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most cooperation HALF (or half+1) of Brown's children NOT challenging the "I Feel Good" Trust.

21. The Court overlooked or misapprehended that the "I Feel Good" Trust's Royalty stream was being protected when the AG's settlement which *Wilson v. Dallas* declared void was reached by:

a. Confirming that Tommie Rae was not Brown's spouse, and had waived all State and Federal rights prior to her void ceremony.

b. Confirming that the claims of Tommie Rae and James B. were without merit and filed in the wrong court;

c. Completing the official Peeples DNA Protocol under Order of the Honorable Doyet A. Early, III in Case 2008-CP-02-0122 (the "Levenson suit") to increase the heirs-at-death baseline to protect the "I Feel Good" Trust's copyright with agreements with the most cooperative HALF (or half + 1) of Brown's children.

d. Continuing the same program with grandchildren after the death of Brown's children.

e. Reaching termination rights agreements for as little as $100,000 per year for all 5 or 6 of Michael, La Rhonda, Jeanette, Lisa, Nicole and/or others not challenging the estate plan.

22. The Court overlooked or misapprehended that when the AG's now-void settlement was reached Brown's plan to leave his entire music empire to the "I Feel Good" Foundation was being shown to be ironclad in the Levenson Suit by:

a. Admissions by the contestants of the validity of the estate plan;

b. Tommie Rae's and Venisha's being present and witnessing the Will and 2000 Trust;

c. The counterclaim for alternate probate of the 1999 backup will, which also leaves the music empire to the "I Feel Good" Trust.

d. James Brown's own voice tape.

23. The Court overlooked or misapprehended that on May 29, based on a pre-remittitur ex parte special administrator("SA") appointment obtained by Bauknight served a notice of disallowance with impending bar (the "Disallowance") purporting to disallow all of the following:

1. Pope's unpaid 2007 SA fees of about $47,000, with legal interest.

2. Pope's unpaid, allowed, and court-approved payment for PR/Trustee commissions from 11/20/08-5/26/09, about $1.4 million plus interest:

3. Legal Fees incurred in defense of the Estate Plan, including 7 days of hearings and a 4-year appeal (Hayes & Bailey) of about $ 200,000.

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4. Buchanan's right to recover if the claimed "settlement" in the Wingate Suit is declared void.

5. Buchanan's and Pope's right to attorneys' fees for the 4-year defense against a frivolous lawsuit brought by Bell on January 2, 2008, Case 3:08-cv-00014-WOB. to enjoin the 2000 Trust from taking any action until David Cannon and his co-trustee Albert "Buddy" Dallas were reinstated.

6. Attorneys' fees from the Estate and/or Bauknight for his interference since 2011 in FOIA #1, FOIA #2.

24. The Court overlooked or misapprehended that a motion to void the Wingate Suit "settlement" as against public policy is pending because "I Feel Good" funds paid for releases for Tommie Rae, her son, and others.

25. The Court overlooked or misapprehended that the Disallowance referenced the false felony claim that Buchanan and Pope: that they had improperly valued the assets on the estate tax return without basis.

26. The Court overlooked or misapprehended that Bauknight had actual knowledge the claim was false and the $4.7 million claim which was outrageous because:

a. A 2006 Professional Appraisal by the Royal Bank of Scotland ("RBS") had valued the Royalties—about half of the value of the music empire—at $42 million.

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b. TJBL had made three offers of $90 million-$100 million for the music empire in late 2007 and early 2008.

c. Buchanan and Pope, while still SAs, and prior to their PR/Trustee appointment, had moved Judge Early to value the music empire for the estate tax return based on the following formula consistent with their $84 million value placed under oath on the estate tax return: Music empire=12 1/2-4 x (annual Royalties + 1/2 road revenues) LESS TIAA Debt.

d. The annual Royalties had been about $3 million per year for decades, and road revenues for 2003-2006 were $18 million.

e. Counsel for Oprah Winfrey has express interest at $200 million, but Bauknight refused to proceed.

27. The Court overlooked or misapprehended that the Disallowance forced Appellant Pope to file suit within 30 days or face not being paid for her SA work in 2007; her PR/Trustee work between November 2007 and May 2008; also Buchanan, Tressa Hayes, Esq., and James Bailey, Esquire, not being properly paid.

28. The Court overlooked or misapprehended that Bauknight served the Disallowance to avoid review under the *Wilson v. Dallas* remand of:

a. A 2010 40% contingency fee contract with the Wingate Firm which Bauknight and the AG had kept secret in two FOIA suits since August 2011.

b. A $563,000 2012 payment to Wingate, in addition to the 40% contingency

c. $25,000 to Philpott Ball to produce a claimed $4.7 million "appraisal" of Brown's music empire at death which reduces the "I Feel Good" Trust from about $80 million to about $2 million and purports to reduce the annual required payout to provide scholarships for needy students from several million per year less than $100,000.

d. Undisclosed amounts proposed to be paid to Bauknight himself; his counsel; counsel for Tommie Rae; counsel and a GAL for James B.

29. The Court overlooked or misapprehended that by the end of 2013 Bauknight would make the following additional payments, which have not been scrutinized:

A. $770,000 + to Nexsen Pruet

B. $250,000 + to the law firm of Sojourner.

30. The Court overlooked or misapprehended that on June 10 Appellant Pope filed suit to void the Disallowance; void Bauknight's pre-remittitur appointment; and/or remove him for cause based on his continued service to Tommie Rae and James B., and other actions during the *Wilson v. Dallas* appeal.

31. The Court overlooked or misapprehended that The June 10 complaint was accompanied by a request for hearing which the SCPC requires and the circuit court declined to set.

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32. The Court overlooked or misapprehended that on June 13, 2013, without notice to any of Appellants and without hearing the circuit court issued the June 13 Orders were issued. The June 13 Orders enjoined Appellant Pope, with others, from participating in the appointment process; the remand fee and commission review; and other critical matters affecting their property rights and financial interests

33. The Court overlooked or misapprehended that the June 13 Orders continue the State's favoritism of Tommie Rae and her son which began in August 2008 and as a result of which all Appellants suffer similar damage, namely:

1. The injunction against Appellant Pope which has been carried out by the circuit court's refusal to conduct a hearing on her request to serve as GAL for Michael,
2. The refusal to appoint a GAL or allow James Curtis to be tested is allowing Tommie Rae and Bell, aided by Bauknight and Sojourner, to siphon off contracts which the HALF of Brown's children NOT challenging the estate plan should now be making with the Estate/2000 Trust for the benefit of Bell/Terry, Tommie Rae, and others who continue baseless challenges to Brown's estate plan.
3. The refusal of the circuit court to conduct a hearing on voiding the unconstitutional gag orders damages the property rights of all Appellants.

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4. The refusal of the circuit court to accept motions filed by non-parties, the circuit court's allowing Bauknight and Sojourner to proceed with heirs determination which actually undoes the Estate's official recognition of heirs.

5. The State's continued favoritism to Tommie Rae and James B. through Bauknight, Sojourner and the orders is improper and violates Due Process and Equal Protection rights.

34. The Court overlooked or misapprehended that The *[sic]* circuit court, for almost a year since *Wilson v. Dallas*, has refused to conduct a hearing on the 2012 motion to declare the Gag Orders void or expired.

35. The Court overlooked or misapprehended that The 2008 Gag Orders are clearly an unconstitutional prior restraint in violation of the First Amendment Rights of all Appellants, and threaten damage to them and to the "I Feel Good" Trust.

36. The Court overlooked or misapprehended that The Gag Orders prevent more than a dozen people who have confirmed that Tommie Rae was not Brown's spouse from speaking of the widely known contents of her own discarded writing which Tommie Rae's own lawyer admits does irreparable harm to her claim.

37. The Court overlooked or misapprehended that on or about June 24 the Clerk refused to file Appellant's Pope's motion to alter or amend the June

13 Orders, and the Clerk has since unfiled Appellants' motion to intervene and returned it.

38. The Court overlooked or misapprehended that on July 2, 2013 a status conference was held on some James Brown cases, with no notice to heirs.

39. The Court overlooked or misapprehended that on or about July 26, 2013 both Buchanan and Pope (reserving objections) filed information about their service and fees and required by the June 13 Orders.

40. The Court overlooked or misapprehended that Bauknight did not disclose any of the payments set out above before his appointment on October 1, and the circuit court praised him and his counsel without inquiring.

41. The Court overlooked or misapprehended that Buchanan described how Bauknight's withholding of any of the $500,300, with interest at the legal rate, from 2009 had placed Buchanan in desperate financial condition.

42. The Court overlooked or misapprehended that although Pope has worked *pro bono publico* since May 8, 2013, she is entitled to reasonable pay for her SA and PR/Trustee service under the January 8 Order, with interest as stated in the Order.

43. The Court overlooked or misapprehended that Appellant Pope suffered the same or greater financial damage to her career as Buchanan. The false felony claim by the Attorney General and Bauknight as his claimed agent have rendered her unable to serve as a consultant and/or expert.

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44. The Court overlooked or misapprehended that On July 2, 2013, and since, Appellant Pope renewed her request for a hearing which the circuit court had declined to hold on the so-called Hynie "diary" Gag Orders issued in 2008.

45. The Court overlooked or misapprehended that on July 8, 2013 Bauknight delivered ex parte to the circuit court what he describes as an ethics opinion of Prof. Nathan Crystal showing he has no conflict, but the circuit court declines to release it.

46. The Court overlooked or misapprehended that on July 9, 2013 the circuit court heard, and orally denied, the Motion for reconsideration of the June 13 Orders.

47. The Court overlooked or misapprehended that on July 10, the circuit court issued a form 4 denial of the June 13 Orders.

48. The Court overlooked or misapprehended that in July and August Bauknight attempted to evade a deposition in the Forlando Federal Suit claiming he knew nothing about the counterclaims in the suit in which the 2000 Trust had been a party since 2008.

49. The Court overlooked or misapprehended that Bauknight concealed both from the federal court and in two FOIA suits that in January 2011 the AG's Legacy Trust had been amended to allow Terry to begin due diligence on seeking a purchaser.

50. The Court overlooked or misapprehended that in his August 20, 2013 deposition Bauknight claimed that Buchanan's and Appellant Pope's action

in conducting the *Wilson v. Dallas* had not been helpful. He said:

> That's poppycock. Pure speculation from your client [Pope]. Fantasy . . . I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that $50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take $5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value . . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it . . . . You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T . . . .
>
> . . . [Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent . . . . Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client.

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51. The Court overlooked or misapprehended that at the same deposition Bauknight claimed his $4.7 million "appraisal" was confidential, as was the Wingate Litigation Retention Agreement.

52. The Court overlooked or misapprehended that of Sojourner, Bauknight said:

> . . . I made it clear to Dave Sojourner that I would be part of the process. That I would assist him in every way I possibly could. I fully believe I am the right person to do that job. And I will oversee every action he takes . . . .

53. The Court overlooked or misapprehended that on September 23, 2013 Bell's client Terry contacted Warner/Chappell through copyright attorney Marc Toberoff to say that he—with others, excluding Michael—would shortly be exercising termination rights under 17 U.S.C. 304.

54. The Court overlooked or misapprehended that Terry and all acknowledged children have confirmed that Tommie Rae is not Brown's spouse, but Bell has not dropped his alliance with her in the Wingate Suit, to Michael's extreme detriment.

55. The Court overlooked or misapprehended that because of Tommie Rae's relatively young age, declaring that she is Brown's spouse when she was not—as the AG attempted to do in the now-void 2008 settlement—will damage the rights of Michael, James Curtis and the DOE Defendants, and their children, under the Federal Copyright Act for decades.

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56. The Court overlooked or misapprehended that Michael, who is incarcerated in California, has a right under Rule 17 (c) SCACR to an unconflicted GAL to represent his interest in this complex matter; Appellant Pope has agreed to do so *pro bono publico*; and Appellant has expertise in the area and a deep knowledge of the James Brown probate issues.

57. The Court overlooked or misapprehended that in October 2013 the court in the Forlando Federal Suit released the Wingate Litigation Agreement, revealing that Bell had secretly been part of a suit to try to stop appeal of a settlement which dismembered the 2000 Trust and Michael's rights in State Court while he told the federal court he supported the estate plan.

58. The Court overlooked or misapprehended that since 2007 Bell has committed numerous improper acts, all intended to damage Buchanan and Appellants, including Michael.

59. The Court overlooked or misapprehended that at the September 4, 2013 hearing no questions were allowed to be asked, or asked by the Court, of either Sojourner or Bauknight about:

a. Bauknight's continuing service as a fiduciary to Tommie Rae and James B., which is directly adverse to all Appellants;

b. Bauknight's control over Sojourner as expressed by Bauknight in August.

c. Sojourner's knowledge of the March 15, 2008 Order which directed a proper heirs determination.

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d. Sojourner's knowledge of the importance of a proper heirs determination to identify the most-cooperative and least expensive HALF of Brown's heirs who are not challenging the estate plan to reach termination rights agreements with under the Federal Copyright Act.

e. Bauknight's 40% contingency fee and $563,000 payment to Wingate to continue to try to destroy the "I Feel Good" Foundation.

f. The false felony claim lodged by Bauknight against Buchanan and Pope under color of State authority, and by the Attorney General relying on Bauknight's claimed $4.7 million value without seeing it.

g. Bauknight's refusal to release the Wingate Litigation Agreement;

h. Bauknight's refusal to release the fee agreements of lawyers wanting more than $20 million from the 2008 settlement;

60. The Court overlooked or misapprehended that all Appellants were aggrieved and their property rights damaged by the failure of service of the Bauknight/Sojourner petitions on them and being enjoined the September 4 hearing.

61. The Court overlooked that but for the unconstitutional June 13, 2014 orders; the subsequent rejection by the Clerk of filings by and on behalf of Appellants; and other State action, all Appellants would now be parties to all cases where Tommie Rae, James B., or any other person might be declared an heir of James Brown.

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62. The Court overlooked or misapprehended that for all of the reasons stated in the Petition for Certiorari and Accompanying Appendix, of which the Court is asked to take judicial notice under 201(d) SORE, and which is found as S.C. Supreme Court Appellate Case No. 2014-001279, the Bauknight/Sojourner appointment Order of October 1, 2010, violated both the mandate of *Wilson v.Dallas* and their Due Process and Equal Protection rights.

63. The Court overlooked or misapprehended that the ex parte SA appointment order secured by Sojourner from the probate court further violated *Wilson v. Dallas*, their Due Process rights and their Equal Protection rights.

64. The Court overlooked or misapprehended that for all of the reasons stated in filings in Appellate Case No. 2013-001649, for which judicial notice under Rule 201(d) SCRE is requested, the June 13 Orders violated the Due Process, Equal Protection and First Amendment rights of all Appellants, and the orders on appeal in this case continue to violate:

a. The right of the incarcerated Michael to be represented by an unconflicted and competent GAL, serving *pro bono publico*;

b. The right of James Curtis and other DOE Defendants to protect their Federal Copyright Act termination rights against Bauknight, Tommie Rae and Sojourner;

c. The right of Appellant Pope, a creditor, and other creditors who support the "I Feel Good" Trust to do so in light of the conflicts

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of Bauknight and Sojourner and the withdrawal of the AG.

d. The right of Appellant Pope and Buchanan to protect themselves from false claims and to be properly paid.

e. The right of Buchanan and Pope to protect themselves and each other against false felony claims based on a secret, fabricated $4.7 million "appraisal" of the music empire.

f. The right of Appellant, Buchanan and others under the S.C. Trust Code to seek to enforce the "I Feel Good" Trust, or a creditors to do the same under the SCPC.

