THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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AUG 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. 2014-000250

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.

INITIAL REPLY BRIEF OF APPELLANT ADELE J. POPE TO BRIEF OF RESPONDENT BAUKNIGHT, INDIVIDUALLY

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INTRODUCTION

Appellant submits this reply to the initial brief of Respondent Russell L. Bauknight, Individually ("Bauknight"). Many of the statements and conclusions in Bauknight's brief are not supported by the record.[1] The brief fails to provide any reason to deny reversal of the orders of the Honorable Doyet A. Early, III dismissing most causes of action in Plaintiff's complaint under Rule 12(b) (the "Dismissal Orders").

This Honorable Court should reverse the Dismissal Orders. The case

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[1] Appellant adopts and incorporates her initial brief and her Brief in Reply to Brief of Estate and James Brown 2000 Irrevocable Trust (Bauknight). She rejects each statement and conclusion in Bauknight's brief not specifically adopted herein. As part of her reply, she asks this court to take judicial notice of her filings in Appellate Case Nos. 2013-001649 and 2014-000794 in this Court and South Carolina Supreme Court Case No. 2014-0001279.

should be remanded for the circuit court to conduct the required hearing. Bauknight's *ex parte,* pre-remittitur appointments issued just after the decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013) should be voided, as should his notice of disallowance with impending bar (the "Disallowance") which forced Appellant to file this lawsuit.

As requested in the complaint, Bauknight should be removed for cause. A special administrator ("SA") and special trustee ("ST") should be appointed to conclude the Estate/2000 Trust's involvement in three South Carolina Freedom of Information Act ("FOIA") suits and Richland County Case 2010-CP-40-4900 (the "Wingate Suit") where Bauknight is suing and serving as fiduciary for Tommie Rae Hynie ("Tommie Rae"); the Legacy Trust created by Attorney General Henry McMaster ("AG McMaster"); and clients of Louis Levenson, Esquire ("Levenson").

Bauknight, individually, should be required to disgorge attorneys' fees and other losses from his intentional acts of disloyalty to the Will/2000 Trust. Bauknight's continued service to Tommie Rae, the Levenson clients and the McMaster Legacy Trust compel removal.

The damage Bauknight has intentionally inflicted on Appellant, Robert L. Buchanan, Jr., and the Estate/2000 Trust should be charged to Bauknight, individually. It should not be borne by the needy student beneficiaries Brown intended to benefit through his "I Feel Good" Foundation.

REPLY TO BAUKNIGHT'S FACTUAL ALLEGATIONS

Bauknight asserts on page 1 of his brief that the complaint in this action "seemed to derive" from the Disallowance." Then on page 4 he gives a history of the Disallowance that is entirely inconsistent with the record.

Bauknight makes the unsupported claim that the Disallowance was Bauknight's response to a petition for allowance of claim filed by Appellant. This is incorrect.

Appellant had no reason to file a petition for allowance. Although she had not been paid for any work since late 2007, Judge Early had awarded Robert L. Buchanan, Jr. and Appellant payment for their SA and fiduciary work, and that of their staffs. Under the January 8, 2008 Order of Judge Early (the "Jan. 8 Order") the approximately $1.4 million she was owed for her work and that of her staff before May 26, 2009 had been earning interest for years. The amount was an allowed, court-approved priority administrative claim. All of Buchanan's and Appellant's work had been joint, and Bauknight had paid Buchanan in 2012. Bauknight no longer had any excuse to withhold funds from Appellant. This court-approved, allowed amount was due and payable without suit.[2] [Comp., p. 58]

On May 29, 2013, however, Levenson and counsel for Tommie Rae

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[2] Appellant's and Buchanan's counterclaims against Forlando Brown for their defense of his frivolous 2008 suit to enjoin the 2000 Trust until the Cannon trustees were reinstated were pending in federal court. [Comp., pp. 27-31]. Appellant's claims against Bauknight as agent for Tommie Rae, her son and the Levenson clients and for bringing the Wingate Suit were pending in Richland County. [Comp. pp. 50-51]

publicly announced their intention to dismember the "I Feel Good" Trust again by reinstating the 2008 agreement which had just been voided by *Wilson v. Dallas.*[3]

Hearing the announced intention of Levenson and Tommie Rae, the Attorney General announced his intention to withdraw from the Aiken cases. Bauknight served his unnecessary Disallowance on the same day.

