

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

S.C. Supreme Court

The Honorable Doyet A. Early, III Circuit Court Judge

Appellate Case No. 2014-001279

(Order, S.C. Ct. App., filed May 22, 2014)

Alan Wilson, in his Capacity as Attorney General of  
South Carolina; and others, ..... Plaintiffs,

v.

Albert H. Dallas and others, ..... Defendants.

Of whom Adele J. Pope, Individually and on behalf of Others under  
South Carolina Trust Code Section 62-7-405, is the.....Petitioner,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas  
and Tommie Rae Hynie are..... Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna  
J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested  
Persons.

IN RE:

The Estate of James Brown and The James Brown 2000 Irrevocable Trust  
u/a/d August 1, 2000

MOTION AND MEMORANDUM SUPPORTING EXTENSION OF TIME TO FILE  
REPLY TO RETURN TO PETITION FOR CERTIORARI  
AND FOR JUDICIAL NOTICE

Pursuant to Rule 242, SCACR and the Order of this Honorable Court dated July 16, 2014, Petitioner seeks an extension of twenty (20) days from the original due date of July 24, 2014, to serve her Reply to Return of the Estate of James Brown and the James Brown 2000 Irrevocable Trust (the "Estate/2000 Trust"), acting through Russell L. Bauknight, served July 14, 2014 and received by Appellant by mail the afternoon of July 16, 2014.

The Estate/2000 Trust's return departs from the record in a section entitled "What Has Happened After Remand Ordered in Wilson v. Dallas. "[Return, pp. 8-12]. To adequately refute the incorrect statements in this and other parts of the return in 15 pages, petitioner also requests under Rule 201(d), SCRE that his Court take judicial notice in this motion and in her reply to the filings in the following cases:

1. Richland County Case 2010-CP-40-4900 (the "Wingate Suit"), filed May 19, 2010 against Buchanan and Petitioner.
2. "FOIA #1," – Request for \$4.7 Million Appraisal and copies of McMaster Legacy Trust (filed August 3, 2011 as Newberry County Case No. 11-CP-36-364, now Richland County Case No. 2012-CP-40-0350).
3. FOIA #2 - Request for Wingate Litigation Retention Agreement (filed Newberry County August 10, 2011, consolidated with the Wingate Suit.
4. Newberry County FOIA Case No. 2012-CP-36-00688 in which Bauknight seeks to prevent release of the widely-disseminated contents of the so-called Hynie "diary" used by AG McMaster in his settlement.
5. S. C. Federal District Court Case No. 3:03-cv-00014-WOB (the "Forlando Federal Suit")
6. The *Alford Plea* and Restitution Proceedings of Respondent Cannon.
7. The appeals and \$6 million claim case of Respondent Dallas.

8. The heirs proceeding of Respondent James B.

9. The claims of Respondent Tommie Rae Hynie which were filed without summons in Aiken County Circuit Court Case 2007-CP-02-0122 in 2007, but assigned a different number after the June 13 Orders.

The grounds of the motion are that good cause exists for the extension, which is Petitioner's first request. The judicial notice will serve justice and judicial economy. The grounds are more fully set out in the following memorandum.

#### **MEMORANDUM IN SUPPORT OF MOTION**

Petitioner seeks an extension of twenty (20) days to file a reply to the return of the Estate/2000 Trust to her petition for certiorari. None of the six other Respondents has filed a return to her petition.

Russell L. Bauknight serves as agent for Respondents Tommie Rae Hynie ("Tommie Rae"), her son James B. and Terry Brown in both the Wingate Suit and in their attempts to intervene in FOIA #1 and obtain sanctions against Petitioner.

Petitioner is an attorney. She is a creditor of the Estate/2000 Trust. Petitioner and Robert Buchanan, Jr. worked with expectation of reasonable compensation from March 7, 2007 until May 8, 2013. She has worked *pro bono publico* since May 8, 2013 to help any heir, devisee or fiduciary who desires to enforce The James Brown "I Feel Good" Private Foundation.

On May 29, 2013 Russell Bauknight, under an *ex parte*, pre-remittitur appointment, served Petitioner with a notice of disallowance with impending bar (the "Disallowance") claiming she, Buchanan and the attorneys who worked five years to prevent the dismembering of the "I Feel Good" Foundation were not

entitled to be paid.

On May 29, 2013 Tommie Rae's counsel and Louis Levenson, Esquire announced their request to go *in camera* and reinstate the McMaster settlement which dismembered the "I Feel Good" Foundation.

Hearing the above, the Attorney General announced his intention to withdraw. He did so from the Aiken James Brown cases.

The *Wilson v. Dallas* decision reversed the dismembering of the "I Feel Good" Foundation. But not the destruction of the careers and reputations of Buchanan and Pope.

The return makes certain statements not found in any record, including:

1. \$500,000 paid to Kenneth Wingate in 2012 was for expenses and expert fees.
2. David Sojourner and Terry Brown are working together to protect Brown's Estate Plan.

The record of the Forlando Federal Suit shows Terry and Forlando Brown have worked since January 9, 2007 to destroy the "I Feel Good" Foundation and obtain Brown's music empire for themselves. David Bell, Esquire ("Bell") joined them in both the plan to destroy the "I Feel Good" and their fraud on the courts by September 2007.

Bauknight began covering up the Terry/Forlando/Bell deception in 2010, and was part of it by 2011. His deception included joining Kenneth Wingate, Esquire and his law firm ("Wingate") in claiming they spoke as attorney and agent for the Attorney General of South Carolina. Neither had such authority.

The alliance of Bauknight with Terry, Forlando and Bell has allowed 7

years of fraud on multiple courts to destroy the "I Feel Good" Foundation to continue unabated for 7 years. It has been done by people who confirm that the "I Feel Good" Trust is exactly what James Brown wanted.

Terry and Forlando first hired Louis Levenson, Esq. ("Levenson") in January 2007. They contracted to pay him \$150,000 plus 30% of what he could get them by dismembering the "I Feel Good" Foundation.

In February 2007 Forlando and others were involved in a fake securities prospectus to try to raise \$200 million to acquire and run the music empire..

In July 2007 the Dallas/Cannon attempted to move the 2000 Trust to Georgia to escape South Carolina Court scrutiny as Petitioner and Buchanan were uncovering the \$12+ million Cannon took from Brown. The effort failed.

By September Bell was part of the dirty tricks.

In September 2007 Bell and Dallas filed a known false stipulation in Aiken, to prevent Dallas from being removed as PR/Trustee.

In December 2007 Forlando was given 39% ownership in TJBL, the entity seeking to purchase Brown's music empire.

On January 2, 2008 Forlando, through Bell, filed the fabricated Forlando Federal Suit to enjoin the 2000 Trust until Cannon and Dallas returned. He added claims for damages against Buchanan and Pope. He claimed they were greedy intermeddlers who tried to oust the innocent Cannon so they could get the \$5 million commission on Brown's \$100 million estate.

The goal of the suit, as contained in the record, was: substantial ownership and control for Forlando; \$5 million for Cannon; \$6 million for Dallas;

and options or a “kickback” for Cannon and Dallas from the IPO to be formed.

In 2008 Bell advanced the Cannon, Dallas, Forlando, Terry agenda by:

1. Filing six false grievances in 2 states against Levenson, claiming Forlando didn't know Levenson would contest the Will/2000 Trust.
2. Accusing Levenson of forging the 30% contingency contract.
3. Participating in cases without *pro hac vice* status.
4. Attaching a fabricated second Schedule B to the copy of the 2000 Trust filed with the Forlando Federal Suit Complaint (Doc #1), making it appear that Brown's publicity rights, worth \$40 million or more, were in the 2000 Trust, not the Estate.
5. Working with Dallas, Forlando and others to sabotage the Christie's sale, including fabricating a story about the GRAMMY withdrawal that did not happen.<sup>1</sup>
6. Filing two false affidavits in the Forlando Federal Suit, claiming Forlando was not a party to any State Court proceeding.

From July 9 - 17, 2008 Forlando, Dallas, William Hammond and others violated Judge Early's orders to chill the Christie's sale, even though Forlando and Bell never challenged the three orders approving it; did not ask for withdrawal of the GRAMMY or anything else; and had funds to buy anything they needed at the sale.

On July 14, 2008 the Court of Appeals issued the third order approving Judge Early's direction to Buchanan and Pope to sign the Christie's contract. The

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<sup>1</sup> An email released by AG Wilson AFTER *Wilson v. Dallas* shows that Bell and his sponsor Matthew Bodman, Esquire, are aligned with a Kilpatrick Stockton attorney. It was the Kilpatrick Stockton website that posted the false GRAMMY claim cited by this Court as one of its reasons to uphold Judge Early's decision to replace Buchanan and Pope. Bauknight has recently filed a false affidavit in Aiken County claiming – for the first time, and incorrectly – that Buchanan and Petitioner damaged the GRAMMY. [See JTrigg, Kilpatrick.Stockton on Jones email, Exhibit A]

GRAMMY was item #168. Christie's, Attorney General McMaster and the Estate/2000 Trust all sought approval of the sale.

