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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 Doyet A. Early, III Circuit Court Judge

Case No. 2013-CP-02-1647
Case No. 2013-CP-02-2849
Case No. 2013-CP-02-2850
Case No. 2013-CP-02-2851

MICHAEL DEON BROWN, JAMES CURTIS, AND JANE DOE and JOHN DOE
Numbers I, II, III and IV, by their proposed Guardian *ad Litem*, and Adele Pope,
as Creditor/Proponent of Will of James Brown dated June 15, 1999 and on
behalf of Others under S.C. Trust Code § 62-7-405 Appellants,

v.

James B., Terry Brown, Tommie Rae Hynie and David Sojourner, Jr.,
. Respondents.

IN RE:
THE ESTATE OF JAMES BROWN, A/K/A JAMES JOSEPH BROWN

RETURN AND OPPOSITION OF APPELLANTS TO MOTION TO DISMISS

Appellants oppose the Motion to Dismiss this appeal made by Adams and
Reese, LLP on behalf of David Sojourner, Jr., for the following reasons:

1. Movant lacks standing to seek dismissal because of his void *ex parte* claimed appointment, and because he has unclean hands.
2. James Brown's incarcerated son Michael and all Appellants are Aggrieved by the appealable Orders, and have standing.

3. Michael and other Appellants are entitled to be parties and served, and the claimed heirs to have a guardian *ad litem* ("GAL").
4. SCTC Section 62-7-405 Gives Appellant Pope Additional Standing Because Movant and Bauknight have placed the 1999 Will in jeopardy.

Each of these issues is discussed below.

Background

This is an appeal of public importance because it addresses whether the State, after the withdrawal by Attorney General Alan Wilson ("AG Wilson") and aided by Movant and Russell Bauknight, may continue to deny the Due Process, Equal Protection, First Amendment and statutory rights of Appellants which was the State's policy from August 10, 2008 until the decision of May 8, 2013 in *Wilson v. Dallas*, 403 S.C. 411, 743 S.C.2d 743.

The State's policy threatened to dismember James Brown's "I Feel Good" Private Foundation. It also threatened the "I Feel Good" Trust's rights to more than 800 published and unpublished songs (the "Royalties"). The State did this by creating by "stipulation" a spouse, rather than confirming James Brown had no spouse. The Estate/"I Feel Good" Trust were prevented from contracting with the least expensive HALF of Brown's *real* heirs *who were not challenging the estate plan* to protect for decades the \$3+ million annual flow from the Royalties to needy students as James Brown intended.

But for the actions of the State, Movant and Bauknight, the challenges to Brown's 2000 and 1999 estate plans, under the *Wilson v. Dallas* remand, would likely be over. Under IRS distribution guidelines, \$2 million or more would now

The petition and summons were not served on any Appellant, all of whom were either proven heirs, claimed heirs awaiting the Peeples DNA Protocol, or Creditors who had filed a Demand for Notice and were entitled to be served.

Arguably more egregious, Movant did not serve James Brown's six *adult* grandchildren and minor who are beneficiaries of \$285,000 education trusts under the 2000 Trust, even though four of them have never been made parties to any Aiken County James Brown case.¹

Those seven – like Appellants – have Federal Copyright Act rights which may be damaged for decades (after their parents die) if non-wife Hynie is once again allowed to be called the wife when *their own parents* have confirmed since the *Wilson v. Dallas* decision that she is not. [See Ltr. of Marc Toberoff, Sept. 2013, Exhibit B]

Movant's petition, summons and appointment orders re-started a tradition employed by Hynie and her counsel in 2007 – not naming any parties in the captions and orders; then claiming the parties who were not named or served are bound. This practice was stopped by Judge Early's Order of April 8, 2008 in Aiken County Case 2007-CP-02-0122 ("Case 122"). It began again after the *Wilson v. Dallas* decision.

Movant adopts this unfortunate practice, which is prohibited by the Due Process clause of the constitutions of South Carolina and the USA and the

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Some adult grandchildren are Co-Plaintiffs with Attorney General Wilson, Hynie and her son in Richland County Case 2010-CP-40-4900 (the "Wingate Suit").

SCPC and SCTC. Movant refers to the *four* cases which are the subject of this appeal --and a host of others – as the “Underlying Action.” There are more than a dozen “Underlying Actions.” Those actions are required to have parties. The parties are required to be named. And served.

Movant’s service list is as troublesome as the claim that it is appropriate to file petitions and obtain orders which give no indication who is to be bound or served.

James Griffin, Esquire, is served. In June 2013 Mr. Griffin filed a Motion to be relieved as counsel by one living daughter of James Brown and one now-deceased daughter, La Rhonda. Both were officially acknowledged by the Estate of James Brown in 2007 after passing the official Peeples DNA Protocol.

Movant serves William Barr, Esquire, who represents another acknowledged daughter who passed the official Peeples DNA Protocol in 2007 and was officially recognized by the Estate.

These three DNA-proven daughters constitute HALF of the HALF of James Brown’s *real* heirs who are not challenging the estate plan with whom termination rights agreements should have been made from 2009 - 2013 to save the “I Feel Good” Trust’s copyright for decades. And should be made now.

These three, like Appellants (other than Pope), were never served with the pleadings or made a party to Case 2008-CP-02-1647 (“Case 1647” or “*Wilson v. Dallas.*”). Nor were they served or made a parties to the Hynie claim; Hynie’s son’s claim; nor to the Levenson Intestacy Suit, Case No. 2008-CP-02-0872.

Movant also serves David Bell, Esquire, who is a Georgia attorney who has been admitted *pro hac vice* in some of the many cases in which he represents Forlando Brown and Terry Brown. From time to time Mr. Bell claims he represents others in multiple cases: Daryl; Forlando; Romunzo; first wife Velma; daughter Lisa - even Michael.

But he protects only Terry/Forlando.

There are a dozen State Court "Underlying Actions" in Aiken County. There are also three pending Freedom of Information Act ("FOIA") suits which the Estate/2000 Trust and Hynie are seeking to consolidate with the State/AG's and Hynie's tort suit against Robert Buchanan, Jr. and Appellant Pope, Richland County Case 2010-CP-40-4900 (the "Wingate Suit")

Movant, while seeking to be appointed to protect what may be the largest-ever private foundation in South Carolina dedicated solely to needy students, ignores the requirements of the South Carolina Probate Code ("SCPC"), the South Carolina Trust Code ("SCPC") and the fundamental fairness required of the Due Process clauses.

By inattention or design Movant is advancing the cause of Hynie and her son. And the second dismemberment of the "I Feel Good" Trust.

His appointments violate fundamental Due Process and should be declared void.

b. Movant has Unclean Hands.

Within three months of securing the troublesome claimed appointments Movant paid Adams and Reese more than \$250,000.00. [Exhibit A] Yet:

1. Movant declined to meet with Appellant, who has worked *pro bono publico* since May 2013, to discuss the history – and strength - of the Estate/"I Feel Good" Trust's defense to the Hynie claims, and those of her son.
2. Movant worked with Levenson to undo the already-official heirs status of Brown's three DNA-proven daughters La Rhonda, Nicole and Jeanette, At the same time Levenson's clients were conducting media campaigns confirming they were Brown's children.
3. Movant ignored the March 8, 2008 Order of Judge Early in which the Estate/"I Feel Good" Trust's plan to properly identify all non-presumed heirs, and make Federal Copyright Act termination rights agreements with the most cooperative HALF *who were not challenging Will*, was being implemented. [See Exhibit D, p.2, F.1, p. 3 Emphasis supp.]
4. Movant worked to prevent the appointment of a GAL for Michael and James Curtis, even though a GAL was required for Michael and a GAL for all who DOE Defendants in the Levenson Intestacy Suit.
5. When it was called to Movant's attention that the 1999 Will needed to be protected and was in jeopardy of the 10-year rule, he did nothing.
6. Movant failed to recognize that jurisdiction to determine whether Hynie is Brown's spouse – at the request of AG Wilson and Hynie – now rests in Richland County, and the deposition Hynies has evaded for seven years is pending.
7. Movant failed to proceed with dismissal of Hynie's son's claim on the basis that he is not a presumed child; was born of his mother's marriage to someone other than Brown; and has refused the Peebles DNA Protocol for seven years.
8. Movant tried to prevent the appointment of a GAL for incarcerated son Michael, encouraging David Bell, Esquire, to usurp for Terry Brown and Forlando Brown the Estate's termination rights agreements.
9. With knowledge from Marc Toberoff, Esquire, that Hynie and her son were attempting to usurp termination rights elections, did nothing. [See Toberoff letter, Sept. 2013, Exhibit B]

Movant failed to acknowledge the conflict of Bauknight's continued service as agent for Hynie and her son in four lawsuits. He failed to distance himself

after Bauknight's August 20, 2013 testimony in a federal court deposition about whether bringing the *Wilson v. Dallas* decision to the S.C. Supreme Court:

Dallas was helpful produced:

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.]