The Disallowance purported to disallow already-allowed claims of Buchanan and Pope. It purported to disallow the approximately $200,000 the Estate/2000 Trust owed James Bailey, Esquire and Tressa Hayes, Esquire for their fine service in defending the Will and 2000 Trust against the McMaster settlement in seven days of hearings and the 4-year appeal.[4] [Comp., Ex. 2]

But the disallowance did not stop there. It made reference to the false claim Bauknight, purporting to speak for the AG, had been making since 2011: that Buchanan and Pope committed the federal felony of intentionally overstating Brown's music empire to the IRS on the estate tax return for the improper purpose of obtaining a $5 million commission. [Comp., Ex. 2]

As the complaint asserts, the $84 million value placed on the music empire by Buchanan and Pope was correct. [Comp., 49]. The $84 million was

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[3] The Attorney General's plan took all of Brown's private assets and placed them in the McMaster Legacy Trust. Tommie Rae, the Levenson Clients and Terry Brown were give more than half of what Brown' gave to the "I Feel Good" Trust. Terry Brown was given a right of first refusal to buy ("ROFR") to buy Brown's music empire from the McMaster Legacy Trust.

[4] The cost of restoring $50 million to the "I Feel Good" Trust which AG McMaster, Bauknight and Hynie proposed to take away was kept low by the *pro bono publico* service of lead appellate counsel, James Richardson, Jr.

supported by a formula for valuing the assets on the estate tax return which had been presented to the Court in November 2007, and was not objected to by the Attorney General or any other interested person. [Comp., p. 49] The $84 million was also consistent with three $90 - $100 million letters of intent of TJBL, LLC made in 2007 and 2008.

The $4.7 million claimed value asserted by Bauknight, however, was fabricated. The fabrication was material. It was used to mislead this Court, and others. [Comp., pp49-50, 55]

The Disallowance was unnecessary and malicious. It required Plaintiff to file suit within 30 days. If she did not, Bauknight would claim that even her allowed claims; Buchanan's and Appellant's counterclaim against Forlando; and the counterclaims in the fabricated Wingate Suit were "forever barred." [Disallowance, Comp., Ex. 2]

Plaintiff filed the complaint the Disallowance forced her to file on June 10, 2013. As provided in the South Carolina Probate Code ("SCPC"), she sought additional relief against Bauknight and the Estate/2000 Trust, including removal, accounting and damages against Bauknight, individually, for both her costs and the costs of the Estate/2000 Trust of the unnecessary action. [Comp.,p. 63] Accompanying her complaint were an emergency motion and affidavit asking the lower court to hold a hearing on Bauknight's breaches of duty. The circuit court declined to conduct a hearing on the motion, even though it held hearings on July 2, July 9 and thereafter. [Mot., Aff.]

Three days after Plaintiff filed suit, Judge Early and the Aiken County Clerk of Court issued three orders without notice or hearing (the "June 13 Orders") Among other problems with the June 13 Orders, Appellant was enjoined from further participation in the Aiken James Brown cases other than this one.[Ord. 6/13/13][5] [6]

Bauknight's claim that Appellant filed a petition which prompted the Disallowance is not correct. Bauknight's claim that Appellant sought "$4 Million Dollars for Compensation for her previous services as a fiduciary to the Estate" is not correct.

ARGUMENT IN REPLY

I. Bauknight – Not the Needy Students -- is Individually Responsible for

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[5] On June 13, 2013, without notice or hearing, Judge Early and the clerk of court issued the June 13 Orders, unconstitutionally enjoining Appellant from participating in subsequent appointments of Bauknight and review of improper actions of Bauknight and his appointee which are now subject to appellate review. *See* Footnote 1, *supra*, for a request for judicial notice of these appeals.