On July 17, 2008 the Christie's sale was held and about 350 items of Brown's thousands of items of clothing and pop memorabilia were sold. With Levenson present, the Estate/2000 Trust withdrew the GRAMMY without penalty to save legal costs, and because of the atmosphere created by Dallas, Jacquelyn Hollander, others chilled the sale.

On July 27, 2008 the Estate/2000 Trust Buchanan and Pope filed a motion to charge Dallas with the legal fees associated the Christie's interference. It has never been heard.

On July 30, 2008 AG McMaster approved Buchanan/Pope as permanent trustees of the "I Feel Good" Foundation. On August 10 he contracted to replace them.

The August 12, 2008 announcement of AG McMaster of his August 10 settlement contract, stopped:

- a. The Dallas Christie's interference motion.
- b. Collection of about \$1.2 million from Cannon.

In January 2009 Terry (Bell) joined the 2008 settlement. Terry got 4.79% and a right of first refusal ("ROFR") to buy Brown's music empire.

From January 2009 Bell for Terry and for Forlando has taken materially opposite positions at the same time, including:

- a. Forlando correctly states Tommie Rae was not Brown's spouse; knew it; and begged Brown to marry her. Terry and Bauknight say she was the spouse, and her elective share

claim was a “slam dunk.”

b. Forlando, correctly, says the \$4.7 million at-death value is “bogus.” Terry and Bauknight say it is correct.

c. Forlando says there were \$150 million offers for the music empire in late 2008 and Oprah’s attorney was interested at \$200 million in 2011. Terry and Bauknight say there were no offers.

d. Forlando says he has moved on and has no gripes with Buchanan and Pope, including his false claims about the Christie’s sale. Terry and Bauknight claim the Christie’s sale was a problem – but only complained when Buchanan and Pope would not drop the *Wilson v. Dallas* appeal. And then to a Court which did not know the facts.

On May 26, 2009, Judge Early approved the settlement, replacing Buchanan and Pope without existence or showing of cause. The 2010 GRAMMY complaint never came up in 7 days of hearings. Bauknight did not know the estate value, but had “heard” \$80 million.

In March 2010 Tommie Rae’s lawyer told Buchanan Sr. Assistant AG Jones would sue through Kenneth Wingate, Esq., if the *Wilson v. Dallas* appeal were not dropped.

On May 19, 2010 Bell, Levenson, Tommie Rae’s lawyers and Bauknight secretly signed the Wingate Litigation Agreement and approved the complaint.

On May 19, 2010 the Attorney General; Bauknight as agent for the AG; the McMaster Legacy Trust; the Estate/2000 Trust; Tommie Rae; Terry and others sued Buchanan/Pope for tens of millions of dollars. False allegations included:

1. Not accepting a 2007 \$100 million offer for the music empire;

2. Claimed problems with the Christie's sale;
3. Conducting the *Wilson v. Dallas* appeal.

In 2013 AG Wilson said AG McMaster never authorized Wingate to sue in the name of the State/AG, but in 2012 Sr. Assistant Jones allowed himself to be introduced by Wingate as one of Wingate's approximately 15 clients.

In January 2011 AG McMaster and Terry secretly amended the McMaster Legacy Trust. Terry assigned his interest in the music empire to Forlando. A copy of the amendment/assignment was distributed by AG Jones [Exhibit A.]

In May 2011 AG Wilson and Bauknight as his claimed agent asked the Supreme Court to modify the record on appeal to show the at-death value of the music empire at \$4.7 million. Brown had \$27 million between 2003 and his death in 2006. Attorney General Wilson now says he never saw the claimed \$4.7 million appraisal.

Bauknight also claimed the \$2+ million of tangible personal property was worth \$.5 million.

From 2011 until 2013 AG Wilson, Terry, Tommie Rae and Bauknight accused Buchanan and Petitioner of the federal felony of intentionally overstating Brown's music empire to the IRS by \$79 for the improper purpose of obtaining a \$5 million commission.

The new felony claim was an updated version of Bell/Forlando/Terry's 2008 claim that Buchanan and Pope wanted a \$5 million commission on a \$100 million empire. And they ousted the innocent Cannon to get it. The false claim was updated just as Bauknight was working with Forlando – already owning 39%

of TJBL and now holding Terry's ROFR –on a deal to try to sell the music empire at \$200 million. [Bauknight says once Winfrey's counsel learned he didn't want to sell, that was the end of it.]

In the fall of 2011 Bauknight, Terry and Tommie Rae moved to intervene in two FOIA suits brought by Petitioner in Newberry County. With the consent of the AG, both were moved to Richland County. One was consolidated with the Wingate Suit.

In 2012 Bauknight and Wingate – claiming to act for the AG – reached an illegal settlement with Buchanan which prevented him from protecting either himself or the "I Feel Good" Trust in a petition for rehearing in *Wilson v. Dallas*. A motion is pending to void the settlement.

On April 16, 2013, between the *Wilson v. Dallas* decisions, Bauknight moved to intervene in a third FOIA suit, to prevent release of the Hynie "diary" and other documents. [Exhibit B]

On May 29, 2013, claiming authority under a pre-remittitur *ex parte* appointment, Bauknight served a disallowance claiming Buchanan, Petitioner and their counsel were entitled to no pay for their work for the Estate/2000 Trust.

On June 13, 2013, without notice or hearing, Judge Early issued the June 13 Orders with the Clerk of Court. Buchanan and Petitioner were enjoined Petitioner from participating in any James Brown estate or trust case, even though the Wingate Suit, the Forlando Federal Suit and two FOIA matters were pending. And are pending today.

Working *pro bono publico* to save the "I Feel Good" Foundation and

restore her career and reputation which were ruined by the Forlando, Bell, Cannon, Dallas fraud – joined in by Bauknight – Petitioner has been required to file three appeals. Exhibits D and E are small examples of the recent developments in those appeals.

On July 8, 2014 Judge Eugene C. Griffith, Jr. issued a FOIA ruling in the 2012 case. [Exhibit C].

On July 15 or 16, 2014 Bauknight moved to amend Judge Griffith's ruling. [Exhibit D]

On July 15, 2014 Petitioner filed a Memorandum [Exhibit E] and Affidavit [Exhibit F] in Appellate Case No. 2013-001649 which Petitioner respectfully submits deal with the same issues which must be addressed in the reply and supports her request for extension.

Time is needed to respond properly and succinctly (in 15 pages) to the serious allegations in the return, and a 30-day period is reasonable.

Petitioner has been offered *pro bono publico* help by a distinguished appellate attorney, and wishes to take advantage of that offer.

Petitioner's husband has just settled an 8-year-old case, and she and he are planning to take two short vacations within the next 30 days.

While the Estate/2000 Trust, through Bauknight, claims that this is a routine Petition for Certiorari, Petitioner believes that the future of private philanthropy in South Carolina is at stake, in addition to her own reputation and ability to practice law. And possibly her liberty because of the false felony claims lodged in the name of the State/AG.

If for no other reason, this petition is unique in that the person speaking for the Estate/2000 Trust in the only return to petitioner's petition today holds the following positions in aid of will/trust challengers and others:

- a. Agent for Tommie Rae Hynie ("Tommie Rae");
- b. Agent for Deanna Thomas, a will/trust contestant;
- c. Agent, without GAL, for James B., Tommie Rae's son;
- d. Trustee of the McMaster Legacy Trust;
- e. Claimed agent for the Attorney General.

The petition is also unique in that the Estate/2000 Trust is attacking one of the two persons who secured the following admission of ALL former contestants to the Will/2000 Trust in 2010 in writing the 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 as the often stated and well-known desire of James Brown.** [ Emphasis supplied]

It is unique because the 1999 will of James Brown which makes the his estate plan ironclad is under threat of becoming void under the 10-year rule, and neither Bauknight nor Sojourner has done anything to stop that.

The petition is unique in that Wingate told Judge Manning on May 12, 2013:

The Supreme Court, in substituting the new opinion has completely eliminated Footnote 29 from the prior opinion. Footnote 29, while only dicta in the now replaced opinion, addressed, among other items, the FOIA matters and called for them to be heard "in the first instance" without any clear definition of what that meant. Such language is totally absent from the new order. . . the court no longer puts any primacy or priority on any court hearing these matters.

...  
..Therefore, Case 4900 Plaintiffs and Proposed FOIA Intervenors respectfully request that [the Wingate/FOIA Suits] be held in abeyance in its entirety until all underlying issues related to the Plaintiffs are resolved by the Aiken Court.

It is unique because Bauknight said in a deposition in the Forlando Federal Suit that Forlando had done nothing wrong and:

... 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].

