

THE STATE OF SOUTH CAROLINA  
IN THE Court of Appeals

M 2535

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

RECEIVED

JUN 17 2014

Doyet A. Early, III, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2013-000250

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.

**MOTION OF APPELLANT TO REQUIRE UNSEALING AND DELIVERY OF DOCUMENTS BY RESPONDENT BAUKNIGHT; TAKE JUDICIAL NOTICE UNDER RULE 201(d); AND SUPPLEMENT RECORD**

Appellant moves before this Honorable Court Pursuant to Rule 102, SCRE, Rule 201(d), SCRE, and other applicable law for the following relief:

1. That this Court direct Defendant Bauknight to deliver copies he holds of the following documents, and for the Clerk and/or Court to unseal and deliver to Appellant to be made part of the record of this appeal ("ROA"), copies of the

following documents:

- a. The \$4.7 Million Claimed "Appraisal," on file in the Forlando Federal Suit which purportedly supports the false felony claims, Bauknight's claim that Brown gave less than \$3 million to the "I Feel Good" Foundation; and Bauknight's claim that the needy student will receive only a few thousand dollars annually under IRS guidelines, rather than millions.
- b. The so-called Hynie "diary" which Bauknight has refused to produce in discovery and blocked by attempted FOIA intervention, to benefit Tommie Rae, although Attorney General McMaster used it in his decision to give Tommie Rae 25% of the "I Feel Good" Foundation.
- c. The Fee Agreements (paid or promised) in connection with *Wilson v. Dallas* which the Honorable Doyet A. Early, III found to be public in March 2010, and directed the Clerk of Court in 2010 to deliver to Robert L. Buchanan, Jr. and Appellant, but which are missing from the public record. [Bauknight refuses to file or deliver copies.]
- d. The Wingate Litigation Retention Agreement, which shows that Bauknight, Tommie Rae, Bell and Levenson – expecting \$30 million from the "I Feel Good" Trust if they could stop the *Wilson v. Dallas* appeal, authorized Wingate to bring an illegal lawsuit in the name of the State/AG, with Bauknight making the illegal claim that he spoke "on behalf of Henry McMaster as Attorney General of South Carolina."
- e. The James B. DNA results, which Bauknight and his appointee are secreting even though James B's GAL and mother gave public interviews in 2008 claiming James B. passed an unauthorized DNA test.

2. Appellant further moves for this Court to take judicial notice under Rule 201(d), SCRE., of, and make a part of the ROA, all documents contained in the APPENDIX filed herewith, and the entire Aiken County James Brown proceedings, including Probate and Circuit Court cases; the Forlando Federal Suit filings; the Wingate Suit filings; the FOIA #1, FOIA #2 and Newberry County

FOIA Suit filings; the Cannon Civil and Criminal Cases; and all appeals pending in relation to any of the above cases.

The grounds of this motion are;

1. The documents which are being secreted by *Bauknight* in the Wingate Suit and by FOIA non-compliance and proposed intervention by *Bauknight* are necessary to show that Robert Buchanan, Jr. and Adele Pope acted properly; were removed based on false felony claims lodged by the Attorney General based on a \$4.7 million appraisal he never saw; and which should come to light now.
2. The Attorney General is not protecting the "I Feel Good" Trust, even though he has actual knowledge that *Bauknight* is allowing David Bell, Esquire, Tommie Rae Hynie and others – for the benefit of Tommie Rae – to siphon off termination rights contracts the Estate/"I Feel Good" Trust should now already have with the HALF of Brown's heirs who are not challenging Brown's estate plan.
3. Failure to release the documents promotes the fraud which has been perpetrated on multiple court since May 19, 2010 when *Bauknight* and the law firm of Kenneth Wingate, Esq. ("Wingate") commenced the improper and/or illegal suit against Buchanan and Appellant in Richland County.
4. The above documents will show that *Bauknight* has made false and material misrepresentations to multiple courts; violated the *Wilson v. Dallas* mandate; continued to represent Tommie Rae and her son; and continued to interfere with the rights of South Carolina citizens under FOIA.
5. The above documents made clear that both Wingate and *Bauknight* continue to make filings and representations that they are agents of, and speak for the Attorney General of South Carolina.
6. The above documents will show that Buchanan and Pope did not defraud anyone; that the \$84 million at-death value of Brown's music empire was correct and conservative. Under IRS guidelines, the "I Feel Good" Foundation should be ready to pay millions each year to needy students.
7. The above documents will show that *Bauknight's* claims that Brown gave less than \$3 million to the "I Feel Good" Foundation or that the Foundation would produce less than \$200,000 per year for needy

