THE STATE OF SOUTH CAROLINA
IN THE Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge
Appellate Case No. 2014-00250

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.

RETURN AND OPPOSITION OF APPELLANT TO MOTION TO DIMSISS

For the reasons set forth herein and in her initial brief and earlier filings, which are incorporated herein by reference, Appellant respectfully asks that this Court deny the Request of Movant Russell L. Bauknight to dismiss the complaint or grant sanctions against Appellant.[1]

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[1]Mr. Bauknight asserts on page 1 of the motion that it made individually as well as in fiduciary capacities. Mr.Bauknight's individual counsel in this case, Frederick Crawford, Esquire, did not, however, join in the motion.

Summary

This is an appeal from an order in which the Honorable Doyet A. Early, III declined to conduct the required hearing and dismissed most claims in Plaintiff's June 10, 2013 complaint under Rule 12(b) SCACR (the"12(b) Dismissal Order"). Neither the dismissal nor sanctions sought by Movant are appropriate.

Appellant's brief complies with SCACR; properly addresses the subject of the appeal; demonstrates Appellant's standing; has merit; and demonstrates that the relief requested in the Initial Brief should be granted. Because the Honorable Doyet A. Early, III ("Judge Early") declined to conduct the required hearing the Designation of Matter may include matter which would have been presented had the required hearing been conducted.

Appellant disagrees with most factual statements of Movant. Rather than note each, she adopts her Initial Brief and other filings, as supplement by the Return and Opposition.

I. Facts

The complaint which became the subject of this appeal was filed on June 10, 2013. [Exhibit G] It was a direct response to a Notice of Disallowance with Impending Bar (the "Disallowance") delivered to Appellant by Russell L. Bauknight on May 29, 2013, shortly after the May 8, 2013 decision in *Wilson v. Dallas,* 403 S.C.411, 743 S.E.2d 746 (2013).

The complaint sets out in detail the facts to support the voiding of Mr. Bauknight's *ex parte,* pre-remittitur appointment; voiding the Disallowance,

removing Mr. Bauknight for cause; and related relief.

On the day of the delivery of the Disallowance, Mr. Bauknight's May 26, 2009 appointment as personal representative under the Will of entertainer James Brown and Trustee of the James Brown 2000 Irrevocable Trust ("PR/Trustee") had been declared *void* in *Wilson v. Dallas,* 403 S.C. 411, 743 S.C.2d 751 (2013).

Wilson v. Dallas voided a settlement entered into on August 10, 2008 by former Attorney General Henry McMaster ("AG McMaster"), Brown's companion Tommie Rae Hynie and about half of James Brown's claimed children (the "AG's Settlement"). The AG's Settlement included a "stipulation" that Ms. Hynie would be treated as Brown's wife and her child her child.

The claimed children who joined the settlement, along with several DNA-proven children and others, have now confimred through their counsel that Ms. Hynie was not Brown's spouse, and her child not Brown's child. [Ltr. Toberoff]

The AG's August 10, 2008 settlement had no provisions related to copyright termination rights under the Federal Copyright Act.

On September 25, 2008 Appellant and Robert Buchanan, Jr. filed the sworn estate tax return in Brown's estate, valuing his worldwide music empire at about $84 million. The value was consistent with a valuation formula presented to AG McMaster and the Court prior to their appointment. It was also consistent with a $42 million professional appraisal conducted by a professional appraiser in 2006 for the Royal Bank of Scotland ("RBS") only for Brown's major royalties to

more than 800 songs (the "Royalties"). The Royalties make up about half of the value of the music empire. Brown's publicity rights make up the other half.

About half of Brown's DNA-proven and acknowledged, known or claimed children awaiting DNA testing under the Estate's official Peeples DNA Protocol were intentionally omitted from the AG's settlement.

On May 26, 2009 Judge Early, on recommendation of Mr. Bauknight, approved the settlement. Robert Buchanan, Jr. and Appellant were replaced as PR/Trustees by Bauknight, who also serves as trustee of the "Legacy Trust" created by AG McMaster.

Appellant and Mr. Buchanan appealed.

On May 19, 2010 the Estate and 2000 Trust sued Mr. Buchanan and Appellant for conducting the *Wilson v. Dallas* appeal and other claimed wrongdoing (the "Wingate Suit"). Mr. Bauknight is the agent for Ms. Hynie, her son and others in the Wingate Suit.

