

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

RECEIVED

OCT 27 2014

The Honorable Doyet A. Early, III, Circuit Court Judge
SC Court of Appeals

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.

RECORD ON APPEAL
VOLUME I

Adele J. Pope, *pro se*, SC Bar No. 4501
1228 Walnut Street
Newberry, South Carolina 29108
Telephone (803) 413-0753

ATTORNEY FOR APPELLANT

Frederick A. Crawford, SC Bar No. 1458
Sheila A. Bias, SC Bar No. 100005
Richardson Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, South Carolina 29202
Telephone (803) 771-4400

ATTORNEYS FOR RESPONDENT
RUSSELL L. BAUKNIGHT,
INDIVIDUALLY

William W. Wilkins, SC. Bar No. 6112
J. David Black, SC Bar No. 68499
Tanya A. Gee, SC Bar No. 70191
NEXSEN PRUET, LLC
1230 Main Street
Post Office Drawer 2426
Columbia, South Carolina 29202
Telephone: (803) 771-8900/ (803) 723-1409

ATTORNEYS FOR RESPONDENT
ESTATE OF JAMES BROWN
AND JAMES BROWN 2000
IRREVOCABLE TRUST

INDEX TO RECORD ON APPEAL
VOLUME I (pp. 1 - 434)

I. ORDERS AND JUDGMENTS

Order of the Hon. Jasper N. Cureton, filed June 30, 2014.....	1
Form 4 Order of the Hon. Doyet A. Early, III, dtd. June 2, 2014.....	3
Order of Dismissal of the Hon. Doyet A. Early, III, dtd. March 4, 2014, ...	5
Form 4 Order of the Hon. Doyet A. Early, III, dtd. January 31, 2014.....	8
Order of the Hon. Paul E. Short, Jr., dtd. January 30, 2014.....	11
Order of Dismissal of the Hon. Doyet A. Early, III, dtd. January 7, 2014.....	13
Order of the Hon. Doyet A. Early, III, dtd. October 30, 2013 Withdrawing Attorney General.....	27
Order of the Hon. Doyet A. Early, III, dtd. October 1, 2013.....	30
Order of the Hon. Liz Godard, dtd. June 13, 2013, Case. Nos. 2008-CP-02-1647 and 2013-CP-02-1348.....	51
Order of the Hon. Doyet A. Early, III, dtd. June 13, 2013, Case Nos. 2008-CP-02-1647, 2007-CP-02-0122, 2007-CP-02-872.....	53
Order of the Hon. Doyet A. Early, III, dtd. June 13, 2013, Case Nos. 2007-CP-02-0122; 2008-CP-02-0872; 2008-CP-02-0322; 2010-CP-02-0721; 2012-CP-02-1059; 2008-CP-02-1426; 2008-CP-02-1712; 2008-CP-02-2127; 2008-CP-02-1556; 2008-CP-02-1557; 2008-CP-02-1758; 2008-CP-02-1759; 2008-CP-02-1647; and 2013-CP-02-348.....	56
Order of the Hon. Frank R. Addly, Jr. dtd. November 22, 2011, Case No. 2011-CP-36-379 (Partial).....	See 302
Order of the Hon. Doyet A. Early, III, dtd. April 1, 2008 Order	64
Order of the Hon. Doyet A. Early, III, dtd. February 20, 2008	70
Order of the Hon. Doyet A. Early, III, dtd. January 8, 2008	78

II. PLEADINGS

Complaint filed June 10, 2013.....	82
Exhibit 1: Petition for allowance of Claim.....	145
Exhibit 2: Notice of Disallowance of Claim dtd. May 29, 2013.....	146
Exhibit 3: Summary, <i>Wilson v. Dallas</i> and Related cases.....	147
Exhibit 4: Proposed Fiduciary Payments and Other Payments.....	149
Exhibit 5: Attorneys working for benefit of Estate/2000 Trust.....	150
Exhibit 6: Attorneys in <i>Wilson v. Dallas</i> Related Cases who should be paid by ...Others.....	151
Summons.....	152
Motion for Expedited Relief filed June 10, 2013.....	153
Motion to Dismiss Under Rule 12(b) (Bauknight).....	157
Motion to Dismiss Under Rule 12(b) (Estate/2000 Trust).....	161
Exhibit A: Notice of Disallowance.....	168
Motion to Alter or Amend, Etc., Order of January 7, 2014	170
Exhibit: Order of Jg. Early dtd. January 7, 2014.....	See 13
Notice of Appeal dtd. February 7, 2014.....	238
Exhibit: Order of Jg. Early dtd. January 7, 2014.....	See 13
Exhibit: Form 4 Order of Jg. Early, dtd. 1/31/14.....	See 8
Motion to Alter or Amend, Etc., Order of March 4, 2014.....	240
Exhibit A: Order of Jg. Early dtd. March 4, 2014.....	See 5
Ltr. of Counsel for Bauknight <u>Individually</u> to Court dtd. May 23, 2014.....	250
Exhibit A: Order of Jg. Early dtd. January 7, 2014.....	See 13

II. PLEADINGS (Continued)

Exhibit B: Order of Jg. Early dtd. March 4, 2014.....	See 5
Return and Memorandum Opposing Ltr./Motion of Bauknight.....	251
Exhibit 1: Ltr. of Appellant to Court dtd. March 6, 2014.....	260
Exhibit 2: Motion to Alter or Amend Order dtd. March 4, 2014.....	See 240
Exhibit A: Order of Jg. Early dtd. March 4, 2014.....	See 5
Supplemental Return to Ltr./Motion of Russell Bauknight, Individually.....	261
Appendix (Partial) to Supplemental Return	269
Index to Appendix.....	269
1. Sample Documents from Wingate Suit, Richland County Case No. 2010-CP-40-4900 (Partial).....	273
Exhibit A-1: Summons and Complaint	273
Exhibit A-2: Motion to Dismiss Appeal and Writ, Ct. of Appeals..	278
Exhibit A-3: Transcript, Hearing, May 30, 2010.....	281
Exhibit A-4: Ltr. of Wingate dtd. June 11, 2014.....	285
Exhibit A-5: Answer and Counterclaim of Buchanan & Pope.....	286
2. Sample Documents, FOIA #1 - Pope vs. AG & James Brown Legacy Trust, (now Richland Cty. 2012-CP-40-0350)(Partial).....	293
Exhibit B-1: Complaint.....	293
Ltr., Pope to AG Custodian of Records dtd. June 30, 2011.....	296
Affidavit of Pope Supporting Production.....	297
Ltr. Nexsen/Pruett to Pope dtd. July 15, 2011, Re: FOIA.....	300
Exhibit B-2: Motion of Legacy Trust to Dismiss FOIA #1.....	301
3. Sample Documents, FOIA #2 - Pope v. A.G.Wilson, Case No.	

II. PLEADINGS (Continued)

2011-CP-36-379 (now Rich. Cty. No. 2010-CP-40-4900)(Partial).....	302
Exhibit C-1: Order of Jg. Addy, Jr. dated November 22, 2011....	302
4. Documents Related to Forlando Federal Suit, U.S. Dist. Ct. Case No. 30:08-cv-00014-WOB (Partial).....	304
Exhibit D-3: Amended Counterclaim Buchanan.....	304
5. Documents Related to Nby. Cty. Case No. 2012-CP-36-00688 (Partial).....	307
Exhibit E-1.....	307
a. Ltr. AG Wilson to Court dtd. June 13, 2014	307
b. Ltr. AG Wilson to Court dtd. May 23, 2014.....	308
Exhibit E-2: Ltr. of Wingate to Court dtd. May 20, 2014	309
6. Sample Documents Related to Cannon/Criminal Case s (Partial) Exhibit F-2: Excerpts, Bauknight Petition for Rehearing.....	311
Ltr. Pope to AG Wilson dtd. 11/6/2013 (partial).....	312
7. Sample Aiken Cty. Court Documents after 5/8/13 (Partial).....	314
Exhibit G-1: Pope Return to Motion Deanna, Others.....	314
Exhibit G-2: Motion to Reconsider Sojourner Appointment.....	315
Exhibit G-4: Portion, Transcript July 9, 2013.....	317
Statements of the Court, Ms. Pope and Mr. Bell.....	317
8. Documents related to Petition for Writ of Certiorari, Appellate Case No. 2013-2582 (Partial).....	320
Exhibit H-1: Petition for Writ of Certiorari filed June 13, 2014.....	320
Exhibit H-2: Appendix, Petition for Certiorari (partial).....	321

II. PLEADINGS (Continued)

<i>Private Foundations, Copyright Heirs and Musical Millionaires: or Why the James Brown "I Feel Good" Trust doesn't</i>	322
Statements of the Court, Messrs. Wingate and Mr. Kendall.....	334
DNA & Dignity.....	336
Email of Sonny Jones dtd. January 20, 2011.....	338
Appellant's Reply to Bauknight's Return dtd. Feb. 27, 2014.....	340
Ltr. of Toberoff dtd. September 23, 2013.....	348
Amended Notice of Appeal, filed June 30, 2014.....	349
Order of Jg. Early dtd. March 4, 2014.....	See 5
Form 4 Order of Jg. Early dtd. June 2, 2014.....	See 3

III. COURT TRANSCRIPTS

Hearing held July 2, 2013.....	351
Statement of the Court.....	352
Statements of Ms. Pope, Mr. Black, Ms. Jowers Mr. Gilreath, Mr. Covington, Mr. Petrano, Mr. Harris, Mr. Waters and Mr. Bauknight	353
Hearing held July 9, 2013.....	381
Statement of the Court.....	382
Statements of Ms. Pope, Mr. Black, Ms. Jett, and Mr. Rosen.....	382
Hearing held October 8, 2013	402
Statement of the Court.....	402
Statements of Mr. Black, Mr. Buchanan and Mr. Newsome.....	404
Hearing Held December 3, 2013	409
Statement of the Court.....	409
Statements of Mr. Newsome and Ms. Pope.....	410

INDEX TO RECORD ON APPEAL
VOLUME II (pp. 435 - 738)

IV. OTHER MATERIALS

Pope email request for hearing to Judge Early, July 10, 2012.....	435
Email Chain of Judge Early and others, 5/9-14/13 re: Hearing, new PR.....	436
Email Chain of Judge Early, others re: Status conference 5/29/13.....	438
Notice of Disallowance of Russell L. Bauknight dtd. May 29, 2013.....	440
Affidavit of Pope in Support of Expedited Hearing , filed 6/10/13.....	441
Bauknight's Memorandum Opposing Pope's Motion to Reconsider.....	443
Pope's Reply to Bauknight's Memorandum Opposing Reconsideration.....	446
Ltr. of Buchanan to Judge Early, dtd. 7/26/13, with Attachments (Partial)...	455
Ltr. of Toberoff to Warner Music, dtd. 9/23/13 re: Copyright Terminations..	485
Ltr. of Counsel for Bauknight <u>Individually</u> , to Court dtd. March 3, 2014	487
Supplemental Affidavit of Buchanan & Pope in Support of Commissions and Payment of Certain Priority Expenses of Administration dtd. 7/13/09, with Exhibits.....	488
Exhibit 1 Complaint (part of Case 122).....	545
Exhibit 2 January 8, 2008 Order of Jg. Early, See 78.....	560
Exhibit 3 February 20, 2008 Order of Jg. Early, See 70.....	561
Exhibit 4 April 1, 2008 Order of Jg. Early, See 64.....	562
Exhibit 5 Minimum PR/Trustee Commission, Order dtd. 1/8/08.....	563
Exhibit 6 CV of Robert L. Buchanan, Jr.....	565
Exhibit 7 CV of Adele J. Pope.....	566
Exhibit 8 Summary of Activities of Pope, 11/20/07- 5/26/09.....	569
Exhibit 9 Summary of Activities of Buchanan, 11/20/07-5/26/09.....	671
Exhibit 10 Letter of Pope to Sr. Assistant AG Jones, dtd. 11/21/07.....	718
Exhibit 11 Attorney's Fees & Costs, James D. Bailey, Esquire.....	721
Exhibit 12 Attorney's Fees for, Tressa T.H. Hayes, Esquire.....	722
Exhibit 13 Ltr. of Buchanan & Pope to AG McMaster, dtd. 5/10/08.....	723
Exhibit 14 "Stand Down" Email of Rosen to Jg. Early dtd. 8/12/08.....	725
Exhibit 15 Email of Sonny Jones to Judge Early dtd. 8/12/08.....	726
Exhibit 16 Ltr. of AG McMaster to Buchanan & Pope dtd. 7/30/08.....	727
Exhibit 17 Ltr. of AG Jones dtd. 7/7/08 & Emergency Petition.....	729
Exhibit 18 Email of Cox to Heflin, Re: JB Project, dtd. 11/26/07.....	738

The South Carolina Court of Appeals

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.

Appellate Case No. 2014-000250

ORDER

On May 23, 2014, Russell Bauknight filed a request to have his name, in his individual capacity, removed from the caption of this appeal, arguing his individual interests are not affected by the order on appeal. Bauknight's request is denied.¹

Appellant's motion "to require unsealing and delivery of documents by Respondent Baughnigh; take judicial notice under Rule 201(d); and supplement record" is denied. We note that the record on appeal shall not include matter which was not presented to the lower court. *See* Rule 210, SCACR.

 A.J.
FOR THE COURT

¹ We note that on June 17, 2014, Appellant filed a supplemental notice of appeal in this matter, appealing the trial court's orders dismissing Bauknight from the action in his individual capacity.

FILED

June 30, 2014

Columbia, South Carolina

cc:

Adele J. Pope

Frederick A. Crawford, Esquire

William George Newsome, III, Esquire

Exhibit B

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-02-1337

Adele J. Pope

Estate of James Brown, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion to Alter or Amend and/or Reconsider and Vacate Order Dated March 4, 2014, Dismissing Claims Under Rule 12(b) on Behalf of Defendant Russell L. Bauknicht, Individually is DENIED.

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk :

Shannon Jones
C.C.P. & G.S.
Deputy Clerk

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time this order is entered may be provided to the clerk. Note: Title abstractors and researchers should refer to abstracts and documents on file in my office for original documents which have been filed in my office.

Circuit Court Judge

3

C.C.P. & G.S., Aiken County, S.C.

Deputy Clerk

Date

6/10/14

EXHIBIT

A

For Clerk of Court Office Use Only

This judgment was entered on 9th day of June, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 9th day of June, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Pope ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

Court Reporter

Frederick A. Crawford PO Box 7788 Columbia, SC 29202

J. David Black PO Drawer 2426 Columbia, SC 29202-2426

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Summer Jane He

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

RECEIVED

JUN 11 2014

NEXSEN PRUET, LLC

Exhibit A

RECEIVED

JUN 11 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

Adele J. Pope,

Plaintiff,

Estate File No. 2007-ES-02-0056

2013-CP-02-1337

vs.

ORDER DISMISSING CASE WITH
PREJUDICE

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

FILED 3.10.14
Lij. Anderson
D.C.C.P. & O.S.
Anita Kinsley
Deputy Clerk

THIS MATTER came before the Court on December 3, 2013 upon Defendant Russell L. Bauknight's July 10, 2013 Notice of Motion and Rule 12 Motion to Dismiss (the "Motion"), filed in his individual capacity. The Court, having reviewed the Complaint and considered the arguments presented by counsel, grants the Motion to Dismiss Russell L. Bauknight, individually, with prejudice, and finds as follows:

FINDINGS OF FACT

1. The Plaintiff filed this action on June 10, 2013.
2. In her Complaint spanning sixty-three (63) pages, the Plaintiff makes numerous allegations against Defendant Bauknight as a fiduciary of the Estate of James Brown (the "Estate") and The James Brown 2000 Irrevocable Trust (the "Trust").

WHE
H/

EXHIBIT

B

3. The only allegations against Defendant Bauknight, in his individual capacity, deal with the Plaintiff's desire for Mr. Bauknight to pay both his and Plaintiff's attorney's fees, incurred in the defense of this action, from his personal assets and not from the assets of the Estate or the Trust. See, e.g., Complaint ¶ 289 ("Russell, **individually**, should pay all costs of the Notice, his **Individual** Defense of this Case, and the Estate's defense"); Complaint Prayer ¶ 6 ("Directing Russell, **Individually**, to pay all costs and attorneys' fees of this action, with the Estate/2000 Trust to pay no portion of Russell's fees and costs").

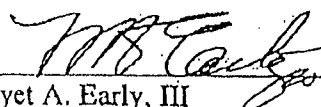
CONCLUSIONS OF LAW

4. As an initial matter, the Court finds that, even giving the Plaintiff every benefit of the doubt as a pro se litigant and taking all matters pled by the Plaintiff as being true, the Complaint, on its face, fails to meet the minimum pleading requirements of the South Carolina Rules of Civil Procedure. Baird v. Charleston Cnty., 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999) (citing Stiles v. Onorato, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995)). A Complaint must contain "a short and plain statement of the facts showing that the pleader is entitled to relief." Rule 8(a), SCRPC. Here, the Complaint does not contain "a short and plain statement of the facts" and fails to show that the Plaintiff "is entitled to relief" against Defendant Bauknight, ~~in his individual capacity.~~ Id. Instead, the Complaint is mostly comprised of allegations against ~~Defendant Bauknight in his fiduciary capacity.~~ More specifically, Plaintiff's Complaint does not sufficiently plead any single cause of action against Defendant Bauknight, in his individual capacity, but rather relates to, references, and cites actions taken by Defendant Bauknight as a fiduciary of the Estate and the Trust. As a result, dismissal is proper under Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state facts sufficient to constitute a claim against Defendant Bauknight in his individual capacity.

MAE
#2

IT IS HEREBY ORDERED that the Complaint against Defendant Russell L. Bauknight, individually, be dismissed, with prejudice.

AND IT IS SO ORDERED.



Doyet A. Early, III
Judge, Second Judicial Circuit

Aiken, South Carolina

 2014.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-02-1337

Adele J. Pope

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Adele J. Pope's Motion to Alter or Amend and/or Reconsider and Vacate Order Dated January 7, 2014 Dismissing Claims Under Rule 12(b) is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

2.4.14
L. J. Adair
D.C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

and researchers should refer to the official

1-51-14

9

Page 2

For Clerk of Court Office Use Only

This judgment was entered on 1-17-14, and a copy mailed first class or placed in the appropriate attorney's box on 1-17-14, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Pope ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

Williams G Newsome
Frederick A. Crawford PO Box 7788 Columbia, SC 29202
J. David Black PO Drawer 2426 Columbia, SC 29202-2426

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W. Knappe

Court Reporter

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

The South Carolina Court of Appeals

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

Appellate Case No. 2013-002582

ORDER

Appellant has filed a notice of appeal from an interim order of Judge Doyet A. Early III.¹ Because "[o]nly a *party aggrieved* by an order, judgment, sentence or

¹ The interim order appointed Russell L. Bauknight as the personal representative of the estate of James Brown and trustee of the James Brown August 1, 2000 irrevocable trust agreement. Additionally, the order appointed David C. Sojourner as the limited special trustee for the sole purpose of defending the trust in will and trust challenges. The order also established the temporary nature of the

decision may appeal" and an appeal may only be taken "as provided by law[] from final judgment, appealable order or decision," this appeal is dismissed. *See* Rule 201, SCACR (emphasis added); *see also Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979) ("An appeal filed by one who has ceased to be a party to a suit is a mere nullity." (internal quotation marks and citation omitted)).


FOR THE COURT

Columbia, South Carolina

cc:

Adele J. Pope
Albert P. Shahid, Jr., Esquire
David B. Bell, Esquire
Matthew Day Bodman, Esquire
Eugene C. Covington, Jr., Esquire
Robert N. Rosen, Esquire
William W. Wilkins, Esquire
J. David Black, Esquire
Fred Lewis Kingsmore, Jr., Esquire
Burl F. Williams, Esquire
David G. Cannon

FILED
1/30/14

appointments, stating fiduciary appointments would be revisited upon the conclusion of estate litigation.

12

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE CIRCUIT COURT

Adele J. Pope,

Plaintiff,

vs.

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

C/A No. 2013-CP-02-1337

ORDER

1.17.14
L. J. Gaddard
J.C.C.P. & G.S.
Anita Knoepfle 12:20
Deputy Clerk

This matter came before the Court on the Motion to Dismiss or, in the Alternative, for a More Definite Statement of Defendant Russell L. Bauknight, as Special Administrator of the Estate of James Brown (the "Estate") and Special Trustee of the James Brown 2000 Irrevocable Trust (the "Trust"), pursuant to Rule 12(b)(6) and Rule 12(e) of the South Carolina Rules of Civil Procedure. A hearing in this matter was held on Tuesday, December 2, 2013. Present were Adele Pope, *pro se* Plaintiff, Russell Bauknight, Defendant, William G. Newsome III, attorney for the Defendant Russell L. Bauknight in his fiduciary capacities as general personal representative and special administrator of the Estate of James Brown and general trustee and special trustee of The James Brown 2000 Irrevocable Trust, and Frederick A. Crawford, attorney for Defendant Russell L. Bauknight in his individual capacity.

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PROCEDURAL HISTORY

Plaintiff filed a Complaint in this action on June 10, 2013. Attached to the Complaint as Exhibit 1 was a Petition for Allowance of Claim. Defendant Bauknight filed his motion to dismiss the Complaint pursuant to Rule 12(b)(6) and motion for more definite statement pursuant to Rule 12(e) in his fiduciary capacities as personal representative and special administrator of the Estate and trustee and special trustee of the Trust on July 10, 2013.

STANDARD OF REVIEW

A claim may be dismissed pursuant to a Rule 12(b)(6) motion to dismiss if the defendant demonstrates that the plaintiff has failed to allege facts in the complaint sufficient to establish a cause of action. *Disbato v. S.C. Assoc. of School Administrators*, 404 S.C. 433, 441, 746 S.E.2d 329, 333 (2013). A court must base its ruling on a Rule 12(b)(6) motion to dismiss solely on the allegations set forth in the complaint, and the court must consider all factual allegations as true. *Id.* A Rule 12(b)(6) motion may not be granted if the facts alleged in the Complaint and any inferences drawn therefrom would entitle the Plaintiff to any relief on any theory. *Baird v. Charleston County*, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999); *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602-03 (1995). If the factual allegations and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief under any theory, then a Rule 12(b)(6) motion to dismiss should not be granted. *Id.* The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 248 (2007).

DISCUSSION & ANALYSIS

1. First Cause of Action: Voiding Appointment, Settlement and Notice and Granting of Claims

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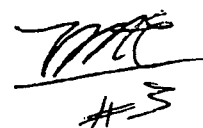
In the first cause of action, titled "Voiding Appointment, Settlement and Notice and Granting of Claims," Plaintiff appears to be requesting that the Court enter an order finding that Defendant Bauknight's appointment as special administrator of the Estate and special trustee of the Trust be found void. Plaintiff also requests that the Notice of Disallowance issued by Defendant Bauknight be declared void, the settlement entered into between Robert L. Buchanan, Jr., and the Estate and Trust be declared void, and that Plaintiff's Claim and related cases be granted. (Compl. ¶ 221.)

a. Voiding Appointment as Special Administrator or Special Trustee

In the complaint, the Plaintiff repeatedly alleges that Defendant Bauknight's appointment as a general or special fiduciary of the Estate or Trust became void upon the Supreme Court's issuance of its decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013), on May 8, 2013. (Compl. ¶¶ 4, 194.) Plaintiff also requests that Defendant Bauknight's emergency appointment as special administrator of the Estate or special trustee of the trust be declared void. (Compl. ¶ 220.)

At the hearing, Plaintiff alleged that the appointment of Bauknight as special administrator and special trustee is void because it was issued after the Supreme Court issued its opinion in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013), on May 8, 2013, and prior to remittitur, which issued on May 24, 2013. The Court takes judicial notice of these two orders.

This Court also takes judicial notice of the Aiken County Probate Court's order dated June 13, 2013, in Case No. 2007-ES02-0056, 2008CP0201647, appointing Defendant Bauknight as special administrator of the Estate and confirming all prior appointments of Defendant Bauknight as special administrator. The Court further takes judicial notice of this Court's order dated June 13, 2013, appointing Defendant Bauknight as special trustee of the Trust and confirming all prior appointments of Defendant Bauknight as special trustee.

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Rule 12(b)(6) of the South Carolina Rules of Civil Procedure is substantially similar to its counterpart in Rules 12(b)(6) and 12(d) of the Federal Rules of Civil Procedure. In the absence of prior state law on a particular issue, federal cases interpreting substantially similar federal rules are persuasive. *Unisun Insurance v. Hawkins*, 342 S.C. 537, 537 S.E.2d 559 (Ct. App. 2000).

When considering a Rule 12(b)(6) motion to dismiss, a court generally may not consider material outside of the complaint. *Baird*, 333 S.C. at 527, 511 S.E.2d at 73; *Stiles*, 318 S.C. at 300, 457 S.E.2d at 602. Federal courts addressing the issue, however, have held that a court may take judicial notice of matters of public record outside of the pleadings and consider them for purposes of a Rule 12(b)(6) motion to dismiss. *Henson v. CSC Credit Serv.*, 29 F.3d 280, 284 (7th Cir. 1994); *Kramer v. Time Warner Inc.*, 937 F.2d 767, 773 (2d Cir. 1991). In considering a Rule 12(b)(6) motion to dismiss, courts may take judicial notice of documents filed in such court or in other courts. *Reyn's Pasta Bella v. Visa USA*, 442 F.3d 741, 746 n. 6 (9th Cir. 2006); see also *Henson*, 29 F.3d at 284; *Kramer*, 937 F.2d at 773-74. If factual allegations establishing a defense are certain and clear on the face of the complaint, or other matters of which a court may take judicial notice, then a court may grant a motion to dismiss based on an affirmative defense or for lack of standing. See *Santana-Castro v. Toledo-Davila*, 579 F.3d 109, 113-14 (1st Cir. 2000) (reviewing motion to dismiss based on statute of limitations); *Citibank Global Markets, Inc. v. Rodriguez Santana*, 573 F.3d 17, 23 (1st Cir. 2009) (reviewing motion to dismiss based on affirmative defense of release); *In re Ackerman*, 247 B.R. 336, 339 (Bankr. M.D. Fla. 2000) (granting motion to dismiss for lack of standing).

Because Defendant Bauknight was appointed as special administrator and special trustee after the issuance of remittitur by the South Carolina Supreme Court, the Court grants Defendant

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Bauknight's motion to dismiss Plaintiff's action seeking to void the orders appointing Defendant Bauknight as special administrator and special trustee entered prior to remittitur as moot.

In addition, in seeking to have Defendant Bauknight's appointment as special administrator and special trustee be found void, Plaintiff alleges as follows:

[I]n clear defiance of the *Wilson v. Dallas* mandate, [Defendant Bauknight] sought and may have obtained *ex parte* orders appointing him SA/ST without notice or hearing not for the proper purpose of emergency protection of assets – but to continue his plan, with Tommie Rae and other to dismantle the Estate Plan.

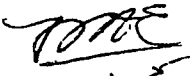
(Compl. ¶ 220.)

In the Complaint, Plaintiff appears to allege that the Probate Court's May 9, 2013 order appointing Defendant Bauknight as special administrator is void because Defendant Bauknight's intentions in seeking the order did not fall within the plain meaning of S.C. Code §§ 62-3-614 and 62-3-617, and the order was issued without notice or a hearing. Assuming this allegation is true, Plaintiff has not stated a viable cause of action.

As the Plaintiff is aware, it is the law of this case that, in accordance with *Estate of Boyce v. Work*, 305 S.C. 43, 406 S.E2d 184 (Ct. App. 1991), this Court does not have subject matter jurisdiction in connection with an appeal from a Probate Court order regarding the emergency appointment of a special administrator. The appointment of a special administrator is clearly temporary, and this Court does not have subject matter jurisdiction to hear an appeal challenging the appointment of a special administrator as an interlocutory order.

b. Voiding Settlement Agreement

To the extent that Plaintiff's first cause of action requests this Court to overturn a settlement agreement entered into between Defendant Bauknight, as personal representative or special administrator of the Estate or trustee or special trustee of the Trust, and Robert L.


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Buchanan, Jr. (the "Settlement Agreement"), the Court finds that Plaintiff does not have standing to bring this claim.

Standing refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right. *Powell ex rel. Kelley v. Bank of Am.*, 379 S.C. 437, 444, 665 S.E.2d 237, 241 (Ct. App. 2008) (quoting *Black's Law Dictionary* 1413 (7th ed. 1999)). Standing is a concept of justiciability concerning whether a particular person may raise legal arguments or claims. *Id.* (quoting 1A C.J.S. *Actions* § 101 (2005)). It concerns whether an individual has a sufficient interest in the outcome of the litigation to warrant consideration of the person's position by a court. *Id.*

The proponent of a claim has the burden of proving the three elements of standing:

- (1) That the person has suffered an injury in fact, a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical;
- (2) There is a causal connection between the injury and the conduct complained of – the injury must be fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party not before the court; and
- (3) It must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

Smiley v. SCDEC, 374 S.C. 326, 329, 649 S.E.2d 31, 32-33 (2007).

"As a general rule, to have standing a litigant must have a personal stake in the subject matter of the litigation." *Ex parte Morris*, 367 S.C. 56, 62, 624 S.E.2d 649, 652 (2006). Standing requires that the person be a real party in interest, a person with a real, material or substantial interest in the subject matter of the litigation, as opposed to one who has only a nominal or technical interest in the action. *Id.*


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In the Complaint, Plaintiff seeks to have the Settlement Agreement declared void. (Compl. ¶ 221.) The Complaint alleges that the Settlement Agreement relates to Buchanan's claims against the Estate for attorney's fees and other matters that are the basis of Plaintiff's Petition for Allowance of Claim. (Compl. ¶ 5.) The Complaint appears to request that the Court declare the Settlement Agreement void so that Buchanan can proceed to collect under the Petition for Allowance of Claim filed by Plaintiff in this matter. (Compl. ¶ 269.)

Construing the factual allegations of the Complaint in the light most favorable to the Plaintiff, the Court finds that Plaintiff does not allege facts to show that she has standing to challenge the Settlement Agreement. Plaintiff has not alleged that she is a party to the Settlement Agreement or that she has any enforceable interest in or related to the Settlement Agreement. In addition, Plaintiff has not alleged that she has any legally protected interest that is injured by the Settlement Agreement or may be redressed by the Court's granting the remedy sought in the Complaint, in particular, voiding the Settlement Agreement.

In contrast, the allegations in the Complaint show that Plaintiff is attempting to request this Court to overturn the Settlement Agreement on Buchanan's behalf, without any allegation that Plaintiff is authorized to act on behalf of Buchanan or legally entitled to represent his interests. As a result, the Court finds that, based on the allegations of the Complaint, Plaintiff does not have standing to bring this action seeking to void the Settlement Agreement, and the Court hereby grants Defendant's Rule 12(b)(6) motion to dismiss with respect to any action in the Complaint seeking to void the Settlement Agreement.

c. Voiding of Notice

Plaintiff also seeks to have the Notice of Disallowance issued by Defendant Bauknight declared void. (Compl. ¶ 221.) To the extent this cause of action reasonably is based on the allegedly void appointment of Defendant Bauknight as special administrator prior to the

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Supreme Court's issuance of remittitur, the Court grants dismissal of the claim based on Defendant Bauknight's appointment as special administrator pursuant to the Probate Court's June 13, 2013 order as discussed above.

Even assuming, *arguendo*, that Defendant Bauknight's appointment as special administrator is void, Plaintiff's request to void the Notice of Disallowance is moot because Plaintiff has filed a Petition for Allowance of Claim and requested the court to consider her claim. S.C. Code Ann. § 62-3-806(a), (b) (providing procedure for filing petitions for allowance of claim before or after personal representative mails notice of disallowance.).

d. Granting of Claim

To the extent that Plaintiff alleges that her claim should not be denied and requests an order of this Court granting payment of the claim, the Court presumes that this request for relief is subsumed by the Petition for Allowance of Claim simultaneously filed by the Plaintiff with the Complaint. The Court, therefore, denies Defendant Bauknight's motion to dismiss to the extent it requests dismissal of Plaintiff's claim for payment pursuant to her Petition for Allowance of Claim.

2. Second Cause of Action: Removal and Accounting of Bauknight;
Appointment of SA/ST for Litigation on Behalf of Will/2000 Trust &
SA/ST for Management under Will/200 Trust

The Second Cause of Action in Plaintiff's Complaint appears to request a general removal of Defendant Bauknight as special administrator of the Estate and as special trustee of the Trust, an accounting by Defendant Bauknight, and appointment of a special administrator and trustee. (Compl. ¶ 282.)

a. Removal of Special Administrator, Accounting with respect to the
Estate, and Appointment of a Special Administrator

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A general personal representative may be removed for cause on the petition of a person interested in the estate. S.C. Code Ann. § 62-3-611. A special administrator may be removed for cause by the same procedure. S.C. Code Ann. § 62-3-618.

An interested person with respect to an estate includes heirs, devisees, children, spouses, creditors, beneficiaries, and any other having a property right in or claim against a trust or estate of a decedent that may be affected by the proceeding. S.C. Code Ann. § 62-1-201(20).

In relevant part, Plaintiff's claim for removal of Defendant Bauknight as special administrator of the Estate will survive dismissal if the allegations in the Complaint establish that she is a creditor with a claim against the Estate which may be affected by the proceeding. S.C. Code Ann. § 62-1-201(20). The Court finds that the well-pled allegations of the Complaint, which are presumed to be true, fail to establish that the Plaintiff is an interested person entitled to seek removal of Defendant Bauknight as special administrator of the Estate.

Plaintiff's Complaint does not contain any allegation, nor any reasonable inference therefrom, that Defendant Bauknight's actions as special administrator jeopardize or will cause the Estate to be unable to make payment on Plaintiff's claim against the Estate. Other than the mere fact of denial of her claim, nowhere in the Complaint does Plaintiff allege that Defendant Bauknight is wasting or administering the Estate in any manner that will cause assets to be unavailable for payment of her claim in the ordinary course of administration of the Estate. To hold otherwise would be to find that any alleged creditor of an Estate could bring an action for removal of a personal representative for no reason other than preliminary denial of the alleged creditor's claim.

Plaintiff's Complaint contains numerous allegations questioning the date of death value Defendant Bauknight established for the Estate. (Compl. ¶ 232-33, 240, 243, 270, 274.) In the

Complaint, Plaintiff alleges that the date of death value of the Estate was far more than the value purportedly established by Defendant Bauknight, and also that after the decedent's death the Estate has generated funds to pay down substantial debts associated with the Estate. (Compl. ¶ 17, 113, 228.) The Complaint, however, contains no allegations reasonably establishing how the date of death value claimed by Defendant Bauknight, or any other action other than his mere denial of Petition's alleged claim against the Estate, jeopardizes payment of her claim from the current assets of the Estate.

Based on the foregoing, the Court grants Defendant Bauknight's motion to dismiss Plaintiff's claim for removal of Defendant Bauknight as special administrator for lack of standing. As such, the Court additionally grants Defendant Bauknight's motion to dismiss Plaintiff's claims for an accounting with respect to the Estate and appointment of another special administrator as moot.

b. Removal of Special Trust, Accounting with respect to the Trust, and Appointment of a Special Trustee

Plaintiff also seeks to have Defendant Bauknight removed as special trustee of the Trust. (Compl. ¶ 282.) Plaintiff alleges that she is an "other" entitled to enforce the Trust. (Compl. ¶ 1.c.)

A beneficiary may request the court to remove a trustee for any of the reasons set forth in subsection (b) of § 62-7-706 of the South Carolina Trust Code. S.C. Code Ann. § 62-7-706(a). With respect to a charitable trust, a beneficiary includes any person entitled to enforce the trust. S.C. Code Ann. § 62-1-201(2). With respect to a person entitled to enforce a charitable trust, the South Carolina Trust Code provides as follows:

The settlor of a charitable trust, the trustee, and the Attorney General, *among others*, may maintain a proceeding to enforce the trust.

S.C. Code Ann. § 62-7-405(c) (emphasis added).

The comments to S.C. Code Ann. § 62-7-405(c) cite to Susan N. Gary, *Regulating the Management of Charities: Trust Law, Corporate Law, and Tax Law*, 21 U. Hawaii L. Rev. 593 (1991) for the law on the enforcement of charitable trusts. In relevant part, that article discusses how courts have occasionally permitted private persons with a “special interest” in a charitable organization to sue that organization. Gary, *Regulating the Management of Charities: Trust Law, Corporate Law, and Tax Law*, 21 U. Hawaii L. Rev. 593, 627 (1991). Persons with a special interest in the charity include persons who are members of an identifiable class of beneficiary of the charity, and not merely a member of the general public who is concerned that the charity be run properly. *Id.* The article cites to a study highlighting factors most likely to induce a court to grant standing to sue a charity to private persons: (1) the extraordinary acts complained of and the remedy sought by the plaintiff; (b) the presence of fraud or misconduct on the part of the charity or its directors; (c) the attorney general’s availability or effectiveness; and (d) the nature of the benefitted class and its relationship to the charity. *Id.*

In construing the factual allegations in the Complaint in the light most favorable to the Plaintiff, the Court finds that Plaintiff has not alleged that she is reasonably included amongst those persons statutorily listed to maintain a proceeding to enforce the Trust. The factual allegations of the Complaint allege that the Trust was intended to provide private scholarships to needy students. (Compl. ¶¶ 3, 12, 21, 43, 71.) Plaintiff makes no allegations that she is a member of this class, or in a position to represent a member of this class.

To support her claim that Plaintiff is an “other” entitled to enforce the Trust, Plaintiff relies solely on allegations related to her previous fiduciary relationship with the Trust and her alleged continuing duty to protect the Estate and Trust. (Compl. ¶¶ 155, 157, 166-67, 215, 218.)

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The Court takes judicial notice of the South Carolina Supreme Court's decision in *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013), which is relied on heavily by the Plaintiff in the Complaint. (See Compl. ¶¶ 3, 169, 269.) In that decision, the Supreme Court stated as follows with respect to Plaintiff's removal as a co-fiduciary of the Estate:

We are also aware that Appellants have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, Appellants sought and obtained permission from the circuit court to sell iconic assets from Brown's estate in order to raise funds, and a large portion of the amount raised went first to pay Appellants' own attorneys' fees. Appellants also unsuccessfully attempted to sell Brown's GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing Appellants that it was a longstanding policy that the award could not be sold by recipients or anyone acting on their behalf. These actions and the extreme discord between the parties convince us that Appellants' continued service as fiduciaries is not in the best interests of the estate.

Wilson, 403 S.C. at 448-49, 743 S.E.2d 766-67.

The Court finds that, taken together with the factual allegations contained in Plaintiff's Complaint, Plaintiff cannot reasonably be included in the category of the settlor, trustee, Attorney General, or others with an interest in enforcing the Trust. To rule otherwise would be to allow Plaintiff to attempt to enforce the Trust in an individual capacity where she has previously been removed from a position to enforce the Trust in a fiduciary capacity. Because the statute cannot reasonably be read to allow Petitioner to enforce the Trust in an individual capacity, after the removal of Plaintiff in a fiduciary capacity, the Court grants Defendant Bauknight's motion to dismiss Plaintiff's claim to remove Defendant Bauknight as special trustee, for an accounting, and for appointment of another special trustee.

3. Third Cause of Action: Leave to Amend After Removal and/or Appointment of SA/ST

In her third cause of action, Plaintiff requests leave to amend after the Court considers issues related to the appointment of a special administrator or special trustee. (Compl. ¶ 286.)

Because the Court grants Defendant Bauknight's motion to dismiss with respect to any claims in the Complaint relating to removal of Defendant Bauknight as special administrator or special trustee and appointment of another special administrator or special trustee, the Court dismisses Plaintiff's Third Cause of Action as moot.

4. Fourth Cause of Action: Attorney's Fees

Because the Court grants Defendant Bauknight's motion to dismiss with respect to any claims in the Complaint other than Plaintiff's Petition for Allowance of Claim, the Court dismisses Plaintiff's Fourth Cause of Action as moot with respect to any claim for attorney's fees other than those related to Plaintiff's Petition for Allowance of Claim.

CONCLUSION

Viewing the facts alleged in the complaint, and any inferences drawn therefrom in the light most favorable to the Plaintiff, it is clear that Plaintiff, in large part, has not stated claims upon which relief may be granted. For that reason, Defendant Bauknight's Motion to Dismiss is **DENIED** to the extent that it seeks to dismiss Plaintiff's request for payment of her claim in accordance with the Petition for Allowance of Claim, and is **GRANTED** to the extent of all other claims set forth in the Complaint.

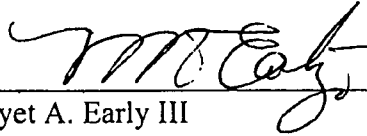
The Court notes that the Complaint contains no allegations bringing causes of action against Defendant Bauknight as general personal representative of the Estate or general trustee of the Trust, and as such the Court grants Defendant's Bauknight's motion to be dismissed as a party to the action in those capacities.

In light of this ruling on Defendant Bauknight's Motion to Dismiss, Defendant's Rule 12(e) Motion for More Definite statement is not considered at this time.

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Defendant Bauknight has fifteen (15) days from receipt of this order to respond to Plaintiff's Petition for Allowance of Claim.

IT IS SO ORDERED.



The Honorable Doyet A. Early III
Second Judicial Circuit

Aiken, South Carolina

_____, 2014.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
IN RE:	)	C/A No.: 2007-CP-02-122
THE ESTATE OF JAMES BROWN	)	~~C/A No.: 2008-CP-02-1647~~ orig
A/K/A JAMES JOSEPH BROWN	)	C/A No.: 2008-CP-02-872
	)	C/A No.: 2009-CP-02-597
	)	C/A No.: 2009-CP-02-1140
	)	C/A No.: 2009-CP-02-1810

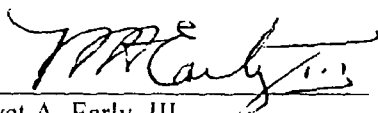
ORDER WITHDRAWING ATTORNEY GENERAL

This matter comes before the Court by way of the Attorney General's request to withdraw from the above-referenced cases. This Court previously granted the Attorney General's Motion to Intervene by Order filed October 11, 2007, in Case 2007-CP-02-122. In addition, the Attorney General is a named party in cases 2008-CP-02-1647, 2008-CP-02-0872, 2009-CP-02-597, 2009-CP-02-1140, and 2009-CP-02-1810, all cases related to the James Brown Estate and Trust.

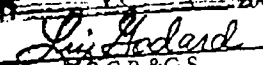
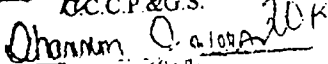
This Court finds that allowing the Attorney General to withdraw is appropriate, in light of the Supreme Court's opinion in Wilson v. Dallas, Op. No. 27227 (SC. Sup. Ct. refilled may 8, 2013); the appointment of Russell Bauknight as Special Trustee by Order dated June 13, 2013; the appointment of Russell Bauknight as Special Administrator dated June 13, 2013; and the Attorney General's desire, pursuant to his statutory and common law authority, to have a monitoring role in this matter.

Accordingly, the Attorney General is withdrawn from these cases. This Order is without prejudice to the Attorney General's right to move to intervene in the future, as he finds appropriate based on his monitoring of the case.

AND IT IS SO ORDERED.


 Doyet A. Early, III
 Presiding Judge

CE
 July 3, 2013

11-6-13

 Lisa Hodard
 CC, CP & G.S.

 Shannon O. G. 10/2/13
 Deputy Clerk

STATE OF SOUTH CAROLINA

COUNTY OF

Aiken

Brown

Plaintiff,

vs.

Bradley

Defendant.

IN THE COURT OF COMMON PLEAS

JUDICIAL CIRCUIT

CASE NO.: 2007-CP-02-122 08-01647

MOTION AND ORDER INFORMATION 08-872
FORM AND COVERSHEET

09-597
09-1140
091810

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____ Other: _____		Defendant's Attorney: <u>Mary Frances Jowers</u> , Bar No. <u>68413</u> Address: <u>Box 11549</u> Phone: <u>803-734-3996</u> Fax: <u>✓</u> E-mail: <u>mfjowers@scncj.org</u> Other: _____	
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: _____		Court Reporter Needed: ☐ YES / ☐ NO	
Estimated Time Needed: _____			
SECTION II: Motion/Order Type			
☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
Signature of Attorney for ☐ Plaintiff / ☐ Defendant <u>mf Jowers</u>		Date submitted <u>11/16</u> , 20 <u>13</u>	
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION			
Collected by: _____		Date Filed: _____, 20____	
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

This judgment was entered on 6th day of November, 2013, and a copy mailed first class or placed in the appropriate attorney's box on 6th day of November, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422
Robert N. Rosen 18 Broad St. Ste. 201 Charleston, SC 29401
Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201
Louis Levenson 125 Broad St., SW Atlanta, GA 30303
David Bell 619 Greene Street Augusta, GA 30901
James Mixon Griffin PO Box 11208 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

Hand delivered Attorney Gen
probate Mary Thomas
Court Reporter

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

CASE NOS. 2008-CP-02-1647-*filed here*
2009-CP-02-1810
2007-ES-02-0056

IN RE:

**THE ESTATE OF JAMES BROWN
A/K/A JAMES JOSEPH BROWN**

INTERIM ORDER

10-3-13
Liz Hedlund
Amita Knoepfle *430*
Deputy Clerk

This matter comes before me on applications for appointment filed by, or on behalf of, five individuals (hereinafter, the "Applicants") seeking appointment as Personal Representative of the Estate of James Brown (the "Estate") and Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust"). The Court has also received an application for appointment of Limited Special Administrator of the Estate and Limited Special Trustee of the Trust.

BACKGROUND

In *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013) (the "Opinion"), the South Carolina Supreme Court affirmed in part, reversed in part, and remanded this Court's May 26, 2009 Order confirming the James Brown Estate and Trust Settlement Agreement. The Opinion reversed the compromise agreement, affirmed this Court's May 26, 2009, removal of the prior fiduciaries Mrs. Pope and Mr. Buchanan, and vacated Mr. Bauknight's fiduciary appointments made in conjunction with the compromise agreement. The Supreme Court further remanded to this Court the question of who shall serve as fiduciaries of the Estate and Trust. In its Opinion, the Court instructed this Court, "upon proper application, [to] appoint fiduciaries to oversee . . . matters in accordance with the provisions for succession outlined in Brown's trust

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and estate documents.”

On May 29, 2013, this Court held a status conference concerning the Opinion and, by Order dated June 13, 2013, required all applications of those interested in serving as fiduciaries of the Estate and Trust to be made within 45 days of the date of that Order (July 29, 2013). Mr. Bauknight was ordered, in the interim, to continue to oversee the orderly administrative and fiduciary duties of the Estate and Trust as Special Administrator and Special Trustee, which he has done in a professional manner. Mr. Bauknight has continuously served in a fiduciary capacity for the Estate and Trust since May 26, 2009 and there has been no lapse in his authority or fiduciary service.

A. The Applicants

This Court received a total of six applications, each of varying form. The following identifies the Applicants and summarizes the form of the applications received:

- (1) **Mr. Russell L. Bauknight** – by Petition for Formal Appointment of Successor Personal Representative and Trustee filed with this Court on July 29, 2013 (attached as **Exhibit 1**)
- (2) **David C. Sojourner, Jr.** – by Petition for Formal Appointment as Limited Special Administrator filed with the Aiken County Probate Court and this Court on July 29, 2013, and Petition for Formal Appointment as Limited Special Trustee filed with this Court on July 29, 2013 (attached as **Exhibits 2A and 2B**)
- (3) **Judge Neal W. Dickert** – by letter of recommendation delivered on his behalf to this Court by David B. Bell on July 17, 2013 (attached as **Exhibit 3**)
- (4) **Mr. Scott Keniley** – by letter delivered to and filed with this Court on July 24, 2013 (attached as **Exhibit 4**)
- (5) **Dr. W.M. Grooms, CPA** – by letter filed with this Court on July 24, 2013 (attached as **Exhibit 5**)
- (6) **Rev. Larry Fryer** – by e-mail delivered on August 12, 2013 (attached as **Exhibit 6**).

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B. In Court Examination of the Applicants

On September 4, 2013, this Court conducted a hearing to receive testimony and answer questions posed by the Court from the Applicant parties. A transcript of the hearing is attached to this Order as Exhibit 7. All of the Applicants appeared at the September 4, 2013 hearing, except Rev. Fryer. On September 11, 2013, this Court reconvened the hearing to receive the testimony of Rev. Fryer. A transcript of that subsequent hearing is attached to this Order as Exhibit 8. At the conclusion of the September 4, 2013 hearing, this Court gave the Applicants ten (10) days to file written opposition to any of the Applicants.

FINDINGS OF FACT

As an initial matter, this Court wishes to express its gratitude to those Applicants who graciously volunteered to serve the Estate and Trust, as well as the State of South Carolina as a whole. Their willingness to assist the Estate and Trust in these matters is greatly appreciated by the Court.

As noted, the Supreme Court remanded the appointment of fiduciaries of the Estate and Trust to the sound discretion of this Court. This Court has carefully reviewed the Will and Trust, all applications and memoranda filed on behalf of, and in opposition to, the Applicants, and has considered the testimony provided by the Applicants. James Brown passed away nearly seven years ago on December 25, 2006. These factual findings and this Interim Order are made cognizant of the age of this matter and in an effort to expedite the efficient administration of the Estate and Trust. The overarching goal of this Court is to create an atmosphere where the prompt resolution of the various contested claims and a final resolution of Estate and Trust matters can occur without compromising the positive gains achieved since this Court issued its May 26, 2009 Order.

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Based on the foregoing, this Court finds:

1. Russell L. Bauknight has continuously served as a fiduciary to the Estate and Trust, both in his roles as Personal Representative and Trustee, and his continuing roles as Special Administrator and Special Trustee, with general fiduciary powers, since May 26, 2009. In that time, he and his counsel have protected the interests of the Estate and Trust in an effective and skillful manner, to wit:

(a) Notwithstanding the fact that he inherited the Estate on the verge of insolvency, with less than \$13,000 in the Estate's bank account, Mr. Bauknight oversaw the repayment of over \$14 Million on the Pullman bond debt seven years ahead of schedule.

(b) Mr. Bauknight engaged Mr. Peter Afterman to lead the marketing of intellectual property of the Estate. The Court notes that Mr. Afterman is a widely-respected Grammy Award winning music manager who also markets the music of the Rolling Stones. Mr. Afterman has been instrumental in marketing the intellectual property of the Estate. Mr. Bauknight hired Mr. Afterman on a deferred-pay basis so that he received payment 15 months after he began work for the Estate.

(c) Mr. Bauknight negotiated an arrangement with Universal Music to set up a fully-staffed division to assist in the marketing of Mr. Brown's music without charge to the Estate or Trust.

(d) Mr. Bauknight secured a deal launching the James Brown YouTube channel.

(e) Mr. Bauknight has recovered the domain name JamesBrown.com, which, prior to its recovery, had been held by an unrelated party for at least a decade. The Court understands that securing this domain name is part of a larger plan to market merchandise related to James Brown and otherwise promote the Estate's business interests and Mr. Brown's legacy. Mr. Bauknight convinced Universal Music to build the JamesBrown.com website without charge to the Estate or

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(f) Mr. Bauknight secured a deal for a documentary on the life of James Brown, to be directed and produced by the world renowned musician and entertainer Mick Jagger. The Court understands that this project has already received funding of over two million dollars, which is extraordinary for a documentary.

(g) Mr. Bauknight secured a deal with *Imagine Pictures* (the production company of Ron Howard and Brian Grazer) and *Jagged Productions* (the production company of Mick Jagger) for the production of a movie on the life of James Brown, to be released in late 2014, directed by Tate Taylor, most recently of the movie, *The Help*, and starring Chadwick Boseman, most recently of the Jackie Robinson biopic, *42*.

(h) Mr. Bauknight is in the process of negotiating a live tribute tour featuring the music of James Brown.

(i) Mr. Bauknight engaged Mr. Steve Gibson at the Grand Ole Opry in Nashville, Tennessee, to lead the digitization of video and audio tapes of James Brown so that it can be preserved for commercial purposes. This project began over a year ago, and will preserve valuable audio and video tapes of James Brown that are in danger of deterioration.

(j) Mr. Bauknight has initiated discussions with a renowned Broadway producer for the creation of a Broadway production based on the music of James Brown.

(k) Mr. Bauknight has overseen and continues to oversee the repair and restoration of Mr. Brown's iconic Beech Island home and the remaining personal property in the home, which was in a state of disrepair and deterioration when Mr. Bauknight first began his fiduciary service to the Estate and Trust.

(l) Mr. Bauknight has negotiated a deal to restore Mr. Brown's remaining personal

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possessions found in a state of disrepair at his Beech Island home.

(m) Mr. Bauknight has resolved most of the creditor's claims against the Estate and has worked diligently with his counsel to move the remaining claim matters forward in an efficient and expeditious manner.

(n) Mr. Bauknight has resolved the Estate matters with the Internal Revenue Service and various state taxing authorities, and has filed all income tax returns for James Brown and the Estate and Trust for all periods, both during his tenure as Personal Representative and during the tenure of the prior fiduciaries, who failed to file any income tax returns.

(o) Mr. Bauknight has successfully resolved a number of IRS audits, including the audit of the estate tax return, which resulted in a refund due from the IRS to the Estate.

(p) Mr. Bauknight hired an investment banking firm on a deferred-pay basis to value the intellectual property of the Estate. The IRS royalty valuation experts examined the valuation report during the audit of the estate tax return and agreed with it.

(q) Mr. Bauknight has established a reserve to fund scholarships for deserving students under James Brown's charitable education trust and created a reserve to pay the educational expenses of Mr. Brown's grandchildren. These reserves have presently grown to over \$1 Million due to the foresight and planning of Mr. Bauknight, and those and future funds will be immediately available when the current litigation is concluded.

(r) Mr. Bauknight successfully terminated engagements for royalty audits entered into by the prior personal representatives, which were based on a 20% contingency fee arrangement, and negotiated more financially favorable fixed-fee arrangements with new royalty auditors. These new agreements will save the Estate approximately \$140,000 on the first audit and significant sums in the future.

(s) Mr. Bauknight has retained attorneys and accountants to represent the Estate and Trust on a deferred-pay basis, which has allowed the Estate and Trust to move forward with administration, while continuing to build and develop the capital required to administer an estate and trust of this size and complexity.

(t) Mr. Bauknight, through his professional contacts, retained other professionals necessary for administration on a deferred-pay or financially beneficial basis.

(u) Mr. Bauknight, in an effort to allow the Estate and Trust to meet all of its obligations and to provide reserves for scholarship funding, has agreed to defer his fiduciary fees and has not yet received any payment from the Estate and Trust for over four years of fiduciary service.

(v) Mr. Bauknight has overseen the successful review and approval of music clearances involving the commercial use of music, including a Super bowl commercial for Volkswagen using the song "*Get Up Offa That Thing*", a Chanel perfume commercial using the song "*It's a Man's Man's Man's World*", and multi-sport Gatorade commercials using the song "*Super Bad*."

(w) Mr. Bauknight and his representatives have successfully represented the Estate in the public arena in a professional manner, promoting James Brown's image and likeness, as well as the activities of the Estate through interviews and media opportunities.

2. When Mr. Bauknight was appointed to serve as Personal Representative there was less than \$13,000 in the Estate bank account and there was no consistent source of revenue to the Estate and Trust. Additionally, there were tens of thousands of dollars in bills due and owing as of the date of his appointment, and tens of millions of claims filed against the Estate. Since that time, Mr. Bauknight has assembled an outstanding team of advisors, attorneys, accountants, and other professionals to establish and secure sources of income, pay off debt, and settle claims, placing the Estate on solid financial footing. Additionally, those advisors and attorneys have

responded to both probate and non-probate claims against the Estate, in both state and federal court throughout the United States (the District Court of California, the Ninth Circuit Court of Appeals, the District Court of Illinois, and the Seventh Circuit Court of Appeals), and have successfully represented the Estate in a professional, efficient, and productive manner.

3. During the more than four years that he has overseen and managed the Estate and Trust, Mr. Bauknight has developed a unique and highly-specialized understanding of the business of the Estate and Trust, its litigation, revenue streams, and liabilities. Given the complexities of the Estate and Trust, there is a need for continuity in the knowledge base for all of the ongoing litigation and business of the Estate and Trust, and Mr. Bauknight and the team he has assembled provide that continuity.

4. The Estate is presently defending against \$10 Million in fee claims filed against it by the previous personal representatives. Adding more personal representatives and trustees, at this time, could detrimentally increase the personal representative and trustee fee burden to the Estate and Trust. The addition of more personal representatives and trustees (and their inevitable separate counsel) would require each to spend a significant amount of time to acquire the institutional knowledge that Mr. Bauknight has developed during his more than four years of service to the Estate and Trust.

5. This Court finds that Mr. Bauknight's significant fiduciary experience, including his prior professional administration of numerous estates and trusts, including a larger estate valued at over \$150 Million, uniquely qualifies him for the job of Personal Representative of the Estate and Trustee of the Trust.

6. The Court is mindful of the ongoing litigation being pursued by Messrs. Kendall Few and Jim Gilreath on behalf of the Estate against former professionals that James Brown

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hired to help manage his music empire. Messrs. Few and Gilreath have already reached confidential settlements with certain defendants. The Court firmly believes that it is in the best interests of the Estate for that litigation to continue unimpeded. Mr. Bauknight has formed a positive working relationship with his counsel, understands and is deeply involved in the litigation. The Court is concerned that adding more personal representatives and trustees to manage the Estate and Trust (and its litigation) could increase the fiduciary fee burden (discussed above at Paragraph 4) and hamper, through multiple decision makers, the conduct of this litigation.

7. Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown are each devisees under the Will and each has nominated Mr. Bauknight to serve as Personal Representative of the Estate in their stead.

8. The Court is aware that certain Applicant parties have raised the issue of whether a conflict of interest exists with respect to Mr. Bauknight's continued role as fiduciary of the Estate and Trust in the ongoing spousal elective share matter, the omitted spouse matter, the omitted child matter, and the legal challenges to the validity of the will and trust that were involved in the settlement agreement (collectively, the "Will and Trust Challenges"). In reviewing the Applicant party challenges, it is important to pause and underscore that the Opinion unequivocally provided that Mr. Bauknight could be re-appointed as fiduciary. The Court does not believe that a conflict of interest exists. Mr. Bauknight was bound, as a fiduciary, to follow the prior settlement agreement. That settlement agreement has now been overturned. Accordingly, Mr. Bauknight has a fiduciary duty and must defend the Will and Trust against all challenges.

Mr. Bauknight has testified that he has no conflict of interest and that he is willing and

capable of fully defending Mr. Brown's Estate plan. This Court has weighed that testimony and finds that neither Mr. Bauknight, nor his counsel, has any conflict of interest that would prevent them from vigorously defending or prosecuting actions on behalf of the Estate and Trust. Mr. Bauknight and his counsel have done an outstanding job prosecuting and defending dozens of legal actions throughout the past four and one-half years. This Court commends Mr. Bauknight and his counsel for the outstanding results they have obtained for the Estate and Trust.

While this Court finds that no conflict of interest exists, out of an abundance of caution and in order to avoid any appearance of impropriety, and to promote the efficient and speedy administration of the Estate and Trust, this Court finds that it is prudent to appoint an independent individual to serve as Limited Special Trustee and as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges.

9. David C. Sojourner, Jr. has been practicing in the area of estate and gift planning and probate administration for more than twenty-six years, and is certified as a specialist in estate planning and probate law and tax law by the South Carolina Supreme Court. Since 2001, Mr. Sojourner has been selected as a member of the American College of Trust and Estate Counsel, and has had specialty training in mediation of issues related to estates, including family disputes. Additionally, Mr. Sojourner has served as a fiduciary in the past and has counseled clients on their obligations and duties in a position as fiduciary. Mr. Sojourner has agreed to serve, so long as his role is limited to defending the Will and Trust Challenges on behalf of the Estate and Trust and his law firm of Adams and Reece LLP can represent him in that role. Given his experience, in addition to the resources of a 300-attorney law firm, Mr. Sojourner is well-suited to serve in the role as Limited Special Trustee and Limited Special Administrator.

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10. This Court appreciates the willingness of the Applicants who have offered to serve as Personal Representative of this Estate and commends them on their exemplary credentials. Specifically, this Court recognizes Judge Dickert's long and distinguished career both in civil practice and judicial service to the State of Georgia; Dr. Grooms' training as a Certified Public Accountant, in addition to his familiarity with bankruptcy issues and consistent service to the courts as expert witness in tax and accounting matters; Mr. Keniley's experience in the entertainment industry and familiarity with protection of intellectual property; and Rev. Fryer's longstanding service to the community both individually and as Pastor to Trinity C.M.E. Church.

11. This Court is mindful of the practical administrative problems the Estate and Trust have encountered as a result of the history of the prior and multiple fiduciary appointments. In an effort to avoid the recurrence of such problems, the Court finds that at this time, it is in the best interests of the Estate and Trust to leave Mr. Bauknight's appointments as Special Trustee and Special Administrator with general fiduciary authority undisturbed. Those appointments shall continue until further order of the Court.

12. The Court is mindful of the substantial claims, both satisfied and outstanding, of prior fiduciaries and their attorneys, accountants, and other advisors, as well as the fact that fees and commissions are still owed to the current fiduciary and his advisors. This Court is convinced that, given the extensive, complex and continuing litigation, including specifically the litigation involving allegations of fiduciary misconduct, the appointment of multiple fiduciaries at this time will inevitably involve the retention of multiple additional attorneys to advise the newly-appointed fiduciaries. I find that it is simply not practicable for the Estate and Trust to bear the additional cost and expense associated with multiple additional fiduciaries and their

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separate attorneys and other professional advisors at this important time. For these and other reasons this Court has noted, I find it is in the best interests of the Estate and Trust that a single fiduciary continue to administer and manage the business of the Estate and Trust until it is demonstrated that the Estate and Trust can satisfy the tremendous liabilities already created by the service of the many prior fiduciaries and their professional advisors.

13. The tumultuous history of the Estate and Trust and the litigation surrounding the same, juxtaposed to the list of Mr. Bauknight's accomplishments detailed above, leaves this Court with the firm factual conclusion that it is in the best interests of the Estate and Trust for Mr. Bauknight to serve, in the interim, as the sole Personal Representative and sole Trustee. The Court's factual conclusion is also driven by recognition of the considerable expense that the Estate and Trust will incur from the appointment of additional personal representatives and trustees, at this time. Moreover, the Court notes the need for consistent and streamlined administration of the Estate and Trust during this critical time frame.

14. Mr. Brown passed away nearly seven years ago. The Court uses the language—*this critical time frame*—because that is where the Estate and Trust find themselves. As detailed above, under Mr. Bauknight's leadership, the Estate and Trust are poised to launch a series of public events (the documentary, the life story movie, etc.) that should re-catapult James Brown and his musical legacy onto the world stage. These actions should have a tremendous positive impact to the Estate and Trust, both in terms of good will and financial gain. In turn, these actions should greatly benefit Mr. Brown's testamentary plan for scholarships for children in financial need through increased funding of the scholarship reserves.

Because the Estate and Trust are at a critical time frame, the Court is reluctant to interrupt these gains. Overlaying the Court's concern is the existence of the Will and Trust Challenges.

Certain family members of James Brown are presently challenging the validity of the Will and Trust, and in doing so are, in part, challenging the validity of the requirement that three individuals serve as Personal Representative and Trustee. Since James Brown's death, the Estate and Trust have been overseen by only one set of three Personal Representatives and Trustees—Dallas (who sought to evade the jurisdiction of this Court by moving the situs of the Trust to Georgia and has since filed for bankruptcy), Cannon (who entered an *Alford* plea to felony indictments charging him with fraudulently taking over \$8 Million of James Brown's money), and Bradley (now deceased). Each of these men resigned from their positions, under a cloud, after information and documents were discovered that questioned the motive and faithfulness of their fiduciary service (these three fiduciaries also intended to charge Mr. Brown's Estate "administrative fees" up to 50% of the Estate's income). Because the Will and Trust are presently subject to litigation, I find that at this pivotal time, it is in the best interests of the Estate and Trust to maintain a single fiduciary to oversee the administration and management of the Estate and Trust. The Court underscores the point that this is an interim decision.

15. During this crucial time frame, the Court firmly believes that it is in the best interests of the Estate and Trust for Mr. Bauknight to continue to oversee the administration and management of the Estate and Trust, while Mr. Sojourner defends the Estate plan. Upon the conclusion of all Estate litigation, this Court will revisit this interim determination. Accordingly, I find that it is in the best interests of the Estate and Trust that, on an interim basis, Mr. Bauknight be appointed as the Personal Representative of the Estate and Trustee of the Trust, and that Mr. Sojourner be appointed as the Limited Special Trustee and Limited Special Administrator to oversee the Will and Trust Challenges. Mr. Sojourner is hereby ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed

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discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

CONCLUSIONS OF LAW

1. I find that this Court has jurisdiction to hear this matter and that venue is proper. All of the interested parties have been notified of the request for applications to serve as Personal Representative of the Estate and Trustee of the Trust, and have been given an opportunity both to nominate a candidate and oppose the applications filed by the Applicants.

2. The Opinion, which is the law governing this case, requires this Court to, "upon proper application, appoint fiduciaries to oversee . . . matters in accordance with the provisions for succession outlined in Brown's trust and estate documents." *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013). Furthermore, this Court "may consider . . . whether [Mr.] Bauknight should be appointed to fill a fiduciary position." *Id.* at 449, 743 S.E.2d at 767.

3. The South Carolina Probate Code provides that in order to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person first must be appointed by order of the court. S.C. Code Ann. § 62-3-103 (1976). S.C. Code Ann. § 62-3-203(a) delineates the order of priority with respect to the appointment of a successor personal representative:

- (1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;
- (2) the surviving spouse of the decedent who is a devisee of the decedent;
- (3) other devisees of the decedent;
- (4) the surviving spouse of the decedent;
- (5) other heirs of the decedent regardless of whether the decedent died intestate and determined as if the decedent died intestate;
- (6) forty-five days after the death of the decedent, any creditor; and
- (7) four months after the death of the decedent, upon application by the South Carolina Department of Revenue, a person suitable to the court.

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Unless a contrary intent is expressed in the will, subsection (a)(8) allows "a person with priority under subsection (a) [to] nominate another" person. That nominee "shall have the same priority as the person making the nomination." *Id.* Additionally, although lack of priority is not a bar to appointment, according to S.C. Code Ann. § 62-3-203(d), before appointing one without priority, the Court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

In this case, subsection (a)(1) does not apply because the personal representatives named in the Will all have resigned and have not named successor personal representatives. Moreover, there is no "advisory board" currently in effect, as referenced in the Will and Trust. Subsection (a)(2) is inapplicable because, notwithstanding her claim to be surviving spouse, Tommie Rae Hynie Brown is not a devisee under the Will. Therefore, the highest priority of appointment rests with other devisees of the decedent under subsection (a)(3). Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown each are devisees under the Will, and each are allowed to nominate an individual to serve as Personal Representative of the Estate under subsection (a)(8). Because those devisees have nominated Mr. Bauknight for appointment, and there have been no other nominations by any other devisee, Mr. Bauknight has the highest priority under the terms of S.C. Code Ann. § 62-3-203. Because this Court is appointing the Applicant with the highest statutory priority for appointment as Personal Representative of the Estate, S.C. Code Ann. § 62-3-203(d) is inapplicable to the case at bar.

Based on the foregoing, I find and conclude that among all the applications filed in this matter, Mr. Bauknight has the highest statutory priority to serve as Personal Representative of the Estate under S.C. Code Ann. § 62-3-203.

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4. S.C. Code Ann. § 62-3-414(a) outlines the fourteen requirements of a formal and proper application for appointment. According to that section, a petition must provide (1) a description of the question relating to qualification of the personal representative which is to be resolved, and also must contain the statements required by S.C. Code Ann. § 62-3-301(a)(1). Those statements, which (2) *must be certified* by the applicant to be accurate and complete to the best of his knowledge and belief, S.C. Code Ann. § 62-3-301(a), may either be incorporated into the petition or adopted from a prior filing, and shall include: (3) A statement of the interest of the applicant; (4) Decedent's name; (5) Decedent's date of death; (6) Decedent's age; (7) Decedent's county and state of domicile at time of death; (8) Names and addresses of the spouse, children, heirs and devisees; (9) The ages of any children, heirs, or devisees who are minors so far as known or ascertainable with reasonable diligence; (10) A statement showing venue, if the decedent was not domiciled in the State at the time of his death; (11) A statement identifying and indicating the address of any personal representative of the decedent appointed in this State or elsewhere whose appointment has not been terminated; (12) a statement indicating whether the applicant has received a demand for notice, or is aware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere; and (13) A statement that the time limit for appointment has not expired. S.C. Code Ann. § 62-3-301(a)(1).

Additionally, in 2010, S.C. Code Ann. § 62-3-414(b) was amended to clarify that *both* "a summons and petition are required to commence a formal proceeding, including a formal proceeding concerning appointment of a personal representative as referred to in [S.C. Code Ann. § 62-3-414]." South Carolina Reporter's Comments (2010 Revision), S.C. Code Ann. § 62-3-414. Thus, the applicant also must (14) serve the petition, *along with a summons*, on all

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interested persons, including all persons interested in the administration of the estate as successors, any previously appointed personal representative, and any person having or claiming priority for appointment as a personal representative. S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Dickert is defective because it was filed not by him, but by letter of recommendation from Mr. Bell. Therefore, it was not certified by Mr. Dickert to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-414(b). Additionally, while the application of Mr. Dickert did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Grooms is defective because, while it did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not certified by Mr. Grooms to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

The application filed by Mr. Keniley is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, although the application was served on this Court, it was not served along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not

certified by Mr. Keniley to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Finally, the application filed by Rev. Fryer is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, the application was not served along with a summons on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b), but instead was e-mailed after the July 29, 2013 deadline set by this Court. Additionally, it was not certified by Rev. Fryer to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Based on the foregoing, I find and conclude that only Mr. Bauknight has met the statutory requirements of filing a "proper application" for appointment of Personal Representative of the Estate and Trustee of the Trust as required by the Opinion and this Court's June 13, 2013 Order.

5. Based upon the applications filed and testimony received in the hearings held on September 4 and 11, 2013, I find that no applicant for Personal Representative and Trustee had any previous experience serving as a fiduciary of any Estate or Trust, other than Mr. Bauknight and Mr. Grooms. In addition, no applicant other than Mr. Bauknight has experience serving as a fiduciary in any matter as complex as the James Brown Estate and Trust, or in any matter involving the music industry. Additionally, this Court takes note that Mr. Grooms has filed with

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this Court, subsequent to his testimony, a letter supporting the appointment of Mr. Bauknight as Personal Representative and Trustee.

6. Based upon my nearly seven years of experience with these matters as they have appeared before this Court, and after careful review of the Will and Trust, all applications filed by the Applicants, the testimony proffered by all Applicants, and the party objections filed in opposition to the Applicants, I find, as a matter of law and fact, that it is in the best interests of the Estate and Trust at this time to appoint Russell L. Bauknight as Personal Representative of the Estate and Trustee of the Trust. Moreover, given the considerable expense to the Estate and Trust that the appointment at this time, of additional personal representatives and trustees would entail, as well as the need for consistent and streamlined administration of the Estate and Trust during this critical time frame, I find that it is in the best interests of the Estate and Trust to appoint Mr. Bauknight as the sole Personal Representative of the Estate and sole Trustee of the Trust on an interim basis. Mr. Bauknight is well-qualified and willing to serve in these fiduciary capacities. At this pivotal time, I find that to interrupt Mr. Bauknight's continuing professional administration of the Estate and Trust would not be in the best interests of the Estate, the Trust, or the beneficiaries and potential beneficiaries. I find that it is simply not practicable to appoint additional fiduciaries at this time when the Estate lacks the funds to pay the claims of prior fiduciaries and their legal counsel and is currently unable to pay the current fiduciary and his legal counsel. However, as noted above, this interim appointment will be revisited by this Court at the conclusion of all Estate litigation.