65. The Court overlooked or misapprehended that the Bauknight/Sojourner appointment violated all notions of fairness because:

a. The July 29, 2013 Bauknight Summons and Petition seeking to be sole PR/Trustee under the Will and 2000 Trust. The summons and Petition did not name a single heir in either the caption or the body. It was not served on anyone. Attached to the Petition was a second petition seeking the appointment of Sojourner. It was not served on any Appellant, although they were required by the SCPC to be served and named.

b. On September 4, 2013, with no service on or proper notice to any Appellant, the circuit court conducted a "hearing" which was not a hearing as contemplated by Due Process.

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c. The "hearing" failed to even meet the definition of hearing under the SCPC because no examination of Bauknight or Sojourner was allowed.

d. Only the circuit court asked questions, and failed to inquire about: any of Bauknight's wrongdoing; the above payments; Bauknight's refusal to file the claimed $4.7 million "appraisal" even though required to do so by the Probate Code; Bauknight's material misstatements to the Supreme Court; or Bauknight's bringing a suit claiming to be acting "on behalf of" the Attorney General when he had no such authority.

66. The Court overlooked or misapprehended that since July 2013 the circuit court has refused to conduct a hearing on the release by Bauknight of the fee agreements ordered to be delivered in March 2010, but not in the Clerk's office.

67. The Court overlooked or misapprehended that the claim of all Appellants and their children to termination rights under the Federal Copyright Act is based on the confirmation that Brown died without a spouse.

68. The Court overlooked or misapprehended that the appealed orders, if not reversed, will continued violation of the Due Process and Due Process rights of all Appellants; the Equal Protection Rights of some; the South Carolina Probate Code ("SCPC"); the South Carolina Trust Code ("SCTC") rights of all; and the South Carolina Freedom of Information Act ("FOIA") rights of some.

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69. The Court overlooked or misapprehended that the circuit court's refusal to conduct a hearing on the appointment of a GAL for Michael and the refusal of the Clerk of Court, under direction of the Chief Administrative Judge, to accept motions of non-parties while allowing Tommie Rae and James B. to participate violates their Due Process, First Amendment, Equal Protection and statutory rights.

70. The Court overlooked or misapprehended that the *Wilson v. Dallas* decision was not intended to be interpreted as it has been by the circuit court to:

a. Deprive Appellant Pope and Robert L. Buchanan, Jr. of the right to defend themselves in the Wingate Suit.

b. Deprive Appellant Pope of the right to void the unconstitutional 2008 Gag Orders where they she is being sued by Tommie Rae, and other Appellants the right to do the same to protect their property rights under the Federal Copyright Act.

c. Deprive Appellant, Buchanan or any South Carolina citizens of their FOIA rights to obtain public James Brown documents.

d. Require FOIA suits filed by other South Carolina citizens to be transferred to Richland County and consolidated with the Wingate Suit.

e. Allow Bauknight to continue to serve as fiduciary for Tommie Rae and agent for James B. (with no GAL) and claim to protect the estate plan.

f. Allow Sojourner to ignore the 1999 Will.

g. Prevent Appellants and other Interested Parties from participating in suits which affect them.

h. Continue, through Bauknight and Sojourner, the State's contract to favor Tommie Rae and James B.

Respectfully submitted,

/s/ Adele J. Pope
1228 Walnut Street
Newberry, S C 29108
(803) 413-0753
S.C. Bar No. 4501

Attorney for Appellants

June 25, 2013

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LETTER TO POPE FROM ANITA KNOEPFLE, RETURNING PLEADINGS (MAY 30, 2014)

Aiken County Clerk of Court
Court of Common Pleas
P.O. Box 583
Aiken, SC 29802
Phone: (803) 642-1715
Fax: (803) 642-1718

May 30, 2014

Adele J Pope
1228 Walnut Street
Newberry, SC 29108

Ref: 2013CP0202851

Dear Ms. Pope:

In regard to the pleadings dated May 23, 2014, with civil case number 2013-CP-02-02851 caption, I am returning same to you as our Chief Administrative Judge has instructed us not to file any pleadings in cases if they are not a party to the action.

If you have any questions regarding this, please contact Judge Early.

Thanking you in advance,

/s/ Anita Knoepfle
Anita Knoepfle
Aiken County Clerk of Court
(803) 642-1549

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MOTION TO RECONSIDER, VACATE, SET ASIDE, ALTER OR AMEND ORDER DATED DECEMBER 16, 2013 SEVERING OMITTED SPOUSE CLAIM, ELECTIVE SHARE CLAIM, AND PRETERMITTED CHILD CLAIM (DECEMBER 18, 2013)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

ADELE J. POPE, Individually, as Proposed Guardian *ad Litem*, and on Behalf of Others Under S.C. Trust Code Section 62-7-405

IN RE: THE: ESTATE OF JAMES BROWN a/k/a JAMES JOSEPH BROWN

Civil Action No. 2007-CP-02-1647

TO: ROBERT ROSEN, ESQ., AND PETER SHAHID, ESQ., AND THEIR CLIENTS TOMMIE RAE HYNIE AND JAMES B.

YOU WILL PLEASE TAKE NOTICE that ten days after service hereof, or as soon thereafter as she may be heard, Adele J. Pope, Individually; as proposed Guardian *ad litem* for incarcerated Michael Brown; as an Other and on behalf of all Others seeking to enforce The James Brown "I Feel Good" Trust; and as an Interested Person and Creditor with a Counterclaim

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for offset as to any share of Hynie and James B. in the Estate and/or James Brown 2000 Irrevocable Trust ("Pope") will move before the Honorable Doyet A. Early, III, at the Aiken County Courthouse located at 109 Park Avenue S.E., Aiken, South Carolina, pursuant to Rule 59(a) (b) and (e) and 60(a)(b) SCRCP, for an order voiding, vacating, setting aside, altering and/or amending the Order Severing Omitted Spouse Claim, Elective Share Claim and Pretermitted Child Claim dated December 16, 2013 received by Pope on December 16, 2013. A copy of the referenced Order (the "Severance Order") is Attached hereto as Exhibit A.

I. Summary of Relief Requested

The Honorable Doyet A. Early, III ("Jg. Early") issued the Severance Order in a case in which the Hynie & James B. claims are not pending; based on a Motion not properly served on Interested Persons and not complying with SCRCP or Due Process.

The Order denies Due Process rights to The James Brown "I Feel Good" Trust; heirs Daryl, Michael, Lisa, Nicole, La Rhonda, James Curtis (subject to DNA confirmation); grandchildren beneficiaries Lindsey, Janise and Jason Brown; the Doe Defendants (subject to DNA) confirmation, and other beneficiaries of the 1999 Estate Plan who support the Estate Plan, other Beneficiaries of the 2000 Estate Plan who support the Estate Plan and the "I Feel Good" Trust, as well as Pope, individually, as a creditor and as an Interested Person who has properly filed a Demand for Notice. It was brought when David C. Sojourner, Jr., lacked authority to protect the Estate Plan.

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The Severance Order should be declared void. A hearing should be held in Case 2007-CP-02-0122 to summarily dismiss Hynie's and James B's claims for lack of jurisdiction and his failure to submit to DNA testing under the Peeple DNA Protocol for six years, nearly five after the Estate paid for the testing.

II. Specific Objections

The grounds of this motion are:

1. The Court failed to consider, find and order that because the original filings of Hynie and James B. were filed in the wrong courts and failed to comply with statutory requirements, the Court never obtained jurisdiction to proceed with either.

2. The Court failed to consider, find and order that the first and only matters to be heard with respect to Hynie—and to be heard in Case 2007-CP-02-0122—are the pending Motions of the Estate/2000 Trust to dismiss all of her Spousal Claims as improper, lacking jurisdiction and void—as more fully set out in those motions, which are incorporated herein by reference.

3. The Court failed to consider, find and order that the sole matter to be heard with respect to James B. is the Estate/2000 Trust's motions to dismiss his claim because he was not born of any marriage of James Brown and has refused to take the DNA test under the Peeples DNA Protocol after the Estate paid for his testing in 2008.

4. The Court failed to consider, find and order that the Court's Order damages the "I Feel Good" Trust in its efforts—since 2007—to protect its

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copyrights by a fair and complete determination of the Heirs-at-death of James Brown.

5. The Court failed to consider, find and order that the Court's special treatment of James B., the only claimed child born during the 22 years between James Brown's vasectomy and death, violates Due Process and Equal Protection right of real heirs.

6. The Court failed to consider and find that this Court must stay the determination of Hynie is Brown's spouse because Richland County has exclusive jurisdiction over the issue under the following facts.

a. The Estate/2000 Trust, Hynie and James B. filed the Wingate Suit on May 19, 2010.

b. The Estate/2000 Trust, Hynie and James B. falsely claimed in the Wingate Suit that the Aiken County matters were over and that findings of Jg. Early related to the propriety of actions of Pope and Robert Buchahan, Jr, were "dicta."

c. The Estate/2000 Trust, Hynie & James B., over the objection of Buchanan and Pope, prevailed in having the matter remain in Richland County, which now has exclusive jurisdiction under the Probate Code.

d. Buchanan's and Pope's counterclaims assert that they never owed Hynie a duty because she was not Brown's

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spouse, and that James B. failed to prove himself a son.

e. But for Hynie's deposition, a decision on the merits is ready to be made in the Wingate Suit.

7. The Court failed to consider, find and order that Hynie, James B. and the Estate/2000 Trust are estopped to deny that Richland County, as result of their misrepresentations, is now the sole and proper forum to determine Hynie's status.

8. The Court failed to consider, find and order that—unless Sojourner colluded with Bauknight, which is unlikely—Bauknight has sabotaged the Estate/2000 Trust by refusing to provide Sojourner with the tools, documents, pleadings and legal authority to protect the "I Feel Good" Trust based on his loyalty to Hynie and James, for whom he serves as agent in four pending cases.

9. The Court failed to consider, find and order that Pope is a necessary party because of her pending counterclaim for offset against Hynie, James B. and Bauknight as their agent.

10. The Court failed to consider, find and order judicial economy, Due Process and justice will be served by voiding the Order and proceeding in Richland County.

11. The Court failed to consider and/or find that an Order in Case 1647 is improper because Case 122 is a separate proceeding.

12. The Court failed to consider, find and order that it lacks jurisdiction because Hynie & James B.

never filed proper Elective Share, Omitted Spouse or Pretermitted Child claims in the correct court and neither properly commenced a proceeding.

13. The Court failed to consider, find and order that Sojourner's SA appointment under the void October 10, 2013 Order of the Honorable Sue H. Pope is void., leaving the "I Feel Good" Trust temporarily protected only by Pope/Section 62-7-405.

This Motion is supported by the United States Constitution; the Constitution of the State of South Carolina; the S.C. Probate Code; SCRCP, including Rules 59(a) (b) and (e) and 60(a)(b); the S.C. Appellate Court Rules; the Memorandum Related to Appealability and Supporting Affidavit, both dated December 17, 2013, filed in the S.C. Court of Appeals and the Complaint in Case 2013-CP-02-1337, all incorporated herein by reference; and such additional affidavits and memoranda as shall come before the Court prior to the hearing on this matters.

Under Rule 11 the undersigned affirms consultation with opposing counsel would serve no useful purpose.

Respectfully submitted,

/s/ Adele J. Pope
S.C. Bar No. 4501
1228 Walnut Street
Newberry, SC 29108
(803) 413-0753

Pro Se and as Stated

December 18, 2013

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LETTER OF ATTORNEY GENERAL MCMASTER TO POPE AND BUCHANAN (JULY 30, 2008)

Henry McMaster
Attorney General

Adele J. Pope, Esquire
Robert L. Buchanan, Jr., Esquire
212 Newberry Street NW
Aiken, South Carolina 29801

Re: James Brown Litigation

Dear Mrs. Pope and Mr. Buchanan:

I am writing in response to your letter dated July 25, 2008. I am pleased that we may be able to work together towards our shared goals in connection with the Estate Plan of James Brown. As I mentioned in my last letter, Mr. Brown's Charitable Trust is a wonderful opportunity to further the education of needy children at institutions in South Carolina and Georgia. I hope that we will be able to work together to ensure that scholarships are funded as soon as possible.

While I have no objection to returning to our previous discussions about securing your proper appointment, I have concerns about whether this is possible given your unwillingness to consider the Special Trustee position. On several occasions you have indicated that you do not want to be appointed Special Trustee. I do not believe that you can be properly appointed permanent Trustee if you are not willing to resign and ask to be appointed Special Trustee, which I would support. Once you are

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appointed Special Trustee, we can ask the Advisory Board for a vote on the Trustee position, as required by Article XIII of the Trust document. If there is not a unanimous vote for you to be Trustee, then we can go to the Probate Court, have the matter removed to the Circuit Court, and have you properly appointed by the Circuit Court.

I am hopeful that as we go through this process, a third Trustee can be put in place along with both of you as required by Article VIII of the Trust. I appreciate your report in connection with my suggestions as to a suitable individual to serve as the third Trustee.

If you are willing to work together, I believe we can secure your proper appointment without further litigation, which would give us all more time to devote to the charitable intentions of Mr. Brown.

Yours very truly,

/s/ Henry McMaster
Attorney General

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LETTER OF POPE TO THE HONORABLE ALAN WILSON (JUNE 26, 2013)

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

June 26, 2013

The Honorable Alan Wilson
Attorney General for the State of South Carolina
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549

Re: The James Brown "I Feel Good" Trust

Dear Attorney General Wilson:

In 1988 a "Free James Brown" movement erupted after entertainer and South Carolina resident James Brown was sentenced to 6 years in jail. Upon his release Brown resurrected and continued his brilliant 7-decade career until his death in 2006.

Twenty Five years later a movement to free Brown's "I Feel Good" Trust is needed. Despite two ironclad estate plans, Brown's $100 Million "I Feel Good" private foundation has for 6 years been attacked—then controlled by—those who agree the "I Feel Good" Trust is just what James Brown wanted, but still seek to dismantle it.

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As former Attorney General McMaster and the six of his 10 children Mr. Brown acknowledged in the Will told the Richland County Court in 2010:

> . . . the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown. [Mem. Opp. P.2, 8/27/10]

The historic May 8 decision of our South Carolina Supreme Court appeared to save the "I Feel Good" Foundation, restoring the $50 Million these challengers proposed to take from scholarships for needy students.

Events since your office withdrew from the Aiken County cases on May 29 suggest the "I Feel Good" Trust is in jeopardy again.

Won't you lead the movement to save the "I Feel Good Trust?"

The quickest path to assuring that "I Feel Good" Trust's entire $100 Million will be used for needy students is to support Formal Probate of Brown's 1999 Backup Will.

The "will and trust contest" should <u>never</u> have been made to appear to be a contest between Brown's noble 2000 Estate Plan and some of his claimed heirs. Unless simply dismissed, the contest should have been between the two valid Wills. <u>Thanks to *Wilson v. Dallas*, the contest should be dismissed, or the questions presented be</u>:

1. Should the $100 Million "I Feel Good" Trust be dedicated solely to scholarships for needy students studying in S.C. and Georgia as set out in the 2000 Will and 2000 Irrevocable Trust?

OR

2. Should the $100 Million "I Feel Good" Trust be dedicated solely to scholarships for needy students at Voorhees, U.S.C. Aiken and U.S.C. Salkehatchie as set out in the 1999 Will and now irrevocable 1999 Trust?