Movant has aligned himself with those committed to allowing the State to retake James Brown's private assets and give away half of what James Brown gave solely for scholarships for needy students based on false claims about the value, the heirs and the Federal Copyright Act. Movant has ignored the following facts, and other evidence, which shows these claims to be without merit.

1. Before James Brown's Death

Before 1984	Brown supports Appellant Michael Deon Brown under various Court Orders.
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1984	Brown gets vasectomy after fathering more than a dozen children, including the following who were ignored by the State/AG in 2008 Settlement and thereafter by Bauknight and Movant: 1. Lisa (first marriage); 2. Michael (incarcerated); 3. LaRhonda; 4. Nicole; 5. Jeanette; 6. James Curtis (subject to Peoples DNA Protocol confirmation);
Early 1999	After 3 years of planning, Brown makes voice tape of intentions to create "I Feel Good" Trust.
June 15, 1999	James Brown executes first Will/Trust. "I Feel Good" Trust is revocable. Leaves music empire for scholarships for needy students.
August 1, 2000	James Brown makes minor modifications to "I Feel Good" Trust. Makes Trust Irrevocable. Funds 2000 Trust with Beech Island Estate. Hynie witnesses Advisory Board documents as future Ms. James Brown.
	Memoranda of Trust filed in two states.
Fall 2000	According to sworn statement of Albert Dallas, Hynie's witness in Wingate Suit, Hynie becomes pregnant when she and Brown are separated and she is in Las Vegas. Returns pregnant.
June 2001	Hynie has son in Las Vegas. Born during concealed marriage to Javed Ahmed and before ceremony with Brown. James B. is only child claimed to be fathered by Brown in 22 years between vasectomy and Brown's death.
December 2001	Hynie conceals her marriage on license application, and obtains license to marry Brown. Executes prenuptial agreement waiving all State and Federal rights. Conducts ceremony with Brown.
2003	Brown discovers Hynie married. They separate. Hynie promises to produce divorce papers in six weeks, but fails to do so.
2003	Hynie's counsel Robert Rosen, Esq. writes James Brown's attorney to say she

has filed \$5 million lawsuit against Brown.
[Pleadings not found in public records.]

2004

Brown commences suit to void ceremony. Hynie counterclaims seeking separate maintenance and support for her son. Brown asks for DNA testing. Case settles immediately. Court finds they are living together and incorporates agreement which does not acknowledge Hynie's son; does not provide any support for either Hynie or her son; and in which she agrees never to claim to be Brown's common law spouse.

[While Suit pending, Hynie obtains annulment in Charleston, S.C. Husband never personally served, and later claims he did not know about it.]

2003 - 2006

Hynie and at least six of Brown's claimed children discuss estate plan with James Brown. All admit (in Wingate Suit):

"... the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown."

2003 - 2006

Brown earns \$3 million a year from Royalties and, in addition, grosses \$18 million during period on road shows.

April 2006

Professional appraisal conducted in connection with Royal Bank of Scotland proposed loan values Brown's Royalties at \$42+ million. Publicity Rights have about same value.

Summer 2006

Hynie, Brown and trustee/attorney Dallas have 3-way conversation in which Dallas confirms that since they are not married Hynie has only the rights of a guest in Brown's Beech Island home estate.

Hynie leaves. Abandons handwritten notes in Brown's home.

Dec. 25, 2006 Brown dies owning worldwide music empire valued by all James Brown trustees (except Bauknight) at approximately \$100 million less 1999 TIAA Debt (about \$15 million. Paid in full in 2011.).

2. Between James Brown's death and AG McMaster's Settlement

February 2007 Hynie and son file defective claims in wrong court. [Case 122]. No Summons. No service.

By August 2007 Estate officially recognizes La Rhonda, Jeanette, and Nicole after they complete Estate's official Peoples DNA Protocol. Hynie's son refuses to take Protocol. Appellant Michael (incarcerated) seeks to be tested and part of proceeding. DNA testing delayed by other factors.

Aug.'07 - Feb.'08 Contents of Hynie's unwritten notes ("Diary") widely disseminated, copied, at central location. Also typed copy of same disseminated widely.

October 11, 2007 Order of Judge Early allows AG McMaster to enter Aiken Case 122.

Dec. 26 2007 Levenson files Suit for "administration in intestacy." ("Levenson Intestacy Suit")

Early 2008 Bell files six grievances in 2 States against Levenson.

Feb. - March 2008 Jg. Early issues Gag Orders to stop discussion of widely disseminated Hynie "diary."

March 2008 Judge Early signs order, with Estate/ 2000 Trust's consent, to complete Heirs proceeding even though Brown's two valid estate plans intentionally exclude all heirs and past and future spouses from Music empire. Gives entire residue to "I Feel Good" Trust. [Exhibit D, p. 2, F.1, p.3. Emphasis supp.]

Estate then pays for DNA testing for Hynie's son. He continues to refuse Peoples DNA Protocol.

August 10, 2008 Michael still awaiting DNA testing. Most heirs and devisees not served in Levenson Intestacy

Suit. Buchanan and Pope seeking alternate probate of backup 1999 Will, in addition to dismissal of Levenson Suit and similar defective suits filed by Hynie.

August 10, 2008 AG McMaster reaches settlement which "stipulates" Hynie is treated as Brown's spouse; exempts Hynie's son and other non-presumed children from DNA testing. Gives half of "I Feel Good" Trust to Hynie & Levenson clients.

Dismembers both "I Feel Good" Trust and plan to confirm Brown has no spouse and reach Federal Copyright Act termination agreements with most cooperative HALF (or half + 1) of Brown's properly-identified heirs NOT challenging the Estate Plan

January 30, 2009 Bell/Terry join settlement. Bell/Forlando claim to oppose.

May 26, 2009 Judge Early approves AG's Settlement.

3. The *Wilson v. Dallas* Appeal, Wingate Suit & FOIA Suits

Aug. '08 - May '13 Hynie speaks "as one" with two Attorneys General.

Aug. '08 - May '13 Buchanan, Pope and small team defend against McMaster Settlement and appeal, resulting in *Wilson v. Dallas* decision. Total legal cost of defense about \$200,000 because Buchanan/Pope spend much of their time on appeal and James Richardson, Esq. serves *pro bono publico* as lead appellate counsel.

May 19, 2010 AG McMaster, Hynie and his Legacy Trust sue Robert Buchanan, Jr. and Pope through private law firm of Kenneth Wingate, Esquire ("Wingate") for tens of millions of dollars for conducting *Wilson v. Dallas* appeal and other claimed wrongdoing.

January 2011 Sr. Assistant AG Jones, Bell, Bauknight coordinate secret transfer from Terry to Forlando of right of first refusal AG McMaster gave Terry to buy music empire and amendments to Legacy Trust.

Transfer concealed under FOIA and from Courts.