The Honorable L. Casey Manning denied their claims to change venue and prevent the Attorney General from suing them using *only* the private law firm of Kenneth Wingate, Esquire ("Wingate"), which also represented Ms. Hynie and other non-residents. They claimed Mr. Bauknight could not speak for the AG.

In November 2010 Wingate sought relief from default after failing to answer counterclaims of Mr. Buchanan and Appellant in the Wingate Suit.

On January 4, 2011 McMaster's Legacy Trust was amended, and Terry Brown - part of the settlement – secretly assigned his right of first refusal to buy

Brown's music empire (the "ROFR") to his son, Forlando Brown.

Appellant and Buchanan filed an appeal with the S. C. Court of Appeals and Writ to challenge Wingate's authority to sue in the name of the State.

Mr. Bauknight moved to dismiss the Wingate Suit appeal. He told the Court of Appeals Ms. Hynie was Brown's spouse. [Exhibit C]

On March 7, 2011 Appellant filed an affidavit speaking of the hardship of defending against the State/AG, represented by private counsel.[Exhibit D] Mr. Buchanan joined in the opposition. [Exhibit E]

In March 2011 the S.C. Court of Appeals dismissed the Wingate appeal without prejudice. Appellant and Buchanan, not wanting to interfere with the pending *Wilson v. Dallas* appeal, did not appeal.

In April 2011 Jeffrey Smith and Appellant circulated *Private Foundation, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't... Private Foundations* explained how, since Brown did not have a spouse, his Royalties could be secured for decades by "splitting heirs" – making termination rights agreements with the most cooperative HALF of Brown's children. This would include the HALF of his children who had dropped their challenges to the estate plan, or never challenged it.

By 2011 Daryl Brown had repudiated the AG's Settlement and asked AG Wilson to enforce Brown's estate plan.2

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[2] Brown's 2000 estate plan and 1999 Will both leave Brown's entire residuary estate to the "I Feel Good" Private Foundation for scholarships for needy students. Daryl's two daughters, with five other designated grandchildren, were given $285,000 education trusts. Mr. Bauknight and his limited special

On May 6, 2011 Mr. Bauknight asked the Supreme Court to supplement the record on appeal ("ROA") in *Wilson v. Dallas*. He claimed the value of Brown's worldwide music empire at death was less than $4.7 million. The Supreme Court declined to supplement the record. Mr. Bauknight claimed Brown's tangible personal property was worth only about $.5 million, less than the Christie's sale net for a small portion.

In mid-2011 Mr. Bauknight and AG Wilson, relying on a "appraisal" of Mr. Bauknight, began accusing Mr. Buchanan and Ms. Pope of the federal felony of intentionally overstating the value of Brown's music empire by $79 million to the IRS on the estate tax return for the improper purpose of securing a $5 million commission.

On August 3, 2011 Appellant filed a FOIA Suit in Newberry County to obtain a copy of the Legacy Trust, and amendments, which had sued her in the Wingate Suit. She also sought the AG's copy of Mr. Bauknight's $4.7 million "appraisal" which served as the basis for the AG's and Mr. Bauknight's false felony claim.

On August 10, 2011 Appellant filed a FOIA Suit in Newberry County to get a copy of the Wingate Litigation Agreement Mr. Bauknight refused to produce.

In the fall of 2011 Mr. Bauknight moved to intervene in both FOIA suits; stop production under FOIA; move them to Richland County; and consolidate

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administrator, who was appointed *ex parte* by the probate court on October 10, 2013, have done nothing to secure the 1999 backup Will and protect it from the 10-year Rule under the SCPC.

them with the Wingate Suit. Both were moved, and one was consolidated.

In October 2011 David Cannon entered an *Alford Plea* to some of the $12+ million he was charged with taking from Brown. Mr. Bauknight did not seek restitution or prepare a victim's statement even though Mr. Cannon owns a $1 million retirement home in the Carribean.

In October 2011 the TIAA Debt was paid in full. The Estate/2000 Trust was in a position, if not earlier, to secure the Royalties for decades by termination rights agreements with five or so of incarcerated son Michael, La Rhonda, Lisa, Jeanette, Nicole, James Curtis, Daryl; or possibly others.