Wilson v. Dallas added the following important question to this dialog:

What 3 persons are capable of dedicating full time—sharing annually 1/2% of the value of the "I Feel Good" Foundation once saved (as approved by the IRS)—to

1. Finish using the $285,000 Education Funds for Brown's 7 designated Grandchildren—many of whom have suffered since 2006;
2. Manage, with industry and other advisors, Brown's Royalties to more than 800 songs and Publicity Rights of equal value;
3. Vigorously Defend the "I Feel Good" Trust against all challenges; and
4. Deal fairly, but at arms' length, with Brown's 10 Heirs-at-death on Copyright matters?

As you know, if formal probate of the 1999 Backup Will is not sought within 10 years of Brown's

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death, it cannot be admitted. And almost 7 years have already passed.

I urge you to encourage and support this effort.

Thank you for your consideration.

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LETTER OF POPE TO THE HONORABLE ALAN WILSON (SEPTEMBER 16, 2013)

Law Office of Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

The Honorable Alan Wilson
South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

Re: Request for Meeting Re: Bauknight Claim that AG Wilson never saw Appraisal on which False Felony Claim Based. Mr. Bauknight's Continuing Interference with FOIA Rights.

Dear Attorney General Wilson:

I ask to meet with you at your earliest convenience to deal with actions of Russell Bauknight taken within the last 30 days to perpetuate the false felony claim lodged against Robert Buchanan, Jr. and me by your office between 2011 and 2013.

Mr. Bauknight still speaks of record "on behalf of" the Attorney General of South Carolina in Richland County Case 2010-CP-40-4900 (the "Wingate Case"). Until that is corrected, the State/AG appears to bolster Mr. Bauknight's actions.

Your office assured the S.C. Supreme Court in March 2013 that the FOIA cases would proceed expeditiously.

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Instead, on May 10 Mr. Bauknight told the Court in the Wingate Suit that the Supreme Court (by omitting the FOIA footnote) has no further interest in FOIA compliance. He asked Jg. Manning to delay the FOIA cases for what may be years.

Then on September 11, 2013 Mr. Bauknight asked the Federal Court to impose a confidentiality Order on two public documents requested under FOIA since 2011:

a. The Wingate Litigation Retention Agreement; and

b. The appraisal claiming the at-death value of James Brown's worldwide music empire was less than $4.7 million.

In an August 20 federal deposition Mr. Bauknight claimed—for the first time—that your office never saw the less-than $4.7 million appraisal which served as the basis of the felony claim lodged against Mr. Buchanan and me for two years.

Mr. Bauknight clings to the notion that James Brown's worldwide music empire was worth less-than $4.7 million at death—not the correct value of approximately $84 Million. He clings to the notion that Ms. Hynie and her child control the Termination Rights. He clings to the false felony claims. His August 20 deposition says, in part:

> That's poppycock . . Pure speculation from your client [Pope]. Fantasy . . . I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know Where this fantasy is that $50 million was gone away. Number one, your

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> client made up that number. Your client did that in a self-serving fashion so that. she could take $5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say, You have no clue how termination rights where [sic]. You don't know the value . . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. . . . You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T . . . .
>
> . . . Your client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent . . . . Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client.

These are strong words for one speaking "on behalf of" the State/AG. It is doubly troubling when the less-than $4.7 million appraisal has been under "lock and key" for three years despite the requirement of the S.C. Probate Code to file it.

Mr. Bauknight's claims about Ms. Hynie's control of the Termination Rights has been shown to be wrong. You have now asked to be dropped from the lawsuit the State/AG filed against us in 2010 based on somebody's (false) claim that AG McMaster would

breach his fiduciary duty if he did not sue us on May 19, 2010.

It is time to undo the damage done by these false felony claims, and the above two public documents are one place to start.

Since October 2012 we have discussed the damage caused by the State/AG's adoption of Mr. Bauknight's false claim that Bob and I intentionally overstated the value of Brown's assets by $79 million on the Estate Tax Return for the improper purpose of securing a $5 million commission. Section 7206 of the IRC says:

> I.R.C. § 7206
> FRAUD AND FALSE STATEMENTS
>
> Any person who-
>
> (1) DECLARATION UNDER PENALTIES OF PERJURY — Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that is made under penalties of perjury, and which he does not believe to be true and correct as to every material matter; or
>
> [. . .]
>
> shall be guilty of a felony and, upon, conviction thereof, shall be fined or imprisoned not more than 3 years, or both, together with the costs of prosecution. [Emphasis supplied.]

If it is true that you have not looked at the appraisal, and that you relied on Mr. Bauknight's

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guidance, I ask that we look at it together and assess whether there is an easy way to set these matters straight.

I ask that we meet at your earliest convenience to discuss this serious matter. I am sending this letter to my counsel Adam Silvernail, as I would like for him to join us.

We are available almost any morning at your convenience, and on most Tuesday and Thursday afternoons with a little notice.

Thank you in advance for the opportunity to speak with you.

Sincerely,

/s/ Adele J. Pope

AJP/ja
cc: Adam Silvernail, Esq.
Robert Buchanan, Jr., Esq.

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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.

AFFIDAVIT OF ROBERT L. BUCHANAN, JR.

PERSONALLY APPEARED BEFORE ME, ROBERT L. BUCHANAN, JR., who, being duly sworn, deposes and says:

1. This affidavit is based on my personal knowledge.

2. I have practiced law since 1976 and am presently practicing law with the firm of Hull Barrett, PC.

3. I began practicing law at the firm of Williams and Johnson in Aiken, S.C., and thereafter practiced with Buchanan Law Office, PA.

4. In 2007 I was court appointed as special administrator of the Estate of James Brown and later as PR/Trustee.

5. I haven't participated in James Brown Estate or Trust matters since 2012, but I remained a defendant in a federal case brought by a grandchild of James Brown which ended in approximately 2015.

6. In addition I was a defendant in a declaratory judgment action regarding insurance coverage which, to the best of my memory, ended in about 2015.

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7. All of my work in the above matters was done in good faith and honestly, including all motions, affidavits, pleadings and filings which I made or authorized.

8. Further, every action and every statement I made in relation to the James Brown Estate and/or Trust was taken or made in good faith and honestly, many of which should be in the public record.

FURTHER DEPONENT SAYETH NOT.

ROBERT L. BUCHANAN, JR.

SWORN TO before me this 11th day of April, 2023

_____ (L.S.)
Notary Public for South Carolina
My Commission expires: 6/27/29

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S·W·B

SWEENY WINGATE & BARROW P.A.

May 10, 2013

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x121
mvg@swblaw.com

VIA EMAIL AND U.S. MAIL

Honorable L. Casey Manning, Jr.
Circuit Court Judge
Richland Judicial Center
1701 Main Street, Room 214 (2nd Floor)
Post Office Box 192
Columbia, SC 29202-0192

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Judge Manning:

Please accept this letter as Richland County Case 4900 Plaintiffs' and Proposed FOIA Intervenors' assessment why all matters in Case 4900 should be held in abeyance pending the outcome of all James Brown Estate matters that the Supreme Court has now unequivocally remanded to Aiken County.

On Wednesday, May 8, 2013 the South Carolina Supreme Court denied all petitions for rehearing and took a significant additional step. The Court substituted a new and revised opinion for its prior decision in the James Brown Estate matter. This new opinion is lengthy and makes certain additions and deletions to the prior, replaced opinion. This new opinion has significant bearing on the continued progress of Case 4900.

First, the new Supreme Court opinion creates significant uncertainty as to what persons or entities constitute the plaintiffs group. The new opimon voids the Section 1102 settlement agreement that had bound the plaintiff's group together. The new opinion also voids the appointment of Russell Bauknight as personal representative and trustee of the James Brown Trust and Estate, but expressly allows Mr. Bauknight the right to reapply and, potentially, be

reappointed as a fiduciary of the Trust and Estate. Therefore, until the individual family members' position with reference to the Trust and Estate is finally determined by the Aiken Court and until fiduciaries are installed for the Trust and Estate, my firm has substantial uncertainty on what basis each named plaintiff will continue in Case 4900. We believe these matters can and will be resolved as each Aiken County matter is resolved.

Furthermore, the Attorney General, for whom Sweeny, Wingate & Barrow, PA is counsel of record in Richland Case 4900, has independently filed a motion to withdraw from the case and made various other representations and filings in related matters. Consequently, Sweeny, Wingate & Barrow, PA today is filing a motion to be relieved as counsel for the Attorney General.

Second, the new Supreme Court opinion upholds the for-cause removal of the Case 4900 Defendant, Mrs. Adele Pope, as a fiduciary of the James Brown Estate. In upholding her for-cause removal, the court relies on some of the very same allegations made by the Case 4900 Plaintiffs against Mrs. Pope. Mrs. Pope is afforded no opportunity to reapply for any fiduciary position with the Trust or Estate. Because of her for-cause removal, she can have no further part in the Estate and Trust.

Third, the Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 of the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. While the court does recognize that the Attorney General is contesting releasing some documents pursuant to FOIA, the court no longer puts any primacy or priority on any court hearing these matters. We believe that such a position is entirely appropriate, because the documents requested under FOIA are subject to a claim of privilege which is the subject of a motion for protective order before this court in Case 4900. The claim of privilege must be decided before any court can make a determination of the application of any FOIA claim.

In summary, all of the uncertainty that your honor recognized at the last status conference still exists, and possibly a bit more. With the Supreme Court now having said all it is going to say on the matters that were before it, it is now abundantly clear that all matters related to the James Brown Estate cases must now be heard and decided by the Aiken Court. How the Aiken Court rules on a number of issues across a number of cases will then determine the posture of the group of plaintiffs or individual plaintiffs who will continue on with Case 4900.

Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that Case 4900 be held in abeyance in its entirety until all the underlying issues related to the Plaintiffs are resolved by the Aiken Court. Should you deem it best for Plaintiffs to make a formal motion for stay, I would be pleased to do so.

As always, I am available to provide the court any further information it requires in order to fully consider this matter.

Yours truly,

SWEENY, WINGATE & BARROW, P.A.

Mark V. Gende

MVG/lda

cc: Adam T. Silvernail, Esquire
Daryl L. Williams, Esquire
J. Emory Smith, Jr., Esquire

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF RICHLAND	)	**THE FIFTH JUDICIAL CIRCUIT**
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, *et al.*	)	**Civil Action No.: 2010-CP-40-04900**
	)	**APPELLATE CASE NO. 2017-001523**
Plaintiff,	)	
v.	)	**MEMORANDUM OF LAW IN OPPOSITION TO MOTION TO LIFT STAY**
Adele J. Pope ,	)	
Defendant.	)	

RICHLAND COUNTY
FILED
2017 NOV 13 AM 10:43
JEANNETTE W. McBRIDE
C.C.P. & G.S.

Defendant's Motion to Lift the Stay imposed by SCRAP 241(a) should be denied, its contents stricken from the record in this case, and the attorneys sanctioned for the following reasons:

1. On its face, the Motion makes no reference to any Rule, the specific relief sought or any statement of applicable law.
2. Statements and accusations made in the Motion are patently false, defamatory, inflammatory, and/or wholly irrelevant.
3. The filing of this Motion, given its contents and tone, is in violation of the Supreme Court's Order admonishing the Defendant against interference with the adıninistration of the Estate.

4. The statements made by subscribing attorneys are a flagrant subterfuge to avoid this Court's directive that similar statements by the Defendant must be filed under seal. Counsel has subsequently filed an Affidavit of Ms. Pope in violation of prior Court order.
5. The statements made by the subscribing attorneys regarding elected officials, attorneys, parties, and other individuals are outrageous, disrespectful, uncivil and have no place in our judicial system.
6. The "argument" of the subscribing attorneys is wholly without merit, bears no relationship to the standard for lifting the automatic stay and violates the requirements of SCRCP Rule 11 requiring a good faith basis for filing any pleading.

FACTS

Defendant has twice filed a Notice of Appeal on multiple orders of the Trial Court. In conjunction with the first Notice of Appeal, the Defendant filed a Motion to hold the appeal in abeyance.[1] The appeal was dismissed *sua sponte* by the Court of Appeals as interlocutory, without any ruling on the motion. Within a few weeks, Defendant filed a second Notice of Appeal[2] as to many of the same orders.[3] Now Defendant, once again, seeks to avoid the consequences of filing a Notice of Appeal by seeking to lift the stay.

Defendant's contention that the stay has been waived is based on a false statement of facts. Plaintiffs' counsel appeared before the trial court on a Motion to Reconsider the Order Granting Summary Judgment to Plaintiffs as to all of the Defendant's counterclaims on October

[1] There is no such relief provided by SCRAP or SCRCP.

[2] The Court of Appeals has requested that the parties brief the issue of the appealability of the orders. No ruling has been issued.

[3] The orders appealed from relate to the dismissal of the Attorney General as Plaintiff, a Protective Order regarding the deposition of the Attorney General, denial of a motion to remove Sweeny, Wingate & Barrow, PA as counsel for the Plaintiffs, and setting aside an entry of default.

10, 2017. That motion to reconsider had been pending since July 13, 2017. No other activity has taken place in this matter since the Notice of Appeal was filed on September 12, 2017. Defendant's suggestion that any discovery has taken place since the appeal was filed is false.

STATEMENT OF LAW

"As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, decree or decision." SCRAP 241(a). "After the service of the notice of appeal, any party may move for an order lifting the stay in cases which involve the general rule." SCRAP 241(c)(1). "In determining whether an order should issue pursuant to this Rule, the lower court . . . should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." SCRAP 241(c)(2). The circuit court has discretion whether to lift a stay of a matter pending before the court. *See Carolina Water Service, Inc. v. Lexington County Joint Mun. Water and Sewer Com'n,* 367 S.C. 141, 625 S.E.2d 227 (S.C.App. 2005)("The primary issue in this case is whether the circuit court erred in lifting the stay as to the Challenge Actions.... Accordingly, the appropriate standard of review is abuse of discretion. An abuse of discretion arises where the [circuit] court was controlled by an error of law or where its order is based on factual conclusions that are without evidentiary support. *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation,* 336 S.C. 373, 398, 520 S.E.2d 142.") *See also Gaddy v. Douglass, 597 S.E.2d 12 (S.C.App. 2004)* (Court of Appeals immediately lifted automatic stay as provided in Rule 225, SCACR.)

ARGUMENT

Nothing in Defendant's Motion makes any reference to Rule 241 or the basis for lifting the stay as set forth therein. Nothing in Defendant's Motion makes any reference to the effect of the particular orders from which the appeal is taken. Nothing in Defendant's Motion makes any reference to the scope of the relief she is seeking or the reasons why it is necessary. The dearth of legal argument amplifies that the true purpose is something other than the stated purpose.

I. DEFENDANT'S AGENDA IS TO INTERFERE WITH THE ADMINISTRATION OF THE ESTATE IN DIRECT CONTRAVENTION OF THE PROHIBITION OF THE SUPREME COURT.

In an Order dated June 10, 2015, the South Carolina Supreme Court gave the following admonition and warning to Ms. Pope, the Defendant here:

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

Order dated June 10, 2015, Appellate Case Nos. 2013-001649, 2014-000250, 2014-001279, 2009-142286 (Attached hereto at Exhibit 1)

Although Pope has standing to file appeals and motions in this matter on germane subjects, she has no standing to complain about any of the actions, alleged "schemes," or "derelictions" that are stated in the Motion. Since 2009, Pope has been disassociated from every role of administration, fiduciary or beneficiary of the Estate and Trust. In light of that, the clear intention of the Supreme Court was to enjoin her use of the judicial system to pursue her self-serving agenda. Bauknight--not Pope--is the protector and administrator of the Estate and Trust. The beneficiaries—not Pope—may have standing to complain.