April 2011

Draft professional article of Wm. J. Smith and Appellant Pope, "Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown 'I Feel Good' Trust doesn't ..." explains Private Foundations holding copyrights must "split heirs" to protect the Foundations' copyrights under the Federal Copyright Act termination rights provisions. "Splitting Heirs" involves a proper heirs-at-death procedure, which the Estate had in progress when AG McMaster took over; then "splitting heirs" by by making termination rights agreements with the most cooperative HALF of a Settlor's heirs. This is necessary both to protect the Foundation and to comply with self-dealing restrictions IRS imposes on private foundations.
[Circulated to professionals for review, but publication withheld pending *Wilson v. Dallas* appeal, which changed result.]

2011

S. C. Court of Appeals dismisses as premature Buchanan/Pope's claim that Wingate may not serve as sole attorney for State/AG and Hynie, and Bauknight may not sue as agent for State/AG.

2011

Bauknight files I&A claiming Brown's music empire worth less than \$4.7 million. AG Wilson and Bauknight, speaking for State, begin to falsely accuse Buchanan and Pope of federal felony of intentionally overstating Brown's music empire to IRS on estate tax return by \$79 million in order to secure a \$5 million commission.

July 2011

Supreme Court declines to supplement the record with Wilson/Bauknight claimed \$4.7 million value.

2011 - 2014

AG Wilson/Bauknight refuse to release \$4.7 million appraisal which Bauknight required to file.

July 2011

Bauknight's counsel threatens Pope with lawsuit, sanctions for seeking Legacy Trust documents under FOIA.

Fall 2011

Bauknight, for Hynie and others, moves to intervene

in two FOIA suits brought by Appellant Pope; transfer them to Richland County; and consolidate them with Wingate Suit.

April 2012 Forlando drops frivolous 4-year-old injunction suit. Tells Federal Judge he has no assets.

July, 2012 Judge Early declines to rule 2008 Gag Orders void or expired based on *Wilson v. Dallas* appeal.

2012 James Curtis writes Pope asking to be DNA tested as Brown's son. Provides background. AG Wilson and Bauknight informed.

Summer 2012 "Longtime Friend" of James Brown discusses contents of Hynie "diary" with journalist.

AG Wilson, through Wingate, violates Shield Law to subpoena sources and notes of journalist. Hynie makes false accusation that Appellant Pope was the "longtime friend."

July 2012 Hynie's witness in Wingate Suit, former trustee Albert Dallas, confirms that Hynie not spouse, and that she, Brown and he discussed it in 2006. Confirms Brown knew Hynie's son not his, and asked for DNA testing after death.

2012 -2013 AG Wilson, Bauknight and Hynie file bitter filings in Appellate Court claiming Hynie is spouse, while trying to prevent voiding of Gag Orders on ground that it will cause Hynie's claim irreparable harm. [Exhibit B]

July 2012 Hynie's deposition noticed in Wingate Suit.

Summer, Fall . AG Wilson, through Wingate, moves to strike settlement offers which would have removed Estate/2000 Trust and grandchildren with \$285,000 trusts from Wingate Suit. Possibly prevented *Wilson v. Dallas* decision.

Nov. - Dec, 2012 Bauknight pays Wingate \$563,000 from Estate, in addition to 40% contingency. Conceals until October 2013.

June 13, 2013	Judge Early and Clerk issue June 13 Orders without notice, service of any petition on heirs, devisees and beneficiaries, and no notice or hearing.
After June 13	Series of Orders which continue to violate rights of Appellants without service, notice hearing. Judge Early decline to hold Gag Order hearing. In fall, refuses hearing on Petition for GAL for Michael, DOE Defendants, James Curtis.
Late June 2013	Clerk refuses to file Pope's motion to alter June 13 Order, on direction of Judge Early. After discussion, dismisses herself to make call; returns; and allows motion to be filed in correct case.
June 2013 & later	Cannon's counsel writes to support Pope's attempts to protect "I Feel Good" Trust by alternate formal probate of 1999 Will, which a incorporates by reference almost-identical "I Feel Good" Trust. Cannon's counsel supports, but cannot help.
July 2013	Son Daryl launches webside to save "I Feel Good" Trust. Bauknight, and later Movant, take no action to preserve this admission.
September 2013	Copyright expert Marc Toberoff confirms Hynie not spouse. Suggests Bauknight is allowing Hynie and son to usurp Estate's termination rights.
Fall 2013	Appellant learns Michael's heir status in jeopardy. Files motion to be <i>pro bono publico</i> GAL for Michael, James Curtis and DOE Defendants not challenging estate plan. Michael calls from prison to thank.
October 8, 2013	Judge Early "double approves" \$600,000+ paid to Buchanan. No disgorgement. Does not preclude voiding settlement in

Wingate Suit.

October 8, 2013	Bauknight files accounting which reveals \$563,000 payment to Wingate.
October 10, 2013	Judge Roe issues <i>ex parte</i> Order. No service. No summons. No hearing. No notice. No parties named in Order.
December 16, 2013	Judge Early severs Hynie and Son's claims.
December 2013	La Rhonda dies. Movant goes to January hearing and presents "consent" Order signed by lawyer who advised Judge Early 6 months earlier that he had been terminated by La Rhonda; asked to be relieved; and asked the Court to give her time to secure counsel.
By December 2013	Adams and Reese paid \$250,000.000+ for three months' service.

More than a year after the first *Wilson v. Dallas* decision the Attorney General Wilson has abandoned the "I Feel Good" Trust and Sojourner and Bauknight:

1. Failed to comply with *Wilson v. Dallas* to have Judge Early review 40% contract and \$563,000 payment to Wingate; payments to Nexsen Pruet, Adams and Reese, and others.
2. Failed to comply with *Wilson v. Dallas* by securing *ex parte* appointments for Sojourner and Bauknight as described.
3. Are spending funds James Brown gave to the "I Feel Good" Private Foundation at a rate of about \$2 million per year to dismember "I Feel Good" Trust and defeat status of HALF of James Brown's *real* heirs who are not challenging Brown's estate plan and with whom Federal Copyright Act contracts could be made for 1/10 that amount.
4. Are continuing State/AG McMaster's 2010 Wingate Suit seeking tens of millions of dollars from Buchanan and Pope for conducting the *Wilson v. Dallas* appeal through private Wingate firm.

5. Have worked with AG Wilson to continue three FOIA suits; consolidate them with the Wingate Suit; and delay FOIA compliance for years, concealing the following, and other, public documents:

a. Attorney General Wilson's copy of the so-called Hynie "diary," provided to AG McMaster after the Hynie "Diary" Gag Orders and which he considered in the 2008 settlement.

b. The Legacy Trust Amendments made by AG McMaster in January 2011, days before leaving office, related transfers.

c. The Bauknight \$4.7 "appraisal."

6. Through the creation of entities for which Bauknight is not accounting, and reporting Brown's assets at less than \$1 million (most at \$1.00), Bauknight is concealing the value of the "I Feel Good" assets to the detriment of needy students.

Movant has unclean hands. He is working against the "I Feel Good"

Trust.

II. James Brown's incarcerated son Michael and all Appellants are Aggrieved by the Orders, which are appealable; and have standing.

Movant complains that Appellants are not parties to the "Underlying Action." Any failure to participate is a direct result of the June 13 Orders and failure of summons, service and notice in the above four cases, and others, which is caused directly by the State, assisted by Movant, denying Appellants' Due Process, First Amendment and Equal Protection Rights, as well as their rights under the S. C. Probate Code ("SCPC") and S.C. Trust Code ("SCTC").

Appellants are all Interested Persons under the SCPC Section 62-1-201 (23). All are aggrieved because their substantial and valuable property interests have been finally damaged by the orders which are the subject of this appeal. All are materially affected by being shut out of Hynie's claims, the claims of

her son, and the Levenson Intestacy Suit. None has challenged Brown's estate plan. All are required by the law and the constitutions to be allowed to:

1. Participate as parties in the James B. claim and both Hynie claims because they are heirs or creditors and the claims affect their property interests.
2. Be served, have an opportunity to respond, and participate fully in the Levenson Intestacy Suit, Hynie and Jams B. claims.
3. Seek a stay of the proceeding until the Summary Judgment that Hynie is not Brown's spouse and James B. not Brown's Child can be decided in the Wingate Suit because Attorney General Wilson, Bauknight, Hynie and James B. have prevailed in their assertion that these matters must be heard in Richland County.