Two days before filing Motions to Dismiss in this case Bauknight submitted an *ex parte* opinion to Judge Early purporting to exonerate Bauknight from the conflicts of interest discussed herein. Both Bauknight and Judge Early have declined Appellant's request for a copy of the *ex parte* ethics opinion of Professor Crystal. [Hg. 7/9/13]

Judge Early has not complied with repeated requests for a hearing to void the so-called Hynie "diary" gag orders and to release the fee/compensation contracts of Levenson, counsel for Tommie Rae, David Bell, Esq., James B. and Bauknight which were directed to be given to Buchanan and Appellant in 2010, but are missing from the clerk's office. He also did not conduct the required hearing requested June 10, 2013 related to the complaints.

[6] Bauknight's characterization of the order of Judge Early dated January 7, 2014, on pages 2 and 3, is incorrect. The January 7 order dismissed all claims against all defendants.

Losses Caused by his Intentional Wrongdoing as Brown's Fiduciary.

On page 7 of his return Bauknight claims that Appellant failed to present any argument to this court related to Judge Early's dismissal of Bauknight, Individually.

Bauknight's argument overlooks SCPC §62-3-808 which states in relevant part:

> §62-3-808. Individual liability of personal representative
>
> (a) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his representative capacity or identify the estate in the contract.
>
> (b) A personal representative is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.
>
> (c) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is individually liable therefor.
>
> (d) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge, or indemnification or other appropriate proceeding.

The SCPC and comments make clear that Bauknight is liable, individually, for losses to Appellant for the intentional Disallowance and other wrongs against Appellant. It makes clear he would be liable even if Appellant

had not named Bauknight individually in the complaint. The Court, for example, may charge Bauknight, individually, with the entire loss to Buchanan and Appellant in the frivolous Wingate Suit. As the complaint states, Bauknight, speaking for the McMaster Legacy Trust, Tommie Rae, the Levenson clients and others, brought that frivolous suit against Buchanan and Pope to stop the *Wilson v. Dallas* appeal, [Comp., p. 51] In the Wingate Suit, Bauknight also acted "on behalf of" Henry McMaster (and later Alan Wilson) in his capacity as Attorney General of South Carolina. [Comp., pp. 51-54]

On page 10 of his brief, Bauknight claims there is no individual relief sought against him and no wrongdoing alleged. He is incorrect. The complaint seeks the following relief against Bauknight Individually.

> 1. Void the improper Disallowance. [Comp., p. 62].
>
> 2. Charge him with both Plaintiff's and the Estate/2000 Trust's costs of the lawsuit. [Comp., p. 63]
>
> 3. Void his ex parte, pre-remittitur appointments; or
>
> 4. Remove him for cause;[Comp., p.]
>
> 5. Appoint an SA/ST in the FOIA and Wingate Lawsuits where he is serving Tommie Rae and the McMaster Legacy Trust. [Comp., p. 63]
>
> 6. Require him to pay for the damage related to his false $4.7 Million value claimed value. [Comp., p. 63]
>
> 7. Require him to pay individually for other damage to plaintiff. [Comp., p. 63]
>
> 8. Require him to disgorge as needed under the *Wilson v. Dallas* remand; [Comp., p. 63]

At the heart of the complaint is the irreconcilable conflict Bauknight accepted on May 26, 2009. He was already serving as trustee of the McMaster Legacy Trust when he was appointed PR/Trustee under Brown's Will and 2000 Trust.

The positions are irreconcilably at odds with each other. The McMaster Legacy Trust seeks to dismember the "I Feel Good" Foundation and give more than half to Tommie Rae, clients of Louse Levenson, Esquire ("Levenson") and Terry Brown. Tommie Rae is not a beneficiary under the Will/"I Feel Good." The will and 2000 Trust direct Brown's fiduciaries to vigrously defend against all challenges and claims of any past or future souse or other heirs.

When Bauknight accepted these two irreconcilably conflicted positions on May 26, 2009, the only way, if at all, to avoid breaching his fiduciary duty was to remain neutral during the *Wilson v. Dallas* appeal.

