

EXHIBIT E

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN RE:

THE ESTATE OF JAMES BROWN
A/K/A: JAMES JOSEPH BROWN

IN THE COURT OF COMMON PLEAS
(ON REMOVAL FROM PROBATE COURT)

**BAUKNIGHT'S MEMORANDUM IN
OPPOSITION TO POPE'S MOTION TO
RECONSIDER
JUNE 13, 2013 ADMINISTRATIVE
ORDERS**

Case No.: 2008-CP-02-1647
Case No.: 2007-CP-02-0122
Case No.: 2008-CP-02-0872
Case No.: 2008-CP-02-0322
Case No.: 2010-CP-02-0721
Case No.: 2012-CP-02-1059
Case No.: 2008-CP-02-1426
Case No.: 2008-CP-02-1712
Case No.: 2008-CP-02-2127
Case No.: 2008-CP-02-1556
Case No.: 2008-CP-02-1557
Case No.: 2008-CP-02-1758
Case No.: 2008-CP-02-1759

On May 29, 2013 this Court held a status conference¹ concerning *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013), the South Carolina Supreme Court's May 8, 2013 Opinion (the "Opinion") affirming, reversing, and remanding this Court's May 26, 2009 order confirming the James Brown Estate and Trust Settlement Agreement. At the close of the conference, the Court informed the attorneys that administrative orders would be issued to ensure orderly administration of the litigation of all pending James Brown cases. On June 13, 2013 this Court entered the referenced administrative orders. On June 24, 2013 Ms. Pope filed a motion² to

¹ Ms. Pope attended and participated in the May 29, 2013 status conference hearing.

² In addition to the above thirteen actions, Ms. Pope's motion was improperly filed in several other James Brown related cases.

reconsider, amend, or vacate the administrative orders. Ms. Pope fails to raise any issue that merits this court amending, reconsidering, or vacating its June 13, 2013 administrative orders.

This Court's May 26, 2009 order removed Ms. Pope from her fiduciary positions relating to the James Brown Estate and Trust. Nearly four years later, on May 8, 2013 the South Carolina Supreme Court affirmed this court's prior orders removing Ms. Pope for cause. As the Supreme Court stated, "[Ms. Pope's] continued service as [a] fiduciar[y] is not in the best interest of the estate." *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013). Accordingly, upon remand this court properly entered administrative orders removing Ms. Pope in her fiduciary capacities and consolidating the will contest actions.

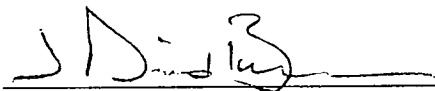
Collateral Estoppel now prevents Ms. Pope from relitigating her removal. Under the doctrine of collateral estoppel, also known as issue preclusion, when an issue has been actually litigated and determined by a valid and final judgment, the determination is conclusive in a subsequent action whether on the same or a different claim. *Zurcher v. Bilton*, 379 S.C. 132, 135-36, 666 S.E.2d 224, 226 (2008) (stating an issue litigated and determined by a valid and final judgment is conclusive in a subsequent action whether on the same or a different claim); *see also, S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991).

In 2009 Ms. Pope objected to her removal from the James Brown Estate and Trust litigation. On May 8, 2013, the S.C. Supreme Court rejected Ms. Pope's argument concerning her removal. It is now the law of the case and the final judgment of the South Carolina Supreme Court that Ms. Pope has been removed from her fiduciary positions and is no longer a party to

the James Brown Estate and Trust litigation. Ms. Pope's motion to reconsider, amend, or vacate must be denied.

To the extent allowed by South Carolina law, the South Carolina Frivolous Proceedings Sanction Act (FCPSA) and Rule 11, SCRPC, the Estate and Trust moves for fees and costs incurred in responding to Ms. Pope's frivolous and unnecessary motion. *See Runyon v. Wright*, 322 S.C. 15, 471 S.E.2d 160 (1996) (Rule 11 sanction for frivolous filing or argument, or for bad faith filing); *Pool v. Pool*, 321 S.C. 84, 467 S.E.2d 753 (Ct. App. 1996), *aff'd as modified*, 329 S.C. 324, 494 S.E.2d 820 (1998) (standard for FCPSA sanction is frivolity). The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith (i.e., to cause unnecessary delay) whether or not there is good ground to support it. *See Johnson v. Dailey*, 318 S.C. 318, 457 S.E.2d 613 (1995); *see also* John Freeman, *Know When to Fold*, S.C. LAW., May-June 1996, at 11 (discussing "the permissible limits of puffing and bluffing in the conduct of civil litigation").

Respectfully submitted,



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