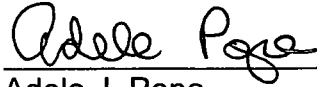
You don't know the value. . . She has no clue what she was dealing with and put stuff in the paper that it's just totally fabricated untrue. It blows me away that someone with a law degree can be so dishonest and get away with it. ...You know, what? That's set aside by the Supreme Court. That's fine. 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.

### CONCLUSION

Good cause exists for Petitioner's 20-day extension and request for mandatory judicial notice of filing in pending James Brown cases is reasonable and should be granted.

Respectfully submitted,



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S. C. Bar No. 4501

July 17, 2014

Appellant, *Pro Se*

*Exhibit A*

**Sonny Jones**

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**From:** Sonny Jones  
**Sent:** Thursday, January 20, 2011 10:44 AM  
**To:** Matt Bodman; DavidBell@davidbelllawfirm.com; JTrigg@KilpatrickStockton.com  
**Cc:** FKingsmore@nexsenpruet.com; amedlin@sc.rr.com  
**Subject:** Brown-Terry Brown Docs  
**Attachments:** TB ASSIGNMENT.PDF; TBCON.PDF

In order that you may have them in one email I have attached Terry Brown's Amendment and Confirmation to the ROFR and Terry Brown's Assignment to Forlando Brown.

Thanks.

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### Confirmation and Amendment

Certain parties entered into an Addendum to Private Agreement of August 10, 2008 to Include Settlement Agreement with Terry Brown Creating Restated and Amended Private Agreement (the "agreement"), that created an entity (the "Settlement Entity") to hold all of the assets related to James Brown, as described in paragraph 1 of the agreement. Capitalized terms not defined herein have the meanings set forth in the agreement. Those parties hereby confirm and amend certain provisions of the agreement, as follows:

1. Under the agreement, Terry Brown ("Terry") has a Right of First Refusal ("ROFR"). This agreement confirms that Terry's ROFR in all respects under the agreement applies only to "the sale of all or substantially all" of the "James Brown Assets" (as the term James Brown Assets is defined in paragraph 1 of the agreement). The term "the sale of all or substantially all" includes only (a) the sale of the entirety (that is, one hundred percent) of the James Brown Assets in one or a series of related transactions, or (b) the sale of at least 65% of the estimated value of the entirety of the James Brown Assets as of such time in one or a series of related transactions. Terry's ROFR does not apply to any other transfer of any of the James Brown Assets or an interest therein. For example, and notwithstanding anything to the contrary in the agreement or in the foregoing, the ROFR does not apply to the granting of one or more clearances or licenses of any duration, scope, or description for the use of any or all of the James Brown Assets, including but not limited to such purposes as movies, documentaries, video games, commercials or other advertisements, product brands, books or other publications, or theatrical productions.
2. Under the agreement, Terry has the exclusive right to conduct a due diligence review ("due diligence right") of all of the James Brown Assets as provided in Paragraph 5 of the agreement. With respect to the due diligence right, the agreement is hereby amended to the extent and only to the extent as follows: (a) Terry may commence the due diligence review immediately upon the execution of this confirmation and amendment; (b) the due diligence period will be for a period of twelve months from the execution of this confirmation and amendment; (c) there is no prohibition against the Settlement Entity, and/or Russell Bauknight as fiduciary or any agent or consultant employed by or on behalf of the Estate or Settlement Entity, soliciting, encouraging, entertaining, discussing, or accepting offers with respect to the sale, transfer, license, or other disposition or exploitation of any of the James Brown Assets (including any offer generated by a beneficiary of the Estate or such other agents or representatives as the Estate or Settlement Entity may from time to time authorize), subject in all cases to the Terry's exclusive solicitation rights clarified in paragraph 3 below; and (d) Terry Brown or his designee shall have the exclusive right to use any work product or other materials in any medium prepared by or on behalf of Terry in the course of the exercise of the due diligence right for purposes of soliciting, encouraging, entertaining or discussing, offers with respect to the sale, transfer, license, or other disposition or exploitation of any of the James Brown Assets.
3. Under paragraphs 6, 7 and 8 of the agreement, Terry has the exclusive right to solicit offers for a period of six months ("right to solicit"). With respect to the right to solicit, the agreement is hereby amended to the extent and only to the extent as follows: the six-month period of the right



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*For the South Carolina Attorney General*

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FEDEX OFFICE 1372

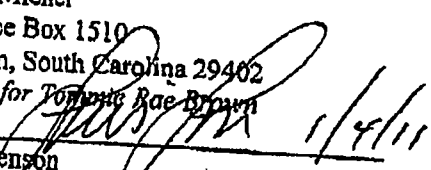
PAGE 04/05

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Second, Proposed-Intervenor asserts that the fee agreement is the subject of a pending discovery motion before The Honorable Casey L. Manning in Richland County Case 4900, the outcome of which will establish the status of the fee agreement as privileged or discoverable. Therefore, any decision made by this Court before Judge Manning rules on the pending discovery motion would be premature and create the potential for conflicting rulings between this Court and Judge Manning.

Third, Proposed-Intervenor is informed and believes that the instant FOIA action has been undertaken by an alter ego for the Richland County Case 4900 Defendant Mrs. Adele Pope, who previously filed her own Newberry FOIA action for the same documents, Newberry County Case No. 2011-CP-36-00379. The Honorable Frank R. Addy, Jr., after hearing various motions, consolidated, but did not merge, Mrs. Pope's Newberry FOIA action with Richland County Case 4900. Pope's FOIA action is now pending before Judge Manning. Proposed-Intervenor asserts the instant case should also be consolidated with Richland Case 4900 and heard by Judge Manning.

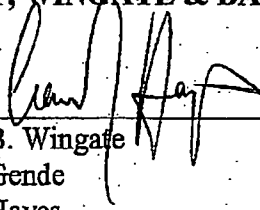
Proposed-Intervenor affirmatively states that he is seeking intervention only to protect the Estate and Trust's interest in a document he believes to be privileged and is currently subject to review by another circuit court judge. Proposed Intervenor's motion on behalf of the Estate and Trust, or any subsequent intervention, is not a waiver of the Estate and Trust's statutory exclusion from any FOIA actions directed against it and is not intended to subject the Estate or Trust to jurisdiction in any FOIA action directed against it.

This Motion may be further supplemented by a Memorandum of Law, by Affidavits, or by any other information as may be fit and proper.

*Signature Page Immediately Following*

Respectfully Submitted,

**SWEENEY, WINGATE & BARROW, P.A.**



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**ATTORNEYS FOR PROPOSED-  
INTERVENOR**

Columbia, South Carolina

April 16, 2013

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )

IN THE COURT OF COMMON PLEAS  
Case No. 2012 CP 36-00688

Susan D. Summer, )  
 )  
Plaintiff, )

v. )

Alan Wilson, Attorney General of )  
South Carolina, )  
Defendant. )

**ORDER REQUIRING PRODUCTION  
OF PUBLIC RECORDS**

FILED  
NEWBERRY COUNTY  
JUL 8 PM 2 47  
JACKIE S. BOWERS  
CLERK OF COURT

**BACKGROUND**

Plaintiff, a citizen of South Carolina residing in Newberry County, initiated the within-captioned action on December 18, 2012, pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§30-4-10 *et seq.* (Rev. 2007, Supp. 2013), hereinafter (FOIA), seeking declaratory and injunctive relief. Defendant Alan Wilson is sued in his official capacity as Attorney General of South Carolina.

In her Complaint, plaintiff alleged that defendant had withheld public records to which plaintiff had requested access under FOIA in violation of the FOIA. Plaintiff alleged requests under the FOIA on January 29, 2012, March 1, 2012, June 10, 2012 and September 6, 2012.

On February 13, 2013, defendant moved to dismiss the Complaint or change venue.

On February 15, subject to the above motions, defendant answered denying that he had violated the FOIA. He asserted plaintiff cannot obtain under FOIA documents as to which disclosure or release is under the review or order of a court pending in another legal proceeding, including but not limited to Bauknight v. Pope, Case No. 2010-40-CP-4900 ("Case 4900").

I, Jackie S. Bowers, Clerk of Court, Newberry, South Carolina, do hereby certify that this is a true copy of the original on file in this office.  
JLB 8-2014  
Jackie S. Bowers  
Clerk of Court

The Answer asserts that defendant has responded to all requests and has supplied any document it has except that it asserts that the Tommie Ray Hynie diaries and Wingate Contract are barred from release by pending motions or court order.

Attached to the Answer were certain documents, including what defendant described as the public portion of the Wingate Contract. Article III F. of the Wingate Agreement states in relevant part:

Any material, data, files, discs, or documents created, produced or gathered by the Special Counsel, or in special counsel's possession in furtherance of this litigation...shall be considered the exclusive property of the State of South Carolina. Special Counsel agrees to adhere to South Carolina's Freedom of Information Act, South Carolina Code of Laws §§30-40-10, et. seq....