Just before the November 1, 2011 Supreme Court oral arguments the following was repeated in at least 330 media outlets:

> "Placing Pope and Buchanan back in power would be similar to throwing a grenade into the James Brown music empire," said David Black, an attorney for Russell Bauknight.

On November 1, 2011 Mr. Bauknight's counsel told the Supreme Court in *Wilson v. Dallas* oral arguments that Ms. Hynie's elective share claim was a "slam dunk." He said the Estate/2000 Trust had no corpus to speak of. He also said that copyright terminations are "all this case is about."

In April 2012 Forlando Brown's frivolous federal suit claims were dismissed. Forlando had sued in January 2008 to enjoin the 2000 Trust until David Cannon and his co-trustees returned. Counterclaims remained. Forlando concealed his ROFR and other assets from the Honorable William O. Bertelsman. He claimed he had no assets and no expectation of assets from the

State settlement unless his father died.

Mr. Bauknight reported to Judge Bertelsman the 2000 Trust would dismiss its claim for attorneys' fees . He said Forlando did nothing wrong.

In 2012 Mr. Bauknight sent a subpoena to a journalist; moved to intervene in a FOIA suit by a journalist to prevent FOIA compliance; and worked with Ms. Hynie's Aiken counsel to keep in place 2008 gag orders which her counsel admit will cause irreparable harm to her claim that she was Brown's spouse.

In August 2012 Mr. Bauknight paid $500, 000 of estate funds to secure releases for Ms. Hynie and others from Mr. Buchanan's counterclaims in the Wingate Suit.

In November and December 2012 Mr. Bauknight secretly paid $563,000 to Wingate, in addition to the 40% contingency.

In February 2013 the S. C. Supreme Court issued the first *Wilson v. Dallas* decision. It discussed the FOIA and Wingate Suits in footnote 29.

In March AG Wilson told the Supreme Court that AG McMaster had not authorized Wingate to sue on behalf of the State/AG. He said he was seeking to be dropped from the Wingate Suit. He expected the FOIA cases to end shortly.

On May 8, 2013 the Supreme Court issued its final opinion, It voided the McMaster Settlement and Mr. Bauknight's fiduciary appointments. It affirmed Judge Early's decision to replace Mr. Buchanan and Appellant, which had been without cause. Dicta in the opinion, however, reflected the false claims made in Mr. Bauknight's filings that Mr. Buchanan and Appellant sought a $5 million

commission from a $5 million estate for very little work3.

By May 12, 2013 Mr. Bauknight had asked Judge Manning to delay the FOIA cases and the Wingate Suit until all matters were completed in Aiken County. He did this even though Ms. Hynie's deposition and summary judgment that she was not Brown's spouse were ready to be completed.

On May 29, 2013 Louis Levenson, Esquire and counsel for Ms. Hynie announced publicly their intention to redo the settlement which dismembered the "I Feel Good" Trust. Mr. Bauknight made no objection.

On June 10, 2013 Appellant filed the complaint, a request for expedited hearing in connection with the removal and restraint of Mr. Buchanan and supporting documentation. Judge Early declined to have a hearing.

On June 13, 2013 Judge Early enjoined Mr. Buchanan and Appellant from participating in any James Brown estate and trust cases. He failed to note that they were being sued and had counterclaims against the Estate/2000 Trust.

On July 9, 2013 Judge Early reconsidered, and denied Appellant's motion to vacate the June 13 injunction. The order was issued July 10.

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[3] The record of the claim was clear. It was for $2.1 million for Mr. Buchanan and $2.8 million for Appellant for what was expected to be 4-6 years. And ended up being six. Of that, approximately $1.4 million was already due and court-approved under the January 8, 2008 Order of Judge Early. It has been accruing interest since 2009, but Mr. Bauknight refuses to pay any portion. The same is true of the approximately $47,000 SA fee.

Mr. Buchanan and Appellant also met definition of "personal representative" under SPCP Section 62-1-201 (33) between May 26, 2009 and May 8, 2013 because they were the only persons performing the essential function of defending the estate plan.