7. In addition, and in order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds that it is in the best interests of the Estate and Trust for Mr. David C. Sojourner, Jr. to be appointed as Limited Special

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Trustee and Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges until final resolution thereof. This interim appointment is made with the requirement that Mr. Sojourner, in his limited capacity, shall remain independent from Mr. Bauknight, shall act with sole and absolute authority in his limited capacity, and will retain Adams and Reese LLP to represent him in the Will and Trust Challenges.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. Russell L. Bauknight is hereby appointed as the Personal Representative of the Estate and Trustee of the Trust effective immediately, with full, absolute, and exclusive authority to carry out the Estate's administration and the Trust's administration, and all business and matters related thereto, and shall specifically have the authority and power to act on behalf of, and bind, the Estate and the Trust for all purposes, except as limited by the appointment of the Limited Special Trustee and Limited Special Administrator described below.

2. David C. Sojourner is appointed as Limited Special Trustee for the sole, exclusive, and specific purpose of defending the Trust in the Will and Trust Challenges, until final resolution thereof, and is authorized to retain Adams and Reese LLP to represent him in such matters.

3. Mr. Sojourner is ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

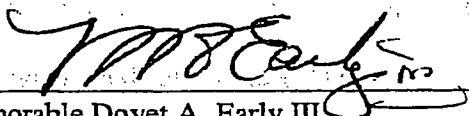
4. Mr. Bauknight's prior appointments as Special Trustee and Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the Court.

5. No bond is required to be posted in connection with these appointments.

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6. This Interim Order is temporary. The Court will revisit the appointment of fiduciaries upon the conclusion of all Estate litigation.

IT IS SO ORDERED.


The Honorable Doyet A. Early III

Oct
~~September~~ 1, 2013.

Bamberg, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan McMaster

AIKEN COUNTY
CLERK OF COURT
J Brown
Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney L. ~~_____~~

Lindsey Delores Brown
Vanisha Brown
Deanna J. brow Thomas
Yamma N Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:
ORDER INFORMATION

PER ADMINISTRATIVE ORDER OF JUDGE EARLY – THE NEW CIVIL ACTION NUMBER ENTITLED “IN RE; JAMES BROWN; REVIEW OF FEES PAID IN CASE 1647 APPEAL ON MAY 26 2009 SETTLEMENT AGREEMENT” – **2013CP0201348.**

PER THE ORDER – EACH IS TO SUBMIT TO THIS COURT AN ELECTRONIC AND HARD COPY STATEMENT OF THE ATTORNEY’S FEES AND TRUSTEES FEES PAID BY THE ESTATE IN RELATION TO THIS ACTION. THIS MUST BE DONE WITHIN 45 DAYS OF THIS ORDER.

Additional Information for the Clerk: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

6/13/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on 6-13-13, and a copy mailed first class or placed in the appropriate attorney's box on 6-13-13, to attorneys of record or to parties (when appearing pro se) as follows:

J. David Black PO Drawer 2426 Columbia, SC 292022426
William W. Wilkins PO Drawer 10648 Greenville, SC
296030648
Eugene C Covington Jr. (Albert Dallas), Adele Pope, Robert
Buchanan, James Bailey, James B Richardson, Wayne R
Byrd, David G Cannon, Oshun C Hinton (Hollander)

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard
Liz Godard - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FILED 6.13.13

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Liz Godard
J.C.C.P. & G.S.
Anita Knepper 11/30/13
Deputy Clerk IN THE COURT OF COMMON PLEAS
(ON REMOVAL FROM PROBATE COURT)

IN RE:

THE ESTATE OF JAMES BROWN
A/K/A: JAMES JOSEPH BROWN

ADMINISTRATIVE ORDER

✓ Case No.: 2008-CP-02-1647 - original
Case No.: 2007-CP-02-0122 } cert copy
Case No.: 2008-CP-02-0872 }

On May 29, 2013 this Court held a status conference concerning *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013), the South Carolina Supreme Court's May 8, 2013 Opinion (the "Opinion") affirming, reversing, and remanding this Court's May 26, 2009 order confirming the James Brown Estate and Trust Settlement Agreement.

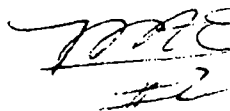
In the Opinion, the Supreme Court affirmed this Court's decision to remove Ms. Adele J. Pope from her fiduciary positions. The Supreme Court noted that: "an irreconcilable conflict existed between [Ms. Pope] and the settling parties because [Ms. Pope] had expressed continuing opposition to their actions." *Wilson*, * 19. Accordingly, the Supreme Court held that, "the circuit court had cause to remove [her] and replace [her] with a professional fiduciary." *Id.* The Supreme Court went on to note that "the extreme discord between the parties convince us that [Ms. Pope's] continued service as [a] fiduciar[y] is not in the best interest of the estate." *Id.*

The Supreme Court also found that this Court did not violate the statutory provisions regarding the removal of Ms. Pope as she had asserted that she was removed without this court complying with procedural mandates or for justifiable reasons. The Opinion further stated that that this Court had cause to remove her as it was not in the best interest of the estate. The Justices noted that the parties remained at odds over the handling of estate matters.

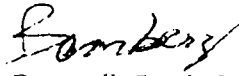
The Supreme Court referenced specific actions that it relied on in holding that Ms. Pope's service as a fiduciary was not in the best interest of the estate. The opinion specifically mentioned the \$5 million dollars in fees she sought as fiduciary for a relatively short interval of time, paying her own fees from a large portion of the funds raised from selling iconic assets, and attempting to sell a GRAMMY award. The Supreme Court found no error in this Court removing Ms. Pope from her fiduciary positions.

Despite the South Carolina Supreme Court's Opinion, 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 party to these proceedings.

This Court is aware that Ms. Pope has filed a separate fee petition for Personal Representative and Trustee commissions. If Ms. Pope's fee petition is litigated, then pursuant to past practices, the Probate Court is hereby directed to assign the case to the Circuit Court, and the Clerk of Court is hereby directed to assign Mrs. Pope's fee petition a separate case number. Ms. Pope's filings relating to her fee petition shall then be filed under that case number.

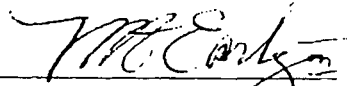
A handwritten signature in dark ink, appearing to read "POPE", with a horizontal line underneath it.

AND IT IS SO ORDERED.



~~Barnwell~~, South Carolina

June , 2013



The Honorable Doyet A. Early, III
Chief Administrative Judge
Second Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN RE:

THE ESTATE OF JAMES BROWN
A/K/A: JAMES JOSEPH BROWN

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

JUN 13 2013

C.C.P. & G. A. Aiken County, S.C.

Deputy Clerk

CUT
ORIGINAL FILED
Exhibit B
JUN 24 2013
AIKEN COUNTY
CLERK OF COURT

IN THE COURT OF COMMON PLEAS
(ON REMOVAL FROM PROBATE COURT)

ADMINISTRATIVE ORDER

Case No.: 2008-CP-02-1647 - original
Case No.: 2007-CP-02-0122
Case No.: 2008-CP-02-0872
Case No.: 2008-CP-02-0322
Case No.: 2010-CP-02-0721
Case No.: 2012-CP-02-1059
Case No.: 2008-CP-02-1426
Case No.: 2008-CP-02-1712
Case No.: 2008-CP-02-2127
Case No.: 2008-CP-02-1556
Case No.: 2008-CP-02-1557
Case No.: 2008-CP-02-1758
Case No.: 2008-CP-02-1759

cert/copy

On May 29, 2013 this Court held a status conference concerning *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013), the South Carolina Supreme Court's May 8, 2013 Opinion (the "Opinion") affirming, reversing, and remanding this Court's May 26, 2009 order confirming the James Brown Estate and Trust Settlement Agreement.

At the beginning of the status conference, the Court informed all parties of the following:

(1) that the parties will follow standard motions practice protocol (i.e., motion cover sheet, motion, filing fee, etc.) and that a memorandum in support of each motion must be filed contemporaneous with the filing of the motion, motions not supported by a memorandum will not be set for hearing; (2) that the Court will impose time limits for motions arguments by following the time limits set by the South Carolina Appellate Court Rules, unless otherwise noted; (3) that due to the outdated Clerk of Court records for the following thirteen (13) James

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Brown related cases pending in Aiken County, the Court will issue administrative orders and/or scheduling orders addressing each case; and (4) that the Court intends to, and expects the parties to move all of the appropriate cases forward in an expeditious manner that provides for structured and efficient administration of the estate and trust.

At the status conference, the Court heard from the following attorneys: Louis Levenson, counsel for several of James Brown's children/grandchildren; Alan Medlin, counsel for Tommie Rae Hynie Brown; Adele Pope, former fiduciary; C. Havird Jones, Jr., Asst. Deputy South Carolina Attorney General; David Bell, counsel for Terry Brown; J. David Black and William Newsome, counsel to Mr. Bauknight, currently serving Special Administrator of the James Brown Estate and Special Trustee of the James Brown 2000 Irrevocable Trust Agreement. At the close of the conference, the Court informed the attorneys that administrative orders would be issued to ensure orderly administration of the litigation of all pending James Brown cases.

The Court has reviewed the Clerk of Court's case files for the above listed civil action numbers, and because several cases date back to 2007, the captions as well as the represented party records are no longer accurate. In order to create a proper record for the Clerk of Court as to each civil action, the Court hereby enters the following administrative orders in the following cases:

1. 2008-CP-02-1647: James Brown Will and Trust Challenges

On May 8, 2013, the Supreme Court of South Carolina handed down its Opinion; the Opinion remanded the will and trust challenges to this Court; hereafter Case 1647 will be used for the James Brown will and trust litigation. The will and trust litigation involves claims challenging the validity of the will and trust, spousal claims, and an omitted child claim; if the litigation of these separate types of claims proves cumbersome, the Court will entertain a motion to sever any of these claims, and assign it a separate civil action number. Pursuant to the South

Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1647:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. James Bailey (former counsel to Pope and Buchanan)
- D. James B. Richardson (appellate counsel to former fiduciaries Pope and Buchanan)
- E. Alfred A. Bradley (deceased)
- F. Albert H. Dallas (former fiduciary)
- G. Wayne R. Bird (former counsel to former fiduciary Albert H. Dallas)
- H. Eugene C. Covington (current counsel to former fiduciary Albert H. Dallas)
- I. David G. Cannon (former fiduciary)
- J. Jacquelyne Hollander (party to Case 1059)

The court will enter a separate scheduling order concerning the will and trust litigation.

In terms of reviewing fees paid in Case 1647, the Opinion directed that this Court undertake the following: "review the propriety of all fees, including attorneys' fees and trustees' fees, paid in relation to this action, and shall order all unearned fees or unapproved fees to be disgorged and returned to Brown's Estate." The Court further held that all other persons, firms, entities, or others who have been paid fees, including attorney's fees and Trustee fees, in relation to this action are likewise directed to submit their statement of fees paid in accordance with this Order. This Court directs the Clerk of Court to open a new civil action entitled: "In re James Brown: Review of fees paid in Case 1647 appeal of May 26, 2009 settlement agreement." Once the new civil action is open, the Clerk of Court is directed to send notice of the new civil action to all current parties of record in Case 1647, and the above individuals, former parties and attorneys (see above: A-J), and direct that each submit to this Court an electronic and hard copy statement of the attorney's fees and trustees fees paid by the Estate in relation to this action. This must be done within 45 days of this order.

2. Will and Trust Contest Fiduciary Administration (Case 1647)

In the Wilson v. Dallas, --- S.E.2d ---, 2013 WL 2005103 (2013), May 8, 2013 Opinion, the majority of the South Carolina Supreme Court also directed this Court, upon proper application, to appoint fiduciaries to oversee these matters in accordance with the provisions for succession outlined in the estate and trust documents. The opinion allows this Court to consider Mr. Bauknight filling a fiduciary position. All "applications" for such appointment must be made within 45 days of this Order with supporting documentation. Until further Order of this



Court, Mr. Bauknight shall continue to conduct the orderly administrative duties of the estate and trust as Special Administrator and Special Trustee.

3. 2007-CP-02-0122: Dallas, Bradley, and Cannon Matters

Former fiduciaries Albert H. Dallas, Alford Bradley (now deceased), and David Cannon appealed their resignations/removal as fiduciaries under Case 122. On October 20, 2010, pursuant to Mr. Bauknight's Motion, the Supreme Court dismissed the Dallas and Bradley appeal wherein they sought to return to their prior fiduciary positions, leaving in place the April 8, 2008 Order confirming that the prior fiduciaries cannot return to any position of trust and confidence with respect to the Estate of James Brown or the Trust.

Other Matters concerning Case 122:

Pursuant to this Court's April 8, 2008 Order, a hearing will be scheduled to determine payment of costs and attorney fees by Cannon and Dallas. The April 8, 2008 Order provides for the payment of costs and attorney fees expended in the removal/resignations of Dallas, Bradley, and Cannon. The April 8, 2008 Order provided that the amounts owed will be "determined by affidavits and brief arguments (without testimony)."

Pursuant to the South Carolina Supreme Court's Opinion, and the South Carolina Supreme Court's October 20, 2010 Order Dismissing the Dallas and Bradley Appeal, the following individuals, former parties and/ or attorneys are removed from Case 122:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. James Bailey (former counsel to Pope and Buchanan)
- D. James B. Richardson (appellate counsel to former fiduciaries Pope and Buchanan)
- E. Alfred A. Bradley (deceased)
- F. Ca Reid Sr. Memorial Funeral Home (claim resolved)
- G. Greenberg Taurig (claim withdrawn, defendant in case 322)
- H. Rita Udom (claim resolved)
- ~~I. Peter John Nosal (claims counsel to Rita Udom)~~

For the limited purpose of the fee hearing noted above, Albert H. Dallas and David G. Cannon shall remain parties to this action in their individual capacities. Upon the conclusion of that proceeding, they will be removed as parties to Case 122.

All persons claiming the payment of fees and costs in Case 122 must submit their affidavits and briefs to this Court within 45 days of this Order. Those opposing will have 45 days to file their position.

4. 2008-CP-02-0872: Will, Trust, and Personal Property Matters

This action also concerns the will and trust challenges, but also includes personal property matters. Case 872 will be collapsed into Case 1647; the Clerk of Court is directed to close Case 872. Further, pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 872:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. James Bailey (former counsel to Pope and Buchanan)
- D. James B. Richardson (appellate counsel to former fiduciaries Pope and Buchanan)
- E. Alfred A. Bradley (deceased)
- F. Albert H. Dallas (former fiduciary)
- G. Eugene C. Covington (current counsel to former fiduciary Albert H. Dallas)

5. 2008-CP-02-322: State Law Case against former James Brown Advisors

This action was brought on behalf of the James Brown Estate and Trust by attorneys James R. Gilreath and Kendall J. Few. Mr. Bauknight has reached favorable settlements with both Morgan Stanley and Phil Farr.

Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 322:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. Phillip G. Farr, CPA (settled with Mr. Bauknight)
- D. Keith Emge (former counsel to Mr. Farr)
- E. Morgan Stanley (settled with Mr. Bauknight)
- F. Max Pickelsimer (former counsel to David Cannon)
- G. Arthur J. Davidson (former counsel to Mr. Dallas)
- H. Audra Byrd (former counsel to Mr. Dallas)

The Court will schedule Mr. Bauknight's Motion to Amend the Complaint during the next term of court.



6. 2010-CP-02-0721: State Law Case: Severed case against Buddy Dallas post-bankruptcy

This matter is a companion case to Case 322. It was severed from Case 322 upon Mr. Bauknight learning that Dallas was contemplating bankruptcy protection. Until this court directs otherwise, this case will continue on parallel track to Case 322.

7. 2012-CP-02-1059: Jacquelyne Hollander VII

This is the seventh action filed by Jacque Hollander against the James Brown Estate and Trust. The previous actions were dismissed by courts in Illinois and California. However, Mr. Bauknight's motion for sanctions based upon vexatious litigation history is currently pending in the United States District Court for the Northern District of Illinois.

On June 14, 2012, Mr. Bauknight filed a motion to dismiss the seventh action with prejudice. The Court will schedule Mr. Bauknight's motion to dismiss during the next term of court.

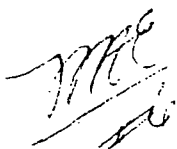
8. 2010-GS-06-137; 139: David Cannon Restitution (General Sessions Proceeding)

Mr. Bauknight moved the circuit court to reconsider restitution from Mr. Cannon. The Honorable George C. James, Jr., granted Mr. Bauknight's Restitution motion, and issued an Order providing that any presiding Circuit Judge may hear the restitution matter. It is this Court's understanding that the parties are currently communicating with Judge James regarding possible hearing dates. In the event that Judge James is unavailable, Mr. Bauknight is granted leave to request that the restitution matter be heard by this Court.

9. 2008-CP-02-1426: Creditor's Claim of Albert H. Dallas

Former fiduciary Albert A. Dallas filed a creditor's claim in the amount of \$624,876 for alleged unpaid legal fees as of the date of Mr. Brown's death, plus claims for PR commissions and Trustee commissions and various percentages of revenue streams from Mr. Brown's intellectual property in an amount to be determined. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1426:

A. Adele Pope (former fiduciary, pro se)



B. Robert Buchanan (former fiduciary, pro se)

10. 2008-CP-02-1712: Creditor's Claim of Rodney Peeples

Rodney Peeples filed a creditor's claim for legal services provided to former PRs and Trustees Dallas and Bradley in the amount of \$97,851.66. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1712:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. James Bailey (former counsel to Pope and Buchanan)

11. 2008-CP-02-2127: Creditor's Claim of Internal Revenue Service

The Internal Revenue Service filed a creditor's claim for income taxes owed by Mr. Brown for tax years 2004, 2005 and 2006 in the amount of \$177,814.85. The IRS has since acknowledged that there is no liability for 2006 and they have reduced their claim to approximately \$70,000. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 2127:

- A. Adele Pope (former fiduciary, pro se)
- B. Robert Buchanan (former fiduciary, pro se)
- C. James Bailey (former counsel to Pope and Buchanan)

12. 2008-CP-02-1556: Creditor's Claim of Charles Bobbitt

Charles Bobbitt filed a creditor's claim based on an alleged agreement by Mr. Brown to pay Mr. Bobbitt \$200,000 from the proceeds of the refinance of the Pullman bond. The court will enter a separate scheduling order concerning this matter.

13. 2008-CP-02-1557: Creditor's Claim of Intrigue Music Management

Intrigue Music Management filed a creditor's claim for alleged commissions as Mr. Brown's business manager due as of Mr. Brown's death and afterwards in the amount of \$175,000+. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1557:

- A. James Bailey (former counsel to Pope and Buchanan)



14. 2008-CP-02-1758: Creditor's Claim of LaRhonda Pettit

LaRhonda Pettit filed a creditor's claim claiming to be a child of Mr. Brown and therefore owed support during her minority in an amount to be determined, and also for a share of the estate. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1758:

A. Adele Pope (former fiduciary, pro se)

15. 2008-CP-02-1759: Creditor's Claim of Nicole Paris

Nicole Parris filed a creditor's claim claiming to be a child of Mr. Brown and therefore owed support during her minority in an amount to be determined, and also for a share of the estate. The court will enter a separate scheduling order concerning this matter. Pursuant to the South Carolina Supreme Court's Opinion, the following individuals, former parties and/ or attorneys are removed from Case 1759:

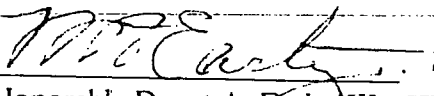
A. Adele Pope (former fiduciary, pro se)

B. James Bailey (former counsel to Pope and Buchanan)

16. Other Administrative Issues:

Mr. Bauknight is directed to coordinate with the Clerk of Court to ensure that all Aiken County civil actions comply with the Supreme Court's Opinion. To the extent that he is not already named as the currently serving court appointed Special Administrator of the James Brown Estate and Special Trustee of The James Brown 2000 Irrevocable Trust Agreement, this Court hereby directs the Aiken County Clerk of Court to list Mr. Bauknight as the responding party, in those current fiduciary capacities, until directed by further order of this court.

AND IT IS SO ORDERED.


The Honorable Doyet A. Early, III
Chief Administrative Judge
Second Judicial Circuit

Barnwell, South Carolina
June 13, 2013

EXHIBIT 4

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Robert L. Buchanan, Jr. and Adele J. Pope
as Trustees of the James Brown 2000
Irrevocable Trust and as Personal
Representatives of the Estate of
James Brown, deceased

Plaintiffs,

v.

Deanna J. Brown Thomas, Yamma N. Brown
OF

Lumar, Venisha Brown, Daryl J. Brown, Larry
Brown, and Terry Brown, each individually
and as parent and natural guardian of his
and her minor and unborn issue; Romunzo
Brown, Forlando Brown, Tonya Brown,
Sydney L., Carrington L., Jason
Brown-Lewis, Lindsey Delores Brown and
Janise Vanisha Brown; Henry Dargan
McMaster, in his capacity as Attorney General
for the State of South Carolina; Tommie Raye
Hynie Brown; and James B., a minor,
by Stephen Slotchiver, his guardian ad litem,
Defendants.

) IN THE PROBATE COURT
) PROBATE COURT
) #2007-ES-02-0056

FILED 4-1-08
Liz Godard
C.C.P. & G.S.
Aide Smith 9:35 am
Deputy Clerk

SUPPLEMENTAL ORDER
DIRECTING EXECUTION

CONTRACT AND SALE

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

APR 02 2008

Liz Godard
C.C.P. & G.S., Aiken County, S.C.
Aide Smith
Deputy Clerk

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This matter came before me on March 31, 2008 upon request of Robert L.
Buchanan, Jr. and Adele J. Pope, Personal Representatives of the Estate of
James Brown and Trustees of the James Brown 2000 Irrevocable Trust (the
"PR/Trustees") that the Court issue a supplemental order directing them to
execute the contract with Christie's and proceed with the sale as contemplated in
this Court's final Order Approving Sale of Tangible Personal Property (TPP)
dated February 20, 2008.

The February 20th Order, which was not appealed, provided in part:

1. Within 10 days after distribution by the PR/Trustees of the Estate Tax Valuation of TPP being performed by Christie's and of Christie's plan for sale of items, with identification of items, any party desiring to withhold items shall notify the PR/Trustees of items they desire to withhold in order of importance.
2. Within a reasonable time, the PR/Trustees shall, in their sole discretion, designate items to be sold and not sold.
3. Within 10 days after distribution of the final proposal, the Court shall conduct a hearing if, and only if, there are valid specific objections. Any party found to be delaying the sale may be charged with the costs of delay.
4. If possible, the sale or sales by Christie's or any other agent/auctioneer will be conducted on or before August 1, 2008.
5. The PR/Trustees shall have sole discretion as to the terms of the contract, but will consult with interested counsel.
6. The PR/Trustees are authorized to put such pieces as they select on loan to one or more museums, for a period not to exceed 3 years, so that such items may be preserved for future distribution to beneficiaries, as appropriate, with assurances for proper insurance and security for all items put "on loan".
7. Pieces not sold by Christie's or other agent/auctioneer may be sold by the PR/Trustees in their sole discretion at one or more, or a series of, separate auctions/private sales, if additional funds are necessary, provided notice is given to potential heirs and devisees.
8. Any of above pieces, in the sole discretion of the PR/Trustees, may be retained and added to House Museum purchase as described below.
9. The PR/Trustees are authorized to prepare and disseminate images of the home and assets as necessary to carry out the above proposal, including all public advertising they deem appropriate.

The February 20th Order also directed that anyone intentionally interfering with the Order and the Christie's sale would be charged with all costs and losses resulting therefrom.

On or before February 27, 2008, all parties were given the Christie's Selection for Sale and the estate tax valuation as provided in the February 20th Order. The last day to designate items requested to be withheld, in order of importance, was March 10, 2008. No party timely submitted a designation in accordance with the Order. Various parties objected, but the Court deemed the objections untimely or not in conformity with the February 20, 2008 order.

The Selection for Sale by the PR/Trustees was served on all parties on March 21, 2008.

Pursuant to the February 20th Order, only a party with a valid objection to the selection was to be granted a hearing, with the hearing to take place within 10 days of the Selection for Sale.

On March 25, 2008 Plaintiffs requested a brief hearing within the 10 day period for the sole purpose of asking the Court to issue its Order Directing Execution of Contract and Sale. The request was accompanied by an affidavit of Robert L. Buchanan, Jr. confirming the continued grave financial situation of the Estate/Trust and the inability of the Estate/Trust to, provide security for the Tangible Personal Property and defend the Estate Plan of Mr. Brown.

On March 28, 2008 Deanna J. Brown Thomas, Yamma N. Brown Lumar, Venisha Brown, Daryl J. Brown and Larry Brown, each individually and as parent and natural guardian of his and her minor and unborn issue, filed two separate motions objecting to the sale and requesting an extension.

Because of the emergency nature of the Court's February 20, 2007 final Order for Sale of Tangible Property, Plaintiff PR/Trustees filed an opposing

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Affidavit and asked the Court to proceed with directing the execution of the Christie's contract and the sale. Plaintiffs also asked the Court to find that the above defendants have intentionally interfered with the sale and should be charged with all costs and damages resulting from the delay. They assert that those damages are at least:

- a. \$4,000 per week, payable Friday, April 4, 2008 and every week thereafter until Christie's has taken possession of the Selection for Sale, such funds to be directly applied for the protection and security of the home and TPP.
- b. All insurance with respect to the home and/or its content due after April 4, 2008, upon 10 days written notice to their counsel.
- c. All losses, up to \$2 Million, resulting from the failure to deliver all TPP to Christie's and selected institutions by April 10, 2008.
- d. Losses related to inability to pay real estate taxes.
- e. All other losses and damages, in an amount to be determined, proximately caused to the Estate/Trust by delay in issuance or implementation of the Court's February 20, 2008 Order or the supplemental Order directing sale.

The Court finds that the emergency condition in which the Estate/Trust found itself on February 20, 2008 has worsened. The PR/Trustees have responded to that emergency with a plan which must be immediately implemented to avert financial disaster.

The Court further finds that the moving parties and all others have had more than adequate time and opportunity to review the assets and the Selection for Sale. The Court finds that neither the moving parties nor any others made a valid, specific and timely objection to the PR/Trustees' Selection for Sale.

The PR/Trustees also called to the Court's attention an offer made by Defendant Terry Brown, received by Mrs. Pope on March 28, 2008, and by Mr.

Buchanan on March 29, 2008, for purchase of all Tangible Personal Property shown in the Christie's Estate Tax Appraisal for \$2 Million. The PR/Trustees advised the Court that they intended to reject the offer, in part, because it calls for the sale of more than 600 lots of TPP, rather than the approximately 395 of the Christie's sale. The Court notes that neither Mr. Terry Brown, nor any of the five children who moved for an extension to object to the sale, has paid the \$84,933.00 (each) Estate Taxes which have been overdue since September 25, 2008. This approximately \$500,000, constitutes part of the funds needed from the sale.

Plaintiff PR/Trustees also called to the Court's attention that five of the moving parties, acknowledged children of James Brown, should not be allowed to delay a sale which will generate funds necessary defend Mr. Brown's Will and Trust, which they are seeking to set aside. The PR/Trustees assert that by contesting the Will and Trust these parties have subjected themselves to forfeiture of all interest under the In Terrorem clauses of the Will and Trust. They assert that the children no longer have any special status with respect to the TPP. The moving children dispute this assertion. Without prejudice to the final outcome, this Court finds that the PR/Trustees under Franklin vs. Chavis, 640 SE 2d 873(S.C. 2007), have the right to raise all funds necessary for a reasonable defense of the Estate Plan of Mr. Brown. They also have the rights to raise funds for the proper administrative expenses of the estate and Trust. This is both authorized by the Will and Trust and general law. Those contesting the Estate Plan must not be allowed to control the purse strings of the PR/Trustees.

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This Court finds that the March 28, 2008 motions, to date, have caused no damages or delay.

This Court finds that the PR/Trustees have fully complied with the provisions of this court's Order of February 20, 2008 and that this Court should direct the execution of the contract and the sale.

The Court further finds that any party who delays the implementation of the February 20, 2008 order or the implementation of this order should be charged with all costs and damages as set out in "a" through "d" above and such costs and such other damages as shall be determined pursuant to "e" above

Based on this Court's Order of February 20, 2008 and the entire record in this matter, it is ORDERED, ADJUDGED AND DECREED:

1. The PR/Trustees are directed to execute the Consignment Agreement with Christie's upon terms set out in the proposed Consignment Agreement, with such revisions as they deem appropriate.
2. The sale of the Items contained in the Selection for Sale shall proceed as ordered on February 20, 2008.
3. Any party who delays the implementation of the February 20, 2008 order or the implementation of this order shall be charged with all costs and damages as set out in "a" through "d" above and such costs and damages as shall be determined pursuant to "e" above.
4. This Court shall retain jurisdiction to enforce the implementation of this Order and the sale and any other enforcement issues or interference with this Court's February 20, 2008 Order.

AND IT IS SO ORDERED.


Honorable Doyet A. Early, III
Resident Judge

April 1, 2008
Aiken, South Carolina

EXHIBIT 3

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Robert L. Buchanan, Jr. and Adele J. Pope
as Trustees of the James Brown 2000 Irrevocable
Trust and as Personal Representatives of the
Estate of James Brown, deceased

Plaintiffs,

v.

Deanna J. Brown Thomas, Yamma N. Brown Lumar
Venisha Brown, Daryl J. Brown, Larry Brown, and
Terry Brown, each individually and as parent and
natural guardian of his and her minor and unborn
issue; Romunzo Brown, Forlando Brown, Tonya
Brown, Sydney L. Carrington L., Jason
Brown-Lewis, Lindsey Delores Brown and Janise
Vanisha Brown; Henry Dargan McMaster, in his
capacity as Attorney General for the State of South
Carolina; Tommie Raye Hynie Brown; and James
B., a minor, by Stephen Slotchiver, his
guardian ad litem,

Defendants.

) IN THE PROBATE COURT
) PROBATE COURT #2007-ES-02-0056

2007.02.02 122

) ORDER APPROVING SALE OF
) TANGIBLE PERSONAL PROPERTY
) AND REAL ESTATE AND
) GRANTING RELATED RELIEF

This matter was commenced with the filing on November 27, 2007 and service of a
Summons and Complaint by Plaintiffs as Personal Representatives of the Estate of James Brown;
and Trustees of the James Brown 2000 Irrevocable Trust (the "PR/Trustees"). It was duly
removed to the Circuit Court on motion of the Honorable Sue Roe, Probate Judge.

All named defendants have answered or appeared herein. Defendants Terry Brown,
Romunzo Brown and Forlando Brown, through their counsel, have demanded a jury trial as to all

issues. On a showing of urgent need by the PR/Trustees, the Court scheduled the
trial for February 7, 2008. I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this

Present at the hearing held February 7, 2008 were: counsel for all devisees under the

Liz Godard
C.C.C.P. & G.A., Aiken County, S.C.
Deanna J. Brown
Deputy Clerk

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August 1, 2000 Will (The "Will") of James Brown, which has been informally admitted to probate and the James Brown 2000 Irrevocable Trust (the "2000 Trust")¹; the Attorney General of South Carolina; ~~counsel for the former PR/Trustees~~ ^{JBE}; counsel for Cinnamon Paris and LaRhonda Pettit; and counsel for the Guardian ad Litem of James Brown II. Also attending were counsel for the former PR/Trustees. With the consent of all counsel the hearing was closed because of the discussion of sensitive financial matters.

Based on the testimony and physical evidence before me, the Court makes the findings and rulings set out herein. This and other Orders will result from the February 7, 2008 hearing.

PROCEDURAL HISTORY

All assets which are the subject of this action are owned by either the Estate of James Brown or the 2000 Trust, including James Brown Enterprises, Inc. ("JBE, Inc.")

The current PR/Trustees were appointed on November 20, 2007 by Order of this Court and appointment by Sue H. Roe, Probate Judge.

Because it affects the ability of the PR/Trustees to act, and the need for Court guidance, a recitation of the positions of the various Interested Persons is significant. As of the February 7, 2008 hearing was the position of the various parties, as contained in pleadings and motions on file, was:

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1. Plaintiff PR/Trustees assert that the Will and 2000 Trust constitute Mr. Brown's valid Estate Plan.
 2. The Attorney General of South Carolina ("AG") supports the validity of the Will and 2000 Trust, but has challenged the appointment of the PR/Trustees.
 3. Former PR/Trustees Albert Dallas and Alfred A. Bradley assert that they are still

¹ Both the Will and the 2000 Trust are being challenged in pending proceedings

Trustees, and seek to terminate the appointment of Plaintiffs as PR/Trustees.

4. Defendants Terry Brown (child/devisee), Forlando Brown (grandchild), Romunzo Brown (grandchild), support the Estate Plan of Mr. Brown, but seek to remove PR/Trustees.
5. All other children/devisees and grandchildren/devisees have challenged both the Will and 2000 Trust, and seek a declaration of Intestacy.
6. Defendants Paris and Petitt, seek to set aside the Will and Trust and be declared children of James Brown.
7. Defendant Tommie Rae Hynie Brown and her son, James Brown, seek to be declared the surviving spouse and child, respectively, of James Brown. The former has also challenged the Will and 2000 Trust.

CONDITION OF THE ESTATE/TRUST ON FEBRUARY 7, 2008

Based on the undisputed testimony presented at the hearing, this Court makes the following findings as to the condition of the Estate/Trust as of the date of the hearing:

- 
1. The condition of the Estate/Trust as of November 20, 2007, when the current PR/Trustees were appointed, was deplorable. Basic security for Mr. Brown's home Estate was in arrears; valuable and deteriorating Masters had been left in his home for almost a year; income taxes were unpaid for a number of years; and the former PR/Trustees had not prepared or filed an Inventory for the Estate or the 2000 Trust.
 2. No Estate Taxes for Mr. Brown's Estate were paid when due on September 25, 2007 and no date-of-death appraisal had been conducted or ordered. Estate taxes estimated at a minimum of \$400,000 were overdue.
 3. The request for IRS Charitable Recognition of the James Brown "I Feel Good" Trust

had never been filed².

4. As a result of prior acts, there are no funds to pay Court Ordered payments (administrative priority) to counsel in the New York litigation or the Special Administrators.

5. The majority of Royalties from Mr. Brown's published songs are pledged to the Trustee for the TIAA Royalty-backed debt, and will be unavailable for 5-7 years.

6. The Estate/Trust needs at least \$1.6 Million in 2008 to pay outstanding priority administrative claims; defend the Estate Plan; manage and contest the \$35 Million of claims against the Estate; preserve and evaluate the Masters; provide security for Mr. Brown's home Estate; and protect and secure other Estate and Trust assets.

7. This Court takes judicial notice that the following directly interfere with, or inhibit, the ability of the PR/Trustees to seek traditional funding:

- 
- A. The challenge by most children to the existence of the Trust, makes a traditional mortgage of the Home Estate problematic.
 - B. A Federal lawsuit by Forlando Brown seeking removal impairs the ability of the Trustees to obtain financing for the Estate/Trust.
 - C. The actions of the former PR/Trustees, the SC Attorney General, and certain beneficiaries challenging the appointment of Mr. Buchanan and Mrs. Pope negatively affects their ability to perform their duties without seeking Court approval or seek long-term arrangements for the Estate/Trust.

8. The PR/Trustees have moved Mr. Brown's Masters to secure storage, but do not have the funds to take necessary steps to preserve and catalogue them.

9. Approximately \$35 Million of claims have been filed against the Estate of James Brown, several million of which were filed by former PR/Trustees and their counsel. [Mr.

² It was submitted by the current PR/Trustees in December 2007.

Cannon, Mr. Bradley and Mr. Dallas.]

10. Because of disputed but unresolved claims of more than 40% to any royalty sale or refinance by the former PR/Trustees (15% or more); Pullman (12.5%) and Intrigue Music (12.5%)³ and others, sales of tangible personal property and real estate are the most appropriate source of funds for the approximately \$1.6 million which will be needed to run the Estate/Trust for the next year.

PROPOSALS FOR SALES AND DISPOSITIONS

Based on the above facts as to the deplorable condition of the Estate/Trust, the Court finds that emergency action is necessary to preserve and protect the assets of the Estate/Trust. Without prejudice to the eventual outcome, the Court also finds that the PR/Trustees are entitled to conduct such sales as are necessary to raise funds to defend against all challenges to Mr. Brown's Estate Plan. Again, without prejudice to the outcome, the Court finds that this is appropriate for the PR/Trustees. The Court further finds that the proposals of the PR/Trustees, as modified herein, are the appropriate methods of managing the Estate/Trust during these critical times.

In determining the necessity of sale of Tangible Personal Property ("TPP"), the Court has considered the need for funds. It has also considered that the non-charitable devisees who may receive TPP may pay up to fifty (50%) of the date-of-death value of property received in Estate Taxes.

TANGIBLE PERSONAL PROPERTY

Based on the above factors, the following is reasonable proposal for the disposition of

Tangible Personal Property.

1. Within 10 days after distribution by the PR/Trustees of the Estate Tax Valuation of TPP being performed by Christie's and of Christie's plan for sale of items, with identification of items, any party desiring to withhold items shall notify the PR/Trustees of items they desire to withhold in order of importance.
2. Within a reasonable time, the PR/Trustees shall, in their sole discretion, designate items to be sold and not sold.
3. Within 10 days after distribution of the final proposal, the Court shall conduct a hearing if, and only if, there are valid specific objections. Any party found to be delaying the sale may be charged with the costs of delay.
4. If possible, the sale or sales by Christie's or any other agent/auctioneer will be conducted on or before August 1, 2008.
5. The PR/Trustees shall have sole discretion as to the terms of the contract, but will consult with interested counsel.
6. The PR/Trustees are authorized to put such pieces as they select on loan to one or more museums, for a period not to exceed 3 years, so that such items may be preserved for future distribution to beneficiaries, as appropriate, with assurances for proper insurance and security for all items put "on loan".
7. Pieces not sold by Christie's or other agent/auctioneer may be sold by the PR/Trustees in their sole discretion at one or more, or a series of, separate auctions/private sales, if additional funds are necessary, provided notice is given to potential heirs and devisees.
8. Any of above pieces, in the sole discretion of the PR/Trustees, may be retained and added to House Museum purchase as described below.
9. The PR/Trustees are authorized to prepare and disseminate images of the home and assets as necessary to carry out the above proposal, including all public advertising they deem appropriate.

REAL ESTATE

The Personal Representative's presented the following proposal, which this Court approves:

³ (Sales before March 31, 2008)

1. The Trustees shall immediately begin a search for a purchaser of the James Brown home, to be used, if feasible, as a House Museum in honor of the contributions James Brown has made to the State of South Carolina and the world.
2. If possible, the PR/Trustees shall retain approximately 25 acres of the Home Estate for a future home of the James Brown "I Feel Good" Trust so that its educational mission may be associated with the James Brown House Museum.
3. Purchasers shall be required to provide easements and other assurances that the property will be preserved as a museum and open to the public.
4. Some or all of the items of Tangible Personal Property not selected for the Christie's (or any other) auction may be sold with the home, if agreed to by the purchasers and the Trustees.
5. The PR/Trustees may reserve a percentage of future gross receipts of any House Museum and related activities for benefit of the James Brown "I Feel Good" Trust. [Provided the validity of such Trust is confirmed.]

PROPOSAL FOR THE HOME OF JOSEPH BROWN

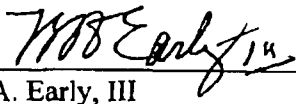
The Court finds that the Joseph Brown house is a burden to the Estate/Trust. The PR/Trustees are authorized to sell the home titled in the name of James Joseph Brown as follows:

- 
1. The PRs to give quit-claim deed of Estate's interest in Joseph Brown home to one or more clients of Mr. Levenson for a purchase price of \$60,000.00.
 2. The property will be sold where is, as is, with no warranties of title or otherwise. Purchasers agree they have been given full disclosure of title problems associated with home.
 3. Taxes and insurance for 2007 shall be prorated to time of sale, based on 2007. Purchaser may deduct for 2007 real estate taxes paid.
 4. Purchasers are responsible for any probate issues, and have represented that they do not believe Joseph Brown owned any other assets.
 5. Purchase price will be paid as follows: 10% paid at closing, within 30 days of this Order; Purchase money Deed of Trust for remainder; 6% interest; equal monthly payment of principal and interest over 10 years. Due-on-Sale clause.

6. Purchasers to pay all costs of closing.
7. If the Joseph Brown home interest is not purchased by a family member within sixty (60) days of this Order, the PR/Trustees may dispose of the said property in any manner they deem appropriate.

This Court has not outlined in detail the financial circumstances which make the above-approved sales critical to this Estate and Trust. All parties have received full information and do not dispute the Estate/Trust's financial circumstances. To the extent this Court determines that any party has unreasonably interfered with, or delayed the sales approval herein, such party may be charged with the reasonable cost of such action.

AND IT IS SO ORDERED.



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

February 20, 2008
Aiken, South Carolina

EXHIBIT 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	
	)	CIVIL ACTION NO. 2007-CP-02-0122
	)	
	)	
IN RE:	)	ORDER DIRECTING PAYMENT
	)	OF FEES AND COSTS OF SPECIAL
	)	ADMINISTRATORS AND OTHER RELIEF
THE ESTATE OF JAMES BROWN	)	
A/K/A JAMES JOSEPH BROWN	)	

This matter comes before me on Motion of Robert L. Buchanan, Jr. and Adele J. Pope, as
 Personal Representatives of the Estate of James Brown; Trustees of the James Brown 2000
 Irrevocable Trust; and former Special Administrators of the Estate of James Brown. They seek
 an order approving payment of fees of \$317,000.00 and costs for their services as Special
 Administrators for the period from March 7, 2007 through November 20, 2007. They also seek
 approval of continued payments on a "time plus costs" basis while they serve as Personal
 Representatives and Trustees. Their unreimbursed costs for the period are \$2,415.38. They ask
 that the "time plus costs" payments be a deposit towards, and without prejudice to, their right to
 receive full commissions as Personal Representatives and Trustees.

The motion was supported by affidavits of Robert L. Buchanan, Jr. and Adele J. Pope,
 with detailed attachments outlining their work as Special Administrators for the period from
 March 7, 2007 through November 20, 2007, and as Personal Representatives and Trustees since
 that time. For the 8 ½ month period they served as Special Administrators, the two attorneys
 worked more than 950 hours. Their staffs and law clerks worked more than 680 hours.

Since, by limitation in this Court's ^{STATE OF SOUTH CAROLINA} ~~County of Aiken~~, the Special Administrators were not
 fiduciaries during the period before November 20, 2007, the Court finds that the guidelines for

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Liz Godard
 Clerk of Court of Common Pleas and General
 Sessions for Aiken County, South Carolina do hereby certify
 that this is a true and correct copy of the
 original documents which have been filed in this Court.
 Deputy Clerk

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determining reasonableness of fees for attorneys is an appropriate standard by which to measure their request as Special Administrators. The factors to be considered are:

1. The nature, extent and difficulty of the case;
2. The time necessarily devoted to the case;
3. Professional standing of counsel;
4. Contingency of compensation;
5. Beneficial results obtained;
6. Customary legal fees for similar services. See Donahue v. Donahue, 299 S.C. 353, 384 S.E.2d 741 (1989).

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Considering such factors, the Court finds that the fees and costs requested by Mr. Buchanan and Mrs. Pope are fair and reasonable. Both Mr. Buchanan and Mrs. Pope are attorneys with substantial experience. This has been an extremely difficult case, and has required that they devote a large portion of their day almost every day to the task. Their discovery of the inappropriate August, 2006 deposit of \$900,000, which should have been applied to Mr. Brown's debt at M&T Bank, alone, has been of substantial value to the Estate. With the help of family members and their counsel, the Special Administrators investigated numerous areas of concern. As Personal Representatives and Trustees, they are continuing their work.

In addition to their own work, the Special Administrators were required to use staff in a way which was not anticipated at the time of their appointment. Mr. Buchanan's office became the home address of the James Brown Estate, the James Brown 2000 Irrevocable Trust, and the Brown Entities. Mrs. Pope's office became the repository for more than 80 boxes of documents. With the assistance of the staff of former counsel for the Personal Representatives, after August 10, 2007, Mrs. Pope and her staff made documents and records available to counsel for all Interested Parties, as well as for the work of the Estate.

The payment requested by Mr. Buchanan and Mrs. Pope is also consistent with their standing and services performed by other counsel of similar standing. They are consistent with the hourly rate of other lawyers in this case, as demonstrated in various filings.

With respect to their request to receive periodic payments on a "time plus costs" basis, with right to receive full commissions as Personal Representatives and Trustees, I find that it is entirely reasonable under the circumstances. Based on their affidavits, it is clear that the work of Mr. Buchanan and Mrs. Pope has approximately doubled since they became Personal Representatives and Trustees. In less than a month of service, they have filed the Application for Recognition of the James Brown "I Feel Good" Trust as a 501(c)(3) charitable educational organization. They have also begun to address the substantial tax issues facing the Estate, the Trust, and Brown Entities. Further, they are now actively involved in both the administration of Mr. Brown's assets and entities and also the defense of his Estate Plan.

Under these circumstances this Court finds it appropriate for Mr. Buchanan and Mrs. Pope, as Personal Representatives and Trustees, to continue to receive fees and costs on an hourly basis, as a deposit only, to any full commissions to which they may be entitled as Personal Representatives and Trustees. I specifically find that such payments are reasonable and should be made without prejudice to (but as a deposit toward) their full commissions.

I find it premature to determine whether such fees should be charged to the Estate, the 2000 Irrevocable Trust, or James Brown Enterprises, Inc. A glance at the claims filed against the Estate of James Brown shows that more than twenty attorneys (in at least 4 law firms) performed services for Mr. Brown, James Brown Enterprises, Inc., and the Trust. Most did so without attempting to allocate the services among them. Further, there is litigation pending in at least three states (Illinois, New York and South Carolina) which is and must be conducted

simultaneously by the Estate and one or more of James Brown Enterprises, Inc., the 2000 Irrevocable Trust and other Brown Entities.

The Personal Representatives and Trustees under Mr. Brown's Estate Plan, have abundant authority to make a reasonable allocation, at the appropriate time, of their commissions. Should any party prevail in the challenges now pending to the Estate Plan of Mr. Brown, or any other circumstances dictate, it may become the duty of the Court to review any such allocation.

Based on the foregoing, IT IS ORDERED, ADJUDGED AND DECREED:

1. Robert L. Buchanan, Jr. and Adele J. Pope shall be paid \$317,000 plus costs, for service as Special Administrators from March 7, 2007 through November 20, 2007.
2. Robert L. Buchanan, Jr. and Adele J. Pope shall receive continuing payment on a "time plus costs" basis for themselves and their staff, commencing November 21, 2007. This shall be a deposit toward, and without prejudice to, their full commissions as Personal Representatives and Trustees.
3. To the extent not paid within 60 days, the above amounts shall be subject to interest at the legal rate.
4. Robert L. Buchanan, Jr. and Adele J. Pope shall be reimbursed for all costs as shown, and all reasonable costs in the future.

AND IT IS SO ORDERED.

January 8, 2008
[Signature], South Carolina

[Signature]
Doyet A. Early, III
Resident Judge, Second Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF AIKEN	)	
	)	
Adele J. Pope,	)	Estate File No. 2007-ES-02-0056
	)	
Plaintiff,	)	
	)	
v.	)	Complaint ¹ to Void Appointment and
	)	Notice of Disallowance; for Review and
Estate of James, Brown, Deceased; The	)	Direction to Pay Commissions and
James Brown 2000 Irrevocable Trust; Russell	)	Fees under <i>Wilson v. Dallas</i> ; Remove
L. Bauknight, Individually, as former	)	Bauknight; Require Emergency
<i>Executor de son tort</i> , and in every current	)	Appointment of Litigation SA/ST
and former fiduciary status claimed or held as	)	to Prevent Further Damage by
to the Estate of James Brown and The James	)	Bauknight in <i>Wilson v. Dallas</i> and
Brown 2000 Irrevocable Trust,	)	Related Cases; for Accounting;
	)	And for Related Relief
Defendants.	)	
	)	(Jury Trial Requested)
	)	
AND:	)	
	)	
Robert L. Buchanan, Jr.,	)	
Interested Party.	)	
	)	

Plaintiff Adele J. Pope ("Adele"), responding to the Notice of Disallowance served on her on May 29, 2013, attached hereto as Exhibit A (the "Notice"), and in order to protect the noble Estate Plan of James Brown to leave his entire \$100 Million worldwide music empire to the "I Feel Good" Private Foundation to provide scholarships for needy students, would respectfully show this Court:

¹See also Petition for Allowance, attached hereto and incorporated herein as Exhibit 1.

Summary of Relief Requested

One month after the historic May 8 *Wilson v. Dallas*² decision restored \$50 Million to James Brown's "I Feel Good" Private Foundation, those seeking to destroy Brown's plan to leave his worldwide music empire for the education of needy students are poised to try again to take Brown's assets. They do so with fabrications about:

1. Their status as James Brown's heirs;
2. The value of James Brown's worldwide music empire, which they had a right to buy under the voided settlement and claimed was worth less than \$4.7 Million;
3. The Federal Copyright Act and their claimed termination rights under the Act.
4. Their importance and Bauknight's – rather than a recognition that Brown's \$100 Million music empire was the result of James Brown's genius and hard work.

For four years Russell Bauknight ("Russell") has been their voice and the enforcer of their false claims. He has asserted without basis that Brown's companion Tommie Rae was his spouse and her elective share claim a "slam dunk." He has claimed Brown's worldwide music empire was worth less than \$4.7 Million.

The *Wilson v. Dallas* decision voided the settlement and cleaned the slate. Russell's May 29 Disallowance to Plaintiff suggests he learned nothing from that decision. Russell's damage to Brown's Estate Plan must be stopped. His authority should be voided. He should account for his acts. An SA/ST to represent the Estate/2000 Trust under the Will and Trust in pending litigation is needed immediately.

²See Exhibit 3 for information about Cases which are referred to herein with short names.

For A First Cause of Action
(Voiding Appointment, Settlement and Notice and Granting of Claims)

Parties

1. Plaintiff, on information and belief, has standing to bring this Case, and seeks all relief the Notice purports to disallow, and otherwise requested by her in this and other Brown cases, for at least the following reasons:

- a. Under Order of the Honorable Doyet A. Early, III, dated January 8, 2008 (the "January 8 Order"), she is entitled to a liquidated amount, with interest.
- b. She is entitled, by equitable offset, to the share of Forlando in the 2000 Trust and some or all of Terry's interest in the Estate in the Forlando Suit.
- c. She has special status under S.C. Trust Code § 62-7-405(c) as an "other" to enforce the "I Feel Good" Trust as set out in 2000 Trust and backup 1999 Trust.
- d. Russell's conflicts, claimed less-than \$4.7 Million of Brown's \$100 Million worldwide music empire and failure to account jeopardize the Estate/2000 Trust.
- e. By Order dated April 8, 2008, Jg. Early held that any Interested Person may seek the appointment of a special fiduciary as needed, and one is needed now.
- f. Russell's SA/ST appointments are in question; if secured were secured *ex parte*; violated Due Process; were for improper purposes; and should be voided.
- g. As a creditor Adele, under the S.C. Probate Code, has authority, and seeks, the formal probate of Brown's 1999 Will as a backup to the 2000 Estate Plan.
- h. Russell's alliance with Tommie Rae and Forlando/Terry prevents his defense of the Will, required by *Franklin v. Chavis*, 371 S.C. 527, 640 S.E.2d 873 (2007).
- i. This case now stands – alone or consolidated with the Dallas Claims Case – as the appropriate and efficient forum under *Wilson v. Dallas* to determine:
 - (1). The Fiduciary Commissions, if any, of: Russell; Adele; Bob, Albert "Buddy" Dallas ("Buddy"); David Cannon ("Cannon") and Al Bradley ("Al");
 - (2). The payment/d disgorgement of attorneys' fees paid or promised by Russell;
 - (3). The payment of attorneys who served Bob and Adele [See Exhibit 4].

- j. Plaintiff seeks to enforce "I Feel Good" Trust, a matter of public importance.
- k. An SA/ST is needed to protect the Will/2000 Trust in the Forlando Suit.
- l. An SA/ST is necessary for Case 4900 because of Russell's multiple conflicts.
- m. An SA/ST needs to appoint GALs for minors, which Russell refuses to do.
- n. An SA/ST is needed to stop Russell's improper intervention in FOIA cases.
- o. An SA/ST is essential because Russell has:
 - A. Attempted to commit the Estate/2000 Trust to the fabricated position Tommie Rae was Brown's spouse and her non-DNA-tested son his son.
 - B. Worked to retain 5-year-old Gag Orders which prevent discussion of the widely-known contents of the so-called Hynie "Diary."
 - C. Attempted to bind the Estate/2000 Trust to the fabricated position that the at-death value Brown's music empire was less than \$4.7 Million.
 - D. Attempted to conceal that Jeanette, Lisa, LaRhonda and Nicole are DNA-proven or presumed heirs under the Federal Copyright.
 - E. Applied the vast resources of James Brown's music empire to employ an army of attorneys to bolster Tommie Rae's positions.
 - F. On information and belief, formed JB BIOPIC, LLC, JBIP Investments, LLC and/or other entities without providing copies of same to the AG.
 - G. Proposed payment to/paid from the Estate/2000 Trust attorneys for himself, Tommie Rae, the Cannon Group & others of \$20+ Million.

2. Defendant Estate of James Brown, on information and belief, is the entity created and controlled by Brown's Will dated August 1, 2000 (the "Will") to:

- a. Vigorously defend the Estate Plan (and the backup 1999 Estate Plan).
- b. Under the Estate Plan and applicable law, pay only fiduciaries and their counsel who have worked to preserve and protect the Estate/Estate Plan.
- c. Under the mandate of *Wilson v. Dallas*, require all fiduciaries and counsel in that and related cases who do not meet the above standard not be paid.

3. Defendant James Brown 2000 Irrevocable Trust (the "2000 Trust"), on information and belief, was created and funded by Brown on or about August 1, 2000 as the vehicle by which Brown gave his \$100 Million empire to education, as follows:

- a. A \$285,000 education Trust for each of 7 designated grandchildren; and
- b. The remainder for scholarships for needy S.C. and Georgia students.
- c. To be run by 3 private Trustees obligated to vigorously defend the Estate Plan against all challenges -- to be removed if they failed to defend the Estate Plan.
- d. Consistent with the 2000 Trust and *Wilson v. Dallas*, to pay only fiduciaries and their attorneys who have protected and defended the Will/2000 Trust.

4. Defendant Russell acted as PR/Trustee under the Will/2000 Trust from May 26, 2009 until May 8, 2013 when *Wilson v. Dallas* declared his appointment void. On information and belief, during such time he used the Estate/2000 Trust to litigate for the benefit of Tommie Rae, Terry/Forlando, and others, and against the Will/2000 Trust .

5. Interested Person Bob is a necessary party to this action because:

- a. Bob and Adele acted jointly in their service as SAs, then PR/Trustees, and in their continued defense of the Estate Plan until May 8, 2013.
- b. Bob and Adele jointly filed the Claim which is the subject of the Notice;
- c. Russell's Notice references a "settlement" which, on information and belief, should be declared void because Russell paid \$500,000 which Bob was owed and should retain, to extract more than \$250,000 of benefits for Tommie Rae, himself and others.
- d. With Adele, Bob has pending counterclaims against Forlando and possibly Terry's interest in the Estate, now owned by Forlando.

Background Facts - James Brown

6. The messy personal life of entertainer James Brown provides a stark contrast to the perfection of his performances, and also to his carefully crafted Estate Plan.

7. As stated by all his acknowledged children and Tommie Rae in Case 4900:

It was James Brown's "often stated and well known desire" to create a charitable trust to benefit students in South Carolina and Georgia. *See Plaintiffs' Memorandum in Opposition to Defendants' Motion to Dismiss*, dtd. 8/27/10, in Case No. 2010-CP-40-4900.

8. And by grandson Forlando in the Forlando Suit:

James Brown recognized the value of education and wished that he had been able to obtain more of an education during his life. James Brown constantly advocated the value of education throughout his lifetime. The [2000] Irrevocable Trust reflects James Brown's wishes to provide those in need with the opportunity to receive an education. *See Complaint*, dtd. January 2, 2008.

9. In addition to the six children Brown acknowledged, he had daughter (1) Lisa with Velma, his first wife; and 3 DNA-proved daughters: (2) LaRhonda; (3) Nicole; and (4) Jeanette.

10. James Curtis and others also claim Brown fathered them.

11. Brown and his third wife Adrienne Rodriguez were devoted, but their relationship was tempestuous, and included drug-fueled public fights. In 1996 when Adrienne died Brown was devastated.

12. In 1996 Brown began working to put in place his dream to leave his entire music empire to the "I Feel Good" private foundation to educate needy students.

13. During this period daughter Deanna – who was helping Brown gather information for his Estate Plan – was instrumental in having Brown committed for addiction issues. Brown was furious.

14. By 1998 Tommie Rae, concealing her marriage, began an on-again, off-again professional and private relationship with Brown.

15. By July 11, 1999, after decades of problems and legal battles with

publishers, family and others Brown's had amassed a \$100^{Million} music empire.

16. On June 11 Brown borrowed \$26 Million from the New York Teachers ("TIAA"), securing the note with his royalties from more than 800 songs.

17. When Brown died in 2006 the TIAA loan had been reduced to about \$15 Million. It was fully paid in 2011.

18. On information and belief, a disgruntled former manager claims Brown was high at the TIAA closing, but 10 New York attorneys and investment bankers working on the deal never questioned Brown's signing for himself or his company, JBE, Inc.

19. Four days later, on June 15, 1999, Brown executed his first Will and Trust to create the "I Feel Good" Foundation.

20. Brown named Deanna one of his PRs and under a POA with Buddy, Cannon and Al ("the Cannon Group") under his POA, not as a trustee.

21. By 2000 Brown had decided to make minor modifications in his Estate Plan and to make the trust which created his "I Feel Good" Foundation irrevocable. The 2000 Trust also expanded scholarships under the "I Feel Good" Foundation to students studying in South Carolina and Georgia. The 1999 "I Feel Good" Trust limited scholarships to U.S.C. Aiken, Voorhees College and U.S. C. Salkehatchie.

22. In early 2000 Brown met with attorney Dewain Herring, Esq. and others and made a voice tape of his intentions, but delayed signing the Estate Plan to re-read it.

23. On August 1, 2000, Brown's signed the Will and 2000 Trust at his Beech Island Mansion with Venisha and Tommie Rae – among others – present.

24. Tommie Rae signed a related document, as "the future Mrs. ..Brown."

25. Both the 1999 and 2000 Estate Plans excluded all of Brown's children,

even the 6 he acknowledged, and all past and future spouses, from the Trust.

26. Brown signed documents to transfer JBE, Inc. to the 2000 Trust, but Buddy failed to complete the paperwork. Brown deeded his home estate to the 2000 Trust.

27. A Memorandum of Trust was filed in Aiken Cty, and Richmond County (Augusta), Georgia.

28. The Cannon Group actively managed the 2000 Trust for seven years.

29. In the summer of 2000, according to Buddy, Tommie Rae and Brown separated. She returned at Thanksgiving, and her child was born in June 2001.

30. Tommie Rae's child, who has refused official DNA testing, and is the only claimed child born after Brown's vasectomy. According to then-physician Rita Udom, Brown was physically unable to father a child at the time.

31. In late 2001 Tommie Rae executed a prenuptial agreement with Brown; concealed her marriage to obtain a license; and conducted a ceremony with Brown.

32. In 2002 Deanna and Yamma sued Brown for \$1 Million over royalties related to 23 songs. They asserted that Brown had omitted them from his Estate Plan.

33. By 2003 Cannon had taken \$5 Million directly from Brown's TIAA proceeds and another \$10 Million from a Morgan Stanley accounts holding TIAA proceeds.

34. In 2003 Buddy discovered that Tommie Rae was married. They separated.

35. In 2003 Buddy wrote Cannon that Tommie Rae said she would provide documents showing her Nevada divorce in six weeks. The documents did not come.

36. In January 2004 Tommie Rae sued in Charleston, S.C. to annul her marriage, although neither she nor her husband ever lived there. He was not personally served.

37. In 2004 Brown sued Tommie Rae to void his ceremony with her.

38. In March 2004 Robert Rosen, Esq. ("Robert"), Tommie Rae's attorney, notified Brown's attorney, that he had filed a \$5 Million suit against Brown.

39. In June 2004 Tommie Rae counterclaimed in Brown's suit and sought separate maintenance and support for her child.

40. In July 2004 Brown asked for DNA testing of Tommie Rae's child.

41. On July 17, 2004 Brown's case against Tommie Rae settled. She agreed never to claim to be Brown's common law spouse. The Order said they were living together. There was no provision for her child.

42. From 2003 until his death Brown refused to marry Tommie Rae. According to Wayne Byrd, Esq. and others Tommie Rae's handwritten notes made after the settlement – subject to 5-year-old Gag Orders – provide valuable support for the Estate/2000 Trust's position that Tommie Rae was not Brown's spouse and knew it.

43. In 2006, using the POA, Deanna and Cannon picked up Brown's Estate Planning file from attorney Allan Fulmer, Esq. Brown's separate estate plans – 4 separate documents – set out Brown's desire to give his entire music empire to educate needy and deserving students. They are briefly described as follows:

a. 1999 Estate Plan - Revocable Trust and Pour over Will, together leaving:

1. Personal/Household effects, LESS Estate Taxes payable on them ("PHE") to Daryl, Terry, Larry, Venisha, Deanna & Yamma;

2. \$285,000 education fund for each of: (G1) Forlando; (G2) Romunzo; (G3) Jason; (G4) Janise (G5) Lindsey; (G6) Sydney; (G7) Carrington;

3. Remainder to The James Brown "I Feel Good" Trust to be used solely for scholarships for needy students at Voorhees, U.S.C. Aiken, and U.S.C. Salkehatchie.

b. 2000 Estate Plan - *Irrevocable* Trust and Pour-over Will, together leaving:

1. PHE to same 6;
2. \$285,000 education fund to each of same 7 grandchildren;
3. Remainder to "I Feel Good" Trust, solely for scholarships for needy students studying in South Carolina and Georgia.

44. In the summer of 2006, according to Buddy, he, Tommie Rae and Brown had a 3-way phone conversation in which Buddy explained that because they were not married Tommie Rae was a guest at Brown's Home Estate.

45. Tommie Rae and Brown separated in the later summer of 2006.

46. At Thanksgiving 2006 Brown discussed his Estate Plan with some of his children, as he had with all of his acknowledged children in the three preceding years.

47. On Christmas Day 2006 Brown died. Neither Tommie Rae nor any child was with him. His death certificate lists Adrienne as his last spouse.

48. Brown's presumed heirs by State Law and the Federal Copyright Act were:

DNA-Proven Heirs - (1) LaRhonda; (2) Jeanette; (3) Nicole;

Presumed in Official Documents before Death as born of marriages: (4) Terry; (5) Larry; (6) Lisa; (7) Deanna; (8) Yamma.

49. At least five others also claim to be Brown's heirs, but have not been DNA tested, including Deon (incarcerated), Tonya and James Curtis.

50. Only one person -- Tommie Rae's son -- claims that Brown fathered him after Brown's vasectomy.

51. On information and belief, DNA testing is the appropriate method to prove the status of all claimed-but-unofficial heirs, and costs only about \$300 each.

52. On January 9, 2007 6 of Brown's claimed children and grandsons Forlando and Romunzo hired Louis Levenson, Esq. ("Louis") and agreed to pay Louis 30% of what he could get them from Brown's assets – \$30 Million if he could set aside the two estate plans; exclude other heirs and confirm Tommie Rae was not Brown's spouse.

53. Tommie Rae hired Robert to try to get half of Brown's assets and, on information and belief, agreed to pay him 45% of what he could get – about \$14 Million if he could get an elective share of all of Brown's assets, both in the Estate and Trust.

54. In December 2006 Deanna and Yamma briefly accepted positions with the 2000 Trust offered by Dallas and Cannon, but abandoned the alliance and brought Case 122 to remove the Cannon Group in January 2007.

55. In early 2007 a fake prospectus to raise \$200 Million for the purchase of Brown's music empire (the "Pinnacle Prospectus") was issued by family members naming Yamma and her then-husband Darren Lumar, who is deceased., as principals of Pinnacle.

56. In early 2007 Tommie Rae and Louis's clients asked Jg. Early to appoint Adele Special Administrators (SAs) to manage the Estate.

Bob and Adele's Service

57. On March 7, 2007 Judge Early declined requests to remove the Cannon Group, but appointed Adele and Bob as non-fiduciary SAs with limited oversight duties.

58. By March 24 Forlando, Romunzo and their father Terry had abandoned Louis and aligned themselves with the Cannon Group.

59. In May 2007 Forlando issued a letter: "My Grandfather's Final Shame" in which he threatened to expose all of the wrongdoing of Louis, the family and the

Cannon Group if a settlement were not reached within 7 days.

60. In June 2007 a proposal for a \$100 Million sale of Brown's music empire; an IPO; and payment of options or a "kickback" to the Cannon Group was proposed.

61. Also in June 2007 Dr. Terry Cox, a branding expert putting together the purchase group which later made 3 offers to buy Brown's assets, valued Brown's assets at \$90 - \$105 Million, with Royalties and Publicity Right at about equal value.

62. Before November 20, 2007, while still SAs, Bob and Adele learned a lot about the operation of Mr. Brown's business from Buddy and Al.

63. Bob and Adele learned that the Trust's and Cannon's record-keeping and tax preparation were a mess, and that Buddy and Cannon had grossly mismanaged the Trust in numerous ways, including Cannon's \$900,000.00 misappropriation in 2006; the disappearance of Hallmark card ad funds in 2007; and the loss of \$7 Million – later to be more than \$13 Million – between 1999 and 2007.

64. On August 10, 2007 Cannon resigned as PR/Trustee after Bob and Adele discovered \$900,000 he had taken in 2006.

65. Bob and Adele's legal training and practices and extensive contact with Buddy and Al, including the investigation into Cannon's misappropriations, prepared them for the tremendous task of managing the troubled James Brown Estate/Trust.

66. Brown's documents contemplated three full-time, non-music-industry trustees to coordinate his vast empire and manage significant litigation. With combined litigation and trust experience, Bob and Adele were fully qualified to serve.

67. Immediately after their November 20th appointment, Bob and Adele conducted elections for JBE, Inc., the most significant Brown Entity. They outlined their

duties, which had changed and increased radically from being SAs, to include:

- a. Defending the Estate/2000 Trust against more than \$30 Million of claims – many without merit –including, about \$16.4 Million by the Cannon Group; the \$31 Million Pullman claim; and claims of Tommie Rae, Parris and others.
- b. Preventing the "Fire Sale" of Mr. Brown's valuable Royalties and Publicity Rights sought by the Cannon Group since March 26. [Cannon had just revealed a cash purchase of a Million Dollar turnkey retirement home to be built in Honduras. Tr. 11/15/07, pp. 46, 80-82.]
- c. Recovering from the Cannon Group, and others approximately \$7 million then known to be missing since 1999.
- d. Taking emergency measures to correct the dire financial circumstance of the Estate/Trust, and improper administration of the Estate and Trust.

68. The job of PR/Trustees was a full-time job for two people, and Bob and Adele had almost no warning that they might be appointed. They made the following immediate and necessary decisions:

- a. Adele, and her larger staff did much of the "footwork" such as paying bills, maintaining accounting records, granting access to beneficiaries' Counsel, day-to-day dealing with the accountant, etc. & distributing faxes and mailouts;
- b. Bob and Adele met in person every week, and by telephone as often as needed. [Usually first thing in the morning and 3 - 5 times daily.]
- c. All decisions were to be approved by both, in advance.

The Crisis at Beech Island (Mr. Brown's Home Estate)

69. By Saturday, November 24, 2007, Bob and Adele confirmed that maintaining the same level of security for Beech Island and its contents would cost more than \$250,000.00 per year. Critical security costs were more than \$20,000 in arrears. Not much later the plumber advised them that troublesome overhead copper pipes threatened to destroy the contents of Mr. Brown's home. As he described, the

next overhead leak, rather than being a traditional drip, would be "like a fire hose".

70. Bob and Adele continued the same security service by agreeing with Sizemore to pay the weekly bill and \$1,000 per week towards the arrearage while Sizemore remained in place.

71. The 2000 Trust had no cash, and the Estate's money would run out in March 2008 with the same security for Beech Island. Although they wanted Beech Island to be preserved as a museum, if possible, Bob and Adele could not let it jeopardize Mr. Brown's primary goal: scholarships for needy students and education for certain grandchildren. They had to avoid the forced sale of his Royalties and Image/Publicity Rights.

72. Bob and Adele needed emergency relief both for Beech Island and its contents, and sought it in the Declaratory Judgment Complaint Filed on November 27.

Estate and Tax Income Tax Issues

73. As SA s Bob and Adele had requested copies of tax returns for the 2000 Trust and Mr. Brown prior to their first (March 26) meeting. They were not given copies of the returns until June 15, 2007. Attorney Bill Hammond kept insisting that they did not need to see the tax returns because they were wrong, and had to be amended. Bob and Adele disagreed, believing that even if incorrect, they could provide valuable background information. When requests failed, Bob and Adele asked the Court for access to the tax returns and other records. Jg. Early orally ordered them access to the tax returns and records on June 13. A June 22 order followed (the "Access Order").

74. In June accountant Phil Farr – from whom the Estate/2000 Trust later made a recovery through Few/Gilreath – advised, and Bob and Adele confirmed by letter:

- a. Farr filed only one income tax return for James Brown, LLC, for 1999.
- b. Farr had never filed an income tax return for the 2000 Irrevocable Trust.
- c. JBE, Inc. tax returns listed James Brown as its sole owner from 1999-2005.

75. Between August 10 and November 20, 2007 Bob and Adele attempted to assist Buddy and Al and a new Court-appointed accountant with problems the Cannon Group had of the Trust, JBE, Inc. and James Brown tax returns without interfering with Buddy's and Al's administration of the Estate/Trust.

76. Bill Sellars, the new CPA – a former partner of Russell -- was trying to gather information to begin to straighten out the mess the Cannon Group caused, but at the same time Cannon, Hammond and Farr – terminated by the August 10, 2007 Order-- were secretly changing, signing and filing the tax returns of JBE, Inc., including purporting to change who owned the assets. [See Tr. Hearing 11/15/07, pp. 100-107]

77 Within 30 days of their appointment, Bob and Adele made contact with the South Carolina Department of Revenue (SCDOR) and the Internal Revenue Service (IRS). They advised them in detail of the problems they had identified to date. Because virtually all of Mr. Brown's Estate and Trust was "paid or permanently set aside" for charitable purposes, they hoped to work with the taxing authorities to straighten out the years of problems. [Ltrs. SCDOR, IRS, dtd. 12/11/07]. They consistently worked with the IRS and SCDOR after December, 2007, but progress became slow after August 12, 2008 because the settling parties did not cooperate.

