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SC Court of Appeals

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable Clifton Newman, Circuit Court Judge
The Honorable Courtney Clyburn Pope, Circuit Court Judge**

Case No. 2026-000330

Trial Court Case No. 2013-CP-02-1337

Adele J. Pope..... Appellant,

v.

Estate of James Brown and the James Brown 2000 Irrevocable Trust..... Respondents.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE LOWER COURT'S DISMISSAL OF THIS CASE WITHOUT CONSIDERING THE RELIEF SOUGHT IN THE RECUSAL MOTION AND SUBSEQUENT MOTION VIOLATE APPELLANT'S STATUTORY AND CONSTITUTIONAL RIGHTS TO A FAIR TRIBUNAL AND TO A LEVEL PLAYING FIELD TO RECOVER HER FUNDS TAKEN BY RESPONDENTS?
- II. SHOULD ALL RELIEF SOUGHT WITH RESPECT TO DAVID BLACK'S IMPROPER *EX PARTE* COMMUNICATIONS BE GRANTED?
- III. SHOULD THE RICHLAND 4900 COMPLAINT BE DISMISSED BECAUSE IT IS UNCONSTITUTIONAL, ILLEGAL AND THE PRODUCT OF FRAUD?

STATEMENT OF THE CASE

This appeal stems from a 2019 post-judgment attempt to collect from Respondents \$47,972 Appellant Adele Pope earned in 2007. It is Appellant's unpaid share of a \$317,000 fee earned by Appellant and Robert Buchanan for their 2007 special administrator (SA) service to the estate of entertainer James Brown. [Mot. Recusal, pp. 2-3]

In 2020 the Honorable Clifton Newman approved a payment Respondents had made into the office of the Clerk of Court of almost \$100,000 of Appellant's funds without an order to pay into court. [Deposit Order; Amended Deposit Order]

On February 7, 2024, Respondents asked Judge Newman to sanction Appellant for making a FOIA request of the Attorney General of South Carolina for a copy of a document the Attorney General had requested from Appellant in 2017; had possessed since at least 2017; and had used since 2011 to falsely accuse Appellant and Buchanan of the federal felony of overstating the value of James Brown's assets to the IRS by \$80 million dollars to try to secure a \$5 million commission on what the Attorney General and Respondents claim is James Brown's \$5 million estate. [Mot. Sanctions, p. 2]

Appellant opposed the motion and noted that Respondents' fiduciary, Russell Bauknight, had sought an almost-identical request in the original jurisdiction of the Supreme Court on the same day. [Ret. Mot. for Sanctions; Return, Original Jurisdiction Petition]

While the sanctions request was pending, Appellant learned that Respondents' lawyer, David Black, Esquire, had engaged in one or more *ex parte* communication(s) with Judge Newman that began as early as February 4, 2022. [Black *ex parte* email] Sr. Assistant AG C. H. "Sonny" Jones was copied on Black's *ex parte* communication, although he was not a party to either of

Appellant's cases discussed in the *ex parte* communication of February 2022. [Black *ex parte* email] The subject of the *ex parte* email was "James Brown Estate: Adele Pope Appeals."

Over a period of three years after David Black began providing Judge Newman with secret *ex parte* "updates," the full extent and content of which are still not known, Judge Newman never notified Respondent or her counsel. [Aff. Pope, Black False Stmts., 9/2/25] His discriminatory and harsh rulings and treatment of Appellant, her counsel, and ultimately her family, were inexplicable until the contents of the Black *ex parte* communication(s) of 2022 came to light from a public source. This happened as Pope struggled to defend herself against the Attorney General's Chief Prosecutor, Don Zelenka, in an extraordinary FOIA criminal contempt case tried by a single justice of the South Carolina Supreme Court. [Aff. Pope, Black False Stmts., 9/2/25, pp. 1-5]

Appellant had requested that Prosecutor Zelenka provide her with all exculpatory evidence before her FOIA criminal trial, but he did not notify her of the *ex parte* communication(s) with Judge Newman. [Mot. Pope, 11/5/25, p. 1, 13; Email Pope/Zelenka, 4/10/24] Only after the trial did Appellant learn that Sr. Assistant AG Sonny Jones had been copied on Black's *ex parte* February 4, 2022. [Black *ex parte* email; Mot. Recusal, 7/23/25]

The State's prosecutor in the FOIA criminal contempt trial failed to notify Appellant or the Court of Black's *ex parte* communication with Judge Newman, or the fact that it was shared with the lawyer in the Office of the Attorney General most involved in the James Brown matters since 2007. [Mot. Recusal] Black was one of the State's two prosecution witnesses in the FOIA criminal contempt trial. [Mot. to Alter, 12/1/25, p. 5] The other was Mark Gende, Esq., who had been the attorney for Tomirae Hynie since 2011, and the Attorney General for some of those years. [Complaint, R4900]

Since 2018, Respondents, through their fiduciary Russell Bauknight, had been paying Gende's firm, in addition to his 40% contingency from Hynie, on an hourly basis to prevent lifting of the stay, seek sanctions, and strike documents from the record. [Mot. Recusal, 7/23/24, pp. 3-4] As he did so, the primary plaintiffs in the 2010 lawsuit against Buchanan and Pope sought to escape the jurisdiction of the South Carolina courts and render the Due Process and other statutory and constitutional issues that had been pending since the first appeal in 2011 moot. [Mot. Recusal, pp. 2-5]

As the Attorney General's Chief Prosecutor worked on the FOIA criminal contempt case, the Attorney General shut off Appellant's FOIA rights, the Supreme Court held that a document whose contents had become public in a Supreme Court filing in 2013 was confidential, Judge Newman held an *ex parte* hearing with a member of Gende's firm, and the Court of Appeals, by Judge Newman's orders, became convinced that Appellant was delaying the resolution of the James Brown estate. [Mot. Recusal, pp. 2-5] In fact, the Attorney General and Hynie had sought and obtained about nine years of stays since they sued Buchanan and Pope in 2010. [Mot. Recusal]