On August 20, 2013, when asked if Appellant and Mr. Buchanan had benefitted the Estate/2000 Trust in the *Wilson v. Dallas* decision Mr. Bauknight said:

> That's poppycock. Pure speculation from your client [Pope]. Fantasy...I'm the person who actually looked at this. And I said it was a fair and reasonable settlement. I don't know where this fantasy is that $50 million was gone away. Number one, your client made up that number. Your client did that in a self-serving fashion so that she could take $5 million out of this estate for her retirement. So to say that this would have diminished is a load. A total load. I looked at this. I say. You have no clue how termination rights where [sic]. You don't know the value. . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. I've got a new roadmap, and I'm going to follow this new roadmap to a T....
>
> ...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent....Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client. [Emphasis supplied.]

On October I, 2013, based on a petition that did not name Brown's heirs and devisees; was not served on anyone; and was followed by a hearing from which Appellant and other were enjoined and no questions were allowed to be asked of Mr. Bauknight, Mr. Bauknight received another appointment. That appointment is on appeal.

On October 10, 2013, with no hearing; no service; and no notice, the Honorable Sue H. Roe, Probate Judge, issued an *ex parte* Order appointing a

limited special administrator ("LSA") selected by Mr. Bauknight.

The LSA began immediately to try to defeat the interest of the 5 *real* heirs who are not challenging the estate plan. He failed to understand that these, alone, were the only persons necessary to protect the Royalties for decades.

In the fall of 2013 Appellant applied to be *pro bono publico* GAL for incarcerated son Michael Brown. Judge Early has declined to appoint her or conduct a hearing, although a GAL is required. Michael called Appellant, unsolicited, from prison to thank her for her efforts.

II. Judge Early's Rule 12(b) Dismissal and Declining to Conduct a Hearing on the Petition for Removal and Restraint Compel Reversal.

Judge Early declined to have the required hearing on the serious allegations regarding Mr. Bauknight's wrongdoing, including in four separate Estate and 2000 Trust lawsuits not in Aiken County, namely:

A. The Wingate Suit (Richland County Case 2010-CP-40-4900);

B. The Forlando Federal Suit, Federal District Case 3:08 -cv-00013-WOB

This Suit was filed January 2, 2008 by grandson Forlando Brown to enjoin Brown's 2000 Trust from acting until felon David Cannon and his co-trustees were reinstated.
[See Exhibit B, Reply, Case 1337, for additional details.]

C. FOIA #1 and FOIA #2 .

For three years Mr. Bauknight used the resources of the Estate/2000 Trust to interfere with FOIA compliance in three Newberry County FOIA suits seeking public documents. He moved two to Richland County and consolidated one of them with the Wingate Suit.

When the Wingate Agreement was released by a Federal Judge in late

2013, Mr. Bauknight's reasons for fighting FOIA compliance were clear:

> 1. The State/AG never legally authorized Wingate to sue in the name of the State.
>
> 2. Mr. Bauknight had no authority to speak for the State/AG
>
> 3. No child or grandchild Wingate Suit Plaintiff had signed Wingate's 40% contingency-fee contract. It was signed by Mr. Bauknight and by lawyers wanting more than $20 million if they could stop the *Wilson v. Dallas* appeal..

III. Mr. Bauknight's Simultaneously Seeking Relief in Two Courts is Unfair.

The motion purports to speak for Mr. Bauknight, individually. At the same time he is asking for the same relief of Judge Early. [Exhibit A Ltr. of Crawford to Jg. Early dtd. March 18, 2014] The arguments made by Appellant to Judge Early in Exhibit B are adopted herein.

Counsel purporting to represent the Estate and 2000 Trust should not be expending resources to protect someone who is still serving as the agent for Ms. Hynie and her son a year after the first *Wilson v. Dallas* decision.

III. Mr. Bauknight's Service to Ms. Hynie and Her Son Requires Reversal because the Rule 12(b) Dismissal Order allows Mr. Bauknight to Continue the Wingate Suit and FOIA Claims Against Appellant for Ms. Hynie and her son.

Mr. Bauknight today is the agent for Ms Hynie and her son in three of the four lawsuits described above. The Rule 12(b) Dismissal Order allows him to continue these suits for the Estate, 2000 Trust, Ms. Hynie and her son.

In his Motion to Dismiss filed in this Court in February 2011, Mr. Bauknight claimed that Ms. Hynie was Brown's surviving spouse. [Exhibit C, p.

2]. He did not say that a settlement had been reached in which she was considered to be the wife.

A year after the first *Wilson v. Dallas* decision Mr. Bauknight is continuing to delay both the Wingate Suit and the FOIA Suits. Aided by Mr. Bauknight for five, Ms. Hynie has now evaded a deposition for seven years. Her son, also aided by Mr. Bauknight, has evaded DNA testing for seven years.

IV. Appellant is an Affected Interested Person.

Appellant is a counterclaim plaintiff is a suit brought against her in 2010 by the Estate, the 2000 Trust and Mr. Bauknight as agent for Ms. Hynie. In that suit he has told this Court that she is Brown's wife.

Mr. Bauknight has withheld monies due Appellant under Court order since 2009.

Appellant is clearly a creditor and Interested Person. SCPC 62-1-201 (23) says "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent ...which may be affected by the proceeding.

Appellant is both a creditor and an other having a property right against the estate and trust that may be affected by any proceeding in which Ms. Hynie, anyone else suing Appellant, or Mr. Bauknight is involved.

As an Interested Person she has a right to seek removal of, and an accounting from, Mr. Bauknight. Under the *Wilson v. Dallas* remand she has a right to ask for disgorgement of the secret $563,000 he paid Wingate in

November 2012 to defeat her – and the *Wilson v. Dallas* appeal.

Appellant also has a claim for attorneys' fees for interference in the FOIA suits.

V. The Brief and Designation Comply with Applicable Rules.

Plaintiff's Initial Brief complies with Rules 208, 209 and 210 SCACR. To the extent that abbreviations are unclear, that can be resolved with a phone call. Designations of matters which would have been presented had Judge Early not declined to hold the required hearing are proper for designation.

If there is a document which is objectionable, a motion to strike – not dismissal – is appropriate.

VI. Appellant's Appeals are Not Frivolous.

For their seven years of dedication to the Estate, and then the Will and 2000 Trust, of James Brown, Plaintiff and Mr. Buchanan lost a lot. For five of those seven years Mr. Bauknight has been aligned with Ms. Hynie in an attempt to destroy the careers and reputations of Mr. Buchanan and Appellant. Appellant's exercise of her right to defend against false claims and clear her reputation of false felony claims is not frivolous. This appeal, and the appeals of the June 13 injunction orders and subsequent orders are part of that process.

If Judge Early had not issued a Rule 12(b) Order or enjoined Appellant from protecting herself, these appeals would be unnecessary. Likewise, if Mr. Bauknight had not sued Appellant; prolonged the Forlando Federal Suit; and intervened in FOIA suits Appellant and Mr. Buchanan might have no further

involvement with the Estate and 2000 Trust.

VII. A Creditor May Properly Champion the Cause for Which He Works.

Mr. Bauknight suggests that there is something wrong or frivolous about Appellant's personal desire to see what should be the State's largest-ever private foundation for needy students survive and thrive. There is not. The "vigorous" defense of James Brown's estate plan was James Brown's idea. Not that of Appellant. It is the mandate of his estate plan.

Appellant was not reinstated by the Court. But she was not deprived of her right to use her expertise in ways that will not harm the "I Feel Good" Trust, whether as an attorney, expert or otherwise.

The restarting of a career ruined by false felony claims and other attacks is not the career path Appellant or Mr. Buchanan would have chosen. But they are here.

There is nothing frivolous about a creditor seeking to secure a court-ordered award granted to her 6 years ago. There is nothing frivolous about an appeal of the lower court's declining to give a creditor a hearing on why Mr. Bauknight, still in the service of Ms. Hynie and son, should not be a fiduciary.

VIII. The Appeal has Merit.

Mr. Bauknight states that Appellant's fees are "irrelevant to this appeal." He states that the appeal has no merit. He states the Appellant's motive for "continuing to insert herself in the affairs of James Brown's Estate may be to induce the Estate to settle her fee claim, in which she seeks millons of dollars."

When Mr. Bauknight sued Appellant in 2010 for tens of millions of dollars, the Estate asserted itself into Appellant's affairs. When Mr. Bauknight moved to intervene in two FOIA suits and have them consolidated with his tort suit, the Estate/2000 Trust inserted itself into Appellant's affairs.