The allegations that she makes in this Motion clearly indicate an agenda: to interfere with and disrupt the administration and resolution of the Estate and Trust. Whether in actions where she has no standing or on issues where she has no voice, the Supreme Court has prohibited this type of behavior by Pope. The Motion should be stricken and not entertained by the Court.

II. DEFENDANT'S MOTION IS A VIOLATION OF THIS COURT'S ORDER REQUIRING POPE'S AFFIDAVITS TO BE FILED UNDER SEAL.

In response to a Motion to Strike by the Plaintiff, complaining about similarly outrageous and scurrilous statements contained in an affidavit filed by Pope, this Court ordered that all future affidavits by Ms. Pope should be filed under seal. Order, March 9, 2017. A copy of this Order is attached at Exhibit 2. To circumvent that Order, Defense Counsel has instead made these same scurrilous and baseless allegations in the body of the Motion. Officers of the Court are thereby seeking to do what their client has been prohibited from doing—leveling defamatory charges against persons, parties, attorneys, elected officials, and the Court in a public document that permits no rebuttal.

As further evidence of Defendant's disdain for the Court, Pope has also submitted an Affidavit in support of this Motion not under seal. Both the Motion and the Affidavit should be stricken and not considered by the Court.

III. THE STATEMENTS MADE BY DEFENSE COUNSEL IN THE MOTION WARRANT CENSURE AND SANCTION BY THIS COURT

A. Counsel's statements make defamatory accusations of criminal and fraudulent conduct.

Repeatedly throughout the Motion, Defense counsel makes allegations of criminal, fraudulent, and nefarious acts by lawyers, elected officials and others not involved in this dispute that are completely irrelevant to the underlying matters. For example:

- Attorney Ken Wingate, Attorney General Alan Wilson, and the court-appointed PR Russell Bauknight are accused of "secreting" a fee agreement, the existence of which was disclosed, but for which protection from disclosure was sought. See FN 2. In addition, the Attorney General and the PR are accused of hiding other documents. See p. 6 and FN 11.

- The Attorney General is accused of misusing his official position to prosecute a personal attack on Pope. See Para a.4; e; and g

- The Attorney General is accused of making false and misleading statements to the Supreme Court. See Para. A.5.

- The Attorney General is accused of controlling litigation to which he is a not a party. The allegations imply that the Attorney General is manipulating the court-appointed PR of the Estate. See Para. A6

- The Attorney General is accused of being complicit in tax fraud. See Para a.7, a.8

- Attorney David Bell is accused of planting "false" information that was relied upon by the Supreme Court without any substantiation that Mr. Bell was involved or that the information was false. See Para a.9. Counsel goes on to accuse Mr. Bell of a "years-long history of dirty tricks." Para a.10.

- Counsel makes a back-handed swipe at Attorney Louis Levenson by suggesting that grievance procedures have been initiated against him. See FN 6. Mr. Levenson's reputation and actions are repeatedly impugned through innuendo and implication.

- Mrs. Hynie-Brown and her minor son are accused of "siphon[ing] off assets." Peter Afterman, a music agent who is not a party to this suit, is accused of being an accomplice and committing fraud on the U.S. Copyright Office. The Attorney General and the PR are accused of turning a blind-eye to this wrongful conduct. Para b.and FN 8, also p. 6.

Not only are none of the allegations relevant to either the Motion or even the underlying lawsuit, but counsel has chosen to launch this assault in a forum where the individuals have no ability to respond.

B. Counsel shows utter disrespect for parties, attorneys, witnesses, and elected officials.

Throughout the Motion, counsel refuses to refer to people by their proper name or their official title. Instead, counsel provides labels that are intended to reflect negatively or derisively on the individual. For example:

- The wife of James Brown, Tommie Rae Hynie-Brown is repeatedly referred to only by her first name (see a.3; a.4; a.8; a.11; b; c; d; etc.), and it is consistently misspelled.

- The Engagement Agreement between Russell Bauknight, the Attorney General and Sweeny, Wingate & Barrow, PA is referred to as "the Wingate contract."
- This lawsuit is consistently referred to as "the Wingate lawsuit."
- Mr. Brown's children are never referred to by name, but rather through their affiliation with one of the maligned attorneys. See FN3

As has been stated on more than one occasion by our Supreme Court, while a lawyer must represent his client zealously, "[i]n doing so . . . he must act in a dignified and professional manner, with proper respect for the parties, witnesses, opposing counsel, and for the Court. When a lawyer fails to conduct himself appropriately, he brings into question the integrity of the judicial system, and, as well, disserves his client." *In the Matter of Charles Reuben Goode*, 374 S.E. 2d 496, 496-97 (1988); *see also*, *In the Matter of Anonymous Member of the South Carolina Bar*, 709 S.E.2d 633 (2011) (privately reprimanding an attorney for making accusations that opposing counsel's daughter was a drug dealer as a violation of the oath of civility, and issuing a Letter of Caution to the bar).

C. Counsel continues to promote facts, theories and positions that have been refuted or are moot.

Despite the fact that this Court has granted the Attorney General's request to be dismissed as a party-plaintiff, counsel continues to frame and promote arguments as if he is still actively involved in this litigation.

Despite the fact that the Supreme Court has set-aside the Settlement Agreement, counsel continues to reference facts and positions that are predicated on that agreement being in force.

Despite the fact that former Defendant Robert Buchanan reached a settlement with the Plaintiff and has been dismissed as a party, counsel argues that he is somehow threatened by this litigation and prejudiced by this appeal.

Despite the fact this Court and the Supreme Court have ruled on the marital status of Mr. Brown and Ms. Hynie-Brown, counsel continues to argue as though that is a matter in controversy.

IV. THIS MOTION WAS NOT MADE IN GOOD FAITH AND IN VIOLATION OF RULE 11.

Defendant's true motivation for filing this Motion is exposed by the utter lack of legal argument. In the first instance, there is no reference to any rule of procedure—appellate or circuit court.

Perhaps the reason not to cite a rule is to avoid its constraints on presenting a persuasive argument. SCRAP 241(c) provides the basis for determining whether to lift the automatic stay initiated by the service of a Notice of Appeal. The analysis must center on the relationship of the rulings under appeal to the overall case. Yet nowhere in the Motion or Affidavit does counsel even mention the Orders under appeal, much less discuss their impact on the underlying proceedings. From there, cogent argument should focus on how the stay jeopardizes the Court's jurisdiction or will make the underlying issue moot. Relevant to that analysis would be the nature of the lawsuit, the claims made and the issues presented. Again, this is not part of Defendant's Motion.

Instead of making any reasoned argument, the Motion and supporting Affidavit simply launch invectives and accusations against the integrity of opposing counsel, parties, witnesses, other attorneys not of record, and elected officials. These statements are made completely without specific citation to any evidence in the record (apart from the boot-strapping Affidavits) and mostly without even general reference.

Even if every statement contained in the Motion and Affidavit were true, none of them are relevant to the only question before the Court. The claims in this suit seek damages from Pope for malfeasance in her role as the fiduciary of the Estate and Trust of James Brown. This is not an action *in rem* where the subject matter of the litigation is in peril. There is no risk that the issues become moot due to the passage of time. Even so, neither Pope nor her attorneys have even countenanced the argument.

This pattern of accusation extends well beyond the contents of the Motion and Affidavit under consideration now. On more than a dozen prior occasions, Plaintiff has filed Motions to Strike Affidavits filed by Ms. Pope that were filled with similar irrelevant, impertinent, and scurrilous accusation. Ms. Pope has also "testified" on the record in her fee claim case, accusing the Attorney General of perpetrating fraud on the South Carolina Supreme Court and the IRS. She has even gone so far as to suggest that this Court may have knowingly passed along false information to the Supreme Court. (See Transcript of Hearing, August 15, 2017, 2013-CP-02-1337, attached at Exhibit 3). Regrettably, her counsel has now become complicit in this behavior by signing and submitting this Motion.

A motion so ill-conceived and so vitriolic in tone cannot be made in good faith. The Motion should be dismissed and counsel should be sanctioned and admonished.

CONCLUSION

This is not the first time the Defendant has engaged in such extreme behavior. She has been admonished by courts at every level for her meddling in the affairs of the Estate and Trust. Regrettably, her attorneys have now descended to similar unprofessional and uncivil behavior.

This practice must stop now. Given that prior warnings and prohibitions have not deterred her, only the most drastic of remedies remain.

Therefore, Plaintiff respectfully asks this Court to consider the gravity of this situation and issue an Order:

(1) Striking Defendant's Answer

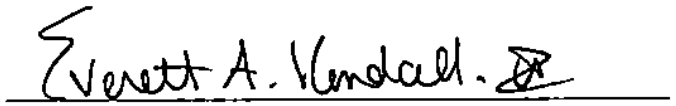
(2) Requiring Defense counsel to personally reimburse Plaintiff for attorney fees and costs required to respond to this Motion

(3) Striking the Motion and Affidavit from the Record

(4) Admonishing counsel and Pope from any further attempts to interfere with the administration of the Estate and Trust of James Brown.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Everett A. Kendall, II
Mark V. Gende
Sweeny, Wingate & Barrow, P.A.
Post Office Box 12129
Columbia, SC 29211
(803) 256-2233

ATTORNEYS FOR PLAINTIFFS

Columbia, South Carolina

November 10, 2017

CERTIFICATE OF SERVICE

I, the undersigned legal assistant of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for Plaintiffs, do hereby certify that I have served a copy of the foregoing Memorandum of Law in Opposition to Motion to Lift Stay in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

RICHLAND COUNTY
FILED
2017 NOV 13 AM 10:43
JEANNETTE W. McBRIDE
C.C.P. & G.S.

W.H. Bundy, Jr., Esquire
Brent McDonald, Esquire
Bundy McDonald, LLC
1516 Old Trolley Road, 2nd Floor
Summerville, SC 29485
and
Daryl L. Williams, Esquire
Gertz & Moore, LLP
P.O. Box 456
Columbia, SC 29202
and
Adam T. Silvernail, Esquire
Law Office of Adam T. Silvernail LLC
1905 Marion Street (29201)
P. O. Box 7995
Columbia, SC 29202
Attorneys for Defendant Adele J. Pope

Lisa J. McVety

Columbia, South Carolina
November 13, 2017

The Supreme Court of South Carolina

Ex parte: Adele J. Pope, Appellant,

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

Appellate Case No. 2013-001649

and

Adele J. Pope, Appellant,

v.

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

and

Robert L. Buchanan, Jr., Interested Party.

Appellate Case No. 2014-000250

and

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

v.

Albert H. Dallas and others, Defendants,

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

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

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

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

Appellate Case No: 2014-001279

and

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

v.

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

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

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

Appellate Case No. 2009-142286

ORDER

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

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

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

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

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

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

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

C.J.

J.

J.

J.

Pleicones, J., not participating

Columbia, South Carolina

June 10, 2015

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

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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010CP4004900

Russell Bauknight	Adele J Pope
James Brown 200 Irrevocable Trust	Tammie Rae Brown
PLAINTIFF(S)	DEFENDANT(S)

Submitted by: _____ Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.
Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____ Judge Code 2136 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the 7 day of _____, 20 ____ and a copy mailed first class or placed in the appropriate attorney's box on this 15 day of March, 20 17 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)		ATTORNEY(S) FOR THE DEFENDANT(S)	
Kenneth B. Wingate	Everett Augustus Kendall II	Daryl L. Williams	J. Calhoun Watson
Mark V. Gende	John Andrew Donsbach Sr.	Adam Tremaine Silvernail	J. Emory Smith Jr.
Robert N. Rosen	Joseph Odell Thickens	Walter Henry Bundy Jr.	Adele J Pope
		Michael Brent McDonald	Adele J Pope

Court Reporter _____ Clerk of Court Jeanette W. McBride

EXHIBIT 2

SCRCP Form 4C (10/2011)

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State of South Carolina

County of Aiken

Court of Common Pleas

Adele Pope	)	
	)	
Plaintiff,	)	Transcript of Record
v.	)	2013-CP-02-1337
	)	
Estate of James Brown	)	
	)	
Defendant.	)	

August 15, 2017
Aiken, South Carolina

B E F O R E:

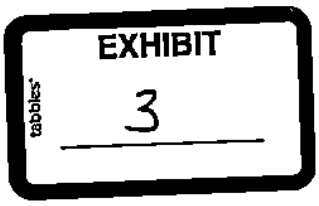
The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

Adele Pope, Esquire
Pro Se

William G. Newsome, III, Esquire
Burl F. Williams, Esquire
Attorneys for the Defendant

Bethanie K. Creppon
Circuit Court Reporter



I N D E X

WITNESS	PAGE

(No Witnesses.)

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.

(No Exhibits.)

P R O C E E D I N G S

* * *

THE COURT: Okay. As I told y'all in chambers, we're going to start off with the Aiken case first. I'll take the motions in whatever order you would like to hear them. We have a motion to send it to the nonjury roster, a couple motions for summary judgment, and some witness problems or depositions.

MS. POPE: Your Honor, I had one, what I think is a real quick thing I think we can agree on.

THE COURT: Yes, ma'am.

MS. POPE: Prior to their depositions, Bill Sellers and Mary Jo Cole, his partner, Bill was the court-appointed accountant when Bob Buchanan and I served as personal representatives. He prepared the estate tax return, Ms. Cole prepared --

THE COURT: What's her name?

MS. POPE: Mary Jo Cole.

THE COURT: C-O-L-E?

MS. POPE: Yes, Your Honor.

She prepared the application for determination for the IRS approval of the I Feel Good Trust, appointed by Your Honor August 10, 2007, before Bob and I became personal representatives and terminating shortly after the settlement was

announced after the estate tax return was filed. Prior to their depositions, they ask, please, to be excluded from trial because they have a partner with serious life-threatening cancer. He is still alive, but he is not working.

They ask again at their depositions to be excluded, and Defendant's counsel did note at the time of the depositions that they were seeking to be excluded and said they'd wait until after the depositions. We took the depositions with full notice that they wanted to be excluded.

Essentially the testimony of the two is this: Mr. Sellers' is that he would not have signed the estate tax return if it had not been reasonable, although he got the $84 million amount for various assets from Bob and me. But he would not have signed it if it was reasonable [sic].

He -- as soon as he heard about the settlement, he said he would finish the estate tax return, but then he didn't want to have anything further to do with the estate and trust because the settlement changed all the tax consequences; that after he stopped working in 2008, nobody ever asked for his file, which is now non-existent because it was destroyed under an old policy and nobody ever

complained and his bills were paid.

Ms. Cole's is essentially the same thing except she didn't do the estate tax return. And they asked at the deposition and then asked again last week to be -- to allow their deposition testimony to be used in lieu of their personal appearance at trial. And I have repeatedly asked -- I've moved and I have repeatedly requested, but I can't get consent.

And I think it would be unconscionable to make this gentleman who's -- and his partner, who were appointed by the Court in 2007, worked for what are now the defendants and were never questioned at all, to have to be compelled -- and their accountants to be compelled to come here and not allowed to testify at a deposition.

THE COURT: So you want to use their deposition in lieu of trial testimony?

MS. POPE: Yes, Your Honor.

THE COURT: Who wants to address that?