When Judge Newman ignored the facts and the law, the appellate courts supported him. [Mot. Recusal, pp. 4-7] Just two years after Black's secret *ex parte* communication(s) with Judge Newman began, the Supreme Court of South Carolina was being asked by the State's top prosecutor to punish a citizen for making a FOIA request for a \$4.7 million purported "professional appraisal" of James Brown's "Estate" that both prosecution witnesses knew was not what it claimed to be. [Mot., 11/5/25, p. 5; Pope email to Zelenka, 4/10/24]

The \$4.7 million document, as Tomirae Hynie's own lawyer had told the Supreme Court in 2013, was merely a valuation of the income stream from about 800 of James Brown's now-1000+ copyrights. [Mot. to Alter, p. 16] It is not even the value of the Copyrights James Brown

owned at his death. They were worth \$80-\$100 million when James Brown died and \$80-\$100 million when Buchanan and Pope turned them over to the Attorney General's chosen trustee Bauknight in 2009. [Mot. Recusal]

Russell Bauknight – not Buchanan and Pope – is the one who misvalued James Brown's assets to the IRS by \$80 million. [Mot., 11/5/25, p. 10] As SLED reported to the Office of Prosecutor Zelenka more than a decade ago, Bauknight, his tax lawyer, and members of the Office of the AG combed 145 boxes of public James Brown document delivered to Bauknight in 2009. [SLED Logan Memo] Those 145 boxes show that James Brown's music empire was worth \$100 million at his death. [Filing, 2/15/24, p. 4; Aff. of Smith, 2/15/24] Black, Bauknight, and Bauknight's spouse, a CPA and the custodian of records, kept the 145 boxes of public documents under "lock and key" while they claimed that four trustees and many others were not correct when they valued James Brown's assets at \$100 million or more. [Ret. Orig. Juris. Req. filed 2/15/24]

From 2019 until 2025, Respondents and Gende plied Judge Newman with the false claim that Pope's \$2.1 million fee request was a "demand" for \$19 million from a \$5 million estate. [Ret. Orig. Juris. Req. filed 2/15/24] When that was not enough, Black added the false, discriminatory, explosive claim to Judge Newman in 2022 that Appellant's maximum fee claim had prevented the distribution of millions of dollars in "I Feel Good" scholarships. [Black *ex parte* email] Black even made the patently false claim in his *ex parte* communication with Judge Newman that Pope's cases had to be ended and the estate closed before "I Feel Good" scholarships could be awarded. [Black *ex parte* email]

In 2025, after learning of Black's false secret communication(s) with Judge Newman, Appellant wrote Judge Newman seeking return of her \$47,972 SA fee, with interest. [Ltr. Pope to Jg. Newman, 7/7/25] Appellant also sought the voiding of orders issued after February 4, 2022,

in the two cases contaminated by Black's *ex parte* communication(s) and by Judge Newman's subsequent harsh, discriminatory orders. [Mot. Recusal, pp. 1-2] She asked that Judge Newman, with consent of Respondents, recuse himself in the two cases that were the subject of the *ex parte* communication of February 4, 2022. [Mot. Recusal]

When Appellant did not hear from Judge Newman or Respondents, she filed a motion for recusal and related relief, including the return of her \$47,972 with interest. [Mot. Recusal] She asked for a hearing and attached further support for the relief claimed.¹ [Mot. Recusal]

On August 6, 2025, Respondents, through Black, filed a motion to strike the motion for recusal and related relief. [Mot. Strike, 8/6/25] The motion stated, in part:

Adele Pope is desperate to avoid the day of reckoning....for the harm she caused to the Estate of James Brown during her disastrous tenure as Personal Representative... [Mot. Strike, p.1]

Respondents, through Black, claimed that “[T]here are no good grounds for recusal,” and there was “[n]o Improper *Ex Parte* Communication .” [Mot. Strike, p. 3] Respondents also defended the actions of Hynie's attorney Mark Gende, Esq.. [Mot. Strike, p. 2,]

Judge Newman did not set a hearing, as requested.

On September 2, 2025, Pope filed an affidavit related to the false statements made by David Black. [Aff. Pope. 9/2/25] Page 9 of the affidavit focuses on the false \$19 million claim about Pope's \$2.1 million settlement offer. [Aff., p. 7]

¹ Appellant included Peter Afterman's November 13, 2019 affidavit advancing Hynie's false claims; Aff. Afterman, 11/13/19] evidence confirming that SWB knew it was not legally hired by now-Governor McMaster; [Ltr. AG Wilson, 4/24/14] Bauknight' public accounting information confirming he had spent \$3,552,536.86 in a single year. [Acct. coversheets, 2016, 2017] and part of depositions of Governor McMaster; [McMaster, Depos.] part of depositions of experts James Hardin and Steve Johnson; [Exhibit, Mot. Nov. 5] Pullman's \$11,500,000 claim filed in 2022; [Pullman Claim] and a 2020 Demand for Notice of Deanna Brown-Thomas, were also included. [Ex. 10]

On November 5, 2025, learning that a judge other than Judge Newman had scheduled matters for this case and Richland 4900, Appellant filed a motion in both this case and Richland 4900 asking the court to:

1. Determine the Recusal motion of Judge Newman before proceeding;
2. Dismiss the complaint in Richland County Case 2010-CP-40-4900 (Richland 4900);
3. Void under Rule 60 every order issued which can legally be voided under that rule “based on the fraud and false statements, including under oath, of Black, Gende, Hynie and Peter Afterman...”;
4. Void under the Constitution of the United States all orders in which SWB, Gende’s firm, or any of its attorneys acted for the State of South Carolina without authority to do so. [Motion, 11/5/25].