students, is fabricated and part of an attempt to dismember the foundation again.

8. The above documents will show that Bauknight aided and abetted Forlando Brown and David Bell, Esq., in their fraud on multiple courts since January 2, 2008.

9. The above documents will show that Bauknight, maliciously, and with intent to harm, failed to recover for the 2000 Trust – or support the recovery by Buchanan and Pope — of the legal fees and costs of their four-year successful defense of the frivolous Forlando injunction suit which Forlando brought to try to secure 39% of Brown's music empire. Brown gave to the "I Feel Good" Foundation.

### **MEMORANDUM**

Since January 2, 2008 Forlando Brown, his father Terry, and their attorney David Bell, Esq. – aided by assistants to the Attorney General – have defrauded multiple courts in an attempt to reinstate felon David Cannon and acquire 39% of the music empire Brown gave to the "I Feel Good" Trust.

On January 30, 2009 the Attorney General contracted to give Terry a right of first refusal ("ROFR") to buy the music empire. The Attorney General did not heed Buchanan's and Appellant's warnings of a fraudulent attempted devaluation and sale which would leave almost nothing in the "I Feel Good" Trust.

In August 2010 Sr. Assistant Havird "Sonny" Jones announced that Bauknight had seen a draft "appraisal" which would show Brown's assets to be worth less than \$12 million. At the same time, the Attorney General was suing Buchanan/Pope in the Wingate Suit for not accepting a \$100 million offer.

From 2011 until 2013 the Attorney General and Bauknight made false

felony claims against Buchanan and Appellant while preventing FOIA compliance and discovery in the Wingate Suit which would show:

1. The \$4.7 million was fabricated;
2. Tommie Rae was not Brown's spouse;
3. Tommie Rae and her son do not control the termination rights;
4. Termination Rights with HALF of Brown's children NOT Challenging the estate plan will save the copyrights for years.

Th South Carolina Supreme Court saved the "I Feel Good" Trust. But Bauknight is ignoring the mandate of *Wilson v. Dallas* by continuing to serve Tommie Rae and her son. These documents will show that his representations to the Court have been both false and material – and intended to damage the "I Feel Good" Trust.

The Attorney General has withdrawn from the Aiken Cases. The 2000 and 1999 Wills, and all who support them, including real heirs, are in jeopardy.

The South Carolina Constitution Article 1, §9, Rule 41.1, the FOIA, Rule 102 SCRE and Rule 201 (d). SCRE, support the requested relief. Judicial economy does also.

This motion is supported by the documents filed herewith, the Appendix, and the Affidavit filed in the circuit court a copy of which is attached as Exhibit A.

### **Conclusion**

For the reasons stated herein this Honorable Court should taken judicial notice under Rule 201(d) of the James Brown cases and the Appendix. The Appendix should be part of the ROA. The documents should be unsealed;

delivered to Appellant; and made part of ROA in this case.

Respectfully submitted,

A handwritten signature in cursive script that reads "Adele Pope". The signature is written in black ink and is positioned above a horizontal line.