When one of the FOIA suits was consolidated with Mr. Bauknight's Wingate, the Estate and 2000 Trust inserted themselves even more into Appellant's affairs.

When Mr. Bauknight – claiming to speak for the State and Estate – falsely accused Appellant and Mr. Buchanan of the federal felony of intentionally overstating Brown's music empire to the IRS by $79 million to obtain a $5 million commission on a $5 million estate – he inserted the Estate of James Brown into their affairs. And their liberty.

It has been seven years since Mr. Buchanan and Appellant accepted the unsolicited invitation to serve the Estate of James Brown. Appellant looks forward to its ending some day. Her Richland County counsel has made every possible effort to bring the frivolous four-year-old Wingate Suit, in which the Estate and 2000 Trust are in default as to her counterclaims, to an end. But Mr. Bauknight refuses to allow the Wingate Suit to proceed. The same is true of the FOIA suits, pending since 2011.

IX. Appellant's Initial Brief and Designation Do not Violate Rules.

Appellant has endeavored to comply with all applicable rules. She is unaware of any page limitation on the statement of the case. The reason for

asking that Mr. Bauknight's appointment be voided or he be removed for cause begins at least by May 19, 2010. This is a $100 million music empire.

It is correct that in the August 2008 settlement Attorney General McMaster gave half of the "I Feel Good" Foundation to Ms. Hynie and the Levenson clients.

The words Appellant used were proper. The word "juggernaut"correctly describes the power of the *State and those purporting to speak for the State* to destroy the careers and reputations of two attorneys who previously enjoyed good reputations and happy careers with false felony claims. That is what happened.

Mr.Bauknight claimed there was no basis for the $84 million value. But he had knowledge there was a formula presented to the Court and AG. He claimed his was the first professional appraisal, resulting in a value of $4.7 million for Brown's worldwide music empire. But had had knowledge there was a 2006 professional appraisal of <u>half</u> the assets (Royalties only) which valued them at $42 million. This was nearly 10 times the value of Mr. Bauknight's claimed $4.7 million value for the entire music empire.

X. The Issues Raised are Relevant and Have Not Been Fully Litigated or Finally Decided.

The only thing the Supreme Court finally decided about Appellant and Mr. Buchanan was that Judge Early's decision to replace them should stand. Judge Early replaced Mr. Buchanan and Appellant without showing or existence of cause. He did so based on a contract entered into just 11 days after AG

McMaster approved them as permanent trustees of the "I Feel Good" Foundation. [See Affid. Pope, Exhibit D]

Everything else is dicta. Unfortunate dicta. The filings by Mr. Bauknight in this Court in February 2011 show that both the false devaluation to $5 million and the claim that Mr. Buchanan and Appellant were seeking an improper $5 million commission from a $5 million estate are rooted in the Wingate Suit.

This is the suit which we <u>now</u> know was brought by Mr. Bauknight and Wingate claiming they had legal authority to sue for the State of South Carolina. They did not.

This is the suit which was authorized not by the named Plaintiffs, but by three lawyers wanting more than $20 million if they could stop the *Wilson v. Dallas* appeal.

This is the suit in which Mr. Bauknight used $500,000 of Estate funds to secure for Ms. Hynie and her son releases from Mr. Buchanan's counterclaims.

This is the suit in which Mr. Bauknight and Wingate – claiming authority to act for the State/Attorney General which they did not have – coerced from Mr. Buchanan agreement <u>not</u> to file a Petition for Rehearing in *Wilson v. Dallas*, even if it was necessary to save the "I Feel Good" Trust. And did not tell the Supreme Court.

This is the suit in which Mr. Bauknight, after breaking Mr. Buchanan financially, made a secret 2012 $563,000 payment to Wingate – in addition to the 40% contingency he already agreed to pay Wingate – to break Appellant.

And secreted the $563,000 payment for almost a year. Until after he was appointed fiduciary.

This is the suit in which Judge Early, on October 8, 2013, wisely said that Mr. Buchanan could recover on his counterclaims for abuse of process and other causes of action if the unconscionable, void "settlement" was overturned. It should be. And, hopefully, will be.

This the suit, however, which the Rule 12(b) Dismissal Order and the June 13 injunctions do not address, allowing Mr. Bauknight to continue to pursue the interests of Ms. Hynie and her son, while claiming to serve the Estate/2000 Trust.