On February 27, 2013, plaintiff moved for summary judgment.

That same day, the South Carolina Supreme Court issued its first decision in Wilson v. Dallas, 2013WL697042, February 27, 2013 (No. 27227). Footnote 29 directed that case 4900 and certain FOIA cases should be "considered by the circuit court in the first instance."

In March 2013, defendant filed a Petition for Rehearing with the Supreme Court addressing footnote 29. He advised the Court that he would shortly move to have the Attorney General removed as a party to Case 4900. He also advised that he had no objection to the release of the Wingate Contract and hoped "to have resolution of this matter in the near future."

On April 16, 2013, Russell L. Bauknight, as personal representative of the Estate of James Brown and trustee of the James Brown 2000 Trust, moved to intervene. Bauknight asserted that this case is an extension of the parties and issues involved in Case 4900, and an improper attempt to gain through FOIA matter which is subject to discovery motions in that case.

2 SC 2/5

Bauknight asserted that plaintiff's FOIA requests should be denied and the case consolidated with Case 4900<sup>1</sup>.

At the hearing on April 26, 2013, this Court orally denied the Attorney General's requests to transfer this case to Richland County. Without ruling on Bauknight's motion to intervene, the Court allowed his counsel to participate in the hearing.

At a status conference held on May 7, 2014, this Court invited the parties to make submissions. In subsequent filings, the Court was asked to take judicial notice that the FOIA matters transferred to Richland County, one of which was consolidated with Case 4900, had not been concluded. Discovery motions filed in 2010 related to some of the FOIA requests had also not been heard, and Bauknight is currently seeking a delay of both Case 4900 and the related FOIA suits until all James Brown matters are concluded in Aiken County.

At the heart of this dispute is whether the Attorney General should delay or deny FOIA compliance where the public documents sought are the subject of a pending discovery motion in Case 4900, or a discovery order in that (Case 4900) or any other case. Related to that is whether the James Brown Estate and Trust may intervene in FOIA suits to prevent release under FOIA of public documents they are seeking to protect in discovery in a civil suit in which this plaintiff is not a party.

### DISCUSSION

In adopting the FOIA, the General Assembly found "that it is vital in a democratic society that public business be performed in an open manner." S.C. Code Ann. §30-4-15 (Rev. 2007). The General Assembly also adopted definitions to be applied in interpreting the FOIA.

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<sup>1</sup> On November 14, 2013, United States Magistrate Judge J. Gregory Wehrman ruled in a federal case captioned Brown v. Pope (Case No. 3:08-cv-14-WOB) that the retention agreement between Brown trustee Bauknight and the Attorney General "is a public document due to the involvement of the South Carolina Attorney General." This agreement is one of the public records sought by plaintiff in this case. It should be produced to plaintiff by the Attorney General.

For purposes of this litigation, the definitions of “public body” and “public record” are most relevant. As a constitutional office, the Attorney General and his office are “Public Bodies,” and this status subjects both to the full reach of the FOIA. S.C. Code Ann. §30-4-15 (Rev. 2007); Burton v. York Sheriff’s Dept., 358 S.C. 339, 594 S.E.2d 888 (Ct. App. 2004). Since plaintiff’s requests were for access to public records, the statutory definition of “public record” in S.C. Code §30-4-20 includes all “books, papers, maps, photographs, cards, tapes, records or other documentary materials...prepared, owned, used, or in the possession of the public body” as public records. It is clear that defendant has prepared, used or been in possession of all documents requested by plaintiff. It is further clear from the Attorney General’s own standard litigation retention agreement that the documents in Wingate’s possession belong to the State, are public records, and are subject to the FOIA.

Defendants claim that FOIA requests must be delayed or denied if there is a pending discovery motion in an unrelated case is inconsistent with both the letter and spirit of the FOIA. As the U.S. Circuit Court for the D.C. Circuit has held with respect to federal FOIA matters in North v. Walsh, 881 F.2d 1088 (D.C. Cir. 1989), the FOIA and discovery are parallel courses.<sup>2</sup> Each must be considered separately.

The fact that Bauknight’s discovery motion has not been resolved since 2010 makes it clear that the FOIA would be crippled if a public body could refuse to release documents based on discovery disputes or orders in other cases. The purpose of the FOIA is set out as follows in §30-4-15: “...it is vital in a democratic society that...it is possible for citizens...at a minimum cost or delay [get]...access to public documents....”

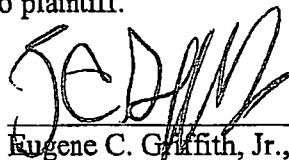
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<sup>2</sup> Then Circuit Judge Ruth Bader Ginsburg wrote this decision in which the Court found that Oliver North was entitled to public documents under the FOIA, even if those documents were not discoverable in non-FOIA litigation. Id. at 1099.

The facts are clear: plaintiff is a South Carolina citizen. She is a journalist. She made proper FOIA requests to the Attorney General, who is subject to the FOIA. Intervention by plaintiffs in Case 4900, or any other suit where the same documents are at issue, is not authorized by the FOIA. To allow such intervention would defeat the purpose of FOIA. The motion to intervene is denied. The defendant's motion for judgment on the pleadings is denied, and plaintiff's motion for summary judgment is granted. The documents should be forthwith produced by defendant for inspection and copying.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that

1. The motion of Bauknight to intervene is hereby denied.
2. Defendant shall, within 15 days, produce to plaintiff all documents responsive to all FOIA requests of plaintiff (from the date of the respective requests to the date of this Order) which are under the custody or control of the Attorney General, or which the Attorney General has prepared, owned or used.
3. To the extent defendant asserts that it should not be required to produce any document which his office has prepared, owned, or used, the document shall be marked confidential and accompanied by a sworn certification by the Attorney General or his designee that it is his opinion, as the State's highest legal officer, such document cannot be legally produced under the FOIA. He shall state with specificity the facts and law on which he bases his opinion with respect to each document.
4. Any certification and document shall be provided to the Court and to plaintiff's counsel as "confidential" and shall be the subject of a hearing to be held within thirty days of this Order.
5. Plaintiff's counsel shall, within thirty days, submit a statement of fees and costs requested by plaintiff as the prevailing party pursuant to S.C. Code Ann. §30-4-100(b) (Rev. 2007).
6. This Court shall retain jurisdiction to insure compliance with the FOIA as set out herein and determine fees and costs to plaintiff.



Eugene C. Griffith, Jr., Circuit Judge

Newberry, SC  
May 8, 2014

July

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF NEWBERRY ) THE EIGHTH JUDICIAL CIRCUIT

Susan D. Sumner, ) Civil Action No.: 2012-CP-36-00688  
 )  
 )

Plaintiff, )  
 )  
 )

v. )

MOTION TO RECONSIDER  
PURSUANT TO RULE 59(e), SCRPC

Alan Wilson, In His Capacity As )  
Attorney General for South Carolina, )  
 )

Defendant. )

PLEASE TAKE NOTICE that the Proposed Intervenor, Russell L. Bauknight, by and through the undersigned counsel, hereby moves pursuant to Rule 59(e), SCRPC for an Order altering or amending the Court’s Order denying Proposed Intervenor’s motion to intervene and requiring production of certain documents. This motion is based on the following grounds:

1. The Court’s Order erroneously denies the Proposed Intervenor’s motion to intervene.

According to Rule 24(a) of the South Carolina Rules of Civil Procedure, “anyone shall be permitted to intervene in an action . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest . . .” Rule 24(a), SCRPC. Our supreme court has consistently held that “the rules of intervention should be liberally construed where judicial economy will be promoted by declaring the rights of all affected parties” Gov’t Employee’s Ins. Co., Ex parte, 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007); see also Berkeley Elec. Co-op., Inc. v. Town of Mt. Pleasant, 302 S.C. 186, 189, 394 S.E.2d 712, 714 (1990). The Court’s Order does not address the grounds for the Proposed

Intervenor's motion to intervene, instead summarily denying the motion. Proposed Intervenor therefore respectfully requests that the Court reconsider this ruling, and in the alternative that the grounds for denial be set forth in a revised Order to preserve the issue for appeal.

The Proposed Intervenor's Motion to Intervene was based on the following grounds, none of which were ruled upon by the Court's Order:

First, Proposed-Intervenor asserts the fee agreement is privileged and not subject to the South Carolina Freedom of Information Act ("FOIA"). The Proposed Intervenor's Memorandum in support of the Motion to Intervene explained that intervention is necessary to protect documents of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust (hereinafter collectively referred to as "the Estate") which are subject to the attorney-client privilege and work product doctrine from disclosure to the public at large, including to the opposing party in Case 4900. The Estate asserts that the only remedy to this problem is to allow them to litigate the FOIA action, since it is undoubtedly a party-in-interest concerning the subject of this FOIA dispute.