Adele J. Pope  
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Email: [adele@popelawfirm.com](mailto:adele@popelawfirm.com)  
S.C. Bar No. 4501  
*Pro Se*

June 17, 2014

Exhibit A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	Case No. 2013-CP-02-1337
	)	
Adele J. Pope,	)	
	)	
Plaintiff,	)	
	)	AFFIDAVIT OF ADELE J. POPE
v.	)	SUPPORTING UNSEALING
	)	DOCUMENTS; JUDICIAL
Estate of James Brown, Deceased; The	)	NOTICE; INCLUSION OF
James Brown 2000 Irrevocable Trust; Russell	)	MATTERS IN RECORD AND
L. Bauknight, Individually, as former	)	PARTIAL SUMMARY JUDGMENT
<i>Executor de son tort</i> , 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,	)	
	)	
Defendants.	)	
AND:	)	
	)	
Robert L. Buchanan, Jr.,	)	
Interested Party.	)	

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PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who, being duly sworn, deposes and says:

1. This affidavit is based on my own knowledge.
2. I believe the facts stated in my motion are correct; adopt them; and ask the Court to supplement the record as requested therein.
3. The proof of my claim rests in part on the following true facts:

a. Bob and I were owed the following liquidated, allowed and Court-approved amount on May 26, 2009:

Adele, as unpaid SA fees,	:	\$47,972
plus interest from Jan. 20, 2008 at 8 3/4% until paid:		
Bob, as unpaid partial PR/Trustees commissions,	:	\$500,300
plus interest from May 26, 2009 until paid at 8 3/4%		

Adele, as unpaid partial PR/Trustees commissions \$1,473,550  
plus interest from May 26, 2009 until paid at 8 3/4%

b. Bob and I properly valued the Estate/2000 Trust in the sworn estate tax return documents at approximately \$100 million less the approximately \$15 million TIAA debt.

c. Bob and I properly and appropriately defended against the false, 4-year claims of Forlando Brown in Federal District Case No. 3:08-cv-00014-WOB. [ See Exhibit C]

d. Forlando Brown, his counsel David Bell, Esquire, and his father Terry Brown, defrauded multiple courts from 2008 until 2014, to destroy the "I Feel Good" Trust and Bob's and my careers and reputations, including by bringing Richland County Case 2010-CP-40-4900; making false representations to the S. C. Supreme Court; and making false representations to the Federal District Court by the following simultaneous representations to different courts:

Terry/Bell

Forlando/Bell

1. Hynie is Brown's spouse

1. Hynie was not Brown's spouse; knew it; and begged Brown to marry her.

2. The music empire was worth \$4.7 million when Brown died.

2. The \$4.7 million is "bogus." \$100 million less the TIAA Debt is conservative;

3. There were no offers to buy the Music empire.

3. Offers of \$150 million were available in the fall of 2008.

e. Bob and I properly managed the Estate and Trust, as found in the April 8, 2008 Order and others in Case 2007-CP-02-0122, and the three orders approving the Christie's sale.

f. The Wingate Suit claims against Bob and me were false, but the false claims ruined my ability to practice law as I had been for 30 years.

4. In 2009, partly in response to a Petition for Review of Compensation filed by

James B., Bob and I proposed as our full commission request, to be awarded at the conclusion of our service (less the above partial commissions already awarded), a commission based 2/3 on our equally-shared responsibility and 1/3 on time. As shown on Exhibit 5 to our joint affidavit, that produced from the \$4,993,151 commission on Brown's \$99,863,015. estate and 2000 Trust assets:

Bob	\$2,147,221.37
Adele	<u>\$2,845,929.63</u>
Total	\$4,993,151.00

5. While we were not titled as personal representatives during the 4-year period from May 26, 2009 until May 8, 2013 during the void appointment of Mr. Bauknight, I am informed and believe that we met the statutory definition of "personal representative" under Section 62-1-201(33) of the South Carolina Probate Code, which states, in part:

(33) "Personal representative" includes executor, administrator, ... and persons who perform substantially the same function under the law governing their status. [Emphasis added]

6. The Disallowance served on May 29, 2013 required me to file this lawsuit even though my SA fee and partial commission were already both allowed and court-approved.

7. In October 2013 the Honorable Doyet A. Early "double approved" certain payments made to Bob; allowed for the possibility of additional pay for Bob if the motion to void the unconscionable Wingate "settlement" is granted; and praised Bob's service in view of Judge Early's familiarity with the entire Aiken County record.