It is undisputed that Michael, incarcerated in California, must have a GAL to protect his interest in the Hynie, Levenson Intestacy and James B. proceedings. And that none of Appellants are being protected.

The orders which are the subject of this appeal finally determine Michael's and other Appellants' rights to participate in these important cases.

The rights of all heir/Appellants to enter into fair arms'-length contracts with the Estate/"I Feel Good" Trust and cooperate in termination rights elections under the Federal Copyright Act is materially and adversely affected by these orders. Cooperation of HALF (or half + 1) is all that is needed to assure that Brown's \$3+ million annual Royalties will flow to needy students for decades. Hynie, her son and those contesting the 2000 and 1999 estate plans are being treated unfairly by the State, as they have been since August 10, 2008.

The Estate/"I Feel Good" Trust and the AG should be providing proper treatment to the cooperative HALF not challenging the estate plan, currently:

1. Lisa, 2. Michael, 3. La Rhonda, 4. Nicole, 5. Jeanette, James Curtis (Subject to Peebles Protocol) 6. La Rhonda's 2 daughters and DOE Defendants being identified.

S.C. Code Section 14-3-330 provides appeals may be taken from:

... (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions...

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, ... or (c) strikes out an answer or any part thereof or any pleading in any action;

Appellant Pope has multiple bases for standing to participate in all James Brown cases now pending in Aiken County, including:

1. Appellant Pope is a Creditor Appellant has not been paid for the six years she devoted about 80% of her professional time to protecting James Brown's Estate/2000 Trust and "I Feel Good" Trust, including her allowed and court-approved claim.

While she has been serving *pro bono publico* since May 2013, she has a right to be paid for her contracted, allowed, and court-ordered SA payments and payments for her service to May 26, 2009. Her material property rights are affected by everything related to Hynie and her son for so long as the claimed fiduciary of the Estate/2000 Trust is Hynie's co-plaintiff in the Wingate Suit or the Wingate Suit, FOIA suits in which the Estate/2000 Trust, with Hynie, is seeking to intervene, and the Forlando Federal Suit remain unresolved.

After her faithful service to the "I Feel Good" Trust, the Attorney General of South Carolina is still allowing Pope's career and reputation to be ruined by false felony claims by a person claiming to represent the State/AG and Hynie. The same is true of Buchanan. Pope is materially aggrieved by being shut out of the proceeding to confirm that Hynie and her son are not heirs.

2. Appellant Pope has Special Interest Standing Under §62-7-405.

Appellant has devoted time, effort and study to protect the "I Feel Good" Trust. AG Wilson has withdrawn from its protection. Bauknight has declared his intention to dismantle it – again. Appellant is qualified as an "Other" and is willing to serve *pro bono publico*.

3. Appellant Pope has a Counterclaim with Proposed Offset against Bauknight as agent for Terry, Hynie and others in the 2010 Wingate Suit brought by Bauknight.

4. Appellant Pope has a counterclaim in the Forlando Suit. While the federal court has recently praised the work of Buchanan and Appellant but declined to charge Forlando Brown's trust share with 4-year cost of his attempt to return the Cannon Trustees, that matter is not final.

5. The State, Hynie and Estate are still interfering with FOIA rights.

This appeal, and all since June 13, 2013, demonstrate why "Others" under Section 62-7-405 are allowed to help enforce charities. The Settlor is dead. The Attorney General has turned his back on the "I Feel Good" Trust. And its claimed trustee Bauknight has an irreconcilable conflict.

The probate and circuit courts, at the request of Bauknight and Movant, are continuing the State's pattern of ignoring Due Process, First Amendment and Equal Protection and statutory rights of all creditors, heirs and others who support the "I Feel Good" Trust. And overlooking about \$2 million a year being spent to dismember it – again.

Appellants incorporate the Initial Brief filed in Appellate Case No. 2013-002582 dated February 11, 2014; the Reply to Return to Petition for Rehearing in Appellate Case No. 2013-2582, filed February 28, 2014; the Initial Brief filed in Appellate Case No. 2013-1649 on February 21, 2014; and the Return and Opposition of Appellant to Motion to Dismiss filed in Appellate Case No. 2014-

00250 on March 21, 2014 as additional support for their standing and the fact that the orders may be appealed now.

III. Michael and the Claimed Heirs are Entitled to GAL.

Rule 17 (c), SCRCP provides, in pertinent part, as follows: “ A person imprisoned outside this State shall appear by guardian ad litem in an action by or against him; ...”

Appellant Pope asked to be appointed GAL for Appellant Michael and other claimed heirs who are not challenging the estate plans when it became clear that Movant was aiding Hynie, her son, and Levenson in their attempts to defeat both the rights of heirs and the Royalty copyrights of the Estate/”I Feel Good” Trust.

Movant and David Bell, Esquire, then asserted he did not need a GAL. But Michael, unsolicited, called Appellant Pope from prison to thank her. She declined to talk to him, but said she would report to the Court. She did. Judge Early declined to appoint her or to hold a hearing.

Bell has a troublesome history with the State and Federal Courts in the seven years since Brown’s death, Bell has filed six grievances against Levenson. Bell even made the false claim that Forlando’s 30% contingency fee agreement with Levenson was forged.

Bell and client Forlando Brown then brought suit in federal court claiming (falsely) Forlando was not a party to any State Court Suit. They attached to Forlando’s verified complaint a fabricated post-death second “Schedule B” which made it appear that Brown’s publicity rights – worth nearly \$50 million –

had been placed in the 2000 Trust before Brown died.

Forlando and Bell used the fabricated second Schedule B; the claim that Forlando had no State Court remedy; and two false affidavits of Bell as the backbone for trying to enjoin the 2000 Trust for four years until the Cannon trustees were reinstated.

Since 2011 Bell and his sponsor, with Forlando as the real party in interest, have been making simultaneous conflicting material representations to different James Brown courts, including:

Forlando's Position

\$100 million is a conservative at-death value for Brown's music empire; the \$4.7 million claimed value is "bogus."

Hynie was not Brown's spouse; knew it; and begged him to marry her after Brown discovered she was married when they had a ceremony.

He was part of 2 offers to buy the music empire for \$90 - \$100 million, and \$150 million offers were still available in 2008

Terry's Position

Bauknight's claimed \$4.7 million value for the music empire is correct.

Hynie is Brown's spouse

There were no offers To buy Brown's music empire.

In 2014, after these false claims hit their mark, and Buchanan and Pope were not reinstated, Mr. Bell boasted to the federal court that the *Wilson v. Dallas* decision was a permanent stain on their careers. This was correct.

The Attorney General not only allowed this extraordinary deception. He enabled it by refusing FOIA compliance for nearly three years.

Under the SCPC James Curtis, who is a Levenson Intestacy DOE Defendant identified in 2012 and awaiting DNA testing, should have a GAL,

along with other DOE Defendants. [See Exhibit D. The Order of Judge Early makes clear that the purpose of the Levenson Intestacy Suit was to finish the proper heirs determination for to protect the Royalty Copyrights. Footnote 1 references "the position of Defendant PR/Trustees ...that the action to set aside the Will and Trust is without merit." But it then confirms "...however, ... the determination of the lawful heirs of James Brown may have being on other rights and obligations of the parties." Then the notice to be published states in relevant part:

Nature off Action: The purpose of this action is to determine all lawful heirs at law of James Brown, including lawful heirs at law who may be entitled to right under state and federal laws.

Had AG McMaster and David Bell, Esquire, not claimed that an Order of the Honorable Jasper Cureton dated May 28, 2008 in the Dallas appeal stopped all action of the 2000 Trust, Michael and the Doe Defendants might have gotten a GAL. And the Defendants might have all been served in the Levenson Intestacy Suit. Instead, matters involving the 2000 Trust were stayed until the Order of Judge Cureton dated July 14, 2018 – the third order approving the Christie's sale – was issued.

In that Order Judge Cureton made clear the Buchanan and Pope had full authority to proceed with Trust matters, as well as Estate matters.