As the complaint shows, Bauknight did the opposite. He became the principal spokesperson for Tommie Rae, whose commitment to dismember the "I Feel Good" Foundation again was made immediately after the *Wilson v. Dallas* decision. [Comp., pp. 49-58]

Bauknight fabricated the value of the assets to make it appear that the settlement did not cause an estate tax problem.[7] [Comp., pp. 53,55-57]

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[7] Under *Bosch* principles the presence of the Attorney General in the IRS negotiations may have made it appear to the IRS that there was little use to challenge the fabricated $4.7 value. Nevertheless, it was the duty of Bauknight – not the AG – to properly value the assets. Instead, Bauknight fabricated a $4.7 million value for a music empire that earned $27 million between 2003 and Brown's death on Christmas 2006. He then covered it up by not disclosing the

Bauknight brought the Wingate Suit to try to stop the *Wilson v. Dallas* appeal so Tommie Rae and others could dismember the "I Feel Good" Trust..

Bauknight falsely accused Buchanan and Appellant of a felony. [Comp.,p. 50]

Bauknight claimed Tommie Rae was Brown's spouse, and hid evidence that she wasn't. [Comp., pp. 50-51]

Bauknight wasted thousands of dollars to fight FOIA compliance that would protect the "I Feel Good" Trust and make short work of Tommie Rae's claims. [Comp, pp. 50-51, 56-57]

Bauknight is individually liable because his wrongful acts were reckless or intentional and violated his duty of loyalty to the "I Feel Good" Trust.

Dismissal of Bauknight individually is not the law of the case. Bauknight intentionally served the plaintiff with the improper Disallowance. By doing so, he forced Appellant to bring a suit which was otherwise unnecessary.

Appellant is a creditor and interested person with a claim which, based on Bauknight's false at-death valuation, is 1/3 the size of Brown's probate estate and the 2000 Trust.[8]

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appraisal, as he was required by the SCPC to do, and by FOIA interference. [Comp., p.] He then worked to destroy the careers and reputations of Buchanan and Appellant by falsely accusing them of a felony. [Comp., p.]. All of this was intentional and wrong.

[8] On May 26, 2009 Appellant's court-approved SA and partial PR/Trustee commission under the Jan. 8 Order was about 1.5% of the actual value of Brown's assets. Under the Jan. 8 Order it carried interest at the legal rate. Instead of paying some or all in 2011 when funds were available to stop the interest, Bauknight refused to pay even the remainder of Appellant's $47,000 SA

Bauknight asks this court to find that the needy students, for whom Brown provided scholarships in his "I Feel Good" Trust must bear the tremendous cost of his 4-year effort to dismember the "I Feel Good" Foundation for the benefit of Tommie Rae and the Levenson clients. He says the needy students must pay for his defense of this lawsuit he forced Appellant to bring by the delivery of the Disallowance. This is not the law, generally, nor the law of the case. The relief sought against Bauknight individually was properly preserved.

In his argument regarding Appellant's amended initial brief, Bauknight asserts that Appellant has not preserved arguments related to Bauknight, individually. This is not the case. Bauknight ignores the SCPC section discussed above.

Bauknight also makes much of issues he asserts are raised for the first time in the Rule 59 Motion. He made no objection below. And the Form 4 Order did not address this new claim. This issue is not preserved.

The Rule 12(b) Dismissal Order should be reversed.

II. Rule 12(b) Dismissal Should be Reversed Because the Complaint is Proper and Disregard for *Wilson v. Dallas* and the Attorney General's Withdrawal from Aiken Cases Place Appellant and the "I Feel Good" Foundation in Jeopardy.

In deciding a motion to dismiss pursuant to 12(b)(6), SCRCP, the trial court should consider only the allegations set forth on the face of the plaintiff's

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fee earned in 2007. Buchanan was paid only after he released counterclaims against Tommie Rae and the Levenson clients in the Wingate Suit [Bauknight, claiming to speak for the State/AG, extracted a secret promise from Buchanan not to file a Petition for Rehearing in *Wilson v. Dallas.*] [Comp., p.58]

complaint and a 12(b)(6) motion should not be granted if "facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case." *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. Further, the complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. *Toussaint v. Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987). *See also Kennedy v. Henderson*, 289 S.C. 393, 346 S.E.2d 526 (1986) (where there is cause for doubt, or it is clear that the ends of justice may well be promoted by a trial on the merits, a demurrer should be denied where novel issues are present or are involved); *Springfield v. Williams Plumbing Supply Co.*, 249 S.C. 130, 153 S.E.2d 184 (1967).