MR. WILLIAMS: Good morning, Your Honor. Burl Williams, counsel for the Estate and Trust. Mary Jo Cole is Bill Sellers' partner. We agree to allow her deposition to be used at trial. Bill Sellers provided the 706 estate tax return, he signed it on behalf of the Estate and Trust. I've been trying to

find his actual deposition testimony. It's my recollection that he said something to the effect that he wouldn't sign it under the current valuation -- is that right -- implying that he found something wrong with the current valuation that was done under the present fiduciary administration.

We'd like him to be in open court and testify and look Your Honor in the eye, explain why that testimony he believes to be true. We think it's probative of the total value of the estate. I can tell you, as a compromise, perhaps we can do a videotaped deposition. It would probably take 30 minutes of his time, perhaps even 20. It costs a little more, but it's certainly within the subpoena power of the Court. But we think that that critical testimony is important for Your Honor to see and not read a cold record.

THE COURT: Thank you.

MR. WILLIAMS: Thank you, Your Honor.

THE COURT: Ms. Pope, would a video suffice?

MS. POPE: They had the opportunity to do that and didn't, Your Honor.

THE COURT: Thank you. Video be any different than what he's already said? You just want me to look in his eyes instead of reading his testimony --

MR. WILLIAMS: And we'd like to --

THE COURT: -- or him look in my eyes?

MR. WILLIAMS: No, Your Honor. We would just like it -- we'd like to be able to explore why he said that more and have the benefit of the Court see that with its eyes.

THE COURT: All right. I'll take that under advisement. But y'all agree on Ms. Cole, right?

MR. WILLIAMS: Yes, Your Honor.

THE COURT: All right. Next? How long is Mr. Sellers' testimony if he were live and how long is his deposition?

MS. POPE: I think his testimony would be about 30 minutes.

THE COURT: So a short witness?

MS. POPE: His deposition testimony would be about ten.

THE COURT: All right. I will consider that in the totality of everything as we go along today.

MR. WILLIAMS: And just so --

THE COURT: Agree on Cole.

MR. WILLIAMS: Just so it's clear, Your Honor, both Cole and Sellers are healthy, it's their other business partner that is not in the accounting firm.

THE COURT: Thank you.

MR. WILLIAMS: Yes, Your Honor.

THE COURT: All right. Next on the list?

MR. WILLIAMS: I believe we think the motions for summary judgment, cross motions, should be heard next, if Your Honor is okay with that.

THE COURT: Okay.

MR. WILLIAMS: I'm actually arguing neither, but --

MR. NEWSOME: You filed yours first. Do you want --

THE COURT: It makes no difference. Ladies first. Or if you don't want to go first, I'll make them go first.

MS. POPE: Let's make them go first.

THE COURT: Thank you.

Mr. Newsome?

MR. NEWSOME: Thank you, Your Honor. Give me just one second because I was assuming she would want to go first since hers was filed first.

THE COURT: That's okay.

MR. WILLIAMS: I need to get my exhibits together to hand up. If it's all right, I'll hand them up as I address them.

THE COURT: That'll be fine.

MR. WILLIAMS: Okay. Your Honor, we filed a

motion for summary judgment in this case to dispose of Ms. Pope's claim for the PR fee. Regardless of all the filings and the accusations and so forth, this is actually a fairly simple straightforward case; this is a PR fee claims case. Probate judges decide these cases all the time.

What's relevant for the Court's analysis is what happened between November 20th, 2007, the day Ms. Pope was appointed, and May 26, 2009, when she was removed for cause, which has been affirmed by the Supreme Court. Summary judgment is appropriate when there's no material facts in dispute, and the there are lots of disputes in this case. But I think we agree that all parties are bound by the decision in Wilson v. Dallas.

In Wilson v. Dallas, the Supreme Court affirmed that Ms. Pope was removed for cause and it was in the best interest of the Estate. The Court has the discretion to determine Ms. Pope's fee, and the case law is clear that where a PR has been removed for cause, the Court has the discretion to determine that she's entitled to no compensation.

Ms. Pope didn't quit, she was fired. And she was fired because she made some mistakes that were not in the best interest of the Estate. That's the

law of the case. Ms. Pope has made numerous filings to try to argue with that. After the Court found that she had been removed for cause, she petitioned for rehearing on that issue and objected to it. Her petition was denied and the court kept that part of the opinion unchanged, her removal for cause was in the best interest of the Estate.

They cited certain issues and pointed to those as reasons why it was in the best interest of the Estate for her to be removed. The first was that she sought a $5 million fee for a relatively short interval of time. And just for the Court's -- just to sort of clarify why that's so important, $5 million for an 18-month period, if you do the math, that's 3.3 million per year.

This December Mr. Brown will have been dead 11 years. Okay? That's almost $37 million in PR fees if you pay that each year. That is outrageous on its face, so much so that the Supreme Court cited that as one of the reasons why her removal was proper. Second, they noted that she sold iconic assets and that a large portion of the proceeds went to pay their own attorneys' fees.

And just -- if I could, Your Honor, I want to hand up a copy of the order. Your Honor, we're

handing up this Court's order approving sale of tangible personal property and real estate in granting relief. Your Honor, you signed this order on February 20th of 2008. And there's some language in there I just want to direct your attention to remind you what was happening at the time.

On page 3 of your order, it's Bates-labeled AikenProbate1993. Paragraph 1 under condition of the estate and trust on February 7, 2008, you found that the condition of the estate and trust, as of November 20, 2007, was deplorable; basic security for Mr. Brown's home estate was in arrears; valuable and deteriorating masters had been left in his home for almost a year; the income taxes were unpaid for a number of years; and the former PR trustees had not prepared or filed an inventory for the estate of the 2000 Trust.

Paragraph 2 notes that no estate taxes for Mr. Brown's estate were paid when due and that his estate taxes were estimated at a minimum of $400,000 and they were overdue. On the next page, page 4, you noted there are no funds to pay court-ordered payments to counsel in the New York litigation or the special administrators.

Paragraph 6, you found that the estate and

trust needs at least $1.6 million in 2008 to pay outstanding priority administrative claims. And then getting down to paragraph 8, you note that the PR and trustees have Mr. Brown's masters to secure storage, but they do not have the funds to take necessary steps to preserve and catalog them. So that was your order February 20th of 2008.

The next month, Ms. Pope -- let me just note this for the record: This is a confidential document, it's covered by the confidentiality order, so we're filing this under seal. This relates to the tax filings that occurred while Ms. Pope was co-personal representative. This is a letter dated March 24th, 2008, signed by Bill Sellers, Ms. Pope's expert, notifying the IRS that the estate tax return, which was extended, will not be completed and filed by the extended due date.

The next page, what's marked BrownPope682, is what's known as an application for extension of time to pay U.S. estate taxes. What's handwritten above it is hardship request. Just by way of education for the Court, an estate tax return is due nine months from date of death. You can get a six-month extension of time to file, but that does not ordinarily extend the time to pay. So at this

point, the estate taxes were overdue.

Ms. Pope had, the month before, obtained an order from the Court approving the sale to try to generate some cash to pay the estate taxes. So you'll note this document, this Form 4768, is signed by Ms. Pope as co-personal representative on March 24th, and it is signed under penalties of perjury. It says: I declare I'm the executive of the estate of the above-named decedent and that to the best of my knowledge and belief, the statements made herein and attached are true and correct.

Attached to this hardship request you'll see a fairly lengthy explanation of the status of the estate submitted by Ms. Pope and Mr. Buchanan. What's particularly noteworthy, Your Honor, is the last page of this submission, what's labeled BrownPope687. In the third full paragraph it says: The PR trustees intend to make a substantial deposit toward the estate taxes when the net proceeds of the Christie's sale are received. This is estimated to be in September or October if the Christie's sale proceeds according -- proceeds according to the court-ordered schedule. So that's a statement made under penalties of perjury to the Internal Revenue Service.

And, Your Honor, to help show what, in fact, happened, our expert Kelly Thomas has prepared a schedule for the cash flow during the time that Ms. Pope was co-personal representative. It shows all the receipts and disbursements to the estate for November 20th of 2007 through March 26th of '09. In this schedule you'll see -- just to show you, on the first page you'll see the date on the left side. You'll see receipts.

You have a beginning balance of what was in the estate account when Ms. Pope was appointed; it was a little over $151,000. And then all the way to the right, you'll see a running total. So each item, there's a disbursement, you see the running total. Go down when there's a disbursement and go up when there's a deposit. So what's relevant, Your Honor, is you can see every dollar in and every dollar out. This was prepared based on the account statements of the estate. And what's particularly relevant, Your Honor, you'll see on page 8 --

THE COURT: Hold on one second. Page 8?

MR. NEWSOME: On page 8 of 17, at the bottom you'll see the first deposit from the Christie's sale. So you'll see that August 22nd the balance dropped down $5,827, but then you see an infusion of

cash once the Christie's sale took place.

THE COURT: That's the $463,000?

MR. NEWSOME: Yes, Your Honor. And then you'll see there were other additional deposits from the Christie's sale that are reflected. That's the largest one, which you'll see on the next page. For example, there's a separate $5,000 deposit. About a week later you'll see Ms. Pope and Mr. Buchanan were each paid $100,000, so 200- of that 400,000 went out to them, plus 50,000 to Mr. Bailey and 10,000 to Ms. Hayes and some money to Hogan & Hartson.

THE COURT: Hold on one second. I see the 100- to Buchanan, 100- to Ms. Pope.

MR. NEWSOME: Yes. On line 2, 50,000 to Hogan & Hartson, 50,000 thousand to Jim Bailey, and 10,000 Shipley Hayes. I don't know Sherry Barnes; she may have also been an attorney for Ms. Pope and Mr. Buchanan. And there's a summary schedule at the back, so I just wanted to sort of highlight. You'll see every check in and every check out chronologically with a description and running total.

So, Your Honor, you can flip, if you will, to page 17 of 17, and you'll see on May 22nd of '09 that the running balance at the time was a little

over $12,000; $12,331.97. So that was the total when Mr. Bauknight took over as personal representative. And you'll recall, based on -- and this is in the record: The first thing he had to do was obtain an unsecured loan to maintain the house, pay the taxes and the insurance, because there was insufficient funds. Attached to that you'll see two summary schedules and a graph.

The very next page is a summary schedule that shows the receipts from November 22nd of '07 to May 22nd of '09. You'll see the total is $855,430. That's the total receipts during the administration of Ms. Pope. And you'll see at the top that almost 65 percent of those receipts came from the Christie's deposit.

On the next page you'll see a similar schedule for disbursements. That's all the disbursements that took place during Ms. Pope's administration. The largest disbursement was to Ms. Pope, the next largest was to Mr. Buchanan, then Mr. Bailey. You'll also see down just a little ways the disbursement to Shipley & Hayes. There's also another disbursement to Harley Ruth. The total disbursements to Ms. Pope, Mr. Buchanan, and their attorneys was over 55 percent of the disbursements.

And in the last page of the schedule that Mr. Thomas prepared shows you graphically what happened during the time period. You'll see on the left-hand side the cash balance, you'll see where it went up and down, and then across the bottom is a chronological timeline. So you'll see as of the time of March of '08 when Ms. Pope represented under penalty of perjury to the IRS that she was going to make a substantial deposit towards the estate tax, there was very little money in the estate.

And then you see it jump up when Christie's deposit was made in August of '08 and then you'll see the payments right back out to Ms. Pope and Mr. Buchanan. And in the schedules you'll see that the payments made to the IRS was only $10,000. Then you'll see where it drops an additional $30,000 to Ms. Pope and Mr. Buchanan.

That's important, Your Honor, because that is -- this highlights one of the things -- well, two things. It shows that she acted inconsistent with the representation she made to you in February when she stated that the liquidity needs were for the estate to preserve the masters and to do all these things on behalf of the estate, and then she paid herself. And in the Wilson v. Dallas court, that

was one of the things that they cited, that she sold the iconic assets and she paid herself, and that that was part of what supported her removal for cause as being in the best interest of the estate.

They also noted that she unsuccessfully tried to sell a Grammy. So that was, of course, a cause of much dissension. She still agree -- or argues that that's not a proper finding of the court. But she petitioned for re-hearing and they denied that. So that is the law of the case. And not only was that cause for her removal, she's now asking you to approve payment to her for mishandling that issue and asking you to approve a premium over and above her hourly rate.

And then the final thing that the noted was the extreme discord, Your Honor, among all the parties. I hope you would note, based on the conduct that the Estate, since Mr. Bauknight has been appointed, that we're not here in front of Your Honor, on a weekly basis asking you to approve every administrative decision. Mr. Bauknight is a professional fiduciary and he makes these fiduciary decisions in a way that doesn't invite lots of comment or dissension among the interested parties.

I'd also like to hand up to Your Honor

something that Ms. Pope has argued to the Court on sort of a fairness basis. She keeps arguing that Mr. Buchanan has been paid and that she has not. I wanted to just remind the Court Mr. Buchanan was involved in a global settlement of case 1337 and case 4900. He did not receive any payment of any PR or trustee fee; he renounced any PR or trustee fee. This is filed with the Court. I just wanted to hand this up to remind Your Honor Mr. Buchanan hasn't been paid. Your Honor, Ms. Pope shouldn't be paid either.

It's within your discretion to find that she was removed for cause based on malfeasance and that it's, therefor, appropriate for her to receive no compensation. Your Honor, this is a simple claims case, summary judgment is appropriate.

I just want to remind you that at the outset of this case Ms. Pope filed a voluminous complaint alleging all different sort of causes of action and Your Honor dismissed all of those other causes of action other than the petition for allowance of claim.

Ms. Pope has been allowed wide latitude in discovery, she's deposed the governor basically twice, the attorney general, she's alleged lots of

wrongdoing, and now she wants to put the governor and the attorney general's office on trial in her claims case. Those issues aren't relevant; it's really just what did she do between November 20th of '07 and May 26th of '09. We would submit that when you look at the Wilson v. Dallas case, Your Honor has the discretion to determine, based on undisputed facts, that she should receive no compensation.

THE COURT: Do I have the right under your argument to allow some compensation, not withstanding the fact that she was removed for cause?

MR. NEWSOME: You could determine that she's entitled to some compensation, Your Honor.

THE COURT: Thank you.

Ms. Pope?

MS. POPE: Your Honor, I'd like to, if I could, find out whether he's abandoned his argument related to the June 10th, 2015 orders, because it's very important for me to argue that if he has not abandoned it.

THE COURT: You can ask him.

MR. NEWSOME: Well, we have a motion in limine, so I didn't raise it. But it is addressed in our motion and I think it's important for the Court to

consider this. I mean, Your Honor, I've been at this 25 years, and I've never seen an order like the Supreme Court's order admonishing Ms. Pope. She has interfered with the administration of the estate --

THE COURT: What order are you talking about?

MR. NEWSOME: This is the -- it's referenced in our motion. It's the June 10, 2015 order of the Supreme Court.

THE COURT: That's the one that said no more meddling, so to speak?

MR. NEWSOME: It says: Pope is hereby prohibited from filing any further motions or appeals in actions involving the estate and trust of James Brown such as the above actions clearly in which she clearly has no standing. We caution Pope with continued attempts to involve herself in the resolution of the estate and trust may result in contempt charges.

I note they said charges, which is criminal contempt, and I've never seen an order like that. But it shows that she has used her position as a former fiduciary to interfere with the administration of the estate. It has cost the Estate tens of thousands of dollars. We've been here in front of Your Honor on countless motions.

And it's really just a claims case; it's time to end it, Your Honor.