Second, Proposed-Intervenor asserted that the fee agreement is the subject of a pending discovery motion before The Honorable Casey L. Manning in Richland County Case 4900, the outcome of which will establish the status of the fee agreement as privileged or discoverable. Therefore, any decision made by this Court before Judge Manning rules on the pending discovery motion would be premature and create the potential for conflicting rulings between this Court and Judge Manning.

Third, Proposed-Intervenor's Motion asserted that the instant FOIA action has been undertaken by an alter ego for the Richland County Case 4900 Defendant Mrs. Adele Pope, who previously filed her own Newberry FOIA action for the same documents, Newberry County Case

No. 2011-CP-36-00379. The Honorable Frank R. Addy, Jr., after hearing various motions, consolidated, but did not merge, Mrs. Pope's Newberry FOIA action with Richland County Case 4900. Pope's FOIA action is now pending before Judge Manning. Proposed-Intervenor asserts the instant case should also be consolidated with Richland Case 4900 and heard by Judge Manning.

The Plaintiff in the instant dispute also seeks a copy of the Fee Agreement at issue in Case 4900. Accordingly, similar questions of law and fact exist as to the nature of any privilege attached to the Fee Agreement. Should the court in Case 4900 find the documents privileged, they would then be exempt from disclosure under FOIA. See S.C. Code Ann. § 30-4-40(a)(7) (Rev. 2007). Consolidation of the actions, inasmuch as the Fee Agreement is concerned, will promote judicial economy and reduce the risk of inconsistent rulings. See Fulmer v. Cain, 380 S.C. 466, 471, 670 S.E.2d 652, 655 (2008) (Toal, C.J., dissenting).

Accordingly, Proposed Intervenor respectfully requests that this Court rule on the foregoing grounds for its Motion to Intervene.

**2. The Court's Order fails to rule on the mootness issue raised by both the named defendant and the Proposed Intervenor.**

"A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy." Lennon v. S. Carolina Coastal Council, 330 S.C. 414, 415, 498 S.E.2d 906 (Ct.App.1998). Moot cases fail to present a justiciable controversy because their adjudication will have no practical effect upon an existing case or controversy. Byrd v. Irmo High Sch., 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). Specifically regarding the FOIA, our supreme court has held that where "the information [Plaintiff] sought has been disclosed, there is no continuing violation of FOIA upon which the

trial court could have issued a declaratory judgment.” Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 26, 630 S.E.2d 474, 478 (2006).

Just as in Sloan, the document sought by Plaintiff has already been disclosed, in this instance pursuant to the order of another court in a concurrent action arising out of the James Brown Estate litigation. The Plaintiff is already in possession of this document, as evidenced by postings on a Facebook page she maintains. Additionally, the Office of the Attorney General has certified that it possesses no further documents responsive to the Plaintiff’s FOIA request. Accordingly, there is no further relief that this Court could grant to Plaintiff on her FOIA claims since she already possesses the documents sought.

Moreover, the facts of this case do not evoke either of the two exceptions to the mootness doctrine, which arise: “1) when the issue raised is capable of repetition, yet evading review, and 2) when the question considers matters of important public interest.” Sloan, 369 S.C. at 26-27, 630 S.E.2d at 478 (citing Curtis v. State of South Carolina, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001)). As the supreme court observed in Sloan, while the same documents could again be withheld, the issue does not evade review since, “[s]hould another person bring an action against [Defendant] for a violation of FOIA and [Defendant] fails to produce the requested documents, the Court will have the opportunity to review the issue.” 369 S.C. at 27, 630 S.E.2d at 478.

To determine whether a moot issue should be reviewed under the public importance exception, “the issue must present a question of imperative and manifest urgency requiring the establishment of a rule for future guidance in matters of important public interest. This evaluation must be made based on the facts of each individual situation.” Id. (citations omitted). The facts of this case do not trigger the public importance exception because the Plaintiff does not present a “question of imperative and manifest urgency.” Because the requested documents

have been made public in a separate action and are already in the Plaintiff's possession, she has already been afforded the intended benefit of FOIA. See id.

Accordingly, the Proposed Intervenor respectfully requests a determination from this Court as to whether this matter is moot.

- 3. The Court committed clear judicial error in that the Court's Order erroneously and incorrectly cites to and relies on Footnote 29 of the South Carolina Supreme Court's withdrawn first iteration of its opinion in Wilson v. Dallas, 2013 WL 697042 (S.C.)<sup>1</sup>.**

As a basis for its Order the Court cites to and relies on Footnote 29 in the withdrawn first iteration of the opinion of the South Carolina Supreme Court in Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013). The second iteration of Wilson v. Dallas, which constitutes the only legal opinion of the Court, does not contain the text of former Footnote 29 in any respect. Id. See also Wilson v. Dallas, Op. No. 27227 (S.C. Sup. Ct. filed May 8, 2013) (Shearouse Adv. Sh. No. 20 at 36) (noting that both the majority and concurring opinion had been revised and substituting new attached opinions). Therefore, former Footnote 29 is a legal nullity.

In correspondence filed with the Court, which the Court allowed as responses to proposed orders, the proposed Intervenor informed the Court of the plaintiff's citing to and relying on former Footnote 29. The proposed Intervenor expressed concern that Plaintiff's reference to former Footnote 29 as if it were legal authority may constitute an ethical violation and that any reliance on the same by the Court would appear to constitute clear error. However, in its Order, the Court retained the language of the Plaintiff's proposed order citing to and relying on former Footnote 29. This is a clear error of law constituting an abuse of the court's discretion. See BB & T v. Taylor, 369 S.C. 548, 551, 633 S.E.2d 501, 503 (2006) (noting that "[a]n abuse of

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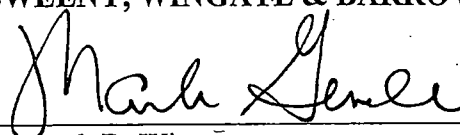
<sup>1</sup> The Westlaw citation provided by the Court's Order contains the following language with a direct link to the published opinion of the supreme court: "*Withdrawn and Superseded by 2013 WL 2005103.*"

discretion arises where the judge issuing the order was controlled by an error of law . . . .”);  
Therefore, the Order must be revised and no legal weight given to an argument that is a legal  
nullity.

This motion may be supported by a Memorandum of Law, affidavits, and such other  
documents as may be relevant to the motion.

Respectfully submitted,

**SWEENEY, WINGATE & BARROW, P.A.**



---

Kenneth B. Wingate  
Mark V. Gende  
Joseph O. Thickens  
Sweeney, Wingate & Barrow, P.A.  
Post Office Box 12129  
Columbia SC 29211  
(803) 256-2233

**ATTORNEYS FOR PROPOSED  
INTERVENOR**

Columbia, South Carolina  
July 15, 2014

STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

JUL 15 2014

SC Court of Appeals

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-001649

Alan Wilson, in his Capacity as Attorney General of  
South Carolina; and others, ..... Plaintiffs,

v.

Albert H. Dallas and others, ..... Defendants,

Of whom Adele J. Pope, Individually and on behalf of Others under South Carolina Trust  
Code Section 62-7-405, is..... Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and  
Tommie Rae Hynie are..... Respondents

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J. Brown  
Thomas and Robert L. Buchanan, Jr., are..... Additional Interested Persons.

In Re: The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d  
August 1, 2000, Respondents.

**MOTION FOR AND MEMORANDUM IN SUPPORT OF EXTENSION OF TIME  
TO FILE RETURN AND OPPOSITION TO MOTION OF ESTATE OF JAMES  
BROWN AND JAMES BROWN 2000 IRREVOCABLE TRUST ("ESTATE/2000  
TRUST") TO STRIKE DESIGNATIONS; TO FILE RELATED MOTIONS; AND  
TO FILE REPLY BRIEF OF APPELLANTS**

Appellant, objecting to the motion to strike designations of the Estate of James  
Brown and the James Brown 2000 Trust (the "Estate/2000 Trust") served July 7, 2014; the

July 8, 2014 Order of the Honorable Eugene C. Griffith, Jr., in Newberry County Case No. 2012 CP36-00688 (the "Summer FOIA Order") and other recent events, moves this Honorable Court for an extension of forty-five (45) days to file her full opposition to the motion of the Estate/2000 Trust to strike; and reach a decision whether to file one or more of certain motions listed; and for an extension of fifteen days (15) after the Court has ruled on the motion to strike and other motions to file her initial reply brief in this matter.

The motions which recent events suggest may be appropriate to file, and which Appellant is studying, are:

- a. A motion to terminate David Bell, Esquire, who has actively defrauded State and Federal Courts in James Brown matters since early 2008.
- b. A motion to consolidate this case with Appellate Case No. 2014-000250, which is a complaint filed July 10, 2013 to void the *ex parte* pre-remittitur appointments of Russell L. Bauknight or remove him for cause.
- c. A possible motion to transfer the case to the South Carolina Supreme Court, and/or to reopen the *Wilson v. Dallas* decision based on fraud.
- d. A possible motion related to the Estate/2000 Trust's continued 3-year attempt to intervene in three FOIA suits.
- e. A motion to consolidate this case with the appeal of Michael Deon Brown, Appellate Case No. 2014-000794 and others, based on the Bell firing and other facts.