Less than a month later AG McMaster claimed the authority to take over the operation of James Brown's private property; "stipulated" that Hynie was Brown's wife;and started "speaking as one" with Hynie and her son.

The Estate/"I Feel Good" Trust's protection of its copyright was put on hold for almost four years. Since May 8, 2013 Bauknight – still agent for Hynie and her son– has continued the State's destruction of the Royalty copyright protection plan. With the help of Movant.

As demonstrated in Exhibit E, it is time to protect the "I Feel Good" Trust; serve the Defendants in the Levenson Testacy Suit; make Michael, James Curtis and the DOE Defendant, by their GAL, parties; and prevent a second dismembering of the "I Feel Good" Trust. It is troubling – and incorrect – for a person claiming to be protecting the Estate/2000 Trust to claim that these Orders are not appealable. They possess every element of finality as to all Appellants – heirs, creditors and all "Others" who want to see the "I Feel Good" Trust enforced.

IV. Movant and Bauknight Have Placed the 1999 Will in jeopardy.

It is hard to understand that Movant, claiming to protect James Brown's noble estate plan, would tell the court that the proposal of "Others" under SCTC Section 62-7-405 to support alternate probate of James Brown's backup June 15, 1999 which Movant, AG Wilson and Bauknight refuse to support "has never been recognized by any court," and is "nonsensical, and equally without merit."

One can only suspect that Movant either is unaware of the contents of the 1999 Will or seeks to destroy the "I Feel Good" Trust.

The 1999 Will, along with the voice tape James Brown made in contemplation of its execution, make James Brown's estate plan ironclad.

In two separate wills and two separate trusts over two year – and in the

voice tape – Brown made his intentions clear: He wanted to give his music empire solely to the “I Feel Good” Trust to education needy students. He wanted to exclude from his music empire all past and future spouses and all heirs – acknowledged and not. And he wanted his fiduciaries to vigorously enforce his estate plan. With *In Terrorem* forfeiture clauses, if necessary.

Brown said this in four separate documents. Both wills incorporate the terms of the accompanying trust. Each will standing alone creates the “I Feel Good” Foundation even if the trusts themselves are revoked.

This is not nonsensical or without merit.

Movant has joined with Bauknight in jeopardizing the 1999 Will of James Brown which just strengthens Brown’s plan to leave his entire music empire to the “I Feel Good” Trust. If not protected, this 1999 Will may be voided under the 10-year rule of the SCPC.

The 2000 estate plan and 1999 Will and the trust it incorporates – with Brown’s own voice tape – make his estate plan one of the strongest in reported cases -- or known to Appellant Pope in more than 35 years of trust and estate experience.

There is simply no reasonable basis for Movant to reject *pro bono publico* support if he, himself, will not advance the 1999 will as a backup to Brown’s noble estate plan.

Request for Court to Require Documents to be Produced by Clerk

Appellants respectfully requests that the so-called Hynie “diary,” a copy

of which is in possession of AG Alan Wilson, be produced under the Supreme Court's Order 2014-04-15-02. Since the Attorney General has advised the Court that AG McMaster considered it in making his decision in 2008, it should be made public.

Appellants also request that Movant be required to produce the less-than \$4.7 million appraisal Bauknight filed under seal after *Wilson v. Dallas* .

The State has spent taxpayer dollars to prevent release of these document for years. Recently-revealed accounting figures suggest "I Feel Good" Trust scholarship funds are being used to assure they not come to light.

Conclusion

Appellants reject all arguments made by Movant. For the reasons stated herein, Appellants request that the Court deny the Motion to Dismiss this appeal.

Appellants also respectfully request that this Honorable Court, *sua sponte*, direct that the so-called Hynie "Diary" and \$4.7 million James Brown music empire appraisal, be filed in this appeal.

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com
S.C. Bar No. 4501
Attorney for Appellants

April 16, 2014

Attachments

- Exhibit A: Ltr. of Pope to Hon. Nikki Haley and Hon. Alan Wilson
dtd 4/1/14
- Exhibit B: Ltr., Pope to the Hon. Alan Wilson and others, dtd.
4/3/14
- Exhibit C: Ltr. Marc Toberoff to Warner Chappell, dtd. 9/23/13
- Exhibit D: Order of the Hon. Doyet A. Early, III, dtd. 3/8/08,
Case 2007-CP-02-0122 (later "Case 872")
- Exhibit E: DNA & DIGNITY

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

April 1, 2014

Exhibit A

The Honorable Nikki R. Haley
Governor
1205 Pendelton Street
Columbia, South Carolina 29201

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Re: The James Brown "I Feel Good" Private Foundation

Dear Governor Haley and Attorney General Wilson:

Entertainment icon James Brown left his worldwide music empire to The James Brown "I Feel Good" Trust – solely to provide scholarships for needy students studying in South Carolina and Georgia.

I write to ask you to protect those scholarship funds by investigating the 2013 accounting mailed to me on March 24, 2014 by Russell Bauknight.

Mr. Bauknight claims the at-death value of Brown's gift to the "I Feel Good" Trust was about \$3 million. All other fiduciaries value it at about \$80 million. Mr. Bauknight's accounting gives no indication of current value.

Here are just *some* of the issues raised by the 2012 and 2013 accountings:

Payments to Law Firm of Kenneth Wingate, Esq. (Sweeney, Wingate & Barrow)

(In addition to 40% Contingency Contract)

2012	Payments to Wingate Law Firm ¹	\$563,000.00+
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Payments to Nexsen Pruet Law Firm

2013	Payments to Nexsen Pruet Law Firm	\$770,000.00+
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Mr. Bauknight's PR/Trustee service from 2009 to May 8, 2013 was declared void by the South Carolina Supreme Court, which also directed the Court to:

...review the propriety of all fees, including attorneys' fees and trustees' fees, paid in relation to this action, and shall order all unearned or unapproved fees to be disgorged and returned to Brown's Estate.

¹The 2013 Accounting shows a July 26th \$500,000 deposit from Mr. Wingate's firm. The description for this deposit is "Richland Case 4900 Refund." Case 4900 is the still-pending 2010 lawsuit in which Henry McMaster, as Attorney General, acting through Mr. Wingate, sued Robert Buchanan, Jr. and Adele Pope. There is no explanation for why Mr. Wingate's firm would have held \$500,000.00 for 7 months, in addition to his contingency fee.

Ltr. to The Honorable Nikki Haley and
The Honorable Alan Wilson
April 1, 2014
Page 2

I do not believe either Judge Manning or Judge Early has reviewed the \$563,000 payment to Wingate or the Nexsen Pruet fees².

In October 2013 AG Wilson withdrew from Aiken County cases. Days later a limited special administrator ("LSA") was appointed without a hearing. Although a lawyer himself, the LSA spent over \$250,000 in 2 months *fighting* the "I Feel Good" Trust by trying to un-acknowledge 3 DNA-proven and acknowledged daughters of James Brown -- as well an incarcerated son. He did so with knowledge that recognition and modest agreements with these 4 would almost-immediately clear the path to protect the "I Feel Good" Trust's royalties for decades. Instead, he paid:

Payments to Adams & Reese, LLP

Nov. - Dec. 2013 Payments to Adams & Reese (2 mos) \$253,170.27

The 2013 accounting shows a transfer of \$600,000 from Biopic, LLC. It does not show what Biopic received. Or give any value. This is an entity Mr. Bauknight created.

Transfers of \$1,150,000.00 from James Brown, LLC. are not explained. No transactions of James Brown, LLC are shown. And no value is given.

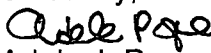
The customary \$3+ million of Brown's annual royalties are not reported. Nor is the \$1.5 million Mr. Bauknight said would be paid for the movie.

Both accountings violate Probate Code requirements to list the value of assets.

IRS guidelines tie the "I Feel Good" Trust's scholarship distributions to market value. If not corrected, these accountings could cause millions of dollars of loss annually in scholarships to needy students.

If properly protected now, James Brown's "I Feel Good" Foundation could appropriately honor James Brown; be a source of pride for our State; and serve as reminder of the importance of private philanthropy to all South Carolinians.