78. The Cannon Group was uncooperative in providing information, and none ever accounted for theirs acts as Trustees.

The Declaratory Judgment Case

79. To resolve many of their concerns, 7 days after Bob and Adele were appointed, they filed, *pro se*, a Complaint for Declaratory Judgment and Related Relief Including Expedited Emergency Relief to allow them to sell the home to a museum purchaser (hopefully family); and take other action to prevent bankruptcy of the Trust; sell tangible personal property (TPP) of the Estate/Trust and take certain other protective actions.

The Tangible Personal Property

80. Between November 27 and January 4 Bob and Adele interviewed Sotheby's, Christie's and Julien's, all auction houses equipped to handle a James Brown TPP sale. The Sotheby's and Christie's representatives visited Beech Island. Mr. Julien had visited earlier.

81 Mr. Julien, at the request of Buddy, made statements to the press which bothered Louis and posed a security threat to the contents of Beech Island, thus making working with him difficult. Sotheby's visited and showed interest, but for unrelated internal reasons, advised Bob and Adele in early January they would not take on a James Brown sale.

82 Christie's was very responsive and proposed a reasonable contract. In addition, they were able to act quickly to remove threatened items from Beech Island. And they would advance the cost of the long-overdue Estate Tax Appraisal of the TPP.

83 On January 9, 2008 Bob and Adele advised the Court that they had selected Christie's to sell certain TPP and sought approval of the contract which was part of the

Declaratory Judgment case. [Transcript, 1/9/08, pp. 58-60]

84. The Court's decision was delayed by calls from Buddy for Judge Early's recusal, and Terry and Forlando Brown also interfered. The hearing was finally held on February 7, resulting in an Order on February 20.

85. As the Court found in its Order of February 20, 2008 and its subsequent Order of April 1, 2008, the Estate/Trust's financial status was critical on November 20, 2007 and did not improve during the period. The Christie's sale had also become critical because Louis' clients and Tommie Rae had filed challenges to the Will and 2000 Trust in December, requiring vigorous defense.

The Christie's Sale

86. After the hearing on February 7, the Court issued an Order which allowed the following:

- a. Sale by Christie's of some items, with family having the right to select items to be held back;
- b. Placement of non-sale items of TPP in museums;
- c. Sale of Beech Island, to a museum purchaser if possible. [Order dtd. 2/20/08]

87. Forlando and Terry, Buddy and others interfered with the Christie's sale, even though it was authorized by three Court Orders.

88. According to Forlando's sworn testimony, family members disagreed about a number of things, but agreed to work against the Christie's sale despite Court Orders.

89. The Christie's sale, placement of TPP at museums, and removal of the masters allowed Bob and Adele to reduce the very basic security and maintenance

costs of Beech Island from \$250,000 per year to about \$70,000 per year.

90. According to Forlando, the family had funds to buy at the Christie's sale, but their counsel advised them not to. This is consistent with a call Adele received 2 days before the sale in which Kraig Fox of the Fox/Silliman team advised Adele he had been working with Deanna and Yamma for several months, and offered to loan \$2 Million for 4 months to delay the sale. For half that amount, the family could have bought everything at the sale except the Grammy – which was returned to the S.C. State Museum to avoid additional litigation costs.

91. Under the Order authorizing the Christie's sale, thousands of items were placed at 4 museums for safekeeping because of the challenges to the Will/2000 Trust.

92. The Court's Order dated February 20, 2008 allowed Bob and Adele to seek a purchaser for the Beech Island real estate, with reservation of a site for a future home of the "I Feel Good" Trust if feasible.

93. The Beech Island home was offered to Deanna in 2009, who responded accepting, but Louis then said she would not accept.

**Application for Recognition of the "I Feel Good" Trust
and Steps to Correct Tax Problems Caused by the Cannon/ Dallas Group.**

94. In his Order dated August 10, 2007, Judge Early directed that Buddy and Al, as remaining PR/Trustees, apply for IRS recognition of the "I Feel Good" Trust within 6 months. [Order. Dtd. 8/10/07, Para.1(b)].

95. Application for IRS recognition of the "I Feel Good" Trust, a charitable subtrust of the 2000 Trust, should have been made in 2000. It was not. It was a first priority for Bob and Adele after their November 20, 2007 appointment to complete the

application process. The approximately \$83 Million Estate Tax deduction was dependent on this IRS recognition of the "I Feel Good" Trust.

96. One of the components of the application was preparation of a Scholarship Application form to be submitted to the IRS with the Application for Recognition. Bob and Adele asked distinguished educators Dr. Leonard McIntyre (Dean, S. C. State University) and Ms. Inez Tenenbaum (former S. C. State Superintendent of Education) to serve on an Advisory Committee for the "I Feel Good" Trust, and to assist them with the scholarship forms. Both agreed to do so, and did.

97. In November 2007 Bob and Adele encouraged one of Mr. Brown's children named in the Will [Daryl, Terry, Larry, Deanna, Yamma or Venisha] to serve on the Advisory Committee of the "I Feel Good" Trust. None accepted. Bob and Adele worked with the Court-appointed accountant and the Application for Recognition was filed on December 5, 2007.

98. The 2000 Trust was irrevocable. It did, however, give the Trustees a right to amend the 2000 Trust "in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as an exempt entity in compliance with the Internal Revenue Code, as amended." [Tr., Article VII(b)]. Bob and Adele knew the Cannon Group were seeking an unacceptable \$15 Million commission, and had filed claims to that effect. In order to insure IRS qualification, as provided in Article VII of the 2000 Trust, Bob and Adele adopted a resolution limiting the Trustees' fees, once the "I Feel Good" Trust is funded, to ½% per year.

99. IRS approval of the "I Feel Good" Trust was granted.

Protection of Publicity Rights and Royalties

100. In May of 2007 Cox was solicited by the Cannon Group and Forlando to make a proposal to enhance the Brown's Publicity Rights. Buddy, however, directed him to look for a sale.

101. In his June, 2007 report Cox valued the James Brown assets at:

a. Image/Likeness value: \$40-50 MM

b. Property: \$10 - 15 MM

c. Music Catalogue: \$36-45 MM

102. Toby Byron, who had worked with Buddy and Al on a Shout! Factory project for the Estate/Trust completed November 1, 2007 (and had been fully paid) also spoke under oath on November 20, 2007 of the importance of marketing and other aspects of the James Brown brand. [Trans., 11/20/07, pp. 435-443,]

103. On November 20, 2007 there was a question as to whether Mr. Brown's management contract with Intrigue Music Management International ("Intrigue"), which was headed by Frank Copisidas (Copisidas), was still in effect.

104. During December 2007 and January, 2008, Bob and Adele began working on marketing the Publicity Rights, but were faced with (disputed) claims by the Cannon Group and their associates to a large percentage of any deal. These claims would have been in addition to the legitimate fees and costs of a Publicity Rights manager. Their claims (all disputed) included, but were not limited to, the following:
Intrigue/Copisidas: 15 %; Cannon: 5%; Buddy: 5%; Al: 5%; Byron 5-10%. Bob and Adele determined that clarifying the Cannon Group's relationships, and terminating unproductive relationships, was critical to the stability of the Estate/Trust and the

marketing of Publicity Rights.

105. In December 2007 Bob and Adele attempted to negotiate a 1-year short-term arrangement with Copsidas/Intrigue, without prejudice to the various claims between the Estate/2000 Trust and Intrigue. An agreement could not be reached.

106. In December 2007 Bob and Adele also made contact with Royalty agencies and various other music-related contacts and with Global Gaming (GG), with which a contract had been finalized in February, 2007. [The Cannon Group and Copsidas claimed 30 % of GG funds, but Bob and Adele disputed their claims.]

107. Beginning on January 2, 2008 when he filed the Forlando Suit, Forlando tried to interfere with and damage the Estate/2000 Trust by an injunction against any action by the Trust until the Cannon Group was reinstated.

The Corbis/Greenlight Agreement

108. In December 2008 Illinois counsel for the Estate/Trust arranged a settlement conference in New York for January 19, 2009 in the CORBIS matter. [This Illinois litigation relates to a publicity rights issue which attracted Mr. Brown's attention in 2000. Mr. Brown brought suit, through attorneys Jay Ross and Art Gold, in 2002.] Bob and Adele invited Bauknight and the settling parties. None attended. Robert said he was coming, then did not arrive.

109. After negotiations, on March 23, 2009, after 7 years of Mr. Brown's efforts, and 2 years since his death, Bob and Adele reached a favorable settlement which incorporated a 2-year agreement related to the management of Mr. Brown's Publicity Rights – just what the Estate/2000 Trust needed during what was then known would be

an appeal on behalf of whoever did not prevail in the ongoing *Wilson v. Dallas* settlement hearings.

110. Tommie Rae and Terry objected to the GreenLight contract, which could have been in place on May 1, 2009, asserting it would interfere with Terry's right of first refusal to buy Brown's music empire ("ROFR").

111. On June 3, 2009, just after Bob and Adele were replaced, one of Russell's NP attorneys, Freddie Kingsmore said the GreenLight contract sounded like a good idea, but that he had to speak to David Bell. The GreenLight Contract was rejected by Russell, and two years of Publicity Rights lost. On information and belief, Terry and Bell rejected the GreenLight contract to artificially deflate the value of the music empire Terry had just claimed a ROFR to buy, and Russell would soon claim was worth less than \$4.7 Million.

Royalty and Related Clearance Requests

112. Royalty Clearances were in shambles in November, 2007.

113. Between November 20, 2007 and May 26, 2009 Bob and Adele processed close to 200 royalty rights clearance requests worldwide, for diverse matters from yogurt to automobiles, and from Poland and Bulgaria to Mexico and Japan. While these clearance approval/requests did not increase the cash flow because they were applied to the TIAA Debt, they were essential to the reduction of that debt and TIAA's lien on Brown's royalties. The TIAA loan was fully paid in 2011. For the first half of 2009 the TIAA Royalties were over \$2.1 Million.

Engaging Entertainment & Exempt Organization Counsel and Other Counsel

114. Bob and Adele wanted high quality entertainment counsel to work with high-quality exempt organization counsel to help address these important issues:

- a. Is it in the best interest of the Estate/Trust to sell the James Brown assets, possibly maintaining a "Legacy royalty" as had been suggested by Buddy and others, or maintain and manage them long term?
- b. Which assets are appropriate to retain perpetually within a private foundation, and which assets, if retained, would violate tax and other rules and regulations applicable to Mr. Brown's private charitable foundation?
- c. Which assets that are legally prohibited for the "I Feel Good" Trust could be placed in the Grandchildren's Trust?
- d. For those assets which are desirable to hold but must be divested, how to delay divesting?
- e. How to involve the family both with a permanent Brown Family seat on the board and possible family ownership of Beech Island and Household effects without running afoul of prohibited transaction rules?
- f. Other succession issues.

115. Well-regarded Charitable Organizations counsel Alan Rothschild, Esq. agreed to work with Bob and Adele.

116. To obtain entertainment counsel Bob and Adele contacted Bertis Downs who was both a professor at the U Ga. Law School and works with R.E.M. He suggested Nashville attorney and former Warner Music Group executive Ray Gonzalez. Bob and Adele interviewed both a very competent attorney in New York and Ray, and selected Ray. They later designated Ray as a successor PR/Trustee. On or about May 23, 2011, one of Russell's NP attorneys directed Ray to return his file and to direct Bob and Adele to destroy their copy of NP's request for the file, which Ray provided. They declined because it might be required under pending discovery in Case 4900.

117. By early 2008 Bob and Adele engaged Jim Bailey, who helped with the more than 15 cases pending in Circuit Court. Jim represented the Estate and Trust faithfully over 1 ½ years; and charged about \$196,000, approximately \$80,000 of which was not paid and due on May 26, 2009. Russell refused to pay this valid debt for 4 years, while paying Cannon's lawyers. On information and belief, Jim should retain all payments he has received and the Court should direct that he be paid the amount, with interest, approximately \$110,000.

118. After interference by Buddy, PG and Forlando [and others] with the Christie's sale, Bob and Adele engaged Tressa T.H. Hayes ("Tressa") to work with them on Appellate and Appellate-related matters. Tressa worked vigorously, and faithfully served the Estate and Trust. On information and belief, a fee of the amount shown on the accounting plus \$95,000 and costs for her services – many performed before May 26, 2009 – is fair and should be directed to be paid.

119. On information and belief, the combined full Commission claimed by Bob and Adele is fair, especially when considering that Bob's and Adele's legal training and experience allowed them to reduce legal costs without sacrificing quality or damaging the Estate/Trust.

120. The combined claims of Bob, Adele and all of litigation counsel, including those required by Bauknight's inappropriate actions and lawsuits, are reasonable; should be paid; and are wholly consistent with the 7% they estimated at trial as the cost of defending the Estate Plan and paying PR/Trustee commissions. On information and belief, they modest in light of the \$20+ million in commissions and fees Russell proposed to pay himself, his own counsel and counsel for the Settling Parties. Other

examples demonstrating the reasonableness of Bob's and Adele's claims are:

- a. The combined claims of L&B, Peeples, Hull Towell and the Thurmond Firm for the 10 months before any challenges to the Estate Plan or Will were filed exceeded \$ ½ Million.
- b. Buddy is still seeking a \$6 Million commission.
- c. Louis claimed about \$100,000 for one small aspect of Case 122.
- d. PG billed \$48, 225 for a few consultations in 2007 and preparing defective documents to transfer the situs of the 2000 Trust to Georgia.

Ownership of James Brown Enterprises, Inc. (JBE, Inc.)

121. On September 24, 2007 all of Brown's acknowledged family, Buddy and Al stipulated that the only assets in the 2000 Trust at Mr. Brown's death were Mr. Brown's home Estate ("Beech Island") and possibly \$50. Those parties stipulated that JBE, Inc was owned by the Estate. [See Exhibit 3, Hearing 9/24/07].

122. By November 2007 Bob and Adele knew that Cannon and Farr, the former Brown CPA who was terminated by Court Order dated 8/10/07, had filed unauthorized tax returns as to the true owner of JBE, Inc. In September and October of 2007 these unauthorized returns for JBE, Inc. for 2003 - 2006 changed the ownership to show the 2000 Trust instead of Brown as the owner of JBE, Inc. (Farr had prepared JBE, Inc., returns for 2003-2005 showing James Brown, not the trust, as owner of JBE, Inc.; he had also submitted an affidavit to the Court in September of 2007, stating Mr. Brown was the owner.) By November they also knew that both Cannon and Buddy had changed their stories about JBE, Inc's ownership both to the Court and to them.

123. On December 18, 2007, Bob and Adele withdrew the Dallas/Bradley Motion to Declare JBE, Inc. an asset of the Estate. The withdrawal was served on all

parties to Case 122.

124. Bob and Adele advised the IRS and the SC Dept. Of Revenue (SCDOR) of this and other ownership issues.

Defense of Claims Against the Estate/Trust

125. By early 2008 approximately \$45 Million of claims – many without merit — were filed against the Estate and/or Trust. An important goal of Bob and Adele over the 1 1/2 years between November 20, 2007 and May 26, 2009 was the proper management and reduction of those claims. They carefully and efficiently did this with the help of Jim Bailey and Tressa, as well as Matthew Ballenger, Esq. of Hogan and Hartson in New York Pullman Litigation. [Matt was hired before Bob and Adele became PR/Trustees.] The following files give a more detailed understanding of Bob and Adele's services related to the claims litigation, and the excellent work of Jim Bailey at the trial level:

- a. Claim of David G. Cannon; Aiken County Case No. 2008-CP-02-1425.
- b. Claim of Albert H. Dallas; Aiken County Case No. 2008-CP-02-1426.
- c. Claim of Alfred A. Bradley; Aiken County Case No. 2008-CP-02-1427
[Summary Jmt. On the above 3 – \$15+ Million -- was filed on August 2008.]
- d. Claims of the Pullman Group; Aiken County Case No. 2007-CP-02-122 -
[This \$31 Million claims was dismissed.]
- e. Claim of Roosevelt Johnson; [This \$2 Million claim was disallowed.]
- f. Claim of Lewis & Babcock, LLP;
- g. Claim of Rodney A. Peeples, Esquire;
[These two were ready to be heard by the Court on stipulated facts.]
- h. Claim of Smith, Massey, Brodie, Thurmond & Guynn, P.A. ; Aiken County
Case No. 2008-CP-02-1551
- i. Claim of Murrell; [Judgment]
- j. Claim of Stanley Jackson, Esquire; Aiken County Case No. 2008-CP-02-1549
- k. Other Claims

**Preventing Forlando's Attempt to Enjoin the 2000 Trust
& Return the Cannon Group as Trustees**

126. On information and belief, the Forlando Suit is a good example of the most troublesome aspect of the Brown litigation – the false and misleading statements both by parties and their counsel, officers of the Court. It is doubly troublesome that Terry and Forlando, along with Deanna and Yamma, wasted the Court's time and the Estate and 2000 Trust's funds to come full circle, i.e., reunite with Cannon and Buddy to destroy James Brown's Estate Plan.

127. Atlanta Law Firm Powell Goldstein (PG) represented the Cannon Group, as Trustees, in the summer of 2007 just before Bob and Adele discovered the \$900,000.00 taking. Cannon and Buddy were trying to remove the 2000 Trust from South Carolina and the inevitable discoveries which Judge Early's access Order allowed. [Affidavit. S. Jackson] [PG then became counsel for Forlando; then Terry and TJBL; then Russell.]

128. PG secretly worked with Hammond, Cannon and Buddy in June when the \$100 Million joint venture/Sale/IPO with Forlando was being proposed and Cannon and Buddy were demanding a kickback or option. [Cox Proposal 6/01]

129. In September 2007 PG sent the Estate a \$48,225 bill for its work. In November Cannon lied to Jg. Early, saying PG was never hired.

130. In November the Cannon/Buddy attempts to move the 2000 Trust out of the state, to Georgia, and other secret wrongdoing, came to light. Following Cannon's resignation on August 10, 2007, Buddy and Al resigned on November 20, 2007.

131. On November 20, 2007 after the resignation of Buddy and Al, Buddy and

Terry Cox, under oath spoke of Cox's "very significant offer" [Trans., 11/20/07, p. 426], but concealed Cannon, Buddy's and Forlando's financial involvement.

132. Cox, under oath, said that including a kickback or option for Buddy and Cannon was a "mistake." [Transc. 11/20/07, pp. 448]

133. On December 5, 2007 Forlando and Cox officially became joint venturers in TJBL. By March 2008 PG was TJBL's and Terry's lawyer and additional offers were made in February and March.

134. On December 10, Forlando called Adele to talk about his tuition education payments under the Grandchildren's Trust. Adele told him they hoped to have funds as soon as the TPP sale was approved, and Adele offered to speak to the financial aid person at his college.

135. On December 10 or 11, 2007 David Bell called Adele and directed her not to talk to Forlando. Adele requested that Bell advise Forlando of his mandate so that Forlando, who had called her various times, would know the non-communication was not her idea.

136. By about December 18, David Bell was given notice that Bob and Adele withdrew the Dallas/Bradley motion to declare JBE, Inc., an asset of the Estate; he had also received their request in the Declaratory Judgment action that the court declare there was no probable cause to contest the Will or 2000 Trust.

137. As knowledge is defined in the Trust Code, David Bell, Forlando and Terry clearly had knowledge before December 31, 2007 that:

- a. Bob and Adele were not pawns of Deanna and Yamma Brown.
- b. Buddy and Al, not Bob and Adele, filed the motion to declare JBE, Inc., an

asset of the Estate – and Bob and Adele had withdrawn it.

c. Bob and Adele fully supported the Trust and the Will.

d. Cannon had misappropriated \$900,000.00 from the Trust; had resigned; and was unfit to serve as Trustee or PR.

138. Despite this, on December 31, 2007 Forlando, with knowledge of the falsity, verified a Complaint (and later verified others) sought to enjoin the 2000 Trust from taking any action. He falsely accusing Bob and Adele of things he knew to be false, including having, for personal gain, wrested the 2000 Trust from Cannon, Buddy and Al. Forlando also accused Judge Early of impropriety, and sought to enjoin the 2000 Trust from taking any action until the Cannon Group was reinstated.

139. Concealing his financial relationship with Cox, Cannon and Buddy, Forlando represented himself to be an impoverished student who only wanted to enforce the 2000 Trust.

140. Although wholly frivolous, Forlando's lawsuit had to be taken seriously, including the conduct of a 2-day hearing on the injunction, which was not granted. The expense of defending the frivolous lawsuit caused Bob and Adele to lose their professional malpractice insurance coverage. [The 2010 suit by Russell and Forlando's father Terry, Case 4900, caused their insurance to be cancelled again, and required Bob and Adele to defend lawsuits over coverage with Cincinnati.]

141. Among the many troublesome aspects of the Forlando Federal Suit was a false affidavit prepared, signed and filed by David Bell in which Bell falsely told the Federal Court that he had relied on representations by Bob and Adele in advising Forlando to sign a Stipulation, presented to the state court on September 24, 2007, that

JBE, Inc., was an asset of the Estate. Bell had not talked to Bob and Adele about this, and could not possibly have relied on them, as their affidavits – and the facts – confirmed.

142. After the settlement, both Bell and Louis directly and indirectly threatened Bob and Adele with ethics claims or Rule 11 problems if they did not resign. On information and belief, Louis's threat to Bob was the day of the first hearing on the Settlement. Bell later wrote Bob threatening a judicial grievance if Bob did not resign.

143. In addition, Bell and PG attached what was represented to be a copy of the 2000 Trust to the Forlando Suit complaint. The copy contained the Post-death, Second Schedule B which Buddy had created in January 2007 to make it appear that James Brown had himself transferred assets to the 2000 Trust during his lifetime.

144. As a result of the false and scurrilous accusations of the Forlando Suit, the first time either Bob or Adele had had to call on their legal negligence carrier to defend them in their combined 60 years of practice, both of their professional liability policies were cancelled – Adele's at the end of 2008.

145. David Bell also assisted his clients in filing 6 grievances against Louis in two states. While Bob and Adele have been troubled by some of Louis's actions, they felt that the grievances filed by Bell, like the Forlando Suit brought against the 2000 Trust and them, were not merited and were brought for an improper purpose.

146. Approximately \$400,000 had been spent by 2009 in the defense of the Trust in the Forlando Suit. The premium for Adele's insurance for 2009, obtained after the cancellation, was more than 4 times that of the previous year. Bob also had trouble obtaining coverage.

147. On information and belief, this Court should direct that the attorneys' fees and costs of the frivolous Forlando suit be paid by the Estate/Trust, but recovered by the Estate/Trust from the share of Forlando in the Trust and Terry in the Estate, which is now owned by Forlando.

148. The unchecked false and misleading statements and filings of Buddy, Bell and others made Bob's and Adele's task of preserving and protecting the Estate and 2000 Trust and defending the Estate Plan of James Brown more difficult.

149. While Bob and Adele did not seek revocation of Mr. Bell's *pro hac vice* status in Case 122, his false affidavit and other false representations he made to the Court compelled them to support it. The Court did not revoke his *pro hac vice* status despite earlier warnings.

150. Bell participated for months in *Wilson v. Dallas* without even seeking admission – representing at the same time a supporter and an opponent of the settlement.

The Effect of Service as PR/Trustees on Bob's and Adele's Careers

151. In February 2007, when asked by Alan Medlin (Adele) and counsel for the then-PRs (Bob) to consider appointment as SAs, both of them had very active careers.

152. At Bob's and Adele's first meeting with the Cannon Group on March 26, 2007 Cannon was red-faced, literally banging his fist on the table and accusing them of being spies for the enemy. Bob and Adele told him they understood his concern, but were just doing their job.

153. On November 20, 2007 that job changed dramatically, and without

warning.

154. In 2007 Bob and Adele both reduced their practices to meet the ever-increasing demands. As before, they had a job to do.

155. From November 2007 Adele was spending more than 80% of her working time on James Brown matters and had to turn away many requests for her service. In November 2008, well into a year in which she would spend at least 2,300 hours on being a Brown PR/Trustee, Adele decided to close her Columbia practice. Bob, having turned away numerous matters over 2½ years, was required to rebuild his practice in 2009. Adele has dedicated thousands of hours since May 26, 2009 to the task of honoring James Brown's Estate Plan and defending herself against the frivolous claims of Kevin Jones, Forlando, Russell and others. Both have borrowed money and/or dipped into savings to properly perform their duty and keep their offices functioning.

156. Both Bob and Adele are sole practitioners. Bob's staff of 1½ and Adele's formerly much larger staff devoted much of their time for 2½ years to Brown matters.

157. On information and belief, from November 20, 2007 Bob and Adele served the Estate, Estate Plan and 2000 Trust – and the backup 1999 Estate Plan – as it should have been served by:

- a. Protecting and enhancing the assets, especially the Royalties and Publicity Rights during their active service, and leaving Russell alone to try to do the same after May 26, 2009.
- b. Defending the Estate Plan of James Brown not only during their active service but until the *Wilson v. Dallas* final decision on May 8, 2013.
- c. Developing a Succession Plan which should help prevent loss of millions to persons James Brown did not intend to have his assets.

The August 10, 2008 Settlement and Bob's and Adele's Duty to Appeal

158. Cannon's violations of the criminal law and the Cannon/Dallas/Bradley breach of their fiduciary duty to James Brown were apparently undiscovered until shortly before or after Brown's death. They include Cannon's unreported \$4.9 Million taking from the TIAA Funds in 1999; the \$900,000 taking from the 2000 Trust in 2006; and the after death filing in Aiken County of a \$700,000 judgment in favor of Cannon against Brown which he secretly obtained by paying \$41,000 in 2002. They also include Cannon's 2008 forgery to cover up some of his takings.

159. The Cannon/Buddy relationship with Brown's family/beneficiaries was mixed. Deanna held a power of attorney with Cannon and Buddy until Brown's death. Deanna and Yamma became, after Brown's death, Trustee and Executive Assistant to the Trust board, respectively.

160. In early 2007 the Deanna/Yamma group (then all 6 acknowledged children) split from Cannon and Buddy because, according to Forlando, Cannon and Buddy would not give them enough control. Then Forlando and Terry split from the Deanna/Yamma group.

161. Forlando and Terry have asserted that Bob and Adele were appointed SAs in March 2007 to get rid of Cannon and Buddy so the Deanna/Yamma Group could take the James Brown assets for themselves.

162. The Deanna/Yamma Group engaged Bob and Adele – and this Court – for 8 months with hundreds of hours of complaints about the unconscionable 15% commissions from the Estate/Trust the Cannon Group wanted. Then on December 26, 2007 they filed suit in state court to get it all for themselves.

163. Terry has now re-joined the Deanna/Yamma Group. He and his son Forlando and Russell have all been represented by PG.

164. PG refuses to make a public release of its file for the period when the Cannon Group was seeking a kickback or options in the IPO, even though the Cannon Group all consented at the August 10 hearing for that release to be part of the August 10, 2007 Order.

165. Having reunited, and aided by Russell, Cannon/Buddy and Mr. Brown's family are happy to take Brown's funds for themselves and accuse Bob and Adele of impropriety for defending Mr. Brown's wishes.

166. Bob and Adele have been since 2008, and remain, the only persons protecting the interest of James Brown's Estate Plan, including:

- a. Brown's In Terrorem clauses of the Will and Trust.
- b. Brown's Spendthrift Clause of the Trust.
- c. Brown's desire to dedicate most of his estate to the private education trusts.

167. Bob and Adele have made it clear to the AG and others since November 20, 2007 that they intend only to complete their duty and provide for proper succession.

168. After considerable research Bob and Adele concluded that their duties required them to appeal the McMaster settlement, which they did at substantial personal cost.

169. The *Wilson v. Dallas* appeal increased the likelihood of retaining the \$50+ Million for needy students Russell proposed to remove from the "I Feel Good" Trust; it had a positive outcome for the Estate/Trust; and it was reasonable and in good faith. The outcome provides additional support for the reasonableness of Bob's and Adele's

requested full commissions for the six years they have worked to save the "I Feel Good" Foundation; demonstrates that Russell must seek payment from others he serves; and confirms again that Buddy and Cannon are not entitled to any commissions.

Russell, Case 4900 and the Attorney General's Office

170. Since 2007 Bob and Adele have made every reasonable effort to cooperate with the Office of the AG, including Adele's contacting and meeting with AG Wilson after the first *Wilson v. Dallas* decision to discuss how important to private property and private philanthropy in South Carolina she believes the *Wilson v. Dallas* decision was.

171. On information and belief, AG Wilson's statement in 2013 to the Supreme Court that he wants to get out of Case 4900 and that AG McMaster gave his nod to Case 4900 only because the statute of limitations was running and someone – not yet known – advised him that he would breach his fiduciary duty if he did not sue Bob and Adele, suggests the State no longer desires to be involved in the false accusations being made, including that Bob and Adele committed a federal felony.

172. On information and belief, an SA/ST working on behalf of James Brown's Will and 2000 Trust will sort out the damage Russell caused by asserting, without basis, in 4900 that he was acting "on behalf of" the Attorney General of South Carolina," and protecting the public interest of S.C. citizens while also speaking for the Brown's Estate, the 2000 Trust, the Legacy Trust, Tommie Rae, three minors, an incarcerated adult and others, all through a single, private law firm.

173. On information and belief, the mess in which the Estate/2000 Trust now

finds itself in Case 4900 – including seeking relief from default -- could be easily remedied by an SA/ST protecting the Will and Trust of James Brown . Russell has too many others he is obligated to protect – especially himself, Tommie Rae and Terry/Forlando – whose interest is not aligned with the Estate/2000 Trust.

174. Among the Case 4900 problems are the pending Wingate/Russell Motions to Strike Offers of Compromise which charged the minor beneficiaries of the 2000 Trust nothing and offered to help restore their \$285,000 Trust funds. Wingate and Russell rejected and moved to strike many offers, on information and belief, without even notifying the minors or persons to whom the offers were made, and while refusing to appoint a GAL for the minors or for incarcerated Venisha..

175. In Case 4900 Russell has, among other things, also told the Richland County Court that:

a. Judge Early's finding in the April 8, 2008 Order that Bob's and Adele's appointment was legal and appropriate and that their service "in light of emerging facts related to the former PR/Trustees is outstanding" was dicta; and

b. The situs of the 2000 Trust and the Legacy Trust were moved to Richland County by Russell on May 26, 2009.

176. On information and belief, Russell's speaking for 12 different people in Case 4900 cannot be aligned with the interest of the Will/2000 Trust of James Brown.

177. On information and belief, proper handling of Case 4900 by an SA/SA protecting the Will/2000 Trust – and with only about 4 depositions needed for dispositive motions and trial – will be both just and efficient.

Pursuing the Cannon Appeal

178. By November 15, 2007, the criminal investigation in relation to Cannon's income -- which came from Brown -- was known. And his \$900,000 2006 taking from the Trust had been known for months.

179. When Cannon was held in contempt by the Court, and appealed, Bob and Adele were not concerned with the sentence. They were concerned with the destabilizing effect of his challenges to the Court's (Judge Early's) authority to act, and whether the year spent uncovering the Cannon/Buddy actions which led to their resignations would have to be repeated.

180. Bob and Adele urged the Assistant AG Jones to work with them on the Cannon Appeal to prevent the return of Cannon and Dallas. The AG refused.

181. The AG and all parties except M&T Bank, Bob and Adele acquiesced in Cannon's appeal position that Judge Early had no jurisdiction over the year-long Trust hearing.

182. The AG did not file a brief or attend the Cannon oral arguments.

183. During the period of his appeal, Cannon repeatedly violated Judge Early's Orders in connection with Geronimo Music Management, LLC (Geronimo), a company owned at least 51% by the 2000 Trust which is the publisher for some of Mr. Brown's songs. Buddy also violated the Orders.

184. Cannon and Buddy continue to be in direct violation of the August 10, 2007 Order by refusing, as ordered, to turn over the PG Estate/Trust Files for inspection by all Interested Persons.

185. Russell has recovered nothing from Cannon in 4 years -- not even the

mansion Cannon built after Brown died for a retirement home in Honduras.

Defense of the Estate Plan and Other "Family" Claims

186. On information and belief, the record is clear that Bob and Adele vigorously defended the Estate Plan of James Brown both at the trial level and on appeal, and that their defense was successful. By contrast, Russell has spent four years working for Tommie Rae, Terry and others against the Estate Plan, and gives no indication that he intends to change.

187. James B.'s standing could – and should – be resolved with a \$300 DNA test, as should the status of Tonya, Curtis and the incarcerated Deon.

188. If James B. is a child, Summary Judgment as to whether he was intentionally excluded by Brown's Will is simple.

189. On information and belief, the facts demonstrate Tommie Rae is neither an heir nor devisee of James Brown; much of her claim should have been decided on motion to dismiss; and the remainder on Summary Judgment after discovery, which has been stayed for 5 years. On information and belief, a litigation SA/ST with a mandate to protect the Will and 2000 Trust of James Brown could make short work of the 5-year delay in this case and the 3-year delay in Case 4900 which Tommie Rae and Russell are trying to extend for what may be another 5 years.

190. On information and belief, the litigation SA/ST could easily proceed to Tommie Rae's and Terry's already-noticed depositions in Case 4900, where they have evaded depositions for two years despite their claim that Bob and Adele caused them millions of dollars of damages.

191. Russell and Wingate have now – after the second *Wilson v. Dallas*

decision, asked Jg Manning to stay not only Case 4900 but both FOIA cases until Judge Early concludes all matters in Aiken County. On information and belief, this is wholly inconsistent with justice and with Jg. Early's direction that the James Brown matters now proceed expeditiously.

192. On information and belief, allowing this Case and other cases to proceed, *with an SA/ST who is working to defend the Will/2000 Trust*, will serve both justice and judicial economy. On information and belief, the Litigation SA/ST should have full and complete authority to act within the litigation realm and :

- a. Have no current close relationship to any party or counsel listed on the Schedules to this action;
- b. Be available to give all necessary time to the project
- c. Be given access to all current and former counsel files, books and records of the Estate/2000 Trust and Brown Entities and to the James Brown files of any attorney seeking payment from the Estate/2000 Trust;
- d. Be willing to accept \$325 per hour and give as many hours as necessary; and be paid monthly.
- e. Be authorized to represent and protect the Estate, as directed in the 2000 Will, and 2000 Trust until conclusion or earlier Order of the Court: in the following: (1) The Forlando Suit; (2) This Case; (3) The Dallas Claims and all related matters; (4) Case 4900; (5) the FOIA suits.
- f. Be directed to represent the Estate/2000 Trust as SA/ST working with Kendall Few, Esq. and James Gilreath, Esq. as the client in Case 322 , with the mandate to protect the Estate, as directed in the 2000 Will and the 2000 Trust.
- g. Be directed to represent the Estate/Will and 2000 Trust as stated in all discovery, joinder and trial preparation matters in the Will/Trust contest ("Case 872), the Gag Order Matters, and Tommie Rae and James B. claims, including DNA testing and dispositive motions and seeking GALs.

193. On information and belief, Russell's 2009 commitment to certain persons

claiming to be some of the heirs of James Brown against the Estate/2000Trust cannot be reconciled with any continued service under the Will/2000 Trust.

194. The Supreme Court has voided Russell's appointment, undoing some of the damage of his intemperate endorsement of Tommie Rae and his incorrect representations about the Heirs and Federal Copyright Act. On information and belief, Russell should be replaced before he makes these same errors again.

Sale of the Joseph Brown House.

195. According to Louis, attorney for various family members, the home of Joseph Brown, James Brown's father, held more significance for his acknowledged children than Beech Island. The house, valued at \$60,000.00 was an albatross for the Estate. It was unoccupied; the Cannon Group had allowed the insurance to expire; and it came to Mr. Brown through the Estate of Joseph Brown, which had not been probated.

196. The location in Georgia made oversight of the Joseph Brown house and solving the probate issues more problematic and costly. Further, it came through an intestate Estate, and Bob and Adele learned of the possibility of a brother of James Brown who might claim an interest in the house—even though James Brown had provided all of the funds for it.

197. Bob and Adele sought, and obtained, court approval to sell the Joe Brown house to Louis's clients with only a quitclaim deed; 10% down and a note and security deed for the remainder, with purchaser's counsel to prepare documents.

198. Louis assured Bob and Adele that payment by his clients would never be a problem. After Bob and Adele spent months assisting the purchasers (Louis's clients)

in getting the sale documents correct, the sale finally closed. The purchasers made only 2 payments. Beginning in August of 2008 they refused to make any further payments based on the settlement. On information and belief, Russell has collected no payments since the *Wilson v. Dallas* decision.

The March 2009 Offer of Compromise

199. By January 30, 2009 it appeared that the Settlement was gaining substantial momentum. On that day Bauknight, Tommie Rae and others asked the court to approve the settlement which now included the unprecedented offering of millions of dollars more, to be taken from James Brown's assets, to pay Terry to abandon his firm, and sworn, assertion that both the 2000 Trust and 2000 Will were valid; carried out the wishes of James Brown; and had been affirmed by James Brown. [See Ltrs. of S. Jones, D. Bell, dtd. 1/30/09.]

200. On that same day, with Russell having no knowledge of the value of Brown's assets, said he had "heard" about \$80 Million, while Tommie Rae, as soon as a family member acquired ROFR to buy the music empire, began to suggest that the at-death value of Brown's Gross Estate for Federal Tax purposes might have been less than \$100 Million. [Two years later Russell told the IRS the music empire was worth less than \$4.7 Million.]

201. From November 2007 to January 2009 the Estate and Trust had been threatened by the \$15+ Million claims of the Cannon Group. It was now faced with a \$50+ Million threat, and possibly a sale to family at a new, deflated value – causing even greater loss.

202. On March 26, 2009 as a last-minute effort to salvage at least some of the Estate Plan as Brown intended, Bob and Adele presented an Offer of Compromise which would correct the parties, require GALs for the minors for approval, and give a generous settlement to Tommie Rae – without declaring her as spouse, but giving her adequate dignity. It provided:

2. The Last Will and Testament of James Brown dated August 1, 2000 shall be formally admitted to probate, but subject to the modifications set out below:

a. The Personal and Household Effects (PHE) to which the 6 children are entitled under Item I of the Will shall consist of the current contents of Beech Island and the assets on loan to museums. Deanna Thomas shall take possession of the Beech Island contents for safekeeping on behalf of the 6 children on or before May 1, and shall immediately deliver a receipt for same.

b. The first sentence of Item II of the Will is amended to so that after amendment it shall read:

Subject to subparagraph (3), below, I give and devise the rest, residue and remainder of my property as follows:

(1) Fourteen (14%) percent to be divided equally among Daryl, Terry, Larry, Venisha and James B., Deanna Brown Thomas and Yamma Brown Lumar, all of whom are declared to be acknowledged children of James Brown.

[An additional One (1%) percent to James upon receipt of official DNA confirmation by May 1, 2009. Provided, however, failure to elect this provision shall not be deemed to create any presumption or inference affecting his status as an acknowledged child for all purposes.]

(2) The Remainder [either 85% or 86% percent] to the James Brown 2000 Irrevocable Trust created on August 1, 2000 prior to the execution of this Will . . .

(3) All amounts otherwise payable to James B. shall be paid to a conservator or Trustee nominated by his mother and acceptable to the Court.

3. GAL and attorneys' fees and costs for James shall be charged to his share as a priority expense of administration, in a reasonable amount to be set by the Court upon presentation of Affidavits and/or other documentation.

4. The permanent resignations of Messrs Cannon, Dallas and Bradley as set out

in the August 10, 2007 Order in Case 122 shall remain in full force and effect.

5. Robert L. Buchanan, Jr. and Adele J. Pope shall continue to serve as PRs and Trustees, and their actions to date are ratified and confirmed.

6. Effective upon entry of this Order, Louis Levenson, if his clients consent in writing to such service, shall serve as Special Administrator, to cooperate and assist the PR/Trustees with marshaling and managing assets and litigation, including but not limited to, implementation of the CORBIS settlement; selecting a recipient of the Right of First Offer; due diligence regarding a potential asset sale; and related TIAA and Pullman matters.

7. Except as set out herein, and subject to payment of the claims set out below, the Last Will and Testament of James Brown dated August 1, 2000 shall remain in full force and effect, including its tax apportionment provisions.

8. The Court specifically finds that all challenges to the validity of the James Brown 2000 Irrevocable Trust and its subtrusts, the Brown Family Education Trust and the James Brown "I Feel Good" Trust are barred by applicable statutes of limitation and should be dismissed. All challenges thereto should be dismissed.

9. Upon receipt of the Estate Tax Closing letter, after disclosure to the IRS of the final Order approving this settlement; payment or provision for all debts, taxes and expenses of administration; final resolution of the Forlando Brown Federal Suit, including the counterclaim; and final resolution of the Cannon and Dallas/Bradley appeals, Robert L. Buchanan, Jr. and Adele J. Pope shall resign as Trustees (and PRs if appropriate) and appoint as Successors:

a. Deanna J. Brown Thomas (to fill a seat to be held by, or permanently reserved for, a member of the Brown family);

b. A competent, independent South Carolinian appointed by the Attorney General of South Carolina; and

c. A competent, independent South Carolinian appointed by a majority of the then-existing Advisory Board, which currently consists of Dr. Leonard McIntyre; Dr. Ann Carmichael; Ms. Inez Tenenbaum; Judge Walter Williams; and Coach Larry Campbell.

10. 430 Douglas Drive, Beech Island shall be sold, absolutely as is, to DEANNA BROWN THOMAS for \$925,307, or other(s) if not closed by May 1, 2009, as set out in the PR/Trustees' Memorandum dated March 27, 2009.

11. In complete settlement of all claims and rights each may have in and to the

Estate and Trust, and paid prior to the final residuary distributions set out above, the following shall be Offered, and paid if timely accepted as part of this Offer:

a. Seven (7%) percent of the residue to Tommie Rae Hynie in exchange for relinquishment of all claims she may have in, to and/or against the Estate, the Trust and any Brown Entities.

b. Ten Thousand (\$10,000.00) Dollars and recognition that she is child of James Brown as contemplated under current Federal Copyright Law, to each of Cinnamon N. Parris, Jeanette Mitchell and LaRhonda Pettit, in full settlement of all claims and/or demands each shall have against Estate/Trust.

12. The *In Terrorem* clauses of the 2000 Will and Trust shall not be enforced against persons who immediately ratify in writing the 2000 Will and 2000 Trust, as modified by this Order.

13. All assets other than Beech Island and Geronimo, LLC shall, for accounting purposes, be treated as Estate assets unless objected to by the Attorney General of South Carolina, or if a different ownership is clearly established..

14. A 6-months' Right of First Offer with exclusive due diligence period for a potential sale of the bulk of the Estate/Trust Assets shall be granted as soon as reasonable, but within 30 days, with any one or more person(s) procuring a buyer who actually closes entitled to a finder's fee, up to a total of 2%, as agreed by the PR/Trustees or approved by Probate Court.

15. All parties shall execute such additional documents as are reasonably requested to carry out the terms of this Order.

203. While the Offer of Compromise would normally not have been discussed, Tommie Rae's counsel referred to it in Court and it became part of the record. Bob's and Adele's attempt to salvage James Brown's Estate Plan was rejected. On information and belief, this rejected offer should be taken into account in the determination of all fees and commissions.

204. Just before the 2010 lawsuit filed by Russell – purporting to speak for the State/AG when he had no authority to do so — Bob and Adele presented yet another Offer to one of Russell's by-then-12+ attorneys at NP. It proposed to give Tommie Rae

and others virtually everything they asked for provided the Supreme Court approved.

205. Russell, Tommie Rae and Terry did not even respond. Instead, the filed suit on May 19, 2010, seeking tens of millions of dollars of claimed loss from Bob and Adele to a music empire they now say was worth less than \$4.7 Million when Brown died; for conducting the *Wilson v. Dallas* appeal; and for not accepting a \$100 Million offer which, in 2011 Russell told the Supreme Court was never made.

Bob and Adele Provide Assistance with the Transition of Management of the Estate/Trust Pending Appeal

206. On August 12, 2008, one of Tommie Rae's lawyers notified Bob and Adele to "stand down" and quit managing the Estate because a "settlement" had been reached. [Ltr. Rosen and email to Judge Early dtd 8/12/08.] This was followed by a letter announcing a "settlement" reached on August 10 after a secret mediation to which Bob and Adele were not invited and of which they we were not informed. [Ltr Jones dtd 8/12/08.]

207. Tommie Rae's "stand down" directions exhibited how little Tommie Rae and others understood of the complex workings of the Estate/2000 Trust; the James Brown musical empire and the more-than 20 pending cases in which Bob and Adele were involved as PR/Trustees and on behalf of JBE, Inc.

208. Bob and Adele faced an Estate Tax Return for an approximately \$100 Million Estate due – with no further extensions permissible – on September 25, 2008, and depositions scheduled in the Forlando Federal Suit in September, with a 2-day hearing scheduled for November 18 on Forlando's attempt to paralyze the 2000 Trust

until the Cannon Group was reinstated..

209. They needed to know what was proposed in the secret agreement in order to assess its impact on the Estate Tax Return, and asked the Court to require disclosure of the terms. They also invited the settling parties' accountant to prepare the Estate Tax Return for their review and approval.

210. One of Tommie Rae's attorneys advised Adele that the "settling" parties had no accountant and that they wanted Bill Sellars to prepare the Estate Tax Return. Tommie Rae's tax attorney Carter later refused to participate in the tax process.

211. Russell had been known to Bob and Adele since June 2008 when AG Jones filed an Emergency Petition to Appoint a Special Trustee, asserting Bob and Adele had no authority to act. [See Em. Pet. Dtd 6/26/08 and Ltr of Jones dtd 7/7/08.].

212. Between July, 2008 and May 26, 2009, Bob and Adele invited Russell to visit Beech Island. [He did not return their calls.] They invited him to attend (by phone or in person) the CORBIS/GreenLight Settlement conference in New York on January 19, 2009. [He declined.] They requested his input, since he is an accountant, on tax issues created by the August 10, 2008 document. [He did not respond.]

213. Russell met with Bob and Adele once after he was appointed "independent" SA/ST and before the settlement hearings. He knew virtually nothing about the more than 20 pending cases, and did not bother to look at the 90 boxes of historical documents available to him.

214. Despite this, he testified under oath that no transition was necessary if he was appointed Successor PR/Trustee.

215. Bob and Adele had been appointed PR/Trustees on November 20, 2007

without any transition. They made every effort to be sure there was a smooth transition of management to Russell after May 26, 2009, without prejudice to their strongly-held position that Russell improperly recommended the Settlement and had – and still has – an irreconcilable conflict which renders him unable to serve as PR/Trustee while serving Tommie Rae and Terry/Forlando.

216. In June Russell bragged that 10 NP lawyers were working for him. Some sent rude letters. All refused Bob's and Adele's repeated offers to meet weekly with them for as long as helpful with the transition. By 2013 Russell had more than 20 lawyers – many spending considerable time protecting Tommie Rae; trying to keep the Settlement in place; and trying to destroy Bob and Adele.

The Duty to Defend James Brown's Right to Control Succession in His Estate, Grandchildren's Trust and The "I Feel Good" Trust

217. On information and belief, the joint affidavit of Bob and Adele dated August 19, 2008, with all Exhibits, in Cases 872 and 122, incorporated herein by reference, outlines how the Cannon Group left hastily under threat of removal and without appointing successors.

218. On information and belief, it was Bob's and Adele's duty to defend James Brown's Succession Plan for the fiduciaries of his Estate, the Grandchildren's Trust and the "I Feel Good" Trust and they correctly challenged the notion proffered by Tommie Rae and others that the "I Feel Good" Trust was "the Attorney General's money" and that the Attorney General had the right to take Brown's private estate, private trust and a private charitable foundation; change their terms and succession plan; and place

them under his personal control. On information and belief, the *Wilson v. Dallas* decision now gives this Court the right and obligation to reestablish Brown's Estate Plan and appoint 3 unconflicted fiduciaries who will vigorously defend the Will and 2000 Trust according to their terms.

219. Seven years before his death James Brown established a Succession Plan in his Will and the 2000 Trust. Bob and Adele properly continued to defend that succession plan and the Estate Plan for 4 years after their removal, providing an extremely beneficial result.

220. On information and belief, in clear defiance of the *Wilson v. Dallas* mandate, Russell sought and may have obtained *ex parte* orders appointing him SA/ST without notice or hearing not for the proper purpose of emergency protection of assets – but to continue his plan, with Tommie Rae and others to dismantle the Estate Plan.

221. On information and belief, the *ex parte* appointments of Russell should be declared void; the Notice of Disallowance should be declared void; Bob's "settlement" voided; and all relief requested by Bob and Adele in their Claim and related cases be granted, including under the January 8 Order, with interest continuing as stated, and at 8 3/4% compounded annually since 2009, until paid, and all attorneys' fees and costs requested.

For A Second Cause of Action

(Removal and Accounting of Bauknight; Appointment of SA/ST for Litigation on behalf of Will/2000 Trust & SA/ST for Management under Will/200 Trust)

222. Plaintiff restates and incorporated Paragraphs 1 through 221 as fully as if set out herein.

223. Russell's breaches of duty, disloyalty to the Estate/2000 Trust and loyalty to Tommie Rae, Terry and the Legacy Trust compel his removal and the appointment of SA/STs to preserve and defend the assets in accordance with the Will and 2000 Trust.

224. The damage Russell has cause in Richland County compel that it be now.

225. Just some of Russell's actions which make this critical are described below.

Russell's Less-than \$4.7 Million Value of Brown's Music Empire

226. On October 12, 2007 the Cox Group made a \$90 - \$100 Million offer (letter of itent) to buy Brown's assets under the name of TJBL – an entity to be formed. Buddy later testified the offer was left on Jg. Early's desk the day Buddy resigned.

227. On November 14, 2007 Bob and Adele moved the Court to allow the Royalties and Publicity Rights (Image and Persona) to be valued on the Estate Tax Return under the following formula:

12 - 14 TIMES (1 Yr. Royalties PLUS ½ Yr. Gross Road Revenues) =
Value of Royalties, Publicity Rights

228. On November 15 the I&A filed by Buddy and Al properly valued Brown's assets at about \$100 Million less the TIAA debt, approximately \$15 Million, based on the offer.

229. On November 15, Jg. Early asked AG McMaster and all others others to let him know within 10 days if they objected to the valuation proposed by Adele and Bob as SAs. None did so.

230. On November 20, 2007 Buddy told Jg. Early he was expecting additional offers by the end of 2007.

231. On December 6, 2007 AG McMaster's Sr. Assistant ("Sonny") inquired about the \$100 Million offer and expressed fear it would disappear if not accepted. But in September 2008 Forlando – part of the purchase group – confirmed that offers of \$150 Million were still available.

232. On May 6, 2011, to the extreme detriment of the Estate/2000 Trust, Russell filed documents in the Probate Court – under oath – asserting that the at-death value of Brown's worldwide music empire and claims against the Cannon Group was less than \$4.7 Million.

233. On information and belief, Russell earlier, and falsely, represented to the IRS that Bob and Adele had committed the federal crime of overstating Brown's assets by \$79 Million – more than 15 times their real value – for the improper purpose of obtaining a \$5 Million dollar commission.

Russell Claims Tommie Rae's Elective Share a "Slam Dunk"

234. In early 2008 and thereafter Bob and Adele moved to protect the Estate/2000 Trust by dismissing or obtaining Summary Judgment ("SJ") as to Tommie Rae's challenges to the Will and 2000 Trust and other claims to entitlement on the following grounds;

- a. Her "spousal" claims (Elective Share & Omitted Spouse) were not timely filed because they were filed in the wrong Court; failed to comply with legal requirements, including a summons and were otherwise defective;
- b. She was not Brown's spouse;
- c. Before entering the void ceremony she had waived any claim to Brown's assets;
- d. After the void ceremony and Brown's discovery of her marriage, Tommie Rae agreed never to claim to be Brown's common law spouse.

235. On September 15, 2008, just after the Lukich decision, Bob and Adele supplemented their Motion to Dismiss all "spousal" claims of Tommie Rae. These motions have not been heard. On November 1, 2011, Russell's counsel told the Supreme Court Tommie Rae's Elective Share claim was a "slam dunk." On information and belief, an SA/ST is needed to free the Estate/2000 Trust from statements Russell made under the void appointment; hold Tommie Rae's baseless claim to 1/3 of the \$5 Million she claims was the value of Brown's assets at death LESS costs of administration; then defeat the claim because she was not Brown's spouse; was intentionally omitted; is not an heir; and has waived all rights.

Russell's Actions in Case 4900 and Refusal to Get GALs

236. Since 2007, Bob and Adele have protected the \$285,000 share of the 7 had grandchildren for whom Brown provided a trust under the 2000 Trust while Russell and with their own parents sought to destroy them. Russell and Wingate made the already-damaged minors among them Plaintiffs against Adele and Bob in Case 4900, but have refused for 3 years to appoint a Guardian ad Litem ("GAL") for them. In 2012 Russell and Wingate filed a Motion to Strike Adele's beneficial Offers of Compromise to the minors which, on information and belief, neither he nor Wingate presented to them before the motion. On information and belief, and SA/ST serving under the Will and 2000 Trust is essential to undo this damage in Case 4900.

Russell's Knowledge of Terry/forlando's Fraud on the Courts

237. Forlando, the "family" face of Buddy and Cannon, continues in 2013 his deception of the Federal and State Courts begun when he filed a known-false

stipulation in September 2007; hired Buddy's PG lawyers in September 2007 to investigate Bob and Adele; and filed his egregious, verified false lawsuit on January 2, 2008.

238. On November 19 and 20, 2008, Jg. Bertelsman held 2 days of hearings in the Forlando Case on Forlando's request for a temporary injunction to prevent the 2000 Trust from taking any action until the Cannon Group Trustees were returned.

Forlando's position was that:

- a. Jg. Early had acted illegally;
- b. Bob and Adele were pawns of the "family" who mismanaged the Trust; and
- c. Jg. Early illegally appointed them, so the Trust must be enjoined from any action until the Cannon Group was reinstated.

239. Forlando, through PG, Bell and others, has consistently lied to and deceived the Federal Court in the following, and other, particulars:

- a. By attaching the fabricated Buddy second Schedule B to his verified complaint, asserting it was a true copy of the Trust, removing it only after Bell's *pro hac vice* status was challenged in State Court;
- b. By Forlando's asserting to the Federal Court that he was not a party to any State Court proceeding, even though he was – and is – a Plaintiff in Case 122;
- c. By Bell's filing a false affidavit saying he [Bell] relied on representations of Bob and Adele when he advised Forlando to sign a September 2007 Stipulation in Case 122.
- d. By Forlando's assertion to the Federal Court that he was an impoverished student seeking only to carry out his Grandfather's Estate Plan, when he had actually been awarded 39% of TJBL to bring the fabricated Federal Suit.

240. After January 30, 2009 Forlando and Terry, both through Bell and PG, began taking opposite sides at the same time in different courts with the same counsel:

- a. Forlando continued to oppose the settlement while Terry not only embraced the settlement but acquired a ROFR to buy Brown's music empire;
- b. Forlando continued to represent himself as having no assets, and Terry to be the owner under the settlement of nearly 5% of the Estate and having a ROFR – even though Terry secretly transferred the ROFR and his entire interest in the Estate to Forlando on January 4, 2011.
- c. Forlando asserts in Federal Court that the value of Brown's music empire is \$100 Million, while Terry asserts to the Supreme Court that it was worth less than \$4.7 Million when Brown died.
- d. Forlando says Russell's less than \$4.7 Million is "bogus." Terry says it is correct.

241. In late 2011 Forlando told the Federal Court he wished to abandon his suit against Bob and Adele, after causing them to incur about \$1/2 Million in legal fees to prevent total paralysis of the 2000 Trust.

242. On April 13, 2012 Forlando appeared at status conference before Judge Bertelsman in Federal Case, and made the following representations as Judge Bertelsman considered the Counterclaims:

THE COURT: Well, do you have any assets, Mr. Brown?

MR. BROWN: I do not.

THE COURT: So my father....said you can't get blood out of a stone....But so you're going to pursue these counterclaims, but if he has no assets – You willing to give us a sworn financial statement?

MR. BROWN: Absolutely.

THE COURT: Okay. He doesn't have any assets. Do you stand to gain an inheritance under the settlement in the State Court?

MR. BROWN: Not unless my father were to pass away. . .

243. In February 2013 Forlando disclosed Terry's secret assignment to him of

Terry's Interest in the Estate; that he had secured offers of \$50 to \$120 million, but that Russell did not want to sell. As for Russells' less-than \$4.7 million valuation, he stated: "The low value is bogus, so that no one can say Russell damaged the assets."

[N.Obs., 2/13/]

244. On information and belief, Russell knew about the Assignment and had hired PG himself for "tax advice", yet he advised the Federal Court the 2000 Trust had no desire to collect the attorneys' fees and costs of the Forlando Suit from Forlando.

245. On information and belief, Russell's action must be corrected before it becomes binding on the 2000 Trust, causing irreparable harm.

246. Russell has told the Supreme Court that one thing that is clear: Cannon and Buddy are liars. Yet he continues to shield their joint venturer Forlando.

247. Since the first *Wilson v. Dallas* decision Forlando has engaged 3 new lawyers, and has made the most egregious statement to date.

248. Forlando's new lawyers have expanded the false whisper campaign Buddy, on information and belief, began in 2007 that Jg. Early was favoring Adele because they had an affair years ago.

249. Amazingly, Forlando's new lawyers have just – in 2013 – made the false representation to the Federal Court that Adele admitted this.

250. The new allegation – like the old one – is false. There was no affair. It is just one more malicious attack on anyone who wants to protect the Estate Plan and prevent Buddy and Cannon from being paid \$10 Million.

251. In 2013 Forlando also accused Bauknight of impropriety, which is not unusual for Forlando. What is unusual, and needs review under the *Wilson v. Dallas* mandate, is:

- a. Russell's hiring of Forlando/Buddy's lawyers, PG, for "tax advice" related to the settlement, and its relationship to the less-than \$4.7 Million value;
- b. "Confidential" payments Russell advised the Court on May 29 that he has made to counsel for former fiduciaries;
- c. The preparation by Bauknight's NP lawyers of the Modification by Terry of the Legacy Trust, made at the same time of the assignment to Forlando and secreted from the Supreme Court and the Federal Court for 2 years.

252. On information and belief, an ST is needed in the Forlando Suit to protect the 2000 Trust both from Forlando and Russell.

Russell's Estate Tax Return Needs to Be Corrected

253. On September 25, 2008 court-appointed CPA William Sellars filed the Estate Tax Return for the Estate of James Brown, showing all assets at just under \$85 Million (Approximately \$100 Million less the TIAA Debt.).

254. Bill Sellars and his partner Mary Jo Cole ("Sellars & Cole") served the Estate/2000 Trust faithfully between August 10, 2007 and May 26, 2009, and were properly paid.

255. On May 6, 2011 Russell – while acting under Color of State Authority, which he did not have – began to accuse Bob and Adele of the Federal Crime of overstating Brown's music empire by \$79 Million for the improper purpose of obtaining a \$5 Million commission.

256. Russell, on information and belief, made this same false allegation to the IRS months earlier.

257. On information and belief, the allegation was made with the intention of – and did – severely damage Bob's and Adele's careers.

258. In 2012 Adele was engaged by a \$40+ Million upstate private foundation to

conduct a multi-year self study as it transitions to a new generation of trustees.

259. In connection with her proposed engagement, Adele disclosed, as was prudent:

- a. That she had no professional liability insurance because it had been cancelled when Russell, Tommie Rae and others filed Case 4900;
- b. That she had been accused by someone purporting to speak for the State of impropriety in the very area in which she was being engaged, including of making knowing false statement to the IRS; and
- c. At the time she had no idea of the outcome of *Wilson v. Dallas*; had been sued for conducting the appeal and other alleged wrongdoing; but believed the decision was important for the future of private philanthropy in South Carolina.

260. On information and belief, the Trustees would not have hired Adele had they not known from earlier direct dealings with her that the allegations were inconsistent with what they had observed.

261. The shadow cast by these false allegations has rendered Adele unable to accept engagements as an expert, for mediations and consultations, and for other collaborations which should be the heart of her career at this stage.

262. But Russell's action damages the Estate/2000 Trust as well, and needs to be corrected.

263. Russell's lawyers have told the media the "appraisal" that supports this outrageous claim is "under lock and key"

264. On information and belief, it needs to be unlocked; corrected; and thrown away.

The Estate/2000 Trust Need to Be Out of the FOIA Suits

265. In August 2011 Adele filed a FOIA suit to get the Wingate Litigation

Retention Agreement and the Legacy Trust document, among others.

266. By September 2011, Russell had engaged L&B to fight FOIA release of the Legacy Trust, even though he had sued Bob and Adele in the name of the Legacy Trust and it was created by a public official.

267. On December 9, 2011, Russell and Terry sought sanctions against Adele in a FOIA case in which they are still attempting to intervene. Both concealed that Terry had no interest in the Estate/2000 Trust for almost a year.

268. On January 9, 2012, Russell/Legacy Trust moved to strike 6 affidavits in support of the importance of FOIA compliance.

269. On January 11, 2012 3 attorneys traveled to Newberry to appear for Russell/the Legacy Trust to try to delay FOIA compliance in two cases by consolidating them with Case 4900. [Argument Gende, 1/11/12, 2011-CP-36-00379, p.42.]:

270. By May 2013, Russell, Terry and Tommie Rae, through Wingate, had taken the following action:

1. Had the Newberry FOIA suit to obtain the Wingate Contract, transferred to Richland and consolidated with Case 4900, even though AG Wilson said he was ready and more than willing to release it in 2011, delaying release of a document *Wilson v. Dallas* requires this Court to review for almost 2 years;
2. Sought to enter that FOIA suit and obtain sanctions against Adele;
3. Sought, on behalf of the Legacy Trust, to keep a copy of the Trust secret, even though the Trust had sued Bob and Adele;
4. Were fighting to keep the less-than \$4.7 Million claimed valuation documents from being disclosed even though they were the basis for federal criminal allegations against Bob and Adele.

268. On information and belief, an SA/ST who will defend the Estate Plan – not Russell, Wingate and Tommie Rae – is needed.

Bob's Case 4900 "Settlement" and Other Possible Disgorgement

269. On information and belief, *Wilson v. Dallas* requires that either:

- a. Bob's Case 4900 settlement be declared void; or
- b. Tommie Rae, Terry and others disgorge and return 52 ½% of the \$500,000 to the Estate.

269. On information and belief, judicial economy will be served and the *Wilson v. Dallas* mandate honored if the "settlement" is declared void; Bob simply retains the \$500,000, which is a little less than he was owed under the January 8 Order; Bob is free to make his full commission request in this case which Russell has forced to be filed by his improvident Notice; and the Supreme Court be advised in any future proceeding that – but for the voided "settlement" – Bob would have joined Adele in the Motion for Reconsideration filed after the first *Wilson v. Dallas* decision.

270. It was unconscionable – at best – for Russell to withhold \$500,000 Bob had been due for three years to put him in the desperate financial position.

271. On information and belief, Russell – at the same time– threatened to use the mighty resources of State and the James Brown music empire against Adele, promising to be able to outlast her if she did not settle Case 4900. She did not.

271. The State is now asking to be out of Case 4900. On information and belief, Russell should not use Brown's money to fight a fight which did not need to happen.

272. On August 2, 2012 Adele served the Estate of James Brown with an Offer of Judgment in Case 4900 which offered:

"a. The claims of the ESTATE against ADELE in this Case are hereby

dismissed with prejudice and forever ended;

b. ADELE asserts that she is willing to assert her claims, briefly described below, against the ESTATE, in Aiken County and/or elsewhere, where many are now pending:

1. To set aside the MaMaster Settlement....
2. To be paid under the January 8 [Order]...
3. For a commission as filed in the Aiken County Probate Court.
4. For the costs of Case 122 and the Forlando Case..

As a result it is appropriate, and this Court hereby dismisses the ESTATE as a party to this action and directs that its name be removed from the caption.

AND IT IS SO ORDERED."

272. As is shown on Exhibit 7, less than 2 weeks later Russell moved not only to strike this reasonable offer to the Estate, but fourteen other offers, including those to minors without a GAL.

273. On information and belief, Russell's actions to destroy the Estate/2000 Trust and anyone who defends it must be stopped; his current appointments should be voided and/or he be removed; he should account for this and other actions; a litigation SA/ST should immediately be appointed to complete Case 4900 and this Case; the Forlando Suit; the FOIA matters; and all other litigation.

274. On information and belief, Russell should be required, within 30 days, to account for 2012 and 2013 to date and produce all documentation related to the less-than \$4.7 Million value, at which time either the Litigation SA/ST or another, should be appointed to administer the Estate/2000 Trust until the appointment of Brown's three

permanent fiduciaries.

275. On information and belief, until he is removed Russell should be directed to make no statements on behalf of the Estate/2000 Trust which are, or might be construed to be:

- a. Supportive of the claims of Tommie Rae;
- b. Related to the value of the assets;
- c. About the Federal Copyright Act; the heirs; or any other matter which Might prejudice the Estate/2000 Trust in its defense of the claims of the Case 1647 Plaintiffs.

276. A properly acting SA/ST representing the Will and 2000 Trust will be able to determine whether Bauknight, Tommie Rae and others should remain in default in Case 4900; whether Tommie Rae is not Brown's spouse; and the other issues that are – but for 4 depositions – ready for dispositive motions and trial Case 4900.

Russell's Statements Damage the Estate/2000 Trust

277. On October 31, 2011 Russell, through NP counsel, issued a statement intended to destroy not only Bob's and Adele's chances of being reinstated as PR/Trustees, but their careers. It was repeated in in 331 media outlets.

278. On November 1, 2011, Russell, through NP counsel, made the following representations – all damaging to the Estate/2000 Trust and all incorrect – to the Supreme Court:

1. The Estate/2000 Trust has no corpus "to speak of;"
2. Copyright Termination Rights are "all this case is about;"
3. Tommie Rae's Elective Share claim was a "slam dunk;"
4. If Tommie Rae didn't get all the Termination Rights, the settling claimed

children would.

5. He knows the value of Brown's Estate [the Less than \$4.7 Million].

122. In March 2012 Russell blamed the Attorney General for Russell's own failure to appear at the Cannon plea and seek restitution.

279. On information and belief, on May 18, 2012 Wingate and Russell moved to compel Bob to accept an illegal settlement which prevented Bob from protecting Brown's Estate Plan.

280. Since 2009 Russell has secreted documents which will show, on information and belief, that his positions are – at best – misinformed.

281. On June 6, 2012, through NP lawyers, Russell joined Tommie Rae in a 10-page Return filed in this Court trying to keep in place the Gag Orders related to the so-called Hynie "Diary" while admitting that "[t]o grant Pope's motion will cause irreparable harm to [Tommie Rae]" – ie, her claim to be Brown's spouse. Russell asserted Adele had "unclean hands;" that Adele had not returned the original (incorrect); and even attempted to assert Tommie Rae's Due Process rights. [Ret.Dtd. 6/6/12, Case 122.]

282. On information and belief, this damage to the Estate Plan should not be allowed to continue. Bauknight should be permanently removed; required to account; and an SA/ST loyal to the Will/2000 Trust appointed.

For A Third Cause of Action
(Leave to Amend After Removal and/or Appointment of SA/ST)

283. Plaintiff restates and incorporated Paragraphs 1 through 282 as fully as if

set out herein.

284. Plaintiff and Bob have never been adverse to the Estate of James Brown or the James Brown 2000 Irrevocable Trust.

285. On May 19, 2010 when Russell brought the egregious Case 4900 in the name of the Estate/2000 Trust Bob and Adele were forced to counterclaim.

286. Plaintiff respectfully asks the Court to allow her to amend after the Court considers issues related to the appointment of an SA/ST.

For A Fourth Cause of Action
(Attorneys' fees)

287. Plaintiff restates paragraphs 1 through 286 as fully as if set out herein.

288. On information and belief, Plaintiff is entitled to attorneys' fees and costs under the S.C. Probate Code and S.C. Trust Code in this action because it has been to assist in the protection and proper administration of the Estate of James Brown under the Will and 2000 Trust.

289. On information and belief, Russell, individually, should pay all costs of the Notice, his Individual Defense of this Case, and the Estate's defense because it was brought in bad faith to promote his own interests and those of Tommie Rae.

Prayer

For each of the reasons set forth above, Plaintiff prays that this Court inquire into the matter and issue its order as follows:

1. Voiding the Notice of Disallowance; the Buchanan Settlement; and Russell's appointments as SA/ST, to the extent they have been made.

2. Granting Plaintiff and Bob the full amount of their claims as filed, including legal prejudgment interest at 8 3/4% on all amounts due under the January 8, 2008 Order and such additional amounts as the Court deems proper in light of their valuable service.
3. Removing Russell both temporarily and permanently, from all fiduciary positions with respect to the Estate/2000 Trust and requiring him to account and/or disgorge as appropriate;
4. On an emergency basis, appointing a Litigation SA/ST to protect the Estate/Will and 2000 Trust from further damage by Russell; conclude the Estate/2000 Trust's involvement in Case 4900; conclude the FOIA cases; conclude the Forlando Suit; and prepare Case 872 for trial by correction of parties and discovery, all as set out herein, including payment independent of Russell. And appointing an additional SA/ST for administration only.
5. Directing Russell to take no further action on behalf of the Estate/2000 Trust or any Brown Entity except to account and protect assets; and make no statements adverse to the Will or Trust; and to account within 30 days.
6. Ordering that any attorney or fiduciary or former fiduciary seeking any payment from the Estate, 2000 Trust and/or any Brown entity must make his entire file open to the SA/ST(s) immediately.
5. Impaneling a jury as to the valuation matter and other factual issues.
6. Directing Russell, Individually, to pay all costs and attorneys' fees of this action, with the Estate/2000 Trust to pay no portion of Russell's fees and costs and only such of Adele's as Russell does not, individually, pay as directed.
7. For such other relief as may be just.

Respectfully submitted,



Adele J. Pope, *Pro Se*
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
adele@popelawfirm.com
S.C.Bar No. 4501

June 8, 2013

STATE OF SOUTH CAROLINA

COUNTY OF: AIKEN

ADELE J. POPE

Petitioner

vs.

IN THE PROBATE COURT

PETITION FOR ALLOWANCE OF CLAIM

CASE NUMBER: 2007-ES-02-0056

Exhibit 1

ESTATE OF JAMES BROWN, DECEASED; THE
JAMES BROWN 2000 IRREVOCABLE TRUST;
RUSSELL L. BAUKNIGHT AND OTHERS
Respondent(s) (if applicable)

The undersigned petitions the Court to allow the following claims against the estate in the amounts set forth below:

Creditor Name and Address	Amount of Claim
Adele J. Pope, 1228 Walnut Street, Newberry, SC 29108	
All Amounts Requested in Original Claim and All Relief Requested in Complaint of Which this Petition for Allowance is an Exhibit, all of which is incorporated herein by reference.	

In support of this Petition, Petitioner states that each claim is valid, was presented within the period for the presentation of claims as provided by law, and has not been paid, and, as to those claims which were presented to the Personal Representative and not filed with the Court, that a copy of the statement of each such claim is attached to this Petition and made a part hereof.

(Other:)

See Complaint to Void Appointment and Notice of Disallowance and for other relief,
filed herewith.

Executed this 5th day of June, 2013.

Signature:

Adele Pope

Name: Adele J. Pope

Address: 1228 Walnut Street

Newberry, South Carolina 29108

Telephone(O): (803) 413-0753

(H):

Attorney:

Address:

Telephone:

Exhibit 2

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE MATTER OF: JAMES BROWN

)
)
)
)
IN THE PROBATE COURT

NOTICE OF DISALLOWANCE OF CLAIM

CASE NUMBER: 2007 ES02 0056

TO:

Name: Adele J. Pope
Address: 1228 Walnut St.
Newberry, SC 29108-3554

The undersigned, as the Special Administrator, appointed to administer this estate, disallows all of your claim for \$4,993,151, plus any requests for attorney's fees, costs or other ancillary costs associated with your claim presented on July 17, 2009.