THE COURT: Well, what's your position on that order, I mean, as it affects her claim for fees?

MR. NEWSOME: I think it's supportive of the fact that she should receive no fee.

THE COURT: Thank you.

MS. POPE: Your Honor, the one thing I've learned since March 7th, 2017 is if you call me and ask me to do something, I'm saying no, and you'll probably never call me again, because you and I are the only two people in this room who have been here since the beginning other than Adam Silvernail who is one of my lawyers in case 4900 -- Judge, should we stop?

THE COURT: No, ma'am. Go ahead.

MS. POPE: Other than my lawyer in case 4900 who was a freshman undergraduate runner at my law office when you called me and asked me to take the position as special administrator of the estate of James Brown.

I have filed and will pass up a little chronology that will help us refresh our memories about what actually happened between March 7th, 2007 and September of 2009 when Your Honor declined to --

THE COURT: Do you have a copy?

MR. NEWSOME: Ms. Pope, do you have a copy for me?

MS. POPE: No. It's on file. I may have one, but it was served yesterday by e-mail.

If Your Honor will look at the back page of that -- I don't have it before me. I just handed my copy to Mr. Newsome.

But in September of 2009, Alan Medlin began -- I'm sorry, it's on page 29. Alan Medlin began to make to Your Honor some of the outrageous claims that would be made over the years from 2009 until today. The purpose of that motion hearing was to reconsider Your Honor's ruling which was made on May 26th, 2009, and by which Your Honor, misled by numerous false representations --

THE COURT: All right. Hold on. May 26, '09?

MS. POPE: Each deposit taken is important. It's appearing in the middle of the page. Is this supplemental return and memorandum?

THE COURT: Yes, ma'am.

MS. POPE: Page 29. Okay. Just trying to get us back to the time that only you and Adam Silvernail and I know about in this whole room. And this was the September 2009 motion for -- to --

partial lifting of the stay in connection with Your Honor's May 26th, 2009 order, which the Supreme Court later found dismembered James Brown's Noble Estate Plan and his I Feel Good Trust.

At that hearing Mr. Medlin began to make some of the outrageous and false allegations that would be made to the Supreme Court in the coming years. When -- when -- then after that, from Nexsen Pruet, Mr. Wilkins got up and talked about how the stay needed to be lifted because all -- there were so many economic opportunities just waiting for the estate of James Brown. And then our pro bono publico counsel, James Richardson, got up and --

THE COURT: This is on the argument on --

MS. POPE: On the lifting of the stay and just after Your Honor's order in 2009. Your Honor issued his order in 2009 and we did a motion for reconsideration and the lifting of the stay. So here we are now before the Supreme Court gets involved, essentially. We're looking at what Bob and I did and what Your Honor did.

And as you'll recall, Your Honor did not remove us for cause. The order specifically says: I'm reserving all the issues on the petition for removal for cause, which was not just for Bob and me. It

was for Bob, me, Cannon, Dallas, and Bradley. You said you're reserving all issues on that til later.

So here we are, moving now from May 26th, 2009, where Your Honor has specifically ruled you're not removing us for cause, but in conjunction with the settlement where the attorney general of South Carolina had contracted to remove us with Tommie Rae and the Levenson clients, and to select a fiduciary of his choice.

And that fiduciary, Russell Bauknight, had been appointed by you to do two things; to run the estate and to run the trust. And he had been appointed serving at the pleasure of the attorney general to run this Legacy Trust. The entity that the attorney general of South Carolina was going to take all of James Brown's assets and put into that, and Mr. Bauknight was going to serve at the pleasure of the attorney general. And the purpose of the lifting of the stay was to allow the attorney general to run James Brown's assets through Mr. Bauknight.

Mr. Buchanan and I did not resist Mr. Bauknight's running the assets. We were concerned about the creation of what we thought was an improper entity and what the Supreme Court later

found was an improper entity.

So Mr. Wilkins got up and talked about the wonderful opportunities, and then Mr. Medlin got up and started saying nasty things about Bob Buchanan and Adele Pope. Interesting because Mr. Medlin had twice recommended me to serve as a fiduciary for James Brown and once recommended Bob Buchanan. But he got up and started making nasty remarks. And we can look specifically and I urge Your Honor to look at the full transcript of this hearing. I only put in a part.

Then Mr. Wilkins talked about all the opportunities just waiting. Mr. Wilkins did not know that the month before, before Your Honor's order was even cold, Alan Medlin had already suggested devaluing James Brown's estate to about $24 million. But nobody knew it then and nobody knew it for a long time.

Mr. Wilkins stood there and told Your Honor movie deals were waiting, publicity rights deals were waiting, just lift the stay, everything is ready to go. But let's see what really happened. But let's begin on that day because that's the day that we talk about my service.

On that day Your Honor said:

"THE COURT: This is not an action to remove them. I have stayed away from that since the day this petition was filed purposefully."

And Mr. Levenson said -- oh, Mr. Levenson [sic] said: "I am here today simply to consider whether or not I should lift the stay and whatever order I issue will certainly not give credence to any arguments or anything else about the job done by Judge [sic] Buchanan and Ms. Pope. It will simply be whether or not I will lift the stay."

That was Your Honor's position until the ruling of the South Carolina Supreme Court. Now let me tell you --

THE COURT: That's right. My position was a lot of things until they ruled.

MS. POPE: Well, let me tell you, Your Honor, what happened between those two.

THE COURT: Well, unfortunately, what happened is they issued the decision and the other subsequent decision which --

MS. POPE: Well, Your Honor --

THE COURT: I'm listening. Go ahead.

MS. POPE: Your Honor --

THE COURT: Yes, ma'am.

MS. POPE: Shortly after the decision, I was asked did I agree that that meant that I was not entitled to be paid. And my answer was, no, the decision of the South Carolina Supreme Court to the extent that it had dicta about Bob Buchanan and me was based on fraud, fraud. If we're going to talk about before 2009, we can talk about incompetence, the attorney general not knowing what he was doing. But if we're going to talk about after September of 2009, we got to talk about fraud because that's what happened.

THE COURT: Well, you're claiming that fraud was perpetrated on the South Carolina Supreme Court?

MS. POPE: Not only was it perpetrated, but I personally, on March 6th, 2013, discussed it with the attorney general of South Carolina. He told me he was hearing it all for the first time. I suggested a way to fix it without anybody ever being embarrassed. He thanked me for coming where I drove from Spartanburg after my daughter had a brain tumor. He thanked me for coming. He called me, he said, Ms. Pope, I'm dropping out of case 4900. He didn't drop out. He did everything he said he wasn't going to do.

And there's more, but that's for another day.

Today we have to decide whether you can say I'm not entitled to payment. And so -- but my position about that is the attorney general and the Estate of James Brown knew about the fraud and they were in a position within a year to straighten it out. They didn't; they continued it, and they continued to --

THE COURT: Fraud on the Supreme --

MS. POPE: Fraud on the Court and fraud on the IRS. And I'm going to tell Your Honor about it now. Okay?

Well, now, let's start with Mr. -- Mr. Newsome has cited that I should have paid taxes and that was a reason for removing me. Let's just talk about that a minute. In -- and, by the way, he says this document is confidential, but Your Honor agreed that all the documents that I've had for years are not confidential. And this document is all over the place, so I hope you won't mind my talking about it.

And I will talk about it. And I ask Your Honor to refer both to my claim, which Your Honor has told the Supreme Court is 200 pages. And I would like to talk about -- and my affidavit, which supported the joint claim that Bob and I made in 2009. You don't need it to look at it now, I'm just referring to the joint claim that Bob and I filed in 2009.

So what did Sellers and Durant and Bob Buchanan and Adele Pope tell the Internal Revenue Service in on March 25th, 2008? Now let's get it in context. March 25th, 2008, we have been the personal representatives for -- since November 20th, 2007. We, similar to Mr. Bauknight, had almost nothing in the bank. We had uncovered $17 million of stealing. Your Honor had ordered that we be paid $317,000, about 70 percent mine and 30 percent Bob's because I had a huge staff then.

I had not been -- I had not, at this point, been paid anything either from my SA service or my PR trustee service. Today I've still not been fully paid for my SA service and I have not been paid a nickel for my PR trustee service. But we'll talk about that another day. But here we are, we're in March.

Now, in January Your Honor has ordered that -- on the 8th of January Your Honor has ordered that Bob and I be paid on a time-plus-cost basis for our service beginning on November 20th and has approved our SA fee and praised us, talked a lot about what a good job we had done. And something else is going to happen after that.

By January 4th though, four days before --

2008, four days before Your Honor issued the order approving our fees, the attorney general's attacks had become so vicious on us that Bob and I had filed a petition with Your Honor. And we said if Your Honor does not find that both our appointment and our service is ethical and appropriate, we want to resign, we don't want to be here; we want to resign, however, in a way that the people who stole $17 million won't be reinstated. And the hearing on that had just been heard just before this day, March 25th, 2008.

Your Honor, on March 7th, 2008, had held a hearing to determine whether our service was appropriate, whether our appointment was appropriate, because you'll remember the attorney general never challenged our service or appointment as personal representatives. But he wanted control of that trust, so he said we couldn't have both positions, and he was saying that Your Honor lacked the jurisdiction to appoint us. And he -- and Buddy Dallas was saying the same thing.

So here we were, we had just had the hearing where Your Honor had examined everything we did on March 7th, 2008. And that very day Your Honor had said Buddy Dallas -- in an order that's cited in

what I handed Your Honor, had said that Buddy Dallas and -- and Al Bradley can't undo their appointments. Remember they were trying to undo their appointments; the people who had been co-trustees with -- I mean, I'm sorry, their resignations -- undo their resignations.

The trustees who had served with David Cannon, who had stolen $17 million, were trying to be reinstated, and the attorney general was helping them. And that was -- that hearing was on -- first Your Honor issued the order on March 7th saying they can't come back. And then on March 7th it said -- you said: "Now I'm going to examine whether Bob Buchanan and Adele Pope are going to stay and whether their service has been appropriate and ethical." So here we are, right in the middle of that.

And so -- and we had done a lot by the way -- as a tax matter. By then we'd found the estate in shambles. All those things that were just read from Your Honor's February 20th, 2008 order that Mr. Newsome read, that was all about what Mr. Dallas and Mr. Bradley had done. So there we were, and we were straightening out the tax matters. And we were doing a number of things.

You might remember that Mr. Farr had filed false tax returns claiming that the assets had been transferred over from the estate to the trust just by virtue of his signature. I mean, there was lots going on. But, anyway, here we are. Bob Buchanan and Adele Pope send to the IRS, aided by Bill Sellers, a hardship request. And to tell a lot of things -- and I invite Your Honor to read it carefully, not to look at the important parts.

But what I do need you to look at, because it's very, very important, we tell them that there is tax due -- tax due because we need to hold on to that fault, we tell them that there is tax due because even though James Brown gave every dime to his I Feel Good charity, he had given $2 million for the education of needy students. And so every dollar, both before and after the McMaster settlement, that went to James Brown's children, was going to be taxed at about 40 cents on the dollar. There was tax due before the McMaster settlement and there was lots more due after. But let's just stick with this figure.

So we had -- as Your Honor might recall, we had done -- we had gotten an order from Your Honor and asked that everybody have to sign gift affidavits to

tell us whether James Brown had made gifts to them so we could get the estate tax return correct. So there were lots of things that were going on with respect to the estate tax returns. And I will tell you that I was an expert and knew all about it then. I haven't done but one or two since, but I did know all about it then.

So let's see what we told James Brown -- I mean told the IRS about James Brown. We put his Schedule F assets: Royalty, image, persona, publicity rights, and all rights associated with his published songs, $80 million. Nobody said a word, nobody said that figure was silly. Amount going to the James Brown I Feel Good Charitable Trust: $59,600,000. So that was in March.

In August, the 10th of August, several months later, after the Christie's sale but before the Christie's money comes in -- after the Christie's sale but before the Christie's money comes in -- and I'm just going to talk a minute about the Christie's sale because there's been a lot said wrong about the Christie's sale, so let's put ourselves in context. And in my supplemental return I've got a little chronology. And I'm sort of following that if it would be helpful to the Court. But --

THE COURT: Just tell me what pages you're on so I can follow.

MS. POPE: Well, here we go. Let's see. Let's look on about page -- January 8th on page 14 is when Your Honor does the payment order. And then in February 2008, on page 15, that's when we engage Mr. Few and Mr. Gilreath to try to recover the $17 million that David Cannon stole and the money from the Greenberg Traurig October 18th letter and the money from Morgan Stanley and the money from Phil Farr who filed all the bad tax returns. And, as Your Honor knows, I haven't seen the settlement, but those recoveries, I hear from the grapevine, that were instituted by Bob Buchanan and me over the objection of the attorney general -- remember he wanted us to hire Mark Fyfe and he wanted us to hire Steve Hamm, but we believed that Mr. Few and Mr. Gilreath were the right lawyers, and Your Honor ruled with us, and Mr. Jones got mad and stayed mad until today. But then we go to February. Well, let's look there at the bottom of 15. February --

THE COURT: For the record, now, that case has been settled.

MS. POPE: I know.

THE COURT: And --

MS. POPE: I know, Your Honor. We've tried to see the settlement. I know it was good.

THE COURT: I signed an order of dismissal. I haven't seen the settlement.

MS. POPE: Oh, well that's what -- Your Honor, I'm just saying --

THE COURT: Okay.

MS. POPE: -- I hear it went well.

THE COURT: Well, I --

MS. POPE: I can't -- well, I'll just say this much, Your Honor: I can't believe that Jim Gilreath and Kendall Few would have settled it if they didn't do a good job by James Brown's estate and trust. I don't believe it.

THE COURT: I don't either. And I think they did.

MS. POPE: Yeah. We can take judicial notice that we did a good job in the selection of Jim Gilreath and Kendall Few. And I'll say --

THE COURT: You did, and I affirmed it then and I'll affirm it now.

MS. POPE: Thank you. We're in agreement. Okay. So the Christie's sale has started out on -- since this relates to the Christie's sale, let's begin at the bottom of page 15.

February 1 Judge Early directed that the Christie's sale take place. That was the first order, February 1. And you allowed people to withhold items, so if anybody had anything real special to them, they could withhold -- you know, Your Honor, I think that it -- it was in February, but I think I may have the dates wrong for that. Yes, it's the 20th. I apologize. Let's double-check. It's the 20th. I apologize. I put the 1st, but it is the 20th.

THE COURT: No problem.

MS. POPE: Let me look. Yeah, that's the order right in front of you. I apologize. We'll mark bottom of page 15, February 20. I apologize. I did this quickly yesterday. We'll just fix that right now. This is the order right here before us.

THE COURT: That's the one they just passed up --

MS. POPE: That they just passed up, Your Honor.

THE COURT: 2/25/2008.

MS. POPE: Right. But I like to go by the date Your Honor actually signed them; I don't know why, I always have. You signed it on February 20th. So Your Honor orders that sale. And, you know, it's

interesting that they passed up that order but they didn't pass up the other two orders approving the Christie's sale. That was just the first of three. Your Honor gave the family -- well, Your Honor did two things; Your Honor provided for -- well, and other things are going on in there too. But you did provide for an appraisal by Christie's of the household goods, which came up at a little over a million two and which Mr. Bauknight later told the IRS were worth zero, I think, as best I can tell. But, anyway, so on February 20th Your Honor ordered the Christie's sale.