The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in her behalf, the complaint states a valid claim for relief. *Toussaint v. Ham*, 292 S.C. 415, 416, 357 S.E.2d 8, 9 (1987).

Appellant's complaint seeks to protect both herself as a creditor and what should be South Carolina's largest-ever private foundation dedicated solely to providing scholarships for needy students.

The Estate and "I Feel Good" Foundation have been managed since the *Wilson v. Dallas* decision by Bauknight, who still has an irreconcilable conflict. The Attorney General has withdrawn from protecting the "I Feel Good" Foundation in Aiken County. But he is working with Bauknight against the

interest of the "I Feel Good" Foundation in three FOIA suits and the Wingate Suit. [Comp., pp.56-57]

Bauknight is seeking to prevent the Appellate Courts from understanding his continuing conflict. And he is taking inconsistent positions before the Court to do so. He has moved to strike matters in this and another case in this court because he asserts they were not presented to the lower court or are irrelevant to the appeal. Yet last month, without filing a motion to supplement the record, he used a return to a petition to certiorari to update the Supreme Court in Appellate Case No. 2014-001279 on what had happened since the *Wilson v. Dallas* remand. [*See* Return to Petition for Certiorari]

This unfair dealing with the Appellate Courts should not be allowed.

The circuit court, based on unconstitutional orders, refused to conduct a hearing on the serious allegations of Bauknight's wrongdoing. Six months after the filing of a Motion for Emergency Hearing with accompanying affidavit, the circuit court heard only the Rule 12(b) motions. The circuit court granted them. The circuit court said a complaint which outlined years of fraud and intentional wrongdoing stated no cause of action to enjoin or remove Bauknight. The circuit court said there was no basis for liability as to either Bauknight or the Estate/2000 Trust.

Yet no *Wilson v. Dallas* remand inquiry had been conducted to inquire into Bauknight's attorneys' fees; the cost of the Wingate Suit; or the costs of Bauknight's FOIA interference to prevent the Supreme Court from understanding

that the basis of the McMaster settlement was false. The value was not $4.7 million. Tommie Rae was not Brown's spouse. The settling children were fewer than half of Brown's real children. Bauknight had protected Tommie Rae while refusing to reach Federal Copyright Act termination rights agreements with the least expensive HALF (or half +1) of Brown's real children. Bauknight had made material misstatements to the Supreme Court about the value; the heirs; the federal copyright act; and about Buchanan and Appellant. Speaking for the State/AG he had tried to ruin their careers and reputations – and had succeeded – with false felony claims and false claims about the Christie's sale.

Rule 12(b) dismissal is a harsh remedy. In light of the damage of the circuit court's failure to comply with *Wilson v. Dallas;* the circuit court's denial of Appellant's Due Process and First Amendment rights by refusing to hold a hearing; Bauknight's FOIA interference; and the Wingate Suit it would be extraordinarily harsh to Appellant. And it would likely threaten the State-supported dismembering of the "I Feel Good" Foundation again.

III. The Complaint Sufficiently Sets Out Facts to Support all Causes of Action Against Bauknight, Individually

The facts alleged in the complaint sufficiently set out Bauknight's individual wrongdoing for each year since 2009. In 2009 he rejected the Corbis/Greenlight Publicity Rights Contract. [Comp., p.] In 2010 he entered into the Wingate Suit contract to stop the *Wilson v. Dallas* appeal and destroy the "I Feel Good" Foundation. [Comp., p. 22]. In 2011 he began interfering with FOIA rights to cover up the fabricated claims that Tommie Rae was Brown's spouse and that

the McMaster settlement did not cause an estate tax problem. [Comp., pp. 56-57] In 2011 he entered into a secret alliance with David Bell, Esquire, and Forlando Brown, who was being sued by the 2000 Trust. [Comp., pp. 51-55] In 2011 he told the Supreme Court of his fabricated the $4.7 million value for Brown's music empire, but failed to meet the requirement of S.C. Code Ann. §§62-3-707 and -708 by filing the appraisal. In 2010 he and the State/AG began to make false felony claims against Buchanan and Appellant based on the fabricated appraisal. In 2012 Bauknight told the Supreme Court that Tommie Rae was Brown's spouse and fought FOIA compliance that would show she was not. Bauknight worked with Tommie Rae's counsel to keep in place unconstitutional 2008 gag orders that purported to prevent dozens of people who had read the so-called Hynie "diary," including the Attorneys General of Georgia and South Carolina, from discussing its contents.