Your claim was disallowed for the following reason(s):

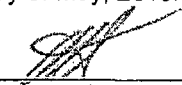
This claim was filed jointly with Robert L. Buchanan, Jr., who has settled his claim against the estate. You only served as Co-Personal Representative and Co-Trustee of the James Brown 2000 Irrevocable Trust for a relatively short period of time. During the period of approximately 18 months that you served as Co-Personal Representative and Co-Trustee, there is no way that \$4,993,151.00 in fees and commissions could have been legitimately earned. The affidavits you submitted to substantiate your claim describing the hours you spent in these roles confirm this. Further, your claim is based on an overinflated, unsubstantiated and self-serving valuation of the probate estate as of the date of Mr. Brown's death.

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

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

Failure to protest this disallowance of your claim, (that is, failing to file your petition for its allowance (form #373PC) in the Probate Court and failing to commence a proceeding on the claim within thirty days after the service of this Notice of Disallowance of Claim), shall result in your claim or the disallowed portion of your claim being forever barred.

Executed this 29th day of May, 2013.

Signature: 

Name: Russell L. Bauknight

Address: 1517 Gervais St.
Columbia, SC 29201

E-mail: rbauknight@bpscpas.com

Telephone (O): 803.771.8943

Telephone (H): _____

Exhibit 3

Wilson v. Dallas Review - Summary, Wilson v. Dallas and Related Cases

1. *Wilson v. Dallas - a/k/a/ "Case 1647"* - Aiken Cty. Case No. 2008-CP-02-1647. Commenced in September 2008, with AG Wilson seeking removal of Cannon and Buddy; Amended Complaint, October 2008, by Tommie Rae, Deanna & Others seeks appointment of Russell as SA/ST, termination of all prior fiduciaries. See decision, May 8, 2008.

2. "Case 122" or the "Removal/Appointment Case" – Aiken Cty. Case No. 2007-CP-02-0122.

This is a conglomeration of various filings made in both Circuit Court and Probate court between January 2007 and May 2008 when the Aiken Cty.

Clerk, under direction of Jg. Doyet A. Early, III, began to segregate separate cases. Includes filings by Tommie Rae, Forlando, Terry and others to remove David Cannon, Albert "Buddy" Dallas and now-deceased Al Bradley as PR/Trustees.

3. The "Cannon Appeals" -

Two appeals taken by David Cannon from Orders of Jg. Early in Case 122. Bob and Adele, through Jim Bailey and Tressa, handled Cannon appeals, including preparation of briefs and first decision in first Cannon appeal. Russell was substituted in late 2009 in the first appeal, and Russell and Louis conducted the second Cannon appeal.

4. The "Cannon Plea" Matter -

Barnwell County Case in which Cannon entered an Alford Plea in October 2011 for some of \$12+ Million takings and 2008 forgery with which he was charged. Russell did not attend Plea hearing or send Victim Statement for "I Feel Good" Trust who suffered loss. At later hearing, he asserted that he was told by AG not to come to the hearing. Matter pending.

5. "Case 322" or the Few/Gilreath Case

Brought by court-appointed Kendall Few, Esq. and James Gilreath, Esq. in early 2008 to recover \$13+ Million taken by Cannon from Morgan Stanley Account and other losses between 1999 and 2006. Few/Gilreath engaged at request of Bob and Adele. Settlement with Farr and apparently Cannon. Case against GT and Buddy pending.

6. The Morgan Stanley Cases
See Case 322. Related and settled in the Summer of 2009.

7. Cannon Claim Case -

Brought by Cannon in 2008 after Bob and Adele disallowed his \$5 Million claim. Handled by Jim Bailey. Summary Judgment motion filed by Bob and Adele in August 2008. Concluded in 2012 by Russell after prompting from Adele.

8. Dallas Claim Case - Aiken Cty. Case No. 2008-CP-02-1426

Brought by Buddy in 2008 seeking \$6 Million commission as PR/Trustee. As with Cannon, Jim Bailey, for Bob and Adele, filed Summary Judgment in 2008. Russell has handled since 2009. Pending.

9. Dallas Bankruptcy -
Buddy filed for Bankruptcy in Georgia in 2010. Claimed his major assets were \$6 Million claim against Estate and \$330,000 claim against Wayne Byrd, Esq.
10. The "Forlando Case" - No. 3:08-cv-00014-WOB Brought by Forlando, with Powell Goldstein, David Bell, Esq., others,
on January 2, 2008 seeking to enjoin the 2000 Trust from taking any action until Cannon Group returned as Trustees, damages against Bob and Adele. Claims abandoned by Forlando in 2012. 200 Trust's and Bob's and Adele's Counterclaims for attorneys' fees, etc.
11. "Case 4900" - Richland County Case 2010-CP-40-4900

Brought May 19, 2010 by Wingate Firm, Legacy Trust and Russell as agent for Tommie Rae, Terry, others, as well as purported agent for AG/State seeking tens of million of dollars against Bob and Adele for pursuing *Wilson v. Dallas* appeal and not accepting \$100 Million 2007 offer for Brown assets, among others. Bob and Adele Counterclaimed. "Settlement" with Bob challenged. Pending.
12. FOIA #1 - Richland County Case No.

Brought by Adele, attorney Adam Silvernail, August 2011, to obtain copy of Legacy Trust which sued Bob and Adele in 2010. L & B representing Legacy Trust.
13. FOIA #2 - Consolidated with Richland County Case 4900

Brought by Adele, attorney Adam Silvernail, August 2011 to obtain AG's copy of Litigation Retention Agreement to sue Adele and Bob in Case 4900 and Russell's authorization to assert that he speak on behalf of AG/State. Russell seeking to intervene on behalf of Estate/2000 Trust to prevent release of Wingate. AG has consented to release.
14. The Hynie "Diary" Gag Order Appeal
Resulting from Jg. Early's failure to hear Adele's request to declare void or expired 2008 Gag Orders related to writings known as the Hynie "Diary" after Tommie Rae sued Adele and Bob in Case 4900. Dismissed as moot after *Wilson v. Dallas*. Pending before Jg. Early.
15. The Kevin Jones Suit
Federal Suit in Louisiana brought against Adele, Jg. Early and others making false claim that Brown's civil rights denied by rigged DNA test of Mr. Jones. Adele defended *pro se*. Dismissed.
16. The Cincinnati Cases

Suit brought by Cincinnati against Bob and Adele after they cancelled insurance when Case 4900 was filed. Pending.
17. "Case 872" or the "Will/Trust Contest"
Two suits brought by Deanna and four siblings on December 26, 2007 in Probate Court seeking to set aside 2000 Will and Trust and have "administration in intestacy." Estate/Trust through Bob and Adele and Jim Bailey, defended on behalf of Estate/2000 Trust,

Exhibit 4
Wilson v. Dallas Review
Proposed Fiduciary Payments
And Other Payments as Requested by Plaintiff

1. David Cannon - Claimed: \$5+ Million
Amount to be Paid: \$0

Reason: Took at least \$13 Million; forged documents; failed to account; failed to protect 2000 Estate Plan or 1999 Estate Plan;

2. Al Bradley - Claimed: \$5 Million
Amount Paid by Russell: \$9,000
Amount to be paid: As stated

Reason: Al failed to properly check on Cannon under the POA and/or 2000 Trust, but did not participate in the takings and have knowledge of them; had reason to believe they may have been authorized. Al uncovering the fabricated Dallas/Cannon Schedule B, and vigorously defended the Estate Plan.

3. Albert "Buddy" Dallas - Claimed: \$6 Million
Amount Paid by Russell: unknown
Amount to be Paid: \$0

Reason: Buddy was in the strongest position to defend the 2000 Estate Plan and backup 1999 Estate Plan. He chose, instead, to try to grab \$6 Million; leave the music empire in shambles; and – in words he attributes to Mr. Brown – "get out from behind the desk."

He lied to the Court; is still orchestrating the Forlando Suit; orchestrated the Bell dirty tricks, including 6 grievances against Louis Levenson; falsely accused Adele and Jg. Early of impropriety; and fabricated the 2d Schedule B.

4. Adele Pope - Claimed and to be Paid: --
(1) Full Amount awarded under January 8, 2008 Order as SA & PR/Trustee, with legal interest, currently about \$2.2 Million
(2) Such additional amounts, up to total of \$2.8 Million, fees and costs as Ct., after full hearing, determines.
(3) Costs and Attorneys fees for Bailey, Hayes, Silvernail, Gonzalez, ALPS, Ruff and as paid on accountings and incurred since, Where possible, equitably charged against Terry, Forlando and others. (But not Minor Beneficiaries of Education Trusts or Venisha without GAL) .

5. Robert Buchanan, Jr. Claimed: Made uncertain until Case 4900 "settlement" voided;
Amount to be paid: A reasonable portion of remaining \$1.7 Million of claims as determined by the Court, plus Costs as reasonably requested.

6. Russell L. Russell - Amount Paid: Unknown
Amount to be Paid: \$0 - unless immediately and irrevocably severs ties with Tommie Rae, Terry, Forlando, PG, Cannon and Buddy; renounces any attempt to characterize Tommie Rae as spouse as void; corrects EstateTax Filing and any Improper Copyright Termination Notices; allows a Litigation SA/ST to withdraw support of Estate/2000 Trust for FOIA interference; Case 4900; etc.
and can properly account to the Probate Court, showing no distributions, direct or indirect, havingbeen made which damage the Estate/2000 Trust.
If done: Reasonable amount to be determined by Court after full disclosure

Exhibit 5
***Wilson v. Dallas* Review**
Attorneys working for benefit of Estate/2000 Trust and
who should be paid by Estate/2000 Trust in *Wilson v. Dallas* and Related Matters

A. Attorneys for Estate/2000 Trust through one or more of Original Trustees Cannon, Buddy & Bradley who served interest of Estate/2000 Trust

1. Strom Thurmond, Jr., Esq.
2. David Martin, Esq.
3. Rodney Peeples, Esq.
4. Cam Lewis, Esq. - Lewis & Babcock (all "L&B"- only for work before 11/20/07)
5. Arial King, Esq. - L&B
6. Keith Babcock, Esq. - L&B
7. Jonathan Harling, Esq. - L&B
8. William Tucker, Esq. - Hull Towell ("HT") - but not Wm. Hammond
9. Wayne Byrd, Esq. (Partial)
10. Audra Byrd, Esq. (Partial)

B. Attorneys for Estate/2000 Trust and for benefit of Estate/2000 Trust through Bob and/or Adele

11. James Bailey, Esq. - Claims, General Litigation
12. Tressa T. H. Hayes, Esq. - Appeals
13. Ray Gonzales, Esq. - Zumwalt & Hayes, Nashville - Entertainment
14. Alan Rothschild, Esq. - Exempt Organizations
15. Harley Ruff, Esq. - Tax, Re: *Wilson v. Dallas*
16. James Richardson, Esq. - *pro bono publico* - costs only
17. Daryl Williams, Esq. - Adele, Defense of Forlando Federal Suit
18. Cal Watson, Esq. - Bob, Defense of Forlando Suit
19. Elizabeth Gray, Esq. - Bob, Defense of Forlando Suit
20. Tom Young, Esq. - Bob, Defense of Cincinnati Insurance Cancellation (Bob)
21. Adam Silvernail, Esq. - Adele, Counterclaims, FOIA
22. Adele Pope, Esq. - *pro se*, Kevin Jones, Hynie "Diary" Gag Order and other matters to protect Estate/2000 Trust after May 26, 2009.

Exhibit 6

Wilson v. Dallas Review

**Attorneys in *Wilson v. Dallas*, Related Cases who should be paid by
Russell, Legacy Trust, Tommie Rae, Terry/Forlando and/or Others, but
Not by**

Estate of James Brown, James Brown 2000 Trust or Brown Entities

1. William Hammond, Esq. - Hull Towell ("HT")
2. William Custer, Esq. Powell Goldstein ("PG"), now Brian Cave, LLP. - & all PG attorneys, including 3,4
3. Jennifer Dempsey, Esq. - PG.
4. William Shearer, Esq. - PG.
5. Stan Jackson, Esq.
6. James Huff, Esq.
7. Angela Kirby, Esq. - McAngus Goudelock ("MG")
8. Sherry Lydon, Esq.
9. Eric Bland, Esq.
10. Ronnie Richter, Esq.
11. Jan Warner, Esq.
12. Max Pickelsimer, Esq.
13. Brent Fortson, Esq. - Greenville
14. Richard Ness, Esq.
15. Gene Covington, Esq.
16. Wes Kirkland, Esq.
17. Henry McMaster, Esq.
18. David Black, Esq. - Nexsen Pruet ("NP")
19. Freddie Kingsmore, Esq. - NP
20. William Wilkins, Esq. - NP
21. William Klett, Esq. - NP
22. William Newsome, Esq. - NP
23. Rick Reames, Esq. - NP
24. Stephen P. Groves, Sr., Esquire
25. Kenneth Wingate, Esq. - Sweeney, Wingate & Barrow, P.C. ("SWB")
26. Mark Gende, Esq. - SWB
27. Erin Hayes, Esq. - SWB
28. Rett Kendall, Esq. - SWB
29. Todd Boudreaux, Esquire - Augusta
30. Julio E. Mendoza, Esq. - NP
31. George A. Scott, Jr., Esq. - NP
32. G. Markus Knight, Esq. - NP
33. Robert Rosen, Esq.
34. Alan Medlin, Esq.
35. T. Heyward Carter, Esq.
36. Jean Lee, Esq.
37. Steven Slotchiver, Esq.
38. Albert P. Shahid, Esq.
39. David L. Michel, Esq.
40. John Sparks, Esq. - Atlanta
41. David B. Bell, Esq.
42. The Hon. Ernest Finney,
43. Jerry Leo Finney, Esq.
44. Ronnie Maxwell, Esq.
45. Matthew Bodman, Esq.
46. Louis Levenson, Esq.
47. David Yount, Esq.
48. Lori Chrisman - Levenson's firm
49. William Barr, Esq.
50. Camden Lewis, Esq. - after 11/20/07, FOIA matters
51. Arial King, Esq. - after 11/20/07, FOIA matters
52. Andrew J. King, Esq.
53. William Bird, Esq.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,
Interested Party.

IN THE PROBATE COURT

Estate File No. 2007-ES-02-0056

SUMMONS

(Jury Trial Requested)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND
CORRECT COPY OF THE ORIGINAL ON FILE IN THIS COURT
WITNESS MY HAND AND SEAL OF THE COURT THIS 10th
DAY OF June A.D. 2013

Judge of Probate for Aiken County, S.C.
BY *[Signature]* CLERK

TO: ALL DEFENDANTS AND THE INTERESTED PARTY NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint to Void Appointment and Notice of Disallowance; for Review and Direction to Pay Commissions and Fees under *Wilson v. Dallas*; Remove Bauknight; Require Emergency Appointment of Litigation SA/ST to Prevent Further Damage by Bauknight in *Wilson v. Dallas* and Related Cases; for Accounting; And for Related Relief, a copy of which Complaint is herewith served upon you, and to serve a copy of your Answer to the said Petition upon Plaintiff at 1228 Walnut Street, Newberry, South Carolina, within Thirty (30) days after the service hereof upon you, exclusive of the day of such service; and if you fail to appear and defend, judgment by default will be rendered against you for the relief demanded in the Complaint.

Adele J. Pope

Adele J. Pope, Pro se
Plaintiff

1228 Walnut Street
Newberry, South Carolina, 29108
803/413-0753
SC Bar #4501

June 8, 2013

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF AIKEN	)	
	)	
Adele J. Pope,	)	Estate File No. 2007-ES-02-0056
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Estate of James, Brown, Deceased et al.	)	Motion for Expedited Voiding
	)	Of Claimed Appointments;
Defendants.	)	Notice of Disallowance; and
AND:	)	Appointment of SA/ST, Including
	)	Emergency Appointment of SA/ST
Robert L. Buchanan, Jr.,	)	For Litigation to Accept Service
Interested Party.	)	And Prevent Further Loss by
	)	Bauknight

TO RUSSELL L. BAUKNIGHT, ALL DEFENDANTS AND INTERESTED PARTY:

YOU WILL PLEASE TAKE NOTICE that Plaintiff, as soon as she may be heard will move before the Court at the Aiken County Courthouse located at 109 Park Avenue SE, Aiken, South Carolina pursuant to for an Emergency Order as follows:

1. Voiding any SA/ST Appointments granted to Russell L. Bauknight ("Russell")
2. Appointing an SA/ST for the Estate of James Brown and the James Brown 2000 Irrevocable Trust (the "Estate/2000 Trust") who:
 - a. Is not connected in business with any current or former fiduciary;
 - b. Will have the time and accept the appointment for \$300 per hour, and costs to vigorously defend the Will of James Brown, the Estate and the 2000 Trust in pending litigation which must be completed or progress for this Court to comply with the mandate of *Wilson v. Dallas*.
 - c. To be paid from the Estate of James Brown/2000 Trust by direction of the Court, including all costs on an ongoing basis;
 - d. To accept service of, and defend this Action;

- e. To appear and represent the Will/2000 Trust and Estate of James Brown in Case 4900 in light of *Wilson v. Dallas*;
- f. To appear and represent the 2000 Trust in the Forlando Federal Suit;
- g. To appear and represent the Estate/Will/2000 Trust in all FOIA matters;
- h. To appear and represent the Estate/Will/2000 Trust in preparing Case 872 for Trial, including correction of parties; DNA testing; discovery; and all other matters.
- i. To represent the Will/Estate/2000 Trust in all other litigation as necessary.
- i. To do so without regard to the position taken by Russell in any litigation pending during the *Wilson v. Dallas* appeal.
- j. To report to this Court no later than 150 days from his appointment, or earlier if needed, as to his progress in the protection of the Will and 2000 Trust.

3. Directing that Russell, Plaintiff, Buchanan and all current and former fiduciaries and their counsel who have received or seek payments from the Estate and/or 2000 Trust or any Brown Entity make all files available to the SA/ST and forthwith deliver to him such original files as he requests, for safekeeping, with such party to have continuing access.

4. Requiring Bauknight to produce to Plaintiff and all others all information to support his less-than \$4.7 Million at-death value, and to account for his actions through May 8, 2013 within 30-days and to:

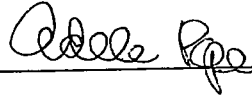
- a. Take no action which will, or might be construed to, aid any person who has challenged the Will or 2000 Trust; and
- b. Show cause at that hearing why he should not be permanently removed from any fiduciary position based on his irreconcilable loyalty to Tommie Rae and fiduciary relationship with Terry/Forlando and others.

The grounds of this motion are:

1. Every fact stated in the Complaint which the action of Russell required Plaintiff to file, on information and belief, to circumvent the mandate of *Wilson v. Dallas*, and which is incorporated herein by reference;
2. Russell's false statements and positions have placed the Estate/2000 Trust in immediate jeopardy in defending the baseless claims of those challenging the Will and 2000 Trust, including:
 - a. That Tommie Rae's claim for elective share is a "slam dunk."
 - b. That Jeanette, Lisa, Nicole and La Rhonda are not heirs of James Brown.
 - c. That Brown's worldwide music empire was worth less than \$4.7 Million when he died.
 - d. That it was the Attorney General's fault that he did not seek restitution against Cannon or make any effort to secure his million-dollar retirement home.
 - e. That Bob Buchanan and Adele Pope committed the federal felony of intentionally overstating Brown's assets by \$79 Million – more than 15 times their value – for the improper purpose of obtaining a \$5 Million commission.
3. Russell has failed to protect the minor beneficiaries of the 2000 Trust, making them Plaintiffs in Case 4900 and then refusing to have a GAL appointed.
4. Russell has failed to protect the incarcerated Venisha, naming her as a Plaintiff in case 4900; seeking mediation on her behalf; then asserting she did not need a GAL for the mediation.
5. Russell has damaged the Estate/2000 Trust by failing to recover the Trust's costs for the 5-year-old frivolous Forlando Federal Suit; hiring Forlando's lawyers with Estate/2000 Trust funds; and secretly working on a transfer of the interest of Terry to Forlando – which was then concealed from the State and Federal Courts.

The above motion is based on the Complaint herein and the Affidavit of Adele Pope filed herewith, as well as the S.C. Rules of Civil Procedure, the South Carolina Probate Code, the South Carolina Trust Code, applicable case and statutory law, and such additional documentation as shall properly come before the Court prior to the

hearing on this matter.

A handwritten signature in cursive script, appearing to read "Adele Pope", is written over a horizontal line.

Adele J. Pope, *Pro Se*
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
adele@popelawfirm.com
S.C.Bar No. 4501

June 9, 2013

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

COPY
IN THE PROBATE COURT

Estate File No. 2007-ES-02-0056

2013-CP-02-1337

**NOTICE OF MOTION AND
RULE 12 MOTION TO DISMISS,
OR IN THE ALTERNATIVE FOR A
MORE DEFINITE STATEMENT**

**C O P Y
ORIGINAL FILED**

JUL 10 2013
UR350
AIKEN COUNTY
CLERK OF COURT

TO: ADELE J. POPE, ESQUIRE:

You will please take notice that the undersigned, as attorney for Russell L. Bauknight, Individually, will move before this Honorable Court on the tenth (10th) day after service hereof at 10:00 am, or as soon thereafter as counsel may be heard for: (1) an Order, pursuant to Rule 12(b)(6), dismissing all claims and causes of action against Russell L. Bauknight, individually, on the grounds that the Plaintiff has failed to state facts sufficient to constitute a cause of action against Russell L. Bauknight, individually, in that each and every allegation in the Complaint, to the extent it mentions "Russell" or "Bauknight" only addresses his acts and alleged omissions as a fiduciary of the Estate of James Brown ("Estate") and/or the James Brown 2000 Irrevocable Trust ("Trust"); and/or (2) in the alternative, for an Order, pursuant to Rule 12(e), SCRCP,

requiring Ms. Pope to plead a more definite statement of the claim(s) and her entitlement to relief sought from Mr. Bauknight, individually.

Additionally, Mr. Bauknight, in his individual capacity, hereby provides notice to Ms. Pope that he intends to seek attorney fees and costs for his response to the subject Complaint pursuant to S.C. Code Ann. 15-36-10.

Mr. Bauknight has been served with the subject Complaint on four separate occasions. Mr. Bauknight's Motion is in response to each of the Complaints served on Mr. Bauknight, in his individual capacity.

I

Pursuant to Rule 12(b)(6), SCRCP, Mr. Bauknight, in his individual capacity, moves for the dismissal of the Complaint. Ms. Pope does not allege any facts to constitute any cause of action against Mr. Bauknight, in his individual capacity. Ms. Pope, in her Complaint, makes numerous allegations related to the Estate and/or Trust. It is the law of the case that Ms. Pope was removed from all fiduciary positions related to the Estate and Trust. Notwithstanding that glaring fact, Ms. Pope has filed a Complaint seeking to assert claims as if she were still a fiduciary. The S.C. Supreme Court ruled unequivocally, in *Wilson v. Dallas*, Op. No. 27227, on May 8, 2013, that Ms. Pope was properly removed from all of her fiduciary positions related to the Estate and Trust. Accordingly, the subject Complaint should be dismissed, with prejudice, as to any claims against Russell L. Bauknight, in his individual capacity.

II

Pursuant to Rule 12(e), SCRCP, Russell L. Bauknight, in his individual capacity, moves, in the alternative, for a more definite statement. A review of Ms. Pope's Complaint does not reveal a single cause of action against Mr. Bauknight, in his individual capacity. Ms. Pope also

purports to allege claims for or causes of action on behalf of Robert Buchanan. To the extent the Court determines that Ms. Pope has properly plead a cause of action against Mr. Bauknight, in his individual capacity, he seeks a more definite statement of the actions he allegedly took in his individual versus his fiduciary capacity. Rule 12(e), SCRCF, provides a defendant with relief from the type of Complaint offered in the subject action. The Rule provides that, “[i]f a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading.”

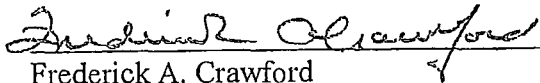
Ms. Pope’s Complaint is filled with vague allegations; however all of them relate to the Estate or Trust...not to Mr. Bauknight, individually. Before Mr. Bauknight is required to frame an Answer, he seeks the assistance of this Court in requiring Ms. Pope to definitively assert the legal and factual basis of her claims against Mr. Bauknight, in his individual capacity, versus claims against him, in his capacity as a fiduciary for the Estate and/or Trust.

III

Pursuant to S.C. Code Ann. 15-36-10, the Defendant, Russell L. Bauknight, individually, hereby notifies Ms. Pope that he intends to seek an award of attorney fees and costs for responding to and defending the allegations in the Complaint. *See Pool v. Pool*, 329 S.C. 324, 494 S.E.2d 820 (1998). As detailed in *Wilson v. Dallas*, *supra.*, the S.C. Supreme Court has unequivocally held that Ms. Pope was properly removed from all fiduciary positions in the Estate and Trust and that her involvement in the Estate and Trust “is not in the best interests” of the same. Accordingly, Ms. Pope’s allegations against Russell L. Bauknight, individually, are frivolous, and subject to sanction pursuant to S.C. Code 15-36-10.

IV

In summary, the Defendant, Russell L. Bauknight, individually, does hereby move this Court to issue an Order dismissing the subject Complaint, pursuant to Rule 12(b)(6), SCRCPP, or in the alternative, issue an Order, pursuant to Rule 12(e), SCRCPP, requiring Ms. Pope to provide a more definite statement regarding the legal and factual basis of her claims against Mr. Bauknight, individually, versus claims against him in his capacity as a fiduciary for the Estate and/or Trust.



Frederick A. Crawford
Richardson Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
(803) 576-3711
Attorney for the Defendant,
Russell L. Bauknight, Individually

Columbia, SC
July 10, 2013

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE CIRCUIT COURT

Adele J. Pope,

Plaintiff,

C/A No. 2013-CP-02-1337

vs.

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,

Defendants.

**RULE 12 MOTION TO DISMISS
OR, IN THE ALTERNATIVE, FOR A
MORE DEFINITE STATEMENT**

AND:

Robert L. Buchanan, Jr.,

Interested Party.

**C O P Y
ORIGINAL FILED**

JUL 10 2013
WFS
**AIKEN COUNTY
CLERK OF COURT**

Russell L. Bauknight as Special Administrator of The James Brown Estate and Special Trustee of the James Brown 2000 Irrevocable Trust Agreement incorrectly referred to as The Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, 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 (collectively, the "Defendants") hereby responds and moves this Honorable Court for the following Rule 12 relief: (1) an Order, pursuant to Rule 12(b)(6), dismissing Ms. Pope's claims for: (i) "Voiding Appointment, Settlement and Notice and Granting of Claims"; (ii) "Removal and Accounting of Bauknight; Appointment of SA/ST for Litigation on behalf of Will/2000 Trust & SA/ST for Management under Will/200 (sic) Trust"; (iii) "Leave to Amend After Removal and/or Appointment of

SA/ST”; (iiii) “Attorneys’ fees”; and (2) an Order, pursuant to Rule 12(e) in the alternative, requiring Ms. Pope to plead a more definite statement of the claim and her entitlement to the claim for \$4,993,151 in commissions. Finally, the Defendants hereby provide notice to Ms. Pope that they intend to seek attorney fees and costs for their response to the subject Complaint pursuant to S.C. Code Ann. 15-36-10. This Motion is made pursuant to the applicable laws of this State.

Mr. Bauknight was served with the subject Complaint on four separate occasions; he was served on June 12, 2013, on June 17, 2013, on June 27, 2013, and on June 28, 2013. The Defendants’ Motion is in response to each of the complaints served on Mr. Bauknight on the above stated dates.

I

Ms. Pope’s ability to file a complaint against the Estate flows exclusively from her disputed creditor claim. As discussed below, Ms. Pope has inappropriately attempted to assert claims for which she has no legal authority to assert. On July 17, 2009, Ms. Pope filed a notice of claim asserting entitlement to \$4,993,151 for approximately eighteen months of service. On May 29, 2013, the Defendants, in their fiduciary capacity, served Ms. Pope with a notice of disallowance of that claim. The basis of the disallowance tracked the Supreme Court’s Opinion in *Wilson v. Dallas*; there the Court noted that:

We are also aware that Appellants have sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time. In addition, Appellants sought and obtained permission from the circuit court to sell iconic assets from Brown’s estate in order to raise funds, and a large portion of the amount raised went first to pay Appellants’ own attorneys’ fees. Appellants also unsuccessfully attempted to sell Brown’s GRAMMY award at auction; the process was halted only because officials from the National Academy of Recording Arts and Sciences reclaimed the award after informing Appellants that it was a long-standing policy that the award could not be sold by recipients or anyone acting on their behalf. These

actions and the extreme discord between the parties convince us that Appellants' continued service as fiduciaries is not in the best interests of the estate.

Wilson v. Dallas, --- S.E.2d ---, 2013 WL 2005103 (2013).

In denying Ms. Pope's claim, the Defendants, in their fiduciary capacity, followed the Supreme Court's Opinion and asserted that her "requested fees and commissions were not earned and therefore are not due and owing." (Notice of Disallowance, Attached as **Exhibit A**). Further, the Defendants, in their fiduciary capacity, asserted that the claim was disallowed because "the Estate is entitled to an off-set for any damages suffered as a result of any maladministration during [her] service as Co-Personal Representative and Co-Trustee." (Notice of Disallowance).

Pursuant to the South Carolina Probate Code, once a creditor receives notice of a disallowance of her claim, she is required to protest the disallowance within 30 days of receiving the notice, or the claim is barred. Ms. Pope responded to the notice of disallowance by filing the subject complaint. The complaint spans over 60 pages, and asserts legal claims that Ms. Pope has no legal authority to assert.

Ms. Pope has also named Robert L. Buchanan, Jr., as an interested party in the Complaint. The Defendants, in their fiduciary capacity, do not know how to respond to his inclusion in the subject Complaint and hereby assert that his presence in the Complaint is subject to their Rule 12 Motion. Moreover, Mr. Buchanan should not be listed in the subject Complaint because he has entered into a complete and full release of all claims he had, or may have had, against the Defendants.

II

Pursuant to Rule 12(b)(6), the Defendants, in their fiduciary capacity, hereby request that this Honorable Court dismiss the subject Complaint, without prejudice to Ms. Pope filing a

proper Complaint asserting her entitlement to the subject disallowed creditor claim. The basis of the Rule 12(b)(6) motion is that each claim asserted by Ms. Pope fails to allege sufficient facts to constitute a cause of action by Ms. Pope. Moreover, Ms. Pope has asserted claims that she has no legal authority to assert. They are as follows:

1. Voiding Appointment, Settlement and Notice and Granting of Claims;
2. Removal and Accounting of Bauknight; Appointment of SA/ST for Litigation on behalf of Will/2000 Trust & SA/ST for Management under Will/200 (sic) Trust;
3. Leave to Amend After Removal and/or Appointment of SA/ST;
4. Attorneys' fees.

The subject Complaint is supposed to be Ms. Pope's protest as to the disallowance of her claim. The subject Complaint, however, is lacking in that material respect. Instead of asserting a claim for entitlement to her disputed claim, Ms. Pope seeks to void Mr. Bauknight's appointment; she seeks to remove Mr. Bauknight; and she seeks the appointment of a new SA/ST. Moreover, Ms. Pope has asserted a "claim" for the ability to amend her pleadings in the event Mr. Bauknight is removed, and a "claim" for attorney fees.

Ms. Pope does not allege sufficient facts to constitute a cause of action. Further, it is the law of the case that Ms. Pope was removed from all fiduciary positions related to the Defendants. *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013).

Notwithstanding that glaring fact, Ms. Pope has filed a complaint seeking to assert claims as if she were still a fiduciary. The Supreme Court ruled unequivocally that Ms. Pope was properly removed from all of her fiduciary positions related to the Defendants. *Id.* Accordingly, the subject complaint should be dismissed, without prejudice to Ms. Pope filing a proper Complaint asserting her entitlement to the subject disallowed creditor claim.

III

Pursuant to Rule 12(e), the Defendants, in their fiduciary capacity, move in the alternative for a more definite statement. Ms. Pope's Complaint is pled in a "shotgun" manner that leaves the Defendants, in their fiduciary capacity, with no ability to form a responsive pleading. "[A] defendant faced with a complaint such as [Ms. Pope's] is not expected to frame a responsive pleading. Rather, the defendant is expected to move the court, pursuant to Rule 12(e), to require the plaintiff to file a more definite statement." *Anderson v. District Bd. Of Trustees of Cent. Florida Comm. College*, 77 F.3d 364, 366 (11th Cir. 1996).

The Complaint filed in *Anderson* bears a striking resemblance to the Complaint filed by Ms. Pope. The Court noted that, "Anderson's complaint contains six counts. The first twenty-four paragraphs of the complaint contain allegations of fact that are adopted in full by all six counts." *Id.* at 365-66. The court further noted that, "[e]ach count contains factual allegations in addition to those set out in the first twenty paragraphs; [and that] each count also adopts the allegations of all preceding counts." *Id.* at 366. The Court noted that for example, "allegations of fact that may be material to a determination of count one, but not count four, are nonetheless made a part of count four." *Id.* Moreover, the Court noted that "[c]ount seven of the complaint does not purport to state a claim for relief; rather, it simply asks for an award of attorney fees." *Id.* at 366 n.1.

Ms. Pope's Complaint contains the same inadequacies. Her complaint alleges four causes of action. Each cause of action incorporates the preceding paragraphs of the Complaint. Cause of action one asserts a claim for "Voiding Appointment, Settlement and Notice and Granting of Claims." (Complaint, p. 3). To support that generic and undefined cause of action Ms. Pope asserts 221 paragraphs of allegations. Her second cause of action is for "Removal and

Accounting of Bauknight; Appointment of SA/ST for Litigation on behalf of Will/2000 Trust & SA/ST for Management under Will/200 (sic) Trust.” (Complaint, p. 48). To support that improper cause of action, Ms. Pope restates the preceding 221 paragraphs and adds 60 more paragraphs of allegations. Ms. Pope’s third cause of action is not even a claim for relief; she asserts “Leave to Amend After Removal and/or Appointment of SA/ST.” (Complaint, p. 61). To support that assertion, Ms. Pope restates the preceding 282 paragraphs and adds 3 more paragraphs. Finally, Ms. Pope’s fourth cause of action is not a claim for relief either; it is an assertion of entitlement to attorney fees. (Complaint, p. 62). To support that entitlement, she restates the preceding 286 paragraphs.

The shotgun Complaint filed by Ms. Pope must be narrowed in order for the Defendants, in their fiduciary capacity, to be able to form a responsive pleading. As the *Anderson* court noted, “[e]xperience teaches that, unless cases are pled clearly and precisely, issues are not joined, discovery is not controlled, the trial court’s docket becomes unmanageable, the litigants suffer, and society loses confidence in the court’s ability to administer justice.” *Id.* at 367. It is also important to underscore that the Defendants’, in their fiduciary capacity, review of Ms. Pope’s Complaint does not reveal a cause of action for entitlement to her disputed creditor claim. Accordingly, Ms. Pope should be ordered to clearly and precisely plead her entitlement to the subject creditor claim.

IV

Pursuant to S.C. Code Ann. § 15-36-10, the Defendants, in their fiduciary capacity, hereby notify Ms. Pope that they intend to seek an award of attorney fees and costs for responding to any claim beyond the narrow basis of Ms. Pope’s disputed creditor claim. *See Pool v. Pool*, 329 S.C. 324, 494 S.E.2d 820 (1998). As detailed above, the Supreme Court has

unequivocally held that Ms. Pope was properly removed from all fiduciary positions related to the Defendants and that her involvement in the Estate and Trust “is not in the best interests” of the same. Accordingly, Ms. Pope’s actions to involve herself in the Estate and Trust are frivolous, and subject to sanction pursuant to section 15-36-10. As a creditor, Ms. Pope is entitled to assert a claim for her disputed claim; she is not, however, entitled to do anything else relating to the Estate and Trust. *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013) (affirming removal of Pope for cause and noting “[Pope’s] continued service as fiduciar[y] is not in the best interests of the estate”).

V

The Defendants, in their fiduciary capacity, hereby move this Court to issue an Order dismissing the subject Complaint pursuant to Rule 12(b)(6), or in the alternative issue an Order requiring Ms. Pope to provide a more definite statement pursuant to Rule 12(e), regarding the legal and factual basis of her disputed creditor claim.



J. David Black
Fred L. Kingsmore, Jr.
Burl F. Williams
NEXSEN PRUET, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900
DBlack@nexsenpruet.com
FKingsmore@nexsenpruet.com
BWilliams@nexsenpruet.com

Russell L. Bauknight, as Special Administrator of
The James Brown Estate and Special Trustee of the
James Brown 2000 Irrevocable Trust Agreement

July 10, 2013

Columbia, South Carolina

EXHIBIT A

C O P Y
ORIGINAL FILED

JUL 10 2013
W. J. Smith
AIKEN COUNTY
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

) IN THE COURT OF COMMON PLEAS

) Case No. 2013-CP-02-1337

) MOTION TO ALTER OR AMEND
) AND/OR RECONSIDER AND VACATE
) ORDER DATED JANUARY 7, 2014
) DISMISSING CLAIMS UNDER
) RULE 12(b)

COPY
ORIGINAL FILED
JAN 27 2014
AIKEN COUNTY
CLERK OF COURT

TO: THE DEFENDANTS & INTERESTED PARTY NAMED ABOVE AND COUNSEL.

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as she may be heard, the undersigned Adele J. Pope will move pursuant to Rules 52 and 59(e), SCRCF, and all applicable South Carolina Rules of Civil Procedure, for an order vacating altering or amending the Order of the Honorable Doyet A. Early, III ("Jg. Early") dated January 7 and filed January 17, 2014, a copy of which is attached hereto as Exhibit A (the "Dismissal Order").

Plaintiff received notice of the entry of the Order on January 17, 2014.

I. NO DIMISSAL TO ANY DEFENDANT ON ANY CLAIM APPROPRIATE

1. The Court overlooked or misapprehended that, because no hearing was set as required by Sections 62-3-607(b) and 62-3-611 of the South Carolina Probate Code ("SCPC") when the

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE MATTER OF: JAMES BROWN

)
)
)
)
IN THE PROBATE COURT
NOTICE OF DISALLOWANCE OF CLAIM
CASE NUMBER: 2007 ES02 0056

TO:

Name: Adele J. Pope
Address: 1228 Walnut St.
Newberry, SC 29108-3554

The undersigned, as the Special Administrator, appointed to administer this estate, disallows all of your claim for \$4,993,151, plus any requests for attorney's fees, costs or other ancillary costs associated with your claim presented on July 17, 2009.

Your claim was disallowed for the following reason(s):

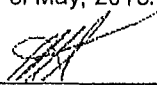
This claim was filed jointly with Robert L. Buchanan, Jr., who has settled his claim against the estate. You only served as Co-Personal Representative and Co-Trustee of the James Brown 2000 Irrevocable Trust for a relatively short period of time. During the period of approximately 18 months that you served as Co-Personal Representative and Co-Trustee, there is no way that \$4,993,151.00 in fees and commissions could have been legitimately earned. The affidavits you submitted to substantiate your claim describing the hours you spent in these roles confirm this. Further, your claim is based on an overinflated, unsubstantiated and self-serving valuation of the probate estate as of the date of Mr. Brown's death.

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

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

Failure to protest this disallowance of your claim, (that is, failing to file your petition for its allowance (form #373PC) in the Probate Court and failing to commence a proceeding on the claim within thirty days after the service of this Notice of Disallowance of Claim), shall result in your claim or the disallowed portion of your claim being forever barred.

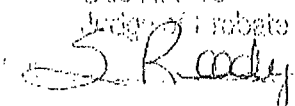
Executed this 29th day of May, 2013.

Signature: 
Name: Russell L. Bauknight
Address: 1517 Gervais St.
Columbia, SC 29201

E-mail: rbauknight@bpscpas.com

Telephone (O): 803.771.8943

Telephone (H):

Filed: 6-3-2013
Sue H. Roe
Judge of Probate


complaint was filed, and the Court took judicial notice of certain matters outside the complaint, the Court should also consider all State/Court action and action by Bauknight under claimed color of State authority prior to the issuance of Dismissal Order and find that the Complaint alone, or the complaint, as well as the complaint with the additional matters sets out fully all causes of action, and no dismissal or summary judgment as to any Defendant is appropriate.

2. The Court overlooked or misapprehended that on February 27, 2013 the first decision in *Wilson v. Dallas* was issued, and contained the following footnote:

29 Although Brown's music rights have been widely reported as being worth up to \$100 million or more at death, Bauknight filed documents with the Internal Revenue Service indicating the value of Brown's music empire was only a net of \$4.7 million. The \$4.7 million valuation has been questioned based on the fact that it came at a time when one of Brown's sons, Terry Brown, had joined the compromise upon being given a first right of refusal to purchase the estate assets.

Further, the AG, with Bauknight's knowledge and cooperation, allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate to sue Appellant Pope on behalf of the State, Bauknight and others while representing private plaintiffs in the suit. The suit sought damages to Brown's estate allegedly arising during Pope's appointment. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this purported arrangement. These matters should be considered by the circuit court in the first instance and any fees found to be inappropriately incurred should be disgorged and returned to the trust in light of our finding that the compromise is void and the AG has exceeded his authority by, among other things, effectively controlling the charitable trust through the appointment of Bauknight, who serves at the AG's pleasure. [Emphasis supplied]

3. The Court overlooked or misapprehended that in January 2011, two years before the

first *Wilson v. Dallas* decision, the Legacy Trust¹ had been amended and Terry had secretly transferred his interest in the estate and right of first refusal to purchase Brown's music empire (the "ROFR") to Forlando.

4. The Court overlooked or misapprehended that the complaint correctly states that Forlando is a 39% owner of TJBL, LLC ("TJBL") an entity formed December 5, 2007 which made three offers to buy the music empire in 2007 and 2008 for \$90 - \$100 million; that Forlando, son Daryl, all former fiduciaries, expert R.B. Alexander and others have confirmed that the approximately \$83 million value of Brown's music empire assigned by Robert Buchanan, Jr. ("Buchanan") and Plaintiff on the estate tax return is correct and may be conservative.

5. The Court overlooked or misapprehended that Forlando confirmed under oath the week Buchanan and Plaintiff filed the estate tax return in September 2008 that offers of \$150 million were still available for the music empire, and in 2013 classified the \$4.7 million value assigned by Bauknight as "bogus."

6. The Court overlooked or misapprehended that the complaint shows that despite their extreme differences in the valuation of Brown's music empire, Bauknight, Terry, Forlando and Bell, worked together to conceal the Legacy Trust amendment and transfer to Forlando from State and Federal Courts for more than two years while Bell/Forlando opposed the 2008

¹ The Legacy Trust's 2011 amendments were prepared by Bauknight's attorneys and signed by AG McMaster, Terry Brown ("Terry"), Louis Levenson, Esq. ("Levenson") and David Bell, Esq. ("Bell"). They were distributed with the Assignment to Forlando by AG Wilson's office to settling parties that month.

settlement in Federal Court and Bell/Terry supported the settlement and joined in Bauknight's \$4.7 million claimed value in filings with the Supreme Court.

7. The Court overlooked or misapprehended that in 2011 Bauknight, Bell and Forlando began and continued their secret dealing for two years while the 2000 Trust had a pending claim for attorneys' fees and offset against Forlando for his 4-year frivolous 2008 suit to enjoin the 2000 Trust from taking any action until David Cannon and his co-trustees were reinstated.

8. The Court overlooked or misapprehended that the complaint demonstrates that Bauknight's concealing his dealings with Bell, Terry and Forlando aided Forlando in his 2012 fraud on the federal court in the Forlando Federal Suit where he represented to the Federal Judge that he had no assets or expectation of assets from the James Brown estate unless Terry died.

9. The Court overlooked or misapprehended that at the time of the first *Wilson v. Dallas* decision, the filing of the complaint in this action, and today, January 24, 2014, Bauknight serves as agent/co-Plaintiff and/or Intervener for Terry, Tommie Rae Hynie ("Tommie Rae"), and her son James B. in three FOIA suits in which Bauknight is trying to prevent the FOIA compliance which the Supreme Court's Footnote 29 addressed.

10. The Court overlooked or misapprehended that the Complaint shows that public documents which should have been released under FOIA which Bauknight has attempted since 2011 to secrete – and is still trying to secrete by FOIA interference -- include:

a. The claimed \$4.7 million "appraisal" referenced by the Supreme Court on which Bauknight has for 3 years based the false felony claim against Buchanan and Plaintiff that they intentionally overstated Brown's music empire by \$79 million to the IRS on the estate tax return for the improper purpose of obtaining a \$5 million commission.

b. The Wingate Litigation Retention Agreement and authorization under which Wingate claimed authority to sue Buchanan and Plaintiff on behalf of the State/AG and Bauknight claims authority to speak “on behalf of” the State/AG while both also represent Tommie Rae, James B. and others challenging the “I Feel Good” Trust.

c. The State/AG’s copy of the widely-disseminated handwritten notes of Tommie Rae known as the Hynie “diary,” and the State/AG’s copy of the typed transcript;

d. A copy of the James Brown Legacy Trust (the “Legacy Trust”), with amendments, which sued Buchanan and Plaintiff on May 19, 2010 for tens of millions of dollars in Richland County Case 2010-CP-40-4900 (the “Wingate Suit”), and which amendments are material to the Forlando Federal Suit..

11. The Court overlooked or misapprehended that on February 28, 2013 Plaintiff requested a meeting with Attorney General Alan Wilson (“AG Wilson”) to discuss her concerns for the “I Feel Good” Trust about the damage Bauknight and a State official had caused by the claimed \$4.7 million value; the false felony claim being lodged against Buchanan and Plaintiff based on the false claimed value; the need to correct the estate tax return to show the correct value of Brown’s assets; delete Bauknight’s claim that Tommie Rae was Brown’s spouse; and show Brown gave his “I Feel Good” Trust for needy students about \$80 million – not the less than \$1 million Bauknight claims².

12. The Court overlooked or misapprehended that AG Wilson granted a meeting with Plaintiff on March 6, 2013, and that Plaintiff and her counsel in Wingate Suit subsequently met with AG Wilson’s staff to discuss the above and additional concerns.

13. The Court overlooked or misapprehended that among the concerns was the purported

² Bauknight took an approximately \$3 million charitable deduction, but \$2 million of that was to be taken out of the AG’s new charity for grandchildren.

Buchanan/Wingate Suit “settlement” which appeared at the time to have been reached by the State/AG and Buchanan in 2012, when Buchanan was in financial jeopardy; in which Bauknight used \$500,000 of estate funds to obtain releases for Tommie Rae, himself, James B. and other Will/Trust contestants from Buchanan’s Wingate Suit counterclaims and the AG appeared -- without notifying the S.C. Supreme Court – to have forced Buchanan to take steps that would leave Buchanan unable to protect himself or the “I Feel Good” Trust by seeking reconsideration of the *Wilson v. Dallas* decision when rendered.

14. The Court overlooked or misapprehended that it has since become known that both Wingate and Bauknight lacked the claimed legal authority to sue in the name of the State/AG or settle the Wingate Suit on behalf of the State/AG, and that the settlement should thus be declared void.

15. The Court overlooked or misapprehended that the complaint properly states a cause of action for this Court to void the Buchanan/Wingate “settlement,” and this Court has jurisdiction to do so, but Bauknight’s actions taken in Richland County compel this Court to hold that and other rulings in abeyance pending the Wingate Suit decision.

16. The Court overlooked or misapprehended that this jurisdictional dilemma was caused by Bauknight’s false, but successful, representation to the Richland County Court in the Wingate Suit that all matters in Aiken County were concluded; that the situs of the James Brown 2000 Trust has been in Richland County since May 19, 2009; and that a change of venue to Aiken County would be improper.

17. The Court overlooked or misapprehended that Plaintiff, in addition to Bauknight’s

\$4.7 million value problem, discussed with AG Wilson and his staff the damage caused to the “I Feel Good” Trust by Bauknight’s fight to show Tommie Rae was Brown’s spouse when the evidence and law were overwhelming that she was not; Bauknight’s claim that not-presumed heir James B., the only claimed child born in the 22 years after Brown’s vasectomy, was a son; and Bauknight refusal to secure for the Estate/”I Feel Good” Trust Brown’s royalties to more than 800 published and unpublished songs (the “Royalties”) for decades by modest termination rights agreements with 5 or so of Brown’s *real* heirs, from among: (1) daughter Lisa from Brown’s 1st marriage; DNA-proven and acknowledged daughters (2) La Rhonda, (3) Jeanette and (4) Nicole; son (5) Michael Deon (“Michael”), incarcerated in California and seeking DNA testing since 2007 under the State’s official DNA testing “Peoples DNA Protocol”; (6) claimed son James Curtis, also seeking DNA testing; and sons (7) Daryl and (8) Terry, both of whom had publicly repudiated the 2008 McMaster settlement and asked AG Wilson to enforce Brown’s “I Feel Good” Trust.

18. The Court overlooked or misapprehended that while AG Wilson did not acquiesce in Plaintiff’s request that Buchanan and Plaintiff be reinstated for long enough for Buchanan to resign with dignity; Ronald Stanley, Esq. and former Warner Music executive Ray Gonzalez, Esq. – their nominated successors – to be appointed additional PR/Trustees; and Plaintiff to resign as soon as the Tommie Rae claims and challenges to the estate plan were concluded, he did call Plaintiff personally to advise her he was going to drop out of the Wingate Suit.

19. The Court overlooked or misapprehended that the complaint alleges, and AG Wilson never denied, that the *Wilson v. Dallas* decision did not deprive Plaintiff, Buchanan,

James Bailey, James Richardson, Esquire, Tressa Hayes or others who have sought to enforce the "I Feel Good" Trust of their Due Process, Equal Protection and First Amendment rights; their rights under the South Carolina Probate Code ("SCPC"); their rights under the South Carolina Trust Code ("SCTC"); or the rights of attorneys to practice law in any court where permitted, including but not limited to the following rights:

- a. The right of James Richardson, Esq., to continue, should he elect, the *pro bono publico* service he performed in the *Wilson v. Dallas* appeal in any related matter, and/or to represent any fiduciary, creditor, heir, devisee, beneficiary or other person in any James Brown matter not disloyal to the Will and 2000 Trust of James Brown which he worked for years *pro bono publico* to protect.
- b. The right of James Bailey, Esq., to represent anyone and/or be part of any James Brown case as described above for James Richardson, and to be a witness and/or expert in any matters; and to be paid the approximately \$80,000 he was owed in September 2009 when the Court confirmed the termination of his service, which, with interest, is now approximately \$110,000 because it was due under a valid contract with the Estate/2000 Trust; was liquidated at the time; and Bauknight refused to pay Bailey while paying more than \$560,000 to Wingate and large amounts to others with lower or equal priority.
- c. The right of Tressa T. H. Hayes to have all of the rights described for Bailey and Richardson, with the right to be paid the approximately \$80,000 Bauknight intentionally withheld from her for her efficient appellate work for the Estate/2000 Trust which included: assisting in the 7-day hearing on the 2008 settlement; preparing the Cannon brief and arguing the Cannon appeal; preparing the Dallas/Bradley brief which was adopted by Bauknight when he took over the Dallas/Bradley appeal; and assisting James Richardson, Esq. for three years on the *Wilson v. Dallas* appeal.
- d. The right of Robert Buchanan, Jr. to have all of the rights described above, including fair payment for his work; to void the Wingate Settlement; to testify as a former titleholder about the value of Brown's assets to the extent permitted by rules of evidence; to testify as a fact witness and/or expert; to offer for probate the backup 1999 Will; to defend himself and counterclaim in

the Forlando Federal Suit and the Wingate Suit, and any other suit. and to take any other action in relation to the James Brown matters other than apply to be PR/Trustee himself, including the right to nominate Ronald Stanley, Esq., & Ray Gonzalez – which he and Plaintiff did in a document filed in the Probate Court prior to May 26, 2009; and to seek to be designated as an “Other” or Special Status Party under SCTC § 62-7-405 to help enforce the “I Feel Good” Trust; and to seek offset against the Estate/2000 Trust interest of Forlando and others in the Forlando Suit or any other suit brought against him.

e. The right of Plaintiff to enjoy all of the rights described above for Richardson, Bailey, Hayes and Buchanan, including the right to volunteer her time and expertise *pro bono publico*, as she has done since May 8, 2013, as an attorney, GAL, witness, expert witness, assistant or otherwise to the AG and/ or to heirs, devisees and/or fiduciaries seeking to enforce the “I Feel Good” Trust and to serve as an Special Status Party to help enforce the “I Feel Good” Trust. and the right to serve as an expert witness in the Forlando Suit, the Wingate Suit and any other James Brown suit, as she did without objection in *Wilson v. Dallas*, and based on her expertise in Probate and Trust law, and in the interplay of State Probate Law and Termination Rights under the Federal Copyright Act (“FCA”). .

20. The Court overlooked or misapprehended that Plaintiff and Wm. Jeffrey Smith, as demonstrated by their draft 2011 article *Private Foundations, Copyright Heirs and Musical Millionaires: Why the James Brown “I Feel Good” Trust doesn’t...* , were among the first in the State to acquire an expertise in the emerging need for private foundations and other charities to take early steps in the probate process to manage and control their royalties and other copyrights for the longest time for the benefit of the charity.

21. The Court overlooked or misapprehended that on March 4, 2013 Bauknight and Wingate moved to prevent the scheduled deposition of Deanna Thomas, for whom Bauknight continues to serve as agent, in the Wingate Suit.

22. The Court overlooked or misapprehended that on March 14, 2013 AG Wilson filed a Petition for Rehearing which confirmed that Tommie Rae and the settling parties “strongly believed that James Brown truly desired needy children to have scholarships.”[p.16]; but contained incorrect information about the FCA and Termination Rights which was reflective of the incorrect representations made to him by Bauknight and Tommie Rae.

23. The Court overlooked or misapprehended that AG Wilson asserted that in May 2010 he was advised that “it would be a breach of the Attorney General’s own fiduciary duty in protecting charitable trusts if an action was not brought on behalf of the charity.” [p.23,24. Emphasis supplied.] . He further stated that [t]he Attorney General’s intent not to bring the action on behalf of the Attorney General’s Office is fully demonstrated clearly...”

24. The Court overlooked or misapprehended that the Attorney General said:

In this instance, the [AG] was particularly hesitant to sue because Appellants Pope and Buchanan enjoy a superb reputation throughout the legal community. Appellant Buchanan serves as a part-time federal magistrate judge and is a long time member of the South Carolina Bar. ... Appellant Pope has, for more than thirty years in South Carolina, been an outstanding attorney in the field of trust and estate matters. She is considered by the legal community to be an exceptional attorney. [p.25]

24. The Court overlooked or misapprehended that as for the documents in the three FOIA suits where Bauknight is still preventing release of public documents, AG Wilson told the Supreme Court, in part:

The [AG] is a strong believer in FOIA.. In this instance, we have released everything in our possession which we legally can release.

One document is subject to a Motion for a Protective Order, pending before Judge Manning. We certainly have no objection to the release of the document and have so advised the Court that we stand ready And willing to turn that document over once the Court rules. We hope to have resolution of this issue in the near future. [p.25, Emph. Supp.]

25. The Court overlooked or misapprehended that the complaint and facts of which the Court has judicial notice show that the impediment to the release under FOIA of the above public documents, requested under FOIA 2 ½ years ago, is the interference in FOIA suits by Bauknight as agent for Tommie Rae, James B., Levenson and Terry/Bell/Forlando and Wingate/Bauknight still claiming to act under color of State authority in the Wingate Case.

26. The Court overlooked or misapprehended that the AG made the following incorrect statements about the FCA's Termination Rights provisions, reflecting misleading information provided to the State/AG by Bauknight as agent for Tommie Rae and/or Tommie Rae herself:

It was our position that these rights being made part of the Trust was a huge gain for the Trust...[Mr. Jones: "The renewal and termination rights being included within the settlement was a major factor for us and what we consider[ed] a bonus...]

27. The Court overlooked or misapprehended that James B., whom Brown's trustee Dallas has confirmed that in addition to the vasectomy Brown was unable to father based on other physical impediments, filed a Petition for Rehearing and Reply which outlined and purported to justify in great detail the \$4.7 million appraisal Bauknight has since told the Federal Court he did not show to anyone, including the AG.

28. The Court overlooked or misapprehended that James B's support of Bauknight, who

serves as James B's agent in the Wingate Suit and three FOIA suits without a GAL, is to be expected since both are currently seeking default from the counterclaims in the Wingate Suit; neither wants the \$4.7 million appraisal released under FOIA; neither wanted the Wingate Litigation Agreement released; and Bauknight has for more than 4 years violated the right of Brown's real heirs seeking verification under the Peeples DNA Protocol while sheltering non-presumed child and likely-non-child James B. from the already-paid-for \$300 test.

29. The Court overlooked that on March 18, 2013 Bauknight, as Trustee for the Legacy Trust, filed the "James Brown Legacy Trust's Supplemental Memorandum in Support of Motion to Dismiss in FOIA #1, claiming, among other things, that the Legacy Trust, under the February 27 *Wilson v. Dallas* decision, does not exist. Bauknight, however, continues nearly a year later to be suing in the name of the Legacy Trust, and seeking relief of the Legacy Trust from default as to the Wingate Suit counterclaims.

30. The Court overlooked or misapprehended that on March 25, 2013 Levenson filed a Reply to Plaintiffs Petition for Rehearing in which he claimed to speak for Daryl Brown, Janise Brown and Lindsey Brown, although the three had terminated him; repudiated the 2008 McMaster settlement; and asked the State/AG to honor James Brown's wishes by reinstating his Will and 2000 Trust.

31. The Court overlooked or misapprehended that Levenson asked the Court to disregard Pope's assertion that she had consulted with the AG and that he intended to withdraw from the Wingate Suit, but concealed, even though he had actual knowledge, that:

A. The State/AG never legally authorized Wingate to name

the State/AG as a Plaintiff in the Wingate Suit, and never authorized Bauknight's claim in the Wingate Suit that he is acting on behalf of the State/AG.

B. Bauknight had vigorously fought FOIA release of the Wingate Contract for 2 years because it would show that the 40% contingency fee contract we never signed by the State/AG and not signed by most of the 12+ Wingate Suit plaintiffs, but by Levenson, Bell, counsel for Tommie Rae and Bauknight.

C. When Daryl and daughter first tried to repudiate the settlement, he and Bauknight had – without consulting the Court – visited the home of Daryl's daughters to try to convince Daryl that the settlement which dismantled his daughters' \$285,000 education trusts was good for them.

32. The Court overlooked or misapprehended that Levenson claimed –including for people he no longer represented – that “[t]he revelation that the Attorney General intends to realign the caption or withdraw from [the Wingate Suit] is not germane to this Court’s consideration... Irrespective of the Attorney General’s apparently evolving stance on these matters, Repsondents have no intention of dismissing their claim against Pope in the separate 4900 suit.”

33. The Court overlooked or misapprehended that Levenson had actual knowledge that the State/AG was named as a Wingate Suit Plaintiff without proper authorization; that Buchanan and Pope had acted jointly in ever respect complained of in the Wingate Suit complaint; that Buchanan had not paid a dime to a single Wingate Suit Plaintiff; and that \$500,000 had been paid to Buchanan from the estate to secure release of Buchanan’s counterclaims against Tommie Rae, Levenson’s clients and Bauknight in the Wingate Suit.

34. The Court overlooked or misapprehended that Levenson, quoting the false Wingate

Complaint, repeated the false, career-threatening felony claim he had made against Buchanan and Pope until 2012, now lodged solely against Pope, which many clients had repudiated:

6. Pope artificially inflated the value of the Estate in an attempt to substantiate her petition for a \$5 million fee for her services as Personal Representative and Trustee (4900 suit at ¶ 18(u).

35. The Court overlooked or misapprehended that Buchanan, constrained by an illegal agreement in which Wingate and Bauknight made false claims that they could contract for the State/AG, was prevented from protecting himself and Plaintiff by preparing a petition..

36. The Court overlooked or misapprehended that a majority of Brown's real heirs made no filings in *Wilson v. Dallas* because they were shut out by the State/AG, including:

1. Daughter Lisa from Brown's first marriage, never made a party to *Wilson v. Dallas*;

2. DNA-proven and acknowledged daughters La Rhonda, Jeanette and Nicole, who, while not parties to *Wilson v. Dallas*, were induced by the State/AG in January 2009 to withdraw other filings on the promise that the State/AG and "settling parties" would take no action to damage their status as heirs under the FCA or other federal law;

3. Son Michael, son of Brown as shown on his birth certificate; supported during minority by Brown under court orders; and awaiting DNA testing under the Estate's official Peebles DNA Protocol since requested in 2007. Michael was not named as a party or served in *Wilson v. Dallas*; and

4. James Curtis, a DOE Defendant under the 2007 Levenson Suit seeking an "administration in intestacy." Case 2008-CP-02-0872 (the "Levenson Suit"), in which no GAL was appointed because the Levenson Suit was suspended on August 12, 2008 when the AG announced the 2008 settlement.

36. The Court overlooked or misapprehended that Plaintiff filed a petition for rehearing asking for Buchanan and Plaintiff to be reinstated but, if not, that neutral fiduciaries as indicated in the February 27 decision not be appointed, but rather three who would vigorously defend the “I Feel Good” Trust as directed in Brown’s Estate Plan.

37. The Court overlooked or misapprehended that the exclusion of about 7 of Brown’s approximately 12 claimed heirs under both State law and the FCA from the 2008 settlement and *Wilson v. Dallas* was critical because Bauknight had told the S.C. Supreme Court that FCA Termination Rights is “all this case is about,” but had failed, for \$100,000 per year or less, to secure the Estate/”I Feel Good” Trust’s royalties to more than 800 songs (the “Royalties”) for decades by modest agreements with any 5 or so of these excluded heirs. Instead, Bauknight had tried to convince multiple courts that Tommie Rae was Brown’s spouse, when she was not; James B., who refused DNA testing, was a son; and the 2 controlled Termination Rights and should be given nearly ¼ of the “I Feel Good” Trust for them.

38. The Court overlooked or misapprehended that on May 8 the final *Wilson v. Dallas* decision was issued and included:

- a. A declaration that Bauknight’s fiduciary appointment was void.
- b. The same strong statements about the weakness of the claims of Tommie Rae and the Will/Trust contest.
- c. A remand for the appointment of fiduciaries in accordance with James Brown’s documents, namely 3 PR/Trustees who would vigorously defend against any challenge to the estate plan as “an affront to my wishes.”
- d. A declaration that the 2008 settlement was void.

39. The Court overlooked or misapprehended that between May 9 and 12, 2013, Bauknight obtained both from the Honorable Doyet A. Early, III (“Jg. Early” or the “Circuit Judge”) and

the Honorable Sue H. Roe (“Jg. Roe or the “Probate Judge”) void, pre-remittitur, broad *ex parte* orders appointing him as special administrator and special trustee (“SA/ST”).

40. The Court overlooked or misapprehended that before May 10, 2013, while claiming to be the attorney for both the State/AG and Tommie Rae, along with the 2000 Trust, the Estate and Bauknight “on behalf of” the State/AG, the Wingate firm asked the Honorable L. Casey Manning (“Jg. Manning”) to stay all of the following Richland County cases until all matters were concluded in Aiken County – possibly years later:

a. FOIA # 1 - Where Plaintiff has since August 3, 2011 been seeking the AG’s copy of any amendments to the Legacy Trust/Settlement Entity which sued her on May 19, 2010 in the Wingate Suit and the AG’s copy of the less-than \$4.7 million Appraisal of Brown’s music empire which was the basis of a false felony claim lodged against Buchanan and Pope by AG Wilson’s office, the Estate, the 2000 Trust, and Bauknight, claiming to be agent for the AG and others.

[Bauknight, for the Estate/2000 Trust, Tommie Rae, James B. and others, had been attempting to intervene in FOIA # 1 since 2011, and is still attempting to intervene on their behalf to stop FOIA compliance.].

b. FOIA #2 - Where Plaintiff has been seeking since August 10, 2011 a copy of the public Wingate Litigation Retention Agreement by which private attorney Wingate sued Buchanan and Pope naming the State/AG as Plaintiff and Bauknight as agent for the State/AG.

[Bauknight, for the Estate/2000 Trust, Tommie Rae and others, had been trying to intervene in FOIA #2 to prevent release of the Wingate Agreement since 2011, and obtain sanctions against Plaintiff for exercising her FOIA rights.]

c. The Wingate Suit - Brought against Buchanan and Pope on May 19, 2010 seeking tens of millions of dollars against Buchanan and Pope for alleged breaches of trust and fiduciary duty. Allegations of wrongdoing included:

A. Conducting the *Wilson v. Dallas* appeal;

B. Not accepting a 2007 \$100 million offer to sell the music empire;

C. Claimed improper valuation of Brown's assets threatening millions of dollars damages in taxes.

D. Claimed impropriety in relation to the Christie's sale which was approved by 3 court orders and the State/AG.

[According to grandson Forlando, the family – feuding over other matters – got together to disrupt the Christie's sale, even though it was reducing the value of what Brown devised them. They also had funds available to buy items of importance at the Christie's sale but, according to Forlando, were instructed not to buy items they wanted. Counsel Levenson attended the sale. Terry/Forlando's counsel David Bell, Esq., ("Bell") and Powell Goldstein ("PG") did not. Former trustee Albert Dallas also asked the S.C. Court of Appeals to stop the Christie's sale 9 days before it took place. The State/AG and Christie's received approval to proceed with the sale on July 14, 2008. It took place on July 17. The State/AG's August 10, 2008 settlement, announced August 12, suspended filed motions to charge Dallas with the Estate/2000 Trust's cost of his interference with the Christie's sale, which is still pending in Aiken County.]

41. The Court overlooked or misapprehended that Wingate made this request purporting to represent all of the following Plaintiffs in the Wingate Suit:

A. AG Wilson, who had told the Supreme Court he wished to be dropped from the Wingate Suit and had filed a Motion to be dropped;

B. Bauknight, who still claims to be a Wingate Suit Plaintiff on behalf of the State/AG;

C. The Estate of James Brown/2000 Trust;

D. Bauknight as agent for Tommie Rae and acting for minor James B., after refusal to appoint a GAL;

E. Bauknight as claimed agent for Daryl Brown and his daughters Janise and Lindsey.

F. Bauknight as agent for daughters Deanna and Yamma & others

G. Bauknight as agent for Terry Brown, whose interest in the Estate and 2008 settlement was secretly transferred to son Forlando in January 2011, but concealed from Jg. Manning and the federal court in Case No.

42. The Court overlooked or misapprehended that Bauknight claimed to represent all of the above when the complaint was filed in this case on June 10, and continues to do so.

43. The Court overlooked or misapprehended that since May 8, 2013 Plaintiff has worked *pro bono publico* to encourage AG Wilson to take a lead in preventing a second dismemberment of the “I Feel Good” Foundation by Levenson, Tommie Rae and Bell; that her efforts to involve the AG in undoing the damage the State/AG caused has, to date [January 2014] proved unsuccessful.

44. The Court overlooked or misapprehended that on May 10 Wingate – who had been terminated by the State/AG before the above request, asked to be relieved as counsel to the State/AG even though he was in default as to the 2010 counterclaims against the State/AG for abuse of process for trying to stop the *Wilson v. Dallas* appeal, and as to other counterclaims.

45. The Court overlooked or misapprehended that Jg. Early notified certain people – excluding the majority of heirs listed above – by email that he would hold a status conference on May 29, 2013. Jg. Early said no testimony would be taken and that anyone with suggestions about the handling of the *Wilson v. Dallas* remand must do so in formal motions filed by May 25, 2013.

46. The Court overlooked or misapprehended that on May 22, 2013 Bauknight signed and had notarized a defective accounting which – if filed – would have revealed before May 29 that he had paid \$563,000 from the Estate to the firm of Kenneth Wingate, Esq., in November & December of 2012 in addition to the 40% contingency fee agreement and despite the fact that

Wingate was seeking relief from default after failing to timely respond to the Buchanan/Pope counterclaims in the Wingate Suit.

47. The Court overlooked or misapprehended that the \$563,000 Wingate payment was not disclosed to AG Wilson, Jg. Early, Jg. Roe or any other court until October 8, 2013, and that Bauknight takes the position that it is not subject to review under the *Wilson v. Dallas* remand even though the Wingate Suit was brought to try to stop the *Wilson v. Dallas* appeal.

48. The Court overlooked or misapprehended that the concealed May 22, 2013 accounting also failed to list Bauknight's claimed value at the beginning of 2012 and end of 2012, in violation of the South Carolina Probate Code ("SCPC").

49. The Court overlooked or misapprehended that by May 25, 2013 Plaintiff was the only person to file timely motions suggesting a fair procedure for handling the *Wilson v. Dallas* remand in the more-than-10 James Brown cases in Aiken County, as well as the Forlando Federal Suit, the Wingate Suit and the FOIA cases.

50. The Court overlooked or misapprehended that Plaintiff did so by the filing of three proper motions which have not been heard and which Jg. Early, on June 13, without notice or hearing, directed the clerk of Court to remove from the public records.

51. The Court overlooked or misapprehended that there is no transcript of the May 29, 2013 status conference, but:

1. AG Wilson announced his intention to withdraw from the Aiken cases;
2. Levenson and counsel for Tommie Rae asked Jg. Early to retire to chambers to hear why the 2008 settlement voided by the *Wilson v. Dallas* decision should be reinstated. [He declined.]

52. The Court overlooked or misapprehended that Bell continued his and Forlando's 5-year pattern of deception of the State and Federal Courts by announcing that his client Terry Brown was satisfied and happy with the *Wilson v. Dallas* decision, but concealing from the Court (as he had from the S.C. Supreme Court) that Terry had secretly transferred his interest to Forlando in January 2011; that Forlando had, through Bell, openly opposed the settlement for 4 years while Terry, through Bell, asked the Supreme Court to approve it.

53. The Court overlooked or misapprehended that after the status conference Levenson clients Deanna and Yamma vowed to fight for 10 years if necessary to dismantle Brown's "I Feel Good" Foundation, despite the fact that they, Tommie Rae and all other contestants had confirmed in the Wingate Suit in 2010 that all had spoke with Brown about his estate plan in the 3 years before his death and that:

... the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown. [Me. Opp., p.2, 8/27/10]

54. The Court overlooked or misapprehended that on May 29 Bauknight delivered a wholly-unnecessary Notice of Disallowance with Notice of Impending Bar (the "Disallowance") which forced her to file suit within 30 days so that her allowed and court-approved claims; claims pending in other courts; and proper payments to herself, James Bailey, Esq., Tressa T.H. Hayes, Esq. and Buchanan would not be placed in jeopardy, and that the complaint and Disallowance show that it was unnecessary, slanderous, malicious, and that Bauknight lacked authority to issue it..

55. The Court overlooked or misapprehended that Bauknight knew that the claims had been allowed; that he could not disallow and this Court had no jurisdiction over, the counterclaims of Buchanan and Plaintiff in the Forlando Federal Suit; and that this Court lacked jurisdiction over the FOIA Suits and the Wingate Suit; and that under the SCPC any judgment by Plaintiff and Buchanan in those suits would constitute an allowed claim.

56. The Court overlooked or misapprehended that Buchanan and Pope and those with whom they worked had carefully and efficiently protected the "I Feel Good" Trust and put the S.C. Supreme Court in position to restore \$50 million Bauknight and the State/AG proposed to take from it at a very modest cost.