8. I am informed and believe that the Court's making a part of the record -- by judicial notice or otherwise -- the entire James Brown Aiken County probate, circuit

court and appellate record and other documents - and unsealing records - will serve judicial economy; prevent the waste of thousands of dollars of legal time for the Estate and 2000 Trust; and prevent both hardship and wasted legal time for me.

9. Having been barred since June 13, 2013 from Aiken James Brown cases. I believe Due Process and fair play demand that I have the documents to refute statements such as made in the August 20, 2013 deposition in the Forlando Federal Suit by Mr. Bauknight when asked whether our work to obtain the *Wilson v. Dallas* appeal had been helpful:

.That's poppycock. Pure speculation from your client [ Me].  
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.

10. I am informed and believe that it is reasonable to view our claim which has been disallowed in relation to other payments and/or contracts, including:

- a. The 40% contingency fee of Wingate, and \$563,000 paid him in 2012 from the Estate even though he was representing about 15 clients; was in default as to the Counterclaims; was claiming to speak for the Attorney General without legal authority to do so; had embroiled the Estate and 2000 Trust in three FOIA suits; and had issued a subpoena to a journalist in violation of the Shield law which the Attorney General instructed him to withdraw.
- b. The \$500,000 paid to Bob from the Estate to drop his counterclaims against Tommie Rae Hynie, the State of South Carolina and others, when – it is now known– Wingate had no legal authority to speak for the State/AG.
- c. The \$300,000+ paid to Lewis & Babcock for their service to the Estate/2000 Trust from March 2007 until November 2007.
- d. The \$250,000+ paid by the Estate to Adams and Reese in fewer than 3 months of 2013.
- e. The \$750,000 paid to Nexsen Pruet in 2013.

11. The Disallowance requires me to refute the following claimed basis of denial:

This claim was filed jointly with Robert L. Buchanan, Jr., ... , there is no way that \$4,993,151.00 in fees and commissions could have been legitimately earned. The affidavits you submitted to substantiate your claim describing the hours you spent in these roles confirm this. Further, your claim is based on an overinflated, unsubstantiated and self-serving valuation of the probate estate as of the date of Mr. Brown's death.

You petitioned the court and obtained an Order dated January 8, 2008 allowing payment to yourself and Mr. Buchanan toward your commissions for service as Special Administrators in the amount of \$317,000, plus costs. This payment may be subject to disgorgement pursuant to the Supreme Court's opinion in this matter dated May 8, 2013, in which the Court found that you were properly removed as Co-Personal Representative and Co-Trustee

for cause.

This claim is disallowed on the basis that the requested fees and commissions were not earned and therefore are not due and owing ... Estate is entitled to an offset for any damages suffered as a result of any maladministration during your service as Co-Personal Representative and Co-Trustee.

FURTHER DEPONENT SAYETH NOT.

Adele J. Pore  
ADELE J. PORE

SWORN TO before me this  
3<sup>rd</sup> day of June, 2014

Kevin Fletcher Winick (L.S.)  
Notary Public for South Carolina  
My Commission expires: 3/9/16

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The Honorable Doyet A. Early, III Circuit Court Judge

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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.

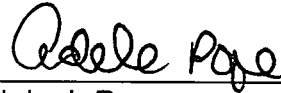
PROOF OF SERVICE

I certify that on the 17<sup>TH</sup> day of June, 2014, I served the Motion off  
Appellant to Require Unsealing and Deliver of Documents and for Related Relief  
on Respondents and on the Interested Party by depositing a copy of same in the  
United States Mail, postage prepaid to them or their attorneys of record as follows:

William Newsome, Esquire  
J. David Black, Esquire  
William Wilkins, Esquire  
Nexsen Pruet  
1230 Main Street, Suite 700

P.O. Box 2426  
Columbia, South Carolina, 29202-2426

Frederick Crawford, Esquire  
Richardson, Plowden  
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