The allegations in the complaint support all causes of action against both the Estate/2000 Trust and Bauknight, Individually. The SCPC allows damages and other relief to be allocated between the Estate/2000 Trust and Bauknight during the proceeding or at its conclusion. The separate and proper causes of action seek Bauknight's removal and accounting; his payment of all costs and attorneys' fees of the action; and disbursement and payments both back to the Estate/2000 Trust and to Appellant.

IV. The Circuit Court's Refusal to Conduct Hearings on the Gag Orders and Other Matters Violates Appellant's Due Process and First Amendment Rights and the *Wilson v. Dallas* mandate, and Advances a State-Approved Second Dismembering of the " I Feel

Good" Foundation.

On June 10, 2013 Appellant filed a complaint seeking relief from Bauknight's fraud, wrongdoing and irreconcilable conflicts. She did so to protect the "I Feel Good" Foundation as well as herself. She did so because she was forced by the improper Disallowance to file a lawsuit.

On June 13, with no notice or hearing, the circuits court's "June 13 Orders" shut Appellant out of the James Brown Aiken Cases. They directed the clerk not to allow her to file documents in any case except this one. They purported to prevent Buchanan and Appellant from protecting themselves in the suit filed against them and the 2000 Trust in 2008 by Forlando Brown.

They purported to prevent Appellant from protecting herself in the Wingate and FOIA suits. Those orders are now on appeal.

On July 2 and 9 Judge Early held hearings on other matters, and began to refuse to hear the requested emergency hearing on Bauknight's removal. He declined to hold a hearing on voiding 2008 gag orders which protected Tommie Rae. [Hearing, 7/2/13; Hearing 7/9/13; Emails Pope to Jg. Early 7/9, 7/3] As he did so, the announced intention of Tommie Rae and Louis Levenson, Esquire to dismember the "I Feel Good" Foundation progressed. And the State-sponsored damage to Appellant and Buchanan continued.

The circuit court refused to conduct a hearing on the 2008 gag orders; release the compensation agreements presented to Judge Early in the McMaster settlement hearings and made available to Appellant by a 2010 Order, but which

were missing from the clerk's office; or hear the emergency motion to restrain Bauknight from his continuing damage to the "I Feel Good" Foundation. This refusal, with the June 13 Orders, denied Appellant and Buchanan their Due Process and First Amendment rights to protect themselves. *See* U.S. Const. amend. XIV § 1 and U.S. Const. amend. I and V. It denied the half of Brown's real heirs who are not challenging the estate plan their Due Process, First Amendment and Equal Protection rights. These are the HALF (or half +1) with whom the Estate/"I Feel Good" Foundation should already have moderately priced termination rights agreements to protect the "I Feel Good" Trust's $3+ million annual royalty stream for decades.

Instead, both the circuit court and the Attorney General continue to support and join Bauknight in his direct violation of both the letter and spirit of *Wilson v. Dallas* and his damage to Buchanan and Appellant.

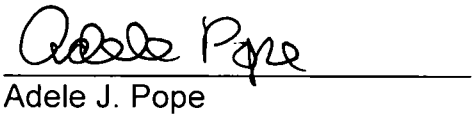
This State action to help dismember the "I Feel Good" Trust a second time, and continue the damage to Buchanan and Pope because they oppose it, began just one month after *Wilson v. Dallas*. This was just three days after Appellant filed her complaint. The Rule 12(b) dismissal continues that State action to violate Appellant's and Buchanan's Due Process and First Amendment rights.

CONCLUSION

Bauknight's brief fails to state any reason to affirm the Rule 12(b) Dismissal Orders. They should be reversed. Bauknight's individually liability

should be determined as requested in the complaint. To the extent this Court cannot remove Bauknight because of his irreconcilable conflict, the matter should be remanded for an immediate hearing and proceedings on all other matters raised in the complaint.

Respectfully submitted,



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