57. The Court overlooked or misapprehended that each of these matters was fully documented, with time and service details in a 100+-page claim and joint affidavit filed by Buchanan and Pope on or about July 14, 2009 after Tommie Rae began "speaking as one" with the State/AG and seeking discovery as to commissions payable to Buchanan and Pope.

58. The Court overlooked or misapprehended that in 2009 Buchanan and Pope had asked this Court to delay the matter of their commissions, other than the already-allowed and Court approved amount Pope was due for her 2007 SA service; and the approximately \$2 million due Buchanan/Pope (approximately 30%/70%) on a time-plus-costs basis which was already contracted, allowed and court-approved and which, by Order of Jg. Early dated January 8, 2008 (the "Jan 8 Order") was earning interest at the legal rate.

59. The Court overlooked or misapprehended that because Bauknight and purportedly the State/AG had represented to the Richland County Court in 2010 that the situs of

the 2000 Trust was in Richland County and that all matters raised in the complaint and counterclaims of the Wingate Suit must be decided in Richland County, and prevailing before Jg. Manning in this matter, the Aiken Court was now required to hold matters raised in that suit in abeyance pending the outcome of the Wingate Suit because jurisdiction now rests in Richland County.

60. The Court overlooked or misapprehended that this jurisdictional dilemma was caused by misrepresentations by Bauknight.

61. The Court overlooked or misapprehended that the Disallowance made another reference to the false felony claim which Bauknight has lodged since 2011.

62. The Court overlooked or misapprehended that the complaint and Disallowance make clear that the intended effect of the Disallowance was to affect the outcome in favor of Tommie Rae and James B. – and Bauknight individually – in the Forlando Suit, the Wingate Suit and the FOIA Suits, depriving Plaintiff, Buchanan, Hayes and Bailey of a fair chance to show:

a. Buchanan and Pope did not commit the federal felony of overstating the Music empire to the IRS by \$79 million for an improper purpose.

b. Bauknight's less-than \$4.7 million value of the music empire is outrageous and his hiding the claimed appraisal on which it is supposed to be based is a breach of his duty under the SCPC.

c. The false felony claim is particularly egregious because Bauknight made it not only for the Estate/2000 Trust but as purported agent for the State/AG;

d. A recent case makes clear that the claim, if true, would threaten Buchanan and Pope's ability to practice law.

63. The Court overlooked or misapprehended that Jg. Early and the Clerk of Court,

requested by Bauknight, then issued three June 13, 2013 Orders which, without Due Process or notice or hearing of any kind, denied Plaintiff and others of their economic rights and constitutional Due Process, Equal Protection and First Amendment rights by ordering that Plaintiff has no right to protect herself against false felony claims; in defenses and counterclaims against the false allegations of the Estate/2000 Trust, through Bauknight, in the Wingate Suit; in the counterclaims and offset for damage caused by the fraud of Bell and Forlando in the Forlando Federal Suit; or to protect her FOIA rights by ruling without notice, hearing or reason to do so:

"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.

AND

"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 filing from these cases pursuant to the Supreme Court's Opinion removing her as a party to these proceedings.

64. The Court overlooked or misapprehended that the June 13 Orders are an unconstitutional denial of the Due Process, Equal Protection and First Amendment rights of Buchanan, Plaintiff, real heirs and others; are now the subject of a pending appeal; and cannot be used to breathe life into earlier void orders secured prior to the remittitur in Wilson v. Dallas nor into a void Disallowance issued maliciously under authority of a void order never served on anyone.

65. The Court overlooked or misapprehended that without notice, hearing or legal basis to do so, one of the June 13, 2013 Orders declared that the Court had reviewed all of the James

Brown files then made numerous incorrect and unsupported findings, including that all prior fiduciaries who support the estate plans and their counsel must be removed for the proceedings; the PRs named under the 1999 Will must be removed from the relevant James Brown cases; and continued the State's dismemberment the "I Feel Good" Foundation and control James Brown's private property which was begun August 10, 2008.

66. The Court overlooked or misapprehended that the June 13, 2013 Orders were not served on most heirs and devisees; did not notify proper parties; and enjoined without notice or hearing Plaintiff, Buchanan, former PR/Trustees, heirs and others from participating in matters affecting their direct economic interest.

67. The Court overlooked or misapprehended that the June 13 Orders specifically violated the Due Process rights of acknowledged heirs Jeanette, LaRhonda and Nicole , and that Bauknight never made any attempt to correct this Court's action or correct the improper findings.

68. The Court overlooked or misapprehended that the Court of Appeals now has jurisdiction over the improper June 13 Orders.

69. The Court overlooked or misapprehended that on June 13, 2013 Judge Early and the Honorable Liz Godard, Clerk of Court deprived a majority of Brown's real heirs, creditors of the Estate of James Brown; all beneficiaries under the 2000 Estate Plan who support the estate plan; and all beneficiaries of the 1999 backup Will in grave jeopardy by issuing the 3 *ex parte* orders – with no notice or hearing, and failing even to name the parties to be bound, which would:

- a. Virtually remove every supporter of Brown's 2000 estate plan or backup

Will from participation;

- b. Place Tommie Rae and claimed children challenging the Estate Plan in control;

70. The Court overlooked or misapprehended that these three orders made findings and reached legal conclusions which are wholly unsupported in the records of what happened during the 4-year *Wilson v. Dallas* appeal, and should not have been made when Plaintiff's Petition and Motion for Emergency hearing seeking to restrain Bauknight was pending.

71. The Court overlooked or misapprehended that it had a duty to conduct a hearing based on the serious allegations and request for restraint and removal of Bauknight, but failed to do so.

72. The Court overlooked or misapprehended that the Probate Court and Circuit Court and Bauknight have since used the *ex parte* pre-remittitur orders and the *ex parte* June 13 Order, with subsequent *ex parte* and-improperly acquired orders to trample on the Due Process, First Amendment and Equal protection rights of Brown's real heirs; the beneficiaries who support Brown's 2000 Estate Plan; creditors who have worked to support the estate and trust; and all others who seek to enforce the "I Feel Good" Trust.

73. The Court overlooked or misapprehended that without notice to heirs, devisees or proper joinder the Circuit Court announced by email that petitions for appointment of PR/Trustees must be presented by July 29, 2013, but excluded Plaintiff, Buchanan, a majority of the heirs and others from any notice.

74. The Court overlooked or misapprehended that Bauknight continued throughout to conceal from the Court secret dealings with Forlando since January 2011.

75. The Court overlooked or misapprehended that the Complaint filed on June 10, 2013 properly set out the claims for all relief; that the Court should have conducted a hearing within 10 days; no dismissal should be granted as to any Defendant or claim; Bauknight should have been restrained, required to account, required to disgorge individually the Wingate payments if they were made unjustly, as appears, and possibly others; removed; and an SA/ST appointed.

76. The Court overlooked or misapprehended that in June the S.C. Supreme Court dismissed the Hynie “diary” Gag Orders Appeal, freeing Judge Early to hear Adele’s motion to void them, but he has refused repeated requests to have a hearing.

77. The Court overlooked or misapprehended that on June 27, 2013 Plaintiff wrote AG Wilson to outline the importance of declaring void or expired the 2008 Gag Orders which prevent discussion of the widely known contents of the so-called Hynie “diary”, but that in the 7 months since the AG has refused to become involved; Bauknight has represented Tommie Rae in continuing the Gag; and the limited SA has done nothing to protect the Estate/”I Feel Good” Trust.

78. The Court overlooked or misapprehended that in July , August and September 2013 in the Forlando Federal Suit, Bauknight at first claimed he knew nothing about the counterclaims, but later claimed Forlando had done nothing wrong and the 2000 Trust would abandon its claim for attorneys’ fees against Forlando.

79.. The Court overlooked or misapprehended that in July Adele asked Jg. Early to assist with securing the fee contracts of the Settling Parties he ordered delivered to her in 2010, but Bauknight, Levenson, Bell and Tommie Rae’s lawyers refuse to deliver them.

80. The Court overlooked or misapprehended that on July 8 Bauknight's counsel sent an *ex parte* ethics opinion of Nathan Crystal, Esq. to Jg. Early. The opinion, although requested by Adele, has not been disclosed.

81. The Court overlooked or misapprehended that on July 9 Jg. Early heard Plaintiff's Motion to Vacate the June 13 Orders; denied the motion; and the Orders are now on appeal, and Jg. Early has no jurisdiction over them..

82. The Court overlooked or misapprehended that on July 26, 2013 the letter and supporting documents of Robert Buchanan, Jr., with knowledge the fact that both Wingate and Bauknight had improperly claimed to have the State/AG's authority to settle with Buchanan in the Wingate Suit but had no such authority -- was adequate to give this Court jurisdiction to void the Buchanan settlement, but that the Court must hold that ruling in abeyance until the conclusion of the Wingate Suit in Richland County.

83. The Court overlooked or misapprehended that on July 29 Bauknight filed a Summons and Petition for Formal Appointment as Personal Representative and Trustee. It contained knowingly false information about Brown's heirs.

84. The Court overlooked or misapprehended that the Summons/Petition caption failed to mention the Trust or any Party.

85 The Court overlooked or misapprehended that the Summons mentioned "All Necessary Parties," but neither the Summons nor the Petition identified Necessary Parties.

86. The Court overlooked or misapprehended that Petition failed to identify heirs; devisees; fiduciaries with higher priority; and/or creditors with standing higher than Bauknight.

87. The Court overlooked or misapprehended that Bauknight's claimed standing based on his *ex parte*, pre-remittitur appointments and his position as a creditor.

88. The Court overlooked or misapprehended that the Bauknight Petition, and other applications, were not served on anyone; did not commence a suit; and were not proper under the *Wilson v. Dallas* remand.

89. The Court overlooked or misapprehended that in August 2013 son Daryl Brown launched a website to save the "I Feel Good" Trust and recounted his intention to save the "I Feel Good" Trust earlier which was delayed by intervention by Levenson and Bauknight who temporarily convinced him that the 2008 Settlement which destroyed his daughters' \$285,000 education trusts was good for them.

90. The Court overlooked or misapprehended that on August 23, 2013 Bauknight was deposed in the Forlando Federal Suit and when questioned about Plaintiff's service said:

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

...[Y]our client raped this estate taking every dime out of it for her

own fees and for Bob's fees and her lawyer's fees leaving it insolvent.... Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client. [Emp. Supp.]

and also claimed as confidential the "appraisal" which he says support his less than \$4.7 Million value.

90. The Court overlooked or misapprehended that on September 1 Terry Brown confirmed his support for the Estate Plan in a Forlando Federal Suit deposition. He also confirmed his transfer to Forlando.

91. The Court overlooked or misapprehended that an email advised some people of a hearing on September 4, 2013.

92. The Court overlooked or misapprehended that the email notice directed that 5 applicants would be given 15 minutes to talk. Questions would be addressed by the Court only.

93. The Court overlooked or misapprehended that prior to the hearing objections were filed by Plaintiff and on behalf of journalist Sue Summer, but most of Brown's heirs, devisee and beneficiaries under the 2000 Estate Plan and 1999 Will were not even aware of the proceeding; had not been designated in Bauknight's petition; and had not been served.

94. The Court overlooked or misapprehended that on September 11 Bauknight asked the Federal Court in the Forlando Suit to impose a Confidentiality Order on the Bauknight Appraisal which he should have filed in Probate Court in 2011 and the release of the AG's copy of which he has been fighting by FOIA interference for 2 1/2 years.

95. The Court overlooked or misapprehended that on September 16 Pope wrote AG

Wilson:

- a. Mr. Bauknight clings to the notion that James Brown's worldwide music empire was worth less-than \$4.7 million at death, not the correct value of approximately \$84 Million. He clings to the notion that Ms. Hynie and her child control the Termination Rights. He clings to the false felony claims.
- b. Mr. Bauknight's claims about Ms. Hynie's control of the Termination Rights have been shown to be wrong. You have now asked to be dropped from the lawsuit the State/AG filed against us in 2010 based on somebody's (false) claim that AG McMaster would breach his fiduciary duty if he did not sue us on May 19, 2010.
- c. It is time to undo the damage done by these false felony claims, and the above ... public document.. [is] one place to start.
- d. Since October 2012 we have discussed the damage caused by the State/AG's adoption of Mr. Bauknight's false claim that Bob and I intentionally overstated the value of Brown's assets by \$79 million on the Estate Tax Return for the improper purpose of securing a \$5 million commission. Section 7206 of the IRC says...

96. The Court overlooked or misapprehended that on September 23 Marc Toberoff, Esq. wrote Warner/Chappell Music, Inc. asserting that he represented DNA-proven daughters LaRhonda, Jeanette, and Nicole, along with Terry and other "Heirs" under the Federal Copyright Act; and confirming that Tommie Rae was not Brown's spouse and James B. not Brown's son; and strongly suggesting that Bell, and possibly others, are being allowed by Bauknight to usurp the rights and advantage of the Estate/"I Feel Good" Trust to contract with these heirs..

97. The Court overlooked or misapprehended that Mr. Toberoff said:

The Heirs are informed and believe that Tomi Rae Hynie and James ... have served purported notices of termination regarding [Brown's]

musical compositions (the “Tomi Rae Termination.”) The Heirs are further informed and believe that the Tomi Rae Termination is being handled by a representative of the Estate of James Brown, despite the glaring conflicts of interest that this would appear to entail.

98. The Court overlooked or misapprehended that on October 1 the Jg. Early signed the Appointment Order which was filed on October 1, 2013..

99. The Court overlooked or misapprehended that an SA/ST is needed for the Forlando Federal Suit, the FOIA Suits and the Wingate Suit because of Bauknight’s irreconcilable conflict.

100. The Court overlooked or misapprehended that the *ex parte* October 10, 2013 Order of the Probate Jg. appointed the limited SA without notice to anyone, and when issued was delivered to Bauknight’s counsel and not served on heirs, devisees, beneficiaries or creditors; and that the limited SA began almost immediately to try to defeat the heirs status of Brown’s real heirs necessary to protect the Royalties, violating the Due Process rights of Michael, the real heirs, the claimed heirs awaiting DNA testing under the Peeples Protocol, creditors who worked to protect the “I Feel Good” Trust’s royalties under the FCA by Termination Rights and others supporting the “I Feel Good” Trust.

101. The Court overlooked that this series of more than six *ex parte* and improperly obtained Orders threatens to retake the millions of dollars from the “I Feel Good” Trust Tommie Rae and Levenson announced on May 29 they intend to try to retake, to earn more than \$20 million for Bell, Levenson and counsel for Tommie Rae and constitutes

– with the injunction imposed by the June 13 Orders --active State action, through these Probate and Circuit Court order in the denial of Due Process, First Amendment and Equal Protection rights of real heirs, devisees and supporters of the “I Feel Good” Trust , including creditor supporters, of the 2000 Estate Plan and 1999 Will.

101. The Court overlooked or misapprehended that the Probate Judge’s October 10 *ex parte* order appointing the limited SA was never served on Interested Persons, but instead delivered to counsel for Bauknight, and that it is utterly void as a violation of the Due Process, Equal Protection and Probate and Trust Code rights of Plaintiff, other Creditors, Buchanan, Bailey, Hayes, real heirs and all others supporting the 2000 Estate Plan and 1999 backup will.

102. The Court overlooked or misapprehended that all parties knew Michael had never been served in either the Levenson Suit or Case 1647, but had been put in line for the Peebles DNA Protocol by Brown’s original PR/Trustees who tested and acknowledged LaRhonda, Jeanette and Nicole, and that Buchanan and Pope’s attempts to proceed with his testing was halted by the August 2008 settlement.

103. The Court overlooked or misapprehended that by October 11, 2013 Bauknight’s secret collusion with Forlando/Terry and David Bell, Esq., (“Bell”) while the 2000 Trust had a pending claim against Forlando was set out in part in an Affidavit filed in the Forlando Federal Case, providing adequate reason to remove or restrain Bauknight and appoint an SA/ST to conclude the Forlando Federal case.

104. The Court overlooked or misapprehended that on October 13, 2013

Plaintiff filed an appropriate Motion to Reconsider, Vacate, Alter or Amend the Bauknight Appointment of October 1, 2013, and that Jg. Early should have proceeded with setting a motion to restrain or remove Bauknight and appoint an SA based on that Motion and the attachments as follows:

Exhibit B Ltr. Of Pope to AG Alan Wilson dtd. June 27, 2013
Exhibit C Letter of Termination Rights Lawyer Marc Toberoff dtd.
9/23/13
Exhibit D Affidavit of Pope dtd. October 11, 2013, Forlando
Federal Suit.

105. The Court overlooked or misapprehended that on November 6, 2013, Jg. Early, after enjoining most heirs, beneficiaries and others supporting the Estate Plan from participating – has refused to hear motions and granted Petitions of Bauknight the limited SA and Tommie Rae which threaten to deny FOIA rights of Plaintiff and others for years; prevent DNA testing under the Peeples Protocol of real heirs; take from real and acknowledged heirs Lisa, La Rhonda, Jeanette and Nicole their constitutional and statutory rights as heirs; continue to violate, for nearly 7 years, the rights of incarcerated heir Michael, for whom Plaintiff has moved to serve as GAL; threaten the 1999 backup Will with being void under the SCPC 10-year rule and trample on the rights of those who have worked to save and help enforce the “I Feel Good” Trust.

106. The Court overlooked that on November 22, 2013 counsel for Plaintiff in FOIA #2 sought to have a hearing but Bauknight and Wingate have continued to resist and AG Wilson has acquiesced in their continuing interference with 2011 FOIA requests.

107. The Court overlooked or misapprehended that on November 29, 2013 Plaintiff properly objected to Levenson's attempt to be relieved as counsel for Daryl Brown for the following reasons:

- a. Levenson, with Bell, counsel for Tommie Rae and Bauknight – but without Daryl 's or Tonya signature, and without Daryl's knowledge – contracted on May 19, 2010 to pay a 40% contingency fee to Wingate and allow Wingate To sue Buchanan and Pope for tens of millions of dollars to dismantle the *Wilson v. Dallas* appeal in Daryl's, Tonnya's and other names without even Notifying most of the named Plaintiffs.
- b. Levenson, by doing this, exposed Tonya, Daryl and Daryl's daughters Janise and Lindsey to counterclaims of Buchanan and Pope which were exacerbated by Wingate's 2010 failure to timely respond to the counterclaims.
- c. Levenson, with Wingate, had – apparently without notice to Daryl or Tonya – rejected and moved to strike 2012 offers that would have been good for them AND may have avoided the *Wilson v. Dallas* 2013 decision.
- d. Levenson had apparently approved the \$563,000 payments to Wingate in late 2012, exposing Daryl, Tonya, Lindsey and Janice to the threat of disgorgement under *Wilson v. Dallas* even though AG Wilson was not notified to the payments, and Daryl, Tonya, Janise and Lindsey likely not notified.
- e. Levenson had allowed Wingate and Bauknight to embroil Daryl, Tonya and Daryl's daughters in 3 FOIA Suits, in which Wingate is still purporting to speak for them to deny FOIA rights of South Carolina citizens, and exposing them both to attorneys' fees and penalties under FOIA.
- f. By Levenson's placing their names as Interveners in the 3 FOIA suits, Levenson had allowed Daryl and others to aid Forlando in his deception of the Federal Court by concealing the January 2011 transfer by Terry to Forlando of Terry's interest in the Estate.
- g. In January 2011 Levenson had signed for Daryl an amendment to the James Brown Legacy Trust, the implications of which are being sorted out in the Wingate Suit, FOIA #1 and the Forlando Federal Suit.

108. The Court overlooked or misapprehended that after learning of the limited SA's attempts to damage the "I Feel Good" Trust by trying to establish that Michael and other real heirs were not heirs, Plaintiff spoke with Michael's former attorney in California who encouraged her to call Michael about representing him in South Carolina.

109. The Court overlooked or misapprehended that Plaintiff elected not to contact Michael without notifying the Court of the situation, and did so by responding to the motion of the limited SA to exclude Michael and moving the Court to appoint her *pro bono publico* GAL for Michael and others not challenging the 2000 Estate Plan or 1999 will and seeking testing under the Peebles DNA protocol, all consistent with the Order of Jg. Early dated March 8, 2008 directing that an heirs determination be made in the Levenson suit for an administration in intestacy despite the PR/Trustee's assertion that Brown had both a valid 2000 Estate Plan and a valid 1999 backup Will.

110. The Court overlooked or misapprehended that Bell – who, with client Forlando and father Terry has deceived the State and Federal Courts since 2007 – now claimed to be Michael's lawyer, even though he has been fighting Michael's heirs status since 2008; is now fighting to prevent a GAL for Michael; authorized the Wingate Suit; has provided no evidence that he has notified Michael of his multiple conflicts of interest; and had done nothing to secure Michael's heirs status, which can be demonstrated with a \$300 test. Further, Bell, a Georgia lawyer, has not filed a *pro*

hac vice application in any case claiming to represent Michael.

111. The Court overlooked or misapprehended that on Sunday December 8, 2013 Michael, unsolicited, called Plaintiff from prison to give her his prison number and thank her for what she was doing for him, but she refused to discuss any legal matters with him because of Bell's claim. She told Michael she intended to notify the Court and Bell of the call.

112. The Court overlooked or misapprehended that on December 11, 2011, Plaintiff notified the Court of the call and again asked that the Court appoint her GAL for Michael, as required by SCRCF because of his incarceration since Brown's death in another State, or conduct a hearing on the GAL appointment..

113. The Court overlooked or misapprehended that after the Toberoff Letter, Bell's claim to be representing the incarcerated Michael but working against his interest, and other developments make it clear that Bell is attempting to usurp the Estate/"I Feel Good" Trust's right to secure the royalties with fair-but-modest Termination Rights agreement with the half of Brown's heirs not challenging the 2000 and 1999 Estate Plans.

114. The Court overlooked or misapprehended that on December 11, 2013, Plaintiff, as a Special Status Party under Section 62-7-405 of the S.C. Trust Code and proposed *pro bono publico* applicant to be GAL for Michael and others, served her Reply to Return of the Limited SA opposing the appointment of a GAL for son Michael who, under SCRCF

115. The Court overlooked or misapprehended that on December 13, 2013 Plaintiff learned of the *ex parte* Order appointing limited SA secured from the Probate Judge on October 10, 2013 not serve on Interested Persons.

116. The Court overlooked or misapprehended that on December 13, 2013 the S.C. Court of Appeals, which now has jurisdiction over all matters related to the June 13, 2013 Orders and the October 1, 2013 Order, asked Plaintiff to submit a Memorandum of Appealability within ten (10) days.

117. The Court overlooked or misapprehended that on December 16, 2013, Jg.Early, after enjoining Plaintiff and most creditors who supported the Estate/2000 Trust, heirs and virtually all supporters of Brown's 2000 estate plan and backup 1999 Will from participating in cases which directly affect their economic interest and threaten irreparable harm to the "I Feel Good" Trust, at the request of Tommie Rae and James B., severed their defective Omitted Spouse, Elective Share and Pretermitted Child Claim.

118. The Court overlooked or misapprehended that on December 18, 2013 Plaintiff moved the Probate Judge to Reconsider, Vacate, Set Aside, Alter or Amend the Order Appointing the limited SA which was issued without summons, service, notice of hearing, hearing or notice to Interested Persons, and which made extensive and unsupported finding of fact and law.

118a. The Court overlooked or misapprehended that the limited SA, controlled by Bauknight, did nothing to stop the Court's irreparable harm to the heirs,

devises and “I Feel Good” Trust caused by the December 16, 2013 Order, and did not seek reconsideration of it.

119. The Court overlooked or misapprehended that on December 18, 2013 Plaintiff asked Jg. Early to conduct a status conference and/or hearing on the following matters as to many of which she had been seeking relief since shortly after *Wilson v. Dallas*:

1. Plaintiff’s motion to void the 2008 Hynie “diary” Gag Orders which was filed in early 2012 and ripe for hearing since the S.C. Supreme Court dismissed the appeal of Jg. Early’s July 2012 Order asserting he lacked jurisdiction to void the Gag Orders in June 2103.
2. Plaintiff’s July 2, 2013 written requests to Jg. Early for assistance in securing and releasing the fee agreements of Bauknight, Levenson, Bell and counsel for Tommie Rae which were presented to the Court during the 2008 settlement hearing in 2009; placed by Jg. Early with the clerk; but not found by the Clerk in 2010 when Jg. Early ordered them released to Buchanan and Plaintiff ; and still missing from the Clerk’s office.
3. Plaintiff’s motion to serve *pro bono public* as GAL for heirs not challenging the 2000 estate plan or 1999 Will and seeking DNA testing under the Peebles DNA Protocol: James Curtis, incarcerated son Michael and the DOE defendants named in the Levenson Suit.

120. The Court overlooked or misapprehended that on or about December 20, 2013 Plaintiff filed with the S.C. Court of Appeals, at the request of the Clerk, a Memorandum Related to Appealability of the October 1, 2010 Order appointing Bauknight and the limited ST, the terms of which are incorporated herein, which properly sets out Plaintiffs standing to participate in all James Brown cases in which Bauknight, Tommie Rae and others are involved at least until the conclusion of the Forlando Federal Suit; the FOIA cases; the Wingate Suit; the Cannon attorneys’ fee

matter; the Dallas commission claim; and her own commission claim.

121. The Court overlooked or misapprehended that on January 24, 2014, almost a year after the first *Wilson v. Dallas* decision Bauknight – still purporting to act under color of State authority – and the Probate Judge and Circuit Judge through more than six *ex parte* orders and orders issued without proper pleadings, service, notice or hearing, are continuing the State action commenced August 10, 2008 to take over Brown's private property; dismember the "I Feel Good" Trust; and violate the Due Process, First Amendment and equal protection rights of Plaintiff, Michael, La Rhonda, La Rhonda's children, Lisa, Nicole, James Curtis, the DOE Defendants, Buchanan, Bailey, Daryl, Janise, Lindsey and all Others under S.C. Trust Code Section 62-7-405 seeking to uphold and enforce, or not challenging, the "I Feel Good" Trust as embodied in Brown's valid 2000 Will and Trust and 1999 backup Will.

121. The Court overlooked or misapprehended that as of January 24, 2014 Jg.Early continues to refuse the appointment of a GAL to protect the interest of incarcerated Michael, James Curtis and DOE Defendants not contesting the 2000 Estate Plan and Will, while protecting without legal basis to do so both Tommie Rae and James B.

II. ADDITIONAL STANDING/ INTERESTED PERSON ISSUES

122. The Court overlooked or misapprehended that dismissal under 12(b) or summary judgment as to any Defendant should not be granted where Plaintiff is an

Interested Person under Section 62-1- 201 by virtue of having an allowed, Court-approved, and unpaid SA fee of \$47,972 and also a contracted, allowed, and court-approved partial PR/Trustee commission through May 26, 2009 of \$1,473,550, with interest from May 26, 2009 at 8 3/4%, for both her 2007 service to the estate of James Brown (the “Estate”) as special administrator (“SA”) and partial PR/Trustee commission on a time plus costs basis for the work of Plaintiff and her staff from November 20, 2007 through May 26, 2009, which was directed to be paid with legal interest on all unpaid amounts by Order of the Honorable Doyet A. Early, III in the Jan. 8 Order.

123. The Court overlooked or misapprehended that said dismissal or summary judgment should not be granted as to any Defendant where Plaintiff is an Interested Person because she has not received any of the allowed, court-approved partial PR/Trustee commission of \$1,433,333, with interest at the legal rate from 2009, and she/ Buchanan - after voiding the Wingate Settlement – have other rights.

124. The Court overlooked or misapprehended that Plaintiff has standing to obtain all relief requested in the Complaint where she was sued by the Estate/2000 Trust, through Bauknight, in a still pending suit for tens of millions of dollars in 2010 in the Wingate Suit, with Bauknight also acting:

- a. On behalf of the AG (without authority);
- b. As agent for Tommie Rae & James B.;
- c. As agent for Terry/Forlando;

d. As Trustee of the Legacy Trust/Settlement Entity; and
her counterclaims and offset claims in the Wingate Suit are active and pending.

125. The Court overlooked or misapprehended that because of the threatened loss of millions of dollars set out in the Complaint and Motion for Emergency Hearing, Bauknight's continuing to be a Plaintiff on behalf of Tommie Rae and James B. in the Wingate Suit; Tommie Rae's May 29 announced intention to re-take nearly 25% of the "I Feel Good" Trust based on false representations about heirs and the FCA; and the announced withdrawal of the Attorney General, the Court should have conducted a hearing under S. C. Probate Code ("SCPC") Section 62-3-607 within ten days.

126. The Court overlooked or misapprehended that Bauknight's refusal to protect the "I Feel Good" Trust by excluding or seeking to exclude heirs, devisees and beneficiaries who support the backup 1999 Will which makes Brown's noble estate plan ironclad - placing it in jeopardy of being unable to be probated under the 10-year limitation of SCPC 62-3-301(a)(vi) constitutes adequate grounds to grant the restraint and other relief sought in the complaint, including immediate restraint, removal for irreconcilable conflict, voiding *ex parte* orders, and the immediate appointment of an SA/ST to conclude the Wingate Suit, the Forlando Suit, and three FOIA suits where Bauknight is working for Tommie Rae and James B. and against the Estate/2000 Trust.

127. The Court overlooked that standing to restrain a PR/Trustee who threatens immediate and great harm to any estate, especially one where the entire residue is dedicated to a charity for needy students, should be liberally granted under SCPC §62- 3-607, which provides

in relevant part:

SECTION 62-3-607. Order restraining personal representative.

(a) Upon application of any interested person, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing within ten days or at such other times as the parties may agree. Notice as the court directs shall be given to the personal representative and his attorney of record, if any, and to any other parties named defendant in the application. [Emphasis supplied.]

128. The Court overlooked or misapprehended that the intent of the Probate Code to allow an immediate restraint of personal representatives whose actions jeopardize the estate, the applicant or some other interested person is so clear that Section §62-3-607 allows the Court to be notified by application even without summons and complaint, and the SCPC requires that a hearing be held.

129. The Court overlooked or misapprehended that because Plaintiff has dedicated her time and expertise related to the relationship between the FCA and state-law provisions *pro bono publico* since May 8, 2013 to assist biological heirs of James Brown not challenging the 2000 Estate Plan or 1999 Will and all Others as defined under Section §62-7-405 of the South Carolina Trust Code (“SCTC”) seeking to enforce the provisions of James Brown’s “I Feel Good” Foundation, Plaintiff, in addition to standing as a creditor, has Special Interest standing to seek all relief requested in the complaint.

130. The Court overlooked or misapprehended that Pope's Special Interest standing is critical because:

- a. Nearly a year after the 1st *Wilson v. Dallas* decision, Bauknight continues to serve as agent for Tommie Rae Hynie ("Tommie Rae") and her son James B., whose interests are adverse to the "I Feel Good" Trust, in the Wingate Suit and three FOIA suits in which they are interfering with FOIA rights to conceal public information adverse to Bauknight, individually, Tommie Rae and James B;
- b. AG Wilson filed a motion to be dropped as a party to the Wingate Suit and recently revealed that Wingate was not authorized to name the State/AG as a plaintiff in the Wingate Suit; nor was Bauknight authorized to claim in the Wingate Suit complaint that he was suing 'on behalf of' the Attorney General of South Carolina;
- c. The Settlor is deceased;
- d. The Attorney General has withdrawn from the Aiken cases; and
- e. Jg. Early has confirmed as recently as October 8, 2013 that Buchanan, who acted jointly for six years to serve and protect the Estate and "I Feel Good" Trust with Plaintiff, served faithfully and properly.

131. The Court overlooked or misapprehended that the Complaint demonstrates that the false, career-threatening claim that Buchanan and Plaintiff committed the federal felony of intentionally overstating Brown's music empire by \$79 million on the sworn Estate Tax Return for the improper purpose of obtaining a \$5 million commission, based on Bauknight's claim that Brown's worldwide music empire was worth less than \$4.7 million when Brown died, gives Buchanan and Pope standing to seek restrain and/or remove Bauknight; to seek to void self-serving *ex parte* and improperly-procured Orders which support his valuation and praise his actions and those of his attorneys with no basis to do so; and until this material matter which threatens her career and livelihood is finally resolved in the Wingate Suit, the FOIA suits, the

Forlando Federal Suit and elsewhere.

132.. The Court overlooked or misapprehended that the Complaint, the Motion for Emergency Hearing and the \$563,000 Bauknight paid to Wingate (in addition to his 40% contingency contract) in 2012 to continue his FOIA interference and attempts to dismantle the *Wilson v. Dallas* appeal, shows that Plaintiff and all affected persons have standing to seek his restraint and removal for cause and require the Court to fix a time for hearing under Section §62-3-611, which provides in relevant part:

SECTION 62-3-611. Petition for removal; cause; procedure.

(a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the personal representative, and to other persons as the court may order. Except as otherwise ordered as provided in Section 62-3-607, after service of the summons and petition upon the personal representative and receipt of notice of removal proceedings, the personal representative shall not act except to account, to correct maladministration, or preserve the estate... [Emph. Supp.].

(b) Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing appointment of himself or his nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in this State to administer local assets.

133. The Court overlooked or misapprehended that any person interested in the estate has constitutional standing to proceed with restraint and removal of Bauknight for cause as requested in the Complaint because since May 8, 2013 Bauknight has obtained multiple, self-

serving *ex parte* and improperly-procured orders which materially damage the 2000 Trust's claim for attorneys' fees and offset against Forlando in the now-dismissed 4-year suit to enjoin the 2000 Trust, demonstrating cause for removal under SCPC §62-3-611(a) which states in relevant part:

SECTION 62-3-611. Petition for removal; cause; procedure.

(a) A person interested in the estate may petition for removal of a personal representative for cause at any time. ...

(b) Cause for removal exists when removal would be in the best interests of the estate, or if it is shown that a personal representative or the person seeking his appointment intentionally misrepresented material facts in the proceedings leading to his appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of his office, or has mismanaged the estate or failed to perform any duty pertaining to the office....

134. The Court overlooked or misapprehended that the Order of Jg. Early dated April 8, 2008 (the "April 8 Order") conferred status on Plaintiff and any other interested person to seek the appointment of one or more SA/STs at any time in the James Brown matters, and that the Complaint demonstrates that an SA/ST is needed in the Wingate Suit and three FOIA Suits where Bauknight continues to represent the interests of Tommie Rae, James B. and others adverse to the Estate.

135. The Court overlooked or misapprehended that because Plaintiff was forced by an improper and unnecessary Disallowance to file suit against the Estate/2000 Trust, she has standing in that suit to raise all other matters as to which she is entitled to relief.

136. The Court overlooked or misapprehended that the Complaint demonstrates that Bauknight, acting for the Estate, the 2000 Trust, Tommie Rae, James B. and others, commenced

Wingate Suit against Buchanan and Plaintiff on May 19, 2010 in Richland County; they answered and counterclaimed; and Plaintiffs prevailed when Buchanan/Pope challenged the venue, requires this Court to hold all matters raised in the Wingate Suit complaint, answers and counterclaims in abeyance until concluded.

137. The Court overlooked or misapprehended that where Bauknight used \$500,000 of estate funds in 2012 to secure releases for Tommie Rae, himself, the Legacy Trust, James B. and purportedly the State from Buchanan's counterclaims, but the State/AG has since declared that Wingate lacked authority to bring the Wingate Suit in the name of the State/AG, both this Court and Richland County have jurisdiction to declare the void settlement void, but SCPC § 62-1-303 requires that Jg. Early hold the Aiken matters in abeyance, and Jg. Early should direct that the Richland County matter proceed.

138. The Court overlooked or misapprehended that where Bauknight has not only favored but currently serves as agent/plaintiff for James B., who is not presumed to be Brown's son; is the only post-vasectomy claimed child born in the 22 years between the procedure and Brown's death; has refused the Estate's official Peebles DNA Protocol for 7 years; and the proper determination of Brown's heirs is important to the protection of the "I Feel Good" Trust, any interested person, including Plaintiff, affected by this unfair treatment, has standing to seek removal of Bauknight.

139. The Court overlooked or misapprehended that her pending application to serve *pro bono publico* for Brown's son Michael, who has been incarcerated in California for 7 years and denied the right to take Peebles DNA Protocol both by Bauknight and Bauknight's *ex parte*

appointee coupled with his unsolicited call to thank her – confer standing in all matters related to determining who is an heir, including whether Tommie Rae is an heir.

140. The Court overlooked or misapprehended that on July 29, 2013 Bauknight relinquished in his invalid petition all claim to make decisions regarding the protection of the Estate/2000 Trust in the Will/Trust challenges, and such relinquishment includes his claimed standing to challenge Plaintiff's – or anyone's – standing as an "Other" under SCTC § 62-7-405.

141. The Court overlooked or misapprehended that any person who has been sued for money damages by the Estate/2000 Trust and has pending counterclaims for both money damages and offset in another court remains an Interested Person as to every case which affects either the defense or counterclaims until they are finally concluded.

142. The Court overlooked or misapprehended that Buchanan, James Bailey, Esq., Tressa Hayes, Esq., and James Richardson, Esq. and Albert Dallas, Esq. retain standing in all James Brown cases which touch upon the following issues until all James Brown suits in which Buchanan and Pope were sued are finally resolved:

- a. Was the at-death value of the Brown's death \$100 Million less the now-paid TIAA Debt, or less than \$4.7 million as Bauknight claims?
- b. Did each of the above appropriately challenge the claims of Tommie Rae and her son?
- c. Did Bauknight unreasonably advocate for Tommie Rae and her son?
- d. Did Forlando/Terry Brown, Bauknight, Tommie Rae and James B. -- acting through Bauknight without a GAL, commit fraud on one or more courts as described in §62-1-106?
- e. Did Buchanan and Pope breach their fiduciary duty to the Estate/2000

Trust?

f. Did Buchanan and Pope cause tens of millions of dollars damage to the Estate/ 2000 Trust?

g. Shouldn't the 1999 Will be saved from the 10-year rule since it makes James Brown's noble estate plan virtually ironclad?

h. Isn't it correct that the Estate/"I Feel Good" Trust could have, and can, acquire from half of Brown's real heirs who are not challenging the estate plan, for as little as \$100,000 per year, the FCA termination rights cooperation agreements Bauknight/Tommie Rae/Levenson proposed that they give up 52 2% of the "I Feel Good" Trust to get?

i. Since the *Wilson v. Dallas* decision has Bauknight intentionally damaged the "I Feel Good" Trust by allowing Forlando, Bell and Terry, or others, to interfere with, and usurp the Estate/"I Feel Good" Trust's rights to contract with real heirs Lisa, La Rhonda, Nicole, Jeanette, Michael and others?

143. The Court overlooked or misapprehended that because of the withdrawal of the AG and acts of Bauknight, Plaintiff, Bailey, and Hayes, children who have officially withdrawn their challenges to the Estate Plan are both Others under SCTC §62-7-405 and Interested Persons under SCTC §62-1- 201 which defines them as follows:

"Interested person" includes heirs, devisees, ... creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent. . . It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

144. The Court overlooked or misapprehended that the Complaint sets out historical facts dating back to 1984 which prevent dismissal and establish the causes of action to remove

Russell L. Bauknight (“Russell”) from fiduciary positions; to appoint a Special Administrator/Special Trustee (“SA/ST”) to protect the Estate/2000 Trust in the four lawsuits pending where Russell currently serves as agent for Brown’s companion Tommie Rae Hynie (“Tommie Rae”) and her minor son James B; to require Russell to account; to void Russell’s pre-remittitur appointments; and to void the Notice of Disallowance (“Disallowance”).

III. THE FEDERAL COPYRIGHT ACT AND THE CHILDREN

145. The Court overlooked or misapprehended that the FCA has conferred certain rights on the children and grandchildren of James Brown *after* Brown’s death related to the termination of Copyright assignments of Brown’s 800+ songs (the “Termination Rights”).

146. The Court overlooked or misapprehended that under the FCA, if an author dies survived by a spouse, the spouse has certain Termination Rights provided she had not effectively waived them.

147. The Court overlooked or misapprehended that under the FCA the definition of children and grandchildren “heirs” are different from the S. C. State law definition, and is determined at the relevant time, rather than at death.

148. The Court overlooked or misapprehended that the “spouse” under the FCA looks to state law, so that both a charity which holds copyrights and every child, as defined in the FCA, would be materially and adversely affected for the life of the claimed spouse if a state proceeding improperly determined a non-spouse to be a spouse.

149. The Court overlooked or misapprehended that after the death of a child of a copyright holder that same incorrect State-law determination will materially damage the rights of

grandchildren for the life of the claimed spouse, such as is the case of the children of DNA-proven and acknowledged heir LaRhonda, who died in December 2013.

150. The Court overlooked or misapprehended that every private foundation or other charity in America holding copyrights should have a strategy for dealing with Termination Rights issues, and that on August 10, 2008 The James Brown “I Feel Good” Trust had such a plan.

151. The Court overlooked or misapprehended that on May 29, 2009 when the now-void 2008 settlement was approved by the circuit court the Estate/”I Feel Good” Trust’s Termination Rights plan was firmly in place and was poised to:

- a. Confirm that James Brown had no spouse, which was being done by admissions, through *Lukich* and other facts and law.
- b. Acknowledge as heirs-at-death under the FCA all children recognized in divorce proceedings, and children named in the 2000 and 1999 Wills who were not contesting the Wills.
- c. Complete the Estate’s official Peeples DNA Protocol and acknowledge all heirs-at-death not officially recognized by Brown in formal proceedings to create the largest number of properly-DNA- proven heirs to give the “I Feel Good” Trust maximum flexibility in reaching Termination Rights cooperation agreements with the most cooperative half of the heirs.
- d. Reach Termination Rights agreements only with the half of the heirs who were not challenging the 2000 Estate Plan or 1999 Will.
- e. Update the Heirs-at-death baseline at the death of children.

152. The Court overlooked or misapprehended that this important strategy was designed to preclude the “I Feel Good” Trust’s having to be involved in years of litigation among claimed

heirs in Federal Court; and could have been completed in 2009 for less than \$2,000 in DNA-testing fees.

153. The Court overlooked or misapprehended that it was in the best interest of the Estate/"I Feel Good" Trust to complete the Peebles DNA Protocol as to the non-settling parties during the almost-4-year *Wilson v. Dallas* appeal, and there was no impediment to doing so.

154. The Court overlooked or misapprehended that during the *Wilson v. Dallas* appeal Russell, who knew nothing about FCA Termination Rights in January 2009 when he recommended that Jg. Early approve the 2008 Settlement, learned the importance to the "I Feel Good" Trust of completing the Peebles DNA Protocol and Heirs-at-death determination plan, which was approved by Order of Jg. Early dated March 8, 2008 and includes action to determine that Brown died without a surviving spouse.

155. The Court overlooked or misapprehended that for nearly a year since the first *Wilson v. Dallas* decision, as a result of his continued alliance with and service as agent for Tommie Rae and James B. in four pending lawsuits, Russell has not only abandoned his duty of loyalty to the Estate/"I Feel Good" Trust, but effectively worked against the best interest of the "I Feel Good" Foundation in Termination Rights matters, causing material damage to the Estate/2000 Trust, as has his appointee.

156. The Court overlooked or misapprehended that, as demonstrated in the complaint, Bauknight's actions to promote the interests of Tommie Rae and James B. threaten millions of dollars of unnecessary harm to the Estate/"I Feel Good" Trust if he is not removed.

IV. TOMMIE RAE, JAMES B. AND RUSSELL

157. The Court overlooked or misapprehended that the complaint shows that as of 1984, when he had a vasectomy, James Brown had the following living, legally acknowledged or now-DNA-proven children, and claimed children seeking testing under the Peoples DNA Protocol:

a. DNA-Proven and Acknowledged Children under the Peoples Protocol:

1. La Rhonda; 2. Jeanette; 3. Nicole

b. Children born during marriages and acknowledged in divorce proceedings:

4. Lisa; 5. Terry; 6. Larry; 7. Deanna; 8. Yamma.

c. Child supported during minority; James Brown listed by mother on birth certificate; and seeking DNA testing:

9. Michael (incarcerated in CA since before Brown's death)

d. Claimed children now seeking DNA testing:

10. James Curtis

158. The Court overlooked or misapprehended that James Brown's last wife, Adrienne died in 1996.

159. The Court overlooked or misapprehended that by 1997 Brown had a relationship with Tommie Rae, who concealed that she was married to Javed Ahmed.

160. The Court overlooked or misapprehended that Tommie Rae was present at Brown's home and witnessed the execution of Brown's Last Will and the 2000 Trust; and signed as a witness to the Advisory Board document, designating herself as the future Mrs. Brown.

161. The Court overlooked or misapprehended that the 2000 Will intentionally omitted

all past and future spouses, children and other claimed heirs from receiving any part of Brown's music empire.

162. The Court overlooked or misapprehended that during the pendency of the *Wilson v. Dallas* appeal, Tommie Rae and all others who had contested the Will acknowledged that they had discussed Brown's Estate Plan with him during the last 3 years of his life and that

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

163. The Court overlooked or misapprehended that Tommie Rae separated from Brown in the late summer of 2000 and returned at Thanksgiving.

164. The Court overlooked or misapprehended that Tommie Rae's son James B. was born during the Ahmed marriage in Las Vegas in June 2001.

165. The Court overlooked or misapprehended that Brown's then-doctor and Trustee Dallas have confirmed that Brown was physically unable to father a child in 2000 because of the vasectomy and other health issues.

166. The Court overlooked or misapprehended that in December 2001, after waiving all state and federal rights in a prenuptial agreement, Tommie Rae falsified an application for a marriage license in Aiken County; obtained a license; and conducted a ceremony with Brown.

167. The Court overlooked or misapprehended that in 2003 Brown discovered Tommie Rae was married; they separated; and they took out a full-page ad in *Variety* announcing their separation.

168. The Court overlooked or misapprehended that in 2004 Brown commenced an action in Aiken County to void the ceremony with Tommie Rae.

169. The Court overlooked or misapprehended that in 2004 Tommie Rae advised Dallas that she would have divorce papers within 6 weeks, but never produced them.

170. The Court overlooked or misapprehended that Tommie Rae commenced a suit against Ahmed in Charleston County; acknowledged the marriage; but sought to annul it.

171. The Court overlooked or misapprehended that Tommie Rae's Charleston County action was never personally served on Ahmed; under *Lukich* did not revive the void marriage to Brown; and is not binding on the Estate, the 2000 Trust, Plaintiff or anyone else.

172. The Court overlooked or misapprehended that in 2004 Tommie Rae, through her lawyer, notified Brown that she was filing a \$5 million lawsuit against him, but the pleadings have to-date not been located.

173. The Court overlooked or misapprehended that Tommie Rae sought support for her son; Brown sought DNA testing of James B.; and the suit against Tommie Rae settled with an Order which made no provision for James B. and contained an agreement by which she relinquished all right to claim to be Brown's common law spouse.

174. The Court overlooked or misapprehended that Tommie Rae thereafter made handwritten notes which, according to her attorney, would irreparably harm the claims she filed against Brown's estate after his death if disclosed.

175. The Court overlooked or misapprehended that in 2006 Tommie Rae, Brown and Dallas, Brown's attorney, had a phone conversation in which Dallas confirmed that because the

two were unmarried she was a mere guest in his home.

176. The Court overlooked or misapprehended that when she and Brown separated for the last time in 2006 Tommie Rae abandoned her handwritten notes at Brown's Beech Island estate which was owned by the 2000 Trust.

177. The Court overlooked or misapprehended that Tommie Rae and Brown were separated when he died Christmas Day 2006.

178. The Court overlooked or misapprehended that in early 2007 Tommie Rae filed defective Elective Share and Omitted Spouse petitions in the circuit court, not the Probate Court, and that the petitions contained no summons and failed to name or serve necessary parties.

179. The Court overlooked or misapprehended that under the S. C. Probate Code ("SCPC") § 62-1-201 a Petition for Elective Share is a "Formal Proceeding" which means that it is "conducted before a judge with notice to interested persons," and that a summons was required for both of Tommie Rae's petitions.

180. The Court overlooked or misapprehended that in early 2007 James B. filed a Petition to be declared an Omitted Child which, although defective, was necessarily also a formal proceeding for an adjudication of heirs.

181. The Court overlooked or misapprehended that under SCPC § 62-1-201 all of Brown's children and claimed children named above, with beneficiaries under the Will, were "Interested Persons" and necessary parties to both Tommie Rae's and James B' petitions because:

“Interested person” includes heirs, devisees, children,...
creditors...

182. The Court overlooked or misapprehended that in early 2007 the estate established an official DNA testing procedure, the “Peoples DNA Protocol” which would serve the following purposes:

- a. To preclude James B. as an heir if he failed to pass the Peoples DNA Protocol;
- b. To identify and acknowledge Brown’s DNA-proven heirs to establish an heirs-at-death baseline under the FCA to protect the Estate/”I Feel Good” Trust’s copyrights to the Royalties.

183. The Court overlooked or misapprehended that the Peoples DNA Protocol could also serve as a defense should not-presumed heirs challenge the Will which acknowledged them.

184. The Court overlooked or misapprehended that after filing her petitions Tommie Rae, through counsel, asked Plaintiff to be considered as a nominee for SA.

185. The Court overlooked or misapprehended that on March 7, 2007 Jg. Early appointed Robert Buchanan, Jr. (“Bob”) and Plaintiff as non-fiduciary SA s, and they served faithfully until November 20, 2007.

186. The Court overlooked or misapprehended that in the spring of 2007 Tom Wells discovered Tommie Rae’s writings at the Beech Island estate; delivered them to the Cannon Group; and the writings and typed a transcript of them were widely disseminated and discussed for almost a year.

187. The Court overlooked or misapprehended that by August 10, 2007 it was undisputed that Lisa was a child of James Brown acknowledged in his first divorce agreement;

LaRhonda, Nicole and Jeanette were acknowledged by the Estate/2000 Trust after passing the Peeples DNA Protocol; Michael was in jail in CA needing a GAL under SCRCF Rule 17 and DNA testing; and James B. was refusing to submit to the Peeples DNA Protocol.

188. The Court overlooked or misapprehended that Lisa, LaRhonda, Nicole, Jeanette and Michael did not have to file a testacy proceeding themselves because all except Michael were acknowledged heirs; Michael was incarcerated and proceeding under the Estate's official adjudication procedure; and James B.'s petition, unless void, was a formal proceeding in which they and other claimed heirs were necessary parties and required to be served.

189. The Court overlooked or misapprehended that by Order of Jg. Early dated August 10, 2007 accepting the permanent resignation of Cannon, Cannon and the remaining PR/Trustee consented to make about 80 boxes of James Brown Historical Documents, including Tommie Rae's writings, available for inspection and copying by any Interest Person.

190. The Court overlooked or misapprehended that from May 26, 2009 Russell held the directly conflicting position of PR/Trustee under the Will/2000 Trust and Trustee of the Legacy Trust created by the AG, Tommie Rae.

191. The Court overlooked and misapprehended that in 2009 the State/AG, with Tommie Rae, induced LaRhonda, Jeanette and Nicole to withdraw from the Aiken proceeding on the promise that they would do nothing to damage their rights under the FCA or other federal law.

192. The Court overlooked or misapprehended that Russell, under color of state authority has violated the agreement for Tommie Rae's benefit for 4 years.

V. RUSSELL, DAVID BELL, FORLANDO AND THE FORLANDO FEDERAL SUIT

193. The Court overlooked or misapprehended that facts dating back to 1999 stated in the complaint compel Russell's removal based on his secret dealings with David Bell, Esq. ("Bell") and Bell's clients Terry and Forlando Brown .

194. The Court overlooked or misapprehended that Forlando was close to his grandfather; knew he refused to marry Tommie Rae after he discovered she was married; and knew that Brown's 2000 Estate Plan and backup 1999 Will were exactly what he wanted.

195. The Court overlooked or misapprehended that on January 9, 2007, just 2 weeks after Brown died, Forlando, his father Terry, and others engaged Levenson and contracted to pay Levenson 30% of what he could get them to dismantle Brown's "I Feel Good" Trust.

196. The Court overlooked or misapprehended that Brown established the "I Feel Good" private charitable foundation in both his 1999 Will and 2000 Estate Plan and gave his entire worldwide music empire to the "I Feel Good" Foundation.

197. The Court overlooked or misapprehended that in addition to 2 successive wills a year apart, Brown made a voice tape in early 2000 confirming his desire to provide for needy and deserving students through the "I Feel Good" Foundation.

198. The Court overlooked or misapprehended that by the fall of 2007 Forlando was aligned with David Cannon; had switched to Bell; but continued his plan to take the music empire from the "I Feel Good" Trust.

199. The Court overlooked or misapprehended that the complaint demonstrates that from September 2007 until today Bell and Forlando have engaged in a continuing pattern of

making false claims, filing fabricated documents and filing false affidavits to achieve their proposed takeover.

200. The Court overlooked or misapprehended that the deception began in Aiken in September 2007 when Bell filed for Forlando a knowing false “stipulation” of what assets were in the 2000 Trust, then in a later false affidavit in Federal Court claimed he had relied on Buchanan and Plaintiff.

VI. RUSSELL , THE VALUATION AND THE FALSE FELONY CLAIM

201. The Court overlooked or misapprehended that all PR/Trustees serving under Brown’s Estate Plan except Bauknight have valued the Royalties as about half of Brown’s \$100 million music empire, with Brown’s right to exploit his image and persona (the “Publicity Rights”) the other half.

202. The Court overlooked or misapprehended that on November 15, 2007 Dallas and Bradley filed a sworn Inventory & Appraisement (“I&A”) valuing Brown’s music empire at about \$85 Million based on a \$100 million offer from the TJBL investment group reduced by an approximately \$15 million debt to the New York Teachers (“TIAA”), and no objection was ever made by anyone to the I&A.

203. The Court overlooked or misapprehended that the music empire valuation formula proposed by Buchanan and Plaintiff and Dallas/Bradley I&A produced a similar value, with about \$80 million going to the “I Feel Good” Trust after the TIAA .

204. The Court overlooked or misapprehended that, with the approval of

Levenson and Tommie Rae, and without seeking the position, Buchanan and Plaintiff were appointed PR/Trustees by Jg. Early on November 20, 2007 when Dallas and Bradley resigned.

205. The Court overlooked or misapprehended that upon being appointed PR/Trustees Buchanan and Plaintiff had the duty to vigorously defend Brown's Estate Plan which specifically excluded all past and future spouses and other claimed heirs from the music empire and contained *In Terrorem* clauses requiring forfeiture by those who challenged the Estate Plan, which Brown described as "an affront to my wishes."

206. The Court overlooked or misapprehended that on December 5, 2007 when TJBL was officially formed, Forlando was secretly given 39%, but posed for years as an impoverished student wishing only to carry out his grandfather's noble estate plan.

207. The Court overlooked or misapprehended that between December 20 and 26 Tommie Rae and Levenson filed four challenges to the Will and 2000 Trust, all with defects, in the Probate Court, and that all were removed to the circuit court and filed in case 122.

208. The Court overlooked or misapprehended that on December 5, 2007 Forlando, with no contribution, secretly obtained 39% of TJBL.

209. The Court overlooked or misapprehended that TJBL proposed to acquire the music empire and float an IPO from which the Cannon group would be paid options or a "kickback".

210. The Court overlooked or misapprehended that on January 2, 2008 Forlando,

represented by Bell and 5 other attorneys but posing as an impoverished student, filed the Forlando Federal Suit to enjoin the 2000 Trust from taking any action until the Cannon Trustees were reinstated.

211. The Court overlooked or misapprehended that Forlando's suit was based on fabricated documents, false affidavits and scurrilous false claims against Plaintiff, Jg.Early and Buchanan which continued until Forlando's claims were dismissed in 2012, leaving only the counterclaims related to the damage he had caused the Estate, the 2000 Trust, Buchanan and Plaintiff to be tried.

212. The Court overlooked or misapprehended that the Forlando Suit damaged both the Estate/2000 Trust and Buchanan and Plaintiff, causing Buchanan personal embarrassment in the Court where he served as a part-time Magistrate Judge, and Plaintiff's professional negligence coverage to increase to 6 times its prior annual amount.

213. The Court overlooked or misapprehended that in addition, the Forlando Federal Suit threatened even greater damage to the 2000 Trust if not properly defended, as it was for four years.

214. The Court overlooked or misapprehended that the 2000 Trust, Buchanan and Plaintiff counterclaimed and sought attorneys' fees and costs in the Forlando Federal Suit, to the extent possible to be offset against Forlando's share of the 2000 Trust to lessen the impact of the necessary defense on needy students.

215 The Court overlooked or misapprehended that in early 2008, to gain an

advantage, Bell and Forlando filed six grievances in 2 states against Levenson, even falsely accusing Levenson of forging the 30% fee contract.

216. The Court overlooked or misapprehended that in January 2009 Bell's client Terry joined the 2008 Settlement while Forlando pretended to repudiate it.

217. The Court overlooked or misapprehended that since Forlando acquired the interest of Terry in the Estate in 2011, Plaintiff is also seeking offset against the Terry/Forlando interest in the Estate.

218. The Court overlooked or misapprehended that under the SCPC the Aiken Court lacks jurisdiction to issue orders affecting the merits of the Forlando Federal Suit and that under the SCPC any judgment obtained by Buchanan or Plaintiff against Forlando, or the Estate/2000 Trust for attorneys' fees and/or offset will constitute an allowed claim.

219 The Court overlooked or misapprehended that on March 7 and April 8, 2008, after hearings, Jg. Early issued orders detailing the service of Buchanan and Plaintiff and finding that all of their service from March 7, 2007 until April 8, 2008 as SAs and PR/Trustees had been both ethical and appropriate. Forlando did not appeal or seek reconsideration of the April 8 Order.

220. The Court overlooked or misapprehended that from January 2009 until today Bell had taken directly opposite material positions for Terry and Forlando at the same time in the State and Federal Court, including:

For Terry

1. Bauknight's less-than \$4.7 Million value of the music empire is correct.
2. Tommie Rae is Brown's spouse
3. The 2008 Settlement should stand.

For Forlando

1. The less-than \$4.7 Million value is 'bogus'.
2. Tommie Rae is not Brown's spouse and knew it.
3. The 2008 Settlement violates Brown's wishes.

221. The Court overlooked or misapprehended that in March 2009, Bell wrote Buchanan to threaten him with a judicial grievance if he did not resign.

222. The Court overlooked or misapprehended that Buchanan sent in letter to Jg. Early.

223. The Court overlooked or misapprehended that in March 2010, Tommie Rae's lawyer threatened Buchanan with a suit by the AG if Bob and Plaintiff did not abandon the *Wilson v. Dallas* appeal.

224. The Court overlooked or misapprehended that on May 18 and 29, 2010, Bell, Tommie Rae's attorney and Levenson signed a contract to sue Buchanan and Plaintiff in the Wingate suit, improperly naming the Attorney General as a plaintiff with Tommie Rae, Terry and Bauknight as agent both for the AG and Wingate as the sole attorney for all.

225. The Court overlooked or misapprehended that for more than 3 years Russell and Bell fought to prevent release of the Wingate Contract under FOIA..

226. The Court overlooked or misapprehended that when the Wingate Contract was released by the Federal Judge in October 2013 it was shown that the State/AG never legally authorized Wingate to sue for the State/AG; Bell- not Terry- had signed the contract; and

Russell had no authority to claim he spoke for the State/AG in suing Buchanan and Plaintiff for tens of Millions of dollars to benefit Terry/Forlando, Tommie Rae and Levenson.

227. The Court overlooked or misapprehended that the March 8, 2008 Order required that the Levenson suit for an “administration in intestacy” be served by publication on the Defendants and that the Levenson Suit be given a new Case number.

228. The Court overlooked or misapprehended that in May 2008 the Clerk of Court assigned Case No. 2008-CP-02 -0872 (“Case 872”) to the Levenson Suit.

229. The Court overlooked or misapprehended that Levenson published the Summons as directed in the March 8 Order, but failed to complete service of the Amended Complaint on known, acknowledged heirs Lisa, LaRhonda, Jeanette, Nicole; failed to serve or appoint a GAL for the incarcerated Michael; and failed to appoint a GAL for the DOE Defendants listed in the caption, who would have identified James Curtis and others.

230. The Court overlooked or misapprehended that Buchanan and Plaintiff offered the 1999 Will for alternate probate in the Levenson Suit in the unlikely event that the 2000 Will was set aside; that its “I Feel Good” Trust is almost identical to the 2000 Will, but that the scholarships for needy students go to designated colleges; and that Bob and Plaintiff are the only people who have emphasized how important this backup Will is to demonstrating that Brown’s wishes should be carried out and that as stated in the Wills.

231. The Court overlooked or misapprehended that the July 17, 2008 Christie’s sale, including the proposal to sell the Grammy; was properly conducted; approved by the AG; and approved in three separate court orders, the last two of which were issued after the catalog

showing the Grammy was published.

232. The Court overlooked that neither Tommie Rae nor family members took advantage of opportunities to select items to be withheld from the sale which the Christie's Orders gave them an opportunity to do.

233. The Court overlooked that Forlando has confirmed that the family, feuding over numerous issues, joined together to sabotage the Christie's sale.

234. The Court overlooked or misapprehended that the Christie's sale was caused by the Forlando Suit and the need for funds to defend against the Will/Trust challenges and that Jg. Early specifically found and ordered that Buchanan and Plaintiff were entitled to raise all funds necessary to defend the Estate Plan.

235. The Court overlooked that on August 10, 2008 the State/AG joined with Tommie Rae and certain Levenson clients to 'stipulate' who would be considered heirs of James Brown, including a 'stipulation' that Tommie Rae would be considered the spouse and James B., with no DNA testing, considered a son.

236. The Court overlooked or misapprehended that the original 2008 Settlement made no mention of the contribution of Termination Rights to the Settlement Entity/Legacy Trust.

237. The Court overlooked or misapprehended that on September 25, 2008 Buchanan and Plaintiff filed the Estate Tax Return prepared by the Court-appointed CPA William Sellars. The sworn returns showed:

- a. A Gross Estate (after the TIAA Debt) of approximately \$85 million;

b. A Charitable Deduction for Property passing to the “I Feel Good” Trust of approximately \$83 million

c. No marital deduction

238. The Court overlooked or misapprehended that the 2008 Settlement gave nothing to more than half of Brown’s heirs under the Copyright act; that modest agreements with just some of them would secure the Royalties for decades; and that there was no need to make Termination Right deals with anyone challenging the Estate Plan.

239. The Court overlooked or misapprehended that Case No. 2008-CP-02-1647 (“*Wilson v. Dallas*”) was commenced on November 25, 2008, after the filing of the Estate Tax Return, but that no objections to the Return were filed.

240. The Court overlooked or misapprehended that the Estate Tax Return filed by Buchanan was fully explored and discussed in a 2-day hearing in the Forlando Federal Suit in November 2008 and in the 7 days of hearing in the *Wilson v. Dallas* case that took place in early 2009.

241. The Court overlooked that while Russell was appointed PR/Trustee on May 26, 2009 his appointment was declared void by the *Wilson v. Dallas* decision.

242. The Court overlooked or misapprehended that the definition of Personal Representative under Section 62-1-201 of the Probate Code includes someone who is performing the functions of a PR, and that from May 26, 2009 until May 8, 2013 Buchanan and Plaintiff served the important function of protecting the Estate Plan while Russell worked actively against it.

243. The Court overlooked or misapprehended that the 5-year legal cost of protection of the Estate Plan against the 2008 Settlement at both the trial level, with 7 days of hearings, and through the appellate level, was only about \$200,000 because:

- a. Buchanan and Plaintiff helped with the appeal to keep down costs;
- b. Lead Appellate counsel James B. Richardson, Esq., informed the Court in 2010 that he would be serving *pro bono publico*;
- c. The Fee of James Bailey, Esq., primary counsel in lower matters, was modest in relation to his experience and talent.
- d. The Fee of Tressa T. H. Hayes for the Wilson v Dallas matter was less than \$100,000.

244. The Court overlooked or misapprehended that from January 2009 until May 8, 2013 Bell simultaneously represented Forlando, who claimed to oppose the 2008 settlement and Terry, who was part of the 2008 settlement and claimed a right of first refusal to purchase the music empire.

245. The Court overlooked or misapprehended that in March 2010 Tommie Rae's counsel threatened Bob's counsel with suit by AG Sonny Jones, through the law firm of Kenneth B. Wingate, Esq., if Buchanan and Plaintiff did not drop the appeal.

VII. THE CONTRACTED, ALLOWED & COURT-APPROVED CLAIMS

246. The Court overlooked or misapprehended that at a hearing on December 21, 2007 Buchanan and Plaintiff asked the Court to approve their fee as SAs of \$317,000 and costs, and that on a time + costs basis for Buchanan and Plaintiff and their staffs Buchanan was entitled to about 30% and Plaintiff about 70% of the liquidated amount due.

247. The Court overlooked or misapprehended that Buchanan and Plaintiff asked Jg. Early to approve their proposal for the Estate/2000 Trust to pay partial PR/Trustee commissions

on a time+ costs basis, and the breakdown was approximately the same.

247. The Court overlooked or misapprehended that Jg.Early on October 8, 2013, at a hearing related to whether Buchanan was required to disgorge any funds for the joint work he and Plaintiff had done, praised Buchanan and confirmed the fine work done by them.

Respectfully submitted,



Adele J. Pope, *pro se*
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
S.C. Bar No. 4501

January 24, 2014

AFFIRMATION OF COUNSEL

I certify pursuant to Rule 11, SCRCP, that consultation with opposing counsel is not required for a Motion to Alter or Amend and/or Reconsider or would serve no useful purpose as to the Motion herein.



Adele J. Pope

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

C O P Y
ORIGINAL FILED

FEB 10 2014

AIKEN COUNTY
CLERK OF COURT

Case No. 2013-CP-02-1337

Adele J. Pope Appellant,

v.

Estate of James Brown, Deceased; the James Brown 2000 Irrevocable Trust;
Russell I. 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.

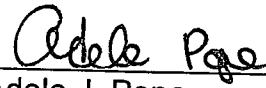
NOTICE OF APPEAL

Appellant appeals the following Orders in the above matter:

1. Order of the Honorable Doyet A. Early, III dated January 7, 2014,
filed January 17, 2014
2. Form 4 Order of the Honorable Doyet A. Early, III dated January 31,
2014 and filed February 4, 2014

Notice of the entry of the Order denying reconsideration was received by
appellant on February 4, 2014.

A copy of each of said Orders is attached hereto and made part of this Notice of Appeal.



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

Appellant, *Pro Se*

February 7, 2014

Other Parties and Counsel of Record :

Frederick A. Crawford, Esquire
Richardson, Plowden & Robinson, PA
Post Office Box 7788
Columbia, South Carolina 29202
(803) 771-4400

William G. Newsome, III, Esquire
Nexsen Pruet
1230 Main Street
Post Office Box 2426
Columbia, South Carolina 29202-2426
(803) 253-8268

Robert L. Buchanan, Jr., Esquire
212 Newberry St., NW
Aiken, South Carolina 29802
(803) 649-2586

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

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,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

) IN THE COURT OF COMMON PLEAS

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Case No. 2013-CP-02-1337

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MOTION TO ALTER OR AMEND
AND/OR RECONSIDER AND VACATE
ORDER DATED MARCH 4, 2014
DISMISSING CLAIMS UNDER
RULE 12(b)

C O P Y
ORIGINAL FILED

MAR 13 2014 8:30 a

AIKEN COUNTY
CLERK OF COURT

TO: RUSSELL L. BAUKNIGHT AND HIS COUNSEL:

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon thereafter as she may be heard, the undersigned Adele J. Pope will move pursuant to Rules 52 and 59(e), SCRCP, and all applicable South Carolina Rules of Civil Procedure, for an order vacating, altering or amending the Order Dismissing Case With Prejudice of the Honorable Doyet A. Early, III ("Jg. Early") dated March 4, 2014 and filed March 10, 2014, a copy of which is attached hereto as Exhibit A (the "Second Dismissal Order").

Plaintiff received notice of the entry of the Second Dismissal Order on March 10, 2014.

I. THE COURT LACKS JURISDICTION TO RULE ON MATTERS ON APPEAL

1. The Court overlooked or misapprehended that it lacked jurisdiction to issue the Second Dismissal Order because Jg. Early previously dismissed all causes of action against

Russell L. Bauknight, individually (“Bauknight”); that Dismissal Order is on appeal to the South Carolina Court of Appeals in Appellate Case No. 2014-00250; and this Court, under Rule 241(a)SCACR, lacks jurisdiction to rule on this matter.

2. The Court overlooked or misapprehended that that the South Carolina Court of Appeals now has jurisdiction over whether Bauknight is liable personally, including for his failure to reveal his secret \$563,000 in payments from the Estate of James Brown to the law firm of Kenneth Wingate, Esquire (“Wingate”) in November and December 2012; the use of \$500,000 of Estate funds to secure releases by Robert Buchanan, Jr. for Tommie Rae Hynie (“Hynie”), himself; the James Brown Legacy Trust; and others.

3. The Court overlooked or misapprehended that it should have held a hearing and, in addition, taken judicial notice of the improper actions of Bauknight between the June 10, 2013 filing of the Complaint and the issuance of the first Dismissal Order, and of Bauknight’s continuing individual wrongdoing which is daily being uncovered in the State and Federal Courts.

4. The Court overlooked or misapprehended that before and since the filing of the Complaint in this action Bauknight has intentionally secreted from this and other courts documents and material facts which have covered up misrepresentations he, Hynie, Forlando Brown and Terry Brown made to both the State and Federal Courts between May 19, 2010 and 2014, causing damage both to Plaintiff and to the Estate/2000 Trust for which Bauknight, individually, is personally liable.

5. The Court overlooked or misapprehended that Bauknight’s false claim – while purporting to speak under color of State authority – that Buchahan. and Plaintiff committed the federal felony of intentionally overstating the value of James Brown’s music empire by \$79

million to the IRS for the improper purpose of obtaining a \$5 million commission, alone, has damaged both the Estate/2000 Trust and Buchanan and Pope, and Bauknight should account and be personally liable for the losses it caused.

6. The Court overlooked or misapprehended that Bauknight's individual interference with FOIA rights of South Carolina citizens, including Plaintiff, for the benefit of Hynie, Terry/Forlando Brown and himself, has caused damage for which he should account and be personally liable.

II. NO INDIVIDUAL DISMISSAL APPROPRIATE

7. The Court overlooked or misapprehended that, because no hearing was held as required by Sections 62-3-607(b) and 62-3-611 of the South Carolina Probate Code ("SCPC") when the Complaint was filed, and the Court took judicial notice of certain matters outside the Complaint, the Court should also consider all action and inaction by Bauknight under claimed color of State authority prior to the issuance of Second Dismissal Order and find that no dismissal or summary judgment as to Bauknight individually is appropriate.

8. The Court overlooked or misapprehended that today Bauknight is openly ignoring the Supreme Court's FOIA and other concerns as expressed on its first decision in *Wilson v. Dallas*:

29 Although Brown's music rights have been widely reported as being worth up to \$100 million or more at death, Bauknight filed documents with the Internal Revenue Service indicating the value of Brown's music empire was only a net of \$4.7 million. The \$4.7 million valuation has been questioned based on the fact that it came at a time when one of Brown's sons, Terry Brown, had joined the compromise upon being given a first right of refusal to purchase the estate assets.