On November 13, 2025, Appellant filed a return to the motion to strike her motion for recusal in both this case and Richland 4900. [Ret. Mot. 11/13/25] Appellant asserted on page 7 that Richland 4900 was unconstitutional from its inception, but that Black and plaintiff James Brown Legacy Trust (Legacy Trust) have prevented the courts from making a final ruling on the critical constitutional issues for 15 years. [Mot. 11/13/25] As support for the return, Pope filed additional documents.²

On November 20, 2025, the Honorable Courtney Clyburn Pope held her first hearing in this case and a hearing immediately after that in “Richland 4900.” [Hearing, 11/20/25, pp. 3- 34]

² Attachments include: Black’s Dec. 17, 2010, showing plans to conceal the “Appraisal” of the “Estate” in Respondents’ 2010 brief in *Wilson v. Dallas*; [Exhibit A] The Estate/2000 Trust’s designation of public James Brown documents as CONFIDENTIAL under an August 2016 order secured from Judge Early; [Exhibit B]; Pope’s April 10, 2024, ltr., providing information and requesting exculpatory evidence; [Ltr., 4/10/24] ltr. of Pope to D. Zelenka, AG Wilson and Solicitor General Cook, April 15, 2024; [Exhibit D] Partial letter of April 2, 2024 of Pope to Zelenka re: history of FOIA noncompliance; [Ltr. 4/2/24] Pope Ltr. to AG Wilson dtd. October 2, 2025, offering to settle for \$1 plus costs and return of \$47,972, with interest; [Ltr. 10/2/25] October 17, 2025, Ltr. of D. Zelenka to Pope’s former counsel [Ltr. Zelenka, 10/17/25].

By then, Pope's \$47,972 had grown to more than \$150,000 and no accounting had been provided.

[Amend. Ord. Deposit Order of Jg. Newman] At the hearing in this case, the lower court ruled from the bench:

--- I received all of your motions and read all of your motions, Ms. Pope. I'm not -- they're not proper. I'm not going to hear these motions. We're here for -- first of all, this case, 1337, is closed. [Tr. Hearing, 11/20/25, p. 6, l. 1-6]

The lower court went on to say, "You're concluded [precluded] from filing any motions."

[*Id.*, p. 6, l. 10] And then "I have the Supreme Court order that precludes you from filing any motions because it is closed." [*Id.*, p. 6, l. 12 -14].

When Appellant asked to see the order, the Court responded:

THE COURT: This order dated on February 19, 2015, Pope is hereby prohibited from filing any further motions or appeals in the actions involving the Estate and Trust of James Brown, such as the above actions in which she clearly has no standing. [*Id.*, p. 6, l. 17-21]

When Appellant said that she understood from the public filings that a hearing was scheduled for 9:30 that day to hear her motion for recusal of Judge Newman, the lower court responded: "Judge Newman is not on your case, so your motion is moot." [*Id.*, p. 7, l. 4-5]

When Appellant respectfully disagreed and stated that the motion for recusal asked for several things, the following discourse took place:

THE COURT: It did, but I'm not hearing any of your motions. You're precluded from filing any motions. [Tr. Hg., p. 7]

The lower court judge declined to allow Pope to proffer exhibits during the hearing, but did allow Pope to place on the records the documents she would have offered had she been allowed to argue her motions in both cases. [Tr. Hg. 11/20/25, pp. 15-33]

Appellant moved to alter, amend and vacate the oral orders of November 20, 2025. [Mot. to Alter] Appellant's motion was denied by Form 4 Order dated January 8, 2026. [Order, 1/8/26]

This appeal followed.

STATEMENT OF FACTS

Twenty years ago, bitter enemies Tomirae Hynie and David Cannon battled for the favor and \$100 million fortune of James Brown. [Mot., 11/13/25, pp. 3-4] Hynie claimed Cannon was a thief who plied Brown with drugs, stole from him, and extorted him with threats of a federal felony.

Cannon claimed Hynie was a bigamist. [Mot., 11/13/25, pp. 3-4] Both were correct.

A year after Brown's death, the 49/50 of his fortune Brown willed to educate needy students of all races in South Carolina and Georgia seemed safe. [Mot., 11/13/25, p. 4]

By September 2009, SLED's Pete Logan was investigating Cannon and spoke with Black's client Russell Bauknight and his tax lawyer. [SLED Memo] Logan was told by Bauknight that he, the tax lawyer, and the Attorney General's office combed 145 boxes of public James Brown documents and even made their own inventory of the same boxes. [SLED Memo]

Black had been on the job since the Attorney General and Hynie took over. [Pope Aff., Black Stmts., p.1] He would claim for the next 17 years that the Attorney General didn't see the boxes that confirmed James Brown died with a \$100 million estate and that Bauknight used for the \$80 million massive devaluation has been under lock and key since it arrived. In a criminal proceeding in 2024 Black would claim that the 95-page "Custody Receipt" Bauknight had signed for the 145 public boxes did not describe the contents four trustees and others used to confirm the actual value of Brown's estate. [Pope Aff., Black Stmts., pp.1-2]

Black would tell the Supreme Court that the Attorney General of South Carolina, the State's protector of charities, had no right to see the fabricated \$4.7 million document Black and his client and Hynie called the "professional appraisal" of the "Estate." [Return Mot., 11/13/25, p. 13]

Black's mission, and that of Bauknight's spouse/CPA, custodian of records, began May 26, 2009. [Pope Aff., Black Stmts., pp.1-2] It was not only to conceal and cover up Hynie's bigamy, but to conceal whatever fraud Hynie, with the consent of Sr. Assistant AG Sonny Jones, [Pope Aff., Black Stmts.]

By the end of 2009, Bauknight and Peter Afterman were working on the massive \$80 million devaluation scheme. [Black/Legacy Trust fraud, filed 3/3/20] For fifteen years, Black would use the fabricated concealed \$4.7 million document to help keep Hynie and Sr. Asst. AG Jones in control and keep the cash flowing to the 19 lawyers Bauknight had hired by 2010. [Pope Aff., Black Stmts.]