And then let's look at page 16 because that puts this IRS notice in context. I just mentioned on page 16: "March 7th, Judge Early ruled that Dallas and Bradley could not return as trustees. That day Judge Early held a hearing on whether Bob and Adele should remain." And that relates to the motion that we had filed back on January 8th, which is top -- which is January 8th -- January 6th. I'm sorry.

Let's look back on 14: "Bob and Adele filed their return in opposition to all the motions to vacate, alter, or amend the November 20th order." That's the order that appointed us as PRs and

trustees. And we supported it by affidavits and I give you the references. "The Circuit Court --" that would be -- "bifurcated these reconsideration motions, first granting a hearing on the return of Dallas and Bradley --" oh, I said: "They --" that's Bob and me -- "asked to be allowed to resign if after a hearing the Court did not find their appointment and service to be entirely appropriate." So we had just had that hearing then on March 7th. Okay?

So now we're going to take this forward and see why we didn't pay any taxes. The Estate was extremely illiquid. Your Honor had ordered that we be given -- paid interest on all amounts that you awarded us, including our SA fee, if we were not paid within 60 days that it became due. So my little $47,000, which remain unpaid then and today remains unpaid, was earning eight-and-three-quarters percent.

And it's hard to imagine, but back then I had some concern that somebody would think that I was delaying payment to myself in order to earn a high interest rate. That's certainly not the case anymore, but that was something Bob and I thought; we don't need to, you know, let the Estate accrue a

large interest on what it owes us if it's in a liquidity position to pay.

All right. So here were are. So then the Defendants failed to mention that right after this is the second Christie's sale order, and that is the one in which Your Honor specifically, with the -- with the consignment sheet in hand and the Grammy listed on it and with no objection from anyone and if we had all looked with knowledge that Grammys had been sold before, directed Bob and me to sign the Christie's consignment order, directed us to. All right. That was April 1, 2008.

Another thing Your Honor did, and this is important, it specifically found -- Your Honor specifically found that nobody had timely sought to remove anything from the Christie's sale. So this whole Grammy thing does not get fabricated until 2011 by David Bell, but we'll talk about that later. All right. So, anyway, we -- we -- Your Honor approves the Christie's sale on April 1. The Christie's sale takes place on July 17, and that got us up to July 17. I -- a lot of this is left out, so we're still on page 16.

And after the sale on July 17 -- which, by the way, reaped about $770,000 which Mr. Bauknight later

told the IRS had a value of zero, and that's going to become important for this paper, okay -- then on August 10 Your Honor brokered a settlement -- I mean, the attorney general, not Your Honor. The attorney general brokered a settlement deal with Tommie Rae and Levenson which dismembered Brown's the estate plan and threatened its 900 copyrights.

Okay. Now, so in March we say we're going to try to make a substantial deposit when we -- when the time comes. But what happened? On August 12th, two days after the settlement, we got an e-mail from Robert Rosen stating stand down, stop administrating the estate. Now, I'm going to tell you that it was not in anybody's head in 2008 that this estate might be worth $5 million, nobody, nobody.

So Bob and I still believed, as I do today, that about a couple hundred thousand dollars in estate taxes was still due on the gifts going to the children because the 2 million exemption had been used up by the grandchildren's trust. So every penny that went to James Brown's grandchildren was going to be taxed at 40 cents or more on the dollar. We knew that.

But what had happened is, on August 10th of 2008 -- two days after August 10th, 2008, Your Honor

was asked to stop everything, stop everything, and to approve a settlement which we could not in good conscious support, a settlement which took away half of James Brown's I Feel Good Trust and gave it to people who, according to the Supreme Court, had cobbled together baseless claims. And that was, Your Honor, the case. Your Honor was told a lot that was not correct, but that was the case.

It's not my headache anymore; what happens to it now, I don't have anything to do with it. But on that day, no trustee who had any respect for the law or for James Brown could have done anything other than to challenge that settlement, which Bob Buchanan and I did, and which I continued to do at a rather substantial personal cost until May 8th, 2013.

Okay. But we have to remember where we were then. So this is -- so they say stop, stop administering the estate, and then something interesting -- Alan Medlin calls us and says, will you help us, Sonny wants to know if you will help us file a petition in probate court to get rid of Cannon and Dallas. Nobody was thinking we were bad guys. They wanted us to go away because they wanted the 20 million in legal fees, but they weren't

thinking we were the bad guys.

So we told Alan that, no, we couldn't help him with that petition. Why? Because Cannon and Dallas were up in the court of appeals and we didn't think that the probate court or Your Honor had jurisdiction to get rid of Cannon and Dallas when they were up in the court of appeals.

And so first you might recall in September, Sonny filed a motion just to get rid of them, and then in October he added us to. Nobody was thinking we were the bad guys back then; not you, not anybody else. They wanted us to go away, but they weren't thinking we were the bad guys.

All right. So what happened? As soon as the order -- I mean, as soon as the settlement was announced and as soon as it became clear to Mr. Sellers and to me and to anybody else that had any understanding about taxes, which would not have been Mr. Newsome because he wasn't there, anybody who had any understanding of taxes knew that that settlement had turned the tax situation on its head, to put it mildly.

So we knew -- now remember, we're in September of 2008 and we're not going to even have Your Honor's answers to these questions until May of

2009. And we've got tax returns and the income tax returns. So we call Hayward Carter, who was one of the tax attorneys for them, and we say, look, we are opposed to this settlement, but we want -- you know, we understand you have a right to put a good face on it.

For us, James Brown's estate, his estate, did not create big estate tax problems; we were going to pay it on the value of the personal property going to the children, that was it. I mean, there's some -- some little bit. But this settlement turned the tax consequences on their head. You'll remember that the next April, Harley Ruth will tell you that millions and millions of dollars, not just in estate tax, excise tax, income tax, other problems.

But -- so here we are, we're in September. Bill Sellers says, I appreciate the courts having appointed me, I will get you through the estate tax return. But when he learned of Russell, he said, there's a CPA on who is representing these similar parties, we quit. So everybody knew that, that Bill Sellers was leaving as soon as the estate tax return was over. Everyone knew they were invited to file the estate tax return with us, but they refused, they refused.

But Your Honor might remember there was a huge scurry to get the estate tax return. I delivered it to Alan Medlin on the day of the death of one of my closest friends because he was in such a hurry to get it. They said they needed the estate tax return to do the settlement. Well, that was funny because this was October and the settlement had been done in August, but that's what they said.

So then we have seven days of hearings before Your Honor, and nobody talks about us having done things wrong, nobody talks about the estate might be worth $5 million instead of 85. Huh-uh, none of that comes up in seven days of hearings.

Now, what had Bob and I done? We had paid ourselves Bob's full SA fee and a portion of mine, our fee from 2007. I had ten people in my law office working on this, Bob had one and a half. We were really stretched trying to do -- trying and doing a good job. So when the Christie's money comes in the fall, we are absolutely under siege by people who want this estate and this Noble Estate Plan of James Brown dismembered.

So I said to Bob, look, I know my part is 70 percent and yours is 30, let's just do it down the middle and we'll straighten it out later, and that's

what we did, that's what we did. So Bob -- at the end of May 26th, 2009, Bob had gotten his pay for 2007 and a little tiny bit of early 2008. I had gotten the pay for me and my huge staff not even all the way through 2007. These were not greedy people looking to rape this estate, no; this was us trying to save the Noble Estate Plan of James Brown, which we did.

But it's important now. If we're going to go past that -- that's the story, but they want to go past the story and they want to talk about what the Supreme Court did, so we have to talk about what they did to the Supreme Court before the Supreme Court did it to us.

In 2009, I told you, Alan Medlin had started suggesting the devaluation of James Brown's --

THE COURT: This is while it's on appeal?

MS. POPE: While it's on appeal -- practically before it gets on appeal. In August of 2009, May, June -- three months after Your Honor rules, Alan Medlin sends around an e-mail and he says, let's value this estate like the estate of Harlan Howard at six to eight times royalties. And everybody knew the royalties which related in a year; that's 18 to 24 million a year.

And then he said something else which was startling. He said -- these are not his exact words, but the thrust of it was, and let's pretend that publicity rights have value. Well, everybody knew publicity rights did have value and that they were descendible in South Carolina because the Gignilliat case had told us that.

The Gignilliat case did not start publicity rights, it said we've always had the right of publicity. So to suggest that James Brown's right of publicity on his date of death was zero is heresy at best. So this was started before this hearing on the stay that we're talking about.

So when we did the estate tax return, it is true we only paid a $10,000 deposit, but we had always felt with Cannon and Dallas that we had to just stop the stealing and stop the trust from being moved to Georgia. But, essentially, saving the James Brown trust had been paramount.

When the attorney general reached his settlement to give half of it away, he did -- he threatened more damage than Cannon and Dallas together. So our job was to save this trust and we had to have a little bit of money to keep the doors open. I will not be apologetic about that. And, as

a matter of fact, I will tell you that both experts, Jim Harden and Steve Johnson, say that paying the administrative expenses are critical. So I'm not apologetic that I've been paid for some of the work I did in 2007 to try to save this charity.

But let's keep going. So Alan Medlin suggests to them to let's lower the value to either 20 -- you know, to either 18 to 24 million on the royalties and let's pretend the publicity rights have no value.

THE COURT: Hold on one second.

(Brief pause in the proceedings.)

MS. POPE: So we move forward. Now we're in 2010 and Sonny Jones and the Estate and the others filed something in the Supreme Court after our pro bono publico lawyer, Jim Richardson, asks for a little extension and says he wants an extension because this is the most important case he has ever had and he's doing it pro bono publico -- we paid Tressa Hayes a little bit, but he was lead counsel pro bono publico -- and he asked the Court for a little extension and Sonny Jones and the Estate and Tommie Rae answer back, how dare he say that he's working pro bono publico when Bob Buchanan and Adele Pope want a $5 million commission on an estate and

trust that are going to be worth less than $12 million. That was the first hint of it in August of 2010.

And we are, what, $12 million for James Brown's estate? First time we hear it in a filing in the court of appeals. I could not believe what I heard. I was so startled that anybody would suggest that James Brown's trust and estate was worth $12 million that I actually found a copyright expert whom we had hired but who had been sent by the wayside with the settlement and we wrote an article talking about how terrible the combined settlement and a devaluation to $12 million would be for the legacy that James Brown left to the state of South Carolina.

That article was called Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown I Feel Good Trust Doesn't, because I was so heartbroken at the notion that the attorney general of South Carolina was going to do this to the legacy of James Brown. And that article -- and I -- and it's part of my response to the motion for summary judgment -- talks about the devastation to be caused to the needy children of Georgia and South Carolina by the combined giving away of 52-and-a-half percent of James Brown's assets and

then devaluing it to under $12 million.

THE COURT: What kind of response did you give to the Supreme Court other than having that article published?

MS. POPE: Well, I'm going to keep going because -- because that was the first we heard of the devaluation.

Now, in January of -- that was in 2010. In January of 2011, Bob Buchanan and I got a copy of the IRS closing sheet. And by the way, Your Honor, even their experts say a closing -- a closing is not an audit. We got a copy of the closing sheet and the closing sheet -- this was January of 2011 -- I see for the first time that this estate -- the music empire, the assets on Schedule F of the estate tax return, are not going to be made at the horrifying $12 million that Sonny had suggested in a filing with the court of appeals, but instead they'd been reduced to $4.7 million.

Now, I wasn't looking to have a fight with anybody, and Bob and I both did separately what anybody who had ever had respectful dealings with the IRS did, we wrote Freddy Kingsmore Mr. Bauknight's letter and said, each of us separately, do not associate us with that number.

We didn't call the hotline, we didn't claim fraud, we didn't do anything, we just said don't associate us with claiming that James Brown's music empire is worth $4.7 million.

In the spring of 2011 -- I'm sorry. In April of 2011 when my article came out, I was still thinking $12 million even though I had seen that sheet. I mean, I was just like, you know, that doesn't have anything to do with me, I got it by accident. So our article comes out. The next day -- and I'm going to now tell you stuff that I've learned since the Wilson decision. I didn't know all of this now.

The next week we send our article around to copyright experts and foundation experts for comment, and then the next week we find that the Estate and the attorney general of South Carolina have asked the Supreme Court to accept a value of $4.7 million for James Brown's assets.

All right. Now you just -- it's just hard to imagine what anybody who had any respect for James Brown or the law would have though. But now we know --

THE COURT: What did the Supreme Court think?

MS. POPE: Well, Your Honor, the Supreme Court

got very little information, I'm going to tell you. But I'm going to back up and tell you what had happened before that. Medlin had come up with the value --

THE COURT: We were in the court of appeals just a little while ago. Now we're in the supreme court.

MS. POPE: I know, but I got to tell you what they did to hide from -- you want to know what was hidden, don't you?

THE COURT: Yes, ma'am.

MS. POPE: Okay. So in September they get an appraisal, which remains hidden today, but which we know about, and we didn't know about until March 2013 when James B. told us all about it. But I'm going to tell you what the appraisal said based on what James B. said in his petition for rehearing in the South Carolina Supreme Court. He said James Brown's 900 copyrights were valued at 23.7 million --

THE COURT: Who is he?

MS. POPE: James B., Tommie Rae's son, Peter Shahid. He says James Brown's 900 copyrights were valued at 23.7 million in the Philpott Ball appraisal. Then what did they do? Well, for

starters, they must have done exactly what Alan Medlin told them to do because there's very little room for publicity rights in there. And then he said, and then they reduced it by 19 million for the TIAA debt. And let me tell you why that's important; that was hidden in this $4.7 million appraisal.

Well, the publicity rights were not worth zero, the royalties, according to their own expert in 2017 in James Brown's death, could have been easily worth 45 to 60 million dollars, 15 to 20 times royalties. And the TIAA debt was never 19 million.

If Your Honor will look at Bob's and Adele's final accounting, it shows that the TIAA debt everybody thought was 17 million when James Brown died -- but that was before we realized that there was an escrow of about 2 million, which brought it down to 15 million -- the TIAA debt was down to 11,300,000 when we turned it over to Russell Bauknight. And that's going to become important because the story gets said and then it just keeps going.

So we now know that what -- so in comes this appraisal. And Mr. Wilkins and the attorney general and Alan Medlin get the appraisal in September and

Bob Cook of the attorney general's office who does all of the appellate work says if you get something material, that you need to tell the court; you don't wait for eight months to tell the court, but not these folks. They withheld that appraisal intentionally until after the record was closed and the last brief was filed, and the e-mails show that they did that.

An e-mail from Mr. Wilkins shared with the attorney -- and to Mr. Black shared with the attorney general says we will tell the Supreme Court about this value at a time of our choosing, at a time of our choosing. So in May, on the 5th or 6th of May, three days after the final briefs are filed, they asked the Supreme Court to supplement the record, not with the appraisal, they're still hiding that because if anybody looked at it, they would see the obvious problems. No. They asked the Supreme Court on May 5th of 2011 to accept that Bob Buchanan and Adele Pope overstated James Brown's assets on Schedule F of the estate tax return by $79 million to get a big commission.

So you might remember that way back David Cannon had said we were greedy because we wanted the $5 million commission on James Brown's $100 million

estate. Well now it's gotten to these greedy people want a $5 million commission on a $5 million estate. Well --

THE COURT: What response did y'all give to the Supreme Court that --

MS. POPE: Well, there's more, there's more.

THE COURT: Okay.

MS. POPE: That became the theme and it never changed. It never changed until the end. But you need to know this: We told -- we did a return and we said you can't supplement the record with this, I mean -- well, I mean, it's crazy. But what was said was this -- we didn't say it was crazy. We knew it was crazy, but we didn't say it.

