

Exhibit A

RECEIVED

Feb 07 2024

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Civil Action No. 2013-CP-02-1337

**ORDER GRANTING MOTION TO
CONFIRM ROGER MILLER
CONFIDENTIALITY DESIGNATIONS**

Before the Court is the Estate of James Brown and The James Brown 2000 Irrevocable Trust's ("Defendants") Motion to Confirm Confidentiality Designations. The confidentiality designations at issue relate to various exhibits introduced at the deposition of Roger Miller and certain questioning and testimony elicited during the deposition (the Miller Deposition Confidential Designations). The Miller Deposition Confidential Designations relate to the copyrights that generate the majority of the revenue for the Estate of James Brown. For the reasons discussed herein, the Court grants Defendants request to Court confirm all confidential designations.¹

I. BACKGROUND AND OPERATION OF THE ORDER

On August 30, 2016, this Court signed a Confidentiality Order for this case (the "Order"). Under the terms of the Order, "[a]ny party may designate documents as confidential, . . . after review of the documents by an attorney who has, in good faith, determined that the documents

¹ The Court notes that Defendant withdrew two designations after further consultation with Plaintiff at the hearing held on May 24, 2017 at the Aiken County Courthouse. Those designations are: Miller Deposition, p. 30, ln. 9-13; p. 46, ln. 19-24.

contain . . . sensitive personal information, trade secrets, . . . or business/commercial information that justifies protection from disclosure.” (Order, ¶3).

Under the terms of the Order, a party may challenge a confidential designation. (Order, ¶8). “A party who contends that documents designated confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation” (*Id.* at ¶8(b)). Once the party that designated the document as confidential receives the challenge, it has fifteen days to attempt to resolve the dispute. If it cannot resolve the dispute, then the party that designated the document must “move for an Order confirming the confidential designation.” (*Id.*)

II. PLAINTIFF’S CHALLENGE TO THE DESIGNATIONS

On April 7, 2017, Plaintiff sent e-mail correspondence challenging Defendants’ Miller Deposition Confidential Designations. Defendants subsequently sought to resolve the challenge. The parties were unable to resolve this issue.

III. CONFIDENTIAL DESIGNATIONS FROM ROGER MILLER’S DEPOSITION

Roger Miller provided expert testimony related to the value of certain termination rights for certain copyrights owned by Defendants. Mr. Miller based his valuation testimony upon excerpts from the Philpott Ball and Werner valuation (the appraisal). Mr. Miller also generated various exhibits demonstrating his valuation analysis by employing the information found in the appraisal.

A. This Court Previously Held the Appraisal is Confidential

In this Court’s Administrative Order dated August 30, 2016, it noted “that the appraisal shall remain confidential,” that Plaintiff is entitled to a copy of the appraisal, but “she must keep it confidential and not disseminate the document to anyone outside of this litigation.” (Administrative Order, pp. 4-5). Accordingly, this Court’s prior ruling forecloses Plaintiffs efforts to challenge the Miller Deposition Confidential Designations.

B. The Appraisal and the Underlying Documents Contain Confidential Financial and Commercial Information

The appraisal is a private document that is owned and controlled by the Estate. The appraisal was created for the purpose of valuing the Estate of James Brown (a private citizen), and for the purpose of determining whether the Estate owed any taxes to the federal government.² The appraisal is not a public document. It contains confidential financial and commercial information, and has been treated as confidential since its inception. For decades, courts across this Nation have recognized that these types of business documents are confidential and should be accorded the shield of a protective order. *See, e.g., Landco Equity Partners, LLC, v. City of Colo. Springs, Colo.*, 259 F.R.D. 510, 515 (D. Colo. 2009) (recognizing that “protective orders issued pursuant to Rule 26(c) are common in litigation to protect sensitive information exchanged during the course of discovery, particularly when the documents reflect confidential financial information”); *Nutratch, Inc. v. Syntech (SSPF) Int’l*, 242 F.R.D. 552, 554 (C.D. Cal. 2007) (noting that **both parties agreed** to the need for a protective order but disagreed whether the information (“sales and revenue figures”) should be afforded protection of “attorney’s eyes only”); *Palmer v. Reader’s Digest Assoc.*, 122 F.R.D. 445, 447 (S.D.N.Y. 1988) (recognizing the confidential nature of a company’s financial information and the requirement that its production requires “strict non-disclosure provisions”). Accordingly, Defendants have met their burden. The Miller Deposition Confidential Designations are confidential and shall remain as such under the Order.

C. Irreparable Harm Will Result if the Miller Deposition Confidential Designations Become Public

The Miller Deposition Confidential Designations analyze copyright royalty details and sources of royalty payments, among other confidential business information. That information is

² The Internal Revenue Service independently reviewed the appraisal and agreed with its findings regarding the date of death valuation for the James Brown Estate.

highly confidential because it completely exposes the strengths and the weaknesses of the music catalog. If made public, that information will likely be used against the Estate and Trust during future business negotiations. Moreover, dissemination of this confidential information could damage James Brown’s vision of providing charitable scholarships to deserving and needy students by decreasing the amount of funds available for those scholarships.

Courts have defined confidential commercial information as “information which, if disclosed, would cause substantial economic harm to the competitive position of the entity from whom the information was obtained.” *Diamond State Ins. Co. v. Rebel Oil Co.*, 157 F.R.D. 691, 697 (D. Nev. 1994); *Massey Coal Services, Inc. v. Victaulic Co. of Am.*, 249 F.R.D. 477, 482 (S.D.W. Va. 2008) (same). Defendants’ have met their burden; the appraisal and all underlying documents are confidential.

IV. CONCLUSION

Defendants have met their burden to show that the Miller Deposition Confidential Designations are, in fact, confidential and should maintain that designation under the Order. Accordingly, this Court hereby finds that the confidential designations shall remain confidential pursuant to this Court’s August 30, 2016 Confidentiality Order.

IT IS SO ORDERED.

The Honorable Doyet A. Early, III

June ____, 2017

_____, South Carolina



Aiken Common Pleas

Case Caption: Adele Jeffords Pope VS James Estate Of Brown , defendant, et al

Case Number: 2013CP0201337

Type: Order/Other

So Ordered

s/D.A. Early III 2136

Electronically signed on 2017-06-15 18:15:45 page 5 of 5

ELECTRONICALLY FILED - 2017 Jun 16 8:38 AM - AIKEN - COMMON PLEAS - CASE#2013CP0201337
ELECTRONICALLY FILED - 2017 Dec 13 4:21 PM - AIKEN - COMMON PLEAS - CASE#2013CP0201337

Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
Civil Minutes

Columbia Action 3:08-cv-14-WOB

11/15/13

Forlando J. Brown v. Adele Pope, et al.

BEFORE: HON. J. GREGORY WEHRMAN, MAGISTRATE JUDGE

No Court Reporter

No Courtroom Deputy

ATTORNEYS FOR PLAINTIFF

ATTORNEYS FOR DEFENDANT ADELE POPE

Matt Bodman
David Bell¹

Daryl Williams
Adam Silvernail

ATTORNEY FOR DEFENDANT ROBERT BUCHANAN, JR.

Joseph Calhoun Watson

ATTORNEYS FOR TRUSTEE RUSSELL BAUKNIGHT

Burl Williams
J. David Black

Conference call held on November 14, 2013 regarding trustee Bauknight's motion for confidentiality order. Doc. 290. After hearing argument of counsel, the Court **ordered:** the motion for confidentiality order [Doc. 290] is **granted in part and denied in part** as follows. The retention agreement at issue is a public document due to the involvement of the South Carolina Attorney General and, accordingly, it is not protected by the confidentiality order previously entered in this action. *See* Doc. 83. The estate valuation at issue is discoverable because it potentially relates to the remaining claims in this action. However, during the phone conference the Court was first made aware of the fact that a supplemental inventory and appraisal was filed in state court and that the supplemental inventory set forth only the valuation's bottom line figure regarding the total value of

¹ Mr. Bell's pro hac vice motion is pending and the Court will rule on that motion once briefing has been completed.

James Brown's estate. After reviewing that supplemental inventory and upon further reflection, the Court concludes that the valuation contains confidential information, the disclosure of which to the public at large could potentially harm the Estate in any future negotiations involving the music of James Brown. Because the valuation is discoverable, the Court will require Trustee Bauknight to provide a copy of the valuation to any party upon request. However, the Court orders that the contents of the valuation itself shall be subject to protection under the extant confidentiality order.

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Exhibit C

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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 Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; 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 BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2011 FEB -1 AM 10:02
CLERK OF COURT
RICHLAND COUNTY

SECOND
AMENDED
CONFIDENTIALITY ORDER

Whereas this Court has determined that a Confidentiality Order is necessary in this case and certain discovery material herein is and should be treated as confidential; accordingly, it is ORDERED:

1. **Scope.** All documents produced in the course of discovery herein, all responses to discovery requests, and all deposition testimony and deposition exhibits, all documents referenced in this Court's Administrative Order of August 30, 2016 (filed September 1, 2016) in Aiken County Case 2013-CP-02-1337, and any other materials which may be subject to discovery (hereinafter collectively "documents") shall be subject to this Order concerning confidential information, as set forth below.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents. However, the inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as CONFIDENTIAL, as otherwise allowed by this Order.

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential, but only after review of the documents by an attorney who has, in good faith, determined that the documents contain information properly protected from disclosure by statute or regulation, or which contain sensitive personal information, trade secrets, research, development, or business/commercial information that justifies protection from disclosure. The certification shall be made concurrently with the disclosure of the documents,

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using the form attached hereto at **Attachment A**, which shall be executed subject to the standards of Rule 11 of the South Carolina Rules of Civil Procedure. Information or documents which are or have been publicly available may not be designated as CONFIDENTIAL.

4. **Depositions.** Portions of depositions shall be deemed CONFIDENTIAL only if designated as such when the deposition is taken or within seven business days after receipt of the transcript by the designating party's attorney. Such designation shall specify the portions to be protected, by page and line numbers.

5. **Protection of Confidential Material.**

(a) **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties, or any other persons identified below (*See Section ¶ 5.b.*), for any purposes whatsoever, other than preparing for and conducting the instant litigation (including any appeal in this litigation).

(b) **Limited Third Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at **Attachment B** hereto), that he or she has read and understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

- (i) counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
- (ii) parties and employees of a party to this Order, but only to the extent that prior to disclosure, counsel shall certify that the specifically named individual's assistance is necessary to the conduct of the litigation;

- (iii) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;
- (iv) consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and
- (v) other persons only upon consent of the producing party or upon Order of the Court, and on such conditions as are agreed to or Ordered.

Nothing contained in this paragraph 5 is intended to or shall prevent counsel for any party from questioning a deponent about a document designated CONFIDENTIAL pursuant to this Order. In this event, counsel shall comply with the provisions of paragraph 4 above regarding designating appropriate portions of the subject deposition(s) CONFIDENTIAL. Further, Attachment B need not be obtained from the deponent prior to counsel questioning the deponent regarding the subject document(s).

(c) **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to the terms of this Order. Counsel shall maintain the originals of the forms signed, pursuant to Paragraph 5(b), by persons acknowledging their obligations under this Order.

(d) **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as "copies"), of documents designated as CONFIDENTIAL under this Order or any portion of such a document, shall be immediately affixed with the designation "CONFIDENTIAL" if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

6. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the Court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure, including:

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(1) filing a redacted document with the consent of the party who designated the document as confidential; (2) where appropriate (*e.g.* in relation to discovery and evidentiary motions), submitting the documents solely for *in camera* review; or (3) where the preceding measures are not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in the applicable South Carolina Rules of Civil Procedure. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the Court under seal shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the Court, after proper Motion pursuant to any applicable South Carolina Rules of Civil Procedure.

(7) **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order, unless that party moves for an Order providing such special protection.

(8) **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

(a) The burden of proving the necessity of a CONFIDENTIAL designation rests with the party asserting confidentiality.

(b) A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents

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shall have fifteen (15) days from service of said written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the CONFIDENTIAL designation.

(c) Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (i) the party who claims that the documents are CONFIDENTIAL withdraws such designation in writing;
- (ii) the party who claims that the documents are CONFIDENTIAL fails to move timely for an Order designating the documents as confidential as set forth in paragraph 8.b. above; or
- (iii) the court rules that the documents should no longer be designated as confidential information.

(d) Challenges to the confidentiality of documents may be made at any time, and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

9. Treatment on Conclusion of Litigation.

(a) **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation, unless otherwise agreed or ordered.

(b) **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (*See* Section ¶ 5.d.) shall be returned to the producing party, unless: (1) the document has been entered as evidence or filed (unless introduced or filed under seal); (2) the parties stipulate to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the

receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product, including an index which refers or relates to information designated CONFIDENTIAL, so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be CONFIDENTIAL under the terms of this Order. An attorney may use his or her work product in a subsequent litigation, provided that its use does not disclose the confidential documents.

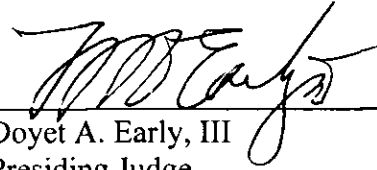
10. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who demonstrates an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

11. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the South Carolina Rules of Civil Procedure, or otherwise, until such time as a document-specific ruling shall have been made by the Court.

12. **Persons Bound.** This Order shall take effect when entered and shall be binding upon the above named Plaintiffs and Defendant, and their respective legal counsel.



IT IS SO ORDERED.



Doyet A. Early, III
Presiding Judge

1-24, 2017

Bamberg, South Carolina.

**ATTACHMENT A
CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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 Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; 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 BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2017 FEB - 1 AM 10:05
SEARCHED & INDEXED
SERIALIZED & FILED
RICHLAND COUNTY

**CERTIFICATION BY COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

v.

Adele J. Pope,

Defendant

Documents produced herewith [**whose bates numbers are listed below (or) which are listed on the attached index**] have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action.

By signing below, I am certifying that I have personally reviewed the marked documents and, in good faith believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Date: [date Attachment A signed]

[Signature of Counsel [s/name]]
Signature of Counsel

[Printed Name of Counsel [A]]
Printed Name of Counsel

**ATTACHMENT B
ACKNOWLEDGMENT OF UNDERSTANDING
AND AGREEMENT TO BE BOUND**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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 Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; 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 BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2011 FEB - 1 AM 10:05
JENNIFER L. ...
C.C.P. & S.S.
CLERK OF COURT
FILED

**ACKNOWLEDGMENT OF
UNDERSTANDING AND AGREEMENT
TO BE BOUND**

v.

Adele J. Pope,

Defendant

The undersigned hereby acknowledges that he or she has read the Confidentiality Order in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the above Court in matters relating to the Confidentiality Order, and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties, potentially including contempt of court.

Name: [undersigned name [att B]]

Employer: [Employer [att B]]

Business Address: [Business Address [att B]]

Date: [date Attachment B signed]

[Signature [attachment B]]

Signature

**ATTACHMENT C
CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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 Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; 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 BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2017 FEB -1 AM 10:05
JEREMY H. ...
C.C.P. & O.S.
COM. PLEAS
COUNTY

**CERTIFICATION OF COUNSEL OF
NEED FOR ASSISTANCE OF
PARTY/EMPLOYEE**

v.

Adele J. Pope,

Defendant

Pursuant to the Confidentiality Order entered in this action, most particularly the provisions of Paragraph 5.b.2., I certify that the assistance of [name, employer, and address of assistant [att C]] is reasonably necessary to the conduct of this litigation, and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Confidentiality Order to the individual named above and will obtain his or her signature on an “Acknowledgment of Understanding and Agreement to be Bound” prior to releasing any confidential documents to the named individual. I will disclose only such confidential documents as are reasonably necessary to the conduct of the litigation.

Date: [date Attachment C signed]

[Signature [attachment C]]
Signature

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

FOR THE FIFTH 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, 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 Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

Civil Action No. 2010-CP-40-4900

2017 FEB - 1 AM 10:02
CLERK OF COURT
C.O.P. & S.S.

and

MOTION COVER SHEET

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 BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

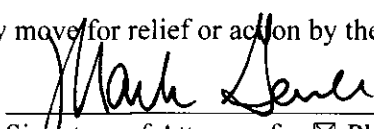
v.

Adele J. Pope,

Defendant

Plaintiff's Attorney:
Mark V. Gende, Bar No.
Post Office Box 12129
Columbia SC 29211
Phone: (803) 256-2233 x7121
Fax(803) 256-9177

Defendant's Attorney:
W.H. Bundy, Jr., Esquire, Bar No.
P. O. Box 1542, Mt. Pleasant, SC 29465-1542
Phone: Fax
E-mail: Other:

E-mail: mvg@swblaw.com Other: _____	
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____	
Estimated Time Needed: _____	Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order	
I hereby move for relief or action by the court as set forth in the attached proposed order.	
 _____ Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff/ <input type="checkbox"/> Defendant	<u>1-26-17</u> Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID – AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____	
<input checked="" type="checkbox"/> Other: <u>Paid filing fee when original Motion was filed.</u>	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED – AMOUNT DUE: \$ _____	

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

Tommie 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), SCRPC; Rule 41(a), SCRPC (Vol. Dismissal); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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 _____

JAN 31 2011
2011 FEB -1 AM 10:07
RICHLAND COUNTY
FILED

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 _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 1 day of Feb, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth B. Wingate
Mark V. Gende
Robert N. Rosen

Everett Augustus Kendall II
John Andrew Donsbach Sr.
Joseph Odell Thickers

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter _____

Daryl L. Williams
Adam Tremaine Silvernail
Walter Henry Bundy Jr.
Michael Brent McDonald

J. Calhoun Watson
J. Emory Smith Jr.
Adele J Pope
Adele J Pope

ATTORNEY(S) FOR THE DEFENDANT(S)

Clerk of Court

Jeanette W. McBride

Exhibit D

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
January 18, 2024

S.C. Attorney General's Office
Civil Division

JAN 18 2024

Received by KC
Reviewed by/Date _____
Referred to/Date _____
Notes: _____

The Honorable Alan Wilson
Attorney General of South Carolina
Solicitor General Robert Cook
Rembert Dennis Building
1000 Assembly Street
Columbia, South Carolina 29201

BY HAND DELIVERY

RE: Request under South Carolina Freedom of Information Act (FOIA) for:

- 1. Valuation Analysis of James Brown Estate as of December 25, 2006, (Sept. 03, 2010) (the "\$4.7 Million Valuation")**
- 2. All correspondence, email and/or other communications and/or documents by or among any member of the Office of the Attorney General (OAG) and Russell Bauknight, Peter Afterman, or any other person(s) between August 1, 2010 and today related to the value of the assets of the Estate of James Brown and/or the James Brown Irrevocable Trust and/or the \$4.7 Million Valuation at any time between the death of James Brown on December 25, 2006 and May 8, 2013.**
- 3. The Amendment to the James Brown Legacy Trust (Settlement Entity) signed by The Honorable Henry McMaster on or about December 30, 2010, and all drafts thereof, and the assignment by Terry Brown to Forlando Brown (a/k/a William Brown), by NPCOL on or about January 2011 and any drafts thereof, and all documents related to these documents from December 1, 2010 to May 8, 2013.**
- 4. All correspondence, email and/or other communications between any member of the OAG and Sweeney, Wingate and Barrow, P.A., and/or any member of that firm between May 10 and May 25, 2010 and February 20, 2013 and June 13, 2013, including but not limited to the April 24, 2013 letter of the OAG to a member of SWB.**
- 5. All correspondence, email and/or other communications between**

Ltr. to The Honorable Alan Wilson and Solicitor General Cook

January 18, 2024

Page 2

.....
**any member of the OAG, including Creighton Waters, and/or Peter
Afterman and/or any other person related to the value of Geronimo
Music, LLC**

Dear Attorney General Wilson and Solicitor General Cook:

The value of James Brown's "I Feel Good" Education Trust for needy students in S.C. and Georgia has been a matter of significant public interest since Mr. Brown's death.

In 2007 and 2008 four James Brown Trustees, a tax attorney, two CPAs, a retired judge and former IRS attorney, and others valued James Brown's music empire and Beech Island Home Estate at approximately \$100 million, less a "Pullman bond" debt paid off in 2011.

In August 2010 the Office of the Attorney General told the Supreme Court of South Carolina that the trustee appointed by the Attorney General had reviewed a copy of an appraisal which was expected to arrive within a few weeks which would show that Mr. Brown's assets at death were less than \$12 million, whereas the four trustees, based on the \$15 million at-death value of the Pullman bond debt, had valued the assets at approximately \$85 million.

On September 3, 2010, the appraisal (copy of some pages enclosed) arrived. From that point until today, the Attorney General, the James Brown Legacy Trust, and certain persons acting on behalf of the Attorney General have used the September 3, 2010 Valuation Analysis of James Brown Estate as of December 25, 2006 for several purposes, to include:

- a. To assert that James Brown's "I Feel Good" charity was worth only about \$4 million at his death, rather than \$80 million;
- b. To assert that Mr. Brown's "I Feel Good" Trust was approximately \$15 million in 2009, rather than \$90 million;
- c. To assert to the Supreme Court and others in 2011 that Mr. Brown's "I Feel Good" charity was about \$24 million, rather than \$95 million, when the Pullman bond debt was paid off;
- d. To falsely accuse Robert Buchanan and me of the federal felony of overstating the value of James Brown's assets by \$79 million to try to obtain a \$5 million commission on James Brown's claimed \$5 million estate.

Ltr. to The Honorable Alan Wilson and Solicitor General Cook

January 18, 2024

Page 3

.....

The copy I have delivered to the Attorney General and Solicitor General Cook is the document I received in 2013, with duplicates removed. It goes from p. 1 – 194 (B.1 -125) but a number of pages are missing. There are some highlights and a handwritten note on page 1.

After the Attorney General’s letter of April 24, 2013 to SWB, persons acting on behalf of the Attorney General asserted that this document was confidential, but it was both prepared and shared with Peter Afterman, who advised Tomirae Hynie and her son James II from 2013 until 2020 and many others. In addition it was filed both in the Aiken Probate Court and in the Circuit Court in Case 2013-CP-02-1337 with no finding as required for the sealing of documents.

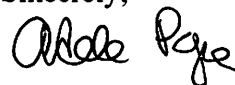
Forlando Brown, and his attorneys did not sign a confidentiality order when they received a copy in 2013, and many others, including Ms. Hynie’s son’s attorneys have reported the details of the September 3, 2010 Valuation analysis to the Supreme Court and other courts.

Because knowing the size of James Brown’s “I Feel Good” charity at the time of his death is historically important, I ask that you deliver the above-requested documents to me without charge. I stand ready, however, to pay the costs necessary to provide me with the documents.

Please deliver these documents to me as soon as they are available, as required by the FOIA.

Thank you in advance for your consideration.

Sincerely,



Adele J. Pope

Enclosure: Partial September 3, 2010 Valuation
(AG and Solicitor General only)

cc: Records Custodian

Office of the Attorney General (By Hand Delivery)

Custodian of Records for FOIA Requests
Attorney General of South Carolina
Rembert Dennis Building
1000 Assembly Street
Columbia, South Carolina 29201

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108

SC ATTORNEY GENERAL'S OFFICE
REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, RM 519
COLUMBIA, SOUTH CAROLINA

HAND DELIVERY

RECEIVED BY:

Stephanie Kennedy

11/18/24 130
DATE TIME

Exhibit E



ALAN WILSON
ATTORNEY GENERAL

January 23, 2024

VIA EMAIL

Mr. J. David Black
DBlack@maynardnexsen.com

RE: Freedom of Information Act ("FOIA") Request

Dear Mr. Black:

This Office has received your FOIA request dated January 23, 2024, which seeks a copy of any FOIA request received by the AG's office relating to the James Brown Estate received on or about January 18, 2024.

The record you requested is attached.

Sincerely yours,

Harley L. Kirkland
Assistant Deputy Attorney General

Exhibit F

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Case No. 2013-CP-02-1337

ADMINISTRATIVE ORDER

FILED

9-1-16
Chris Godard
J.C.P.&G.S.
Walter Knappe 12³⁰
Deputy Clerk

THIS MATTER IS BEFORE THE COURT upon several motions¹ of the Plaintiff Adele J. Pope and the Defendants, the Estate of James Brown and the James Brown 2000 Irrevocable Trust. This Court received multiple filings and conducted a hearing with respect to Plaintiff and Defendant's Motions on March 2, 2016, whereby the Court thoroughly considered and reviewed both parties' arguments and filings.

Turning first to the Plaintiff's motions, Plaintiff has filed a Motion Requesting that the Court require the Estate and Trust to stipulate to documents filed in dozens of other cases and to compel the Estate and Trust to comply with this Court's March 15, 2010 Order directing all fee agreements of prior fiduciaries and prior counsel be delivered to her for use in her appeal of the May 26, 2009 Settlement Agreement.

I. Plaintiff Pope's Request to Require Stipulations.

As this Court stated during the proceeding, the Court is unable to require stipulations. While the Court may take judicial notice of certain documents, the Court must find them to be

¹ Mrs. Pope also requested that the Court extend discovery and trial in this matter. As the Court explained during oral argument, the Court has allowed ample time in the present Scheduling Order for Mrs. Pope to develop her case and as such the Court intends to strictly enforce the Scheduling Order.

MBC
#

relevant prior to introduction at trial. Accordingly, the Court encourages the parties to stipulate where possible, but reminds Mrs. Pope to utilize the proper discovery paths contemplated by the South Carolina Rules of Civil Procedure in pursuing her fiduciary fees in this action. Accordingly, Mrs. Pope's Motion is DENIED.

II. Plaintiff Pope's Motion to Compel Compliance with March 15, 2010 Order.

In March of 2010, in relation to her appeal of the May 26, 2009 Settlement Agreement, Mrs. Pope asked this Court "to deliver and/or direct the Clerk of the Circuit Court to deliver all documents related to attorneys' fees, costs and/or compensation presented to the Circuit Court in this matter, including but not limited to, the contingency fee contract of Louis Levenson, Robert Rosen and the fees of the Guardian ad Litem for minor James B." On March 15, 2010, the Court ruled as follows: "IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that this Court is filing with the Clerk of Circuit Court, and the Clerk is hereby directed, to deliver to Robert L. Buchanan, Jr., Adele J. Pope and/or their counsel, any and all documents related to attorneys' fees and/or compensation, and/or costs, and/or fees of guardians ad Litem and their counsel presented to this Court in the above cases." Mrs. Pope has clarified that she is not requesting the Estate and Trust's fee arrangements with current counsel but the prior records that were filed with the Clerk of Court. The Estate and Trust has informed the Court that they are unaware of any such filing in its possession but that Mrs. Pope is welcome to inspect the archive Estate and Trust files that were turned over in conjunction with her appeal. Accordingly, the Court considers this motion moot and as such it is DENIED.

III. Defendants Motion for Protection and Confidentiality Order.

Also before the Court is Defendant's Motion for Protection and Confidentiality Order, which was filed August 6, 2014 in response to Mrs. Pope's numerous attempts to require

Handwritten signature and the number "#2" written below it.

stipulations and introduce thousands of documents from nearly a dozen unrelated lawsuits into this case, her former fiduciary fee claim lawsuit, against the James Brown Estate and 2000 Irrevocable Trust.

In short, Mrs. Pope attempts to introduce discovery and thousands of other documents from nearly a dozen unrelated James Brown cases into this matter by requiring blanket stipulations. Defendants respond that protection is necessary as the discovery requests and stipulations are irrelevant, unnecessary, and improper in light of the South Carolina Supreme Court's May 8, 2013 Order removing Mrs. Pope for Cause as of May 26, 2009 and later June 10, 2015 Order threatening Mrs. Pope with contempt charges if she continues to interfere in the administration of the James Brown Estate and Trust ("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"). See Ex parte Adele J. Pope, Appellate Case No. 2013-001649 at p. 2.

This Court is very aware of these Orders and accordingly reminds Mrs. Pope that the purpose of this case is not to re-litigate prior Estate and Trust matters or to reinsert herself into other Estate and Trust proceedings. Rather, the sole purpose of this narrow case is to determine what, if any, fee Mrs. Pope is owed for her prior fiduciary service which concluded with her for cause removal on May 26, 2009 ("[w]e are also aware that Appellants have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, Appellants sought and obtained permission from the circuit court to sell iconic assets from Brown's estate in order to raise funds, and a large portion of the amount raised went first to pay Appellants' own attorneys' fees. . . ."). See May 8, 2013 Opinion of the South Carolina Supreme Court discussing

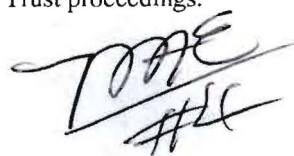
MAE
#3

Mrs. Pope's short term of service, Wilson v. Dallas, Appellate Case No. 2009-14228. Accordingly, having reviewed the discovery requests, and carefully considered the Motion and related filings, Defendants' Motion for Protection is GRANTED.

Also before the Court was the Estate and Trust's Motion to enter a standard² procedural Confidentiality Order. Mrs. Pope opposes this motion on the basis that the documents she seeks are public records. The Estate and Trust responds that several of the documents that she requests are confidential and that a Confidentiality Order is necessary to protect such documents from public disclosure.

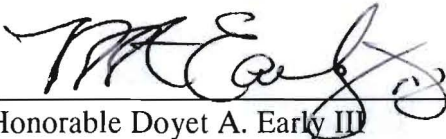
For example, the Estate and Trust called the Court's attention to Mrs. Pope's request for a copy of the Philpot Werner Estate Valuation and Appraisal. Mrs. Pope has requested its disclosure in prior litigation, and a federal court has ruled that the "valuation contains confidential information, the disclosure of which to the public at large could potentially harm the Estate in any future negotiations involving the music of James Brown. Because the valuation is discoverable, the Court will require Trustee Bauknight to provide a copy of the valuation to any party upon request. However, the Court orders that the contents of the valuation itself shall be subject to protection under the extant confidentiality order." See November 15, 2013 Order of Judge Wehrman, Forlando Brown v. Adele Pope, 3:08-cv-14-WOB (DSC 2013). Having considered all parties' arguments, this Court agrees that Mrs. Pope is entitled to the appraisal, but that the appraisal shall remain confidential. As in the federal case, a Confidentiality Order is necessary to protect the ongoing business operations of the Estate and Trust. Accordingly, the Defendant's Motion for a Confidentiality Order is GRANTED and the Court hereby enters the accompanying Confidentiality Order. To the extent that Mrs. Pope requests a second copy of the

² This Court has routinely entered confidentiality orders in the James Brown Estate and Trust proceedings.

Handwritten signature of Adele Pope, written in black ink, consisting of the name 'ADELE POPE' in a stylized, cursive script.

Valuation and Appraisal she is entitled to such copy; however, she must keep it confidential and not disseminate the document to anyone outside of this litigation.

IT IS SO ORDERED.



The Honorable Doyet A. Early III
Second Judicial Circuit

Aiken, South Carolina

July __, 2016.



FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0201337**

Adele Pope		James Estate Of Brown David C Sojourner Jr	Russell L Trustee Bauknight
------------	--	---	--------------------------------

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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. See Page 2 for additional information.
- 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 (List amount(s) below)

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	9/1/2016 Date
----------------------------	-------------------	-------------------------

For Clerk of Court Office Use Only

This judgment was entered on **9-1-16**, and a copy mailed first class or placed in the appropriate attorney's box on **9-1-16**, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Jeffords Pope 1228 Walnut St. Newberry, SC 29108

Frederick A. Crawford PO Box 7788 Columbia, SC 29202
J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC 29201

SEE LIST

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Members:

Albert P Shahid Jr
Arnold S Goodstein
Burl F Williams
David Bell
David L Michel
dblack@nexsenpruet.com
Deirdre McCool (deirdre.mccool@nelsonmullins.com)

peter@shahidlawoffice.com
agoodstein@goodsteinfirm.com
bwilliams@nexsenpruet.com
davidbell@davidbelllawfirm.com
david@michellawoffice.com
dblack@nexsenpruet.com
deirdre.mccool@nelsonmullins.com

Erin Richardson Stuckey
Eugene C Covington Jr
G Mark Phillips
Itiss
J Kendall Few
James R Gilreath
James T Irvin III (jim.irvin@nelsonmullins.com)

erin.stuckey@nelsonmullins.com
gcovington@covpatlaw.com
mark.phillips@nelsonmullins.com
ittriss@jenkinslaw1.com
phyllis@jkendallfew.com
jim@gilreathlaw.com

John Beach
John Donsbach
levenson, louis
Matt Bodman
Rosen, Robert
S Alan Medlin
Stephen M Slotchiver
T Heyward Carter Jr (carter@eckb.com)

jim.irvin@nelsonmullins.com
john.beach@arlaw.com
jdonsbach@donsbachking.com
louis@levensonlaw.com
matt@mattbodmanlaw.com
rnrosen@rosen-lawfirm.com
amedlin@sc.rr.com
steve@slotchiverlaw.com

Timothy Michael McKissock
William J Barr
William Newsome III
William W Wilkins

carter@eckb.com
tim.mckissock@nelsonmullins.com
barrlaw@ftc-i.net
bnewsome@nexsenpruet.com
bwilkins@nexsenpruet.com

Exhibit G

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 Pettitt, 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.

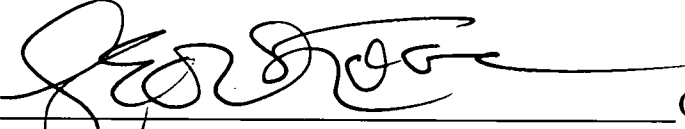
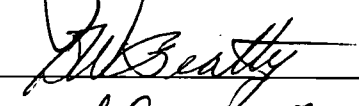
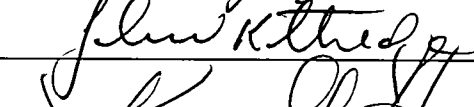
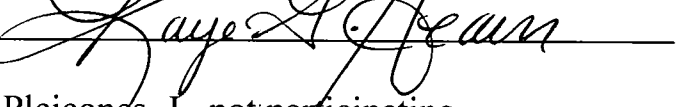
Adele J. Pope has filed a motion seeking confirmation that the stay does not affect Richland County cases in which she is involved. Because we lift the stay, we deny Pope's motion as moot.

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

Exhibit H

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown, The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Case No. 2013-CP-02-1337

CONFIDENTIALITY ORDER

FILED 9-1-16
Shirley Godard
J.C.C.P.&G.S.
Christa Kiepple 1230
Deputy Clerk

Whereas, upon separate order, this Court has determined that a Confidentiality Order is necessary in this case and certain discovery material herein is and should be treated as confidential; accordingly, it is ORDERED:

1. **Scope.** All documents produced in the course of discovery herein, all responses to discovery requests, and all deposition testimony and deposition exhibits, and any other materials which may be subject to discovery (hereinafter collectively "documents") shall be subject to this Order concerning confidential information, as set forth below.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents. However, the inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as CONFIDENTIAL, as otherwise allowed by this Order.

POPE
A

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential, but only after review of the documents by an attorney who has, in good faith, determined that the documents contain information properly protected from disclosure by statute or regulation, or which contain sensitive personal information, trade secrets, research, development, or business/commercial information that justifies protection from disclosure. The certification shall be made concurrently with the disclosure of the documents, using the form attached hereto at **Attachment A**, which shall be executed subject to the standards of Rule 11 of the South Carolina Rules of Civil Procedure. Information or documents which are publicly available may not be designated as CONFIDENTIAL.

4. **Depositions.** Portions of depositions shall be deemed CONFIDENTIAL only if designated as such when the deposition is taken or within seven business days after receipt of the transcript by the designating party's attorney. Such designation shall specify the portions to be protected, by page and line numbers.

5. **Protection of Confidential Material.**

(a) **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties, or any other persons identified below (*See* ¶ 5.b.), for any purposes whatsoever, other than preparing for and conducting the instant litigation (including any appeal in this litigation).

(b) **Limited Third Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at **Attachment B** hereto), that he or she has read and

Handwritten signature and initials, possibly "TAC" and "10/2", written in black ink.

understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

- (i) counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
- (ii) parties and employees of a party to this Order, but only to the extent that prior to disclosure, counsel shall certify that the specifically named individual's assistance is necessary to the conduct of the litigation;¹
- (iii) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;
- (iv) consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and
- (v) other persons only upon consent of the producing party or upon Order of the Court, and on such conditions as are agreed to or Ordered.

Nothing contained in this paragraph 5 is intended to or shall prevent counsel for any party from questioning a deponent about a document designated CONFIDENTIAL pursuant to this Order where the deponent: (a) is the direct or indirect subject of the document(s); (b) is the author of or recipient of the document(s) designated CONFIDENTIAL. In this event, counsel shall comply with the provisions of paragraph 4 above regarding designating appropriate portions of the subject deposition(s) CONFIDENTIAL. Further, Attachment B need not be obtained from the deponent prior to counsel questioning the deponent regarding the subject document(s).

(c) **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to

¹ Counsel shall identify any such person to opposing counsel at least ten (10) business days prior to disclosure, so that counsel may object to the proposed disclosure if deemed appropriate.

the terms of this Order. Counsel shall maintain the originals of the forms signed, pursuant to Paragraph 5(b), by persons acknowledging their obligations under this Order.

(d) **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as “copies”), of documents designated as CONFIDENTIAL under this Order or any portion of such a document, shall be immediately affixed with the designation “CONFIDENTIAL” if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

6. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the Court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure, including: (1) filing a redacted document with the consent of the party who designated the document as confidential; (2) where appropriate (*e.g.* in relation to discovery and evidentiary motions), submitting the documents solely for *in camera* review; or (3) where the preceding measures are not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in the applicable South Carolina Rules of Civil Procedure. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the Court under seal shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the Court, after proper Motion pursuant to any applicable South Carolina Rules of Civil Procedure.

A handwritten signature in black ink, appearing to be 'T. J. [unclear]', is located in the bottom right corner of the page.

(7) **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order, unless that party moves for an Order providing such special protection.

(8) **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

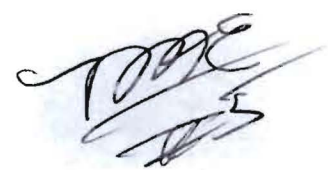
(a) The burden of proving the necessity of a CONFIDENTIAL designation rests with the party asserting confidentiality.

(b) A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of said written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the CONFIDENTIAL designation.

(c) Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (i) the party who claims that the documents are CONFIDENTIAL withdraws such designation in writing;
- (ii) the party who claims that the documents are CONFIDENTIAL fails to move timely for an Order designating the documents as confidential as set forth in paragraph 8.b. above; or
- (iii) the court rules that the documents should no longer be designated as confidential information.

(d) Challenges to the confidentiality of documents may be made at any time, and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

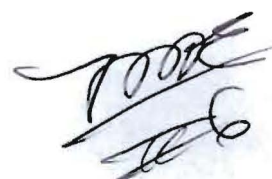


9. **Treatment on Conclusion of Litigation.**

(a) **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation, unless otherwise agreed or ordered.

(b) **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (*See* ¶ 5.d.) shall be returned to the producing party, unless: (1) the document has been entered as evidence or filed (unless introduced or filed under seal); (2) the parties stipulate to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product, including an index which refers or relates to information designated CONFIDENTIAL, so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be CONFIDENTIAL under the terms of this Order. An attorney may use his or her work product in a subsequent litigation, provided that its use does not disclose the confidential documents.

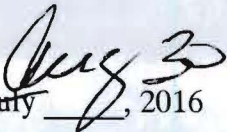
10. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who demonstrates an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

Handwritten signature and initials, possibly "TOD" and "JL", in black ink.

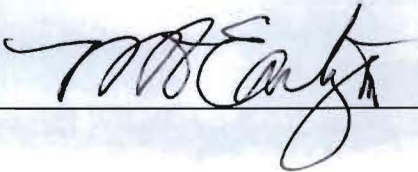
11. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the South Carolina Rules of Civil Procedure, or otherwise, until such time as a document-specific ruling shall have been made by the Court.

12. **Persons Bound.** This Order shall take effect when entered and shall be binding upon: (1) counsel who signed below and their respective law firms; and (2) their respective clients.

IT IS SO ORDERED.


July 2, 2016

Aiken, South Carolina.



**ATTACHMENT A
CERTIFICATION BY COUNSEL OF DESIGNATION
OF INFORMATION AS CONFIDENTIAL**

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

IN THE CIRCUIT COURT

Case No. 2013-CP-02-1337

**CERTIFICATION OF COUNSEL OF
DESIGNATION OF INFORMATION AS
CONFIDENTIAL**

Documents produced herewith [**whose bates numbers are listed below (or) which are listed on the attached index**] have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action.

By signing below, I am certifying that I have personally reviewed the marked documents and, in good faith believe, based on that review, that they are properly subject to protection under the terms of Paragraph 3 of the Confidentiality Order.

Date: [date Attachment A signed]

[Signature of Counsel [s/name]]
Signature of Counsel

[Printed Name of Counsel [A]]
Printed Name of Counsel

**ATTACHMENT B
ACKNOWLEDGMENT OF UNDERSTANDING
AND AGREEMENT TO BE BOUND**

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

IN THE CIRCUIT COURT

Case No. 2013-CP-02-1337

**ACKNOWLEDGEMENT OF
UNDERSTANDING AND AGREEMENT
TO BOUND BY CONFIDENTIAL ORDER**

The undersigned hereby acknowledges that he or she has read the Confidentiality Order in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the above Court in matters relating to the Confidentiality Order, and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties, potentially including contempt of court.

Name: [undersigned name [att B]]

Employer: [Employer [att B]]

Business Address: [Business Address [att B]]

Date: **[date Attachment B signed]**

[Signature [attachment B]]
Signature

**ATTACHMENT C
CERTIFICATION OF COUNSEL OF NEED
FOR ASSISTANCE OF PARTY/EMPLOYEE**

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE CIRCUIT COURT

Adele J. Pope,
Plaintiff,

Case No. 2013-CP-02-1337

vs.

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,

**CERTIFICATION OF COUNSEL OF
NEED FOR ASSISTANCE OF
PARTY/EMPLOYEE**

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

Pursuant to the Confidentiality Order entered in this action, most particularly the provisions of Paragraph 5.b.2., I certify that the assistance of [name, employer, and address of assistant [att C]] is reasonably necessary to the conduct of this litigation, and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Confidentiality Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to

be Bound” prior to releasing any confidential documents to the named individual. I will disclose only such confidential documents as are reasonably necessary to the conduct of the litigation.

Date: [date Attachment C signed]

[Signature [attachment C]]
Signature

For Clerk of Court Office Use Only

This judgment was entered on **9-1-16**, and a copy mailed first class or placed in the appropriate attorney's box on **9-1-16**, to attorneys of record or to parties (when appearing pro se) as follows:

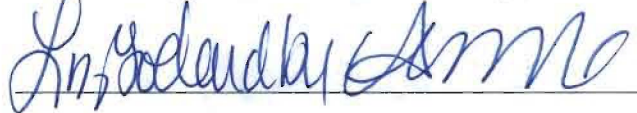
Adele Jeffords Pope 1228 Walnut St. Newberry, SC 29108

Frederick A. Crawford PO Box 7788 Columbia, SC 29202
J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC 29201

SEE LIST

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Members:

Albert P Shahid Jr	peter@shahidlawoffice.com
Arnold S Goodstein	agoodstein@goodsteinfirm.com
Burl F Williams	bwilliams@nexsenpruet.com
David Bell	davidbell@davidbelllawfirm.com
David L Michel	david@michellawoffice.com
dblack@nexsenpruet.com	dblack@nexsenpruet.com
Deirdre McCool (deirdre.mccool@nelsonmullins.com)	deirdre.mccool@nelsonmullins.com
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G Mark Phillips	mark.phillips@nelsonmullins.com
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William Newsome III	bnewsome@nexsenpruet.com
William W Wilkins	bwilkins@nexsenpruet.com

Exhibit I

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Civil Action No. 2013-CP-02-1337

**ORDER GRANTING MOTION TO CONFIRM
CONFIDENTIALITY DESIGNATIONS**

Before the Court is the Estate of James Brown and The James Brown 2000 Irrevocable Trust's ("Defendants") Motion to Confirm Confidentiality Designations. The documents that Defendants have produced and labeled confidential all relate to the Philpot Ball and Werner Valuation and Appraisal (the "appraisal") and the estate tax return of James Brown (the "estate tax return"). Courts regularly conclude that these types of documents are confidential. Indeed, this Court has already held, in its August 30, 2016 Administrative Order, "that the appraisal shall remain confidential." (Administrative Order, p. 4; *see also id.* at 5 (noting that Plaintiff is entitled to a copy of the appraisal, "however, she must keep it confidential and not disseminate the document to anyone outside of this litigation.")). For the reasons discussed herein, the Court grants Defendants request to Court confirm all confidential designations.

I. BACKGROUND AND OPERATION OF THE ORDER

On August 30, 2016, this Court signed a Confidentiality Order for this case (the "Order"). Under the terms of the Order, "[a]ny party may designate documents as confidential, . . . after review of the documents by an attorney who has, in good faith, determined that the documents contain . . . sensitive personal information, trade secrets, . . . or business/commercial information that justifies protection from disclosure." (Order, ¶3).

Under the terms of the Order, a party may challenge a confidential designation. (Order, ¶8). “A party who contends that documents designated confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation” (*Id.* at ¶8(b)). Once the party that designated the document as confidential receives the challenge, it has fifteen days to attempt to resolve the dispute. If it cannot resolve the dispute, then the party that designated the document must “move for an Order confirming the confidential designation.” (*Id.*)

II. PLAINTIFF’S CHALLENGE TO THE DESIGNATIONS

On January 24 and January 30, Plaintiff sent e-mail correspondence challenging Defendants’ confidential designations. Defendants subsequently sought to resolve the challenge. Defendants’ efforts included acknowledging that some of the estate tax return confidential designations may need to be removed. Defendants also requested that Plaintiff withdraw the challenges to the appraisal documents. The parties were unable to resolve this issue.

III. PHILPOTT BALL AND WERNER APPRAISAL AND UNDERLYING DOCUMENTS ARE CONFIDENTIAL

Defendants have labeled all documents relating to the appraisal as confidential, and the designation will be confirmed by this Court.

A. This Court Previously Held the Appraisal is Confidential

As noted above, in this Court’s Administrative Order, it noted “that the appraisal shall remain confidential,” that Plaintiff is entitled to a copy of the appraisal, but “she must keep it confidential and not disseminate the document to anyone outside of this litigation.” (Administrative Order, pp. 4-5). Accordingly, this Court’s prior ruling forecloses Plaintiffs efforts to challenge the confidential designations related to the appraisal.

B. The Appraisal and the Underlying Documents Contain Confidential Financial and Commercial Information

The appraisal is a private document that is owned and controlled by the Estate. The appraisal was created for the purpose of valuing the Estate of James Brown (a private citizen), and for the purpose of determining whether the Estate owed any taxes to the federal government.¹ The appraisal is not a public document. It contains confidential financial and commercial information, and has been treated as confidential since its inception. For decades, courts across this Nation have recognized that these types of business documents are confidential and should be accorded the shield of a protective order. *See, e.g., Landco Equity Partners, LLC, v. City of Colo. Springs, Colo.*, 259 F.R.D. 510, 515 (D. Colo. 2009) (recognizing that “protective orders issued pursuant to Rule 26(c) are common in litigation to protect sensitive information exchanged during the course of discovery, particularly when the documents reflect confidential financial information”); *Nutrtech, Inc. v. Syntech (SSPF) Int’l*, 242 F.R.D. 552, 554 (C.D. Cal. 2007) (noting that **both parties agreed** to the need for a protective order but disagreed whether the information (“sales and revenue figures”) should be afforded protection of “attorney’s eyes only”); *Palmer v. Reader’s Digest Assoc.*, 122 F.R.D. 445, 447 (S.D.N.Y. 1988) (recognizing the confidential nature of a company’s financial information and the requirement that its production requires “strict non-disclosure provisions”). Accordingly, Defendants have met their burden. The appraisal and all underlying documents are confidential.

C. Irreparable Harm Will Result if the Valuation Report is Turned into a Public Document

The appraisal analyzes copyright royalty details and sources of royalty payments, among other confidential business information. The appraisal also projects future revenues of the Estate

¹ The Internal Revenue Service independently reviewed the appraisal and agreed with its findings regarding the date of death valuation for the James Brown Estate.

and Trust in an effort to arrive at the final business value of the James Brown music empire. That information is highly confidential. It is highly confidential because it completely exposes the strengths and the weaknesses of the music catalog, and discloses confidential future revenue projections of the Estate and Trust. If made public, that information will likely be used against the Estate and Trust during future business negotiations. Moreover, dissemination of this confidential information could damage James Brown's vision of providing charitable scholarships to deserving and needy students by decreasing the amount of funds available for those scholarships.

Courts have defined confidential commercial information as "information which, if disclosed, would cause substantial economic harm to the competitive position of the entity from whom the information was obtained." *Diamond State Ins. Co. v. Rebel Oil Co.*, 157 F.R.D. 691, 697 (D. Nev. 1994); *Massey Coal Services, Inc. v. Victaulic Co. of Am.*, 249 F.R.D. 477, 482 (S.D.W. Va. 2008) (same). Defendants' have met their burden; the appraisal and all underlying documents are confidential.

IV. THE ESTATE TAX RETURN AND UNDERLYING DOCUMENTS ARE CONFIDENTIAL

The Defendants have produced the estate tax returns and underlying documents of the late James Brown, and have designated those documents confidential. Accordingly, Defendants do not dispute that the estate tax returns are discoverable. Rather, they submit that the estate tax returns of an individual are confidential and should not be made public. *See Minter v. Wells Fargo Bank, NA*, 675 F. Supp. 2d 591, 597 (D. Md. 2009) (noting that "tax returns are not privileged, but that courts should order discovery of them only under a protective order" (citing MUELLER & KIRKPATRICK, Federal Evidence §5:5)). "Where tax returns are produced in discovery, protective orders are the norm, not the exception." *Closed Joint Stock Co. "CTC Network" v. Actava TV, Inc.*, 2016 WL 1364942, at *4 (S.D.N.Y. 2016). Indeed, "[c]ertain categories of information and documents are 'presumptively confidential,' including tax returns." *Id.* The Court finds that all

confidential designations related to the estate tax returns are proper under the Order. Accordingly, the Court finds that Defendants' have met their burden.

V. CONCLUSION

Defendants have met their burden to show that the documents produced and labeled confidential are, in fact, confidential and should maintain that designation under the Order. Accordingly, this Court hereby finds that the documents that have been designated as confidential shall remain confidential pursuant to this Court's August 30, 2016 Confidentiality Order.

IT IS SO ORDERED.

The Honorable Doyet A. Early, III

June ____, 2017

_____, South Carolina



Aiken Common Pleas

Case Caption: Adele Jeffords Pope VS James Estate Of Brown , defendant, et al

Case Number: 2013CP0201337

Type: Order/Other

So Ordered

s/D.A. Early III 2136

Exhibit J

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	Aiken County Case No. 2013-CP-02-1337
)	
Adele J. Pope,)	MOTION AND MEMORANDUM
)	TO UNSEAL DOCUMENTS; RESTORE
Plaintiff,)	DOCUMENTS TO PUBLIC RECORD
)	AND FOR RELATED RELIEF
v.)	
Estate of James Brown and 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 at the resumption of the trial of this matter on December 14, 2017, and prior to the cross-examination by Plaintiff of Defendants’ experts Ellison Thomas, CPA and Mark Hobbs, CPA and the examination by Defendants of Plaintiff’s copyright expert, Plaintiff will move, and move before the Honorable Doyet A. Early, III, pursuant to Article 1, Section 9 of the S.C. State Constitution and Rule 41.1 of the *South Carolina Rules of Civil Procedure*, and other case and statutory law, for an order unsealing the depositions, affidavits, documents and testimony set out below, collectively the “Relevant Documents” which is sealed and/or has been removed from the public record, and further directing Defendant to cooperate with the Clerk of Court for the relevant County to restore to the public record each Relevant Document filed under seal and/or removed from the public record.

In the alternative, Plaintiff will proffer copies of the Philpott, Ball, Werner (PBW) valuation, the Estate Tax Return and certain Relevant Documents or portions thereof from the public record, and ask that the Court find that each Relevant Document is or

has been under the control of Defendants during the conduct of this case and, if presented, would support the position of Plaintiff herein and be detrimental to Defendants' position.

The grounds of the motion are that each of the Relevant Documents is relevant and material to Plaintiff's case, which Plaintiff was required to file when Defendants served her on May 29, 2013 with a Notice of Disallowance With Impending Bar ("Disallowance") claiming that she was not to be paid for the six years she and Robert Buchanan, Jr. served the estate of entertainer James Brown; the James Brown 2000 Irrevocable Trust; and The James Brown "I Feel Good" Charity .

The Estate Tax Return was disseminated to Louis Levenson, Esq., and others in 2008, and openly discussed in hearings in federal court in 2008; Supreme Court filings; and hearings before the Honorable Doyet A. Early, III.

The PBW appraisal was disseminated to Levenson and his nine clients years ago, and to counsel for another party adverse to Defendants, James B., prior to March 14, 2013.

Since the Disallowance, in August 2013, Defendants' fiduciary has incorrectly represented to the Federal Court and other courts that Defendants did not share the PBW appraisal with anyone, and that the long-public Estate Tax Return and other Relevant documents are confidential or should be sealed. Further, Defendants have actively participated in seeking orders sealing and/or directing removal of Relevant Documents from the public record in violation of the Constitution of South Carolina and applicable rules of civil procedure, with knowledge of their relevance to this case.

The Relevant Documents are:

1. The depositions, affidavits and/or opinions of and/or testimony of Defendants' Expert Wm. Ellison Thomas, CPA, related to David Cannon, Joel Katz, Greenberg Traurig ("GT"), Phil Farr, and CPA, Albert "Buddy" Dallas in Case 2008-CP-02-322 (Case 322) and Richland County Case 2010-CP-40-4900 (Richland 4900), which Thomas referenced but refused *sua sponte* to produce pursuant to subpoena at his deposition in this case (Aiken 1337) in 2017. [See references to Thomas affidavits at p.13, documents filed by Plaintiffs in Case 322, 8/15/16, and elsewhere.]
2. The PBW Valuation of 2010
3. Deposition, with exhibits, taken by Defendants of Robert L. Buchanan, Jr., in Richland 4900 in 2017, which Defendant have declined to file with the Court despite Plaintiff's counsel's request.
4. The two Affidavits of Adele J. Pope filed in Aiken 1337 pursuant to the Order of the Hon. Doyet A. Early, III dated March 15, 2017 in that case.
5. The *ex parte* ethics opinion of Defendants' expert Nathan Crystal delivered to Judge Early on July 9, 2013, and the opinions of Nathan Crystal, Esq., related to Phil Farr, Albert Dallas, David Cannon, Joel Katz, and/or Greenberg Traurig in Case 322, including those referenced in his deposition in this Case on file herein.
6. The Estate Tax Return, and copies, of James Brown
7. Portions of the deposition, and exhibits of Defendants' Termination Rights Expert Roger Miller, based on the PBW appraisal.
8. Portions of the depositions, and exhibits, of Plaintiff's experts James Hardin III, Esq.; William Sellars, CPA; Mary Jo Cole, CPA; W. Steven Johnson, Esq. designated as confidential in relation to the James Brown estate tax return
9. Deposition of Peter Afterman, identified by Defendants as the expert who provided music industry expertise to PBW, taken in Case 322 on November 16, 2016, portions of which were filed on 12/22/16 in Case 322. Afterman was hired in 2009 to "make money" for Defendants. After *Wilson v. Dallas*, he assisted two settling parties with filing 90+ Termination Notices with Federal Copyright Office, attempting to take royalties from the "I Feel Good" Charity. As per Levenson's sworn testimony of Nov. 1, 2017, he also solicited Levenson clients for the same purpose. [See Levenson deposition to be filed.]
10. The Afterman Report was produced by Afterman in 2009 prior to his being engaged, and identifies approximately \$51 Million of pre-death music sampling Revenues. It is filed with his deposition in Case 322.

11. Depositions and exhibits of Frank Copsidas, March 16, 2016, Case 322, referenced in document filed by Defendants, 8/15/16, pp. 7 and others.
12. Deposition, with Exhibits, of Danny Zook, June 1, 2016, Case 322, related to value of uncollected sampling revenues at death of James Brown, as compiled from the Afterman Report.
13. Deposition and exhibits of Joel Katz, Esq, named as a witness against Plaintiff in Richland 4900, taken in Case 1337 on March 11, 2016, referenced Defendants' filing 8/15/16, pp. 7 and following. [See p. 11, ff. for Description of exhibits to Katz deposition. See pp. 23- 27 of same Filing for a summary of the Katz deposition.]
14. Deposition of Tim Hernandez, Case 322, June 3, 2016. [See description of Zook.]

This motion is supported by the depositions of Defendants' witness Louis Levenson, Esq., taken November 1, 2017, to be filed; the affidavits of Plaintiff referenced herein; the oral and written order of the Honorable Doyet A. Early, III since January 1, 2016 placing documents under seal; directing documents to be removed from the public record; and issuing directions with respect to filing of documents and confidentiality designations in Case 1337; Case 322; and Richland 4900; the referenced Relevant Documents and summaries thereof; the following Memorandum; and such additional support as shall be presented to the Court prior to December 14, 2017.

MEMORANDUM SUPPORTING MOTION

After at status conference on May 29, 2013 Defendant Estate personally served Plaintiff with the Disallowance, claiming she was not entitled to any payment for the six years she and Robert Buchanan, Jr. had faithfully served the estate and estate plan of entertainer James Brown, and his "I Feel Good" Charity. The Disallowance related to a joint claim Plaintiff and Buchanan had filed in 2009.

At the same status conference Louis Levenson, Esq., representing nine will contestants, announced in open court his intention, with others, to reinstate the settlement brokered by the S.C. Attorney General (AG) in 2008 which had dismembered James Brown's estate plan.

As a result of the Disallowance, Plaintiff was required to file this suit within thirty days or not be paid. She did so on June 13, 2013.

The Disallowance claims that Buchanan's and Pope's \$99 Million value of James Brown's music empire was "overinflated" and self-serving. It claims that Buchanan and Pope did not properly document their time, and could not have spent the time they claimed to have spent in their 100+ page documentation of their service.

The James Brown estate tax return, on which the \$99 Million, less a \$15 Million debt to the N.Y. Teachers (TIAA), was based, was filed in 2008; given to Levenson and others that year; discussed in federal and state court hearings; and has been public for 9 years.

The financial documents on which the \$99 Million was based, including 80 boxes of "Brown Historical Records," became available to Levenson and all interested persons by Order of the Honorable Doyet A. Early, III, on August 10, 2007.

In 2009 Defendants hired Peter Afterman to make "make money" for the Estate. Afterman had already compiled, from the public record, a list of hundreds of James Brown songs sampled by other artists. His "Afterman Report" and the depositions and reports of Afterman, Danny Zook and Tim Hernandez, claim that in just a few years prior to Brown's death on December 25, 2006, Brown had generated (or should have generated) as much as \$50 million in sampling revenues from his music.

The Afterman claim was later substantially reduced, and his claims to be an “expert” challenged.

In 2009 counsel for a settling party suggested that Buchanan and Pope could be discredited by showing that they had overvalued Brown’s assets. He asserted that Brown’s copyrights should be valued like the Estate of Harlan Howard, at 6 – 8 times annual royalties -- \$18 - \$24 Million. He suggested that Defendants should claim Brown’s right of publicity had a value of zero.

By 2010 Afterman had become the “expert” who assisted PBW with the valuation which was received in September 2010. The PBW valuation placed the at-death value of Brown’s Schedule F assets, sometimes called the “Music Empire”, at \$4.7 Million – rather than the \$84 Million (\$99 Million less a \$15 Million TIAA debt) assigned by Buchanan and Pope. As a result of the PBW appraisal, the at-death value of Brown’s “I Feel Good” Charity established to educate needy students, was reduced from about \$80 Million to about \$1 Million. Its annual required scholarship distributions were reduced from \$3+ million to about \$50,000.

In October 2010, Defendants named Joel Katz, Esq., David Cannon, Frank Copsidas and Albert Dallas, Esq., as their witnesses against Buchanan and Pope in Richland 4900. Buchanan and Pope, with counsel they had asked Judge Early to engage (Few & Gilreath), had discovered \$17 Million of takings by Cannon from James Brown and wrongdoing of Katz, Copsidas, Cannon and Dallas, beginning in 2006. They identified what became known as the “October 18 Letter,” as well as the James Brown Music Education Foundation created by Katz on December 26, 2006.

In December 2010 Defendants told the Supreme Court they did not know the

value of the rights of the settling parties under Sections 203 and 304 of the Federal Copyright Act (Termination Rights) because Buchanan and Pope had not done an appraisal. They did not disclose the PBW valuation, which arrived two months earlier.

In May 2011 Defendants, with Levenson and others, revealed the claimed \$4.7 Million at-death value to the S.C. Supreme Court. They did not reveal how PBW arrived at the \$4.7 Million.

Since 2011 Defendants and Levenson have consistently, along with their expert Crystal, have used the PBW valuation, and the Supreme Court's reaction to the claim, to support their claim that Buchanan and Pope were greedy, and were seeking a \$5 Million commission from a \$5 Million estate. Pope's \$2.8 Million commission claim for her many years of service is what is referenced in this "greedy" claim.

In October 2011 Cannon was allowed to enter an *Alford* plea. Defendants' expert Ellison Thomas, CPA, reported that about \$70 Million had come into Brown between 1999 and the end of 2006. His report did not show an additional \$5 Million which came to Brown from TIAA in 1999, which Cannon misappropriated in the same year through the "\$5 Million check to nobody." In his deposition Thomas did not produce the Cannon records, despite a subpoena, and could not recall why he did not report the \$5 Million, either coming into Brown or going out to Cannon.

In March 2013 James B., a party to the AG's settlement, described to the Supreme Court that the \$4.7 Million value was reached by PBW by valuing Brown's copyrights at \$23.7 million and reducing it by a claimed \$19 Million TIAA debt.

Defendants had previously told the Supreme Court, in vitriolic terms, that both Buchanan's and Pope's reputations and commissions rest on the validity of their \$99

Million (less TIAA) claim.

By March of 2013 numerous persons, including the nine Levenson clients and counsel and GAL for James B., had access to the PBW valuation.

In the summer and fall of 2013, however, Defendants' fiduciary stated under oath that he had not shared the PBW appraisal with these persons. Based on this inaccurate claim, it was designated confidential in Case 3:08-cv-00014-WOB.

When Case 3:08-cv-00014-WOB was concluded in 2015, Defendants made no effort to collect the PBW appraisal which had been disseminated to Forlando Brown, his counsel in Georgia, counsel for Buchanan and Plaintiff.

Between 2013 and 2017, as this case was approaching trial, Defendants gathered through depositions, affidavits, public Brown Historical Records, and depositions and opinions of experts -- and shared with Levenson and others with no confidentiality concerns -- information which supports both the \$99 Million value Buchanan and Pope placed on the music empire and how complicated and valuable their work to uncover the wrongdoing of Cannon, Dallas, Bradley, Copsidas, GT and Katz was.

The valuable information is under the control of Defendants, and much has been declared confidential, even though it is not. In addition, they have sought and obtained orders sealing and removing documents from the public record without meeting the criteria of the S.C. Constitution or Rule 41.1.

These Relevant documents are essential to Plaintiff's cross examination of Defendants' witnesses and her own reply. They should be unseal and restored to the public record. In the alternative, the Court should accept their proffer and make finding that each Relevant Document is adverse to Defendants.

Respectfully submitted,

s/ W.H. Bundy, Jr.

W. H. Bundy, Jr., Esquire
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Summerville, South Carolina 29485
888-552-1559
walter@bundymcdonald.com

s/Adam T. Silvernail

Adam T. Silvernail
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1905 Marion Street (29201)
Post Office Box 7995
Columbia, South Carolina 29202
Telephone: (803) 779-1770
adam@silvernaillawfirm.com

December 1, 2017

Attorneys for Defendant Adele J. Pope

Rule 11 Certification

The undersigned counsel for Plaintiff hereby certifies that the has consulted with opposing counsel prior to the filing of this motion to attempt to resolve the issue(s) addressed herein, and such consultation was unsuccessful in resolving the issues addressed herein.

s/W.H. Bundy, Jr.

Exhibit K

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown and The James Brown
2000 Irrevocable Trust,

Defendants.

IN THE CIRCUIT COURT

Civil Action No. 2013-CP-02-1337

**LOUIS LEVENSON AFFIDAVIT REGARDING
PHILPOTT BALL & WERNER APPRAISAL**

PERSONALLY APPEARED before me Louis Levenson who, first being duly sworn, deposes and states as follows:

1. On November 1, 2017, I was deposed as a fact witness in the above captioned case.
2. At my deposition, I was questioned by Mrs. Pope's counsel regarding the Philpott Ball & Werner appraisal (the "PBW Appraisal"). A complete and true copy of every question related to the PBW Appraisal at my deposition is attached as *Exhibit A*.
3. During my deposition, Mrs. Pope's counsel asked me about the PBW Appraisal but did not provide me a copy to review. I testified that I had reviewed the PBW Appraisal. My testimony was in error because I confused the PBW Appraisal with a previous appraisal.
4. I was testifying under the assumption that Mrs. Pope's counsel was referring to an appraisal of the personal property that had been done during the Dallas, Cannon and Bradley administration. I did not understand that Mrs. Pope's counsel was asking about the appraisal related to the intellectual property of the Estate—the PBW Appraisal which was done much later and after Dallas, Cannon and Bradley had resigned.
5. I don't believe I have been provided a copy of the PBW Appraisal nor have I seen the PBW Appraisal.

 12/13/17


6. Had Mrs. Pope's counsel provided me a copy of the PBW Appraisal during my deposition, then I would have known which appraisal Mrs. Pope's counsel was referring to, and I would have answered that I had never reviewed the PBW Appraisal.

FURTHER AFFIANT SAYETH NAUGHT.

 12/13/17

LOUIS LEVENSON

SWORN and subscribed to before me
this 13 day of December 2017.



Notary Public for Georgia
My Commission Expires: Nov 9, 2019



Exhibit L

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF RICHLAND

3 ADELE POPE

2010-CP-40-04900

4 -vs-

5 ALAN WILSON, et al

6 -&-

7 ADELE POPE

8 -vs-

2012-CP-40-00350

9 ALAN WILSON and
10 JAMES BROWN LEGACY TRUST,
et al

11 TRANSCRIPT OF RECORD

12 Heard on May 17, 2016
13 Aiken, South Carolina

14 BEFORE:

THE HONORABLE DOYET A. EARLY, III

16 APPEARANCES:

17 Adele Pope, Esq.	J. David Black, Esq,
18 Russell L. Bauknight	J. Emory Smith, Esq.
19 Ariail E. King, Esq.	David Paavola, Esq.
Adam T. Silvernail, Esq.	Mark V. Gende, Esq.

22 Cheri L. Young, RPR
23 Circuit Court Reporter
24 P O Box 5232
25 Aiken, SC 29804-5232

1 THE COURT: I'm just talking about the FOIA
2 case, 350. Anything else anybody wants to address
3 in respect to 350?

4 MR. BLACK: Your Honor, if I may.

5 THE COURT: Mr. Black.

6 MR. BLACK: You asked if it's a public
7 document. The only thing I would ask the Court to
8 look at is that there is that federal court order
9 that looked at that document, the appraisal that's
10 subject here that Ms. Pope has seen that was
11 protected by confidentiality. It is not a public
12 document. The AG doesn't have it. Mr. Bauknight
13 has it. And that's why they're trying to get to it
14 so they can parade it around. But she has seen the
15 document. This is all about them trying to get
16 attorney's fees, Your Honor.

17 MR. SMITH: That's correct, Your Honor.

18 We've cited that case in our memoranda. It's
19 Brown V Pope, federal district judge, Acting
20 District Judge Wehrman made that ruling and we
21 provided a copy of that order in our attachments, I
22 think, to our initial brief in that, in -- filed on
23 May 2nd.

24 THE COURT: Which I got right here. Thank
25 you.

Exhibit M

State of South Carolina)
)
County of Richland)
)

In The Court of Common Pleas
Fifth Judicial Circuit

Adele J. Pope,)
)
Plaintiff,)

vs.)

Alan Wilson, in his official)
capacity as Attorney General for)
the State of South Carolina,)
)
Defendant.)

2010-CP-40-4900

Adele J. Pope,)
)
Plaintiff,)

vs.)

Alan Wilson, in his official)
capacity as Attorney General for)
the State of South Carolina,)
)
Defendant.)

2012-CP-40-0350

Transcript of Record

November 19, 2020
Columbia, South Carolina

B E F O R E:

The Honorable Clifton B. Newman, Judge

A P P E A R A N C E S:

Adam T. Silvernail, Esquire
Attorney for the Plaintiff

J. Emory Smith, Jr., Esquire
Attorney for the Defendant

Aaron J. Hayes, Esquire
Attorney for Sweeny, Wingate, and Barrow

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

1 exhibits. The Office of the Attorney General has nothing
2 further to provide. The legacy trust that was originally a
3 party to this case has been dismissed. So, we've given her
4 everything on that.

5 The valuation, the attorney general has nothing
6 responsive. I cite again the *Summer v. Wilson* case, the
7 FOIA case in which the journalist was represented by Ms.
8 Pope's husband. The order of Judge Griffith in that case
9 said that the Office of the Attorney General did not have
10 to produce the appraisal because it didn't have it.
11 Plaintiff would have access to those filings. In other
12 words, she already had access to the same information.

13 Finally, the appraisal plaintiff seeks is confidential
14 pursuant to a court order in a federal case involving her,
15 and she would have access to it through that case. That's
16 *Brown v. Pope* before Judge Wehrman, a magistrate judge, in
17 2013. She again brings up ---

18 THE COURT: That's pending, was pending where? A
19 magistrate judge in ---

20 MR. SMITH: It was a district ---

21 THE COURT: --- South Carolina?

22 MR. SMITH: --- court case, and it's confidential
23 pursuant to that case, but she would have access to it.
24 So, we don't have it, but she would have it or have access
25 to it.

Exhibit N

The Supreme Court of South Carolina

In the Matter of Adele Jeffords Pope, Respondent.

Appellate Case No. 2020-000764

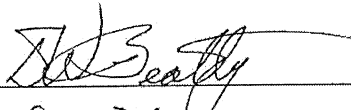
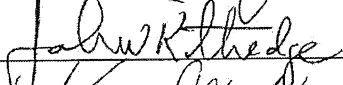
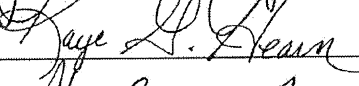
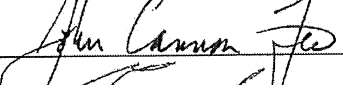
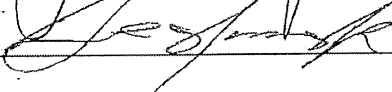
ORDER

The Honorable Clifton Newman presided over a hearing on a petition by Deanna Brown-Thomas seeking to be appointed personal representative of the estate of her sister, Venisha Brown, both daughters of James Brown. Respondent answered the petition as a creditor, and subsequently filed several motions, including a motion to have herself named as the personal representative of Venisha Brown's estate. Counsel for Deanna Brown-Thomas moved to hold Respondent in contempt of this Court's order dated June 10, 2015. In that order, this Court prohibited Respondent from filing any further motions or appeals in actions involving the Estate and Trust of James Brown, in which she clearly has no standing, and cautioned Respondent that continued attempts to involve herself in the resolution of the Estate and Trust of James Brown may result in contempt charges. Judge Newman did not rule on the motion for contempt, but asked this Court to determine whether Respondent's action seeking to have herself named as personal representative of Venisha Brown's estate violates this Court's order dated June 10, 2015.

Upon request from the Clerk of Court, Mark V. Gende, counsel for Venisha Brown's estate, provided the Court with an affidavit to support the request for a finding of contempt. *See Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 267, 442 S.E.2d 611, 617 (1994) (stating charges of constructive contempt are brought by a rule to show cause which must be based upon an affidavit or verified petition). This affidavit asserts that Respondent's actions are in violation of the June 10, 2015 order.

We decline to issue a rule to show cause at this time and hold that request in abeyance pending Respondent's future compliance with this order and our order dated June 10, 2015. We direct Respondent to cease all attempts to become involved in the estate of Venisha Brown. In addition to having no standing in

appeals or actions involving the Estate and Trust of James Brown, we find Petitioner has no standing in any proceeding related to the estate of Venisha Brown. We further find that because Venisha Brown's estate is engaged in litigation against Respondent, Respondent's attempt to become the personal representative of the estate may involve a conflict of interest. See Rule 1.7(a)(1), (2), RPC, Rule 407, SCACR (providing "a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."). If Respondent fails to conform to these instructions as ordered and takes any further action with respect to any case related to the Estate of James Brown, which includes any proceeding in the estate of Venisha Brown, a rule to show cause will be issued, and any and all violations of the orders of this Court will be considered as grounds for holding her in contempt.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
August 10, 2020

cc: Joyce Farr Cheeks, Esquire
Eddye L. Lane, Esquire
Mark V. Gende, Esquire
Adele Jeffords Pope, Esquire
The Honorable Clifton Newman

Exhibit O

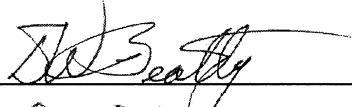
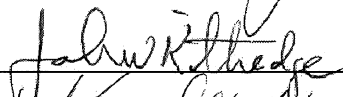



The Supreme Court of South Carolina

In the Matter of Adele Jeffords Pope, Respondent.

Appellate Case No. 2020-000764

ORDER

Respondent has filed a motion for an order quashing service of the disallowance of her creditor's claim against the estate of Venisha Brown, and holding the disallowance in abeyance pending resolution of a breach of fiduciary duty action against her. In effect, Respondent is seeking an exception to our order forbidding her from involvement in the estate of Venisha Brown. *See In the Matter of Adele Jeffords Pope*, S.C. Sup. Ct. Order dated August 10, 2020. The motion is denied.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
November 9, 2020

cc:
Joyce Farr Cheeks, Esquire
Eddy L. Lane, Esquire
The Honorable Clifton Newman

Mark V. Gende, Esquire
Adele Jeffords Pope, Esquire

Exhibit P

The Supreme Court of South Carolina

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 children 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 children 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 children 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 children 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.

Appellate Case No. 2022-001713

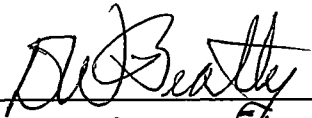
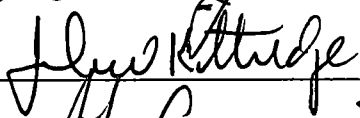
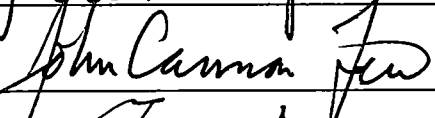

ORDER

Appellant has filed a petition asking this Court to lift the automatic stay imposed in this case pursuant to Rule 241(a), SCACR. The petition is denied.

Appellant has also filed a motion with the circuit court to lift the automatic stay as well as motions to reconsider orders issued by the circuit court. The circuit court shall hold a hearing and issue an order within thirty days of the date of this order addressing Appellant's pending motions to reconsider and to lift the automatic stay in Case No. 2010-CP-40-04900. We caution Appellant that filing any additional motions in response to the circuit court's scheduling order for this hearing will be seen as an intentional effort to delay the case.

Further, we prohibit Appellant from filing any additional requests to have the automatic stay lifted in either the circuit court or this Court. We take this

opportunity to caution Appellant that further frivolous filings in the circuit court or this Court in this matter may result in contempt proceedings. This case has been ongoing since 2010, and Appellant's frivolous filings and attempts to repeatedly delay the matter have frustrated the prompt resolution of this case.


_____ C.J.

_____ J.

_____ J.

_____ J.

Hill, J., not participating

Columbia, South Carolina
March 28, 2023

cc:

Kenneth B. Wingate, Esquire
Mark V. Gende, Esquire
Everett Augustus Kendall, II, Esquire
Aaron Jameson Hayes, Esquire
Adam Tremaine Silvernail, Esquire
William Jeffrey Smith, Esquire
Daryl L. Williams, Esquire
Charles E. Carpenter, Jr., Esquire
Adele Jeffords Pope, Esquire
The Honorable Clifton Newman

Exhibit Q

The court allowed extensive oral argument. With only slight modifications, Pope's oral argument for her motion to lift stay followed the content of her brief. The Estate opposed the motion as moot due to the Supreme Court's March 28, 2023 order denying essentially the same motion. The Estate also argued in support of its motion for sanctions. The Court has also considered the parties' written submissions, including the Estate's substantive legal argument on sanctions, and Pope's four-page return and numerous affidavits.

For the reasons stated below, the Court DENIES Pope's motion to lift the stay and GRANTS the Estate's motion for sanctions against Pope. The Court will not sanction Pope's counsel at this time, but strongly reminds them as counsel of record they are responsible for the content of their filings notwithstanding that their client is also an attorney.

1. Motion to lift stay

In its March 28, 2023 Order, the Supreme Court denied Pope's petition to lift stay with very strong language, characterizing the motion as frivolous. Pope's motion to lift stay pending before this Court is in essence the same motion. Including her petition before the Supreme Court, Pope has filed six iterations of the same motion. Therefore, this Court denies Pope's motion to lift stay as moot. Once the Supreme Court denied Pope's petition to lift stay, the Court would have expected Pope to withdraw the same motion still pending in this Court. But she did not. Instead she argued for lifting the stay at the hearing. This Court also adopts the opinion of the Supreme Court that Pope's motion to lift stay is frivolous. It is a vexatious, serial, and abusive repetition of the same motion that she has lost each previous time. As additional sustaining grounds, this Court also finds Pope's serial filing of essentially the same motion, along with other considerations, to be sanctionable, as discussed below.

2. Motion for sanctions

The Supreme Court's March 28, 2023 order found Pope's petition/motion to be frivolous. The order also found Pope to have engaged in frivolous filings and repeated attempts to delay Case 4900. The relevant language of that order is:

We prohibit Appellant from filing any additional requests to have the automatic stay lifted in either the circuit court or this Court. **We take this opportunity to caution Appellant that further frivolous filings in the circuit court or this Court in this matter may result in contempt proceedings.** This case has been ongoing since 2010, and **Appellant's frivolous filings and attempts to repeatedly delay the matter have frustrated the prompt resolution of this case.**

March 28, 2023 Order (emphasis added).

Prior to Pope filing her petition to lift stay in the Supreme Court, she had filed five iterations of essentially the same motion in the circuit court, including the most recent version filed on November 1, 2022. The November 1 Motion is a repetition of arguments made by Pope time and time again. The voluminous motion consists of 15 pages of argument, 77 pages of exhibits, and incorporation by reference "the [entire] record in Richland 4900 and its four appeals." Pope's failure to immediately withdraw the motion after the Supreme Court's strong rebuke of her petition and other actions is evidence of her disregard for the opinion of the Supreme Court and of her willingness for this Court to waste its time considering her patently frivolous motion. For the following reasons, this Court sanctions Pope for her conduct.

First, the South Carolina Supreme Court's March 28, 2023 Order found that Pope's petition to that court was frivolous and that Pope has exhibited a pattern of frivolous filings and repeated attempts to delay Case 4900, *supra*. These findings by the State's highest court alone are sufficient to sustain this order granting sanctions.

Second, Pope has been warned repeatedly of serious consequences for her litigation conduct by both the Supreme Court and this Court. Pope was warned by the Supreme Court on

two prior occasions about her improper conduct and on each occasion was threatened with the possibility of contempt. On June 10, 2015, the South Carolina Supreme Court rebuked Pope for making meddlesome filings in Estate-related matters in which she has no standing:

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.

Order, Lead Appellate Case No. 2013-001649 (S.C. S. Ct., June 10, 2015).

On August 10, 2020, in response to a petition alleging Pope had violated the June 10, 2015 order by attempting to become the personal representative of the estate of Venisha Brown (one of Plaintiffs' counsels' clients in Case 4900), the Supreme Court again warned Pope:

Upon request from the Clerk of Court, Mark V. Gende, counsel for Venisha Brown's estate, provided the Court with an affidavit to support the request for a finding of contempt . . . This affidavit asserts that [Pope's] actions are in violation of the June 10, 2015 order.

We decline to issue a rule to show cause at this time and hold that request in abeyance pending [Pope's] future compliance with this order and our order dated June 10, 2015 . . . If [Pope] fails to conform to these instructions as ordered and takes any further action with respect to any case related to the Estate of James Brown, which includes any proceeding in the estate of Venisha Brown, a rule to show cause will be issued, and any and all violations of the orders of this Court will be considered as grounds for holding her in contempt.

Order, Appellate Case No. 2020-000764 (S.C. S. Ct., Aug. 10, 2020).

This court has also warned Pope that her serial filings to lift the stay in Case 4900 were improper:

The successive motions of the Defendant are improper, and there is no right to repeated petitions to the Court to change its rulings on matters previously decided, especially when Defendant has already appealed a previously denied motion.

Order, Case No. 2010-CP-40-04900 (filed July 28, 2020).

Sanctions against Pope are warranted because the South Carolina Supreme Court has found her petition to lift stay was frivolous, that Pope has engaged in other frivolous filings, and that Pope has repeatedly engaged in efforts to delay the deposition of Case 4900. Additionally, this court has warned her of her repeated, improper filings. Pope has ignored these warnings.

Third, Pope has a history of improper conduct. In addition to the examples meriting the courts' warnings listed above, at the hearing counsel for the Estate detailed additional examples of similar improper, frivolous, and/or delaying conduct by Pope in Case 4900 and related appeals, including: a) Causing substantial delay by opposing the consolidation of some or all of Case 4900 with Aiken Case 1337, Pope's fee claim case against the Estate. Case 1337 went to trial in 2017. b) Appealing almost thirty pre-trial orders in Case 4900, only to abandon most of these appeals. c) Engaging in abusive appellate practice in Appellate Case 2018-02229, dealing with several Case 4900 pretrial orders, resulting in the appellate court striking two of Pope's briefs, a designation of matter, and a record on appeal. And d) concerning the two Rule 59(e) motions, also heard on April 14, 2023, (*see* related order denying the same), Pope filed a motion to reconsider this Court's referral of those motions to Judge Casey Manning (who had ruled on the original orders), resulting in further delaying of this matter. These actions cited by counsel for the Estate, and others appearing in the record of the hearing, when taken together appear to this Court, to support the Supreme Court's finding that "[Pope's] frivolous filings and attempts to repeatedly delay this matter have frustrated the prompt resolution of this case."

Fourth, Pope offered no reasonable explanation or justification for her conduct that would allow the court to excuse her actions. Instead, the affidavits of Pope, Silvernail, Williams, Smith, and Carpenter, and Mr. Silvernail's oral argument, merely restated Pope's position that her filings were all proper. Neither Pope nor counsel ever admitted to any improper or even questionable

conduct, despite the clear words of the Supreme Court's March 28, 2023 Order. In fact, the affidavits cited never even acknowledged the Supreme Court's order, and at the hearing Silvernail made only one reference to being surprised by the order's severity. Absent any reasonable justification of Pope's conduct, the Court is left to conclude Pope's conduct is willful and purposeful.

Fifth, Rule 11, South Carolina Rules of Civil Procedure (SCRCP) and the South Carolina Frivolous Civil Proceedings Sanctions Act (FCPSA) provide the legal basis for sanctioning abusive and/or frivolous filings.

Rule 11, SCRCP states in pertinent part:

a) Signature. Every pleading, motion or other paper of a party represented by an attorney shall be signed in his individual name by at least one attorney of record who is admitted to practice law in South Carolina.... *The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.*

...

If a pleading, motion, or other paper is signed in violation of this Rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee.

Rule 11(a), SCRCP (emphasis added).

The FCPSA states in pertinent part:

(4) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

(i) the person has not read the frivolous pleading, motion, or document;

(ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or

(iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

S.C. Code Ann. § 15-36-10(A)(4). Furthermore:

(2) If a document is signed in violation of this section, or an attorney or pro se litigant has violated subsection (A)(4), the court, upon its own motion or motion of a party, may impose upon the person in violation any sanction which the court considers just, equitable, and proper under the circumstances.

Id. at (B)(2). Finally, allowable sanctions for violations include:

(1) an order for the party represented by an attorney or pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section. Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage, parking, costs of reports, and any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding;

(2) an order for the attorney to pay a reasonable fine to the court; or

(3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

Id. at (G).

The FCPSA imposes on counsel the same reading requirement as Rule 11. *See Father v. S.C. Dep't. of Soc. Svcs.*, 345 S.C. 57, 72, 545 S.E.2d 523, 531 (Ct. App. 2001) (“[t]he criteria for Rule 11 sanctions are essentially the same as those for sanctions under the [FCPSA].”). Additionally, the FCPSA enunciates a “reasonable attorney” standard to determine whether the

motion is sanctionable for, among other things, making frivolous arguments, which either are not reasonable supported by the facts or by existing law and/or there is no good faith argument for the extension, modification or reversal of existing law. S.C. Code Ann. 15-36-10(A)(4)(c).

Pope is also a longstanding South Carolina attorney. The fact that she is a party represented by counsel in Case 4900 does not excuse her from the requirements of professional conduct. *See Holmes v. East Cooper Comm. Hosp.*, 408 S.C. 138, 143, 758 S.E.2d 483, 486 (2014) (upholding sanctions against an attorney-plaintiff for repeat filings of the same dismissed claims). Furthermore, Pope's verification of the November 1, 2022 motion to lift stay clearly brings her actions under both Rule 11 and the FCPSA.

The FCPSA also allows the court to impose "any sanction which the court considers just, equitable, and proper under the circumstances," *see* S.C. Code Ann. §15-36-10(B)(2), and costs related to defending against a frivolous motion, *see* S.C. Code Ann. § 15-36-10(G)(1). The decision to impose sanctions is left to this Court's discretion and will not be disturbed on appeal absent a clear abuse of discretion. *See Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160, 162 (1996). As shown above, Pope's abusive and frivolous conduct extends to the instant motion, prior motions, and filings in the court of appeals and other courts and cases. Pope's efforts have frustrated and delayed the litigation of Case 4900, have frustrated this Court's efforts to dispose of the remanded issues from Appeal No. 2017-01899 related to the motions to reconsider, and have frustrated the Supreme Court's stated desire that the James Brown Estate litigation matters be resolved promptly. *See Bauknight, et al. v. Pope*, Order, Case No. 2020-001383 (S.C. S. Ct., filed April 21, 2021) ("[t]he motions currently pending before the Honorable Clifton B. Newman in the circuit court may now be resolved so that the extensive litigation in this matter may be *promptly concluded*") (emphasis added). Counsel for the Estate stated at the hearing that in large part, due

to Pope's serial, abusive, and frivolous actions, the James Brown Estate has not able to close its litigation matters and begin dispensing scholarships to underprivileged, deserving children in South Carolina and Georgia--the main purpose of Mr. Brown's noble estate plan. Sanctions must be awarded as a result of this conduct and to deter future similar conduct.

SANCTIONS

In its filing, the Estate requested the imposition of sanctions, jointly and severally, on each attorney who participated in the subject filings. While there are good and solid grounds to do so, at this time this Court chooses to sanction only Pope because only she has been warned repeatedly by the highest court of our state, although all of Pope's counsel should have noted the seriousness of each warning and acted prudently. Pope, though, has chosen to disregard those warnings and thus has shown "bad faith, willful disobedience or gross indifference," justifying a severe sanction. *QZO, Inc. v. Moyer*, 358 S.C. 246, 257, 594 S.E.2d 541, 547 (Ct. App. 2004). It appears from the argument of the Estate's counsel and the affidavits provided by Pope, that she has directed the decisions and actions of her counsel, who appear to have taken more of a read-and-sign approach to her filings. The Court now wants to be very clear to Pope and to her attorneys, Silvernail, Williams, Smith, and Carpenter (and any other attorney who may represent Pope in this matter) that they are on notice that any further frivolous or improper filings of any nature or any further attempts to delay this matter will not be tolerated and will result in a rule to show cause and/or the imposition of sanctions on the attorney(s) consistent with the gravity of their actions. Further, counsel for Pope are admonished not to enable Pope's frivolous and improper conduct by merely filing papers for her without serious legal vetting and advising.

Notwithstanding the Court's decision not to sanction Pope's counsel at this time, the conduct of Pope detailed above merits severe sanctions. Therefore, the court imposes the following:

1. Pope will pay the costs and attorney's fees related to the Estate's defense of her serial motions to lift stay, excluding the initial motion but including the petition to the Supreme Court. The Estate has submitted an affidavit of attorneys' fees and costs in the amount of \$32,137.50. The court has reviewed the affidavit and finds it reasonable under the standard set out in *Glasscock v. Glasscock*, 304 S.C. 158, 403 S.E.2d 213 (1991).¹ Therefore, Pope is directed to pay \$32,137.50 to the Estate within 30 days of the date of this Order.

2. Pope's Answer in Case 4900 is stricken, and she is declared to be in default. That Pope has engaged in a pattern of frivolous filings and repeated efforts at delay, thereby demonstrating willfulness and bad faith, is not just the opinion of this Court, but it is the opinion of the Supreme Court and therefore is now the law of the case. Repeated frivolous filings and efforts to delay the prompt resolution of Case 4900, which is already over a decade old, deserve the harshest sanction available to this court. The court has assessed this sanction under the provisions of Rule 11, SCRCP and the FCPSA, and it finds striking the Answer proper. Striking Pope's Answer is an appropriate consequence for a litigant who has repeatedly delayed court action by frivolous filings and other improper delay tactics.

¹ The reasonableness of an attorney's fee award is gauged by the consideration of six factors: 1) the nature, extent, and difficulty of the case, 2) the time necessarily devoted to the case, 3) the professional standing of counsel, 4) contingency of compensation, 5) beneficial results obtained, and 6) customary legal fees for similar services. *Glasscock*, 304 S.C. at 161, 403 S.E.2d at 315 (quoting *Donahue v. Donahue*, 299 S.C. 353, 384 S.E.2d 741 (1989)). The Court finds that each *Glasscock* factor weighs in favor of Plaintiffs' claim for fees as stated in counsel's Affidavit.

THEREFORE, the Estate's motion for sanctions is GRANTED. Pope must pay \$32,137.50 to the Estate within 30 days, and Pope's Answer in Case 4900 is stricken. Upon the Estate's filing of a motion for judgment by default, a damages hearing will be set at the earliest mutually agreeable date for the Court and the Estate.

IT IS SO ORDERED.

Clifton Newman, Circuit Judge

Aiken, South Carolina

April ____, 2023



Richland Common Pleas

Case Caption: Russell Bauknight , plaintiff, et al vs Adele J Pope , defendant, et al

Case Number: 2010CP4004900

Type: Order/Sanctions

So Ordered

s/ Clifton B. Newman, 2127