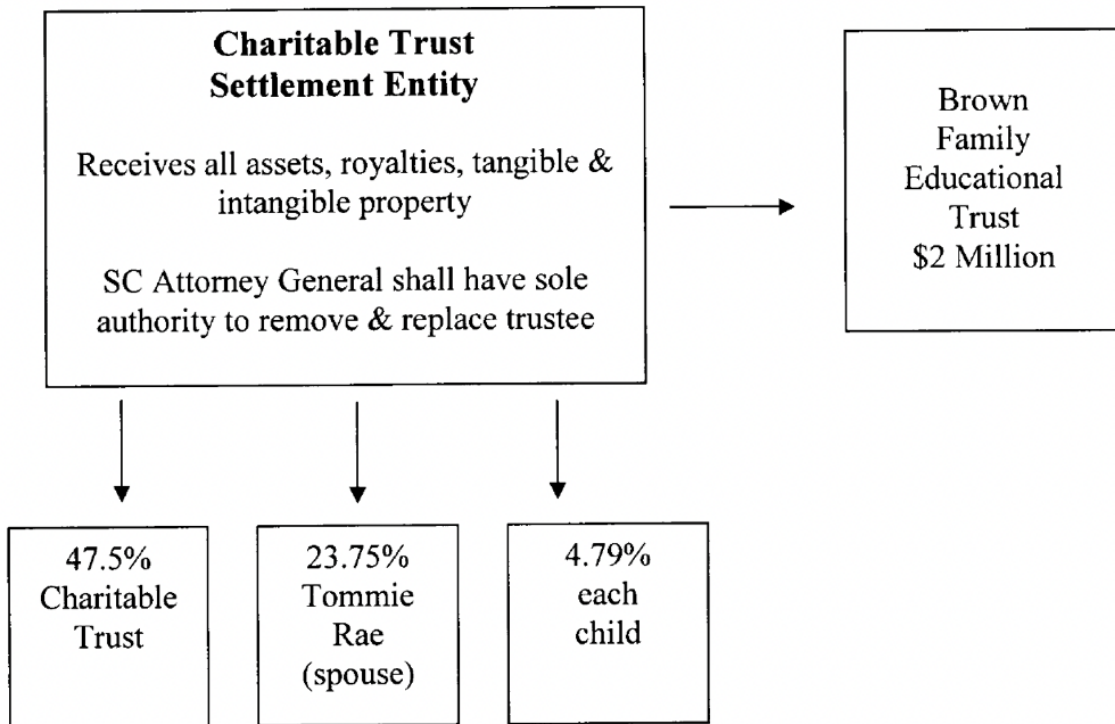
In 2010, it was Black who worked with AG Jones and the Hynie legal team to withhold the massive \$80 million devaluation and the fraudulent \$4.7 million document his client and the tax lawyer told the IRS was an appraisal of the "Estate" when it was not even an appraisal of the copyrights that were worth \$80-\$100 million. [Pope Aff., Black Stmts., pp.1-7]

Black knew Bauknight and the tax lawyer would receive the IRS closing letter because the IRS likes to collect taxes and they had done so with Bauknight's massive devaluation scheme. Nearly one third of Brown's "I Feel Good" charity was taken off the top for the family. [Pope Aff., Black Stmts., p. 3] A million dollars a year was taken from scholarship money for needy students. [Pope Aff., Black Stmts.] James Brown's estate and Bauknight's spouse/CPA would have to pay tens of thousands of dollars of taxes each year that should have gone to needy students to keep up

the fraudulent scheme. Black would help with the coverup of the scheme, as would Mark Gende and his law firm, SWB.

SWB lawyers were telling the Honorable Casey Manning that Richland 4900's main plaintiff, the Legacy Trust, was a "charitable trust settlement entity" run as follows:

The Charitable Trust is diagramed as follows:



[Mot. Recusal, 7/23/25, p. 9]

By the spring of 2011, Judge Manning had denied Buchanan's and Pope's motion to dismiss Richland 4900 on 10 grounds, including that it violated their Due Process rights for a private law firm to take State/AG action for Hynie and other private clients. [Ret. Req. Orig. Juris., filed 2/15/24, p. 16]

In May 2011, Black helped Hynie and Bauknight roll out the claim that Robert Buchanan and Adele Pope had committed the federal felony of overstating James Brown's music empire to the IRS to get a \$5 million commission on James Brown's claimed \$5 million estate.

In November 2011 lawyers coached by Hynie's legal team and the tax lawyer told the Supreme Court that Hynie's claim to a third of James Brown's estate was a "slam dunk" [B/Legacy Trust Fraud, 10/12/12]. They did not know about Bauknight's false claims to the IRS and the massive \$80 million devaluation scheme. The Supreme Court was told that if it did not uphold the plan to give Hynie a nearly a quarter of Brown's charity there would be nothing left in the "I Feel Good" Trust by 2023. [B/LT Fraud]

Black knew about the massive \$80 million devaluation fraud. He was already keeping the fabricated \$4.7 million document "under lock and key." He was also keeping the 145 boxes of public James Brown documents that proved that Buchanan, Pope and at least five others were correct to value Brown's music empire at \$100 million or more as of the day he died. Still, Black would become the chief media spokesperson to cover up both Hynie's bigamy and Bauknight's massive \$80 million devaluation scheme and false claims to the IRS. [Pope Aff., Black Stmts.]

Reported in about 300 media outlets was Black's interview of Halloween 2011, the day before the Supreme Court oral arguments where the Court was told that termination rights were "all this case is about" and that James Brown's Trust had "no corpus to speak of." [*Goliaths Roar*, filed 2/15/24] It was scary.

On Halloween 2007, *Forbes* had reported that James Brown was one of America's richest dead celebrities, making \$5 million that year. [Ltr. to Judge Newman, p. 4] In 2008 and 2009, Brown's estate had made more than \$5 million. Now Black was telling the Associated Press that the "manager" who had devalued James Brown's music empire by \$80 million was brilliant. Black

told the AP and other media that Bauknight had brought the music empire back from near insolvency and paid off the “withering debt.” [Complaint, R. 4900, p. 8; Ret. and Memo filed 2/15/24, p. 6] He spoke of the Attorney General’s takeover in glowing terms. The Attorney General had given James Brown’s “widow and small son” about a quarter of the charity and the “adult children” another quarter.