Further, the AG, with Bauknight's knowledge and cooperation, allegedly entered into contingency-fee agreements with outside counsel, Kenneth Wingate to sue Appellant Pope on behalf of the State, Bauknight and others while representing private plaintiffs in the suit. The suit sought damages to Brown's estate allegedly arising during Pope's appointment. Despite FOIA requests, the AG has refused to publicly release all of the documents pertaining to this

purported arrangement. These matters should be considered by the circuit court in the first instance and any fees found to be inappropriately incurred should be disgorged and returned to the trust in light of our finding that the compromise is void and the AG has exceeded his authority by, among other things, effectively controlling the charitable trust through the appointment of Bauknight, who serves at the AG's pleasure. [Emphasis supplied]

9. The Court overlooked or misapprehended that in January 2011, Bauknight participated in a secret amendment to the Legacy Trust by Terry Brown and AG McMaster and transfer of Terry's first right of refusal to purchase Brown's music empire (the "ROFR") to Forlando Brown; that the three worked together and concealed the transfer from the Supreme Court and Federal Court for three years; and the concealing has damaged the 2000 Trust, Plaintiff and Buchanan.

10. The Court overlooked or misapprehended that the complaint correctly states that Forlando is a 39% owner of TJBL, LLC ("TJBL") an entity formed December 5, 2007 which made three offers to buy the music empire in 2007 and 2008 for \$90 - \$100 million; and that Forlando has confirmed that the approximately \$84 million value of Brown's music empire assigned by Robert Buchanan, Jr. ("Buchanan") and Plaintiff on the estate tax return is correct and conservative.

11. The Court overlooked or misapprehended that Forlando confirmed under oath the week Buchanan and Plaintiff filed the estate tax return in September 2008 that offers of \$150 million were still available for the music empire, and in 2013 testified in a deposition that Bauknight's \$4.7 million value was "bogus."

12. The Court overlooked or misapprehended that Bauknight's \$4.7 million claimed value in filings with the Supreme Court and other courts, as described in the Motion to Alter or Amend the initial Dismissal Order, has damaged both Plaintiff and the Estate/2000 Trust, and

that Bauknight individually, should be required to account; pay all damages he has caused; and disgorge, individually, all improper payments he has made from estate funds.

13. The Court overlooked or misapprehended that the complaint – and facts of which the Court should have taken judicial notice of or considered at a hearing -- demonstrate that Bauknight's concealing his dealings with Terry and Forlando; David Bell, Esq; and also with Hynie; have aided Forlando in his 2012 fraud on the federal courts.

14. The Court overlooked or misapprehended that today, March 10, 2014, Bauknight serves as agent/co-Plaintiff and/or Intervener for Terry/Forlando Brown, Hynie , and her son James B. in three FOIA suits in which Bauknight is trying to prevent the FOIA compliance the Supreme Court addressed in Footnote 29.

15. The Court overlooked or misapprehended that in May 2013 Bauknight sought to delay FOIA matters for years, claiming the Supreme Court, by omitting footnote 29 in its final decision, places no importance on prompt FOIA compliance.

16. The Court overlooked or misapprehended that if a hearing had been held it would been shown that Bauknight – for more than 3 years – improperly claimed he was acting as an Agent for the State/AG in the Wingate Suit when he had no such authority; concealed documents which showed he had no such authority; and did so to promote the interests of Hynie; Terry/Forlando Brown and himself. And this caused the void Buchanan settlement.

17. The Court overlooked or misapprehended that the complaint properly states a cause of action for this Court to award individual damages against Bauknight, but Bauknight's actions taken in Richland County compel this Court to hold these and other rulings in abeyance pending the Wingate Suit decision.

18. The Court overlooked or misapprehended that each and every matter overlooked or

misapprehended by the Court in the initial Dismissal Order, as stated in the Motion to Alter, Amend or vacate that Order – which is incorporated as fully as if set out herein – supports the causes of action to require Bauknight, individually, to account; pay all damages he has caused by his improper acts and inaction; and disgorge, individually, all improper payments he has made from the Estate/2000 Trust which he has not recovered from the payee, with interest.

19. The Court overlooked that Bauknight has been the primary source of the false, career-threatening felony claim against Buchanan and Pope as follows:

6. Pope artificially inflated the value of the Estate in an attempt to substantiate her petition for a \$5 million fee for her services as Personal Representative and Trustee (4900 suit at ¶ 18(u).

20. The Court overlooked or misapprehended that Bauknight is still concealing the public, less than \$4.7 million “appraisal” which he was required to file in May 2011, and which will show that his felony claims are false.

21. The Court overlooked or misapprehended that if the Court had conducted a hearing it would have been made clear that Bauknight and his handpicked LSA are allowing David Bell, Esq., and others to usurp the contracts the Estate/2000 Trust should have made in 2011 with the HALF of James Brown’s *real* heirs who are not challenging James Brown’s noble estate plan, and is doing so for the benefit of Hynie, her son and Bauknight himself.

22. The Court overlooked or misapprehended that Bauknight’s and the LSA’s participation with Bell in attempts to destroy the STATE right to be acknowledged and officially determined as heirs AND the Federal Copyright Act rights of Michael Deon Brown, La Rhonda Waller, Nicole Parris, James Curtis, Lisa Brown, Jeanette Mitchell and the DOE Defendants directly damages both Plaintiff and the Estate/2000 Trust; and that because his acts are intentional and for the benefit of Hynie, James B. and Bauknight, individually, he should be held

liable for damages resulting from his actions.

23. The Court overlooked or misapprehended that Bauknight's *ex parte* , pre-remittitur appointments secured in May 2013 were for his personal benefit, and to continue to cover up the secret dealings he has been concealing from the State and Federal Courts since at least 2011.

24. The Court overlooked or misapprehended that Bauknight's continuing interference in the name of the Estate/2000 Trust with the FOIA rights of S.C. citizens, including Plaintiff, gives rise to damages against the Estate/2000 Trust for which he is personally liable.

25. The Court overlooked or misapprehended that it lacked jurisdiction to proceed with matters now pending in Richland County, including the FOIA case, consolidated with the Wingate Suit, because Bauknight – although wrongfully – Bauknight secured a court order that jurisdiction lies with the Richland County Court, requiring Jg. Early to hold these matters in abeyance.

III. THE FEDERAL COPYRIGHT ACT AND BROWN'S REAL HEIRS

26. The Court overlooked or misapprehended that the Federal Copyright Act conferred certain rights on the children and grandchildren of James Brown *after* Brown's death related to the termination of Copyright assignments of some of Brown's 800+ songs (the "Termination Rights").

27. The Court overlooked or misapprehended that Bauknight's allegiance to Hynie, which is an individual decision made with knowledge that he is damaging the Estate/2000 Trust, also damages Plaintiff and the HALF of Brown's real heirs who are not challenging the "I Feel Good" Trust.

28. The Court overlooked or misapprehended that Bauknight has intentionally inflicted damage on the Estate/2000 Trust since 2011 when he acquired actual knowledge that he could

secure the “I Feel Good” Trust’s copyright for decades for less than \$200,000 per year by agreements with the HALF of Brown’s real heirs not parties to the McMaster Settlement; but continued to misrepresent to the Courts both the heirs of James Brown and their rights under the Copyright Act.

29. The Court overlooked or misapprehended that Bauknight’s individual decision to continue to damage the Estate/2000 Trust by his alliance in March 2014, and service as agent of, Hynie and James B., constitutes grounds for assessing individual damages against him because he refuses to acknowledge Hynie was not Brown’s spouse, and deal with the necessary 5 or so of the following who are not challenging the Estate Plan to protect the “I Feel Good” Trust’s Royalties:

a. DNA-Proven and Acknowledged Children under the Peeples Protocol:

1. La Rhonda; 2. Jeanette; 3. Nicole

b. Children born during marriages and acknowledged in divorce proceedings:

4. Lisa;.

c. Child supported during minority; James Brown listed by mother on birth certificate; and seeking DNA testing:

5. Michael (incarcerated in CA since before Brown’s death)

d. Claimed children now seeking DNA testing:

6 . James Curtis;

7. DOE Defendants, Levenson suit

AND

e. Acknowledged children who have abandoned challenge to Brown’s Estate Plan.

30. The Court overlooked or misapprehended that James Brown’s last wife, Adrienne

died in 1996.

31. The Court overlooked or misapprehended that under SCPC § 62-1-201 all of Brown's children and claimed children named above, with beneficiaries under the Will, were and are "Interested Persons" and necessary parties to any proceeding where Hynie might be found to be Brown's wife, when she is not. Bauknight and his LSA are, however, working to protect Hynie; damage the "I Feel Good" Trust; and damage the ½ of Brown's heirs not challenging the Estate Plan.

IV. BAUKNIGHT'S FALSE VALUE

32. The Court overlooked or misapprehended that Bauknight has concealed for years documents which confirm that a 2006 professional appraisal of Brown's major Royalties – about half of the value of the music empire – show that the major Royalties were appraised for \$42 Million or more in 2006, further evidence that Bauknight's claimed value of less-than \$4.7 million for the music empire at Brown's death is improper.

33. The Court overlooked or misapprehended that Bauknight has for years denied the existence of a formula for valuing the music empire on the estate tax return presented by Robert Buchanan, Jr. and Adele Pope to Jg. Early and discussed in open court on November 15, 2007 – which was not opposed by the Attorney General or any interested person.

34. The Court overlooked or misapprehended that the Buchanan/Pope formula and 2006 professional Royalty Appraisal are both consistent with the \$84 million value properly reported by Buchanan/Pope on the estate tax return.

35. The Court overlooked or misapprehended that Bauknight, individually, has both participated in and covered up the actions of Bell, Forlando and Terry who have, at the same time, made material and conflicting representations to the State and Federal Court, including:

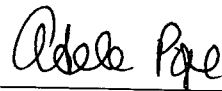
Bell/Terry

1. Bauknight's less-than \$4.7 Million value of the music empire is correct.
2. Tommie Rae is Brown's spouse
3. The 2008 Settlement should stand.

Bell/ Forlando

1. The less-than \$4.7 Million value is 'bogus'.
2. Tommie Rae is not Brown's spouse and knew it.
3. The 2008 Settlement violates Brown's wishes.

Respectfully submitted,



Adele J. Pope, *pro se*
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
S.C. Bar No. 4501

March 10, 2014

May 23, 2014

www.richardsonplowden.com

Columbia
fcrawford@richardsonplowden.com
Direct Dial: 803-576-3711

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: *Adele J. Pope v. Estate of James Brown, et al.*
Appellate Case No.: 2014-000250
Our File No.: 101-2606

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MAY 23 2014

SC Court of Appeals

Dear Ms. Kitchings:

This letter is a follow-up to our March 3, 2014 letter to your office. I represent Russell L. Bauknight, Individually in Case No.: 2013-CP-02-1337 which is still pending in the lower court before Judge Doyet Early. The matter in the above referenced appellate case number is limited to the appeal of an Order of Dismissal against Russell L. Bauknight, in his fiduciary capacity as Trustee and Personal Representative of the Estate of James Brown. I have attached that Order, dated January 17, 2014, to this letter for the Court's convenience as Exhibit A. I have also attached as Exhibit B, Judge Early's subsequent Order, dated March 10, 2014, which is currently the subject of a pending Motion for Reconsideration (and not the Order related to the above referenced appeal) before Judge Early, which dismisses Russell L. Bauknight, Individually.

Given that the interests of Russell L. Bauknight Individually are not affected by the Order of Dismissal on appeal, we would respectfully request that he be not shown as a party in his Individual capacity to the appeal nor be required to participate in any appellate proceedings. Additionally, I would ask that my name be removed as counsel of record as I only represent Russell Bauknight in his Individual capacity.

Thank you in advance for your assistance, I am,

Sincerely,

Shella Bruns for
Frederick A. Crawford

FAC/dfb

Enclosures

cc: Adele J. Pope, Esquire (w/enclosures)
William G. Newsome, III, Esquire (w/enclosure)
Russell L. Bauknight, CPA (w/enclosures)

THE STATE OF SOUTH CAROLINA
IN THE Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

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

Adele J. Pope, ...Appellant,

v.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust;
Russell L. Bauknight, Individually, as former *Executor de son tort*, and in every
current and former fiduciary status claimed or held as to the Estate of James
Brown and the James Brown 2000 Irrevocable Trust, ...Respondents,

AND:

Robert L. Buchanan, Jr., ...Interested Party.

APPELLANT'S RETURN AND MEMORANDUM IN OPPOSITION TO
LETTER/MOTION OF RUSSELL L. BAUKNIGHT, INDIVIDUALLY

Appellant files this return and memorandum opposing the relief sought in
the letter/motion of Russell L. Bauknight, individually, through Fred Crawford,
Esquire, dated May 22, 2014.

Appellant respectfully requests that the letter/motion be disregarded or
denied for any one, more or all of the following reasons:

1. The letter/motion fails to comply with Rule 240 SCACR.
2. The appeal of the original Dismissal Order placed Bauknight's
individual liability before this Court before the March 10, 2014 Order.

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SC Court of Appeals

3. The " Second Dismissal Order" is void under Rule 205 SCACR.
4. It would be manifestly unjust to allow Bauknight to seek double relief.
5. Bauknight, and not James Brown's scholarship funds for needy students, should bear the cost of Bauknight's improper individual actions, including:
 - a. His service *today* as agent for Tommie Rae Hynie and her son in Case 2010-CP-40-4900 (the "Wingate Sut"), even though their interest is directly adverse to the Estate/"I Feel Good" Foundation;
 - b. His failure to recover any of the \$12+ million taken by Cannon in the 2008 civil suit, leaving restitution to the State.
 - c. His refusal to complete the Estate's official Peeple's DNA Protocol and make fair and inexpensive Federal Copyright Act termination rights agreements with the HALF (or half + 1) of Brown's real heirs – the children who are not challenging the estate plan;
 - d. His damage to the "I Feel Good" Trust's \$3+ million royalty stream by promoting Hynie and assisting with the *ex parte* appointment of a limited special administrator who is working against the "I Feel Good" Foundation's protection of its copyrights.
 - e. His refusal to complete the Peeples DNA Protocol for James Curtis, Michael and others not challenging the estate plan.
 - f. His refusal to support the 1999 backup Will which makes the James Brown estate plan ironclad.
 - g. His \$563,000 payment to Wingate, in addition to a 40% contingency.
 - h. His use of \$500,000 of estate funds to secure release from Buchanan's counterclaims for Hynie, her son Terry Brown, and himself.
 - i. His fabricated \$4.7 million value of the music empire and interference with FOIA to keep the public "appraisal" secret.
 - j. His attempts to consolidate three FOIA suits with the Wingate Suit, and delay all four for what may be five years or more.

k. His false false statements to the South Carolina Supreme Court about the heirs of James Brown; the Federal Copyright Act; and the value of James Brown's music empire;

l. His false, career-threatening claim made as purported agent for the State/AG, that Robert Buchanan, Jr. and Appellant committed the federal felony of overstating the at-death value of James Brown's music empire to the IRS by \$79 million for an improper purpose.

m. His concealing for years by FOIA interference the Wingate 40% Litigation Retention Agreement, which only he, Hynie's counsel, David Bell, Esquire; and Louis Levenson, Esquire signed.

Some of these issues are discussed below.

I. Argument

a. Background

The complaint which is the subject of this appeal was filed on June 10, 2013. It was approximately one month after *Wilson v. Dallas*, 403 S.C.411, 743 S.E.2d 746 (2013). *Wilson* voided Bauknight's 2009 appointment as PR/Trustee under the Will and 2000 Trust of entertainer James Brown. The complaint seeks, among other things, removal, surcharge, and possible disgorgement by Bauknight, individually.

By order filed January 17, 2014 Judge Early dismissed all claims in the complaint except "[p]laintiff's request for payment of her claim in accordance with the Petition for Allowance." [the "Dismissal Order"].

By February 4, 2014 Form 4 order Judge Early denied reconsideration.

This appeal was filed on February 7, 2014. The initial brief was filed

February 18.

On March 3, 2014, Frederick Crawford, Esquire, wrote this Court asserting individual claims against Bauknight had not been dismissed.

On March 6, 2014 Appellant wrote and disagreed with Mr. Crawford's conclusion. (Exhibit 1).

On March 10, 2014, Judge Early filed an order signed March 4 dismissing the claims against Bauknight, individually, which he had already dismissed (the "Second Dismissal Order").

On March 10, 2014 Appellant served and mailed to Judge Early a motion to alter or amend and/or reconsider and vacate the Second Dismissal Order. (Exhibit 2.)

On March 13, 2014 Bauknight served a motion to dismiss this appeal. It stated in part:

Russell L. Bauknight, in his individual capacity as well as in his capacity as special administrator of the Estate of James Brown and as special Trustee of The ... 2000 Irrevocable Trust, moves to dismiss Appellant Adele Pope's appeal.

Bauknight did not advise this Court of the Second Dismissal Order.

Bauknight's motion to dismiss claimed this appeal was "vexatious litigation." Of Appellant's *pro bono publico* service since May 8, 2013 to help avoid the announced intention of Hynie and Louis Levenson, Esquire, to dismember the "I Feel Good" Foundation *again*, Bauknight said:

Her relentless litigation evidences a pattern of officious intermeddling with the affairs of James Brown's Estate and Trust, and the potential remains

for her to do so if this appeal is not deemed frivolous and dismissed. ... Accordingly, Mr. Bauknight urges this Court to dismiss this appeal and send a message to Ms. Pope that her intermeddling in this matter will not be tolerated.

Bauknight did not advise the Court that he was still serving as agent for Hynie and her son, or their May 29, 2013 announced intention, with Louis Levenson, Esquire, to dismember the "I Feel Good" Foundation again. He did not advise the Court that his 2010 Wingate Suit as their agent is still pending; that they had sued Appellant and Robert Buchanan, Jr. for tens of million of dollars for conducting the *Wilson v. Dallas* appeal; and that he was now seeking relief for Hynie and her son, who are in default as to the counterclaims.

Bauknight did not advise the Court that he claims to act on behalf of the South Carolina Attorney General in the Wingate Suit. But the Attorney General claims Wingate was not authorized to bring the Wingate Suit for the State.

Bauknight did not advise the Court that one of his first acts after securing *ex parte* appointments before the *Wilson v. Dallas* remittitur was issued, was to ask the Honorable L. Casey Manning to delay the Wingate Suit and related FOIA suits for years.

Yet Bauknight claimed in his motion that Appellant's (claimed)

litigiousness has caused waste and has stymied the new fiduciaries' ability to orderly and efficiently handle the affairs of the Estate and Trust.

Bauknight failed to advise the Court that since 2011 he has asked Judge Manning to consolidate three FOIA suits with the Wingate Suit and is still

seeking to delay all four suits until the conclusion of all James Brown matters in Aiken County. And he is doing so as agent for Hynie and her son.

On March 21, 2003 Appellant served and filed her return and opposition to Bauknight's individual (and fiduciary) motion to dismiss.

On May 8, 2014 this Court issued an Order denying the motion to dismiss and addressing other matters.

On May 22, 2014 Mr. Crawford, again wrote the Court. He asserted that, based on the March 10 Order, Bauknight is not part of this appeal.

b. The Letter/Motion Violates Rule 240 SCACR and Should be disregarded.

Rule 240 SCACR and other applicable rules provide the format and cost for seeking relief from this Court. Bauknight has not complied with those rules. The extraordinary relief he seeks should not be granted.

c. The March 10 Second Dismissal Order is void.

While Judge Early has not conducted a hearing on the motion to alter, amend or vacate the March 10 Second Dismissal Order, it may well be he has acknowledged that it is void under Rule 205 SCACR. The March 10 Order reached one conclusion which had already been reached and was already the subject of this appeal -- that the Complaint against Bauknight, individually, be dismissed.

On March 10, 2014 this court had exclusive jurisdiction over the issue under Rule 205. The March 10 Order is void.

d. Mr. Bauknight has already sought the requested relief.

Allowing Mr. Bauknight a second opportunity to escape individual liability in this appeal would be manifestly unjust. This is especially so in light of the millions of dollars being spent by the Estate while Bauknight continues to fight FOIA compliance; represent Hynie, her son and other Will challengers in the Wingate Suit; represent the McMaster Legacy Trust which he claims to be private and not subject to the FOIA – all with money Brown gave the “I Feel Good” Foundation.

The public documents that – but for Bauknight’s interference – might have been released three years ago under FOIA, are material to show:

1. Hynie was not Brown’s spouse (the public, “Hynie ‘diary’”);
2. Bauknight’s less-than \$4.7 million claimed value of Brown’s music empire is wrong.
3. Bauknight participated in secret amendments to the Legacy Trust during the *Wilson v. Dallas* appeal which were concealed from the State and Federal Courts.
4. He had secret dealings to help Terry/Forlando Brown exercise a right of first refusal to buy Brown’s music empire at a deflated value even Forlando has described as “bogus.”
5. The false felony claim against Buchanan and Appellant is false.

e. Bauknight, individually, is liable for certain actions under the complaint.

Section 62-3-808 of the South Carolina Probate Code addresses the individual liability of a personal representative. It says, in relevant part:

- (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.

...
(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.[Emphasis supplied.]

This is a proceeding for accounting, surcharge, and other appropriate relief. It is brought by a creditor who has a valid Demand for Notice on file; who has a valid pending counterclaim against the estate and 2000 Trust in a suit brought by Bauknight in which has also represents those seeking to dismember the "I Feel Good" Trust. By his unnecessary disallowance of an already-Court-approved claim, Bauknight, individually, caused this suit to have to be filed.

Bauknight, according to the complaint, is personally at fault for many of the actions complained of. The complaint appropriately seeks – where possible – for the burdens of Bauknight's wrongdoing to fall on Bauknight – not the funds James Brown gave to needy students in his "I Feel Good" Foundation.

Bauknight refuses to acknowledge the value of the *Wilson v. Dallas* decision. When asked, he said:

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

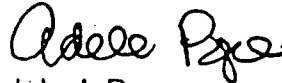
...[Y]our client raped this estate taking every dime out of it for her own fees and for Bob's fees and her lawyer's fees leaving it insolvent.... Your client didn't even try. Your client didn't know the numbers. I know the numbers. There was no diminished Legacy Trust. That's fabrication from your client. [Emphasis supplied.]

There is no basis for the relief sought in the letter/motion.

Conclusion

For the reasons stated herein, the letter/motion should be disregarded or denied.

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com
SC Bar #4501
Appellant, *pro se*

May 26, 2014

**Law Office of Adele J. Pope, P.C.
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753**

Exhibit 1

March 6, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29211

Re: Pope vs. Estate of James Brown and others
Appellate Case No. 2014-00250

Dear Ms. Kitchings:

I am in receipt of a letter to you of Frederick A. Crawford, Esquire, dated March 3, 2014.

I disagree with the characterization by Mr. Crawford of the Orders of the Honorable Doyet A. Early, III which are the subject of this appeal. I submit that the orders speak for themselves – and do purport to dismiss the individual claims against Mr. Bauknight.

Thank you.

Yours very truly,



Adele J. Pope

cc:
William G. Newsome, Esquire
Frederick A. Crawford, Esquire

THE STATE OF SOUTH CAROLINA
IN THE Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2013-000250

Adele J. Pope, ...Appellant,

v.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust;
Russell L. Bauknight, Individually, as former *Executor de son tort*, and in every
current and former fiduciary status claimed or held as to the Estate of James
Brown and the James Brown 2000 Irrevocable Trust, ...Respondents,

AND:

Robert L. Buchanan, Jr., ...Interested Party.

SUPPLEMENTAL RETURN AND MEMORANDUM OPPOSING LETTER
MOTION OF RUSSELL L. BAUKNIGHT, INDIVIDUALLY, TO BE DISMISSED
AS PARTY TO THIS APPEAL; REQUESTING JUDICIAL NOTICE UNDER
RULE 201(d) , SCRE; AND REQUESTING CONSIDERATION OF
DOCUMENTS AS TO WHICH BAUKNIGHT, INDIVIDUALLY,
IS PREVENTING DISCLOSURE FOR BENEFIT OF TOMMIE RAE HYNIE ,
HER SON AND OTHERS

Appellant submits this Supplemental Return and Memorandum opposing
the Letter/Motion of Russell L. Bauknight to be dismissed, individually, as a party
to this appeal.

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SC Court of Appeals

The Appeal Directly Involves Individual Wrongdoing of Bauknight:

Appellant opposes the Motion as follows:

1. For each and every reason stated in her Return and Memorandum opposing Bauknight's Letter/Motion, filed in this Court on May 28, 2014, which is incorporated herein by reference as fully as if set out herein.
2. The essence of this lawsuit and appeal upon dismissal, as well as of Appellate Case No. 2013-2582, for which a Petition for Certiorari was filed in the South Carolina Supreme Court on June 13, 2014, is the individual, intentional wrongdoing of Bauknight to benefit Tommie Rae, himself and others adverse to the "I Feel Good" Foundation at the expense of Robert Buchanan, Jr., Appellant, the "I Feel Good" Trust and the HALF of Brown's real heirs under the Federal Copyright Act who are not challenging Brown's noble estate plan.
3. Bauknight, individually, has made material, false statements to multiple courts which have damaged Appellant, Robert Buchanan, Jr. and the James Brown "I Feel Good" Foundation, both before and after the May 8, 2013 decision in *Wilson v. Dallas*, and with individual intent to evade the remand mandate of *Wilson v. Dallas*.
4. Bauknight, individually, and/or in conjunction with Tommie Rae Hynie, and others fabricated a claim that the \$84 million worldwide music empire of James Brown was worth less than \$4.7 million at Brown's death on Christmas Day 2006, and told the IRS and the S.C. Supreme Court that Brown's Will and 2000 Trust put less than \$3 million in the "I Feel Good" Foundation. This claim was material and false.
5. Bauknight, individually, claims to be the sole person to have looked at a fabricate "appraisal" which he asserts supports this outrageous claim, and which – as of June 2014 – the Attorney General of South Carolina says he never saw.
6. Bauknight, claiming with apparent but no legal authority to speak for the State/Attorney General, individually, in 2011 began to lodge the false claim against Robert Buchanan, Jr., and Appellant that they committed the federal felony of overstating Brown's worldwide music empire by \$79 million to the IRS for the improper purpose of obtaining a \$2.1 million commission for Buchanan and a \$2.8 million commission for Appellant.

7. Bauknight, individually, has continued the false and material claim until today, and has used and abused the office he secured improperly to badger, coerce and threaten those who have faithfully and efficiently served Brown's estate plan and the "I Feel Good" Foundation.
8. Bauknight, individually, contracted with Tommie Rae Hynie, Louis Levenson, Esq., and David Bell, Esquire, to bring the false Wingate Suit for the purpose of destroying the careers and reputations of Buchanan and Appellant so that they would drop the *Wilson v. Dallas* appeal.
9. Bauknight, individually, worked with Tommie Rae, Levenson and Bell in authorizing the law firm of Kenneth Wingate, Esquire, to claim that both Bauknight and Wingate had legal authority to speak for the State/Attorney General in suing to benefit Tommie Rae and others – when neither had such authority.
10. Bauknight, individually, convinced the Attorney General of South Carolina that he would breach his fiduciary duty as AG if he did not file the fabricated Wingate Suit against Buchanan and Pope on May 19, 2010.
11. Bauknight, individually, paid Buchanan \$500,000 from Estate funds, after withholding proper payment due Buchanan since 2009 and upon finding him in deep financial distress as a result of his loyal service to the "I Feel Good" Trust, to obtain releases from Buchanan's counterclaims for the McMaster Legacy Trust, Tommie Rae, Tommie Rae's son, and others.
12. Bauknight, individually, without cause, abandoned the 2000 Trust's counterclaims for attorneys' fees against Forlando Brown despite Forlando's alliance with felon David Cannon; four-year attempt to paralyze the Estate/2000 Trust; fraud on the Court; and other wrongdoing, resulting in the Federal Court's decision that Forlando acted wrongfully, but not requiring him to pay for the wrongdoing.
13. Bauknight, individually, and for the benefit of Hynie and her son, for whom he TODAY serves as agent, has interfered since 2011 in FOIA compliance in three FOIA lawsuit, and even sought sanctions against Appellant for exercising her FOIA rights.
14. Bauknight, individually, and under false claim of State authority, continues to slander Buchanan and Appellant; has refused to pay Appellant \$1.4 million she has been due since 2009; has refused to pay Tressa Hayes, Esquire the \$85,000 she was owed, has refused

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SC Court of Appeals

to pay James Bailey, Esquire, the approximately \$100, 000 he was owed, with interest while:

- a. Paying Nexsen Pruet more than \$770,000 in 2013 to aid him in preventing FOIA compliance; concealing the fabricated \$4.7 million fabricated "appraisal;" and preventing Tommie Rae's deposition and a finding that she was not Brown's spouse;
- b. Paying his appointee Sojourner more than \$250,000 in three months of 2013 to fight the REAL heirs of James Brown (for the benefit of Tommie Rae and her son), in an attempt to allow Tommie Rae, Bell and others to siphon off the termination rights agreements under the Federal Copyright Act Bauknight should have made by 2011. with the HALF of Brown's children not challenging Brown's estate plan. And should be making now.
- c. By paying Wingate a 40% contingency fee and \$563,000 to bring a suit in the name of the State/Attorney General against Buchanan and Pope with no legal authority to do so; and fight FOIA compliance to prevent disclosure that the suit was not legal.
- d. By claiming that Tommie Rae was Brown's spouse and that her elective share claim was a "slam dunk," with knowledge of its falsity.

15. A timely Supplemental Notice of Appeal has been filed with respect to the March 10, 2014 Order (the "Second Dismissal Order") and the Form 4 Order denying Appellant's Motion to Alter and Void, even though the Second Dismissal Order violated Rule 205, SCACR, and the lower court lacked jurisdiction to issue it.

16. Every wrongful act of Bauknight since May 26, 2009 has been individual because he was acting as executor *de son tort* from May 26, 2009 until May 8, 2013. He has acted under *ex parte* and improper appointments since then, for his individual benefit and that of Tommie Rae and her son.

MEMORANDUM

By his motion to be dismissed individually, Plaintiff fails to acknowledge

that the near-loss of \$50 million to the noble estate plan of James Brown was his individual act, both in conjunction with – and claiming authority which he lacked to speak for – two Attorneys General.

This Court is asked to take judicial notice under Rule 201 (d), SCRE of the actions of Bauknight, individually, in each case described in the Appendix which supports this Return.

The Court is also asked to consider as part of the record, and take judicial notice under Rule 201(d) of the documents in the Appendix and following documents which are within the public record or otherwise public, and which Bauknight, individually, has secreted in three FOIA Suit, the Wingate Suit; and Aiken County, even though none is appropriately subject to protection under Rule 41.1 SCRPC or any applicable law.

1. The \$4.7 Million Claimed "Appraisal," on file in the Forlando Federal Suit which purportedly supports the false felony claims, Bauknight's claim that Brown gave less than \$3 million to the "I Feel Good" Foundation; and Bauknight's claim that the needy student will receive only a few thousand dollars annually under IRS guidelines, rather than millions.
2. The so-called Hynie "diary" which Bauknight has refused to produce in discovery and blocked by attempted FOIA intervention, to benefit Tommie Rae, although Attorney General McMaster used it in his decision to give Tommie Rae 25% of the "I Feel Good" Foundation.
3. The Fee Agreements paid or promised in connection with *Wilson v. Dallas* which Judge Early directed public and to be filed with the Clerk of Court in 2010, but which are missing. [Bauknight, individually, refuses to file proper copies.]
4. The Wingate Litigation Retention Agreement, which shows that Bauknight, Tommie Rae, Bell and Levenson – expecting \$30 million from the "I Feel Good" Trust if they could stop the *Wilson v. Dallas*

appeal, authorized Wingate to bring an illegal lawsuit in the name of the State/AG, with Bauknight making the illegal claim that he spoke "on behalf of Henry McMaster as Attorney General of South Carolina."

6. The James B. DNA results, which Bauknight and his appointee are secreting even though James B's GAL and mother gave public interviews in 2008 claiming James B. passed an unauthorized DNA test.

The needy students and heirs and creditors who protected Brown's estate plan from Bauknight's *individual* assault should not bear the cost of Bauknight's individual wrongdoing. Bauknight must be held individually responsible for the damage to Appellant :

1. By the false claim, made under color of State authority, that Appellant and Robert Buchanan, Jr. committed a federal felony by 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 commissions;
2. For all damage resulting from the false and fabricated \$4.7 million claim, including the removal of Buchanan and Appellant from positions which they were properly performing;
3. For the damage resulting from the false and fabricated claims Bauknight made about the Christie's sale;
4. For the false and fabricated claims made in three FOIA Suits;
5. For false representations to the Supreme Court about the value of James Brown assets; the heirs of James Brown; and the Federal Copyright Act termination provisions.
6. For the false claim to the Supreme Court that Hynie was Brown's spouse and her elective share claim was a slam dunk.
7. For the fabricated Wingate Suit brought to stop the *Wilson v. Dallas* appeal.
8. For interference and collusion with Forlando Brown in the Forlando

Federal Suit which prevented recovery by the 2000 Trust, Buchanan and Pope for Forlando's fabricated 2008 suit to enjoin the 2000 Trust from taking any action until Cannon and Dallas returned as trustees.

9. For his failure to recover a single dime of the \$17 million taken by Cannon, and failure to even report the \$5 million taken in 1999 – now past the statute of limitations.

10. For naming Cannon as a witness in the Wingate Suit and coercing him NOT to support the noble estate plan of James Brown.

11. For representing Tommie Rae Hynie and her son, a minor, TODAY, without a GAL for the minor, in the Wingate Suit and a FOIA suit, which representation is irreconcilably conflicted with service to the Will and 2000 Trust of James Brown.

Request for Judicial Notice and Unsealing of Record

Pursuant to Rule 201 (d) Plaintiff asks that this Court take judicial notice of filing in each of the cases referenced in the Appendix filed herewith, including but not limited to the sample documents filed therein. Under Rule 201 (a) and (b) the fact that Bauknight took the actions stated are adjudicative facts because they are not subject to reasonable dispute in that they are(2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

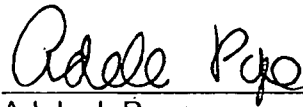
It is a fact that Bauknight has take the positions shown in his filings each of the suits reference in the Appendix. The accuracy of the statements he made – even when the statements were false – can be readily determined.

This memorandum is supported by documents cited herein, the initial brief of Appellant, the Appendix, and the documents Bauknight has secreted as set out above.

Conclusion

For the reasons stated herein this Honorable Court should take required judicial notice under Rule 201(d) of the facts contained herein and in the Appendix which show that the damage to Appellant and wrongdoing of Bauknight are individual. The Court should deny Bauknight's request to be dismissed, individually, as a party to this appeal.

Respectfully submitted,



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

June 17, 2014

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

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JUN 17 2014

Appellate Case No. 2013- 000250

SC Court of Appeals

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.

APPENDIX

Supplemental Return and Opposition to Motion of Russell L.
Bauknight, Individually, to be Dismissed as Party to above Appeal;
Sample Documents from Cases for Which Judicial Notice Under Rule
201(d) is Sought; Filing in Support of Unsealing Documents
in All Pending James Brown Appeals, Including
Appellate Case No. 2013-001649; No. 2014-000250; and No. 2014-000794

Document [with emphasis added]

Page No.

I. Sample Documents from Wingate Suit filed May 19, 2010 (Richland
County Case 2010-CP-40-4900, a/k/a "Case 4900").....1

Exhibit A-1 - Summons and Complaint (partial) of Attorney General Henry McMaster, the AG's Legacy Trust and Bauknight in multiple capacities including:

1. As Trustee of the AG's Legacy Trust;
2. "On Behalf of" Henry McMaster in his Capacity as Attorney General of South Carolina;
3. "On Behalf of" Tommie Rae Hynie;
4. "On Behalf of" James B., a minor (without GAL).....1

Exhibit A-2 Motion of Russell L. Bauknight in above capacities to Dismiss Writ of Prohibition Sought in Above Matter (partial) 13

Exhibit A-3 Transcript, partial, hearing, August 30, 2010..... 18

Exhibits A-4 Ltr. of Wingate Firm to Adam T. Silvernail, Esquire, date June 11, 2014 re: being "judicially conflicted at this point from representing the Plaintiffs' group"..... 28

Exhibit A-5 Answer and Counterclaim of Robert L. Buchanan, Jr. and Adele J. Pope (partial)..... 30

2. Sample Documents, FOIA # 1 – Request for \$4.7 Million Appraisal and signed copies of Legacy Trust, with Amendments (filed as Newberry County Case No. 11-CP-36-364, now Richland Cty.2012-CP-40-0350).

Exhibit B -1 FOIA Complaint with attachments (Partial).....48
Including Bauknight Threat of Sanctions

Exhibit B-2 Motion of AG's Legacy Trust to Dismiss..... 68

3. Sample Documents, FOIA #2, Now Consolidated with Wingate Suit, Seeking Wingate Litigation Retention Agreement (filed as Newberry County Case 11-CP-36-379, now Case 2010-CP-40-4900)......70

Exhibit C -1 Order of the Honorable Frank R. Addy, Jr., dated November 22, 2011, consolidating FOIA #2 With Wingate Suit at Request of AG Wilson and Bauknight 70

4. Documents Related to Forlando Federal Suit......77

Exhibit D -1, Bauknight Confidentialiy Reply, dtd. Oct. 1, 2013..... 77

Exhibit D - 2 Bauknight Confidentiality Motion, dtd., Sept. 11, 2013..... 79

Exhibit D -3 Amended Counterclaim of Robert L. Buchanan, Jr.....84
 [Also see Order Dismissing Forlando Claims; Bauknight's abandonment
 of 2000 Trust's Attorneys' fee claims for 4-year Forlando attempt to
 enjoin 2000 Trust (Order Praises Buchanan/Pope's service, but denies
 attorneys' fees, offset); and Ord. dtd. 6/16/14 denying reconsideration.]

5. Documents Related to Neberry County FOIA Case No. 2012-CP-36-00688,
Seeking \$4.7 million appraisal, Legacy Trust, Hynie "diary," Wingate
Agreement and other documents.....98

Exhibit E - 1 Ltrs. AG Wilson to Court, dtd. Nov. 27, 2013,
 May 23, 2014 and June 13, 2014. AG Wilson asserts:

a. AG never saw \$4.7 million appraisal referenced
 in request to S. C. Supreme Court to remove Buchanan
 and Pope and on which false felony claims were based.

b. Signed copy of AG's Legacy Trust which sued
 Buchanan and Pope in Wingate Suit or signed
 copies of Amendments do not exist.
 [But SEE p. 152 of Cert Petition Appendix, below.]

c. AG Wilson never saw the three signed pages
 of the Wingate 40% Litigation Retention Agreement
 used to sue Buchanan and Pope in 2010 in Wingate Suit

d. 2008 Gag Orders prevent AG from releasing under
 FOIA Hynie "diary" AG McMaster considered when
 he gave Tommie Rae 25% of "I Feel Good" Trust.....98.

Exhibit E- 2 Ltr. of Wingate/Bauknight to Court, dtd. May 20, 2014,
 Re: proposed intervention of Bauknight in FOIA case;
 references "the judicially created conflicts prevent counsel
 from representing the Plaintiffs as a group at this time..."103

6. Sample Documents Related to Cannon Civil and Criminal Cases

Exhibit F-1 AG/Bauknight Witness List, Wingate Suit, 11/12/10.....106
 [Names Cannon as Witness against Buchanan and Pope
 while he is under indictment for taking \$12+ million.]

Exhibit F-2 Excerpts, Bauknight Petition for Rehearing,
Wilson v. Dallas, partial, re: Cannon..... 109
 [Bauknight blames AG Wilson for Bauknight's failure

to seek restitution of \$12+ million Cannon paid
himself from James Brown funds between 1999-2006.]

Ltr. Pope to AG Wilson, dtd. 11/9/2013.....	110
Exhibit F-3 Order Granting Restitution dtd. April 23, 2014.....	113
7. <u>Sample Aiken Cty Probate & Circuit Court James Brown Documents After May 8, 2013 showing Withdrawal of Attorney General; Bauknight failure to Account; Attempts to Defeat Heirs and Damage Copyrights; Attempts to Prevent Wilson v. Dallas Review of \$1.5+ million in Wingate, Nexsen Pruet, Sojourner legal fees and 40% Wingate Contingency; and efforts to conceal Hynie "diary", \$4.7 million "appraisal;" etc., Dismember the "I Feel Good" Foundation and defeat claims of supporters.....</u>	118
Exhibit G -1 Return to Motion/Memorandum of Deanna Brown Thomas and others to deny Heir Status to Brown's Incarcerated son Michael Deon Brown, dtd. filed November 14, 2013.....	118
Exhibit G- 2 Motion to Reconsider, Vacate, etc., <i>Ex Parte</i> Probate Court Order dated December 18, 2013, with copy of page 1 of <i>Ex Parte</i> Order of Probate Judge filed Oct. 16, 2013.....	123
Exhibit G - 3 Ltr. of Nexsen Pruet, Wm. Newsome, Dtd. June 9, 2014.....	129
Exhibit G-4 Portion, Transcript, July 9, 2013.....	131
8. <u>Documents related to Petition for Certiorari, Bauknight Appointment Circuit Court Order Filed October 3, 2013, Appellate No. 2013-2582</u>	151
H-1 Petition for Certiorari filed June 13, 2014	151
H-2 Appendix, Petition for Certiorari (separately numbered).....	178

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
Telephone: 803-413-0753
Email: adele@popelawfirm.com

Pro Se

June 16, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. [REDACTED]; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney L. [REDACTED] and Carrington L. [REDACTED]; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

HENRY DARGAN MCMASTER, in his capacity as Attorney General of the State of South Carolina; TOMMIE RAE BROWN, individually and on behalf of her minor child, JAMES B. [REDACTED]; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY L. [REDACTED] and CARRINGTON L. [REDACTED]; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

v.

Adela J. Pope and Robert L. Buchanan, Jr.,
Defendants

IN THE PROBATE COURT

Civil Action No. 2010-GC-400073

SUMMONS

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SOUTH CAROLINA

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Exhibit A-1

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. [REDACTED]; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney L. [REDACTED] and Carrington L. [REDACTED]; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

HENRY DARGAN MCMASTER, in his capacity as Attorney General of the State of South Carolina; TOMMIE RAE BROWN, individually and on behalf of her minor child, JAMES B. [REDACTED]; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY L. [REDACTED] and CARRINGTON L. [REDACTED]; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants

IN THE PROBATE COURT

Civil Action No. 200-GC-4000073

COMPLAINT
(Jury Trial Demanded)

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RICHLAND COUNTY S.C.

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COME NOW THE PLAINTIFFS who, for their claim for relief against the Defendants, allege and will show as follows:

Representatives and Trustees and appointed the Defendants Robert L. Buchanan, Jr. and Adele J. Pope as substitute Personal Representatives and Trustees.

15. Following additional litigation in the Alken County Circuit Court, the Beneficiary Plaintiffs entered a comprehensive settlement resolving all their disputes and ending the litigation between them, which agreement was, after an extensive hearing, approved by the Alken County Circuit Court by an Order entered on May 26, 2009. That Order also removed the Defendants as the substituted Personal Representatives and Trustees.

FOR A FIRST CAUSE OF ACTION
(Breach of Fiduciary Duty)

16. All allegations set forth above are incorporated herein.

17. As Personal Representatives and Trustees of the Estate of James Brown and the James Brown 2000 Irrevocable Trust, the Defendants owed fiduciary duties to the Estate, Trust and the beneficiaries of each (collectively "The Affected Parties"), including a duty of care, of impartiality, and of loyalty as well as a duty to prudently administer the probate and trust estates.

18. Upon information and belief, during their appointment as substitute Personal Representative and Trustee, the Defendants repeatedly and chronically breached their fiduciary duty to the Affected Parties in multiple ways, including but not limited to the following particulars:

- a. Failing to properly manage the estate and trust;
- b. Failing to engage necessary advisors and appropriate assistance to manage the estate and trust, causing, upon information and belief, millions of dollars of lost opportunities for the estate and trust;
- c. Failing to use due diligence in pursuing business opportunities for the estate and trust;

failing to obtain proper advice, under the pretext of not being able to afford such advice despite paying themselves hundreds of thousands of dollars in fees;

ii. Failing to understand the basic operation of federal copyright law and its impact on the estate and its valuation, including but not limited to tax valuation;

iii. Failing to timely conduct due diligence, as demonstrated by their own testimony under oath that "2009 was the year of due diligence."

p. Engaging in conflicts of interest, such as

i. Paying themselves hundreds of thousands of dollars in fees while leaving the estate and trust virtually insolvent;

ii. Serving as both Personal Representatives and Trustees while a significant issue in the administration of the trust and estate was whether the trust or the estate owned certain assets.

iii. Continuing to conduct a vicious attack on the proposed settlement, upon information and belief, for the purpose of padding their own fees, which they claim to be \$5 million.

q. By misrepresenting or presenting inaccurate statements under oath to the Court;

r. By failing to file appropriate tax returns;

s. By allowing statutes of limitations to run, thereby preventing opportunities for the estate and trust to receive reimbursement for music rights misappropriated by others;

(c) diminution in the future stream of profit and income from the corpus of the Estate and Trust.

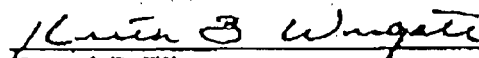
29. As a result of Defendants' negligent and grossly negligent acts and omissions, the Plaintiffs are entitled to judgment against the Defendants for actual and punitive damages in such sums as may be proved at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

WHEREFORE, The Plaintiffs pray for a judgment against the Defendants for, relief as set forth above, actual and punitive damages in such sums as may be proven at trial, together with prejudgment interest and interest on the judgment as provided by law, for attorney fees and the costs of this action, and for such other and further relief as may be provided by law.

PLAINTIFFS DEMAND A JURY TRIAL.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
By: Brett A. Kendall, II
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina
May 19, 2010

STATE OF SOUTH CAROLINA
In the Court of Appeals

FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2010-CP-40-4900

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B[REDACTED]; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney L[REDACTED] and Carrington L[REDACTED]; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; TOMMIE RAE BROWN, individually and on behalf of her minor child, JAMES B[REDACTED]; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY L[REDACTED] and CARRINGTON L[REDACTED]; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN.....Plaintiffs,

v.

Adele J. Pope and Robert L. Buchanan, Jr. Defendants.

OF WHOM:

Adele J. Pope is the Petitioner.

PLAINTIFFS' MOTION TO DISMISS NOTICE OF APPEAL
AND PETITION FOR WRIT OF PROHIBITION

278

Exhibit A-2

NPCOL1:2258260.1

Pursuant to the provisions of Rule 240(e), SCACR, the Plaintiffs respectfully request that this Honorable Court dismiss¹ Petitioner's Writ of Prohibition and notice of appeal.

INTRODUCTION & PROCEDURAL HISTORY

As this Court is aware from the Dallas and Cannon appeals wherein Adele Pope and Bob Buchanan (Pope and Buchanan) filed numerous contentious motions objecting to Mr. Bauknight's substitution, Pope and Buchanan were removed from their prior fiduciary positions on May 26, 2009, pursuant to the global settlement agreement and court order resolving the James Brown Estate and Trust litigation.

The underlying lawsuit concerns several serious breach of fiduciary duty claims filed by Plaintiffs—Tommy Rae Brown (James Brown's surviving spouse), the Brown children, the James Brown's Estate and Trust, and the South Carolina Attorney General—on behalf of the charitable beneficiaries against former Personal Representatives and Trustees Pope and Buchannan. When the James Brown Estate and Trust was turned over to Mr. Bauknight, it was unfortunately in a state of ruin. It had been mismanaged and was on the brink of insolvency.

The mismanagement of the James Brown Estate and Trust included, but was not limited to, Pope and Buchanan's failure to conduct and obtain an estate valuation in order to properly ascertain the taxable estate, improperly paying themselves fiduciary fees, and failing to file required estate, trust, and other income tax returns. As a result of Pope and Buchanan's actions, the Estate and Trust have incurred significant damages for which the underlying lawsuit in this matter seeks redress.

Pursuant to the South Carolina Probate Code, the underlying lawsuit was filed in Richland County Probate Court. Later, the case was removed to the circuit court pursuant to

¹ Plaintiffs respectfully reserve the right to file a Return and a motion to dismiss on the merits.

302(d), the probate court has exclusive jurisdiction of proceedings initiated by interested parties concerning the internal affairs of trusts. Proceedings that may be maintained pursuant to this section are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and beneficiaries of trusts." Pursuant to section 62-1-302(d), the matter was removed to the circuit court. Because the lower court has jurisdiction, the writ is not proper.

C. Even Assuming the Circuit Court Improperly Assumed Jurisdiction, the Writ is Not Proper for Petitioner Has an Adequate Remedy by Appeal

Alternatively, Petitioner may not invoke the writ for she has an adequate remedy by appeal. As previously noted, the writ may not be issued for the "correct[ion] [of] errors and irregularities in procedure, or to prevent an erroneous decision or an enforcement of an erroneous judgment, or even in cases of encroachment, usurpation, and abuse of judicial power or the improper assumption of jurisdiction, *where an adequate and applicable remedy by appeal, writ of error, certiorari, or other prescribed methods of review are available.*" *State Bd. of Bank Control v. Sease*, 188 S.C. 133, 198 S.E. 602 (1938).

Again, although Petitioner has used grave language to describe the underlying lawsuit, the Honorable Judge Manning did not see it that way and denied the motion to dismiss. If the circuit court made an error of law, then Petitioner may seek appellate review at the appropriate time. Because appellate review of the underlying lawsuit is available at a later stage in the proceeding, as a matter of law, the writ of prohibition does not lie. *State Bd. of Bank Control*, *supra*.

CONCLUSION

Petitioner has filed a notice of appeal that seeks this Court's review of a circuit order that is not immediately appealable. Without question, the notice of appeal is in direct contravention

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2010-CP-40-4900

Russell Bauknight, et al.,)
Plaintiffs,)
vs.) TRANSCRIPT OF RECORD
Henry Dargan McMaster, et al.,)
Defendants.)

August 30, 2010
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:

KENNETH B. WINGATE, ESQUIRE
EVERETT A. KENDALL, II, ESQUIRE
Attorneys for Plaintiffs

DARYL L. WILLIAMS, ESQUIRE
J. CALHOUN WATSON, ESQUIRE
Attorneys for the Defendants

Crystal Holmes

281

Exhibit A-3

1 MR. WINGATE: Well noted. Your Honor, we knew
2 that exactly what did happen right before the lunch
3 break would nappen.

4 THE COURT: Yes, sir.

5 MR. WINGATE: And that is there'd be a whole
6 big bowl of spaghetti, all these lawsuits that have
7 been filed, whip them up, stir them up, mix them up,
8 throw out a quote, throw out a pleading, throw out a
9 caption and try to confuse the matter and say only
10 Jack Early could possibly sort through this mess.

11 This is real simple, Your Honor. There are
12 two different things. There is the Last Will and
13 Testament of James Brown. This is in Aiken County in
14 the Probate Court -- well actually it's in Circuit
15 Court in Jack Early's hands.

16 This, Your Honor, is the 2000 Irrevocable
17 Charitable Trust of James Brown which was created as a
18 separate entity prior to his death which was 2000, he
19 died December of '06. Was funded prior to his death
20 and is an entirely separate entity. And what we're
21 here for, Your Honor, we're going to sort of split
22 things. As you heard before lunch, counsel has been
23 arguing both on their Motion to Dismiss the
24 Plaintiffs' Complaint ---
25

1 upon James Browns' death to his Irrevocable Trust.
2 And then that Irrevocable Trust splits into two parts,
3 fifty percent of it was the I Feel Good Trust, a
4 Charitable Trust for the education of students in
5 South Carolina and Georgia, and then the other fifty
6 percent for his family.

7 During the course of the last several years
8 of litigation which has gotten so much attention,
9 there was a settlement that was achieved, Your Honor,
10 and this global settlement that brought all 15 of
11 these people together on this caption into one group,
12 rewrote the estate plan, rewrote the terms of the
13 Trust. And the revised Trust is what Your Honor sees
14 on page 3, the second diagram that's at the top of
15 that chart.

16 THE COURT: All right.

17 MR. WINGATE: And again, Your Honor, you see
18 that Will just sits over there in Aiken. The Estate
19 administration is over in Aiken. But the Settlement
20 Trust, the Charitable Trust that receives the
21 royalties, the intangible assets, the intellectual
22 property of James Brown, is then administered in
23 Richland County, South Carolina by Russell Bauknight,
24 the Trustee, for the purpose of, as you see on that
25

1 Your Honor in the brief, clearly say that exclusive
2 subject matter jurisdiction of trust matters lies in
3 the Probate Courts in South Carolina. And as you
4 asked earlier this morning at 9:00, is this an appeal
5 or what is this? This is probate, isn't it?

6 This was filed by Russell Bauknight and the
7 Attorney General and all of the family members
8 globally in the Richland County Probate Court as a
9 Trust lawsuit

10 THE COURT: All right.

11 MR. WINGATE: And then it was moved to Your
12 Honor to the Circuit Court. So subject matter
13 jurisdiction unquestionably has been properly
14 satisfied. This suit was initiated in the Probate
15 Court. All we're arguing about is venue and we would
16 show Your Honor that respectfully and simply, it's
17 right here in Richland County. There's nowhere else it
18 could be.

19 THE COURT: All right. Thank you, sir.

20 MR. KENDALL: Thank you, Your Honor, and I
21 will -- I will also be brief because I know we have
22 lots of counsel waiting.

23 Unfortunately, the issue has been confused in
24 part because so many issues were thrown out in the
25



SWEENEY WINGATE & BARROW P.A.

June 11, 2014

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x7121
mvg@syblaw.com

VIA E-MAIL: adam@silvernaillawfirm.com

Adam T. Silvernail, Esquire
Law Office of Adam T. Silvernail, LLC
1901 Hampton Street
Post Office Box 1898
Columbia, SC 29202-1898

RE: Russell L. Bauknight, et al. v. Adele J. Pope
Civil Action No.: 2010-CP-40-04900
Our File: 4077-7389

Dear Adam:

Please accept this letter as response to your June 4, 2014 email concerning the possible viability of a "second" mediation in case 4900.

First, there have already been two mediations. Your client refused to participate in the first, which successfully resolved the case with respect to Bob Buchanan, and she participated in the second only due to a court order. What you are proposing would be a third mediation.

Second, our position remains that we are judicially conflicted at this point from representing the Plaintiffs' group as a group and do not see how mediation could be arranged due to these conflicts.

Third, your client's position at the last mediation was totally unrealistic, unhelpful, and amounted to a waste of many people's time and money. Even assuming the judicially created conflicts could be waived for mediation, there is no reason to believe that your client has any reasonable proposal to offer or that she understands the reality of her situation post Wilson v. Dallas.

However, in the spirit of exploring every possible avenue to see this if this matter can be resolved, if you have additional information that would demonstrate that your client is interested in a truly good faith resolution of case 4900, that does not seek to reinstate or involve her in any

285 Exhibit A-4

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. [REDACTED]; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown

AND

Henry Dargan McMaster, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James B. [REDACTED]; Daryl J. Brown, individually and on behalf of his minor child Janise B.; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor child Sydney L. and Carrington L.; Tonya Brown; Venisha Brown; Larry Brown; and Terry Brown,

Plaintiffs,

vs.

Adele J. Pope and Robert L. Buchanan, Jr.,

Defendants.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2010-CP-40-4900

JEANETTE W. McBRIDE
C.C.P. & G.S.

2010 SEP 30 PM 1:07

RICHLAND COUNTY
FILED

ANSWER AND COUNTERCLAIM
OF ROBERT L. BUCHANAN, JR. AND
ADELE J. POPE

(Jury Trial Demanded)

Defendants Robert L. Buchanan, Jr. and Adele J. Pope, subject to their Motion to Dismiss and any Motion filed or to be filed for a change of venue, answer the Complaint of Plaintiffs and Counterclaim against Plaintiffs, as follows:

286

Exhibit A-5

desiring an education for the reasons hereinafter more fully alleged; (ii) that McMaster has standing or is authorized to dismantle the grandchildren's education trust, especially as some grandchildren have expressly objected to the settlement; (iii) that McMaster has standing or is authorized to take over the estate of a decedent; (iv) that McMaster has standing or is authorized to commence an action to recover money damages for private individuals; (v) that Bauknight has standing or is authorized to commence a lawsuit for McMaster under any circumstances, and especially, as here, where McMaster cannot act, and (vi) that private counsel for private parties may simultaneously represent McMaster in this action.

(b) With respect to Tommie Rae Hynie Brown and James Brown

(i) Defendants deny Tommie Rae has standing because she was not included in Mr. Brown's estate plan; she is limited by a pre-nuptial agreement she signed before the 2001 marriage ceremony with Mr. Brown; she was married to another man when she conducted the marriage ceremony with Mr. Brown in 2001; after a 2004 annulment of the marriage pursuant to Mr. Brown's claim to void their marriage, she contracted never to claim to be Mr. Brown's common law wife, which was incorporated into an Aiken County Family Court order; she did not marry Mr. Brown after the annulment; she is not listed as Mr. Brown's spouse on his death certificate.

(ii) Defendants deny James has standing because he is specifically excluded from Mr. Brown's estate plan even if a child; he has refused to undergo the official Estate and Trust DNA protocol to demonstrate paternity; he is a minor and has a guardian ad litem ("GAL") in other court proceedings related to the Estate and Trust, but he has no GAL in this litigation; he cannot be represented by his mother in this case because of her conflict of interest.

(c) With respect to Daryl J. Brown and his minor child Janise:

(i) Defendants deny that Daryl has standing because he is not a beneficiary of the 2000 Trust, and, on information and belief, his 1/6 interest in personal and household effects under the Will is subject to forfeiture under its *In Terrorem* clause because of his attack on the estate plan.

(ii) Defendants deny that Janise has standing because, as one of the seven beneficiaries of the Brown Family Education Trust (the Grandchildren's Education Trust), she has a potential education fund of about \$285,000.00, and the appointment of a guardian ad litem ("GAL") for her is necessary because her father's settlement eviscerates this educational benefit and his attack on the estate plan as her representative may subject her to forfeiture under the *In Terrorem* clause as well.

27. Defendants deny the allegations of paragraph 27 of the Complaint.
28. Defendants deny the allegations of paragraph 28 of the Complaint.
29. Defendants deny the allegations of Paragraph 29 of the Complaint.

AS TO THE PRAYER FOR RELIEF

30. Defendants deny that Plaintiffs are entitled to any relief against Defendants alleged in their prayer for relief.

AS TO ALL ALLEGATIONS OF THE COMPLAINT

31. All allegations of the Complaint, including the allegations contained in the prayer for relief, not hereinabove admitted, qualified or explained are denied and strict proof demanded thereof.

FOR A SECOND DEFENSE AS TO ALL CAUSES OF ACTION
(Absence of Standing)

32. All allegations previously set forth herein are incorporated herein.
33. All Plaintiffs lack standing to bring this action under the Article IV of the Will, and Item XXI of the 2000 Trust, and as otherwise alleged in paragraph 3 above, and the case should be dismissed with costs taxed to Plaintiffs.

FOR A THIRD DEFENSE AS TO ALL CAUSES OF ACTION
(AG's Exceeding and Abusing Authority)

34. All allegations made above are incorporated herein where relevant.
35. Defendants are informed and believe that McMaster has a duty to defend the "I Feel Good" private foundation and its agents from private tort suits intended to dissipate Brown's scholarship funds for needy and deserving students.
36. McMaster's private contracts and acts and omissions related to the contracts and this litigation serve no public purpose; exceed and/or abuse his constitutional and statutory

authority; and violate the due process and First Amendment rights of Defendants and all other fiduciaries and beneficiaries of the 2000 Trust and Will other than Bauknight, who serves at McMaster's pleasure; and generally constitute bad faith and violate the public trust; the case should be dismissed with costs taxed to Plaintiffs.

FOR A FOURTH DEFENSE AS TO ALL CAUSES OF ACTION
(Absence of Affidavit Required by S.C. Code Ann. §15-36-100 (Supp. 2005))

37. All allegations made above are incorporated herein where relevant.

38. Plaintiffs failed to file as part of the Complaint an affidavit of an Expert Witness specifying at least one negligent act or omission claimed to exist and the factual basis therefore, as a result of which the case should be dismissed for failure to state a claim.

FOR A FIFTH DEFENSE
(Charitable Immunity for Private 501(c)(3) Foundations)

39. All allegations previously set forth herein are incorporated herein.

40. Defendants are informed and believe their actions as agents protecting the "I Feel Good" private foundation, a 501(c)(3) private foundation, have the same statutory immunity and protection from private tort suits as agents of public charities to ensure: (a) that qualified trustees, like Defendants, will accept such positions without fear of financial ruin of the very kind Plaintiffs are attempting to inflict by this lawsuit, and (b) the scholarship funds of the "I Feel Good" private foundation will not be depleted directly or indirectly in the defense of those who properly protect and serve it.

41. Defendants are informed and believe this lawsuit must be dismissed with prejudice and with costs taxed to Plaintiffs.

FOR A SIXTH DEFENSE AS TO ALL CAUSES OF ACTION
(Improper Venue, Rule 12(b)(3), SCRCF)

42. All allegations previously set forth herein are incorporated herein.

FOR AN ELEVENTH DEFENSE TO ALL CAUSE OF ACTION
(Unclean Hands)

58. All allegations made above are incorporated herein where relevant.

59. Defendants are informed and believe that in early January 2007, certain Brown family members (all Plaintiffs in this case) met with lawyers in Atlanta, GA and formulated a plan to sabotage Mr. Brown's carefully created estate plan with the objective of acquiring assets he expressly declined to give them; contemporaneously, Tommie Rae assembled a team of at least six lawyers to attempt to take up to half of Mr. Brown's assets, to which she was not entitled.

60. Defendants are further informed and believe that in early January 2007 Dallas and Cannon and others, who had their own pecuniary agenda, began manipulating evidence as to the ownership of assets in an effort to preclude or minimize the opportunities of the family and Tommie Rae.

61. Within those dynamics, the family and Tommie Rae sued in or around January 2007 to remove Dallas, Cannon and Bradley as fiduciaries, many relying on the estate plan they now seek to dismantle for their standing.

62. Defendants are further informed and believe that in approximately March of 2007, Dallas and Cannon successfully solicited Forlando Brown, a grandson of Mr. Brown who plans to own the James Brown assets and had participated in the family meeting in Atlanta in January and February, to abandon the family and join them. His brother, Romunzo Brown, and his father, Terry Brown, joined Forlando in abandoning the family and aligning themselves with Dallas and Cannon.

63. Within these dynamics, in an effort to calm all parties, the Aiken County Circuit Court appointed Defendants as non-fiduciary SAs of the Estate on March 7, 2007, with limited

thoughts about their resignations, and Assistant AG Jones had communicated with Pope, insisting that Defendants resign immediately as PRs and Trustees or risk removal proceedings. They, and the other Plaintiffs, thereafter engaged in the following activities:

- (a) Accusing Buchanan and Pope of impropriety in November 2007 after having just represented to the Court that Defendants' behavior was extraordinary;
- (b) Threatening Buchanan and Pope with grievances, harm and liability for not agreeing with the settlement;
- (c) Asserting Buchanan and Pope should have obtained appraisals after having reviewed and acquiesced in or adopted Defendants' proposal to value assets without an appraisal;
- (d) Sabotaging the Christies' auction in violation of court orders;
- (e) Falsely accusing Defendants of impropriety with intent to damage their professional standing.

71. Such inequitable conduct touched Defendants personally, touched the subject matter of this litigation and prejudiced or injured Defendants as hereinafter more fully alleged, as a result of which this litigation should be dismissed with prejudice, with costs taxed to Plaintiffs.

FOR A TWELFTH DEFENSE
(Comparative Negligence/Recklessness/Willfulness)

72. All allegations previously set forth herein are incorporated herein.

73. To the extent that Plaintiffs are entitled to anything, and to the extent Defendants were careless, negligent, grossly negligent, willful, wanton or reckless in any particular, which is denied, Plaintiffs were more than fifty percent (50%) negligent, grossly negligent, negligent *per se*, careless, reckless, willful and wanton in the particulars hereinabove alleged, and as to certain Plaintiffs in the following additional particulars, which upon information and belief, include the

(xiv) In unreasonably agreeing to give Dallas/Cannon joint venturer Terry Brown \$4 million and a right of first refusal, destroying Mr. Brown's estate plan and the value of his assets, causing irreparable harm and exposure to millions of additional dollars of taxes.

(xv) In unreasonably attempting to cover up their negligent acts or omissions by attacking properly serving fiduciaries who are entitled to reasonable compensation and reimbursement for the defense of this action.

(xvi) In unreasonably joining in a private tort suit to damage the "I Feel Good" private foundation and its agents for the personal benefit of private individuals.

(xvii) In unreasonably appointing and controlling Bauknight, including his reckless recommendation that the court approve the AG's actions with no due diligence, resulting in a loss to the Estate and Trust, if not overturned, of at least \$50 million.

(xviii) In unreasonably executing the August 10 contract without consulting with, and excluding, the court-appointed accountant and PR/Trustees, and without adequate knowledge of the Estate Tax impact on the Estate and Trust, or the income tax impact on Brown Entities.

(xix) In unreasonably refusing to participate with the court-appointed accountant and PR/ Trustees in preparing the Estate Tax Return, notwithstanding the PR/Trustees' invitation for the AG to participate.

(xxii) In unreasonably contracting on August 10 to defeat the interests of the beneficiaries and fiduciaries of Mr. Brown's estate plan who did not attend the secret mediation.

(b) AS TO BAUKNIGHT:

(i) In unreasonably recommending and ratifying the above actions of the AG.

(ii) In unreasonably failing to approve the GreenLight 2-year Publicity Rights contract which, but for his failure to approve the contract, could have been in place in May 2009 and would have enhanced the value of the James Brown assets.

(iii) In unreasonably making false and unsupported allegations against Defendants after testifying to the contrary.

(iv) In unreasonably failing to disclose to the Court that he had already undertaken a fiduciary duty to Tommie Rae and Terry Brown, while purporting to make an independent recommendation as to whether the settlement should be approved.

(v) In unreasonably failing to complete the claims litigation.

(vi) In unreasonably failing to ascertain, categorize and pay valid debts and claims of

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

Adele J. Pope,

Plaintiff,

v.

Alan Wilson, in his capacity as
Attorney General of South
Carolina and James Brown
Legacy Trust, by Russell L. Bauknight,
its Trustee.

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2011-CP-36- 364

COMPLAINT

JACKIE S. BOWERS
CLERK OF COURT

2011 AUG -3 P 5:07

FILED
NEWBERRY COUNTY

Plaintiff would respectfully show unto the Court:

**FOR A FIRST CAUSE OF ACTION
(Disclosure of Documents Under FOIA)**

Parties and Jurisdiction

1. Plaintiff is a citizen of South Carolina and a resident of Newberry County.
2. Defendant Alan Wilson is the Attorney General of South Carolina ("AG Wilson"), and is successor in office to Henry D. McMaster ("AG McMaster").
3. Defendant James Brown Legacy Trust ("Legacy Trust") is, on information and belief, a public body under the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10 et seq. ("FOIA"), with Russell L. Bauknight as its current trustee. The Legacy Trust is under the continuing and direct control of AG Wilson through the AG's unfettered right at any time and from time to time to remove and replace the trustee of the Legacy Trust with such person as AG Wilson shall select, with all trustees to serve at the AG's pleasure.

4900").

8. The Case 4900 complaint, naming AG McMaster as a beneficiary, includes the following plaintiffs:

- a. Russell L. Bauknight as trustee of the James Brown Legacy Trust;
- b. Bauknight on behalf of McMaster in his capacity as Attorney General of the State of South Carolina; and
- c. McMaster in his capacity as AG of the State of South Carolina.

9. AG McMaster and Bauknight did not attach or provide a signed copy of the Legacy Trust, although AG and Bauknight as his agent in Case 4900 assert Plaintiff caused tens of millions of dollars of damage to the Legacy Trust.

10. AG McMaster and the Legacy Trust, among other false allegations, assert that Plaintiff's and Buchanan's approximately \$85 Million [\$100 Million less the debt to TIAA-CREF] valuation of James Brown's assets was incorrect and improper. They asserted Plaintiff intentionally overstated Brown's assets on the estate tax return for the improper purpose of obtaining a large commission.

11. As described in Exhibit D, an affidavit of Plaintiff on file in Case 4900, AG McMaster also seeks money damages because Plaintiff declined to sign a document agreeing not to criticize McMaster for destroying James Brown's estate plan by creating the Legacy Trust.

12. If true, AG McMaster's false allegations against Plaintiff could subject Plaintiff to both civil and criminal penalties and destroy her career as an attorney.

13. On or about January 12, 2011 AG Wilson replaced AG McMaster, gaining by virtue of his office control over the Legacy Trust, including the right to remove and

and enjoining them from interfering with such inspection and copying;

- d. That this Court order Defendants to pay the Plaintiff her reasonable attorney's fees and other litigation expenses incurred in pursuing this case pursuant to S.C. Code Ann. § 30-4-100.
- e. That the AG should direct the Wingate Firm and all special counsel to comply with their FOIA duties with respect to the Legacy Trust.
- f. That this Court set at the earliest possible time a hearing on the matters set forth herein.
- g. For such other and further relief as this Court deems just and proper.

Respectfully Submitted,



Adam T. Silvernall
Law Office of Adam T. Silvernall, LLC
Post Office Box 1898
1218 Taylor Street
Columbia, South Carolina 29202-1898
Tel: 803/779-1770
Fax: 803/403-8092
Email: adam@silvernalllawfirm.com

August 3, 2011

Attorney for Plaintiff

1228 Walnut Street
Newberry, South Carolina 29108

FILED
NEWBERRY COUNTY
2011 AUG -3 P 5:08
JACKIE S. BOWERS
CLERK OF COURT

June 30, 2011

Custodian of Records
Office of the South Carolina Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

Re: Request for Documents under the South Carolina Freedom of
Information Act

Dear Madam or Sir:

This letter is a request for access to the public records listed below pursuant to the South Carolina Freedom of Information Act.

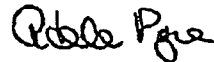
I would like to receive copies of the following documents:

1. The final and all drafts, signed and unsigned, of the James Brown Legacy Trust
2. All correspondence, email and/or other communications between any member of the Office of the South Carolina Attorney General and Russell L. Bauknight between August 1, 2010 and May 4, 2011 related to the value of the assets of the Estate of James Brown and/or the James Brown 2000 Irrevocable Trust.

I can be reached at (803) 413-0753 to schedule an appointment to pick up these copies.

Since this request primarily benefits the general public, I request that any search or copying fees be waived, but will pay all required copying costs.

Sincerely,



Adele J. Pope

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of
the James Brown 2000 Irrevocable Trust and
the James Brown Legacy Trust, as Personal
Representative of the Estate of James Brown,
and on behalf of Henry Dargan McMaster, in
his capacity as Attorney General of the State
of South Carolina; and Others,

Plaintiffs.

and

HENRY DARGAN MCMASTER, in his
capacity as Attorney General of the State
of South Carolina and others

v.

Adele J. Pope and Robert L. Buchanan, Jr.,
Defendants.

) IN THE CIRCUIT COURT

) Case No.: 2010-CP-40-4900

) Affidavit of Adele J. Pope
) Supporting Production of Legacy Trust,
) Fee Contract with State/AG
) and Related Documents prior
) Hearing on Motion for
) Injunctions

JACKIE S. BOWERS
CLERK OF COURT

2011 AUG -3 P 5:08

FILED
NEWBERRY COUNTY

JEANETTE W. McBRIDE
C.C.P. & G.S.

2011 AUG -2 PM 1:08

FILED
RICHLAND COUNTY

PERSONALLY APPEARED BEFORE ME, ADELE J. POPE, who being duly
sworn deposes and says:

1. On May 19, 2010 Kenneth B. Wingate and his firm (collectively "Wingate")
filed this suit against Robert L. Buchanan, Jr. ("Bob") and me seeking tens of millions of
dollars in tort damages for then-Attorney General Henry D. McMaster ("AG McMaster"
or the "State") and about 15 private individuals ("Private Plaintiffs").