This motion is supported by the memorandum set out below and the affidavit of Adele J. Pope dated July 15, 2014 filed herewith.

#### **MEMORANDUM IN SUPPORT OF EXTENSION**

This is an appeal from three orders issued on June 13, 2013 in fourteen Aiken County cases related to the estate and assets of entertainer James Brown (the "June 13 Orders"). The lower court considered the entire record in thirteen cases, some pending

since January 2007, in its June 13 Orders. The June 13 Orders were issued without notice or hearing.

One of the June 13 Orders says:

Despite the South Carolina Supreme Court's Opinion [of May 8, 2013], Ms. Pope has now filed several documents with this Court. The documents include Motions, Memoranda, and Proposed Scheduling Orders concerning the James Brown Estate and Trust litigation. These actions and filings will not be considered by this Court. The Supreme Court of South Carolina has upheld and affirmed Mrs. Pope's removal as fiduciary, denied her motions for rehearing, and the remittitur has since been filed in this Court. It is now the law of the case that Ms. Pope has been removed from her fiduciary positions and is no longer a party to the James Brown Estate and Trust litigation. It is the Order of this Court that Ms. Pope does not have standing to proceed with the motions she has filed since the Supreme Court's opinion has issued. Accordingly, this Court hereby directs the Clerk of Court to remove Ms. Pope's filings from these cases pursuant to the Supreme Court's Opinion removing her as a party to these proceedings. [Emphasis applied].

All respondents other than the Estate/2000 Trust <sup>did not file an</sup> ~~filed~~ an initial brief. All accepted the designation and are bound by the statement of the case. No respondents other than the Estate/2000 Trust opposed the initial brief.

The Estate/2000 Trust's initial brief claims:

- I. AS A THRESHOLD MATTER, APPELLANT ADELE POPE LACKS STANDING TO APPEAL
- II. THIS COURT LACKS JURISDICTION TO CONSIDER THE ARGUMENTS POPE MAKES ON BEHALF OF OTHER PARTIES
- III. POPE IS COLLATERALLY ESTOPPED FROM ARGUING THAT SHE SHOULD BE THE VOICE FOR THE ESTATE AND TRUST
- IV. POPE'S DUE PROCESS RIGHTS HAVE NOT BEEN VIOLATED AND NO FRAUD ON THE COURT HAS BEEN COMMITTED

Since 2011, Mr. Bauknight has covered up Bell's fraud, including material misrepresentation as follows:

Forlando/David Bell, Esq.

1. The \$4.7 million value is "bogus"
2. Hynie was not Brown's spouse and knew it.
3. Buchanan/Pope's \$84 million value of the music empire was conservative.
4. Offers of \$150 million were still available in September 2008

Terry (for Forlando)/Bell

1. The \$4.7 million value is correct.
2. Hynie was Brown's spouse.
3. The value was a \$79 million overstatement
4. There were never any offers to buy the music empire.

The Estate/2000 Trust's speaking through Bauknight is problematic because:

- a. Today he serves as Respondent Hynie's agent in the Wingate Suit; and is trying to intervene in three FOIA Suits to protect her.
- b. Today he serves as agent for Respondent James B., with no GAL, in the Wingate Suit and a FOIA Suit.
- c. Today he serves as agent for Respondent Forlando Brown, as assignee and the real party in interest of Respondent Terry Brown, in various suits.
- d. Today he continues to serve as agent for Respondent Terry Brown in the Wingate Suit and in a FOIA Suit.
- e. Today Bauknight is working to help Forlando Brown escape payment of attorneys' fees for his dismissed 4-year injunction suit.

More time is needed to respond to the motion to strike additional facts.

### CONCLUSION

The requested forty-five day extension should be granted, as should a brief delay in the time to file the reply brief after the Court has ruled on the motion to strike and others

filed within forty-five days.

Respectfully submitted,

Adele Pope

Adele J. Pope

1228 Walnut Street

Newberry, South Carolina 29108

Telephone: 803-413-0753

Email: [adele@popelawfirm.com](mailto:adele@popelawfirm.com)

S.C. Bar #4501

July 15, 2014

Appellant, *Pro Se*

*Exhibit F*

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

RECEIVED  
JUL 15 2014  
SC Court of Appeals

**APPEAL FROM AIKEN COUNTY  
Court of Common Pleas**

**The Honorable Doyet A. Early, III, Circuit Court Judge**

**Appellate Case No. 2013-001649**

Alan Wilson, in his Capacity as Attorney General of South Carolina; and others, ..... Plaintiffs,

v.

Albert H. Dallas and others, ..... Defendants,

Of whom Adele J. Pope, Individually and on behalf of Others under South Carolina Trust Code Section 62-7-405, is.....Appellant,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas and Tommie Rae Hynie are.....Respondents

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna J. Brown Thomas and Robert L. Buchanan, Jr., are..... Additional Interested Persons.

In Re: The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d August 1, 2000, Respondents.

**AFFIDAVIT OF ADELE J. POPE IN SUPPORT OF MOTION FOR EXTENSION  
OF TIME TO RESPOND TO MOTION TO STRIKE AND FOR RELATED  
RELIEF**

PERSONALLY APPEARED BEFORE ME, Adele J. Pope, who being duly sworn,

deposes and says:

1. This affidavit is made of my own personal knowledge.

2. I am over 21 years of age.

3. I am an attorney.

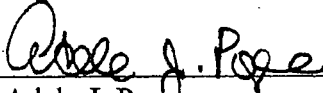
4. I have worked pro bono publico since May 8, 2013 to help anyone who desires to enforce the James Brown "I Feel Good" Trust. Prior to that I served James Brown's Estate/2000 Trust beginning March 7, 2007, with expectation of reasonable pay. I have not been paid for my service to the James Brown Estate/ 2000 Trust since 20007.

5. I incorporate and adopt in support of my motion for additional time to object to the motion to strike my designations the factual addendum attached hereto which I have prepared.

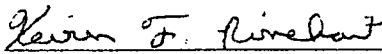
6. I am informed and believe that a 45-day extension is an appropriate amount of time to comb the tens of thousands of pages of records which the court considered in the 13 James Brown cases which are the subject of this appeal.

7. I believe that the Order of the Honorable Eugene C. Griffin, Jr. in the Summer FOIA case, dated June 8, 2014, and the response of the South Carolina Attorney General to the direction that many critical James Brown documents be produced in 15 days may have a significant impact on the James Brown appeal

FURTHER DEPONENTS SAYETH NOT.

  
Adele J. Pope

SWORN TO before me this  
15th day of July, 2014

  
Notary Public for South Carolina  
My Commission expires: 3/9/16

(L.S.)

## FACTUAL ADDENDUM

The following factual addendum supports Appellants' motion for extension of time to file return and opposition to stay; consider certain motions related to recent events, and for extension to file initial reply brief of Appellant.

- December 2007      Entertainer James Brown dies with no spouse and more than a dozen claimed children, all of whom have equal rights under the termination rights provisions of the Federal Copyright Act, whether legitimate or not.
- Brown leaves music empire to "I Feel Good" Foundation. Agreement with HALF (or half +1) of children will protect Brown's copyrights to 800+ songs for decades, assuring \$3+ million annual income stream for needy students.
- January 2007      Forlando and six Brown children hire Levenson; \$150,000 + 30% contingency to dismember "I Feel Good" Trust.
- March 2007      Forlando leaves Levenson, and aligns himself with Cannon and Dallas.
- 2007              Estate/2000 Trust establish official "Peoples DNA Protocol" to determine heirs. DNA-proven daughters Jeanette, La Rhonda and Nicole acknowledged.
- July, 2007      Powell Goldstein ("PG") send Cannon and Dallas documents for secret transfer of 2000 Trust/"I Feel Good" Foundation to Georgia as Buchanan/Pope begin uncovering \$12+ million Cannon took from Brown.
- September 2007      David Bell, Esquire, Respondent Dallas and Bell's clients present a known false stipulation to Judge Early,
- September 2007      Forlando hires PG.
- December 2007      Forlando becomes secret 39% owner of TJBL, purchase group seeking to buy Brown's music empire; pay options or kickback to Cannon/Dallas.
- January 2, 2008      Forlando files 3:08-cv-00014-WOB (the "Forlando Federal Suit") files fabricated lawsuit to enjoin 2000 Trust from taking any action until Cannon/Dallas reinstated.

January 8, 2008 Jg. Early approves SA fee and ongoing PR/Trustee payments to Buchanan/Pope on time + cost basis for them and staff. No objections or appeal.