We said there are 120 references in the record to James Brown's estate and trust having a value between 80 and 120 million, and some people think it's higher. And on August 1, the Supreme Court denied -- denied their request to supplement the record, did not let the record be supplemented. But had the damage been done? Yes. Because from then on, there were two things that were said that were just boldfaced lies, three maybe: Bob Buchanan and Adele Pope had overstated the assets to get a big fee.

THE COURT: Who said that?

MS. POPE: Repeatedly. Every --

THE COURT: Who?

MS. POPE: Oh, the attorney general, the Estate, Tommie Rae, Levenson, that was their theme: Bob Buchanan and Adele Pope intentionally overstated these assets because they are greedy and incompetent.

THE COURT: Who said it to the Supreme Court?

MS. POPE: Oh, all of them. All of them. I would ask the Court to look at the record.

And most importantly, the last one that really tells it all is the petition for rehearing March 14th, 2013 in Wilson v. Dallas. It tells it all right in there. But it's all over the record from beginning in 2011 up to the end. And it's worse, Your Honor.

And here's the worst part: That -- honestly, I was so bowled over by the devaluation, what it did to James Brown, that I didn't really ever stop to think about what it was doing to me. But let me tell you the worst of it. They not only said that, but they said not only are they greedy, but they're incompetent because they paid $10,000 to the IRS and we got a refund.

Now hold on. They've come today telling you I should have paid more money to the IRS, but they say the IRS was not even owed the $10,000 we paid them. So they're here today saying I should have paid my taxes, but they told the Supreme Court that I was greedy and Bob was greedy and there were no taxes due and we lied.

All right. It gets worse. So when the Supreme Court decision came out, I was so concerned that the attorney general understand that this was an opportunity he had been given to save this charity, so for the two years between May 8th, 2013 and June 10th, 2015, I worked tirelessly without expectation of a dime to try to convince the attorney general of the opportunity that had been given him by the decision because Your Honor, quite frankly, had been misled. What was said about the copyrights was not true, what was said about the taxes was not true, and what had been said to the Supreme Court during this time was not true.

And there was another aspect of what they said. They not only said we were greedy and we overstated James Brown's assets by $79 million to get a big $5 million commission on a $5 million estate, but they said -- and you notice today he said I want the

whole $5 commission. And, Your Honor, I'm sorry to say that in your status report, that's what you told the Supreme Court. But it's okay because they were lying to you.

But, anyway, I want to go back. They not only said that, but today they have the audacity to say I should have paid these taxes. That's not what they told the Supreme Court. They told the Supreme Court there were no taxes due and the fact that Russell Bauknight got a $10,000 refund was proof of how incompetent we were.

Well, you might -- I call Your Honor's attention to Harley Ruth's affidavit which supports exactly what we said all along. There was no way under the settlement or any way that there could not have been a couple hundred thousand dollars of taxes due. They were due, but Russell Bauknight got an ill-gotten refund and he told the Supreme Court of South Carolina that the refund based on that tax fraud meant we were not only greedy but incompetent. That, I'll have to say, happens a lot, but it usually doesn't happen with the attorney general agreeing with you.

It was the mighty power of the attorney general supporting a false claim to the IRS, a $5 million

overstatement of deductions, $3 million by the overstatement of the TIAA debt, which was about 15 -- it might have been about 16, but it wasn't 19 -- and then a 2 million -- this is important, Your Honor, a $2 million overstatement of what they said was going to go to James Brown's charity.

They told the IRS that out of James Brown's charity, 2.8 -- I'm sorry. Out of James Brown's estate, which they claimed had a value of about 6.5 million, they said 2.8 million was going to charity. That was a lie. Only .8 million was going to charity, 2 million of that 2.8 was going to grandchildren.

So that lie was huge for anybody else. And it was gigantic for the attorney general of South Carolina to endorse an intentional overstatement by $2 million of a charitable claim saying to the IRS, my charity that I just created is going to get 2.8 million when he knew it wasn't.

And even if he knew it wasn't then, when I visited him on March 6th of 2013, he knew, and I -- he knew and I told him this can be straightened out. I said, I don't care about me, I don't -- I mean, I'd like to be reinstated, it would be nice to have my reputation back, but you need to get Bauknight

out of there because Bauknight can't go back to the IRS and say, oh, I made a $79 million mistake, but anybody else can. They can say we just got this settlement, we're saved, it was a mistake.

I told the attorney general that and I told Solicitor Attorney General Cook that and I told Chief Deputy McIntosh -- John McIntosh that. These are the three highest people in that office, and they all looked at me and said they were hearing it for the first time.

Then the Attorney General called to say he was going to be dropped out of 4900. But what was most important, he told the Supreme Court he was going to dropped out of 4900 and then he didn't get dropped out; they immediately went back and started working on reinstating Bauknight. That's okay. I'm out of that, but I'm not out of the business of fixing the false claim that I committed a federal felony, not -- I'm not out of that.

And the June 10th, 2015 order says that I'm not supposed to be in cases that I don't have standing, but I have standing here. I have standing to show that I served James Brown's estate long and well and that if we only want to look at through when you, Your Honor, and I were working on it, we know I did

well. If we want to look beyond that, we have to look at the fraud. A little bit more about the fraud --

THE COURT: Who perpetrated the fraud on the Supreme Court?

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

THE COURT: The Estate is represented by who?

MS. POPE: Nexsen Pruet.

THE COURT: Billy Wilkins?

MS. POPE: Yep -- I'm sorry. Yes, sir.

THE COURT: Go ahead.

MS. POPE: Okay. So -- and I didn't want to talk about this, that's why I went to the Attorney General. This could have been fixed. It could have been fixed.

THE COURT: Well, Ms. Pope, what do I do --

MS. POPE: Okay. What you do --

THE COURT: -- as a circuit -- well, no. Let me ask a question, with all due respect. What I do as a circuit court judge when I'm faced with a decision by our Supreme Court, a decision out of a petition on rehearing and a subsequent order --

MS. POPE: Well, you look --

THE COURT: -- and findings that they've made against you? What do I do with that?

MS. POPE: You do the same thing you did with Bob Buchanan; you bring him in and praise him and double-approve what he did. That's exactly what Your Honor did on October 12th. That language is dicta. It talks about -- it talks about allegations, accusations. It is not a ruling. In fact it said to Your Honor, go back and find the truth, go back and find out the truth.

This case, you're going to find out the truth, Your Honor. It didn't say they don't get paid. It also said -- and this is --

THE COURT: I didn't suggest you don't get paid. I suggested what do I do with the filings --

MS. POPE: Well, Your Honor --

THE COURT: -- the findings --

MS. POPE: Your Honor -- I mean, I don't know, Your Honor. But let me suggest, because Your Honor really caused a lot of the problem because when you said that Bob Buchanan and I could not participate in a case, not only not be fiduciaries, nobody wanted to be fiduciaries -- well, we couldn't even be witnesses or experts. That shuts Your Honor into a bell jar where you never heard anything but what

Russell Bauknight wanted to say and Tommie Rae wanted to hear.

Those people -- and I want to specifically talk about the June 10th orders because they were the direct product of what Your Honor, from this bell jar, told the Supreme Court. It horrified me, but I didn't have any way to do anything about it.

THE COURT: Which order are you talking about?

MS. POPE: I'm talking about the status report that you rendered to the Supreme Court in 2015. You said: I reappointed Russell Bauknight --

THE COURT: I did.

MS. POPE: -- because he was by far the most qualified candidate. You said --

THE COURT: And I felt that and I still do.

MS. POPE: You said he brought this estate from the brink of insolvency, he resolved audits. And then listen to what you said: You said he paid off the -- he paid off the 14 million TIAA debt seven years ahead. It wasn't 14 million when he got it; it was 11,300,000. It's the same lie that they were telling the Court. Now, I don't know where Your Honor got that -- well, I do because that's what he told you on the stand when he wanted to be appointed, but I wasn't there.

THE COURT: Well, rest assured I didn't lie to the Supreme Court, if that's what you're insinuating.

MS. POPE: No. I don't think you did at all. I think you were --

THE COURT: I know I didn't.

MS. POPE: I think you were misled. But I think if anybody had been there to ask Your Honor to look at our accounting and to see it wasn't 14 million when he got it, it was 11,300,000, just like it wasn't 19 million when James Brown died, it was under 16 million, he's lying to Your Honor. I'm sorry.

But it's me now. I have to take care of myself. These people have lied to Your Honor and lied to the court. And the fact that they're lying and concealing the documents that show they're lying and being supported in that lying by the Attorney General of South Carolina remains a problem since the Attorney General got actual knowledge on March 6th, 2013 and -- of this, and again, another meeting with his Solicitor General and his Chief Deputy a few days later with my lawyer Adam Silvernail.

Henry McMaster has now said that he did not authorize the lawsuit under oath, that he did not

authorize Mr. Bauknight and Mr. Wingate to sue Bob Buchanan and me in the name of the Attorney General; he has said he did not authorize Russell Bauknight to represent as a plaintiff that he was acting on behalf of the Attorney General. It is astounding.

The governor of South Carolina says Ms. Pope -- and I submit, every single deposition in this case, both in opposition -- every single -- the whole deposition in opposition to their motion for summary judgment and in support of mine, because you will not find any evidence that Bob and I did anything wrong.

You will find evidence that the assets were intentionally understated by Mr. Bauknight with the blessing of the Attorney General by $79 million, that Henry McMaster knew nothing about it, but he let Sonny Jones do it, that Sonny Jones then worked with Mr. Bauknight to conceal this devaluation for eight months. These are just the facts, Your Honor.

Unless they concede these facts and say I'm still not entitled to pay, we don't have a motion for summary judgment here and we have some pretty significant facts for the jury: Was this estate worth 99 million as Bob Buchanan and Adele Pope said, or was it worth 23.7 million less the 19

million TIAA debt as the Estate says?

So there's no basis for summary judgment. You are not bound by the order, I submit, and I will go through them or I will just ask Your Honor to take judicial notice -- Your Honor has said you will take judicial notice of the entire proceeding below of every order that you issued before September of 2009 and you will find -- and -- and also of the proceeding about Bob Buchanan in October of 2012, and you will find there is absolutely no basis for you, as a result of fraud perpetrated by Mr. Bauknight on the IRS and on the Supreme Court and endorsed and joined in by the Attorney General of South Carolina, to deny me fair pay for my service, not 18 months, Your Honor, but from March 7th, 2007 till May 8th, 2013, to save what should be South Carolina's largest ever private charity for the benefit of needy students.

THE COURT: Thank you.

Mr. Newsome?

MR. NEWSOME: Your Honor, just briefly. Ms. Pope, as I said earlier, filed a petition for rehearing in the supreme court and was denied. She just argued it to Your Honor, and she's asking you it to overrule the Supreme Court. I don't think you

have jurisdiction to --

THE COURT: Who argued the motion for rehearing?

MR. NEWSOME: I think it was denied and they issued a different opinion. I don't think it --

THE COURT: I know that. But who argued it? Was it an oral argument?

MR. NEWSOME: It wasn't argument.

THE COURT: All right.

MR. NEWSOME: Second, she just argued a lot of the causes of action that she included in her initial complaint that you dismissed that was sustained on appeal, and she's argued everything under the sun.

Okay. She started off using the phrase outrageous claims. And I'm very offended by what she just said. She just accused me, my law firm, my client, the governor, the attorney general, all the lawyers at the attorney general's office, my law partner Billy Wilkins who is the former Chief Judge of the Fourth Circuit Court of Appeals, all of us, a fraud, and it's just outrageous.

She accused you of making incorrect statements to the Supreme Court that resulted in her being threatened with criminal contempt for all these

outrageous filings that she's made in this case. It's outrageous. This is a claims case. It's a claims case. She wants to be paid for her service as PR and trustee; that's it, not all this other -- you know. I don't know where all that's coming from. She's seeking payment. That's all that is before the Court is a petition for allowance of the claim.

It's our position that summary judgment is appropriate; she shouldn't receive any compensation because she did a poor job. Now, one thing she mentioned in all of this reply, she mentioned that she's entitled to argue the estate is worth $100 million. On summary judgment, I think you have to assume the facts in the light most favorable to the non-moving party, that means you assume it is a $100 million estate. We disagree with her in terms of the value of the estate. We've hired experts to value it rather than relying upon ourselves to just come up with a number. We have experts who do business valuations. But that's not appropriate on summary judgment.

Assume it's a $100 million estate. She did a poor job, she was removed for cause; she didn't quit, she was fired. That's the law of the case

until the Supreme Court issues a new petition. She was removed for cause and the Supreme Court cited the reasons why that was in the best interest of the estate, she should not be paid.

THE COURT: All right. Thank you.

MS. POPE: Your Honor, if I could, just briefly.

THE COURT: Yes, ma'am.

MS. POPE: Another thing Your Honor told the Supreme Court -- and I don't accuse Your Honor of intentionally misstating. But Your Honor said to the Supreme Court, I have never heard the first -- this is in 2015. You said, I've never heard the first suggestion of a settlement, I have not even heard courthouse talk about a settlement.

THE COURT: That is exactly correct and truthful.

MS. POPE: Your Honor, it's not. I was present in the court -- I was present in the courtroom on May 29th, 2013. There is not a transcript. I tried to order it. It's one of the very few cases -- hearings that there hasn't been a transcript. I tried to order one immediately afterwards.

And let me tell you what happened. Mr. Medlin and Mr. Rosen -- I'm sorry. Mr. Medlin and

Mr. Levenson stood up and said, Your Honor, we want to go in-camera and tell Your Honor why this statement should be reinstated -- settlement that just had been overturned, the remittitur about one day early it should be reinstated -- I was there, I heard it -- and following, telling Your Honor -- requesting to go in-camera and tell you why the McMaster settlement should be reinstated, which Your Honor did not allow.

But they said, now what you have to do is make sure that Bob Buchanan and Adele Pope are put out of everything. And that was followed by Mr. Black standing up and saying, they're right, you have to put Adele Pope and Bob Buchanan out of everything. And that was followed by Sonny Jones telling you how pleased he was with the reinstatement of Mr. Bauknight. And this is after I had talked to the Attorney General about -- quietly about the very problems I've discussed with you.

In open court they announced to you their intent to reinstate the McMaster settlement on May 29th of 2013. I know Your Honor didn't mean, but that was an important thing to tell the court, and it was wrong, just like the claim --

THE COURT: I beg to differ with you, Ms. Pope.

MS. POPE: -- that I wanted to $2 million for my SA services through, I think you said May 26th, 2007, and that my total commission claim was $5 million. I mean, I don't hold that against Your Honor, but it was clearly incorrect.

THE COURT: Thank you.

MR. NEWSOME: Your Honor, just, I'm sorry, one thing I have to say. One significant issue after Mr. Buchanan settled, he renounced his right to any fee, so one question that I had was whether or not Ms. Pope was seeking the entire $5 million statutory fee or only the prorated portion. That, to me, was an important question in trying to resolve the issue.

I could not get her to tell me an answer to that. I finally said, if I wrote you a check for the full amount you're seeking, how much would that be? She refused to tell me. I had you ask her on the record in a motions hearing and you asked her, how much are you looking for? And she said, I don't know, I can't tell you. So your answer to the Supreme Court was reasonable based on her statements on the record.

THE COURT: Thank you. All right. I'm going to take it under advisement.

-- END OF TRANSCRIPT OF RECORD --

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Aiken County, South Carolina, on the 15th of August, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 23, 2017

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter