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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Clifton B. Newman, Circuit Court Judge

Supreme Court Case No. 2024 -000573

RUSSELL L. BAUKNIGHT, as Trustee of The James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child, Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. And Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

And

Tommie Rae Brown, individually and on behalf of her minor child, James B.; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown, Respondents,

v.

Adele J. Pope, Petitioner.

**RETURN OF WILLIAM JEFFREY SMITH TO MOTION FOR SANCTIONS ON
BEHALF OF SWEENEY, WINGATE AND BARROW, P.A.**

The undersigned William Jeffrey Smith, *pro se*, appellate counsel to Adele J. Pope, Petitioner, makes this Return to the Motion for Sanctions made against me, individually, as well as against Petitioner and her other appellate counsel. For every reason set out herein, the

undersigned asserts that this appeal is meritorious and appropriate; should proceed; and no sanctions should be granted. The lower court's orders, issued without jurisdiction and without counsel present or proper notice to a non-party, were issued by a circuit judge faced with years of fraud and deception of Respondents Tommie Rae Hynie, James Brown Legacy Trust, and its trustee, and a lack of candor of some members of the law firm of Sweeny, Wingate and Barrow, P.A., ("SWB"). The Court ignored, because SWB had concealed it for 11 years, the April 14, 2013, letter of Attorney General Alan Wilson confirming that SWB has no authority to use the prestige and power of the Office of the Attorney General to support the fraud of Ms. Hynie and the Legacy, which is what the orders on appeal do.

The undersigned was not counsel below, but fully supports all actions of counsel Adam Silvernail, Esq., and Daryl Williams, Williams, Esq.,¹; believes that the August 10, 2023 hearing was conducted by Mark Gende, Esq., with full knowledge that the matter before the court was stayed by this appeal; and continues the pattern of SWB, Ms. Hynie, the Legacy Trust, Mr. Bauknight and their counsel since April 24, 2013, claiming to speak for Attorney General Alan Wilson, to conceal material facts; conceal public documents; use the authority and prestige of the Office of the Attorney General of South Carolina to further demean and diminish Ms. Pope and Mr. Buchanan as they implement the announced plan of Ms. Hynie to ignore the Supreme Court's *Wilson v. Dallas* decision; declare Ms. Hynie to be the spouse of James Brown; and reinstate the AG's 2008 settlement which would put Ms. Hynie and the Attorney General in control of assets James Brown devised to The James Brown "I Feel Good" Trust.

¹ I incorporate by reference as fully as if set out herein, the RETURN AND OPPOSITION TO MOTION OF SWEENEY, WINGATE & BARROW, P.A. FOR RUSSELL L. BAUKNIGHT ON BEHALF OF ALAN WILSON IN HIS CAPACITY AS ATTORNEY GENERAL OF SOUTH CAROLINA, AS TRUSTEE OF THE JAMES BROWN LEGACY TRUST, TOMMIE RAE BROWN AND ALL OTHER PLAINTIFFS TO COMPEL DISCOVERY.

The undersigned has known since shortly after May 29, 2013, and confirmed in the August 2013 deposition of Russell Bauknight² and other sworn testimony, that Ms. Hynie, SWB, Mr. Bauknight, and other Legacy Trust counsel began working to ignore the Supreme Court's *Wilson v. Dallas* decision just two days after the final decision on May 8, 2013.

I am not a litigator, but my Copyright Act experience, and that of Ms. Pope and Mr. Silvernail, has been especially important in Ms. Pope's defense in this action since April 24, 2013. Since then, Ms. Hynie, Mr. Bauknight and SWB have continued to make the same incorrect termination rights claims they made in the Complaint in Richland 4900 in 2010, and to Judge Casey Manning from 2010 until 2016. These known incorrect claims made to Judge Manning have continued to be made to the Honorable Clifton Newman by SWB, Ms. Hynie and Respondent Legacy Trust and its counsel from 2020 until 2024.

Mr. Silvernail, to the knowledge of the undersigned, has never lied to any Court. To the undersigned's knowledge, neither Daryl Williams, Esq., Ms. Pope nor the undersigned has ever lied to any Court. The claim that Petitioner and her counsel have lied to the Court is an effort not only to silence Ms. Pope, but to blame her for the damage Ms. Hynie, Mr. Bauknight – and originally the Attorney General – wanted to inflict on James Brown's "I Feel Good" charity.

The record in Richland 4900 shows that since 2011, when Ms. Pope and the undersigned circulated "Private Foundations, Copyright Heirs, and Musical Millionaires: why the James Brown

² Mr. Bauknight's deposition was taken in Federal Case No.3:08-cv-00014-WOB in 2013. In that deposition, just three months after *Wilson v. Dallas* and four months after Attorney General Wilson had written SWB to confirm that SWB did not represent the Office of the Attorney General of S.C. in this case, and never had represented the OAG, Mr. Bauknight supported the May 29, 2013 announced plan of Ms. Hynie to reinstate the AG's 2008 settlement which put her, through Respondent Legacy Trust, in control of the James Brown music empire. By then, Mr. Bauknight's music manager, Peter Afterman, was already working with Ms. Hynie, filing public termination claims in the U.S. Copyright Act seeking more than half of the U.S. royalties to about 200 James Brown song copyrights, to become available to her between 2015 and 2023.

“I Feel Good” Trust doesn’t...” to the Attorney General and professionals in the charitable trust field, SWB, Mr. Bauknight and Ms. Hynie have attempted to silence and shout down anyone who told the truth about the clearly incorrect statements Mr. Bauknight, SWB and Ms. Hynie were making to the Supreme Court and other courts, calling them liars and felons. They did so while concealing public documents to show that what they said was not correct. This lack of candor has been a problem in Richland 4900 for the 13 years since “Private Foundations...” made clear that the combined false information about Ms. Hynie’s spousal claim, and the massive devaluation of James Brown’s music empire which was proposed by Ms. Hynie’s attorneys and being carried out by Mr. Bauknight, would leave James Brown’s “I Feel Good” Charity with “Almost Nothing.”

For every reason contained within the public record of Richland 4900, and which could have been available to the Court on August 10, 2023 if Mr. Gende had simply called Mr. Silvernail to tell him of the hearing, this appeal is meritorious; there is no basis for sanctions against Petitioner or her counsel; and there was no basis for the circuit court to issue an order that required Ms. Pope and Mr. Pope to produce their joint tax returns “without objection” when Ms. Pope had agreed in 2017 to provide to the Attorney General and Respondents, with appropriate protection under the extant Confidentiality Order, the material requested.

The Denial of Privacy Rights of Petitioner and Petitioner’s Spouse Should be Reviewed

SWB lacks candor with the Court when it claims that the orders resulting from the August 10, 2023 hearing are mere discovery matters. That is not the case. They continue a pattern of SWB which began in 2010 to make known incorrect statements to the Court, purportedly backed by the Attorney General; to conceal the public documents which confirm the falsity of SWB’s claims; and to procure, when possible, a silencing and violation of Due Process, First Amendment and other rights of Mr. Buchanan and Ms. Pope. The record shows that this lack of candor with

the court has sometimes resulted in the relief Ms. Hynie and Mr. Bauknight desired. That was the case in the August 10, 2023 hearing.

SWB, knowing that there was an appeal which directly related to the motion, not only encouraged the lower court to conduct the hearing without Mr. Silvernail or Mr. Williams, but, the same day, sent a proposed order which claimed, incorrectly, that the stay was not in place. Further, SWB never mentioned to the Court that it had failed to notify Mr. Pope that it sought, without giving him an opportunity to review the Confidentiality Order provisions in place in Richland 4900. [See Exhibit A]

When Mr. Silvernail appropriately objected the very moment he realized what SWB had done, SWB pressed on, urging the lower court to force Ms. Pope “within 10 days” to present personal financial information “without objection,” clearly intended to deprive Ms. Pope and Mr. Pope of their right to designate the documents CONFIDENTIAL and “for attorneys’ eyes only” on Attachment A of the Confidentiality Order and to deprive Mr. Pope of the chance to move to intervene and protect his private financial information.

The record shows that since April 24, 2013 – in a document concealed until 2020 – SWB has usurped the prestige and power of Attorney General Wilson to conduct hearings like the August 10, 2023 hearing in an effort to violate Due Process, FOIA and First Amendment rights of Ms. Pope, Mr. Buchanan and anyone who dared to question why the Attorney General was continuing, after *Wilson v. Dallas*, to praise and support Mr. Bauknight as he carried out Ms. Hynie’s 2013 publicly announced plan to defy the Supreme Court and reinstate the AG’s 2008 settlement.

On August 10, 2023 SWB acted when a known stay was in place to persuade the lower court to deprive Ms. Pope of the right to employ the February 1, 2017 Confidentiality Order which

she would have employed if SWB had asked for the documents when it had the 5-day opportunity to review Ms. Pope's 73CDs, and 139 boxes of public James Brown documents, for which no confidentiality was claimed, with a small number of CONFIDENTIAL documents, including her income tax returns and office financial information that might have compromised her clients if presented to the Attorney General, or Ms. Hynie, who was living in London, U.K.

More importantly, SWB now seeks to use the August 2023 hearing not only to call Ms. Pope a liar, but to call her entire legal team liars, and deprive Ms. Pope of her Due Process rights in yet another way.

It is now clear that SWB, Ms. Hynie and Mr. Bauknight, – still acting for Attorney General Wilson despite the April 24, 2013 letter – have teamed up with David Black, Esq., Mr. Bauknight's Legacy Trust attorney since at least 2009, to achieve the plan Ms. Hynie's private counsel announced to Judge Doyet Early in May 2013 in a hearing which was attended by Mr. Buchanan, Ms. Pope, and scores of others: to ignore the Supreme Court; ignore Attorney General Wilson's April 24, 2013 letter which should have ended Richland 4900; reinstate AG McMaster's 2008 settlement; make Ms. Hynie the spouse of James Brown; and blame the damage on Mr. Buchanan and Ms. Pope.

Recently, Mr. Black has announced that he will be "assisting" SWB in Richland 4900 to carry out this plan. As SWB counsel Mark Gende, Esq., told the Honorable Clifton Newman recently, with Ms. Pope's counsel present: Ms. Hynie and Mr. Bauknight do not believe that *Wilson v. Dallas* was a victory for James Brown's charity.

The Role of Mr. Buchanan and the Fraud of Ms. Hynie and the Legacy Trust

SWB asserts that Mr. Silvernail, Mr. Williams and undersigned have "lied" about the role of Mr. Buchanan in trying to save the James Brown's estate plan and "I Feel Good" charity from

being given 75% to Ms. Hynie and the Attorney General's (new) Legacy Trust, in exchange for Ms. Hynie's termination rights which were worth zero, and those of her son, which, if he was able to pass the \$300 paid-for DNA test which he was refusing, could have been worth about \$800,000 by 2017, as testified to by expert Roger Millier in his March 2017 deposition.

Based on the advice and input of many, including the undersigned, it was Mr. Buchanan and Ms. Pope who, under oath, properly valued James Brown's worldwide music empire at his death at \$99 Million, less the \$15 million Pullman bond debt. Both, along with court-appointed CPA William Sellars, told the IRS that James Brown's "I Feel Good" charity was worth \$80 million when he died and expected it to be worth \$95 million when the Pullman bond debt was paid off in 2011. They also projected and expected James Brown's charity to be distributing \$4 million or so in annual "I Feel Good" scholarships about 5 years after Brown's death.

It is Mr. Bauknight, SWB's clients for two years when he told the Court prior to *Wilson v. Dallas* that he expected to begin making scholarship distributions from the "I Feel Good" charity by the next year, but has distributed a single "I Feel Good" scholarship in the 17 years since James Brown. Yet, without any merit, SWB and Mr. Bauknight, claiming to act for Attorney General Wilson in 2018 began making the patently false claim that scholarships for needy student were being held up by Ms. Pope's \$2.1 million fee claim.³

³ Mrs. Pope and Mr. Buchanan made numerous offers to prevent and end Richland 4900, including an offer before Richland 4900 was filed which was never presented to Governor McMaster by SWB or Mr. Bauknight; and the offer to let both Respondent Estate/2000 Trust and the Attorney General out of Richland 4900 at no cost in 2012, which SWB, acting for Attorney General Wilson, rejected, filed, and moved to strike from the public record. After Pope made offers of \$2.1 million to end all disputes with the Estate/2000 Trust in 2017 and again in 2018 in open court, Mr. Bauknight, his attorney David Black, Esq., and SWB began making the false claim that Ms. Pope was seeking \$19 million from James Brown's Estate, and that she was holding up scholarships to needy students. Mr. Bauknight made this false claim to the *New York Times* in 2021, and Mr. Black and Mr. Gende have repeated it, even though the claim that a \$2.1 million claim is preventing the funding of \$90 million dedicated to James Brown "I Feel Good"

As shown on Exhibits B and C, Mr. Buchanan and Ms. Pope's values were well supported when they provided them to the IRS and well-supported in 2013 when Ms. Pope told Attorney General Wilson that Mr. Bauknight's \$4.7 million valuation (still concealed without basis by SWB, which received a copy on behalf of Ms. Hynie, the Attorney General and Mr. Bauknight in 2017) would cause serious damage to Brown's "I Feel Good" charity if not corrected.

Mr. Buchanan, like Ms. Pope, has been falsely accused by SWB and Mr. Bauknight, acting on behalf of both Governor McMaster and Attorney General Wilson, of committing the federal felony of overstating James Brown's assets by \$79 million to get a \$5 million commission on what the Attorney General, based on Mr. Bauknight's erroneous and hidden valuation, claims is James Brown's \$5 million estate.

Mr. Buchanan's decision to settle, based on financial hardship, did not change his opinion of the concealed \$4.7 million valuation, and he testified under questioning by SWB attorneys that it was not credible. The only three people who have admitted seeing the claimed \$4.7 million valuation under the 2008 Confidentiality Order in Case No. 3-08-cv-00014-WOB have repudiated it as absurd. Forlando Brown, a secret Legacy Trust owner since 2011, stated under oath that he had seen the \$4.7 million claimed valuation, and that it was "bogus." This was correct.

Mr. Buchanan's role is also important because SWB and Mr. Bauknight, acting without authority for Attorney General Wilson after the April 24, 2013 letter, continued to use the prestige of the Office of the Attorney General to make false claims about confidentiality; release the \$4.7 million valuation documents to the Attorney General and others without complying with the terms

is patently false, and has been false since the Supreme Court directed Judge Early to review all fee claims in 2013 and Judge Early incorrectly reported to the Court in 2015 that Ms. Pope's fee claim was \$7 million when the maximum fee she ever claimed was \$2.8 million for 5 ½ years' service. .

of the Confidentiality Order *in place in Richland 4900 since February 1, 2017*, while concealing both the \$4.7 million valuation documents and more than 145 boxes of public James Brown documents Mr. Bauknight agreed in June 2009 to share with Mr. Buchanan and Ms. Pope until the *Wilson v. Dallas* decision was rendered 4 years later.

SWB and Mr. Bauknight, Not Ms. Pope, Have Violated the Confidentiality Order

The Motion for Sanctions filed most recently by SWB for Mr. Bauknight, Ms Hynie and those aligned with them, continues (at a 40% contingency and \$350 an hour) the quest of Mr. Gende and his partners to implement Ms. Hynie's announced plan, through her attorney Mr. Medlin, on May 29, 2013 to defy the Supreme Court; defy Attorney General Wilson's April 24, 2013 directive; make herself "Mrs. James Brown;" and retake control of James Brown's worldwide music empire with Mr. Bauknight, who claims that he is responsible for James Brown's music empire going from \$5 million to \$90 million in 14 years. This is a fiction which was a fiction when it began in 2008 and has been carried out with ill-gotten Confidentiality Orders; total lack of candor with the Court by some SWB attorneys; total lack of candor with the Courts by Ms. Hynie and Mr. Bauknight and some of their attorneys; and extraordinary abuse by some members of the Office of the Attorney General of the rights of citizens under the South Carolina Freedom of Information Act ("FOIA")

In 2008 the Attorney General, misadvised by Ms. Hynie, began claiming that her termination rights and those of her son and five children of James Brown could be worth more than James Brown's assets. This statement was outrageous, and those I have spoken to about the subject knew it.

In 2010 SWB, The Attorney General and Respondents, based on representations of Mr. Bauknight and Legacy Trust music manager Peter Afterman, began claiming that James Brown's

worldwide music empire that had earned more than \$7 million a year in the years before his death and \$5 million a year after his death, was worth under \$4.7 million when James Brown died on Christmas Day 2006.

Ms. Hynie, Mr. Bauknight and a member of the AG's office, also agreed to conceal the existence of the \$4.7 million valuation from the Supreme Court in *Wilson v. Dallas* for 8 months, but Sr. Asst. AG Jones and Ms. Hynie (without the knowledge of now-Governor McMaster) leaked the information to the Supreme Court in August 2010.

In 2010 the Attorney General and Respondents made the known false statement to the Supreme Court that Mr. Buchanan and Ms. Pope, who had filed a notice that their maximum fee claim for what would be 5 ½ years of service to the estate plan and charity of James Brown, would be \$2.1 million for Mr. Buchanan and \$2.8 million for Ms. Pope, sought nearly half of the value of James Brown's assets.

The Attorney General and Respondents had sued Mr. Buchanan and Ms. Pope three months earlier to stop the appeal which would be *Wilson v. Dallas* and were making the parallel false claim, through SWB, in Richland 4900. Based solely on Mr. Bauknight's concealed fictional valuation, that had not yet arrived, the Attorney General and Respondents told the Supreme Court that the fee claim of Mr. Buchanan and Mrs. Pope, was nearly half of the value of an appraisal "expected in a few weeks" that would show that Mr. Brown's assets had a value of less than \$12 million when he died.

After hearing this baseless claim, Ms. Pope and undersigned counsel, who had not worked together since 2008, authored "Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown 'I Feel Good' Trust doesn't..." The article shows how the Attorney General's proposal to give a quarter of James Brown's "I Feel Good" charity's assets to an

admitted bigamist, with a claim that James Brown's assets were worth only \$12 million – instead of \$85 million – would devastate the charity. Especially if it were sold to a family member, as the Attorney General's 2008 settlement contemplated.

In May 2011, just days after we circulated the draft of "Private Foundations..." to professionals, the Attorney General and Respondents revealed to the Supreme Court their claim that James Brown's worldwide music empire was worth less than \$4.7 million when he died, a claim refuted by everyone who has seen the claimed \$4.7 million except Russell Bauknight, who produced it, and Respondent Legacy Trust's music manager Peter Afterman, who was the "music industry expert" Mr. Bauknight claimed to rely on for the \$4.7 million valuation.

Mr. Bauknight has been working since May 29, 2013 to make Ms. Hynie appear to be the spouse of James Brown and to reinstate the AG's 2008 settlement which gave her a quarter of James Brown's charity in exchange for Ms. Hynie and Respondent James Brown II giving half of their termination rights to what would be AG Wilson's charity. Ms. Hynie's termination rights were worth zero; and once Respondent James Brown II was determined to have passed the \$300 paid-for DNA test he was offered in 2008 (in 2017), half of his termination rights would have been worth about \$400,000.

The value of Respondent James Brown II's termination rights once he was declared a child by order filed in 2017, was about 1/10 of the termination rights of all heirs of James Brown 10 years after his death, when the copyrights had grown to about 1100 from about 850 at James Brown's death. ⁴ This figure, given by SWB's and Mr. Bauknight's joint expert in Richland 4900 and Aiken 1337, Roger Miller of New York, is consistent with the approximately 5% of the value

⁴ See Exhibit D, showing that a year after Brown's death it was known that he had a dozen claimed children from at least nine relationships.

assigned by Ms. Pope and the undersigned.

The Attorney General and Respondents, through both discovery refusal since 2010 and FOIA refusal since 2011, have concealed the 2010 claimed \$4.7 million valuation; have concealed the 145 boxes of public James Brown documents that confirm that the \$100 million valuation was correct, if not low; and have concealed Mr. Miller's testimony that the termination rights of all heirs of James Brown had only grown to \$8.8 million by 2017. They have also made false claims of confidentiality and violated no fewer than four Confidentiality Orders that they claim are preventing the release of these public documents.

FOIA Abuse by Some AG Staff for 13 Years has Advanced Ms. Hynic's Fraud

SWB's sanctions motion claims that Mr. Silvernail, Mr. Williams and undersigned counsel are lying about the role of the Attorney General and the actions of Mr. Bauknight "on behalf of the Attorney General of South Carolina," but the record shows that SWB's unauthorized use of the power and prestige of the Office of Attorney General Wilson for what has now been 11 years after Attorney General Wilson made clear to SWB that the Office of the Attorney General never hired SWB to bring Richland 4900.

Mr. Bauknight's post-*Wilson v. Dallas* support for Ms. Hynic's fraud and announced May 2013 plan to disregard *Wilson v. Dallas* came just three months after *Wilson v. Dallas* when, under oath, called Ms. Pope dishonest and claimed that she (and presumably Mr. Buchahan, since their service was joint) had "raped" James Brown's estate, which, he claimed was worth \$5 million. (Mr. Buchanan and Ms. Pope made more than \$5 million a year as PR/Trustees.) Ten years later Mr. Gende, in open court, admitted that Mr. Bauknight did not believe that *Wilson v. Dallas* was a victory, even though Mr. Bauknight had told the Supreme Court in the Petitions for Rehearing that if reinstated, he would defend James Brown's estate plan. Mr. Gende also produced part of

more than 500 pages of litigation charges for which SWB has been paid since April 14, 2013 to conduct appeals in Richland 4900 and related cases – presumably the appeals in Ms. Pope’s two 2011 FOIA cases the Attorney General and SWB tried to consolidate with Richland 4900, one of which was consolidated.

One FOIA Mr. Gende and the Legacy Trust have disrupted has been pending for pending 13 years and seeks the rollout between August 2010 and May 2011 to the Supreme Court of the false felony claim against Mr. Buchanan and Ms. Pope to Supreme Court, and includes the \$4.7 million valuation which arrived in September 2010. The Attorney General has “used” the false felony claim and the \$4.7 million valuation to denigrate Mr. Buchanan and Ms. Pope since before it arrive, making it subject to FOIA, but the Legacy Trust, whose trustee secured the \$4.7 million valuation, and the OAG said the AG did not have it. In reality, the Attorney General’s office received the \$4.7 million valuation twice, once when Mr. Bauknight received it and the Attorney General and all Respondents used it in 2010; and again in 2017 when SWB, for the Attorney General, Mr. Bauknight and all Respondents, received 73CDs from Ms. Pope, some of which had been designated as confidential, but distributed them to the Attorney General and others without any effort to designate them as CONFIDENTIAL.

From the time Ms. Pope and undersigned now-counsel completed the draft of “Private Foundations..” in 2011 and until becoming counsel in 2018 the undersigned had no official position with any party, but was intensely interested in how abusive Mr. Bauknight’s attorney David Black, Esq., the Attorney General’s staff, and SWB, speaking for AG Wilson and Ms. Hynie, were towards anyone who challenged what I came to consider to be the “three big lies” of the AG’s settlement: that a bigamist was James Brown’s spouse; that James Brown’s charity which was at least \$95 million in 2011 was about \$20 million after the Pullman bond was paid off in

2011; and that the \$4.7 million valuation which Mr. Bauknight produced was correct and “proved” not only that Mr. Buchanan and Ms. Pope were greedy, incompetent felons, but that the AG’s 2008 settlement saved taxes and was good for Mr. Brown’s “I Feel Good” charity.

When the AG’s settlement was announced in 2008 and my service to James Brown’s estate as a Copyright expert was terminated, Mr. Buchanan, Ms. Pope and I all knew that giving a quarter of the charity to Ms Hynie would be disastrous for the charity, and the \$4.7 million claim two years later made it even worse.

Between 2011 and 2018 I attended James Brown hearings with Sue Summer, a journalist whose husband I have known since high school, and followed the extraordinary and abusive treatment of Ms. Summer as she tried to dig deeply into the question of why Attorney General Wilson was defending a settlement which could not reasonably be defended.

In 2011 Sr. Assistant AG Sonny Jones told Judge Casey Manning that the Attorney General was “ready and more than willing” to distribute the AG’s Special Counsel Litigation Retention Agreement with SWB, but SWB, acting for the Attorney General, Ms. Hynie, and Mr. Bauknight, delayed the distribution for 9 years, as the Deputy Solicitor General claimed that it was subject to review by Judge Manning under a motion for protective order filed in 2011 by the Attorney General and Mr. Bauknight, through SWB. The undersigned observed much of this lack of candor with the courts.

In 2011 Mr. Bauknight’s Legacy Trust counsel, David Black, Esq., told Ms. Summer that the \$4.7 million valuation and the documents on which it was based were “under lock and key,” but the \$4.7 million was already being “used” by Mr. Bauknight’s co-Plaintiffs Ms. Hynie, James Brown II, the Legacy Trust, and the Attorney General with no confidentiality order and no limitations. It was, however, being concealed from Mr. Buchanan, Ms. Pope and their attorneys.

It is still being concealed although both the SWB and Mr. Bauknight, violated the February 1, 2017 Confidentiality Order in this case when SWB opened the sealed box which Ms. Pope hand delivered to SWB in 2017; asserted to Mr. Silvernail that SWB had a right to do so; and then apparently delivered the \$4.7 million valuation to at least three Respondents or their counsel without a designation of confidentiality [Attachment A]; without keeping a log of those to whom it was delivered [Attachment C]; and without requiring anyone in the Office of AG Wilson to read the February 1, 2017 Confidentiality Order and agree to abide by the CONFIDENTIAL designation [Attachment B].

The Confidentiality Order filed February 1, 2017 in this Case, makes clear:

Information or documents which are or have been publicly available may not be designated as CONFIDENTIAL.

The same is true of the 2008 Confidentiality Order in Federal Case No. 3-08-cv-00014-WOB (the “Forlando Federal Suit”), and of the Confidentiality Order of August 30, 2016 in Aiken County 2013-CP-02-1337.

On February 24, 2017, when the SECOND AMENDED CONFIDENTIALITY ORDER in this case was signed, it was almost four years after AG Wilson had confirmed that the Office of the Attorney General had never hired SWB and four months after now-Governor McMaster had testified under oath to Ms. Pope: “Ma’am I did not sue you..” This confirmed that, at best, SWB had been acting illegally and mistakenly for the Attorney General of South Carolina for almost 7 years, concealing more than a million pages of James Brown Estate public documents to “prove” that the AG’s 2008 settlement was good for James Brown’s “I Feel Good” charity.

The events of late 2016 and 2017 in cases SWB and Bauknight were trying to entangle with Richland 4900, coupled with SWB’s recent admission that it had been paid for 500 pages of

billing records after April 14, 2013 when AG Wilson confirmed the OAG had never hired SWB, to do the personal bidding of Respondents Hynie, the Legacy Trust and its trustee Mr. Bauknight; Mr. Bauknight's 2013 claiming Ms. Pope had "raped" James Brown's estate two months after Ms. Hynie's announced to Judge Early the plan to reinstate the AG's 2008 settlement; and SWB's confirmation that Mr. Bauknight did not think *Wilson v. Dallas* was a victory, coupled with the recent announcement of Mr. Black, who instituted a Criminal Contempt charge against Ms. Pope, that he plans to step in to assist Ms. Hynie and others in Richland 4900, compounds the clear evidence that SWB, Ms. Hynie, Mr. Bauknight and some FOIA staff of AG Wilson have been working for the 11 years since AG Wilson's April 24, 2013 letter , and using the prestige and power of AG Wilson's high office, to seek – and obtain orders , and delay and disrupt Richland 4900 and three 2011 and 2012 FOIA cases to benefit Ms. Hynie and Mr. Bauknight individually.

- October 2016 – Now-Governor McMaster testifies he did not sue Buchanan and Pope
- Oct. 2016 – SWB concealing unsigned AG/McMaster Agreement and April 24, 2013 letter of AG Wilson confirming the OAG never hired SWB & never had Atty/Cl privilege.
- Late 2016 – SWB/Bauknight/Attorney General jointly designate 9 experts in “Aiken 1337 and 4900,” where AG/Respondents other than James Brown Estate/Trust not parties.
- Jan.17 – May 2024 – None of SWB, Bauknight 10 Legacy Trust attys., 6 SWB attys. presents any CONFIDENTIAL Certifications (A) or Agreement to be Bound (B) from ANY Confidentiality Order, but AG refuses many James Brown discovery requests.
- 2017 (date unknown) AG uploads large number of James Brown documents, subject to FOIA and property of the State of S.C. under SWB/AG Agreement
- Feb. 1, 2017 -**SECOND AMENDED CONFIDENTIALITY ORDER – this Case** filed.
- Feb. 7- Pope hand delivers sealed box of 73 CDs; no confidentiality claimed. Pope and Silvernail note to SWB that some have previously claimed confidentiality in Forlando Federal Suit, but no confidentiality claimed by Pope.
- Feb. 8 – Gende, for Attorney General, Bauknight, Ms. Hynie and all Respondents, advises he will unseal the box, then fails to designate any of the contents of the 73 CDs

confidential, and (presumably) delivers to Attorney General, Ms. Hynie, Mr. Bauknight. Order in this case confirms that any document which is, or was, public may not be designated CONFIDENTIAL.

- March 2017 – SWB attorneys Wingate & Kendall, under oath, assert AG McMaster & AG Wilson have continuously been SWB clients from 2010 – 2017.
- March 2017 – Solicitor General Cook confirms Pope’s concern in 2013 meeting about Bauknight’s \$4.7 million and IRS claims that Hynie is Brown’s spouse damaging Brown’s charity Knows of nothing Buchanan or Pope did wrong.
- March 2017 - AG Wilson testifies he has done nothing in R4900 since *Wilson* except direct staff to get out. Knows of nothing Buchanan or Pope did wrong.
- March 17, Jg. Early, at AG’s Request, through SWB, directed January 2017 affidavit of Pope to be filed under seal without review and all of Pope’s future affidavits filed under seal, without review, to be kept under seal until trial.
- May 2017 - SWB, for 17 clients, including Attorney General, Bauknight, Hynie, reviews 139 boxes at Pope’s home office. Marks documents, but fails to copy. Pope offers SWB financial information with Proper redaction, sealing and Confidentiality, but SWB does not request.
- 2017 – 2024 SWB, for Attorney General, and Attorney General FOIA staff requests and secures numerous orders striking and sealing documents without review, including at least 14 affidavits of reporters, citizens urging AG to comply with FOIA.
- 2017 - 2024 SWB and Bauknight, acting for Attorney General Wilson, conceal 1 million pages of public documents and all above documents with no review or certification ,
- Sept. 2017 – Mr. Gende, at \$350 an hour, begins 6-year effort to prevent lifting of Richland 4900 stay; correct parties; and complete discovery in 7-13 year old case Richland 4900

Before and since the undersigned became part of the appellate counsel team in 2018, he personally witnessed repeated instances of lack of candor with the Court and personal attacks on Ms. Pope and others with whom they do not agree engaged in by Mr. Gende, Mr. Black, Mr. Bauknight , Ms. Hynie, her attorneys and a small number of SWB and Legacy Trust attorneys, including the false felony claim mentioned above; the false claim that Ms. Pope “raped” James Brown’s estate; the false claim that Mr. Silvernail, Mr.

Williams and the undersigned merely sign what Ms. Pope suggests; the false claim that Ms. Pope and her counsel are liars; the false claim that Ms. Pope is “the last of the rats;” the false claim that Ms. Pope has “stolen” from James Brown’s estate and otherwise acted unethically; and others. All of it has been done as SWB and Mr. Bauknight, acting for Attorney General Wilson without authority, conceal public documents they should have produced before the April 24, 2013 letter in which AG Wilson confirmed that the OAG never hired SWB.

Particularly vitriolic has been the effort of SWB, Mr. Gende, Ms Hynie and Mr. Bauknight, still acting on behalf of Attorney General Wilson, to try to prevent any lifting of the stay to allow discovery after October 2020, when Ms. Pope’s counsel became aware that the Attorney General finally began complying with some FOIA requests of other citizens for documents Ms. Pope had request under FOIA as early as 2011. At a minimum AG Wilson’s April 24, 2013 letter and SWB’s direction to AG Wilson not to comply with his FOIA duties, and others should have been released in R4900 discovery, even if SWB, for Attorney General Wilson, had claimed confidentiality appropriately under the Second Amended Confidentiality Order filed February 1, 2017.

SWB Refuses Valid Confidentiality Claim for Pope while Violating February 1, 2017 Order

The inappropriate claims of lies and other fabrications in the motion for sanctions of SWB are just that – an attack not only on Ms. Pope, but on her counsel, for seeking the appropriate use of the February 1, 2017 Order to prevent Ms. Pope and Mr. Pope “without objection” and within 10 days, to deliver to Ms. Hynie, the Attorney General – and make public – documents Ms. Pope, with proper redaction and with a CONFIDENTIAL designation that SWB will not lack candor with the court about – has been willing to produce, and offered to produce in 2017.

There is no basis, other than pure bias which has resulted from false claims, for the lower court, without jurisdiction, to order the personal tax returns to be disseminated to 17 Plaintiffs under a clear SECOND AMENDED CONFIDENTIALITY ORDER which both the Attorney General and SWB, for sixteen clients, have been able to violate with impunity since May 2017 by lacking candor with the court

It is SWB, Respondents and the Attorney General, who have shared public documents with 17 parties and untold others with no thought for the fact that these violations are subject to contempt proceedings because, since 2017, the circuit courts have given them a pass and the Court of Appeals has not admonished these blatant violations of FOIA and abuses of discovery.

Incorporation of filings of other Counsel

The undersigned incorporates the filings of other counsel filed today herein which the undersigned has read and adopts as fully as if set out herein.

Conclusion

Since February 1, 2017 Petitioner and her counsel have been denied a level playing field. Now Respondents Ms. Hynie and Ms. Bauknight seek to criminalize a fair request under the Second Amended Confidentiality Order for a public document while they, and their counsel SWB, seek to deprive Ms. Pope and her non-party spouse of reasonable confidentiality terms accorded them by the 2017 Confidentiality Order in this case. Ms. Pope offered to comply with the release of the documents under the Confidentiality Order more than six years ago. They also seek, by the threats and sanctions motions, to deny Petitioner her right to competent counsel.

Certiorari should be granted. Sanctions should be denied. The orders on appeal should be vacated and Petitioner accorded the rights under the Confidentiality Order which SWB, the Attorney General and Respondents have violated with impunity since 2017 and without fear of

contempt proceedings.

Respectfully submitted,

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