Thank you for your consideration.

Sincerely,

Adele J. Pope

Enclosures: 2012 & 2013 accountings

²The Wingate fee is particularly troublesome since Wingate had a 40% contingency contract to file suit on behalf of the State & others. [Mr. Bauknight still claims to be the agent for the AG, even though there is considerable question about the legality of his claim.] Mr. Wingate is seeking relief from default in the Richland County Suit. But for nearly 3 years his attempts to intervene on behalf of the Legacy Trust created by AG McMaster and others in 3 FOIA suits have helped stall FOIA compliance.

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

April 3, 2014

Exhibit B

The Honorable Alan Wilson
South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

David C. Sojourner, Jr., Esquire
c/o John Beach, Esq.
Adams and Reese, LLP
1501 Main Street, 5th Floor
Columbia, South Carolina 29201

Russell L. Bauknight
% William Newsome
Nexsen Pruet
1230 Main Street, Suite 700
P.O. Box 2426
Columbia, South Carolina, 29202-2426

Re: Saving The James Brown "I Feel Good" Private Foundation -
Proposal for \$200,000 per year settlement in lieu of
\$2 million per year legal fees to Adams & Reese and Nexsen Pruet

Dear Attorney General Wilson, Dave and Russell:

On September 13, 2012 the State of South Carolina, speaking through AG Wilson and three assistants (including Sonny Jones, who signed for AG Wilson), joined Tommie Rae Hynie and Terry Brown (Matt Bodman) in the following representations to the South Carolina Supreme Court:

"This appeal is an unabashed attack on **Mrs. Tommie Rae Brown, the surviving spouse of James Brown...** And while Pope can use her word processor to change the caption, there is nothing she can do to change the facts establishing Tommie Rae's marriage to James Brown. ...Pope has inappropriately used her brief...to carry out a back-door challenge to the **family's** settlement agreement which is the subject of the *Wilson v. Dallas* appeal before the Supreme Court..." [Emphasis supplied]

Then there were pages of "setting the record straight" trying to prove that Ms. Hynie had been Brown's wife. AG Wilson claimed AG McMaster's due diligence included:

reviewing a copy of the diaries at issue before the protective orders

AND:

... Pope clings to *her* frivolous allegation that there was an impediment to the marriage of James and Tommie Rae...

Just 5 months later the first *Wilson v. Dallas* decision suggested that challenging Ms. Hynie's claim was not that frivolous.

Between the September filing and the *Wilson v. Dallas* decision, *in a suit brought by Henry McMaster as Attorney General of South Carolina*, and Russell Bauknight as the AG's claimed agent, Russell Bauknight paid \$563,000 from the funds James Brown gave to the "I Feel Good" Trust to the firm of Kenneth Wingate. To protect Ms. Hynie.

The \$563,000 was in addition to Ken Wingate's 40% contingency.

TODAY - April 3, 2014, a year after *Wilson v. Dallas* – Mr. Wingate is *still* speaking for the State of South Carolina. Russell Bauknight, *still* claims to speak both for AG Wilson and Ms. Hynie in the Wingate Suit.

And Nexsen Pruet and Adams and Reese are being paid at an annual rate of about \$2 million a year to fight against (1) a plan to save the entire "I Feel Good" Trust; (2) the copyrights to its Royalties to more than 800 songs; AND (3) the HALF of James Brown's real heirs who will make the plan work.

I urge you not to waste another \$2 million this year. The problem can be solved in a matter of months for about \$200,000 – with very little legal costs. It is mostly a matter of pulling out the orders and motions pending when AG McMaster took over the operation of Brown's estate and Trust. Adams and Reese refuses to do that. But charge a quarter of a million dollars in 3 months. With nobody checking on it.

The plan is clear and simple. It will probably bring the Estate litigation to a close in less than a year – except for a possible appeal by Ms. Hynie. Of little concern. It is:

1. MAKE COPYRIGHT DEALS ONLY WITH THOSE NOT CHALLENGING THE WILL AND 2000 TRUST.
2. PROTECT THE BACKUP 1999 WILL & TRUST WHICH MAKE THE ESTATE PLAN IRONCLAD.
3. MAKE AGREEMENTS WITH NON-PRESUMED, DNA-PROVEN CHILDREN WHO WILL ACTIVELY SUPPORT THE ESTATE PLAN AND HAVE CHALLENGED MS HYNIE'S SPOUSE STATUS: Tonya (subject to Peeples DNA Protocol"); La Rhonda (now children); Nicole; Jeanette; James Curtis (subject to Peeples Protocol); Michael.
4. CONTRACT WITH ONLY HALF (Or Half + 1) of the Children:
That's all you need to protect the copyrights.

5. ONLY CONTRACT WITH THOSE WHO ACCEPT REASONABLE OFFERS. DON'T BE RUSHED.

6. VOID THE 6-year old **GAG** ORDERS. YOU DON'T HAVE TO LOOK AT THE original HYNIE "DIARY". AG WILSON and loads of others have copies. And Forlando Brown and Albert Dallas have already discussed the contents in the media AND under oath in sworn statements/depositions. [Remember, everyone knows what the contents are. And two AGs never even complied with the Gag Orders by turning in their copies.]

7. DON'T REQUIRE JAMES B. TO TAKE A DNA TEST. JUST MOVE TO DISMISS HIS CLAIM BECAUSE HE DID NOT ATTACH A SUMMONS; FILED IT IN THE WRONG COURT; DID NOT SERVE THE AFFECTED HEIRS, AS REQUIRED; AND IS NOT **JAMES BROWN'S PRESUMED CHILD BECAUSE HE WAS NOT BORN OF ANY MARRIAGE**. And he did not even serve the Estate or 2000 Trust with a Summons and Complaint

(It will be his problem to decide whether he takes the DNA test. If so, do not let Adams and Reese disclaim knowledge of the chain of custody. Remember, James B's counsel has already announced once to the media that he passed a DNA test with improper chain of custody.)

The \$300 James B. problem, as a result of the action of Mr. Bauknight and two AG s – and now Adams and Reese – has been allowed to become a 7-year \$1 million dollar problem – at the expense of needy student beneficiaries of the "I Feel Good" Trust.

8. STOP WASTING HUNDREDS OF THOUSANDS OF DOLLARS TO FIGHT DNA-PROVEN AND ACKNOWLEDGED CHILDREN. [Instead, make them a fair offer. If they don't accept it, wait 6 months and make it again.]

9. MAKE THE FOLLOWING OFFERS in exchange for: (1) Termination Rights Cooperation; (2) Support of the 2000 Estate Plan;(3) and Support of the Estate/2000 Trust's position that James Brown died without a surviving spouse. [AND TR waived all claims even if a spouse.]

A. To the FIRST of DARYL or TERRY to accept: \$50,000 a year for life;

B. To the SECOND of Daryl or TERRY, if he accepts within 30 days: \$20,000 a year for life.

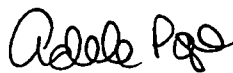
C. TO THE FIRST FOUR of Nicole, Jeanette, LaRhonda (now daughters), Michael PLUS any of James B., Tonya and James Curtis who take and pass DNA test under the Peeples DNA Protocol): \$20,000 per year for life.

There is simply no reason to pay \$2 million in legal fees each year to fight this simple, fair – and kind – way to save the “I Feel Good” Trust and allow that \$2 million to be flowing each year to scholarships for needy and deserving student beneficiaries of the “I Feel Good” Trust, as James Brown intended.

I am willing to help *pro bono publico* with saving the “I Feel Good” Trust. Please call on me if I can do that.

Thank you for your consideration.

Sincerely,



Adele J. Pope

AJP/ja

Enclosure: Excerpts, Motion filed by AG Wilson, TR Hynie, Terry Brown & others, 9/13/12

TOBEROFF & ASSOCIATES, P.C.