2. I ask the Court to require Wingate and Plaintiffs, before the hearing on my
motion to enjoin them from acting for the AG/State, to produce signed copies of the
originals and any amendments to the following documents:

a. Wingate's Retention Agreement(s) with the AG/Plaintiffs;

¹ The Firm name is Sweeney, Wingate and Barrow, P.C.

unfortunate shooting death and ongoing murder investigation (adult charged) which took place at his 16th birthday party this year.

- g. Plaintiff Terry was part of a scheme to sell the James Brown assets for \$100 Million; create an IPO; and pay options or a "kickback" to former PR/Trustees Cannon and Dallas.
- h. Wingate's Witness List names as a witness for AG McMaster Cannon, indicted in 2010 for felonies against Brown for every year from 1999 - 2006 and a 2008 forgery, now awaiting trial.
- i. Wingate's Witness List names as a witness for AG McMaster Albert Dallas, found by the Court to have committed fraud under Probate Code §62-1-106 in James Brown cases, and who is being sued by the Estate/2000 Trust for secretly misappropriating more than \$12 Million from James Brown.
- j. Wingate – 14 months after filing suit has apparently failed to pay disclosed experts Hobbs and Provence. See AG's standard Retention Agreement.
- k. Wingate - lacking experience in the James Brown cases – has made misrepresentations to this Court, including about the status of other cases in a proposed order which the Court in this case signed.¹²

15. I am informed and believe that, like other Retention Agreements, the Wingate Agreement is a public record.

16. In my more than 30 years as an attorney for litigants in trust and estate matters, I have never known an AG to be a co-Plaintiff using joint private counsel in a tort suit for money damages against a South Carolina citizen.

17. Although I have been involved in a number of matters in which the AG was involved, I do not recall any time when – as here – the AG is party to a case but the AG (or an associate) is not counsel of record for the AG only.

¹² See Order Denying Motion to Dismiss, proposed by Wingate, in which the Court found that four Aiken County cases were no longer pending when all were active.

pitted against the AG's office with its \$7 Million annual budget – stated:

AstraZeneca seeks to ensure that itself, or any other major corporation engaging in widespread unfair and deceptive conduct, maintains such a massive advantage in resources that this [AG Wilson's] Attorney General's Office – and others around the country – are simply without resources to effectively enforce their state statutes.

27. I attended a hearing in July 2011 on the AG's motion to dismiss AZ's case challenging private counsel and heard AG Jones speak of the unfairness of giant entities such as AZ attempting to intimidate relatively small ones like the AG's office.

28. In this case against Bob and me, AG McMaster's office is the giant.

29. I am informed and believe that if the Court requires the Wingate Retention Agreement(s) and other requested documents to be delivered before the injunction hearing, it will help the parties and Court address the following essential questions related to the injunction request:

1. Is Bauknight's assertion that he speaks on behalf of AG McMaster legal?
2. Did all Private Plaintiffs sign the Retention Agreement (as is required for a contingent fee), and did they cede control to the AG so that the State would not trample on our Constitutional rights as citizens?
2. Is any public policy articulated for the State/AG joining Private Plaintiffs in this tort suit for money damages against us?
3. Is any Public Policy violated or served by AG McMaster's sharing a single private law firm and attorney-client privilege with Private Plaintiffs?
4. Did AG McMaster violate his own policy and/or the Retention Agreement by not maintaining control over the litigation and signing the complaint?
5. What does the Retention Agreement provide if Private Plaintiffs/Bauknight become targets of securities, tax or fraud investigations and their witnesses are under indictment or investigation in South Carolina?
6. How are the funds recovered from Bob and me, if any, shared?

EXHIBIT C

NEXSEN|PRUET

J. David Black
Member
Admitted in SC

JACKIE S. BOWERS
CLERK OF COURT

2011 AUG -3 P 5:08

FILED
NEWBERRY COUNTY

July 15, 2011

VIA US MAIL

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

Re: Request for Documents under the South Carolina Freedom of
Information Act

Dear Ms. Pope,

I am writing you in reference to your June 30, 2011 South Carolina Freedom of Information Act (FOIA) request for "The final and all drafts, signed and unsigned, of the James Brown Legacy Trust" (James Brown Trust).

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

Raleigh

As you are aware, for FOIA purposes, the James Brown Trust is not a public body as defined in the South Carolina FOIA Statute. See S.C. Code Ann. § 33-40-20(a). Accordingly, your request for public records is improper.

Furthermore, even in the event that such request were proper, the documents that you have requested are exempt from FOIA pursuant to S.C. Code Ann. § 30-4-40(a)(7) as the FOIA request calls for the production of Attorney Work Product and Attorney Client Privileged Materials related to ongoing litigation.

Please be advised that FOIA is not intended as a substitute for discovery and was not intended to provide procedures for obtaining information during litigation or to benefit private litigants. *Lominack v. Myers*, 2002-CP32-1890 (Order of Judge Westbrook, 11th Jud. Cir., 2002) (citing *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 144 n.10 (1975); *U.S. v. Murdock*, 548 F.2d 599, 602 (5th Cir. 1977); *Fruehauf Corp. v. Thornton*, 507 F.2d 1253, 1255 (6th Cir. 1974)).

In the event that you continue to file unnecessary discovery and/or FOIA requests, please be advised that the Trust and Estate will have no other choice than to file an action against you for abuse of process and sanctions.

1230 Main Street
Suite 700 (29201)
PO Drawer 2428
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2072
F 803.727.1409
E DBlack@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF NEWBERRY	)	
Adele J. Pope,	)	C/A No. 11-CP-36-364
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO DISMISS UNDER RULE 12(b)
	)	BY DEFENDANT JAMES BROWN LEGACY
Alan Wilson, in his capacity as	)	TRUST, BY RUSSELL L. BAUKNIGHT, ITS
Attorney General of South Carolina,	)	TRUSTEE
and James Brown Legacy Trust, by	)	
Russell L. Bauknight, its Trustee,	)	
	)	
Defendant.	)	
	)	

TO: ADAM T. SILVERNAIL, ESQ., ATTORNEY FOR PLAINTIFF:

The Defendant James Brown Legacy Trust, by Russell L. Bauknight, its Trustee, by and through its undersigned attorney, gives notice and does hereby move under Rule 12 of the S. C. Rules of Civil Procedure for dismissal of the above-captioned action.

The grounds for such motion are as follows:

1. Dismissal under Rule 12(b)(3) should be granted, as venue is improper in that, in related litigation the Honorable Casey Manning has already determined that venue should be in Richland County because it is the principal place of administration for the trusts at issue in that case which are also the subject of the instant suit. *Bauknight, etc., McMaster in his capacity as Attorney General, etc., et al., v. Pope and Buchanan*, 2010-CP-40-4900, November 8, 2010. Venue should be in Richland County.

2. Dismissal is also requested under Rule 12(b)(6).

3. Another action is pending among the same parties as to the same or substantially the same claim under Rule 12(b)(8).

301

Exhibit B-2

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

IN THE COURT OF COMMON PLEAS

ADELE POPE,
plaintiff,

C.A. No
11-CP-36-379

-v-

ORDER

ALAN WILSON, *in his*
capacity as Attorney
General,
defendant.

THIS MATTER ORIGINALLY CAME BEFORE THE COURT for a hearing on October 26, 2011. Plaintiff moves this Court for summary judgment on her claim that she is entitled to the production of certain documents from the Defendant Attorney General under the State of South Carolina's Freedom of Information Act (hereinafter "FOIA"), S.C. Code Ann. § 30-4-10 *et seq.* Defendant opposes Plaintiff's motion and moves to dismiss the Plaintiff's complaint and to strike the attached affidavits. I find as follows:

I. Facts of the Case.

Although not directly arising out of pending litigation, this matter is otherwise closely related to litigation already pending in Richland County¹. See *Bauknight v. Pope*, 2010-CP-40-04900 (Richland 2010) (hereinafter "fiduciary litigation"). The fiduciary litigation arises out of the Plaintiff's fiduciary responsibilities in relation to the James Brown Legacy Trust. Furthermore, the fiduciary litigation is presently stayed pursuant to an oral order by the

¹ The defendant in this action is one of several plaintiffs in that action, wherein the plaintiff in this action is one of several defendants.

302

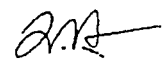
¹ 

Exhibit C-1

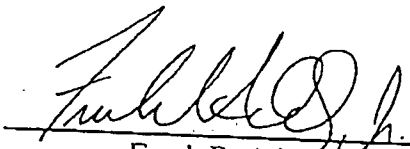
Partnership, 334 S.C. 96, 119-20, 512 S.E.2d 510, 522 (Ct. App. 1998) ("Under Rule 42(a), a trial judge may order the consolidation of actions involving a common question of law or fact.").

IV. Conclusion.

It is the Order of the Court that:

1. The Defendant in this matter will answer Plaintiff's complaint;
2. At the conclusion of the pleadings phase of this case, this matter will be consolidated with *Bauknight v. Pope*, 2010-CP-40-04900 (Richland 2010);
3. Any motions and issues hereafter outstanding, including an oral motion to intervene by an arguably interested party, will thereby be taken up by Richland County Court; and
4. Any claim to attorney's fees, as permitted under the South Carolina Freedom of Information Act, will be preserved for resolution by the Richland County Court.

IT IS SO ORDERED.


Frank R. Addy, Jr.
Eighth Judicial Circuit

November 22, 2011
Greenwood, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Forlando J. Brown,) Civil Action No.: 3:08-cv-00014-WOB
)
Plaintiff,)
)
vs.)
)
Adele J. Pope, individually and As Trustee of)
the Irrevocable Trust established by James)
Brown in August 1, 2000, and)
)
Robert L. Buchanan, Jr., individually and As)
Trustee of the Irrevocable Trust established)
by James Brown in August 1, 2000,)
Defendants.)
)

AMENDED COUNTERCLAIMS OF ROBERT L. BUCHANAN, JR., INDIVIDUALLY

Defendant Robert L. Buchanan, Jr., pursuant to the Order of the Honorable William O. Bertelsman dated April 19, 2012 dismissing the complaint of Plaintiff herein and granting defendant Buchanan leave to amend his counterclaims against Forlando J. Brown, would respectfully allege as follows:

INTRODUCTION

1. Plaintiff Forlando J. Brown is a grandson of entertainment icon James Brown and the son of Terry Brown.
2. The Irrevocable Trust which is the subject of this action was established in Aiken County, South Carolina by James Brown on August 1, 2000, to pay for the education of certain of his grandchildren under 35 years of age and to pay for the education of underprivileged and deserving students who attend educational institutions in Georgia and South Carolina. Its situs is now Richland County, South Carolina.

3. Defendant/Counterclaimant Adele J. Pope and Robert L. Buchanan, Jr. (“Buchanan”) served as Trustees of the Irrevocable Trust from November 20, 2007 until May 26, 2009, when they were replaced as James Brown’s fiduciaries, without showing or existence of cause, as part of a settlement which destroyed the noble Estate Plan of James Brown to leave his entire music empire to what should have been South Carolina’s largest-ever private foundation dedicated solely to the education of needy students.

4. For more than five years, while purporting to be an impoverished student desiring only to ensure the wishes and intent of his grandfather as set out in the Irrevocable Trust, Plaintiff, acting with Terry Brown and others, has intentionally used and defrauded this Honorable Court and the State Courts to damage Adele J. Pope and Buchanan and to obtain the assets of the Irrevocable Trust for himself, Terry Brown and their joint venturers. All of these facts, and those set forth in greater detail below, mandate that Plaintiff Forlando Brown be liable to Buchanan for actual and punitive damages and that the Irrevocable Trust pay all of Buchanan’s fees and costs in this action, including reasonable attorneys’ fees, to be equitably charged against the share of the Irrevocable Trust created for Plaintiff, in accordance with the terms of the Irrevocable Trust and the S.C. Trust Code.

JURISDICTION AND VENUE

5. This Counterclaim alleges acts by the Plaintiff that are within and under the jurisdiction of the Court and which took place within the District of South Carolina.

6. Jurisdiction is appropriate under 28 U.S.C. § 1332 (diversity) in that this action constitutes a dispute between “citizens of different states.”

7. Venue is appropriate under 28 U.S.C. § 1391(b) (1) (as a judicial district where any defendant resides) and 28 U.S.C. § 1391(b) (2) (as a judicial district in which a substantial

Brown's music empire and the music industry, and an offer made to the Trustees in October 2007.

14. The trust James Brown placed in his original Trustees Cannon, Dallas and Bradley when he named them Trustees of the Irrevocable Trust was misplaced.

15. Between 1999 and 2007 Cannon secretly took more than \$12 Million of Brown's assets and those of the Irrevocable Trust, while Dallas and Bradley failed to properly manage the Irrevocable Trust and prevent, stop or expose Cannon's takings.

16. On the same day that James Brown executed the Irrevocable Trust Agreement, August 1, 2000, James Brown as Director and CEO of James Brown Enterprises, Inc. ("JBE, Inc."), his wholly-owned corporation, along with the other directors of JBE, Inc., signed a corporate resolution, authorizing James Brown individually and as CEO to transfer his shares and ownership interest in JBE, Inc. to the Irrevocable Trust.

17. The Trustees received JBE, Inc. as an asset of the Irrevocable Trust, but in 2007, believing they could avoid removal as Trustees by complying with the request of Brown's companion Tommie Rae Hynie, falsely asserted that JBE, Inc. was never part of the Irrevocable Trust.

18. Plaintiff, with knowledge as defined the S.C. Trust Code that the stipulation was false, supported it, on information and belief, to support his joint venturers.

The Competing Plans of Family and the Cannon Group to Strip Away and Take Assets of the Estate and Irrevocable Trust for Themselves.

19. As Brown's health declined in the fall of 2006, the Cannon group Trustees formed a plan to abandon the mission of the Irrevocable Trust by selling the assets; paying themselves exorbitant commissions for the sale; and, in addition, collecting options or a "kickback" from the purchasers. Cannon planned to retire to Roatan Island, Honduras, where, on information and belief, he had already invested funds he took from James Brown.



ALAN WILSON
ATTORNEY GENERAL

June 13, 2014

The Honorable Eugene C. Griffith, Jr., Esquire
Judge, Eighth Judicial Circuit
P.O. Box 375
Newberry, SC 29108

Re: Summer v. Wilson 2012-CP-36-00688
Response to Plaintiff's letter of June 12, 2014

Dear Judge Griffith:

I am sorry to be sending you yet another document in this case, but I cannot let Plaintiff's counsel's letter of yesterday go unanswered when he alleges a "false" response and engages in further speculation. His accusations of falsehood are wrong and are not supported by his letter or the facts.

Regarding the Legacy Trust, we have stated that no signed Legacy Trust exists. The *Wilson v. Dallas*, Supreme Court quotation does not state differently. It refers to an agreement to a trust called the "Legacy Trust", but it does not state that such a Trust was the subject of a signed agreement. It is not. Significantly, as previously noted, the *Wilson* Record contains drafts for the Trust but not a signed trust.

Regarding the appraisal, we have stated that we have not seen an appraisal. Instead, Plaintiff speculates that "[i]t can certainly be inferred" that the Attorney General reviewed / used this appraisal. Speculation cannot change the fact that we have not seen that document.

One of the problems with the Plaintiff's position is that she is, in effect, trying to engage in discovery by final order. Whether discovery would be appropriate in a FOIA action, including this one is not conceded and need not be decided because Plaintiff has never even attempted discovery. Instead, she is, in effect, trying to direct discovery by final order which is not appropriate.

Plaintiff has moved for summary judgment which requires that no genuine material issue of fact exists. Rule 56, SCRPC. Instead of making such a showing, she is constantly raising fact issues including inappropriately filing another affidavit last week when the parties were supposed to be addressing proposed orders. Therefore, Plaintiff has stepped well outside the parameters of Rule 56, and in no way is she entitled to summary judgment.



ALAN WILSON
ATTORNEY GENERAL

May 23, 2014

The Honorable Eugene C. Griffith, Jr., Esquire
Judge, Eighth Judicial Circuit
P.O. Box 375
Newberry, SC 29108

Re: Summer v. Wilson 2012-CP-36-00688

Dear Judge Griffith:

In response to the proposed order of Plaintiff, I submit the enclosed revised proposed order. Most changes are on pages 4 – 6, but other edits are elsewhere in the document. I also have the following comments which are consistent with the revised order.

1. Plaintiff appears to be seeking a copy of what she has already produced to this Court. The three page Wingate / Bauknight agreement was properly withheld because it was the subject of a Motion for Protective Order and under review by the Richland County Court of Common Pleas. Bauknight. v. Pope case 2010-40-CP-4900. As noted in the proposed order, Plaintiff later obtained that document when it was declared public by a different Court, and sent it to this Court. Letter of Defense Counsel to Court, November 27, 2013 (copy attached). The Defendant Attorney General has not failed to comply with FOIA by not giving Plaintiff a copy of a document that she already has and that is still under review by the Richland County Court of Common Pleas. Nothing in FOIA requires that duplicate production be made under such circumstances.
2. Plaintiff appears to request documents that are in the possession of the Wingate firm. This request is beyond the scope of Plaintiff's FOIAs, none of which request documents in the possession of persons believed to be counsel for the Attorney General. Moreover, the Attorney General did not have any fee agreement or contract with the Wingate firm, and would not be required to produce these documents even if they, *arguendo*, were the subject of Plaintiff's FOIAs. Therefore, this request should be denied.
3. Plaintiff requests the following additional relief as to the Attorney General in a proposed order:



SWEENEY WINGATE & BARROW P.A.

May 20, 2014

Reply to: Main Office

Mark V. Gende
(803) 256-2233 x7121
mvg@swblaw.com

VIA E-MAIL: egriffithlc@sccourts.org and U.S. Mail

The Honorable Eugene C. Griffith, Jr.
Post Office Box 375
1226 College Street
Newberry, SC 29108

RE: Susan D. Summer V. Alan Wilson, In His Capacity as Attorney General of SC
Civil Action No.: 2012-CP-36-00688
Our File: 4077-7389.001

Dear Judge Griffith:

Please accept this correspondence as the Proposed Intervener's response to the proposed order submitted by counsel for Mrs. Susan D. Summer. Mrs. Summer's proposed order contains the following serious deficiencies and should be disregarded by the Court.

First, the proposed order misrepresents the contents of the South Carolina Supreme Court's opinion in Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013). Mrs. Summer's proposed Order incorrectly cites as controlling authority footnote 29 in the first iteration of Wilson v. Dallas, 2013 WL697042, February 27, 2013 (No. 27227), but does not mention the first opinion was purposefully expunged and replaced with a second iteration that deletes footnote 29. In fact the Westlaw reference cited by the Mrs. Summer's proposed order brings up a statement that Opinion Number 27227 has been withdrawn. Therefore, footnote 29 from that opinion is a nullity. The failure of Mrs. Summer's proposed order to inform this Court that a citation upon which it relies no longer has any legal authority is improper. Reliance on former footnote 29 in any way would be clear error.

Second, Mrs. Summer's proposed order ignores the clear language of the Freedom of Information Act (FOIA). In particular, the order neither discusses nor cites exceptions in FOIA relating to the production of certain documents. See S.C. Code Ann. § 30-4-40 (listing exceptions to disclosure including privileged documents, attorney correspondence and work product, and any other material that would violate attorney-client relationships). At best Mrs. Summer's proposed order is an incomplete legal analysis and, as such, is not appropriate for an order of the court in this matter.

Exhibit E- 2

309

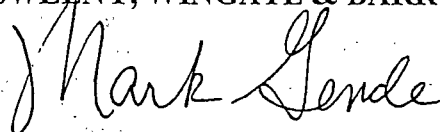
Her Affidavit is also inaccurate by omission. She states that the Proposed Intervener, among others, have asked the court in Case 4900 to "hold no hearings on the FOIA suits commenced in 2011 (or to hold hearings on the pending discovery Motions which were filed in 2010) until all James Brown matters are concluded in Aiken County." Mrs. Summer's intent appears to be to accuse the Case 4900 Plaintiffs of intentional delay of FOIA requests. The misleading nature of this quote is revealed by her significant omission of the basis for the cited request.

A stay has been requested in Case 4900, and consolidated matters, because the Supreme Court's Order in Wilson v. Dallas created conflicts among the group of Plaintiffs pursuing Case 4900. These judicially created conflicts cannot be resolved until the Aiken County will contest cases, revived by Wilson v. Dallas, are decided. The Case 4900 Plaintiffs have requested a stay because the judicially created conflicts prevent counsel from representing the Plaintiffs as a group at this time. It seems reasonable to assume from her reporting that Mrs. Summer is aware of the Case 4900 Plaintiffs' position. If she is so informed, then for her to present the requests for a stay as a delaying tactic is inaccurate and misleading and should not be included in any order. If she is not aware of the Case 4900 Plaintiffs' position, she is not competent to file an affidavit on the topic. In either case, the Proposed Intervener asks the affidavit be stricken.

The seriousness of the above-listed deficiencies render the Plaintiff's proposed order useless to this Court. The Proposed Intervener commends to the Court either of its proposed orders concerning mootness or consolidation and would also agree that the Attorney General's proposed order is acceptable as written.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.


Mark V. Gende

MVG/ljm

cc: Jay Bender, Esquire, Baker, Ravenel & Bender, LLP
J. Emory Smith, Jr., Esquire
Thomas H. Pope III, Pope & Hudgens, P.A.

Trust.

B. Mr. Bauknight's Independence

In addition, Mr. Bauknight's actions demonstrate that he has always acted independent of any influence from the Attorney General. A telling illustration of his independence from the Attorney General is the Cannon restitution issue. For reasons inexplicable, the Attorney General did not seek restitution at the Cannon plea hearing.

After Mr. Bauknight learned that the Attorney General made no recommendation regarding restitution, he immediately challenged the Attorney General's decision.

(Bauknight Affidavit ¶10). He did so because it was in the best interest of the Estate and Trust. Based on Mr. Bauknight's actions, on September 26, 2012 the Honorable George C. James, Jr. ordered that a restitution hearing occur in the Cannon case. (Bauknight Affidavit ¶11). Mr. Bauknight will present evidence at that hearing that restitution is appropriate.² (Bauknight Affidavit ¶11).

II. IF THE REMOVAL LANGUAGE IS NOT DELETED, REMAND IS NOT ONLY THE FAIR THING TO DO, IT IS REQUIRED BY STATUTE

Not only is Mr. Bauknight an independent fiduciary serving as the Personal Representative and Trustee of the Estate and Trust, his continued service is critical to the continued financial well-being of the Estate and Trust. He respectfully requests, at the very least, that this Court remand this matter to the circuit court, with instructions to conduct a hearing and then determine whether he should continue to serve as the Personal Representative and Trustee. Mr. Bauknight has never been given an opportunity before the circuit court or this Court to address the central and critical issue of the propriety of

² Furthermore, in light of this Court's opinion, Mr. Bauknight has requested that the Attorney General redefine its party status in the 4900 litigation as a beneficiary to alleviate any perception that the Estate and Trust is controlled by the Attorney General.

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

November 6, 2013

The Honorable Alan Wilson
South Carolina Attorney General
John W. McIntosh, Esquire
Robert D. Cook, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549

Re: Request for Meeting Re: James Brown "I Feel Good" Trust
Cannon Restitution Hearing

Dear Attorney General Wilson, John, Bob:

I write, again, to request that John reconsider his decision not to meet. I believe that the David Cannon Restitution hearing scheduled for the 25th has serious implication in the effort to save the \$100 million gift James Brown gave to the "I Feel Good" Foundation.

The Governor's staff has spoken to Daryl Brown about the Cannon matter. Yesterday John met over lunch with Sherri Lydon and Johnny Gasser. I respectfully ask that you meet with me.

I was the only person who filed a Victim's Statement on behalf of the needy students with Mr. McNair prior to the original Cannon plea hearing. I asked Mr. McNair to allow me to speak or present my Statement to the Court. He did not.

As a result of the *Wilson v. Dallas* decision and subsequent events, including Mr. Cannon's withdrawal of his \$5 million claim, I would like an opportunity to present my position to the Attorney General and to the Court at the hearing.

I learned of the scheduled Cannon Restitution hearing just after returning from two weeks in Kosovo where my husband was a volunteer visiting professor at Ilyria University. Seeing how that young Country is struggling to adopt and respect the Rule of Law enforces my belief that we must all remember how important it is in America.

From 2010 to 2013 Mr. Cannon, while under indictment and awaiting sentencing – despite his prior actions – was used to try to bolster a settlement the Supreme Court has declared void. That should be put behind, and Mr. Cannon treated fairly.

Ltr. to Attorney General Wilson and others
November 6, 2013
Page 3

now-void settlement were misguided. The *Wilson v. Dallas* Decision has, however, undone most of the damage.

8. Restitution in this criminal case should be limited to return of the Roatan Mansion and the interest in Geronimo – both acquired during the relevant period.

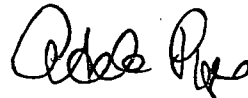
9. Restitution, if any, should be directly to The James Brown "I Feel Good" Trust, the victim.

10. The Court should make a finding that Mr. Cannon's voluntary and permanent resignation from any fiduciary position with respect to the Estate, the 2000 Trust and Brown Entities and withdrawal of his commission claim, have neutralized the threat of any future harm.

11. The almost-7-year-old Cannon civil case should be, and has been, handled separately by Messrs. Few & Gilreath.

Thank you for your consideration.

Sincerely,



Adele J. Pope

Enclosure: Ltr. to Mr. Bauknight (10/16/23)
cc: Sherri A. Lydon, Esquire
Jonathan S. Gasser, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN RE:

THE ESTATE OF JAMES BROWN A/K/A
JAMES JOSEPH BROWN

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT
)

) Case No.: 2007-CP-02-0122

) Case No. 2007-ES-0200056
)

) RETURN TO
) MOTION/MEMORANDUM OF
) DEANNA BROWN THOMAS, YAMMA
) BROWN AND VENISHA BROWN
)
)

Having been served as an Interested Person, which she is, by the above-named parties ("Movants"), Adele J. Pope files this Return and Response to the Request of Michael Deon Brown to be determined an heir of James Brown under State and Federal Law ("Heir") and to the opposing Response and Memorandum of Movants mailed October 22, 2013. Pope respectfully submits the Court should find:

1. Movants have confirmed through their counsel Marc Toberoff, Esq., that James Brown died on December 25, 2006 with no surviving spouse.
2. Movants have agreed that James B. is not presumed to be an Heir.
3. The Supreme Court voided Russell Bauknight's appointments, in part, to free the Estate/2000 Trust from Bauknight's incorrect and unsupported claims that Brown's companion and her son control the termination rights related to Brown's Royalties to more than 800 songs under the Federal Copyright Act (the "Termination Rights").
4. Termination Rights will matter to the "I Feel Good" Trust for 4 - 7 decades.
5. It is in the best interest of Estate and the "I Feel Good" Private Foundation to proceed with an Heirs (at death) determination unless, on pending motions of the Estate/2000 Trust filed in 2008 and 2009 all of the following occur:

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	Case No. 2007-ES-02-00057
COUNTY OF AIKEN	)	
	)	Motion to Reconsider, Vacate, Set
	)	Aside, Alter or Amend Order
Adele J. Pope, Individually, as	)	Appointing David C. Sojourner, Jr.
Proposed Guardian <i>ad Litem</i> , and	)	Special Administrator
on Behalf of Others Under S.C.	)	
Trust Code Section 62-7-405	)	
	)	
IN RE: THE ESTATE OF	)	
JAMES BROWN	)	
<u>a/k/a JAMES JOSEPH BROWN</u>	)	

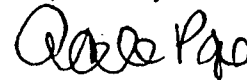
TO: DAVID C. SOJOURNER, JR., ESQUIRE, RUSSELL L. BAUKNIGHT AND HIS COUNSEL

YOU WILL PLEASE TAKE NOTICE that ten days after service hereof, or as soon thereafter as she may be heard, Adele J. Pope , Individually; as proposed *pro bono publico* Guardian *ad litem* for incarcerated Michael Brown and others ; as an Other and on behalf of all Others seeking to enforce The James Brown "I Feel Good" Trust; and as an Interested Person and Creditor with a Counterclaim for offset as to Russell L. Bauknight as Agent for Tommie Rae Hynie, James B., Terry/Forlando Brown and others as to their interests in the Estate and/or James Brown 2000 Irrevocable Trust ("Pope"), will move ten days after service hereof, or as soon thereafter as she may be heard, before the Honorable Sue H. Roe, Probate Judge ("Judge Roe") , at the Aiken County Courthouse located at 109 Park Avenue S.E., Aiken, South Carolina, pursuant to Rule 59(a) (b) and (e) and 60(a)(b) SCRCP, for an order voiding, vacating, setting aside, altering and/or amending the Order of Judge Roe Appointing David C.

added to and named in the caption, with others, in Case 872/1647.

4. Confirm Jeanette, La Rhonda and Nicole as Heirs of James Brown because they are DNA proven and were acknowledged by the Estate and 2000 Trust in 2007.
5. Direct that James B., Tonya and James Curtis (after being served with a proper Summons and Complaint) be dismissed as parties unless they forthwith undergo DNA testing under the Peebles DNA Protocol.
6. Hold that Daryl's and Venisha's presumption as Heirs rests on their immediate withdraw of all challenges to the 2000 Will which conferred Heir status, or take and pass the Peebles DNA Protocol.
7. Require Movants whose claims are not summarily dismissed to join; name as parties in the caption; and serve with the Summons and Complaint all Heirs and claimed Heirs seeking the Peebles DNA Protocol; their children; and others as stated, before this matter is heard.
8. Acknowledge that it is the duty of fiduciaries of the Will/2000 Trust to require Movants, Hynie and others to comply with the law and rules as relates to Summons, Complaint and proper caption and joinder and service of all Interested Parties before their matters proceed.
9. Deny Movants' request and grant the other relief requested herein.

Respectfully submitted,



Adele J. Pope

Pro Se

1228 Walnut Street

Newberry, South Carolina 29108

803-413-0753

adele @popelawfirm.com

November 11, 2013

5 I filed a petition.

6 I'm not seeking the position myself. Anybody thinks I
7 want to stay on is dead wrong. I do have a deep interest
8 in this. And I know several people who are interested.

9 And as Your Honor knows, there was an advisory board in
10 place and the mandate from Wilson versus Dallas says do it
11 in accordance with the documents.

12 THE COURT: I understand.

13 MS. POPE: And we have not even gathered together that
14 distinguished advisory board to ask them who they would
15 like to serve as the fiduciary.

16 THE COURT: Thank you. Anything else?

17 MS. POPE: There are lots of people without notice.

18 MR. BELL: May I be heard briefly, Your Honor?

19 THE COURT: You may. You've got a situation. I don't
20 know. They're claiming that you have not been admitted in
21 some of these cases, so...

22 MR. BELL: Your Honor, I have been admitted in the
23 ones that were originally pending in front of the case
24 (verbatim), and the one currently that was -- Mr. Bodman
25 filed a motion to have me admitted in the number that is

47

1 currently -- in which everything is consolidated.

2 THE COURT: 1647.

3 MR. BELL: Yes, sir.

4 MS. POPE: He's never been admitted in 1647. That's
5 wrong, Your Honor. He was admitted in 122 and 872. He
6 never even applied in 1647 even though he argued in that
7 case from January until May.

8 THE COURT: Thank you.

9 MS. POPE: He has not been admitted in that case.

16 appoint someone here to litigate three claims in Aiken
17 County, I don't know what happens in Richland County, I
18 don't know whether Judge Manning is going to put it on
19 hold until all of this is done. I don't know what he's
20 going to do. I just don't feel comfortable in discussing
21 the case with him.

22 MS. POPE: If I could just make one more comment?

23 THE COURT: Absolutely.

24 MS. POPE: You cannot possibly comply with the Wilson
25 versus mandate -- Dallas mandate without completing Case

43

1 4900.

2 THE COURT: who can't comply with --

3 MS. POPE: Your Honor. You cannot possibly comply
4 with that mandate without the completion of Case 4900.

5 THE COURT: well, 4900 -- was the 4900 case mentioned
6 in Wilson versus --

7 MR. ROSEN: Just for your information, Judge --

8 MS. POPE: Yes, yes.

9 MR. ROSEN: -- of course, we disagree with everything

10 Ms. Pope says. It goes without saying.

11 THE COURT: well, you know, I understand her concerns
12 and I appreciate her concerns. And she has been here
13 since day one and I appreciate all that she's done.

14 But I've got my direction, I feel like, from the
15 Supreme Court. And without beating a dead horse, my
16 direction is this: To conclude the litigation involving
17 the contest against the will, i.e., undue influence, et
18 cetera, your claim and your claim, Shahid, Rosen.

19 And I'm going to do that. And I'm not sure how it's
20 going to play into what's going on in Columbia. The

25 Carolina, Second Circuit-At Large, do hereby certify that

51

1 the foregoing proceedings were written stenographically by
2 me to the best of my skill and ability using computer-
3 aided translation; further, that the foregoing is a true,
4 accurate and complete record of all the proceedings had
5 and evidence introduced in the hearing of the captioned
6 case, relative to appeal, in the Court of Common Pleas for
7 Aiken County, on the 9th day of July, 2013.

8 I do further certify that I am neither of kin,
9 counsel, nor interest to any party hereto.

10 I have hereunder set my hand this 14th day of
11 September, 2013.

12

13

14

Cheri L. Young, RPR
Official Court Reporter

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STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUN 13 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

S.C. Supreme Court

The Honorable Doyet A. Early, III Circuit Court Judge

Case No. 2013-002582 (Order, S.C. Ct. App., filed May 22, 2004)

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

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

RECEIVED

JUN 13 2014

SC Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
S.C. Bar #4501

Petitioner, *pro se*

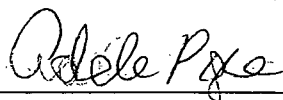
Exhibit H-1

INDEX

Certificate of Counsel	1
Questions Presented	2
Introduction	2
Statement of the Case	4
Statement of the Facts	6
Argument	15
I. Dismissal of the appeal should be reversed because the Bauknight Appointment Order is final and appealable; Petitioner is aggrieved; and Petitioner has standing to appeal.	15
II. Bauknight's irreconcilable conflicts, including serving as agent for Tommie Rae, preclude his serving as PR or Trustee..	20
III. The Court's appointment of one PR/Trustee violates <i>Wilson v. Dallas</i>	21
Conclusion	24

CERTIFICATE OF COUNSEL

Petitioner certifies that the Petition for Rehearing was made and finally ruled upon by the Court of Appeals on May 22, 2014.



Adele J. Pope

June 13, 2014

**Private Foundations, Copyright Heirs and Musical Millionaires:
or
Why The James Brown "I Feel Good" Trust doesn't...**

By Adele J. Pope and W. Jeffrey Smith¹

©²
2011

God has Smiled on Me³

Entertainment icon James Brown died on Christmas Day 2006. Although he was a grammar school dropout, he left the bulk of his \$100 million music empire to The James Brown "I Feel Good" private foundation. The "I Feel Good" Trust was restricted solely to providing scholarships for needy and deserving students.

Over his long career, Brown had earned the reputation as "the hardest working man in show business." Through hard work, tenacity—and years of litigation with publishers, family and others—he had amassed and held onto his fortune, mostly rights in more than 850 copyrights, unpublished works and his publicity rights.

Don't Be a Dropout

About 20 years before his death, Brown decided to create the "I Feel Good" Trust as a monument to his personal philosophy: the way to escape poverty was with education and hard work. Brown's songs such as "Don't be a dropout" underscored this belief.

After four years of work with an estate planning specialist, Brown's final estate plan was completed in 2000. It included a Will that left Brown's residuary estate to his 2000 Irrevocable Trust, which was dedicated solely to education. At Brown's death the 2000 Trust created a \$285,000 education fund for each of seven grandchildren. Everything else went to the "I Feel Good" Trust.

Anticipating trouble from relatives who knew about Brown's estate plan but did

¹ Ms. Pope received a JD degree from the University of South Carolina and an LLM in Estate Planning from the University of Miami. Mr. Smith received a JD degree from Georgetown Law Center and is a former patent examiner with the U. S. Patent Office.

² While the © symbol is not required, it was placed in this article to remind estate planners, fiduciaries and advisors to consider copyrights in all philanthropic estate planning and administration involving authors.

³ The copyright to "God has smiled on me" by James Brown and Al Sharpton was issued in 1981. The earliest date this copyright could be terminated by heirs under the Copyright Act is 2016.

not complain during his lifetime, Brown directed his fiduciaries to defend "vigorously" all attacks on the approximately \$80 million he gave to the "I Feel Good" Foundation as "an affront to my wishes." He armed his fiduciaries with *In Terrorem* forfeiture clauses and other means to defend the 2000 Trust.

Brown also named and then specifically excluded from his music empire some of his 14 or more claimed children, as he did all other claimed heirs and past and future spouses.

Damn Right, I'm Somebody⁴

At Brown's death his philanthropic legacy was poised to be as impressive as his musical legacy. The \$80 million "I Feel Good" Foundation promised to be his home state's largest-ever private foundation dedicated solely to scholarships for needy and deserving students, as well as one of its largest private foundations.

Then in the fall of 2007 an attorney general with gubernatorial aspirations stepped in to "help" the "I Feel Good" Trust.⁵

Bewildered

Three months later, in February 2008, the AG announced before a television camera that the trustees of the "I Feel Good" Foundation must serve only the interest of the "poor kids," and that any failure to do so went "far past the stop sign of conflict of interest."⁶

He was right about that, but sadly, he did not heed his own advice.

On August 10 of the same year, a mere six months later, the AG signed an agreement that in only two years would destroy the "I Feel Good" Foundation – reducing it to \$2 million or less.

Much of the explanation for this bewildering turn of events lies in the failure of

⁴ The Copyright to sound recording "Damn right, I'm somebody," by James Brown and his famous sideman Fred Wesley, was issued in 1974 and renewed in 2002. The earliest possible date it could be subject to termination under the Copyright Act is 2030.

⁵ AG Henry D. McMaster, with the AG of Georgia *pro hac vice* under him, entered Aiken County, SC Case 2007-CP-02-0122 ("Case 122") in October 2007 to help protect the interest of the "I Feel Good" Foundation's charitable beneficiaries.

⁶ WIS TV interview, 2/7/08. Henry D. McMaster. McMaster's conclusion that Brown's then-fiduciaries were simultaneously working for the family and the "poor kids" was incorrect. At the time, Brown's fiduciaries were actively seeking dismissal of newly filed – and unfounded – challenges to Brown's 2000 Trust and Will; claims of Brown's companion; and other claims. [See Ans. Interrogs. Pls., Case 4900; See Mot. Dismiss, TRHB's filing, Case 122.]

the AG's staff, and later the AG's appointee, to understand and apply basic principles necessary for a private foundation to protect its copyright interests, namely:

1. A precipitous and incorrect determination of heirs can cause decades of damage to the copyright interests, resulting in loss and unnecessary litigation.
2. Fiduciaries and advisors to private foundations with copyrights cannot simultaneously serve the interests of the foundation and claimed heirs.

Brown's interest in 850+ copyrights and unpublished songs made these errors fatal to the "I Feel Good" Foundation.

Termination Rights under the Copyright Act -(Give it Up) Turn it Alose⁷

Termination rights under Section 203 and 304 of the Copyright Act are designed to help authors who assigned the rights to their creative works before these works were tested in the marketplace: authors are given a chance to take back *some* of the interests they gave up. Depending on the date of publication, the earliest opportunity to terminate a copyright (already in its renewal term for older copyrights) comes either 35 or 56 years after the copyright.

In the case of a deceased author *who has not previously exercised his rights*, the author's statutory heirs, as determined at the relevant time, may exercise the author's termination right. [For a good explanation of termination rights and limitations, see "Copyright Reversions, Protecting Your Musical Copyrights" by Lisa Alter, 2008.]

When an author's statutory heirs are not the beneficiaries of copyrights under his estate plan (this is always the case for copyrights held by a private foundation or charity), then the statutory heirs--in limited instances--may be able to "bump" the author's estate plan and retake some of the copyright benefits themselves.⁸

Emerging case law makes it clear that it is not easy to terminate assigned interests in copyrights.

Where, as with James Brown, valuable interests are at stake, private

foundations, advised by *their unconflicted* IP/Entertainment counsel, must dance a delicate dance with publishers, claimed heirs and others. The foundations' primary concern, of course, is to protect and enhance the benefits of each copyright for the longest reasonable time.

⁷ (Give it up) Turn it Alose was published in 1969.

⁸ The term "estate bumping" was coined by Professor Lee-Ford Tritt to describe this phenomenon. See Lee-Ford Tritt, "Liberating Estates from the Constraints of Copyright, 38 Rutgers L.J. 109 (2006)

By omitting his heirs from any interest in his copyrights, Brown made it easier for his fiduciaries to protect them from actual and claimed heirs, because in questions related to Brown's copyrights the fiduciaries' duty of loyalty is only to the 2000 Trust — and not to any heir.

For private foundations to be ready to protect copyright benefits given to them, their fiduciaries and advisors⁹ must take at least take the following basic steps, all of which were in progress for James Brown's estate:

1. Learn the basics about the Settlor's copyright interests, including earliest publication dates and other readily-available facts.
2. Promptly and properly identify the "heirs-at-death"¹⁰ to create a baseline.
3. Where appropriate and available, rely on DNA testing for disputed heirs.
4. Acknowledge heirs only if they are legally established or DNA tested.
5. Identify documents such as the Settlor's will, prenuptial agreements, lawsuit settlements and waivers, which may void, limit or delay an heir's claim to copyright termination rights.
5. Update the baseline heirs data until all copyrights expire.
6. Select IP/Entertainment counsel with no commitment to claimed heirs, publishers or other assignees.

7. As and when helpful, "split heirs"¹¹ to maximize benefits for the foundation.

For James Brown, with copyrights issued over the six decades from 1956 until

⁹ Where, as with James Brown, the AG and his appointee undertook to step into the shoes of Brown's fiduciaries, rendering the fiduciaries unable to protect the charity, they should have had, and applied, the same knowledge required of the Foundation's fiduciaries.

¹⁰ The terms "heirs-at-death" is used by the authors to emphasize the timing difference between a traditional determination of heirs (death) and the statutory heirs under the Copyright Act, who cannot be determined until the window to terminate assignments as to a particular copyright opens. Statutory heirs under the Copyright Act may be different with respect to each copyright termination.

¹¹ The heirs must act by majority. This allows foundations to "split heirs" — finding the most cooperative majority of heirs to work with on termination issues related to a specific copyright assignment at the particular time.

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his death, the earliest any termination could have occurred was 2012. There was adequate time to prepare, and in August 2008 Brown's fiduciaries were doing just that.

James Brown's Copyrights

A 2007 circuit court order made available to the AG and others interested in Brown's estate about 90 boxes of "Brown Historical Documents." These documents contained virtually everything to be known about Brown's copyrights and related contracts. The documents were placed at a central location that allowed easy access to all.¹²

The available documents, with information from the Copyright Office and other readily available sources, showed that if Brown's copyrights were properly protected any attempt by claimed heirs to take them from the "I Feel Good" Trust was both weak and remote in time.¹³

The known facts included:

1. Brown's royalties continued to earn about least \$3 million per year, as they had for years.
2. Brown's publicity rights – about \$50 million of his music empire – were not subject to any claimed termination rights of heirs.
3. Brown's as-yet-unpublished works would not be subject to termination for decades, perhaps not at all.
4. Copyrights to the many derivative works in which Brown has an interest are not subject to termination right of heirs. [More than 50 CDs, with notes, have been released since Brown's death.]
5. Brown's Will leaves all of his copyrights, most of which are held in his individual or joint name, to the 2000 Trust.
6. Brown's fiduciaries were directed to vigorously protect his estate plan against heirs and claimed heirs.
7. Only 15% or fewer of Brown's many copyright interests faced possible

¹² Order dtd. 08/10/07, Aiken County, S.C. Case No. 2007-CP-02-0122. Reflecting Brown's understanding of his place in musical history, in addition to Brown Historical Documents, Brown kept more than 60 boxes of his personal musical collection, unpublished works, and masters under lock and key in the bedroom suite and office of his home estate. In February 2008 these were placed in a secure sound storage facility to await review.

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termination before 2016 -- ten years after Brown's death. [See Compilation, Brown copyrights, 1956 - 60 and 1978 - 81.]

8. Co-authorship of some of Brown's works could make terminations more complex and heirs' rights, if any, less certain. See Geoffrey P. Hull, "Termination Rights and the Real Songwriters", Vanderbilt J. of Ent. Law & Practice, Spring 2005.
9. Brown holds an interest in some of his publishers.
10. Between 1968-1978, one of Brown's most prolific periods, about 250 copyrights were issued, none of which faces possible termination before 2024, with others as late as 2033, including:
 - a. Nearly 40 songs from 1968.
 - b. More than 50 songs from 1969, including "Ain't it funky now," "Mashed potato" and "Popcorn."
 - c. "Funky Drummer," 1970, one of the world's most sampled records; "(Get up) I feel like being a sex machine"; and about 25 other songs.
 - d. "Hot pants", "Soul power" and others from 1971.
 - e. More than 35 copyrights from 1972, including "Get on the Good Foot (with new matter)" and other sound recordings for which copyrights became available that year. [Polydor, Inc. and/or UMG Recordings, Inc. are listed on some post-1971 copyrights]
11. In the 1990s Brown and his company JBE, Inc., reached important agreements with Warner/Chappell, Warner-Tamberlane Publishing Corp. and other publishers.
12. Documents related to Brown's 1999 \$26 million loan from TIAA, secured by a pledge of his major royalties, prohibit assignments until the loan is paid in full -- 5 or more years after Brown's death.
13. Brown settled a 2002 suit over copyrights with daughters Deanna and Yamma.
14. Brown did not file a termination notice for 2016 for the famous 1956 song, "Please, please, please," which he co-authored, although the window for filing a termination notice was open in 2006. Nor did he do so for certain post-1977 copyrights. [This indicates an understanding that the TIAA Debt (at least) prevents the current exercise of termination rights.]

A host of additional impediments existed to prevent any heirs from substantially damaging the "I Feel Good" Foundation's royalty interests. These efforts included motions to dismiss all claims of Brown's companion as invalid, a waiver signed by one of Brown's Heirs for the TIAA Debt, and others.

In order to protect the "I Feel Good" Foundation's copyrights, the estate first had to root out non-heirs and those who had waived any claim to Brown's assets. Then negotiation with heirs could begin.

The Estate's Heirs Protocol

In August 2008 Brown's fiduciaries were nearing the completion of a proper heirs-at-death determination begun just after Brown's death. When concluded, it would have provided the "I Feel Good" Foundation with both a sword and a shield to protect its copyrights for decades.¹⁴

Knowing the importance of this heirs determination, shortly after Brown's death estate attorneys established a brilliant and widely-publicized self-identification protocol to find Brown's claimed heirs. Anyone claiming to be a child of Brown was invited to step forward; pay \$300 for controlled, official DNA testing; and find out the biological truth.

Brown's well-publicized vasectomy about 20 years earlier meant that most requests for DNA testing were made by consenting adults who understood and submitted to the media frenzy surrounding the process.¹⁵

The significance of the heirs procedure was bolstered by the increased acceptance of the accuracy of properly controlled DNA testing.

By August 2008, the DNA protocol resulted in the rejection of a number of claimants and the identification of three biological children of Brown: Jeanette Mitchell (1), LaRhonda Pettit (2) and Cinnamon Mernickle (3).

¹⁴ Brown acknowledged as his "heirs" four of the five children born of his three marriages, Terry, Larry, Deanna and Yamma. He excluded daughter Lisa, acknowledged in his divorce from first wife Velma Warren. [Will, Trust, Div. Decree, Agreement]. He also acknowledged two children not born of his marriages. *In Terrorem* forfeiture clauses threatened termination of the grandchildren's education benefits and the personal effects he gave to the six. A prenuptial agreement, executed by Brown's (married) companion, waived all of her rights under state and federal law. After discovering that companion was married when she married Brown, he brought an action to void the marriage. It was settled with her agreement and a court order by which she waived any claim to be Brown's common law spouse.

¹⁵ Only one minor claimed to be a child of Brown. Through a GAL he refused official testing.

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Brown's fiduciaries rewarded each proven biological child with a public announcement and acknowledgment of her status as an heir. [Like all of Brown's other heirs, they were excluded from the 2000 Trust and Brown's musical empire.]

Brown's other possible but challenged heirs, none of whom had been DNA tested, included:

- a. 5 presumed children: Terry (4) Lisa (5), Larry (6), Deanna (7) and Yamma (8). Teddy is deceased. (9);¹⁶
- b. A minor ordered to take official DNA testing, but who had refused (10);
- c. An incarcerated adult whom Brown supported under court order during minority (11);
- d. Brown's companion who:
 1. Waived all state and federal rights in a 2001 pre-nuptial agreement;
 2. Then had a marriage ceremony with Brown although she was already married;
 3. Separated from Brown in 2003 when he discovered she was married;
 4. Obtained an annulment of her previous marriage in March 2004;
 5. Thereafter settled Brown's suit to void his marriage by Court order, finding they were living together and attaching her agreement never to claim to be Brown's common law spouse (12);
- e. Two other claimed-but-not-presumed children (13), and (14);
- f. A claimed grandchild, claimed child of deceased son (9).

Considering other turmoil surrounding Brown's assets ¹⁷ and the long-term importance of a correct determination of heirs-at-death, the heirs protocol had progressed at lightning speed. It was close to providing a court-sanctioned heirs-at-death baseline which the "I Feel Good" Trust could use and modify in order to help protect the foundation for the duration of the copyrights.

¹⁶ On August 10, 2008 Brown's grandsons, beneficiaries of the 2000 Trust, or others, were seeking DNA testing of some or all of these, as well as of the minor claimant.

¹⁷ Brown's original fiduciaries all resigned in 2007 under a substantial cloud after more than \$12 million secretly misappropriated since 1999 was discovered. One is now deceased. David Cannon was indicted for felony breach of trust for all years 1999 - 2006 and for uttering a forged compensation agreement in 2008. To date he had not been tried. In 2010 Dallas, Brown's longtime attorney, filed bankruptcy. Schedules related to Dallas' filing show that his largest asset is a \$6 million claim he asserts against Brown's Estate and the 2000 Trust.

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That changed on August 10, 2008:

"No, no, no, no (don't leave me this way)"¹⁸

On August 10, 2008 the AG's staff and some of the claimed heirs¹⁹ met privately and reached the following private agreement:

1. Some of Brown's claimed heirs, including Brown's companion and excluding Brown's proven heirs, were declared to be Brown's heirs "for all purposes."
2. The AG proposed to give more than half of Brown's assets to these persons, all of whom had been specifically disinherited by Brown from his copyrights.
3. The AG agreed to prevent DNA testing of the parties to his agreement.
4. The AG agreed to replace Brown's fiduciaries with ones of their mutual choosing.
5. The AG and parties all agreed not to say anything bad about each other or the Agreement they had reached.

After signing the August 10 Agreement, with no apparent knowledge of the devastation he was causing the "I Feel Good" Trust's copyrights, the AG moved on to other matters and left the rest of the destruction of the "I Feel Good" Foundation to his staff and the appointee/fiduciary the AG selected.²⁰

Within months, an AG staffer promised Brown's son an exclusive right to buy the James Brown assets — including his 850+ copyrights. [Ltrs. dtd. 2/39/09 and 2/30/09.]

Certain that Brown's fiduciaries could not support the August 10 deal, the AG's

¹⁸ "No, no, no, no (don't leave me this way)" was published in 1964. The earliest possible year it might be subject to termination is 2020.

¹⁹ The AG did not notify any of Brown's fiduciaries or the three known biological heirs of James Brown of the meeting until after he had signed the August 10, 2008 agreement. [Exhibit B]

²⁰ According to the AG's senior assistant, beginning in the fall of 2007 six attorneys and six staff members worked on James Brown matters, but none undertook to inquire about or understand Brown's copyrights, even though the copyrights were generally known to make up about half the value of Brown's music empire. Beginning August 10, 2008, the AG relied on advice of counsel for the companion and other "settling parties" whose interest in Brown's copyrights was directly adverse to that of the "I Feel Good" Foundation, but who advised that they now "spoke as one" with the AG.

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staff sought and obtained an "independent" person to evaluate the secret agreement for the Court.

On January 30, 2009, three weeks after his appointment—with no knowledge of the Federal Copyright Act, Brown's estate plan, or the tax impact of the AG's deal—the AG's appointee recommended it to the court.

Amazingly, appointee had not reviewed a single copyright or contract — considering it beyond the scope of his assignment.

After the recommendation, the AG announced that he had selected appointee — already trustee for Brown's companion and the disinherited settling relatives — to be the fiduciary for Brown's estate plan, including the "I Feel Good" Foundation.

On the strength of appointee's recommendation an overworked circuit court judge approved the AG's deal.

A last glimmer of hope existed for the copyrights given to the "I Feel Good" Foundation — the circuit court did not specifically determine that the parties to the AG's deal were Brown's heirs.

The AG's appointee would try to fix that.

"Everybody's doing the hustle and dead on the double bump"²¹

At first the AG appears to have been oblivious to the destruction his August 10 Agreement would cause Brown's copyrights and the "I Feel Good" Foundation. On the other hand, Brown's disinherited claimed heirs and companion knew exactly how important their newly-invented status as Brown's sole heirs was. It was this status—a gift not from Brown but from the AG—that would enable them to execute their plan for the destruction of the "I Feel Good" Foundation.

The monster that the AG had inadvertently created was raising its head. And his appointee knew which side to take.

By early 2009 AG's appointee—now trustee for the disinherited claimants—approved language added to the AG's deal after August 10 asserting that the termination rights of the newly-but-incorrectly determined "heirs"-at-death was of enormous value.

These "heirs" asserted that the termination rights belonging to them — not all properly-determined heirs over the duration of the copyrights — were likely worth as much or more than Brown's publicity rights, 850+ copyrights and other assets. This

²¹ This copyright to "Everybody's doing the hustle and dead on the double bump" was issued in 1975 and renewed in 2003.

James Brown would have been rolling over in his. Between 2003 and 2006 he had earned about \$9 million each year.²⁵

Think (about it)²⁶

James Brown left two legacies – a musical legacy and a charitable legacy. Whoever benefits from it, Brown's musical legacy will live on. Brown's charitable legacy, the "I Feel Good" Foundation, cannot be recovered once it is lost. The dismantling of that legacy by the AG, his appointee and Brown's disinherited claimed relatives could have easily been avoided.

Unfortunately, it was not.

But it should serve as cautionary tale to other "needy and deserving" foundations holding valuable copyrights. It should also raise an alarm for all philanthropists and their estate planning advisors in states where the government, through activist attorneys general, is moving to take over the private property and operation of the private charitable foundations these private individuals.

proposal, as well as options or a "kickback" from the purchaser. [Hg. 11/20/07, Case 122]. In early 2007 Terry's son and some family members issued a prospectus in early 2007 to raise \$200 million for the purchase of the James Brown assets.

²⁵ In 2009 AG and appointee, at the behest of purchaser/son, rejected a 2-year publicity rights contract with GreenLight. Among other deceased celebrities, GreenLight has successfully exploited the publicity rights of Steve McQueen and Einstein. According to a May 2011 New York times Article, Einstein, whose publicity rights are claimed by Yeshiva University in Israel, earned more than \$60 million in 2010.

²⁶ The copyright to "Think (about it)" was issued in 1973.

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COMPILATION
Registered Copyrights of James Brown
1956 - 60 and 1978 - 81

<u>Date of Publication/ Copyright</u>	<u>Description of Works</u>	<u>Earliest Possible Termination</u>
1956	About a dozen works, including "Please, please, please"	2012
1957	About six songs, including "Fine old foxy self"	2013
1978	About 30 songs	2013
1958	About 12 songs, including "Try me"	2014
1979	About 15 songs, including "Mother popcorn"	2014
1959	About 5 songs, including "Good good lovin' "	2015
1980	About 35 songs, including "Get up offa that thing"	2015
1960	About 8 songs, including "And I do what I want"	2016
1981	About 16 songs, including "God has Smiled on me"	2016

1 MR. WINGATE: May it please the Court, Your
2 Honor. Ken Wingate along with my partner, Rhett
3 Kendall.

4 THE COURT: Yes, sir.

5 MR. WINGATE: And we are before you today in
6 connection with the Irrevocable Charitable Trust
7 established by the entertainer James Brown.

8 As Your Honor is aware from the pleadings,
9 our firm represents the 15 or so Plaintiffs listed on
10 the caption of the case which include globally all of
11 the beneficiaries of this Irrevocable Trust, both the
12 charitable and private individuals.

13 I would ask that Your Honor -- well, first,
14 let me introduce -- we're here representing, as you're
15 aware from the caption, an array of folks. I believe
16 Your Honor knows Sonny Jones ---

17 THE COURT: Yes.

18 MR. WINGATE: --- an attorney with the South
19 Carolina Attorney General's office, one of our
20 clients. Also we represent Russell Bauknight who is
21 very critically, Your Honor, the professional Trustee
22 of this Trust. I'll just come back and address that
23 in a moment. His counsel, Freddie Kingmore is here
24 with us today. And then one of the family members,
25

1 didn't say ---

2 MR. KENDALL: --- run into the wall and we're
3 going to show that they did.

4 Your Honor ---

5 THE COURT: Burt Lancaster, thank you, very
6 much. Go ahead. Burt Lancaster.

7 MR. KENDALL: Your Honor, the -- they talk
8 about a failure to -- our allegations of their failure
9 to accept a hundred million dollar offer. They may
10 have lots of good reasons that they want to put to the
11 Court for not having accepted that. We have lots of
12 good reasons we're going to argue but that's a fact
13 question. That issue's never been disposed of, just
14 because we've heard about it before. The refusal to
15 sign a consent and similar things.

16 One of the things, Your Honor, that -- that
17 we need to -- I want to bring to the Court's attention
18 as I know you're going to have to consider this
19 carefully, is a lot of this has been addressed. In
20 fact, a lot of the challenges they've raised are
21 addressed, in fact in the Settlement Agreement and the
22 Order approving the Settlement Agreement. Not the
23 issues that we raised as allegations of negligence in
24 the breach of trust of fiduciary duty but rather the
25

DNA & DIGNITY

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

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

a. James Brown died unmarried on December 25, 2006. [Toberoff, etc.]

b. Termination rights agreements will be made only with DNA-proven or Presumed children who support James Brown's noble estate plan.

c. Current candidates (subject to abandoning any claims) are:

a. DNA-Proven: 1. LaRhonda (daughters), 2. Jeanette, 3. Nicole;

b. First marriage: 4. Terry; 5. Larry, 6. Lisa;

c. Second marriage: 7. Deanna, 8. Yamma;

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

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

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

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

1. Full recognition as heirs by the Estate and "I Feel Good" Foundation at a ceremony to be conducted at Brown's home estate in Beech Island.

2. [If possible] VIP Invitation to, and additional recognition, at the opening of South Carolina screening of "Get on Up!"

3. \$10,000 per year for life, effective 2011.

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

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

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

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

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

1

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

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

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

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

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

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

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

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

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

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

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

Exhibit E

Sonny Jones

From: Sonny Jones
Sent: Thursday, January 20, 2011 10:44 AM
To: Matt Bodman; DavidBell@davidbelllawfirm.com; JTrigg@KilpatrickStockton.com
Cc: FKingsmore@nexsenpruet.com; amedin@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.

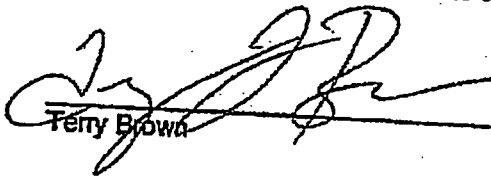
Thanks.

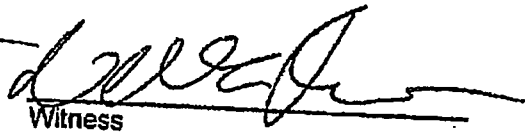
Georgia, Stephens County

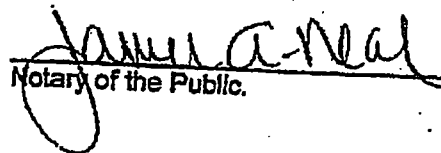
For in consideration of the sum of \$1 with love and affection and other valuable consideration, the undersigned, Terry Brown, being a biological child of James Brown the entertainer and known world-wide as the godfather of soul, and beneficiary under the Last Will and Testament of James Brown and the Irrevocable Trust of James Brown dated 8-1-2000, does hereby transfer, irrevocably convey and assign unto William Forlando James Brown all my interest of every nature and kind in the Estate of James Brown.

To the extent that any third party may deem this transfer ineffective for any reason, I hereby designate and appoint, my son William Forlando James Brown, as my true and lawful attorney in fact hereby granting unto him a power, coupled with an interest, to execute any document in my name and stead as and to the same extent that I may execute and convey my interest in the matter of James Brown. This transfer shall be deemed irrevocable and coupled with an interest. I hereby acknowledge that I have made this transfer with due consideration, thought and design, and that I do so voluntarily and of my own accord.

Witness my hand and seal this date January 3, 2011


Terry Brown


Witness


Notary of the Public.

MY COMMISSION
EXPIRES ON
JUNE 7, 2011

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

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

**The Honorable Doyet A. Early, III Circuit Court Judge
The Honorable Liz Godard, Clerk of Court**

Appellate Case No. 2013-002582

**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. 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**

**APPELLANT'S REPLY TO BAUKNIGHT'S RETURN TO
MOTION TO HOLD IN ABEYANCE**

was not high priced.

The legal cost for defending for 4 ½ years against the State/AG's plan to give more than half of Brown's "I Feel Good" Foundation to a non-wife and about half of Brown's claimed children, including 7 days of circuit court hearings: about \$200,000.

The "I Feel Good" Foundation, now at over \$90 million, should be poised under IRS distribution guidelines to pay millions in scholarships to needy students each year. Brown's 7 designated grandchildren who ratify the estate plan should have been receiving their \$285,000 education trust payments since at least 2011.

Fair Termination Rights agreements under the Federal Copyright Act with the most cooperative half of Brown's *real* heirs — including incarcerated son Michael — should now be in place. The DNA & DIGNITY plan to identify non-presumed heirs which was interrupted by the AG in 2008, should have been

completed? [See Exhibit A]

The Toberoff letter {Exhibit B} and the fight of David Bell, Esq. and a limited special administrator ("LSA") appointed by an *ex parte* order of the Probate Court on October 10, 2013 to prevent a GAL for incarcerated son Michael under Rule 17 (c) threaten damage both to Michael and to the "I Feel Good" Trust. They suggest Bauknight and the LSA are allowing Bell and others to siphon off the advantage of Termination Rights cooperation agreements the Estate/"I Feel Good" Trust should have secured by 2011 — but, at a minimum since February 27, 2013 — with Michael (subject to completing the Peeples DNA Protocol), Lisa, LaRhonda, Jeanette, Nicole, James Curtis (subject to the Peeples Protocol) and Tonya (subject to the Peeples Protocol). [These, alone, are the HALF necessary to protect the copyrights for decades.)

Both the LSA and Bell claim that Bell is Michael's lawyer, and insist that Michael does not need Appellant as his *pro bono publico* GAL. The impediments to this position

There was no justification for the settlement. All of Brown's fiduciaries other than Mr. Bauknight, and all of the children who joined in the AG's settlement, know Ms. Hynie was not Brown's spouse. [See Exhibit B.] She did not control Brown's termination rights. Nor did they.

On June 13, 2013 The Honorable Doyet A. Early, III enjoined virtually everyone who supports the "I Feel Good" Trust from doing anything about the announced intention to dismember the "I Feel Good" Foundation.

The appeal of his extraordinary orders issued that day are the subject of appellate case No. 2013-00169. The initial brief in that appeal was filed February 21, 2014.

A second appeal, from Aiken County Case 2013-CP-02-1337 (now assigned appellate case number 2014-00250) addresses the summary dismissal of an action to remove Mr. Bauknight for cause based on his continuing service to Tommie Rae Hynie, and other acts.

The brief in that appeal was served on February 11, 2014.

Barring unexpected delay, the full record of these two cases will be in the hands of this Court within 60-90 days.

This is a short period of abeyance which might help save a \$90-million foundation for needy students.

II. Mr. Bauknight's representation that that "Ms. Pope's only personal interest in the Estate Litigation is her outstanding claim for fees..." overlooks five James Brown Estate matters, including three initiated by Mr. Bauknight against Appellant, and her Special Interest Standing under Section 62-7-405.

Mr. Bauknight asserts on page two of the Return:

Appellant and Buchanan have claims for damages and offset against Forlando's share of the 2000 Trust and Terry's former share of the Estate.

Forlando claimed Judge Early had illegally appointed Buchanan and Appellant, who ousted the innocent Cannon to get the \$5 million commission payable on Brown's \$100 million estate. He claimed they would help Ms. Hynie and not protect his \$285,000 education Trust.

Forlando was really a secret 39% owner of TJBL, seeking to buy the music empire.

In January 2009 Forlando's father Terry, also part of TJBL, joined the AG's settlement which destroyed Forlando's \$285,000 Trust.

From 2009 - 2013 Forlando pretended to object to the AG's settlement while Terry supported it. Both were represented by David Bell, Esq. They said:

Terry/Bell told the Supreme Ct.

Hynie was Brown's spouse

Forlando/Bell told the Federal Ct.

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

Brown's music empire was worth \$4.7 million at death.

The Bauknight value is "bogus." Offers of \$150 million were available in 2008.

Tommie Rae's son is Brown's son.

Tommie Rae's son is not Brown's son, and cannot be..

Tommie Rae & her son control the Estate's Termination Rights under the Federal Copyright Act.

Tommie Rae has no Copyright Rights.

On May 19, 2010 Bell, Bauknight and others secretly contracted with the law firm of Kenneth Wingate, Esq. ("Wingate") to sue Buchanan and Appellant for conducting the *Wilson v. Dallas* appeal and other claims.

In January 2011 the AG and Terry, with others, secretly amended the Legacy Trust and Terry's right of first refusal to buy Brown's music empire under the AG's settlement (the "ROFR"). Terry then gave his interest in the Estate and ROFR to Forlando.

Hynie, Terry Brown and others to stop the *Wilson v. Dallas* appeal.

The Attorney General (State/AG) and Bauknight as agent for the State/AG were named plaintiffs. It now appears neither Wingate nor Bauknight had legal authority to act for the State/AG or sue in its name.

Bauknight is also a Plaintiff as agent for Tommie Rae Hynie, her son James B. and Terry Brown.

The complaint asserts, among other things:

a. Buchanan/Appellant should have accepted a \$100 million offer for Brown's music empire ⁴.

While suing Buchanan/Appellant for not accepting a 2007 \$100 million offer for the music empire, Mr. Bauknight and the State/AG told the Supreme Court there had been no offers and that the at-death value of the music empire was \$4.7 million.

The State/AG and Bauknight knew TJBL had made three \$90 - \$100 million letters of intent between October 2007 and March 2008. Sr. Assistant AG Jones had inquired about the first \$100 million offer on December 6, 2007. He expressed fear it would go away if not accepted. It did not.

Forlando testified in September 2008, the week the estate tax return was filed, that \$150 million offers were still available.

Mr. Bauknight claims Buchanan/Appellant had no basis for their \$84 million value of the music empire on the estate tax return. He claims they intentionally overvalued the assets by \$79 million to get a \$5 million commission. He made this false claim knowing that the \$84 million value was consistent with a valuation formula for the estate tax return presented without objection to Judge Early, the AG and others in November 2007 as follows

Value of Royalties and Publicity Rights =
12 ½ - 14 X (annual Royalties + ½ Road Revenues)
Royalties were \$3+ million annually and Road Revenues for 2003-2006 \$18 million.

Mr. Bauknight claimed his "appraisal," which he refuses to disclose despite the Probate Code Requirement to do so, is the first professional appraisal

A March 2006 Term Sheet, within the Estate records made public in 2007, however,

A motion filed by the Academy which issues Grammys in New York objected to the sale of the Grammy. The Academy also made a similar filing to try to stop Stevie Wonder's Grammy sale, the second time it was sold. The Academy, which did not prohibit sale of Brown's Grammy when issued, uses these legal tactics to try to stop legal sales.

With Levenson present, Christie's legal counsel urged Buchanan and Appellant not to withdraw the Grammy, and to resist the Academy's filing. They assured that the sale was perfectly appropriate and legal. [But the cost of legal defense would have been paid from the sale proceeds. It was estimated to be about \$5,000.]

The filing of the Academy's motion did, however, allow the Estate/2000 Trust to withdraw the Grammy from the sale without a withdrawal penalty.

Based on all factors, Buchanan and Appellant made the decision to withdraw the Grammy, which had a sale estimate in the \$15,000 range, without penalty.

The Grammy was returned to the S.C. State Museum which, under the same orders which approved the Christie's sale, held many items of memorabilia for safekeeping during the pendency of the Will/Trust challenges.

There was no need to even respond to the filing, since the matter was moot. Yet the lawyer who filed the motion puffed on his blog that he had "stopped" the sale.

Forlando later confirmed that he, his father, and some of the aunts and uncles – fighting over many other issues – got together to sabotage the Christie's sale. That claim is consistent with the television appearance Deanna Thomas made the morning of the sale to try to chill it.

[Levenson had earlier asked that the Estate/2000 Trust pay for his clients' attendance at the sale. He was told that they would not object to their submitting a request for such payment after the sale.]

Forlando also said that family members had funds to purchase at the sale, but were directed by their attorneys not to do so.

The Estate's motion, filed in accordance with Judge Early's orders, for Dallas to pay the legal cost of interference with the Christie's sale, was filed on July 27, 2008. It has not been heard.

There was no complaint about the Christie's sale during the settlement hearing in 2009. The first complaint about the Christie's sale was raised by Wingate nearly two years after the sale in the Wingate Suit. This was remarkable because the AG, a Plaintiff

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 Interveners 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. [Emphasis supplied.] [Ltr. Gende 5/12/13]

Current Status of the Wingate Suit: As of February 26, 2014:

1. Bauknight still represents Hynie and her minor son;
2. Bauknight still represents Terry/Forlando;
3. Bauknight still represents others who are challenging the estate plans of James Brown;
4. Bauknight still claims to speak on behalf of the AG
5. No hearing has been held since Wingate's request.

3. FOIA #1 - In this FOIA Suit, filed August 3, 2011 Appellant seeks a signed copy, with amendments, of the Legacy Trust and the AG's documents related to the Bauknight \$4.7 million appraisal.

The Legacy Trust is one of the Plaintiffs who sued Buchanan and Appellant in the Wingate Suit.

In the fall of 2011, Bauknight, for Terry, Hynie and others, moved to intervene and stop release of these public documents.

In 2012, at the request of AG Wilson and Bauknight, FOIA #1 was moved from Newberry County to Richland County.

In 2013 Wingate/Bauknight asked The Honorable L. Casey Manning to delay FOIA #1 for what may be years.

Current Status of FOIA #1 - As of February 26, 2014

- a. Bauknight still represents Hynie and others in FOIA #1.
- b. No hearing has been held.

4. FOIA #2 - In this FOIA Suit, filed August 10, 2011 Appellant sought a signed copy of the public Wingate Litigation Retention

Respectfully submitted,

Adele J. Pope

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29018
803-413-0753

adele@popelawfirm.com

Attorney for Appellants

February 27, 2014

List of Exhibits

Exhibit A - DNA & DIGNITY

Exhibit B - Ltr. of Mr. Toberoff

TOBEROFF & ASSOCIATES, P.C.