As Pope began to write about the truth of the massive devaluation in “Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown ‘I Feel Good’ Trust doesn’t...,” Black and Hynie’s legal team called her writing works of fiction. They claimed a reporter who asked questions was Pope’s publicist. But it was Black who was writing the fiction, and his firm and his client and the spouse/CPA who was helping cover up the massive \$80 million devaluation fraud were being paid a few millions of dollars each year to slander the lawyers who protected James Brown’s charity. [Pope Aff., Black Stmts.]

By then, AG Sonny Jones was helping with the coverup of the massive devaluation scheme in two ways. After a meeting with AG Jones, the Attorney General’s prosecutor allowed Cannon to enter an *Alford* plea and did not seek restitution or prison time. [Son Daryl, Ex. F, filed 2/15/24]

Only when James Brown’s family exploded, did Prosecutor Creighton Waters step up and call the whole failure to seek restitution from the man who stole \$17 million from Brown’s charity a disconnect. [Depo. Waters, pp. 19, 30-36] Bauknight blamed his own failure to seek restitution or even filed a victims’ statement for the needy students on the Attorney General.

Black did not tell the media it was Bauknight who sat on the 2008 legal suit Buchanan and Pope, through fine lawyers Kendall Few, Esq., and James Gilreath, Esq., had filed against Cannon and his accomplices.

By then, AG Wilson's FOIA team had begun its decade-long battle with reporter Sue Summer and trying to obtain her notes and sources when she wrote about the "explosive" contents of Hynie's "diary," as well as keeping her from seeing the \$4.7 million document. [AG ltr. to Summer, 3/4/21] The AG's prosecution team helped by not seeking restitution or a prison term from David Cannon [See Depos., AG Prosecutor Creighton Waters]

In 2013, Black was one of three of Bauknight's lawyers who listened as Hynie's lawyer Alan Medlin and Atlanta lawyer Louis Levenson asked Judge Early to go in chambers and hear why the AG's 2008 settlement should be quickly re-done just three weeks after *Wilson v. Dallas* was handed down. It was Black's client who began using Peter Afterman to help Tomirae Hynie siphon off U.S. royalties from the charity between 2013 and 2016 as Bauknight also paid special trustee David Sojourner \$1.4 million to "defend" against Hynie's spousal claim – but not to proffer her bigamy admissions when Judge Early said he would not consider them. [Afterman Aff., dtd. 11/13/19, filed 7/23/25]

By then, Black and Hynie's lawyer Mark Gende were a part of a tight group who did not tell even the Attorney General about Hynie's fraud, the massive devaluation scheme and the false claims that were being made both to the IRS and the U.S. Copyright Office. [Depo. AG Wilson]

By 2014, Judge Early was on Black's and Bauknight's and Hynie's side. He strongly encouraged the people in the Hynie case to stipulate to the facts and documents, but without Hynie's public bigamy admissions. [Jdg. Early's Status Report, 5/8/15]

In January 2015, Sr. Asst. AG Jones said the Office of the Attorney General would not be appealing Judge Early's Hynie spousal decision. In a status report filed in the Supreme Court in May 2015, Judge Early used Black's expressions to state and claim why he had made Hynie the spouse of James Brown, and claim that Bauknight had brought James Brown's estate back from

the “brink of insolvency” [Status Report] The Status Report claimed that Pope’s \$47,972 SA fee was a \$2 million claim for two months. [Status Report]

By 2016, all of Brown’s children had denounced Hynie as aa bigamist, AG Henry McMaster had said he didn’t authorize Richland 4900, and Black and Bauknight had begun a massive plan to claim that 145 boxes of public James Brown documents dating back thirty years were “CONFIDENTIAL” under a 2016 Order. [CONFIDENTIAL Docs.]

Among the evidence, the Attorney General, Hynie, and Bauknight would try to conceal were Governor McMaster’s 2016 deposition confirming he did not authorize Richland 4900. [Depos. McMaster] By then Hynie was moving to London, U.K. to escape after filing claims in the U.S. Copyright Office claiming to be James Brown’s spouse. [Mot. Recusal, filed 7/23/25]

By 2017, at the request of the Attorney General, Respondents and Gende, Judge Early was sealing depositions and issuing orders to prevent dissemination of public evidence, including in depositions. Among the depositions, the Attorney General, Respondents, and Hynie’s lawyer Gende were trying to suppress were the depositions of Solicitor General Robert Cook [Depos. Solicitor General Robert Cook, 2/8/17, pp. 1-2, 9, 10, 3-21, 25, 27, 29-33, 36-39, 41-49, 52-53, 55-56, 62, 68, 70 -71, 73-75, 78, 81, 84, Ex. 6;] now Governor McMaster [Depos, Gov. McMaster, 10/19/16, pp. 1-2, 18-19, 50, 83-92;] Attorney General Alan Wilson [Depos. AG Alan Wilson 3/21/17, 1-2, 16-17, 28-32, 79]; Deanna Brown Thomas [Depos, Tomirae Hynie (Brown), 6/16/16, pp. 1-3, 28-36, 39-43, 61-62, 81-83, 86, 112-113]; AG Sonny Jones [Depos. Sonny Jones, 5/4/16, pp. 1-2, 61, & 5/5/2016, pp. 1-2, 16-20, 141-145, 201-204]; Assistant AG Mary Frances Jowers [Depos. Mary Frances Jowers, 5/3/16, pp. 1-2, 142-146]; Chief Deputy AG John McIntosh [Depos. Chief Deputy John McIntosh, 2/8/17, pp. 1-2, 30-36]; Hynie’s the AG’s own expert Roger Miller [Depos, Roger Miller, 3/16/17, pp. 1-2, 10, 24-28, 40-42, 46-49]; AG Prosecutor Creighton Waters

[Depos., Creighton Waters, 2/19/17, pp. 1-2, 19, 30-36]; Former IRS Attorney and philanthropist Judge Walter Williams, now deceased [Depos, Judge Walter Williams, 1/26/17, pp. 1-2, 5-6, 13-15]; AG auditor Sandra Matthews [Depos. Sandra Matthews, 2/9/17, pp. 1-2, 7-8]; Russell Bauknight [Depos, Russell Bauknight, 1/31/17, pp. 1-2]; Kenneth Wingate, Esq., [Depos. Wingate, 3/6/17, pp. 1-3]; Everett Kendall, Esq. [Depos., Kendall, 3/6/17, pp. 1-3;]; and, Wm. Jeffrey Smith, Esq., [Depos, WJ Smith, 3/14/17, pp. 1-2].