A PROFESSIONAL CORPORATION

22337 PACIFIC COAST HIGHWAY #348

MALIBU, CALIFORNIA 90265

Tel: (310) 246-3333; Fax: (310) 246-3101

mtoberoff@toberoffandassociates.com

Exhibit C

September 23, 2013

Via E-mail and U.S. Mail

Scott McDowell
Senior Vice President and
Head of Legal & Business Affairs
Warner/Chappell Music, Inc.
10585 Santa Monica Blvd.
Los Angeles, CA 90025

Re: James Brown/Terminations under the Copyright Act

Dear Mr. McDowell:

We represent James Brown's children, Terry L. Brown, Larhonda Waller, Deanna Brown Thomas, Yamma Brown, Venisha Brown, Jeanette Mitchell Bellinger and Cinnamon Nicole Parris, and James Brown's grandchild, Sarah LaTonya Fegan a.k.a. Tonya Brown (collectively, the "Heirs"), who are believed to constitute all or a super-majority of James Brown's statutory heirs entitled to exercise termination rights under 17 U.S.C. §304. On the Heirs' behalf, we will be serving Warner/Chappell Music and others, in the near future, with statutory notices of termination regarding Mr. Brown's music.

The Heirs are informed and believe that Tomi Rae Hynie and James Brown, Jr., acting as James Brown's putative surviving spouse and child, respectively, have served purported notices of termination regarding his musical compositions (the "Tomi Rae Termination"). The Heirs are further informed and believe that the Tomi Rae Termination is being handled by a representative of the Estate of James Brown, despite the glaring conflicts of interest that this would appear to entail.

This letter is to notify Warner/Chappell Music that the Heirs vigorously contest the validity of the Tomi Rae Termination and the standing of Tomi Rae Hynie and James Brown, Jr. to serve any notices of termination under the Copyright Act regarding James Brown's music.

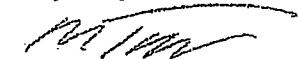
The Heirs' claim is based, without limitation, on the well-known fact that when Ms. Hynie purported to marry James Brown in December 2001 she was already married to Javed Ahmed (since 1997). The Heirs contend that this rendered her 2001 marriage void, and that the 2004 default judgment thereafter obtained by Ms. Hynie from a South Carolina family court, annulling her marriage to Mr. Ahmed, did not resuscitate Ms. Hynie's 2001 marriage to Mr. Brown pursuant to the recent on-point decision of the South Carolina Supreme Court in *Lukich v. Lukich*, 379 S.C. 589, 592 (2008) ("The question is whether the [2003 annulment order declaring Wife's first marriage void *ab initio* relates back so as to validate her purported 1985 marriage." "While an annulment order relates back in most senses, it does not have the ability to validate the bigamous second [1985] 'marriage.'").

Furthermore, Ms. Hynie's default judgment in *Tomi Rae Hynie v. Javed Ahmed* has no claim or issue preclusion effect on the Heirs as they were not parties to that action, and, in any event, the purported findings of fact and conclusions of law in that default judgment have no issue preclusion effect because such issues do not appear to have been "actually litigated" on the merits. See *State v. Bacote*, 331 S.C. 328, 330-31 (1998) ("In the context of a default judgment, collateral estoppel or issue preclusion does not apply because an essential element of that doctrine requires that the claim sought to be precluded actually have been litigated in the earlier litigation."). The Heirs' challenge to James Brown's paternity is based, among other things, on his refusal to take a simple Court-supervised DNA test verifying that he is James Brown's child.

Please be further advised that these essential legal matters will be the subject of pending litigation in the South Carolina courts or in an alternative forum.

We hope to keep you well advised as this process marches towards a resolution. In the meantime, the Heirs and I look forward to an amicable relationship with Warner/Chappell Music regarding their statutory termination interests, and the future of James Brown's music.

Very truly yours,



Marc Toboroff

cc: Kelly Burnett via E-mail, Senior Director, Legal & Business Affairs
Warner/Chappell Music, Inc.

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS
) CASE NUMBER: 2007-CP-02-0122

COUNTY OF AIKEN

1. DARYL J. BROWN, individually and on behalf)
of his minor children, LINDSEY [REDACTED])
[REDACTED] and JANISE [REDACTED] BROWN, 2.)
VANISHA BROWN, 3. LARRY BROWN, 4.)
DEANNA J. BROWN THOMAS, individually and)
on behalf of her minor child JASON B [REDACTED])
LEWIS, 5. YAMMA N. BROWN, individually and)
and on behalf of her minor children SYDNEY)
L [REDACTED] and CARRINGTON L [REDACTED] and 6.)
TONYA BROWN)

Plaintiffs,

v.

ADELE POPE as Personal Representative of the)
Estate of James Brown and as Trustee of the)
purported Irrevocable Trust of James Brown dated)
August 1, 2000, ROBERT L. BUCHANAN, JR. as)
Personal Representative of the Estate of James)
Brown and as Trustee of the purported Irrevocable)
Trust of James Brown dated August 1, 2000,)
TOMMIE RAE BROWN, as the potential heir of ()
James Brown, JAMES [REDACTED] B [REDACTED] as the)
potential heir of James Brown, CINNAMON)
NICOLE MERNICKLE PARIS as the potential heir)
of James Brown, LARHONDA PETITT as the)
potential heir of James Brown, JEANETTE)
MITCHELL, as the potential heir of James Brown,)
TERRY BROWN, as the potential heir of James)
Brown, ROMUNZO BROWN as the potential heir)
of James Brown, FORLANDO BROWN, as the)
potential heir of James Brown, HENRY DARGAN)
MCMASTER in his capacity as ATTORNEY)
GENERAL OF THE STATE OF SOUTH)
CAROLINA, JANE DOE and JOHN DOE numbers)
I, II, III, IV as potential heirs and/or devisee and/or)
beneficiaries of James Brown and as representatives)
of all other persons known or unknown claiming to)
be an heir and/or devisee and/or beneficiary of)
of James Brown.)

Defendants.

Exhibit D

ORDER RESOLVING MOTION OF
PR/TRUSTEES TO DISMISS AND
REQUIRING SERVICE
BY PUBLICATION

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this

MAK 10 2008

3.7

8

CCCP & GA, Aiken County, S.C.

CLERK OF COURT

Handwritten initials: TPE, H

Handwritten number: 5.20

This matter was commenced with the filing by the Plaintiffs on December 26, 2007 of two separate Complaints. This Court has jurisdiction to hear this matter because it was duly removed to the Circuit Court on Motion of the Honorable Sue Roe, Probate Judge.

Within 30 days after filing of the original complaints, they were consolidated into a single amended complaint. On or about January 15, 2008, Defendants Adele J. Pope and Robert L. Buchanan, Jr., as Personal Representatives of the Estate of James Brown and as Trustees of the James Brown 2000 Irrevocable Trust (the "PR/Trustees") served a Motion to Dismiss or Consolidate and for Related Relief. This Order resolves the PR/Trustees' motion.

Plaintiffs give notice that their position as to the lawful heirs of James Brown and their respective shares is as follows¹:

1. Daryl J. Brown (1/6)
2. Vanisha Brown (1/6)
3. Larry Brown (1/6)
4. Deanna J. Brown Thomas (1/6)
5. Yamina N. Brown (1/6)
6. Terry Brown (1/6)

Plaintiffs have agreed to the clerical change in the caption to correctly name a Trustee.

Plaintiffs agree that it is appropriate to serve all parties by publication in the Augusta Chronicle and the Aiken Standard. Because of the worldwide media recognition of James Brown, and because of James Brown's longstanding connection with Augusta, Georgia and Aiken, South Carolina, Plaintiffs and other parties assert that publication in these papers will

¹ This is without prejudice to the position of Defendant PR/Trustees and certain others that James Brown died testate and that the action to set aside the Will and Trust is without merit. Said defendants acknowledge, however, that the determination of the lawful heirs of James Brown may have bearing on other rights and obligations of the parties.



YMC
HL

provide the best notice to the Doe Defendants.