2008 Bell files six false grievances against Levenson in two states; accuses him of forging \$150,000 + 30% contract with Forlando and others to dismember "I Feel Good" Foundation. Files two false affidavits to support Forlando Federal Suit.

March 2008 Jg. Early refuses to disqualify Levenson. Finds that the Levenson contingency contract contemplated Will/Trust challenges filed by Levenson.

July 2008 Forlando, PG, Bell, Dallas and Jacquelyn Hollander interfere with Christie's sale, approved by two orders of Judge Early.

July 9, 2008 Dallas files documents in Court of Appeals to stop Christie's sale, despite two unappealed orders of Jg. Early approving and directing sale, with GRAMMY listed as Item #168 in catalogue. Attorney General McMaster, Christie's and Estate/2000 Trust ask Court of Appeals to approve sale.

July 14, 2008 Court of Appeals approves Christie's sale.

July 17, 2008 Christie's sale. Daughter Deanna and Rev. Al Sharpton appear on television to chill sale. With Levenson present Christie's urges Estate/2000 Trust NOT to withdraw GRAMMY. Asserts that pleadings filed to stop sale are baseless. Estate/2000 Trust elects to withdraw GRAMMY without penalty. Levenson is present during discussion and decision. Makes no objection.

July 27, 2008 Estate/2000 Trust files motion, in accordance with Jg. Early's Orders, to charge Dallas with legal fees for Court of Appeals filing related to Christie's sale. Motion (in Case 2007-CP-02-0122) not heard as of July 2014.

Times unknown Kilpatrick Stockton website brags (incorrectly) that attorney Robert Potter to stop Christie's sale of GRAMMY. Academy seeks to stop second sale of Stevie Wonder GRAMMY. A Kilpatrick Stockton attorney is later copied on email involving PG, Forlando, the McMaster Legacy Trust.

August 10, 2008	<p>AG McMaster reaches settlement with Levenson and Tommie Rae Hynie which:</p> <ol style="list-style-type: none"> <li>1. Stipulates Tommie Rae will be considered spouse.</li> <li>2. Designates Tommie Rae's son a child with no DNA testing.</li> <li>3. Makes known incorrect heirs determination, leaving out La Rhonda, Nicole, Jeanette, and incarcerated son Michael.</li> <li>4. Contracts to replace Buchanan &amp; Pope with AG's choice of PR/ Trustee.</li> <li>5. Puts all of Brown's assets in McMaster Legacy Trust.</li> <li>6. Gives 25% of "I Feel Good" Foundation's assets to Tommie Rae and 25% to Levenson clients.</li> </ol>
January 30, 2009	<p>Terry Brown, represented by Bell, joins settlement. Terry get right of first refusal to buy music empire ("ROFR") Bauknight recommends settlement.</p>
March 2009	<p>Estate/2000 Trust (Buchanan/Pope) opposes settlement. Expresses fear to AG McMaster that Terry will try to devalue assets, taking even more from "I Feel Good" Trust.</p>
May 26, 2009	<p>Jg. Early approves settlement. Replaces Buchanan/Pope with Bauknight without showing or existence of cause. [See Order dtd. 5/26/09].</p>
February 2010	<p>Cannon indicted for taking \$12+ million and 2008 forgery.</p>
March 2010	<p>Tommie Rae's lawyer threatens Buchanan with lawsuit by Ken Wingate, Esquire if <i>Wilson v. Dallas</i> appeal not dropped. Says he has been hired by Sr. Assistant AG Havird "Sonny" Jones.</p>
May 19, 2010	<p>Bell, Bauknight, Levenson and counsel for Tommie Rae sign 40% Wingate Litigation Agreement for State/AG and others to sue; approve complaint to sue Buchanan/Pope through private lawyer ("Wingate").</p>

May 19, 2010 State/AG McMaster, the Estate/2000 Trust and the McMaster Legacy Trust, with others, sue Buchanan/Pope In Richland 2010-CP-40-4900 (the "Wingate Suit").

October 2010 Estate/2000 Trust (Bauknight) list Cannon and Dallas as witnesses against Buchanan/Pope.

January 2011 McMaster Legacy Trust secretly amended (Bauknight, Trustee) to begin sale process. Forlando given Terry's interest in Estate, including ROFR.

2011 - 2014 Bell, with Forlando owning Terry's former interest in estate and ROFR, take materially opposite positions in State and Federal Courts, including:

Bell/ Forlando to Fed. Ct. Bell/Terry to Supreme Ct.

Tommie Rae not Brown's spouse.	Tommie Rae spouse
\$4.7 Million value "bogus"	\$4.7 million correct
Offers of \$150 million available	No offers to buy

March 2011 S. C. Court of Appeals dismisses as premature challenge to legality of Wingate Suit.

March 2011 Bauknight files I&A claiming Brown's music empire worth \$4.7 million and tangible personal property (Christie's items and thousands of others) worth \$.5 million.

April 2011 Jeffrey Smith and Pope circulate draft of *Private Foundations, Copyright Heirs and Musical Millionaires, or why The James Brown "I Feel Good" Trust doesn't...*

By this date AG, Bauknight and all others know that claims being made to Supreme Court about Tommie Rae's control of the termination rights under the Federal Copyright Act and Brown's heirs are incorrect.

Protection of the "I Feel Good" Trust's copyrights can be accomplished by:

1. Confirming Tommie Rae was not Brown's spouse, as all acknowledged children; several DNA-proven children; and all fiduciaries other than Bauknight have now confirmed.

2. Making fair termination rights cooperation agreements with the least expensive HALF (or Half + 1) of Brown's presumed or DNA-proven children who are not challenging Brown's noble estate plan as embodied in the 2000 estate plan and backup 1999 Will.

May 2011

Oprah Winfrey's attorney discussing possible purchase of Brown's music empire at \$200 million at same time Estate/2000 Trust (Bauknight) is telling S.C. Supreme Court that at-death value was \$4.7 million and that there has never been a offer to buy the James Brown assets.

October 2011

Cannon enters Alford plea. Estate/2000 Trust (Buaknight) fails to seek restitution or file victims' statement.

Nov. 1, 2011

The Estate/2000 Trust (Bauknight) tell S. C. Supreme Court that Copyright Terminations are "all this case is about," but incorrectly claims that Tommie Rae's elective share is a "slam dunk," that Tommie Rae and her son control the termination rights; that the Estate/2000 Trust has no corpus to speak of; that the other settling parties control the termination rights if Tommie Rae doesn't; and that there will be nothing left in the "I Feel Good" Trust in 2023 if the McMaster settlement giving 52 ½ % to Tommie Rae and fewer than half the children not approved.

Nov. 2011

The Estate/2000 Trust could have secured termination rights cooperation THAT DAY for less than \$100,000 a year by completing the Estate's official Peeples DNA Protocol as authorized by Order of Jg. Early in March 2008 and, subject to passing DNA testing, reaching an agreement with the least expensive 5 or 6 of the following who withdrew all challenges to the Will/2000 Trust:

1, La Rhonda, 2. Michael, 3. Nicole, 4. Daryl (who had fired Levenson), 4. James Curtis, 5. Lisa (daughter from first marriage), 6. Tanya or 7. James B. 8. Others.

2011 - 2013

AG Wilson's office accuses Buchanan and Pope of the federal felony of overstating Brown's music empire to the IRS by \$79 million on the estate tax return for the improper purpose of obtaining a \$5 million commission.

AG Wilson asserts in 2014 that he never saw the \$4.7 million

appraisal, and relied on Bauknight.

This felony claim, with false claims about the Christie's sale and the false claim that it was Buchanan and Pope who caused inappropriate discord, will result in the Supreme Court's decision not to reinstate Buchanan and Pope – a decision which destroyed their reputations and – with the June 13 Orders – has placed the "I Feel Good" Foundation in direct jeopardy.

2011 - 2014

Estate/2000 Trust (Bauknight) seeks to intervene in three FOIA suits to stop release of:

- A. Wingate Litigation Agreement;
- B. Hynie "diary" ;
- C. McMaster Legacy Trust amendments;
- D. Claimed \$4.7 million appraisal.

May 2012

Estate/2000 Trust (Bauknight) and AG file motion to compel settlement with Buchanan which pays him \$500,000 he was already owed; releases Tommie Rae, child, & others from his counterclaims and requires Buchanan without notifying Supreme Court, NOT to file a Petition for Rehearing if necessary to protect the "I Feel Good" Trust. Motion to void settlement as against public policy is pending today.

2012

Forlando's fabricated Federal Suit dismissed after 4-year \$400,000+ legal cost. Buchanan/Pope seek costs. 2000 Trust (Bauknight) seeks to dismiss claims against Forlando for 4-year attempt to enjoin 2000 Trust. Bauknight claims Forlando did nothing wrong.