In 2017, Judge Early denied Pope a jury trial, or even an advisory jury as to the value of Brown's assets, and she reduced her fee claim for 5 ½ years' work to \$2.1 million.³ Black's partner then falsely accused Pope of trying to take \$19 million from the estate, a false claim Bauknight would continually repeat, including in a hearing before Judge Newman in 2020, where he said:

Ms. Pope to this day is continuing litigation with the estate and with the children, and I think its horrendous. I can't imagine somebody on the record saying they'd settle for \$19 million for a year and a half of work and it disgusts me how much money has been wasted fighting the David Cannons of the world and the Buddy Dallases of the world and the Adele Popes and so forth – in raising up – the music assets. [Hearing 11/2/20, Ex. 2, filed Sept. 2, 2025]

Also at the trial, Judge Early ordered Respondents to produce Bauknight's tens of millions of dollars of litigation records. Black, one the Respondents' three lawyers working on the trial, delivered the litigation records *ex parte* to Judge Early. [Aff. Pope, Black Statements, p. 5]

Pope objected, claiming that the *ex parte* review by Judge Early was improper. [Aff. Pope, Black statements, pp. 5-7] Judge Early discarded the tens of millions of dollars of litigation records

³ The history of the Aiken 1337 trial and most pretrial matters are not included herein as they do not relate to the collection of the \$47,972.

he had seen and did not maintain a sealed copy for appellate review. [Aff. Pope, Black statements, p. 5-7]

The false claim that Pope demanded \$19 million from a \$5 million estate, along with the claims that that it was a good idea to give \$20 million of the charity to a known bigamist, that Richland 4900 was brought to help the “children” and the “estate,” and that James Brown died with a \$4.7 million became the mantra of Hynie, Black, Bauknight, and Afterman for the next six years. Respectable reporters like Ted Clifford of *The State* and academics like Lee-ford Tritt did not repeat these false claims. [Aff. Black statements] Ted Clifford’s September 3, 2025, articles finally broke the hammerlock Black had on the local media and by 2024 Lee-ford Tritt’s *The Curious Case of the James Brown Estate*, 92 Geo. Wash. L. Rev. 753 (2024), had finally straightened out the false media claims that Black had floated about the “widow” and termination rights for more than a decade.

Newsome asked Judge Early to sign an order finding that the only credible evidence at trial was that James Brown died with a music empire of less than \$4.7 million and that Buchanan and Pope had breached their duty by defending the “I Feel Good” charity against a known bigamist and about half of Brown’s claimed children in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013), and he did. Truthful testimony of the Governor, the Attorney General and others set out above did not make it into the January 16, 2019, Order of Judge Early.

In 2019, Judge Clifton Newman stepped into a matter that was complex and needed an independent tribunal. Bauknight, Black, and Gende lost no time in their effort to protect Tomirae Hynie and Bauknight while claiming to be protecting the “estate” and the “children” [Hearing Jan. 31, 2020, p. 1-25]

By 2020, Judge Newman had, with no evidence, found that Richland 4900 was a “companion case” to this post-judgment collection claim. [Order Approving Deposit] He also found, with no evidence, that Respondents’ taking of nearly \$100,000 of Pope’s money and depositing it into the clerk of court’s office, was proper. [Order Approving Deposit; Amended Order]

Judge Newman quickly endorsed taking Pope’s money for Hynie’s benefit because he was being told that Richland 4900 was brought for the “children” and the “estate.” A glance at the complaint would have shown that this was false. [Complaint] Richland 4900 was a 10-year old tort suit brought by 17 plaintiffs seeking to dismember James Brown’s charity and blame the damage on Buchanan and Pope. [Complaint, R. 4900]

For the next five years, Bauknight, Black, and Gende plied Judge Newman with the false claim that Pope’s \$2.1 million settlement offer was a \$19 million demand from a \$5 million estate. [Aff. Pope, Black Claims, pp. 1-7] At the same time, Judge Newman was aware that James Brown’s children were demanding an accounting from Bauknight and that Hynie was not James Brown’s spouse, as claimed. [Demand for Notice, Deanna Brown Thomas 2020] The Attorney General’s FOIA staff continued to conceal the \$4.7 million document that was not the appraisal of the “Estate” it claimed to be. [Exhibit 1, Pope Affidavit, Ltr. AG to Summer, March 4, 2021]

By 2021, when the music empire sold to Primary Wave for a reported \$90 million as other less noted copyright catalogues sold for hundreds of millions of dollars, Respondents and Hynie did not change their views. Bauknight kept paying Hynie’s lawyer Mark Gende to disrupt, delay, seek sanctions, and strike, while blaming everything he, Bauknight, and Hynie did on Pope. [Motion for Recusal, pp. 1-5]

Six weeks after the reported Primary Wave sale, with the knowledge of Sr. Assistant AG Sonny Jones, David Black began the *ex parte* contamination of Judge Newman that is still not fully exposed. His communication was clearly *ex parte*, with the Subject being clear: “James Brown Estate: Adele Pope appeals.” [Black *ex parte* email]

The secret *ex parte* communication(s) of Black known to the State/Attorney General were concealed while the Attorney General’s top prosecutor used Black and Gende to convince a Justice of the Supreme Court who had seen the records of Cannon’s \$17 million stolen from James Brown’s \$100 million estate that the \$4.7 million document was a “confidential” appraisal of the “Estate.”