It is therefore ORDERED, ADJUDGED and DECREED:

1. The Caption is hereby modified as stated above.

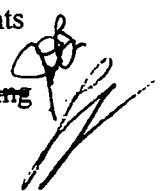
2. Plaintiffs shall publish the Summons for 3 weeks in the Augusta Chronicle and the Aiken Standard as provided by law, and shall also publish therewith the following notice:

* Nature of action: The purpose of the above action is to determine all lawful heirs at law of James Brown, including lawful heirs at law who may be entitled to rights under state and federal laws. This action is also an action by plaintiffs to set aside the will of James Brown and the James Brown 2000 Irrevocable Trust, along with its subtrusts, the Brown Family Education Trust and The James Brown "I Feel Good" Trust. Failure to respond to the summons and complaint may result in loss of any and all rights with respect to the above matters. *


3. Plaintiffs shall serve all defendants with the amended complaint within 30 days.

4. Defendants who have been served but who have not answered the Amended

Complaint shall have Thirty (30) days from the date of this Order to answer, move or otherwise appear.

5. The resolution of the PR/Trustees' motion to dismiss is without prejudice to the rights of any party to assert any defenses, counterclaims and/or crossclaims in the proceeding, ~~including but not limited to laches and statutes of limitations.~~ 

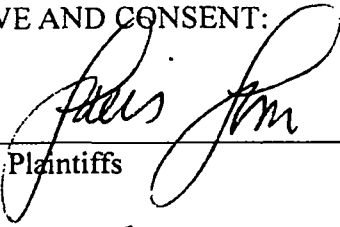
AND IT IS SO ORDERED.



Doyet A. Early, III
Resident Judge, Second Judicial Circuit

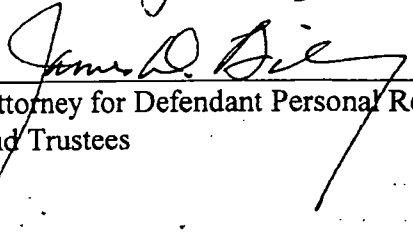
March 8, 2008
Aiken, South Carolina

WE SO MOVE AND CONSENT:



Attorneys for Plaintiffs

3/7/08



Attorney for Defendant Personal Representatives
and Trustees

DNA & DIGNITY

(Proposed Plan for "I Feel Good" Foundation to Protect its Royalties for Needy Students)

1. The "I Feel Good" Foundation's Position and Protocol.

- a. James Brown died unmarried on December 25, 2006. [Toberoff, etc.]
- b. Termination rights agreements will be made only with DNA-proven or Presumed children who support James Brown's noble estate plan.
- c. Current candidates (subject to abandoning any claims) are:
 - a. DNA-Proven: 1. LaRhonda (daughters), 2. Jeanette, 3. Nicole;
 - b. First marriage: 4. Terry, 5. Larry, 6. Lisa;
 - c. Second marriage: 7. Deanna, 8. Yamma;

2. Offer - But do not require – Peeples DNA Protocol for 30 - 60 days.

DNA testing under the Estate's official Peeples DNA Protocol, paid for by the Estate, to be offered for 30-60 days to: 9. Michael (incarcerated), 10. James Curtis, 11. Tonya, 12. James B., 13. DOE Defendants identified as likely heirs by the GAL, Levenson Intestacy Suit.

3. Dignity & Reconciliation for Termination Rights Cooperation of Excluded Heirs.

After above 30-60-days, offer to the first six to accept of: La Rhonda, Jeanette, Nicole, Lisa and anyone passing Peeples DNA Protocol listed above, in exchange for agreement for lifetime termination rights cooperation:

1. Full recognition as heirs by the Estate and "I Feel Good" Foundation at a ceremony to be conducted at Brown's home estate in Beech Island.
2. [If possible] VIP Invitation to, and additional recognition, at the opening of South Carolina screening of "Get on' Up!"
3. \$10,000 per year for life, effective 2011.

4. Offer Termination Rights Agreements to some Children Acknowledged in Will.

Make the offer set out above to the first two children acknowledged in the Will to accept – but with payment of \$50,000 per year for life, commencing upon execution of termination rights agreement and withdrawal of all claims against the Will, 2000 Trust and Estate.

5. If two Acknowledged Children do not accept, re-offer to all Excluded Heirs.

6. Consider "splitting heirs" and other available strategies to protect the Royalties for Needy Students as James Brown directed.

7. Update Protocol at death of each child, and as needed.¹

¹
This proposal is consistent with the "Splitting Heirs" technique described in *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't....* Also see: The Aspen Institute (supp. 2013). *The artist as philanthropist. strengthening the next generation of artist-endowed foundations.*

The Estate/2000 Trust's plan to protect its rights to more than 800 published and unpublished songs (the "Royalties") was started by Brown's original PR/Trustees in 2007. They established the Estate's official "Peoples DNA Protocol." Using the Peoples DNA Protocol, the Estate identified and officially acknowledged La Rhonda, Jeanette and Nicole. Others were excluded. Incarcerated son Michael's request for testing was interrupted by the AG's 2008 Settlement.

Buchanan & Pope continued the plan to protect Brown's Royalties. They consented to a March 8, 2008 Order of the Hon. Doyet A. Early, III which would have proceeded with the official Heirs determination in the Levenson Intestacy Suit although Brown had two valid Wills.

Four months later – and for nearly five years – the AG's 2008 Settlement stood as an impediment to a proper protection plan for the Royalties.

The completion of a properly-documented Heirs baseline during the probate process would have given the "I Feel Good" Foundation – and gives all charities who have been devised Copyrights – maximum flexibility to:

1. Contract with the half, or half + 1 needed to protect the copyrights ("Splitting Heirs") –5 or so in the case of the "I Feel Good" Foundation
2. Avoid later costly federal litigation with a proper Heirs baseline.

A proper heirs determination was particularly important in this case because all fiduciaries, all children and others had overwhelming evidence that Brown died without a spouse. And his companion's child was not a presumed child. [He is the only claimed child born in the 22 years between Brown's vasectomy and death.. He has refused DNA testing under the Peoples Protocol for 7 years.] Yet the AG "spoke as one" with the two from August 2008 until May 2013. His appointee became their agent in four separate lawsuits. The AG's contract "stipulated" that both the companion and her son were heirs. The State/AG exempted companion's son from DNA testing under the Peoples DNA Protocol. The State/AG contracted to join them in attempting to defeat the interests of real heirs.

Since February 27, 2013 the Estate/"I Feel Good" Trust has been in a position to complete the Peoples DNA Protocol for non-presumed heirs and make Termination Agreements under the above, or a similar, plan. To do so will provide appropriate respect and recognition for all DNA-proven non-presumed children excluded by Brown.

It will also be good for the "I Feel Good" Foundation.

For under \$200,000 per year (and with almost no attorneys' fees), the above plan would have secured the "I Feel Good" Foundation's Royalties (about \$3 million a year) for needy students for decades. Starting in 2011. It still can.

To accomplish the same result the AG's 2008 agreement proposed to give away 52 ½% of the "I Feel Good" Foundation – about \$40 million at the time.

STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APR 17 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Doyet A. Early, III Circuit Court Judge

Case No. 2013-CP-02-1647
Case No. 2013-CP-02-2849
Case No. 2013-CP-02-2850
Case No. 2013-CP-02-2851

MICHAEL DEON BROWN, JAMES CURTIS, AND JANE DOE and JOHN DOE
Numbers I, II, III and IV, by their proposed Guardian *ad Litem*, and Adele Pope,
as Creditor/Proponent of Will of James Brown dated June 15, 1999 and on
behalf of Others under S.C. Trust Code § 62-7-405 Appellants,

v.

James B., Terry Brown, Tommie Rae Hynie and David Sojourner, Jr.,.....
..... Respondents.

IN RE:
THE ESTATE OF JAMES BROWN, A/K/A JAMES JOSEPH BROWN

PROOF OF SERVICE

I certify that on the 16th day of April, 2014, I have served the RETURN AND
OPPOSITION OF APPELLANTS TO MOTION TO DISMISS on Respondents as
shown below by depositing a copy of same in the United States Mail, postage
prepaid, addressed to them or their attorneys of record as follows:

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April 16, 2014