This is the suit that – if allowed to continue as it should – will confirm that Ms. Hynie was not Brown's spouse. It will prevent Mr. Bauknight from following his roadmap to destroy the "I Feel Good" Trust *again*.

It is not an overstatement to say Mr. Bauknight tried to cause tens of million of dollars damage to the "I Feel Good" Trust; that Mr. Bauknight abandoned the "I Feel Good" Trust for Ms. Hynie; that Mr. Bauknight failed to secure copyright termination agreements with the HALF of James Brown's heirs necessary to protect the royalties for decades.

It is correct that Mr. Bauknight misrepresented the heirs and the rights of the settling parties under the Federal Copyright Act to the Supreme Court. It is correct that the royalties could have been secured for less than $200,000 per year.

XI. Appellant properly addressed Judge Early's Order.

Appellant properly addressed in her Initial Brief the reasons why the Rule 12(b) Dismissal Order should be reversed, including standing.

The only standing necessary to this appeal is that of an Interested Person affected by the ruling. That is clear under the Probate Code. See 62-1-303 and 62-1-201 (23). There is certainly no dispute that the Rule 12 (b) Order was final as to most of the claims in Appellant's complaint.

Plaintiff's standing as a *pro bono publico* proposed GAL also confers standing on her, as stated in the brief. As does her Section 62-7-405 standing as an "other" with special knowledge and experience related to the relationship of federal copyright terminations and state probate matters.

XII. No Sanctions or Dismissal are Appropriate.

The serious and troublesome aftermath of the *Wilson v. Dallas* decision calls for the attention of the Appellate Courts. The pending appeals are a necessary part of that. Neither sanctions nor dismissal is appropriate.

Conclusion

For the reasons stated herein, all relief requested in the Motion to Dismiss should be denied.

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Appellant, *pro se*

March 21, 2014

Exhibits to Return to Motion to Dismiss

1. Exhibit A , Letter of Frederick A. Crawford to The Honorable Liz Godard dated March 18, 2014

2. Exhibit B REPLY TO MEMORANDUM IN OPPOSITION TO MOTION TO ALTER OR AMEND AND/OR RECONSIDER AND VACATE (of Appellant)

3. Exhibit C PLAINTIFFS' MOTION TO DISMISS NOTICE OF APPEAL AND PETITION FOR WRIT OF PROHIBITION, dated February 28, 2011 - Case No. 2010-CP-40-4900 (the "Wingate Suit"). [Partial, pages 1,2,7 & 8]

4. Exhibit D AFFIDAVIT OF ADELE J. POPE IN SUPPORT OF PETITION FOR WRIT OF PROHIBITION AND IN SUPPORT OF REPLY TO RETURNS TO PETITION FOR WRIT OF PROHIBITION AND RETURN TO MOTION TO DISMISS PETITION (Wingate Suit), dated March 7, 2011

5. Exhibit E DEFENDANT ROBERT L. BUCHANAN JR.'S RETURN TO PLAINTIFFS' MOTION TO DISMISS NOTICE OF APPEAL AND PETITION FOR WRIT OF PROHIBITION AND REPLY TO RETURN TO PETITION FOR WRIT OF PROHIBITION (Robert Buchanan, Jr., Wingate Suit) dated March 7, 2011, with cover letter of J. Calhoun Watson, Esquire, filing same with South Carolina Court of Appeals.

6. Exhibit F SUMMONS and Complaint to Void Appointment and Notice of Disallowance; forReview and Direction to Pay Commissions and Fees under *Wilson v. Dallas;* Remove Bauknight; Require Emergency Appointment of Litigation SA/ST to Prevent Further Damage by Bauknight in *Wilson v. Dallas* and Related Cases; for Accounting; And for Related Relief, filed June 10, 2013, Aiken County Probate Court, File No. 2007-ES-02-0056, Removed to Aiken County Circuit Court as Case No. 2013-CP-02-1337. [Complaint, this Appeal], [Partial].

7. Exhibit G Motion for Expedited Voiding of Claimed Appointments; Notice of disallowance; and Appointment of SA/ST For Litigation to Accept Service and Prevent Further Loss by Bauknight (1337)