When Pope learned of the explosive *ex parte* communication, she tried to address the matter privately, but Judge Newman did not respond. [Ltr. to Judge Newman; Mot. Recusal] When she filed the motion to try to correct the contamination and asked for a hearing, Judge Newman did not respond. [Mot. Recusal]

On August 6, 2025, Respondents, through Black, filed a motion to strike the motion for recusal and related relief. The motion stated, in part:

Adele Pope is desperate to avoid the day of reckoning...for the harm she caused to the Estate of James Brown during her disastrous tenure as Personal Representative...

Respondents, through Black, claimed that “[T]here are no good grounds for recusal,” and there was “[n]o Improper *Ex Parte* Communication .” [Mot, p. 3] Respondents also defended the actions of Hynie’s attorney Mark Gende, Esq.. [Mot., p. 2]

Respondents did not object to the facts of the motion or the Affidavit filed by Pope outlining the multiple *ex parte* incidents of Black and Hynie’s counsel with the courts spanning more than 15 years. [Aff. Pope., 9/2/25] Page 9 of the Pope affidavit focused on the false \$19

million claim about Pope's \$2.1 million settlement offer. [Aff., p. 7] Respondents and Black did not file anything to refute the allegations.

On November 20, 2025, a new lower court heard both cases contaminated by the Black *ex parte* communication(s) with Judge Newman, the full extent of which is still unknown. Her Honor did so in a sharp manner and dismissed this case solely on the basis of the Supreme Court's June 10, 2015, Order. [Hearing 11/20/25, pp.3-15] Black made no apology for his actions or those of Judge Newman.

Her Honor declined to allow Pope to proffer evidence or to hear the motions related to the recusal and the orders that had been contaminated.

STANDARD OF REVIEW

Questions of statutory interpretation are issues of law to be decided by appellate courts *de novo* without any deference. See *e.g. Comm'rs of Public Works of the City of Laurens v. City of Fountain Inn*, 428 S.C. 209, 219, n.4, 833 S.E. 2d 834, 839 n.4 (2019).

When reviewing the trial court's decision, the appellate court may not make its own findings of fact if the trial court's findings are "reasonably supported by the evidence." *Cochran*, 369 S.C. at 312-313, 631 S.E. 2d at 297. But in reviewing mixed questions of law and fact where the evidence supports but one reasonable inference, the question becomes a matter of law for the court." *State v. Moore*, 343 S.C. 282, 288, 540 S.E. 2d 445, 448 (2000).

A trial court acts outside of its discretion when the ruling is not supported by the evidence or is controlled by error of law. *State v. Wallace*, 440 S.C. 537, 541-543, 892 S.E. 2d 310, 312-313 (2023); *State v. Jones*, 423 S.C. 631, 636, 817 S.E. 2d 268, 270 (2018). A trial court's failure to exercise its discretion as to the admissibility of evidence is itself an abuse of discretion. *Wallace*, 440 S.C. at 541-543, *State v. King*, 422 S.C. 47, 68-69, 810 S.E. 2d 29 (2017) (holding the trial

court's refusal to listen to disputed phone call recording left the court unable to carry out the required balancing under Rule 403 SCRE). The trial court – when ruling on the admission or exclusion of evidence – must think through the objection that has been made, the arguments of the attorneys, and the law – particularly applicable evidentiary rules – and must thoughtfully apply the correct law to the information and evidence before it. *Wallace*, 440 S.C. 541-543; *Morris v. BB&T Corp.*, 438 S.C. 582, 587, 885 S.E. 2d 394, 397 (2023).

A judge's impartiality might reasonably be questioned when his [or her] factual findings are not supported by the records. *Ellis*, 315 S.C. at 285, 433 S.E. 2d at 857. The exercise of judicial discretion also will be disturbed if it deprives a party of a substantial right to which the party is entitled under the law. *Alcorn v. Ford Motor Co.*, 276 S.C. 180, 276 S.E. 2d 925 (1981).

ARGUMENTS

I. THE LOWER COURT'S DISMISSAL OF THIS CASE WITHOUT CONSIDERING THE RELIEF SOUGHT IN THE RECUSAL MOTION AND SUBSEQUENT MOTION VIOLATED APPELLANT'S STATUTORY AND CONSTITUTIONAL RIGHTS TO A FAIR TRIBUNAL AND TO A LEVEL PLAYING FIELD TO RECOVER HER FUNDS TAKEN BY RESPONDENTS.

In 2012, fraud of the Hynie, Bauknight, and the Legacy Trust was known. It was

1. Less than \$4.7 Million Value.
2. Fabricated "Heirs"
3. False IRS criminal accusations (Against Bob & Adele)
4. Over-Valuation of Copyright Act rights of Settling Parties ...
5. False "slam dunk" Copyright Act, other Tomirae and "no corpus to speak of representations."
6. Concealing documents. [Bauknight/Legacy Trust Fraud, Exhibit H]

The Code of Judicial Conduct states that there must be the appearance of propriety in all of the judge's activities." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. The Code requires a judge to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR.

When qualification is not required, however, the Code states, “A Judge shall hear and decide matters assigned to the judge...” Canon 3B(1) of the Code of Judicial Conduct, Rule 501, SCACR. “A judge’s impartiality might reasonably be questioned when his [or her] factual findings are not supported by the record.” *Patel v. Patel*, 359, S.C. 515, 524, 599 S.E.2d 114, 118 (2004).

By June 10, 2015, as the deposition excerpts of Solicitor General Cook, Attorney General Wilson, and others show, one attorney in the Office of the Attorney General had joined with Hynie to upend James Brown’s charity, not informed the Attorney General of what he was doing, and authorized Richland 4900 to cover up the Hynie/Legacy Trust fraud and blame the damage on Robert Buchanan and Adele Pope.

On June 10, 2015, Pope abruptly ceased all efforts to try to protect James Brown’s charity and focused on being reasonably paid and ending all ties with the James Brown Estate, 2000 Trust and “I Feel Good” charity.