2012 -2013

Estate/2000 Trust (Bauknight) claims to Jg. Early and to S.C. Court of Appeals that Tommie Rae is Brown's spouse and that Appellant is intermeddling in the "family's" business. Joins Hynie is issuing subpoena for journalist's sources to try to stop discussion of widely known contents of the Hynie "diary" by the journalist, Forlando and Dallas.

July 2012

The Estate/2000 Trust (Bauknight) stops deposition of Dallas, its own witness, after it becomes clear that Dallas and Forlando have defied the 2008 Gag Orders; discussed the "diary" contents; and Dallas will discuss in detail in his deposition (converted to a sworn statement) that Ms. Hynie was not Brown's spouse and knew it.

- February 27, 2013 First *Wilson v. Dallas* decision directs that Wingate Suit and FOIA matters be addressed "in first instance"
- March 2013 Pope and counsel in Wingate Suit visit AG Wilson to raise concerns about damage to "I Feel Good" Trust by \$4.7 million valuation, and to Federal Copyright Act protection of Brown's Copyrights that Bauknight has claimed to IRS that Hynie was Brown's spouse. Stress importance to future of "I Feel Good" Trust protection and distributions to correct estate tax proceeding to show correct \$84 million value of assets.
- March 2013 AG Wilson informs Supreme Court AG McMaster did not authorize Wingate to sue Buchanan/Pope in name of State/AG. Bauknight's claim to speak "on behalf of" Henry McMaster as Attorney General also not authorized. AG says FOIA suits should be resolved shortly.
- April 2013 Estate/2000 Trust (Bauknight) move to intervene in third FOIA suit (Summer FOIA Suit) and consolidate it with Wingate Suit. AG Wilson agrees.
- May 8, 2013 S. C. Supreme Court issues final *Wilson v. Dallas* decision. Voids appointment of Bauknight as PR/Trustee. He remains trustee of the McMaster Legacy Trust.
- May 9-14 Bauknight secures *ex parte* SA/ST appointments before remittitur.
- May 2013 Judge Early send email that anyone with position about conduct of James Brown litigation must send motion with memorandum by May 25. Only Appellant Pope files. Three motions with memoranda suggest how to conduct Wingate Suit (where Bauknight serves as agent for Hynie and her son, and as Plaintiff/Trustee of McMaster Legacy Trust); Dallas \$6 million PR/Trustee commission case; and Will/Trust challenges. Bauknight files nothing
- May 29, 2013 Tommie Rae and Levenson request to go *in camera* and discuss why McMaster Settlement should be reinstated. AG Wilson announces intention to withdraw.
- May 29, 2013 Bauknight, claiming authority under *ex parte* SA appointment files Disallowance asserting Pope, Buchanan, James Bailey, Esq., and Tressa Hayes, Esq., who defended estate plan are not entitled to pay.

Claim Buchanan and Pope improperly valued assets. Disallowance required lawsuit to be filed within 30 days, or forever barred.

- June 10, 2013 Appellant files Complaint to void Bauknight appointment and/or remove him for cause. Asks for immediate hearing. Jg. Early does not set hearing on removal.
- May 8, 2013 Judge Early and Clerk issue June 13 Orders. Buchanan and Pope banned from all future proceedings except in Case 2013-CP-02-1337 ("Case 1337") filed June 10. Clerk directed to remove Pope's May 2013 motions.
- July 2013 Pope asks Jg. Early for hearing to void 2008 Hynie "diary" Gag Orders and release fees of Attorneys/Bauknight which Jg. Early directed delivered to her in 2010, but which are missing from Clerk's office. No hearing set as of today.
- July 29, 2013 Buchanan and Pope file reports of fees. No report filed by Wingate, who was paid \$563,000 in 2012 in addition to 40% contingency. No report filed by Nexsen Pruet which will be paid about \$750,000 in 2013. Pope has not been paid over \$47,000 in SA fee from 2007 or any of \$1.3+ million for 2007-2009 PR/Trustee service, both allowed by Estate/2000 Trust and approved for payment by Jg. Early, with interest at the legal rate until paid in January 8, 2008 Order.
- August 20, 2013 Bauknight, after avoiding deposition in Forlando Federal Suit by claiming he knows nothing about the Buchanan/Pope counterclaims, testifies in deposition. When asked whether the *Wilson v. Dallas* decision helped, he states:

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.]

Oct. 1, 2013

Bauknight appointed PR/Trustee by Judge Early based on petition not served on any heir, devisee or Interested Person with claim. Pope, Buchanan and most supporters banned from hearing. Even those attending not allowed to ask questions. No inquiry by Jg. Early into:

- a. \$563,000 Bauknight paid Wingate in 2012 or the Wingate 40% contingency fee.
- b. The use of \$500,000 of Estate funds to secure releases for the McMaster Legacy Trust and Tommie Rae from Buchanan's counterclaims in the Wingate Suit.
- c. The claimed "confidential" payments Bauknight made to counsel for Dallas and Cannon, or the \$1.5+ million paid in 2013 as shown on the not-yet-filed 2012 and 2013 accountings.
- d. Bauknight's failure to list the assets on accountings at their correct value.
- e. Bauknight's FOIA interference in three FOIA suits.
- f. Bauknight's claim that Forlando did nothing wrong in his 4-year suit to enjoin and paralyze the 2000 Trust

October 10, 2013

David Sojourner, Bauknight's appointee, appointed limited special administrator in *ex parte* probate court order. Bauknight pays Sojourner's law firm \$250,000 in three months while Sojourner tries to defeat the heirs status of DNA-proven and acknowledged daughters Jeanette, La Rhonda and Nicole; imprisoned son Michael; and son James Curtis, seeking DNA testing since 2012.

The four DNA-proven children constitute 2/3 of the

HALF (or half + 1) who are all that is necessary to protect Brown's \$3+ million annual royalty stream for the "I Feel Good" Trust for decades.

- Sept. - Oct. 2013      Bauknight tries to keep Wingate Litigation retention agreement confidential. Federal Judge releases it. Wingate Agreement shows that most Plaintiffs and the Attorney General did not authorize 40% contract with Wingate or the complaint. Signed by Bell, Levenson, Tommie Rae's lawyer, and Bauknight.
- December 2013      La Rhonda dies.
- January 2014      Over written objection of Appellant, Estate (Sojourner) and terminated lawyer for La Rhonda proceed to defeat her claims after her death, including La Rhonda's DNA-proven and acknowledged status as an heir.
- July 2014      Forlando and Terry terminate Bell and Bodman in all James Brown matters, and engage Scott Keniley, Esquire, but Bell and Bodman fail to notify the Wingate Suit Court, the FOIA Suit court, or the S.C. Court of Appeals of the termination.
- July 8, 2008      Judge Griffith issues order in Summer FOIA suit finding that Estate/2000 Trust may not intervene in FOIA suits, and that AG Wilson must produce the following documents in his possession or under his control:
- A. Hynie "diary"
  - B. Legacy Trust, with amendments
  - C. Wingate Litigation Retention Agreement
  - D. \$4.7 million appraisal;
  - E. Other public documents Bauknight has withheld

STATE OF SOUTH CAROLINA  
In the Supreme Court

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RECEIVED

JUL 17 2014

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

S.C. Supreme Court

The Honorable Doyet A. Early, III Circuit Court Judge

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Appellate Cade No. 2014-001279

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Alan Wilson, in his Capacity as Attorney General of  
South Carolina; and others, ..... Plaintiffs,

v.

Albert H. Dallas and others, ..... Defendants.

Of whom Adele J. Pope, Individually and on behalf of Others under  
South Carolina Trust Code Section 62-7-405, is the.....Petitioner,

And Terry Brown, Forlando Brown, James B., David G. Cannon, Albert H. Dallas  
and Tommie Rae Hynie are..... Respondents,

And Alan Wilson in his Capacity as Attorney General of South Carolina, Deanna  
J. Brown Thomas and Robert L. Buchanan, Jr., are Additional Interested  
Persons.

IN RE:

The Estate of James Brown and The James Brown 2000 Irrevocable Trust  
u/a/d August 1, 2000

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**PROOF OF SERVICE**

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I certify that on the 17<sup>th</sup> of July, 2014, I have served the MOTION AND  
MEMORANDUM SUPPORTING EXTENSION OF TIME TO FILE REPLY TO  
RETURN.. AND FOR JUDICIAL NOTICE in the above matter on Respondents as  
shown below by hand delivery or by depositing a copy of same in the United States  
Mail, postage prepaid, addressed to their attorneys of record as follows:

**ATTORNEYS OF RECORD FOR RESPONDENTS AND OTHERS:**

David B. Bell, Esquire  
Matthew D. Bodman, Esquire  
619 Greene Street  
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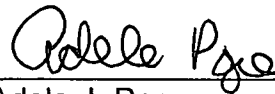
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Petitioner, *pro se*

July 17, 2014