Judge Newman arrived four years later and did not know the full extent of the fraud. He needed to be independent. He needed to consider the evidence and hear both parties. He did not do that, and Judge Clyburn Pope did not.

Judge Newman’s ruling that it was appropriate to apply Rule 67, SCRCPC, to bless the taking by Respondents of almost \$100,000 of Pope’s money was not independent and was not based on any evidence. Judge Courtney Clyburn Pope’s ending a case exacerbated the clear damage. The Richland 4900 complaint and chart of its goals make clear that Black misrepresented the case to Judge Newman. Judge Newman simply accepted Black’s word. Even to finding, with no evidence whatsoever, that Pope agreed to the taking.

The failure of Judge Newman to report the false, explosive discriminatory *ex parte* emails for more than two years – even as he conducted an *ex parte* hearing and attacked Pope and her

counsel – shatters any notion of impartiality. Judge Newman believed the false notion that Pope – not Bauknight – was responsible for the fact that more than fifteen years after James Brown’s death not a single “I Feel Good” scholarship had been paid.

Judge Newman did not provide a level playing field to Pope. He violated her Due Process Rights, her FOIA rights, her First Amendment rights, and Equal Protection rights. His rulings were based on false discriminatory *ex parte* communications. He abused his discretion by acting on false *ex parte* communication(s) that inflicted severe damages on Pope, and even resulted in a FOIA criminal proceeding framed by Bauknight and Black, who served as the only prosecution witnesses. Her FOIA rights were suspended and her law license and liberty are now at risk by Judge Newman’s failure of independence.

To be sure, Judge Newman did not start the problem, but he did have an opportunity to begin to fix it. He did not.

Judge Clyburn Pope exacerbated the violations of Pope’s Due Process and other civil and constitutional rights by dismissing this case and allowing Respondents to take Appellant’s property. Appellant’s criminal conviction came directly from Judge Newman’s orders since 2020 that found no support in the record and falsely accused Pope of delays when it was clear that Respondents had been responsible for nine years of delays in Richland 4900. Further, Richland 4900 was based entirely on fraud of Hynie and the massive \$80 million devaluation scheme by Bauknight concealed by both Black and Gende for more than a decade.

The Order of Judge Clyburn Pope should be reversed and the motions filed by Appellant for recusal and other relief prior to the hearing on November 20, 2025, should be granted.

II. ALL RELIEF SOUGHT WITH RESPECT TO DAVID BLACK'S IMPROPER EX PARTE COMMUNICATIONS SHOULD BE GRANTED.

David Black's history of *ex parte* actions speaks for itself. He makes no apology for it. He just attacks. Purporting to be protecting James Brown's charity, he slanders anyone who suggests that it made no sense to declare an admitted bigamist and about half of the children as James Brown's heirs. Black not only contaminated Judge Newman with false, inflammatory, discriminatory statements in his *ex parte* communications, he copied the Attorney General's representative in the James Brown matters. For each of the reasons set out above, the bias and damage caused by Black's actions is clear.

Bauknight's damage by the *ex parte* communication was further exacerbated by his filing false information in both Judge Newmans's court and the Supreme Court about a \$4.7 million document that is not, and never has been, a "professional appraisal" of the "Estate."

As requested prior to the hearing on November 20, 2025, the extent of the Black's *ex parte* communications should be exposed; all orders issued in either this case or Richland 4900 after February 4, 2022, should be voided; and ,the related relief should be granted.

III. THE RICHLAND 4900 COMPLAINT SHOULD BE DISMISSED BECAUSE IT IS UNCONSTITUTIONAL, ILLEGAL, AND THE PRODUCT OF FRAUD.

From 2010 until 2020, Mark Gende's law firm, SWB, concealed from multiple courts, with the assistance of both the Attorney General's FOIA staff and Sr. Assistant AG Sonny Jones, that Richland 4900 is, and always has been, unauthorized, illegal and unconstitutional.

SWB concealed the public SWB Special Counsel Agreement that McMaster never signed for ten years, claiming, for the Attorney General, that it was the epitome of a private document.

When AG Wilson wrote on April 24, 2013, that the Office of the Attorney General never hired SWB, they simply concealed that public document.

When now-Governor McMaster made clear that he nearly authorized SWB to sue Buchanan and Pope in 2016, Mark Gende and David Black spent ten years trying to render the issue moot while concealing public documents.

The notion that Appellant seeks to continue this litigation or have any involvement with James Brown's estate, 2000 Trust, or charity has been clear in her offers of \$2.1 million for every year since 2017. Her offer before the November 20, 2025, hearing of \$1 dollar plus costs, the return of her \$47,972, and the vacation of her extraordinary FOIA criminal trial make that clear.

The notion that Buchanan and Pope prolonged this litigation is as absurd as the notion that James Brown died with a spouse and a \$4.7 million worldwide music empire. It can be "proven" only if the courts deny citizens valuable Due Process, FOIA and First Amendment rights.

The State is the State. There has been unconstitutional, state-sponsored or state-condoned fraud by Hynie and the Legacy Trust in Richland 4900 since the complaint was filed in 2010. It was not authorized by Attorney General Henry McMaster, the only person who could have authorized it. It should be dismissed with prejudice.

CONCLUSION

Appellant has been deprived of a level playing field by Judge Newman's orders approving the taking of her property and by his failure to address and stop David Black's egregious, inflammatory, discriminatory *ex parte* communication(s). The orders of Judge Courtney Clyburn Pope further damaged Pope and further violated her Due Process, FOIA, First Amendment, and other civil rights. The Court should void the Richland 4900 complaint and all orders issued in Richland 4900 and this case as requested; direct the return of Appellant's \$47,972 with interest; and remand the matter with directions to investigate the full extent of David Black's *ex parte* communication(s) with Judge Newman and the role of the State/Attorney General in those

improper *ex parte* communications. The Richland 4900 complaint should be dismissed with prejudice.

Respectfully submitted,

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