A PROFESSIONAL CORPORATION

22337 PACIFIC COAST HIGHWAY #348

MALIBU, CALIFORNIA 90265

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

mtoberoft@toberoffandassociates.com

September 23, 2013

Via E-mail and U.S. Mail

Scott McDowell

Senior Vice President and

Head of Legal & Business Affairs

Warner/Chappell Music, Inc.

10585 Santa Monica Blvd.

Los Angeles, CA 90025

Re: James Brown/Terminations under the Copyright Act

Dear Mr. McDowell:

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

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

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

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable Doyet A. Early, III Circuit Court Judge

Case No. 2013-CP-02-1337

Adele J. Pope Appellant,

v.

Estate of James Brown, Deceased; the James Brown 2000 Irrevocable Trust;
Russell I. 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.

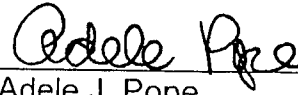
AMENDED NOTICE OF APPEAL

Appellant appeals the following Orders in the above matter:

1. Order of the Honorable Doyet A. Early, III dated March 4, 2014,
filed March 10, 2014.
2. Form 4 Order of the Honorable Doyet A. Early, III dated June 2, 2014,
filed, filed June 9, 2014

Notice of the entry of the Order denying reconsideration was received by
appellant on June 9, 2014.

A copy of each of said Orders is attached hereto and made part of this Notice of Appeal.



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

Appellant, *Pro Se*

June 26, 2014

Other Parties and Counsel of Record :

Frederick A. Crawford, Esquire
Richardson, Plowden & Robinson, PA
Post Office Box 7788
Columbia, South Carolina 29202
(803) 771-4400

William Newsome, Esquire
J. David Black, Esquire
William Wilkins, Esquire
Tanya Amber Gee, Esquire
Nexsen Pruet
1230 Main Street
Post Office Box 2426
Columbia, South Carolina 29202-2426
(803) 253-8268

Robert L. Buchanan, Jr., Esquire
212 Newberry St., NW
Aiken, South Carolina 29802
(803) 649-2586

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF AIKEN

2007-CP-02-00122

3

2008-CP-02-00322, -1647, -872,
-1426, -2127, -1556, -1557, -1758

4

2010-CP-02-00721

5

2012-CP-02-01059

6

COUNTY OF BARNWELL 2010-GS-06-00139

7

IN RE:

8

JAMES BROWN ESTATE CASES

TRANSCRIPT OF RECORD

9

10

Heard on July 2, 2013

11

Bamberg, South Carolina

12

13 BEFORE:

THE HONORABLE DOYET A. EARLY, III

14

15

APPEARANCES:

16

Adele J. Pope, Esq.

J. David Black, Esq,

17

Russell L. Bauknight, Esq.

Mary Frances G. Jowers, Esq.

James R. Gilreath, Esq.

J. Kendall Few, Esq.

18

Stephen G. Morrison, Esq.

Erin Richardson Stuckey, Esq.

Eugene Covington, Esq.

Fred L. Kingsmore, Jr., Esq.

19

O. Cyrus Hinton, Esq.

S. Creighton Waters, Esq.

Brian Petrano, Esq.

Gregory P. Harris, Esq.

20

Sherri A. Lydon, Esq.

Norma Anne Turner Jett, Esq.

21

H. Brent Fortson, Esq.

22

CR NOTE: NOT ALL ATTORNEYS GAVE THEIR APPEARANCE TO COURT
REPORTER, SO LISTING MAY BE INCOMPLETE.

23

24

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 3252
Aiken, SC 29804-5232

25

3

1 me and he went to Aiken. So he's on the way here now.
2 I'm just speaking up to, A, let you know that for the
3 criminal matters, B, if in fact he has some connection
4 with that particular case.

5 THE COURT: Well, this deals with an 2008 order where
6 fees were ordered to be paid by Cannon and Dallas and we
7 were going to take the affidavits and arguments without
8 testimony. So is anyone claiming fees as a result of that
9 matter?

Page 3
Statement of the Court

10 MS. POPE: Your Honor, I'm Adele Pope.

11 THE COURT: Yes, ma'am.

12 MS. POPE: I am claiming fees as a matter of that but
13 on the 13th of June Your Honor directed an administrative
14 order that I have no standing to participate in any James
15 Brown matter. That's pending for the 9th.

16 I also have a motion pending to intervene in the
17 Dallas, Cannon and Bradley claim matters. But I'm going
18 to guess that Your Honor might need to hear my motion to
19 void or vacate your orders prior to hearing my motion to
20 intervene for my argument for fees in Case 122.

21 THE COURT: Well, notwithstanding where you stand,
22 Ms. Pope, do you have a claim in 122 for fees in that
23 matter?

24 MS. POPE: I do, Your Honor.

25 THE COURT: Which is obviously a valid --

4

1 MS. POPE: Yeah, under the April 8, 2008 order, Your
2 Honor.

3 THE COURT: Thank you. And your motion, I think I
4 sent out a notice to everyone that we will hear your
5 motion to reconsider or vacate on the 9th.

6 MS. POPE: Yes, Your Honor. That's correct. Thank
7 you, Your Honor.

8 THE COURT: Yes, ma'am.

9 MR. BLACK: Your Honor, David Black on behalf of
10 Mr. Bauknight as the special trustee and PR.

11 In terms of Ms. Pope's motion, just to clarify. On
12 122, we're not certain if that was filed for attorney's
13 fees. So in the event that that is taken up today, we'd
14 like it clarified as to whether or not that's pursuant to

070213JasBrownCases.txt
15 Your Honor's order on attorney's fees.

16 THE COURT: Well, it's my understanding on that
17 particular case, 122, we had an order back in April of
18 2008 which I ordered and it provided for the payment of
19 costs and attorney's fees that was spent in connection
20 with the removal or resignation of the three; Dallas,
21 Bradley and Cannon.

22 And I remember that order says those amounts would be
23 determined by affidavits and argument without testimony.
24 That order is still in effect. So, I will today orally
25 order anyone who is claiming fees under that April 8, 2008

5

1 order provide to me their affidavit and memos within 45
2 days from today's date. I will send the order.

3 MS. POPE: Your Honor, is it appropriate for me to ask
4 for certain clarification about that?

5 THE COURT: Yes, ma'am.

6 MS. POPE: As you recall, the April 8th order, had it
7 been final, would have finally dealt with all the matters
8 because it said I will hear this, I think it was in May
9 something of 2008, based on briefs and, on filed briefs
10 and brief argument.

11 Thereafter, counsel engaged by Bob Buchanan and me on
12 behalf of the estate and trust conducted most of the
13 appeals that resulted from the Cannon and Dallas matters
14 in Case 122. They were taken over in November 2009 by
15 counsel for Mr. Bauknight.

16 And so I would respectfully request that we have a
17 little discussion. For example, if James Bailey and
18 Tressa Hayes who worked hard on that appeal for more than
19 a year before Mr. Buchanan and I were removed under valid

20 contract with the estate and trust, if they're to turn in
21 their fees, that's fine. But I do think since they're not
22 present here, and that was not announced for today, it
23 would be helpful if Your Honor would tell us, do
24 Mr. Bailey and Ms. Hayes present their fees for the
25 appeal, does Mr. Black present his fees for his portion of

6

1 the appeal.

2 I will tell Your Honor that Mr. Cannon represented to
3 the Supreme Court at his hearing in early 2012 that he
4 stood to have to pay that amount. So he has acknowledged
5 that that matter in 2012 was still pending.

6 But -- but Your Honor's order was perfectly fine as
7 issued on April 8th, 2008, but it may have been surpassed
8 in a small way by things that happened after that. And I
9 want to make sure that counsel who worked so hard on that
10 matter have a reasonable opportunity to seek payment.

11 THE COURT: So that would be Bailey and who?

12 MS. POPE: That would be whoever Mr. Black tells you
13 worked on it after November 6, 2009 when the Court of
14 Appeals made clear that Mr. Bauknight accepted all
15 responsibility and liability for the management of the
16 estate and trust after May 26, 2009 --

17 THE COURT: Question: So that would include --

18 MS. POPE: -- so for my side --

19 THE COURT: -- Bailey, Black and Hayes?

20 MS. POPE. It would be Tressa Hayes, Jim Bailey and --
21 just a minute, Your Honor. That's all from us, Your
22 Honor.

23 But I would like to hear who would also be presenting
24 those on behalf of the successor whose account is now

25 void.

7

1 THE COURT: Forty-five days. I will make special
2 arrangements of getting notice to Mr. Bailey and
3 Ms. Tressa Hayes, if they're claiming anything.

4 MS. POPE: And to me, Your Honor.

5 THE COURT: Ma'am?

6 MS. POPE: And to me, Your Honor.

7 THE COURT: I just gave it to you.

8 MS. POPE: That's fine. But we believe that Mr. Cannon
9 should pay the special administrator fees. And I have not
10 been paid for that --

11 THE COURT: I understand.

12 MS. POPE: -- in full. Thank you.

13 THE COURT: It says payment of costs and attorney's
14 fees. So I assume that anything that anyone's seeking
15 needs to be presented to me within 45 days. If we decide
16 that maybe we need a hearing on that to clarify, we'll set
17 that up at the --

18 MS. POPE: And, Your Honor, this includes both the
19 Cannon and Dallas, 122 appeal?

20 THE COURT: Yes, ma'am, 122.

21 MS. POPE: Thank you, Your Honor.

22 THE COURT: Anything else on 122?

23 MS. JOWERS: Your Honor?

24 THE COURT: Yes, ma'am. Your name, please? I know
25 who you are but for the court reporter.

8

1 MS. JOWERS: Certainly. Mary Frances Jowers from the
2 attorney general's office.

3 I just had something and I think it applies to
Page 6

4 probably the caption. The caption, the attorney general
5 actually intervened in 122. And I believe we've announced
6 to the Court and I just wanted to let the Court know the
7 attorney general intends to file a motion to withdraw in
8 the cases of the ordered data monitoring capacity. I'll
9 be glad to do whatever the Court or anyone needs.

10 I went to the clerk's office --

11 THE COURT: Send me a proposed order.

12 MS. JOWERS: Perfect. Yes, sir. Thank you, Your
13 Honor.

14 THE COURT: 122, anything else by anyone?

15 * * * *

16 THE COURT: All right. Turning to 08-72, 2008-CP-
17 02-0872. That's a -- that was the case dealing with
18 personal property concerning the will and trust. So
19 that's sort of -- we'll hear that with 1647. Ms. Pope?

20 MS. POPE: Your Honor, may I speak?

21 872 is stated in your administrative order as being
22 the personal property. Respectfully, that's incorrect.
23 That is the will and trust contest. The administrative
24 orders which I'm now seeking to void collapsed that case
25 into 1647. And I have made strong and specific objections

9

1 to that.

2 THE COURT: I'll hear you on the 9th.

3 MS. POPE: Thank you, Your Honor.

4 THE COURT: Thank you.

5 * * * *

6 THE COURT: The next one is 08-CP-02-322. That's the
7 action brought on behalf of the estate by Mr. Gilreath and
8 Mr. Few.

9 As I understand, there's -- some of the Defendants
10 have reached a settlement with the Plaintiffs. So in that
11 case I have a motion to amend the complaint which I will
12 hear today.

13 And, gentlemen, on behalf of the Plaintiffs, would you
14 please give me sort of a quick synopsis of what remains to
15 be done on 322?

16 MR. GILREATH: Your Honor --

17 THE COURT: Assuming I'll grant the motion to amend or
18 assuming that I won't grant it, we still got a lot to do;
19 don't we?

20 MR. GILREATH: Assuming that you grant the motion to
21 amend then of course it would have to be some discovery.
22 And that would pretty much be the -- once that case is
23 over with, or resolved, however, that would pretty much --

24 THE COURT: Well, let me be specific. Who is left in
25 the case?

1 the original proceeding -- pleading.

2 Now what was raised in the original proceeding, or
3 pleading was that Greenberg Traurig had taken an old
4 finance, a bond financing deal. Back in the 90s James
5 Brown had done what David Bowie and other major artists
6 had done, he engaged in selling his future royalties for a
7 present-value bond. And what these folks do is people buy
8 the bond, investors buy the bond and they get the
9 royalties from the use of Brown's music.

10 They paid 25 million dollars in the original, quote,
11 Pullman bond transaction. Greenberg Traurig did not do
12 that. Greenberg Traurig had nothing to do with that. It
13 was done by a west coast law firm and they did that deal.

14 In the 2000s, right around 2005 Brown wanted to
15 refinance his bond financing, sort of update. And in the
16 refinancing project he asked Greenberg Traurig to help him
17 out. Now as the Court knows and as the Plaintiffs know,
18 that refinancing never closed. Didn't get done.

19 And Greenberg Traurig never got paid for doing it. So
20 that transaction -- we're sued on a refinancing
21 transaction that didn't happen and no fees changed hands.
22 No unjust enrichment or anything. But that refinancing is
23 the core of the malpractice case brought against GT. It

Page 26

070213JasBrownCases.txt

24 is the whole malpractice case in the original complaint.

25 And the issue in that case is whether or not Greenberg

16 MR. COVINGTON: Yes, sir. I have one other sort of
17 housekeeping motion, Your Honor, that I haven't filed
18 yet. I've tried to get everyone's consent to it.

19 As the Court may know, the four of us were hired in
20 this case.

21 THE COURT: Four of us?

22 MR. COVINGTON: Ms. Jett, Mr. Ness, Mr. Fortson and
23 myself.

24 THE COURT: Were hired by who?

25 MR. COVINGTON: We were hired by Buddy Dallas with the

43

1 approval the United States Bankruptcy Court, Southern
2 District of Augusta. And in fact, we haven't been
3 approved by the bankruptcy court to represent Mr. Dallas
4 because he is still in bankruptcy.

5 There was also an order in the bankruptcy court, a lot
6 of these same issues came up in the bankruptcy hearing
7 there. And there was a motion by the estate in that case,
8 in the bankruptcy proceeding, to join the chapter seven
9 trustee as the named party in the bankruptcy case because
10 it was legally the claim of the bankruptcy court.

11 Now, I have talked with and sent letters to everybody
12 involved in 721, 1426, and 122, which I understand are the
13 matters that Mr. Dallas and myself and other counsel were
14 still involved in, and asked if they would consent based
15 on the fact that the bankruptcy court has taken control of
16 anything that happens as far as Mr. Dallas's assets.

17 Stephen wallace is willing to appear. It's not going
18 to change anything. He is really a co-party. He's not
19 being sued himself. He is actually the proper party to
20 defend or to process any claims on behalf of Mr. Dallas.

21 THE COURT: In that regard, if you are unable to get a
22 consent order or a motion, then file the motion and I will
23 hear it the same week I hear Mr. Morrison's motion to
24 dismiss on jurisdictional purposes Mr. Katz which is the
25 week of August the 5th.

44

1 So I want my status report by August 1. And if that
2 motion has not been resolved or that situation has not
3 been resolved, then we will hear your motion. File it
4 ahead of time so there won't be anybody complaining about
5 not having notice. Fair?

6 MR. COVINGTON: Yes, sir. I'll have that.

7 THE COURT: Thank you.

8 MS. POPE: Your Honor, may I be heard on 1426 which you
9 just mentioned?

10 THE COURT: We haven't gotten to that yet.

11 MS. POPE: Well, I think it was directly related to
12 what he just said.

13 THE COURT: I'm going to get to 1426 in just a few
14 minutes.

15 MS. POPE: Well, may I speak about the bankruptcy
16 court's involvement because it directly relates to my
17 claim?

18 THE COURT: Yes, ma'am.

19 MS. POPE: When Mr. Dallas filed bankruptcy on
20 September 30th, 2010 in Georgia, he claimed that his
21 largest asset was his six million dollar commission claim.
22 And his second largest asset was his claim against a
23 former attorney, Wayne Byrd, for about \$330,000.

24 As I understand it, virtually all of his bankruptcy
25 has been resolved except his largest claimed assets which

1 is his six million dollar claim, commission claim.

2 During the pendency of that action in Georgia,
3 Mr. Bauknight represented to the federal bankruptcy court
4 that it was essential that all matters related to
5 commissions of any personal representative should be heard
6 here in Aiken County in a single proceeding. And he
7 explained to the bankruptcy court the importance of that
8 and he -- the size of the commissions and so forth.

9 As a result of that, I contacted the bankruptcy
10 trustee and Mr. Dallas prior to their engagement of
11 Mr. Covington and told them that based on -- I did not a
12 hundred percent agree with Mr. Bauknight's position, but I
13 thought it was efficient that anyone claiming a commission
14 that was effectively in competition with Mr. Dallas
15 should -- was certainly an interested party in that claim.

16 And both Mr. Dallas and the bankruptcy trustee
17 consented to my motion which was, I think, made in
18 December 2011 to enter his claim case which is now being
19 sort of consolidated with the estate's claim against him,
20 as I'm hearing things.

21 And I certainly ask to be, have my motion to intervene
22 heard and granted because it's already been consented to
23 by Mr. Dallas and the bankruptcy trustee. And it is
24 critical to my own claim to participate in a proceeding
25 where Mr. Dallas's bankruptcy trustee is seeking a six

1 million dollar claim in competition to mine. And
2 Mr. Bauknight has said those matters must be heard, has
3 told the bankruptcy court those matters must be heard in
4 the same proceeding.

5 THE COURT: Thank you.

6 MS. POPE: Thank you.

7 MR. BLACK: Your Honor, I don't know you if you want a
8 response from the trust and the estate on that, but for
9 the record we do not agree with the characterization that
10 Ms. Pope has taken there.

11 THE COURT: Very well. You got your marching orders,
12 Mr. Covington.

13 MR. COVINGTON: Yes, sir, Your Honor.

14 THE COURT: A letter by August 1.

15 MR. COVINGTON: Yes, sir.

16 THE COURT: Where you are.

17 MR. COVINGTON: Yes, sir.

18 THE COURT: And if you haven't gotten to the other
19 situation, i.e., the bankruptcy, we'll hear the motion on
20 week of the 5th the same time as Mr. Morrison.

21 MR. COVINGTON: Yes, sir.

22 THE COURT: I assume you're also here on 1426 so
23 that's right down the road. So hang on.

24 * * * * *

25

47

1 THE COURT: Next case I have is 12-1059. That's the
2 Jacquelyne Hollander. The seventh case, is a motion to
3 dismiss.

4 Have a seat.

5 (Off-the-record discussion.)

6 MR. BLACK: Your Honor, permission to approach. I've
7 got the --

8 THE COURT: Hold on a second. Let me have everyone
9 seated, please. Thank you.

1 MR. HINTON: Thank you, Your Honor. Your Honor, may I
2 be excused?

3 THE COURT: You may; yes, sir. Thank you, Mr. Hinton.
4 Let's take a short 10-minute break. Is that okay with
5 everybody?

6 (Recess taken from 11:21 a.m., until 11:38 A.M.)

7 * * * * *

8 THE COURT: Next on the list is 10-GS-06-139.

9 That's the restitution. I have with me this morning?
10 Gentlemen, y'all announce yourselves to the court
11 reporter.

12 MR. WATERS: Your Honor, Creighton Waters from the
13 attorney general's office. Along with me is Brian Petrano
14 also from this office.

15 THE COURT: Spell that last name.

16 MS. PETRANO: Petrano, P-E-T-R-A-N-O.

17 MR. HARRIS: If it please the Court, Your Honor, I'm
18 Greg Harris and this is Sherri Lydon on behalf of
19 Mr. Cannon.

20 THE COURT: All right. Mr. Waters, how about telling
21 me where we are with this.

22 MR. WATERS: Yes, sir, Your Honor.

23 Obviously, just briefly, Mr. Cannon was indicted in
24 February of 2010 for eight charges, seven of which were
25 breach of trust over 5,000 and then one count of forgery.

57

1 He ultimately pled guilty pursuant -- on one charge to
2 Alford on October 27th, 2011 before Judge James. And he
3 pled guilty to 137 and 139. The remainder of the charges
4 were nolle prossed. So 137 at least in the indictment
5 represented activities in 2006, and 139 represented
6 activities in 1999.

7 At that particular hearing, Judge James sentenced two
8 concurrent sentences of 10 years suspended to three years
9 home confinement. And there was no ordering of
10 restitution.

11 The victims and their various representatives at that
12 point expressed disagreement with that lack of restitution
13 result and I came aboard at that point and filed a motion
14 before Judge James to reconsider and to allow the victims
15 to present whatever information they wanted to present on
16 the issue of restitution.

17 That hearing took place. Those various motions and
18 replies were filed in November of 2011. It was a timely
19 motion to reconsider. The hearing took place before Judge
20 James on March 12th, 2012.

21 And of course Mr. Harris and Ms. Lydon were there
22 representing Mr. Cannon. I represented the State along
23 with the various representatives of the -- of course, the
24 trust, Mr. Bauknight and David Black, and Freddie
25 Kingsmore represented him. Louis Levenson was there

58

1 representing his group of folks. I think Heyward Carter

2 was there representing, I guess, the Medlin group of folks
3 as I understand it. Mr. Bodman who has, represents
4 Mr. Terry Brown was aware of it but was unable to attend.

5 In any event, Judge James took that matter under
6 advisement.

7 THE COURT: That was just simply the matter to
8 reconsider the restitution, not for the hearing --

9 MR. WATERS: That's correct. Our argument was
10 essentially twofold. Number one was, first of all, a
11 motion for clarification because there was one point in
12 the transcript where Judge James initially sort of
13 indicated that he would take that matter under advisement,
14 restitution. He said no, I intended for that not to have
15 happened.

16 And then the second argument was a motion for
17 reconsideration. And I cited a case which essentially,
18 obviously the statute says that a plea cannot be undone
19 because of a failure to comply with the victim's rights
20 act. However there is a case that where a timely motion
21 for reconsideration is filed, essentially the matter is
22 not final. And if there was a failure there, then that
23 the rights of the victims can be taken up at that point.
24 And Judge James accordingly held similarly that it was
25 appropriate to have a restitution hearing. And that order

59

1 --

2 THE COURT: When was that order signed?

3 MR. WATERS: That order was signed or filed I believe
4 on October 1st, 2012.

5 THE COURT: What's happened since October 1 of 2012?

6 MR. WATERS: Well, obviously the oral argument before
Page 49

7 the Supreme Court which of course Your Honor is familiar
8 with took place on November 1st, 2012.

9 THE COURT: That's the oral argument in the settlement
10 case?

11 MR. WATERS: That's correct, Your Honor.

12 THE COURT: Okay.

13 MR. WATERS: And there was discussions about
14 proceeding. And I believe Mr. -- in some of our
15 conversations, Mr. Harris has pointed out that the State
16 was anxious to proceed.

17 However ultimately that opinion came out, the initial
18 opinion came out February 27th, 2013. At that point we,
19 because of the provisions in there that addressed the
20 standing and status of various individuals as well as the
21 status of Mr. Bauknight as the PR, as the trustee, a
22 petition for rehearing was filed. And as Your Honor is
23 aware on May 8th, 2013, the Supreme Court issued their
24 amended opinion in which they of course stated that Your
25 Honor was to reconsider the appointment but that

60

1 Mr. Bauknight obviously was still in play in that regard.

2 Then I've been informed, of course, that you've signed
3 an order giving him the powers. I believe there was a
4 hearing before you on May 29th which addressed the
5 appointment, but that Mr. Bauknight has all the powers of
6 of the PR and trustee at this point.

7 So we are here to try to get this scheduled as soon as
8 possible. The State is ready to go in front of you or
9 whoever else, whichever other judge can hear this matter.

10 I believe that --

11 THE COURT: How long will it take to hear it?

Page 50

12 MR. WATERS: Your Honor, I believe from the State's
13 perspective -- and, again, this is not knowing whatever
14 preliminary legal issues the other side may want to raise
15 or their cross. As Your Honor knows, a restitution
16 hearing is in the nature of sentencing, the rules of
17 evidence do not necessarily apply, summary documents are
18 permissible. But I would think a half a day would be
19 sufficient for the State's presentation.

20 THE COURT: Half a day?

21 MR. WATERS: Yes, sir, Your Honor.

22 THE COURT: When can you be ready to go?

23 MR. WATERS: Well, Your Honor, we can be ready to go
24 next week if that's what Your Honor desires. But I do
25 believe that Mr. Harris may have a motion that --

61

1 THE COURT: Have any motions been filed?

2 MR. WATERS: Not that I'm aware of. I'll obviously
3 let Mr. Harris speak for whatever issues he wants to
4 raise. But that would be the only hiccup. The State
5 stands ready to proceed whenever --

6 THE COURT: You're telling me the State is ready to
7 proceed to have the restitution hearing, it will take
8 about a half day and you're ready to hear it within the
9 next week?

10 MR. WATERS: That's correct, Your Honor.

11 THE COURT: And you've obviously met with the people
12 who are claiming the restitution, I assume?

13 MR. WATERS: Yes, sir, Your Honor. I met with
14 Mr. Black. I met with some of our witnesses. Mr. Black
15 has been in contact with Mr. Bodman, Louis Levenson and
16 Alan Medlin and those individuals. And my understanding

17 is everybody's ready to go as soon as the Court deems the
18 time appropriate.

19 THE COURT: Thank you.

20 MR. WATERS: Yes, sir.

21 THE COURT: Mr. Harris? Ms. Lydon?

22 MR. HARRIS: May it please the Court, Your Honor.

23 THE COURT: Yes, sir.

24 MR. HARRIS: We do intend on asking and we are here
25 today asking you to assign this to another Court, Your

62

1 Honor. I know that before we even were noticed that this
2 hearing was going for today for the status on a number of
3 matters, the attorney general's office and myself had
4 looked at a docket and begun a preliminary scheduling, at
5 least from our perspective, without this Court's
6 involvement to hear this matter on the week of the 22nd.
7 We would be prepared to go forward on this matter the week
8 of the 22nd.

9 As this Court is also aware this case was
10 jurisdictionally brought in Bamberg (verbatim). We waived
11 jurisdiction for it to be heard in Aiken County. We would
12 again do so as to all sentencing matters which is what
13 this would be.

14 THE COURT: Well, is Judge James going to hear it on
15 the 22nd?

16 MR. HARRIS: No, sir. I don't think he's in town. I
17 think that what we had looked at is that I think Judge
18 Cooper is in town.

19 THE COURT: Why would we send a Second Circuit
20 criminal case to somebody in Columbia when this thing
21 involves Bamberg, Barnwell, Aiken, Second Circuit case,

22 and I am the chief administrative judge for general
23 sessions?

24 MR. HARRIS: Well, Judge, that's something I intend on
25 briefing if we're requested -- if we're required to do so.

63

1 THE COURT: You can do whatever you want.

2 MR. HARRIS: I am just asking this Court to assign
3 that case to another judge.

4 THE COURT: You need to do a formal motion and put
5 your reasons in it.

6 MR. HARRIS: Yes, sir. We will do that.

7 THE COURT: It's simply a restitution hearing. He's
8 already pled.

9 MR. HARRIS: I understand, Your Honor, but I believe
10 it's a criminal matter and it's a matter having to do with
11 sentencing. And I think --

12 THE COURT: Well, what if it is? I mean, say what's
13 on your mind.

14 MR. HARRIS: Well, Judge, I think we would rather have
15 it assigned to another judge, and maybe discuss this in
16 our filings if required to do so.

17 THE COURT: You may file whatever you want to but I
18 want --

19 MR. HARRIS: Yes, sir.

20 THE COURT: -- right now, I'm going to -- unless you
21 give me some reason why I shouldn't hear it, I'm as
22 familiar with this case as anybody in this state. I've
23 heard every motion that has been heard other than the
24 federal court system. I did not hear his criminal case
25 because Judge James happened to be in Barnwell at the time

1 and I was somewhere else when this case came up which is
2 perfectly fine. I mean, it's a Second Circuit case but
3 I'm going to go ahead and give you an opportunity within
4 two weeks to file any motions you want to, send a copy to
5 me, a copy to him.

6 MR. HARRIS: Certainly will, Your Honor.

7 THE COURT: Then we will address your concerns and see
8 where we go.

9 MR. HARRIS: Thank you, Judge. Thank you.

10 MR. WATERS: Thank you, Judge.

11 * * * * *

12 THE COURT: All right. The next matter,
13 Mr. Covington, we're back on the claim of Dallas,
14 08-CP-02-1426. And that was for unpaid legal fees at the
15 time of Mr. Brown's death plus the claims, the PR fees,
16 and revenue streams from his intellectual property.
17 where do we stand? I know you sort of talked a little
18 bit about it a while ago about the bankruptcy court, but
19 where does this case in my court stand?

20 MR. COVINGTON: Well, it's the same as the other
21 case. All we need is the bankruptcy trustee to come in
22 and then I think we can be ready in a very reasonable
23 period of time. Our case is fairly straight forward. I
24 don't know, unless someone -- I don't know who's here to
25 defend this.

1 THE COURT: well, that's another issue I've got to
2 decide because the issue we've got in the, what I call it
3 the main case -- is that 1647?

4 MR. BLACK: Yes, sir.

5 THE COURT: Obviously I've got to make a record, take
6 testimony, receive whatever affidavits, ethical opinions,
7 et cetera, et cetera, as to who can or wants to or will do
8 the litigation of the undue influence case, the wife's,
9 alleged wife's claim and the alleged son's claim.

10 Obviously that's got to be done in an adversarial
11 setting and I just want to make sure that whoever I assign
12 to do that, haven't had a lot of people running to the
13 door to do it, but -- and that will be the person I assume
14 that will oppose this claim on behalf of the state. And
15 until that bridge is crossed, I know we're dealing with
16 that case on July 9 at the same time I'm going to hear
17 Ms. Pope's motion for reconsideration for vacating the
18 order.

19 And, quite frankly, I would suspect, Mr. Bauknight and
20 those that are going to ask to continue in that position,
21 I'm going to have to be assured by whoever represents them
22 from the litigation standpoint, not the collective assets
23 of the estate in marshaling and paying the debts but from
24 the litigation case that there are no ethical problems
25 that have arisen as a result of where we've been to date,

66

1 that they haven't gotten themselves into a conflict
2 situation.

3 And then I'm going to put some rather strict, not
4 strict but some requirements on that, i.e., an affidavit
5 from the litigators, perhaps a review by someone from an
6 ethics standpoint. And then -- quite frankly no one else
7 has come out of the woodwork to want that task. So I got
8 to cross that bridge before I deal with Mr. Dallas's
9 claims. And so, I would probably in that regards just ask

10 you to sit tight on that until we're in a position to know
11 who can litigate it with an adversarial situation.

12 And that's some of the things we're going to discuss
13 on the 7th -- the 9th? When is it?

14 MR. COVINGTON: The 9th.

15 THE COURT: July 9th.

16 MR. COVINGTON: That brings up one other issue and
17 that's one of the problems I had. When I contacted
18 everybody about joining in the chapter seven trustee, I
19 also included 1426. And nobody responded, because I don't
20 think anybody knows who's going to handle that. So when I
21 make this motion to join the trustee --

22 THE COURT: Well, it may be better just to wait until
23 after July 9th and then we can --

24 MR. COVINGTON: It's a simple motion, really, nothing
25 about it.

67

1 THE COURT: Sure. But once we get all of that in
2 place, do you want -- you won't need a lot of time to
3 present your claim; would you?

4 MR. COVINGTON: No, sir. No, sir.

5 THE COURT: And then of course we got to see who all
6 is going to participate in it. All right. Well, let's
7 just sit on that if you don't mind.

8 MS. POPE: Your Honor, may I make a request of the
9 Court?

10 THE COURT: Yes, ma'am.

11 MS. POPE: You filed a motion on March 15th, I'm sorry,
12 an order on March 15th, 2012 directing that all the
13 attorneys and fiduciaries and guardian ad litem in Case
14 1647 under the settlement, their claims for fees and

15 commissions which were filed with the Court during the
16 Case 1647 settlement hearings be delivered to Robert
17 Buchanan and me from the clerk of court. At that time the
18 record had not closed in the Court of Appeals but there
19 were other things and we did not continue to pursue that
20 when the clerk reported that she does not have those
21 documents.

22 Subsequently, I asked Mr. Levenson could he provide me
23 a copy of his contract which I actually already have from
24 the federal case, his 30 percent contract. But he refused
25 politely. I explained to him that they were presented to

68

1 the Court as part of the 1647 hearings and that I thought
2 I was entitled to see them but he didn't do it. I did not
3 ask Mr. Rosen. I did not ask the guardian ad litem. I
4 did not ask Mr. Bauknight or anyone else because I decided
5 it was not worth the trouble.

6 Your Honor ordered those delivered three years ago.
7 And the Court has directed that as part of the Case 1647
8 remand, all fiduciary and attorney's fees in connection
9 with Case 1647 or related cases be released.

10 I checked with the clerk when I filed my complaint in
11 case 1337 and she still did not have them.

12 I would ask that the Court issue an administrative
13 order providing that those, a copy of those documents
14 which were ordered released to Bob Buchanan and me in 2010
15 be released to us and filed with the clerk to be part of
16 the James Brown case 1647 remand and other cases.

17 THE COURT: Thank you. Would it be an imposition to
18 put that to me in an e-mail and copy everybody --

19 MR. BLACK. Your Honor --

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20 THE COURT: -- so I can look at it?
21 MS. POPE: Certainly, Your Honor. I'll be glad to.
22 MR. BLACK: Very briefly.
23 THE COURT: Hold on a second. Yes, ma'am?
24 MS. POPE: I'm sorry. I'm on vacation this week. May
25 I do it next week?

69

1 THE COURT: So am I. Yes, ma'am. You may.
2 MR. BLACK: Your Honor, Ms. Pope is misreading your
3 prior orders from June, Your Honor. It doesn't say
4 related cases. It's to 1647. In that.
5 And those filings that Your Honor has directed to be
6 filed with this court are for Case 1647 and that's what
7 the Supreme Court opinion said as well.
8 The May 8th order of our Supreme Court was very
9 specific that Ms. Pope is no longer a PR trustee. The
10 orders that she's now talking about deal with
11 Mr. Bauknight, not Ms. Pope.
12 Thank you, Your Honor.
13 THE COURT: Thank you.
14 MR. COVINGTON: Your Honor, too, just for
15 clarification?
16 THE COURT: Yes, sir.
17 MR. COVINGTON: I believe your administrative order
18 indicated that myself and Mr. Dallas were removed from
19 1647. So I just want it clear that whatever this other
20 order said, I need to know if it applies to me or not. If
21 it does I'll certainly comply, but I didn't think I was
22 involved in that, or Mr. Dallas.
23 THE COURT: You are or are not?
24 MR. COVINGTON: Are not, according to the

25 administrative order.

70

1 THE COURT: I don't think you are, either.

2 MR. BLACK: That's correct.

3 THE COURT: That's correct.

4 MR. COVINGTON: Thank you.

5 THE COURT: As I understand what you've got left is
6 just your claims for commissions and/or any other fees
7 that y'all claim to be and then you've got the bankruptcy
8 tied in with it.

9 MR. COVINGTON: Yes, sir. That's it.

10 THE COURT: That's the only responsibility or yours,
11 Mr. Dallas's on the claim.

12 MR. COVINGTON: Right.

13 THE COURT: All right.

14 * * * * *

15 THE COURT: All right. That takes us down to Judge
16 Peeples, Rodney Peeples' claim. I don't see him. Do you
17 know anything about that?

18 MR. BLACK: I know that's a claim that's still going
19 forward, Your Honor. The danger that I see in allowing
20 Ms. Pope to go through and start intervening in claims as
21 she's trying to do in Dallas --

22 THE COURT: We're not doing that. I got to deal with
23 that in her motion to intervene.

24 MR. BLACK: That's right.

25 THE COURT: Where do you stand with Judge Peeples'

71

14 a gain and thus some tax that they were trying to collect
15 from the estate.

16 Our only holdup there has been contact with the agent
17 himself. Been very very slow to returning our phone
18 calls.

19 * ***** *

20 THE COURT: The next one is 08-1557. That's an
21 Intrigue Music Management. Where do we stand on that
22 one?

23 MR. BAUKNIGHT: Your Honor, we've prepared as of
24 yesterday a draft summary judgment with respect to that
25 claim. We've met with Frank Copcetas (phonetically).

74

1 We've met with other witnesses and we believe we'll have
2 that submitted within a week.

3 THE COURT: Okay. Go ahead and do that and give
4 everybody sufficient time. We might could hear that the
5 same time we hear Mr. Morrison and Mr. Covington if we
6 need to hear his.

7 MR. BLACK: On the 9th, Your Honor?

8 THE COURT: Well, no, no. The 9th is set for two
9 hours. I'm talking about August.

10 MR. BLACK: For the next one.

11 THE COURT: Yeah, because I don't -- we don't have
12 time to give everybody notice for the 9th.

13 MR. BLACK: Your Honor, on all of these claims we have
14 an update to the Court. As soon as I get back to the
15 office I can actually send it to you.

16 THE COURT: All right.

17 * ***** *

18 THE COURT: The next one is LaRhonda Pettitt. That's
Page 62

19 1758-08. Who represents her?
20 (No response.)
21 THE COURT: Is she pro se?
22 MR. BLACK: I think she now -- she was pro se. She
23 now has counsel.
24 THE COURT: Well, I need a scheduling order in that
25 case by August 1. I'm not quite sure why if you're

75

1 representing someone and you're ordered to be here today
2 why you're not here.
3 MS. POPE: Your Honor, I believe her counsel is Jim
4 Griffin, of Lewis and Babcock.
5 THE COURT: Why is Mr. Griffin not here?
6 MR. BLACK: I don't know that that's still correct,
7 Your Honor.
8 MS. POPE: That's on the notice.
9 THE COURT: Would you please advise him a status
10 report by August 1. And if it is Jim Griffin, tell him we
11 need to do a scheduling order.
12 And likewise with Nicole Paris. See who represents
13 Ms. Paris. Ms. Pope, do you know?
14 MS. POPE: I believe that's Mr. Barr from Kingstree.
15 These two ladies are DNA-proven daughters of James Brown
16 who were acknowledged as daughters by the first set of
17 personal representatives after the official DNA testing.
18 THE COURT: Well -- Mr. Barr?
19 MS. POPE: Mr. Barr of Kingstree
20 THE COURT: What's his first name?
21 MS. POPE: William, I believe.
22 THE COURT: B-A-R?
23 MS. POPE: B as in boy.

24 THE COURT: A?

25 MS. POPE: R-R.

76

1 THE COURT: Can y'all be in touch with -- I mean, if
2 they're acknowledged, you know, it's one way to work it.
3 If it's contested, there's another way.

4 MR. BLACK: Right.

5 THE COURT: Let's just get that so we can move it
6 along.

7 I think that concludes everything that we needed to go
8 through today.

9 So we're all on the same page, the next hearing is
10 July 9th in Aiken, two o'clock.

11 And that's when I want to deal with the main case, get
12 that on scheduling orders, timetables. And we're going to
13 have to address whether or not Mr. Wilkins and his team of
14 lawyers are in a position to provide effective adversarial
15 representation. The reason I say that is because
16 obviously when we went through the settlement hearing,
17 obviously the parties were aligned to some degree.

18 So, Mr. Black, I think it's going to be, I'm going to
19 demand and require an affidavit from y'all's firm that I
20 will accept under, not disseminating but assuring me that
21 you have no conflicts whatsoever from the previous
22 involvement in the settlement and/or appeal that would be
23 inconsistent with you providing the estate 100 percent
24 effort, contesting the claims for undue influence, et
25 cetera, the wife, alleged wife's claim and the child's

77

1 claim.

2 MR. BLACK: We'll be happy to do that, Your Honor.

3 THE COURT: And may also be beneficial to -- I would
4 suggest that you obtain an affidavit from any of our
5 lawyers who specialize in ethics to review and give their
6 opinion.

7 And then I still haven't received any application from
8 anyone else wanting to be involved. So I got to deal with
9 all of that.

10 And let me make a correction. It's at one o'clock,
11 not two. One o'clock.

12 MS. POPE: One or two?

13 THE COURT: One o'clock in Aiken on the 9th.

14 MS. POPE: Your Honor, also included in the will and
15 trust contest was Bob Buchanan's and my answer and
16 counterclaim seeking alternate probate of the 1999 will
17 and trust. And that's a part of my motion. But it
18 certainly should be a part of the consideration of any
19 person who asserts that he is defending the estate plan of
20 James Brown and I would --

21 THE COURT: I would let you address that on the 9th.

22 MS. POPE: Thank you, Your Honor.

23 THE COURT: Anything from anyone else?

24 Thank you very much. Have a wonderful 4th and a
25 wonderful July. I'll see you on the 9th. And then we

78

1 will be off for a couple weeks and then we'll be back.

2 I'll have a new law clerk by then, starting August 1.

3 We'll miss Adam. Thank you all very much.

4 MR. BLACK: Thank you, Judge.

5 END OF CASE: 12:10 P.M.

6

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2008-CP-02-01647

3

4

5 HENRY DARGAN MCMASTER, et al,
6 Plaintiff,

7 -vs-

TRANSCRIPT OF RECORD

8 ALBERT H. DALLAS, et al,
9 Defendant.

10

11

Heard on Tuesday, July 9, 2013

12

Aiken, South Carolina

13

BEFORE:

14

THE HONORABLE DOYET A. EARLY, III

15

16

APPEARANCES:

17

Adele J. Pope, Esq. J. David Black, Esq.

18

Erin Richardson Stuckey, Esq. David Bell, Esq.

19

Albert P. Shahid, Jr., Esq.

20

Fred L. Kingsmore, Esq.

Robert N. Rosen, Esq.

21

Christopher Patton, Esq.

Rodney A. Peeples, Esq.

22

James R. Gilreath, Esq. Mary Frances G. Jowers, Esq.

23

Norma Anne Turner Jett, Esq.

24

COURT REPORTER NOTE: NOT EVERYONE PRESENT GAVE APPEARANCE
TO COURT REPORTER. LISTING MAY NOT BE INCLUSIVE.

25

26

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 5232
Aiken, SC 29804-5232

27

28

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EXHIBIT INDEX

3

4 Defendant Bauknight's:

MAR

5	A	Motion for substitution	17
6	B	Court of Appeals Order of 11-06-2009	20
7	C	Appeal of Pope/Buchanan dated 10-13-09	21

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1 ON TUESDAY, JULY 9, 2013 AT 1:02 P.M.:

2 THE COURT: Good afternoon. Please be seated.

3 On June 13 of this year I signed an administrative
4 order wherein I ruled that Mrs. Pope did not have standing
5 other than her claim for fees and/or commissions.

6 Ms. Pope has filed a motion to reconsider under the
7 appropriate rules. I have set that to be heard first
8 today. I have limited arguments to 20 minutes per side,
9 Ms. Pope, and I think you sent me an e-mail that you

10 wanted it divided such-and-such a way.

11 MS. POPE: Well, Your Honor, unfortunately I did my
12 speech on the 4th of July, and it's very close to 20
13 minutes. So if I could have just a minute or two in
14 rebuttal if I need it, I would appreciate it.

15 THE COURT: Certainly. Do you need a podium?

16 MS. POPE: Oh, yes. Thank you. (Pause.)

17 May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. POPE: Case 1647 was appealed by Bob Buchanan and
20 me to the Supreme Court of South Carolina. Nobody joined
21 us in that appeal. We did the duty Your Honor appointed
22 us to do even though neither of us had sought that
23 appointment. We vigorously defended the estate plan of
24 James Brown as required by his will, by his trust and by
25 the law.

4

1 The Supreme Court on May 8th agreed and overturned the
2 settlement, and it gave everything else we sought except
3 our continued service as fiduciaries. As it stands now,
4 nobody is looking after the interests of the estate of
5 James Brown.

6 For that and other reasons set out in my memos, Bob
7 and I have standing to be in this case and in every James
8 Brown case that affects the legitimacy of James Brown's
9 estate plan for our claims as its former fiduciaries. I
10 ask the Court to reconsider and void the June 13th orders
11 and confirm that Bob and I have standing in all Aiken
12 County cases.

13 I ask the Court to acknowledge that it has no
14 jurisdiction to control the schedules or the outcome of

15 Case 4900 in Richland County which must proceed, the FOIA
16 cases which must proceed, and the Forlando federal case
17 which is now scheduled for trial shortly after September
18 15th, 2013.

19 I incorporate without repeating all arguments made in
20 my written filings since May 8, 2013, including my
21 complaint in Case 1337.

22 Four years ago in your order dated April 8th, 2008,
23 Your Honor wisely spoke of the extraordinary twists and
24 turns which the estate and trust of James Brown had taken.
25 Then you went on to say: This Court finds that Buchanan

5

1 and Pope were properly appointed, have properly performed
2 and should continue in both capacities.

3 I do not believe, Your Honor, that you, nor Bob, nor I
4 could have anticipated that one of the twists and turns
5 that would occur would be that three years later a private
6 attorney speaking for the State of South Carolina would
7 tell a Richland County Court that your April 8th order was
8 mere victor.

9 I don't believe Your Honor or we would have
10 anticipated that the attorney general would work for four
11 years to secure 20 million dollars of fees and commissions
12 for Mr. Bauknight and the attorneys involved in the
13 settlement, taking it from the I Feel Good Foundation in a
14 settlement which was now -- is now void and then just when
15 he was needed to help enforce James Brown's I Feel Good
16 Trust, he would quit. But he has. That surprising State
17 action follows three years of other extraordinary State
18 action of which Your Honor was a very small part.

19 It can be traced to March 15, 2010. That was the day

20 Your Honor ordered the clerk of court to deliver to Bob
21 and me the fee arrangements of Mr. Bauknight and all of
22 the attorneys for the settling parties. Those fee
23 arrangements you directed the clerk to deliver to us were
24 not in the clerk's office. They are not in the clerk's
25 office today.

6

1 The attorney general will not release them. The
2 attorneys will not release them. If details of the 20
3 million dollars that Attorney General Wilson's predecessor
4 thought it was okay to pay Mr. Bauknight and all those
5 attorneys for the settling parties had been released back
6 in 2010, maybe the attorney general would not have been so
7 quick to call Bob Buchanan a felon because he asked for a
8 2.1 million dollar commission for five and a half years of
9 valuable service to the I Feel Good Trust.

10 Maybe he would not have accused me of being a felon
11 for asking for a fair fee for defending the I Feel Good
12 Foundation for five and a half years against Tommie Rae's
13 lawyers, against seven taxpayer-paid lawyers working for
14 the attorney general, and against about 35 more lawyers
15 seeking to feed on the carcass of the I Feel Good
16 Foundation and the scholarships for needy children they
17 were trying to destroy.

18 Your Honor's June 13th order should be voided because
19 the State acting through Your Honor is violating Bob's and
20 my rights in Richland County and attempting to violate
21 them in Aiken County and attempting to violate them in
22 Richland County and in the federal court.

23 Your June 13th order and the order of the clerk
24 prevent me from protecting my property rights to a fair

25 commission, most of which has been approved by Your

7

1 Honor's January 8th, 2008 order.

2 They prevent Bob and me from restoring our careers and
3 our reputations. They prevent me from defending against
4 the false claims of the Attorney General of South
5 Carolina. They even threaten my liberty where the State's
6 highest criminal officer has falsely accused me of being a
7 federal felon.

8 Your Honor, I do have standing to protect myself in
9 this court and all other courts. I have the right to file
10 motions and have them heard without Your Honor or any
11 other judge directing that they be stricken from the
12 public record before they are heard.

13 I have the right to be ungagged or at least to seek to
14 be ungagged from Your Honor's five-year-old gag orders
15 issued with no hearing and without supporting affidavits.

16 I have this standing based on the Fifth, the First,
17 and the 14th Amendments of the Constitution of the United
18 States of America that governs you and me and every
19 citizen of this state.

20 I also have some plain old standing under the probate
21 code. I am an interested person. I am a creditor with
22 rights.

23 And I have standing as an other under the South
24 Carolina trust code. Someone interested in the
25 enforcement of the I Feel Good Trust because my claim

8

1 rests on the reasonableness of the defense of that trust.

2 That standing includes a right to participate in every
3 case which affects my fair commission for services as

4 personal representative of James Brown's estate as that
5 term is defined in the probate code. It is not 18
6 months. It is five and a half years. It is based on my
7 rights under the probate code as a creditor and an
8 interested person.

9 The June 13th order should be voided because they
10 distort the playing field. They do not do justice. They
11 leave the protections of the James Brown estate plan and
12 my own claim and Bob's claim in the hands of a fiduciary
13 who has fought the estate plan of James Brown for four
14 years, who has not accounted, who has defrauded the Court,
15 who has intentionally misstated facts about the heirs of
16 James Brown and their rights and who has not, cannot and
17 will not protect the 2000 or the '99 will of James Brown
18 or give me a fair hearing on my claim.

19 The State through this Court and the attorney general
20 has deprived Bob and me of our property rights and even
21 threatened our liberty.

22 Many of the questions which must be decided are not
23 pending before you. They are in Richland County where the
24 State represented by a private attorney and as a
25 co-Plaintiff with Tommie Rae Hynie sued Bob and me in 2010

9

1 for conducting the Wilson versus Dallas appeal.

2 On September 16, 2012, the Attorney General of South
3 Carolina told our Supreme Court since late 2008 the family
4 and the attorney general have been in agreement that the
5 litigation must end. So, he said, similarly the family
6 and attorney general are in agreement that Pope's conduct
7 must come to an end.

8 I have standing to show in this and every court that
Page 7

9 Tommie Rae is not James Brown's family, that the attorney
10 general should not have joined as her co-Plaintiff to sue
11 me for conducting the Wilson versus Dallas appeal, nor
12 Bob.

13 And I have standing to show that it is the State's
14 conduct, not mine, the State's attempt to crush anyone who
15 protects James Brown's two valid estate plans. That is
16 the conduct which must come to an end.

17 The June 13th orders must be voided so that I may
18 exercise my rights, protect my freedom and protect my
19 claim and Bob may do the same. Someone has committed
20 fraud in connection with the valuation of James Brown's
21 Worldwide Music Empire.

22 The Attorney General of South Carolina says that it is
23 Bob and me. On September 12, 2012, the attorney general
24 told the Supreme Court this: There is no conflict of
25 interest like self-interest, Pope's 2.5 million dollar

10

1 conflict of interest. She had -- and these are what he
2 said in the brief. She had the audacity to file a claim
3 for that amount. Her claim is simply egregious when
4 viewed against the backdrop of her actual work and the
5 value of the estate and trust. The value of the estate
6 and trust.

7 Mr. Bauknight did, says the attorney general,
8 Mr. Bauknight did what a personal representative should
9 have done. He obtained an independent, professional
10 valuation of the intellectual property. Mr. Bauknight
11 valued James Brown's Worldwide Music Empire which had
12 earned six million dollars a year for the three years
13 before his death at less than 4.7 million dollars.

14 where is that valuation? It is hidden under lock and
15 key. The attorney general will not release it under
16 FOIA. Mr. Bauknight will not release it, although he is
17 required to do so by the probate code.

18 4.7 million dollars for royalties to 800 published
19 songs. 4.7 million dollars for those royalties and the
20 right to exploit James Brown's image and persona for
21 decades.

22 The Attorney general of South Carolina told the
23 Supreme Court that Mr. Bauknight's valuation was right.
24 He said that the other five fiduciaries who had served
25 James Brown for over 15 years were wrong about the value.

11

1 He said that the five of us had haphazardly claimed the
2 date-of-death value in varying amounts around a hundred
3 million. He said we provided no substantiation for the
4 figure.

5 He was not correct.

6 The Attorney General of South Carolina also told the
7 Supreme Court in 2011 that there never was an offer to buy
8 James Brown's Music Empire.

9 Now, you and I were there when the first one came.

10 The attorney general said there was never an offer at
11 the same time he was suing Bob and me for tens of millions
12 of dollars for not accepting a hundred million dollar
13 offer.

14 The attorney general has clung to his 4.7 million
15 dollar valuation. And he's clung to the accusations
16 against Bob and me even though James Brown's Music Empire
17 earned five million in 2010, and 10 million in 2011. The
18 year James Brown earned 10 million dollars the attorney

19 general agreed, as Mr. Bauknight told the Supreme Court,
20 that Mr. Brown's estate and trust had no corpus to speak
21 of.

22 The attorney general endorsed Bauknight's false claim
23 that but for the McMaster settlement there would be
24 nothing in the I Feel Good Trust in 2023.

25 The attorney general nodded approval as Mr. Bauknight

12

1 told the Supreme Court that Tommie Rae Hynie's elective
2 share claim was a slam dunk. He did so even though the
3 attorney general was gagged from discussing Tommie Rae's
4 own handwritten notes which her own lawyer admits would
5 cause irrevocable damage to that claim.

6 The State's protector of charities was gagged by Your
7 Honor's orders from doing his public duty to protect the I
8 Feel Good Foundation. But it's worse than that. He
9 wasn't just gagged, but he worked for years to prevent the
10 ungagging of his own office. That is truly unprecedented.

11 Let me tell you, he did this by filing vitriolic
12 briefs with Tommie Rae Hynie in the Supreme Court. Why is
13 this happening? Why is the State holding felon David
14 Cannon hostage when they named him as a witness against
15 Bob and me in Case 4900? Why are they calling his
16 sentencing proceeding a part of the civil cases? Why is
17 Russell Bauknight, not the State, listed as the
18 Plaintiff? Is it a fear perhaps that Mr. Cannon if not
19 threatened might no longer be a good witness against Bob
20 and me? That he might actually tell what is contained in
21 those documents which he and Mr. Dallas transcribed and we
22 all discussed for a year before the gag order? Could it
23 be that Mr. Cannon will confirm that the assets were worth

24 a hundred million dollars and everyone knew it? He might
25 even say that he hated Bob and me, especially me, but that

13

1 we were not felons.

2 And he will say that James Brown had two iron-clad
3 estate plans.

4 Now all of these questions are pending in Richland
5 County Case 49, Your Honor -- 4900, Your Honor. Judge
6 Manning has exclusive jurisdiction over those cases. And
7 here's why. Because the State of South Carolina and
8 Tommie Rae and the other co-Plaintiffs didn't want you to
9 hear it at the time. They argued against us that Aiken
10 was not the right place, Richland was the right place.
11 And they won.

12 I respectfully submit that this Court and the clerk
13 should void the June 13th orders, restore my motions to
14 the public record, hear them, confirm that this Court has
15 no jurisdiction over the Forlando suit, Case 4900, or the
16 FOIA suit, confirm my standing and right to participate in
17 every pending James Brown hearing where value, heirs, the
18 estate plan or any fee claims are pending.

19 To do so will level the playing field. It will
20 promote justice, not only for me and the pursuit of my
21 claim but for the thousands of needy and deserving
22 students James Brown considered to be his family and
23 intended to benefit with the I Feel Good Trust.

24 Thank you.

25 THE COURT: Thank you. All right. Who's going to

14

1 handle the other side?

2 MR. BLACK: I will, Your Honor. David Black on behalf
3 of Russell Bauknight as the SAST.

4 Your Honor, by brief way of overview, we received
5 Ms. Pope's reply last night. Initially when we saw this
6 motion to reconsider our response was she has not raised
7 anything proper before the Court. It is the law of the
8 case that the Supreme Court of South Carolina has spoken.
9 The Court's orders takes -- took those same findings. The
10 issue of preclusion is black and white.

11 Unfortunately, Your Honor, what has happened is
12 Ms. Pope has filed materials with this Court that just are
13 not correct. She's filed materials saying that we have
14 alleged that she is a felon.

15 Your Honor, Mr. Bauknight has not done that. She
16 knows that. It was put on the record in front of Judge
17 Manning in Case 4900.

18 THE COURT: What does that have to do with 4900?

19 MR. BLACK: Exactly, Your Honor. My point as well.
20 And that has to do with due process. There is no due
21 process violation here.

22 To have a due process violation, she has to have a
23 State actor that's saying she does not have a remedy. By
24 Ms. Pope's own argument today, she has a remedy. She's
25 talking about a separate Forlando case. That's in federal

15

1 court. That's not before Your Honor.

2 She's talking about a separate case in Aiken that
3 she's able to participate in. She's named individually.

4 THE COURT: What separate case in Aiken?

5 MR. BLACK: I'm sorry. In Richland County. Her Aiken
6 case is the claim case. She has the ability in that

7 separate case to participate in her claim.
 8 THE COURT: And my administrative order said that.
 9 MR. BLACK: That's correct.
 10 THE COURT: She could pursue her claims for
 11 commissions, attorney's fees, whatever else she claiming.
 12 MR. BLACK: It goes through that. Your Honor --
 13 THE COURT: Where is the FOIA case?
 14 MR. BLACK: The FOIA case, I believe she filed one in
 15 Newberry. She filed a couple in Richland County.
 16 THE COURT: Well, I have nothing to do with that.
 17 MR. BLACK: Not before this Court. There is no due
 18 process violation there.
 19 The Supreme Court has looked at this.
 20 Your Honor, I have a few exhibits I'm going to mark
 21 into evidence that shows Ms. Pope should be judicially
 22 estopped. Clear back in 2009 she's already argued this
 23 position. And right now, as Your Honor is aware, she's
 24 trying to set the record up on appeal to drag this out
 25 because she's disgruntled because of her removal.

16

1 And that's not proper and it's disrespectful to this
 2 Court. She's taken the direct opposite position. And I'm
 3 going to put that into evidence today. And that's one of
 4 the reasons we have moved for costs, Your Honor. It is
 5 not fair for Mr. Bauknight to have to go before the Court
 6 to defend himself, now personally as well, to Ms. Pope's
 7 frivolous claims.
 8 Your Honor also said in those orders that we would
 9 start following the rules. And I don't know if Ms. Pope
 10 doesn't have a copy of the South Carolina Rules of Civil
 11 Procedure or what the problem is, but I've got an

12 affidavit served on me last night of 40-some odd pages,
13 missing pages, mailed from Charleston and it violates Rule
14 6, Your Honor.

15 As you're aware, Rule 6(d) says that it's served with
16 the motion. So now we have to come before Your Honor,
17 strike something that was filed improperly. And she needs
18 to start following the rules. And Your Honor's clear
19 directive has already established that protocol.

20 So, Your Honor, we have filed our memorandum in
21 opposition. I think the Court has received a copy of
22 that. I've got file stamped copies if the Court needs
23 another one.

24 Within our memorandum in opposition we go through the
25 issue of preclusion analysis. We cite a few cases that

17

1 show that Ms. Pope has already fully litigated this. She
2 argued this same issue before the South Carolina Supreme
3 Court. Her argument in her notice of appeal number two
4 was, I was improperly removed. The reply that I received
5 last night, Your Honor, now takes the position that she
6 was never removed. It flies in the face of the South
7 Carolina Supreme Court opinion which we'll also mark into
8 evidence.

9 Your Honor, in terms of exhibits, one of the documents
10 that Ms. Pope filed that I'll just ask the Court to take
11 into judicial reference was on 4-16 of 2010. And that was
12 a motion to substitute. Your Honor, that motion was filed
13 in Case 872. And Your Honor is aware when we look at
14 Ms. Pope's argument today, she argues, I shouldn't be
15 substituted in that. I'm a proper party. Ms. Pope's own
16 pleadings she asks for substitution.

17 Your Honor, if I could mark Pope's motion for
18 substitution as Exhibit A.

19 (Thereupon, Bauknight Exhibit A, Pope's motion for
20 substitution, was marked and received into evidence.)

21 MR. BLACK: Your Honor, this was a motion filed by
22 Ms. Pope in Case 872. It's entitled motion for
23 substitution. It was filed in this court on April 15th of
24 2010.

25 If the Court looks at Ms. Pope's position at that

22

1 that the cover page lists the three matters that were
2 consolidated. That's Case 1647, Case 122, and Case 872.
3 And you'll see that the second page is entitled her notice
4 of appeal.

5 So when the Court sent out that letter to Mr..
6 Richardson, Ms. Pope's counsel, it was in reference to
7 those cases that had been consolidated.

8 It also, Your Honor, attaches this Court's 9-16 of
9 2009 order denying Ms. Pope's motion for reconsideration
10 where she made strikingly similar arguments to this Court

Page 18

Page 22
Statement of Mr. Black

11 about it being improper for Mr. Bauknight to act as PR, he
12 has a conflict of interest, that they needed to stay
13 involved.

14 This Court made findings in this order, it's also on
15 file with the Court of Appeals, that that's not the case
16 and that it was proper to move forward with Mr. Bauknight
17 acting as PR trustee. And, importantly, that Ms. Pope had
18 been removed.

19 Your Honor is fully aware of the South Carolina
20 Supreme Court's May 18th, 2013 opinion that goes through
21 and talks about Ms. Pope's service. It talks about an
22 irreconcilable conflict of interest that existed between
23 appellants and the settling parties. Thus the circuit
24 court, this circuit court here in Aiken, had cause to
25 remove them and replaced them with a professional

23

1 fiduciary.

2 The Supreme Court has recognized that what the Court
3 did in May of 2009 was to take her out of office. The
4 Court has found, the Supreme Court, that she was removed
5 for cause and Mr. Bauknight has served since then.

6 They also found that there was cause to remove her
7 because she sought five million in fees for a relatively
8 short period of service, that her actions were in extreme
9 discord between the parties, and her continued service as
10 a fiduciary is not in the best interests of the trust and
11 estate.

12 Your Honor, these are the findings of the highest
13 court in South Carolina.

14 Ms. Pope was removed for cause. It is the law of the
15 case. The issue of preclusion clearly shows that she was

16 removed. And judicial estoppel prevents Ms. Pope for now
17 taking a contrary position to what she was already taking,
18 Your Honor.

19 Thank you.

20 THE COURT: Thank you.

21 MS. JETT: Your Honor, may I be heard for Mr. Albert
22 Dallas in 1426?

23 THE COURT: You all have 20 minutes. How much time do
24 they have? You have a minute and 36 seconds.

25 MS. JETT: Thank you, Your Honor.

27

1 MS. POPE: Thank you.

2 THE COURT: What do you need? How much do you need?

3 MS. POPE: About five or seven minutes.

4 THE COURT: Seven minutes.

5 MS. POPE: Thank you.

6 THE COURT: Thank you.

7 MS. POPE: Your Honor, I think it is noteworthy that
8 the Attorney General of South Carolina did not prepare to
9 speak on this important issue.

10 The November 6, 2009 letter did not acknowledge the
11 consolidation of 1647, 122 and 872. That is entirely
12 incorrect. It acknowledged the consolidation of 1810
13 which was an appeal of the two, the two ex parte special
14 administrator and special trustee orders that
15 Mr. Bauknight had obtained and Case 1647. The 872 and 122
16 designations began to appear in about January of 2009 in
17 Case 1647. The Supreme Court actually dropped those
18 numbers because it was not an appeal of those two cases.
19 It was an appeal only of Case 1647.

20 So, that is not correct.

21 Now, it's hard to know exactly what to think now that
22 Mr. Bauknight's appointment by the order of the Supreme
23 Court has been declared void from the beginning. So, to
24 look back and talk about how his void appointment relates
25 to other things is hard.

28

1 But let me try to explain. The May 26 order was
2 unclear about whether Bob and I retained responsibility
3 over breaches of Mr. Bauknight's duty.

4 On November 6, 2009, the Court of Appeals straightened
5 that out and said that he would be the fiduciary for the
6 pending appeal. Jim Richardson and Bob and I immediately
7 said -- and he said, importantly, as Mr. Black has said,
8 all the liability and all the responsibility from May 26,

9 2009 through the appeal for the improper administration of
10 the estate and trust rests with him.

11 That was something that Your Honor's order had not
12 been clear. We immediately through letter of November
13 18th of Jim Richardson said, please substitute for us as
14 the fiduciary in all of these matters pending the appeal.
15 There was nothing improper about that. It was to help him
16 be able to continue the administration of the estate
17 pending the appeal, you know. We said, we don't want you
18 there. We think you did the wrong thing. We think the
19 settlement is bad but we of course want the estate and
20 trust to prosper during the appeal. That's all that was.

21 And the notion that standing is tied to being a
22 fiduciary, it's just not. Tommie Rae's not a fiduciary.
23 James B's not a fiduciary. Deanna's not a fiduciary.

24 I have standing. I do not claim to be the fiduciary,
25 but I have standing now as an other. I do claim to have

29

1 been the statutory fiduciary for the four years during
2 which Mr. Bauknight served under a void appointment, May
3 26, 2009 to May 8th, 2013, because under the definition of
4 fiduciary for that period, Bob and I were doing more to
5 protect the estate plan as it is defined in the probate
6 code than was Mr. Bauknight who was holding the assets,
7 who has never accounted, who has valued this hundred
8 million dollar Music Empire at 4.7 million. I am in
9 competition with him.

10 Very important, Your Honor. Nobody has yet stepped
11 forward to protect 1999 backup estate plan which should
12 have been the will contest all along. Bob and I were the
13 fiduciaries. We introduced it. If it goes 10 years after

14 Mr. Brown's death, and that could happen, that second
15 backup estate plan, and Vorhees and USC-Aiken and
16 USC-Salkehatchie, the backup, the ones who should be in
17 the real will contest if there were one, are out in the
18 cold.

19 I have standing as an other who cares about the I Feel
20 Good Trust, not as a fiduciary, to see that that does not
21 happen.

22 Standing. As for Ms. Jett's comment, both the
23 bankruptcy trustee and Mr. Bauknight and Mr. Dallas
24 himself before they hired Ms. Jett have consented on the
25 record for me to be in his claim case. On the record.

30

1 I wasn't prepared for what she had to say today but
2 Your Honor might check the record. I have standing in his
3 claim case because the Nexsen Pruet lawyers told the
4 bankruptcy court that all of the fiduciary commissions
5 must be determined in the same proceeding. I didn't agree
6 with them then, but I do think it's a good idea now.

7 Thank you, Your Honor.

8 THE COURT: Thank you.

9 All right. The next order of business today is to
10 have a status conference on --

11 MR. ROSEN: Your Honor, would you entertain having that
12 in your office --

13 THE COURT: Absolutely not.

14 MR. ROSEN: -- and putting Mr. Levenson on the line?

15 THE COURT: Absolutely not. Mr. Levenson was given
16 notice of today.

17 I have -- I told everybody, I do not have capabilities
18 out here for telephone conference. And, I told everybody

19 at the initial status conference. I had bent over
 20 backwards forever trying to accommodate everybody's
 21 schedule. I did not do 1647 two weeks ago or last week
 22 because of Mr. Levenson's schedule. And I'm not doing
 23 that out of spite or anything, I just don't have the means
 24 of doing it. And I have learned that everything in this
 25 case, nothing's going to be done in my chambers. I think

Page 33
 Statement of The Court

9 Now, since the signing of my order, I have not
 10 received any applications. Quite stunning because I don't
 11 know too many people who want to apply for this job.

12 Now, can I share your e-mail yesterday?

13 MR. BLACK: You can, Your Honor.

14 THE COURT: Those in attendance at the status
 15 conference last week on Tuesday in Bamberg, you heard me
 16 discuss with Mr. Bauknight's counsel, Mr. Black, my
 17 concern as to whether or not there were any conflicts
 18 between Mr. Bauknight and his lawyers in trying to deed
 19 the correct persons to litigate those three claims, i.e.,
 20 did they receive information during the settlement
 21 process, during the arguments before the Supreme Court,
 22 and whether or not they could in good faith stand against
 23 the claims made against the estate. In other words, were
 24 they going to be the strong adversaries for the upholding
 25 of the estate plan.

34

1 I asked them to get me an opinion from someone
 2 dealing, an expert in ethics. Well yesterday I received
 3 from Mr. Black an ethics opinion or a letter from
 4 Professor Crystal that eases my concerns dealing with
 5 that.

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF AIKEN

2008-CP-02-01647

3 2013-CP-02-01348

4 COUNTY OF RICHLAND 2012-CP-40-03900

5

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IN RE:

7

JAMES BROWN ESTATE CASES

TRANSCRIPT OF RECORD

8

9

Heard on Tuesday, October 8, 2013

10

Aiken, South Carolina

11

12 BEFORE:

THE HONORABLE DOYET A. EARLY, III

13

14

APPEARANCES:

15

Robert L. Buchanan, Jr., Esq.

16

Robin Braithwaite, Esq.

J. David Black, Esq.

17

William G. Newsome, III, Esq.

Russell L. Bauknight, Esq.

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21

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 5232
Aiken, SC 29804-5232

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1 ON TUESDAY, OCTOBER 8, 2013 AT 3:46 P.M.:

2 THE COURT: We're on the record this afternoon. I've

3 asked for, I guess I termed it a status conference or a

4 gathering to address Mr. Buchanan's correspondence to this

5 Court dated July 26, 2013, in response to my
6 administrative order that I dated, that was dated June 13,
7 2013, in regards to the Estate of James Brown, and in
8 regards to the Wilson versus Dallas case that came out of
9 the Supreme Court wherein I was directed to review fees
10 that had been paid in that case, and to see if there were
11 to be any reimbursement or disgorgement of those fees.

12 In response to that, Mr. Buchanan very timely and very
13 thoroughly presented to me a letter dated July 26, 2013,
14 which has been filed, excuse me, on July 29, 2013, in our
15 clerk of court here in Aiken in the case that was
16 designated for the receipt of the response to my
17 administrative order dealing with fees. That case is
18 13-CP-02-1348.

19 And in that response Mr. Buchanan set out his various
20 involvement over the years as the Special Administrator
21 and his other responsibilities that he held in that case.
22 And in the letter and the response that he put in, he
23 informed this Court that he had received -- and which was
24 originally in the case in Columbia, 4900?

25 MR. BLACK: Correct.

3

1 THE COURT: -- 4900 in Columbia before Judge Manning,
2 received a settlement of \$500,000 which was presented to
3 me as being fees that he incurred in connection with his
4 involvement in the Wilson versus Dallas, and has asked me
5 to approve the same to make sure there was no disgorgement
6 and that I had an opportunity to review it and make sure
7 that everything was in order.

8 Upon receipt of that, I spoke with Mr. Newsome in
9 trying to get all of, a lot of the other things

10 scheduled. we felt like it would be in everybody's best
11 interest to have a status conference on the record for me
12 to voice my approval if I did approve, and for anybody to
13 put any opposition or any of their positions on the
14 record.

15 Mr. Newsome, is that sort of a fair assessment of
16 where we are?

17 MR. NEWSOME: Yes, Your Honor.

18 THE COURT: Well, I have reviewed the application
19 made, or not application but the submission made by
20 Mr. Buchanan in response to my administrative order in
21 Wilson versus Dallas. And from my own personal
22 observation of all of the work that Mr. Buchanan did in
23 his diligent representation of the Estate, I certainly
24 find there is no money that should be disgorged from that
25 \$500,000, that it was certainly well earned and I approve

4

1 the same.

2 And I would like an order entered for me to approve
3 that. Mr. Buchanan, do you have a question about it?

4 MR. BUCHANAN: If it please the Court, Your Honor.
5 There was also as part of what I was paid, I was paid
6 \$153,000 during the time that I served as Special
7 Administrator and --

8 THE COURT: In addition to the 500?

9 MR. BUCHANAN: Yes, sir. And that really is the
10 payment, I think, that's here before this Court is the 153
11 because the \$500,000 settlement was the Columbia case.

12 THE COURT: I understand that's the one in Columbia.
13 But I'm double-approving it in my court, whether it should
14 be or not. I think the fees that you were paid before,

15 150 that you mentioned, the exact amount, and the 500 is
16 certainly reasonable and I approve the same, whether I
17 have to or not, on the 500,000.

18 And it's my understanding from that, not giving up any
19 rights that you may have in Columbia if that settlement
20 somehow or another is not, doesn't live out its lifetime,
21 if something happens to it, it's challenged, that
22 obviously you would not be giving up any rights that you
23 would have if that settlement was overturned. But as far
24 as the moneys that you were paid in the Wilson versus
25 Dallas and cases that preceded that, that that's what

5

1 you're asking for and you're asking me to approve that.

2 MR. BUCHANAN: Yes, sir. I'm asking that I not be
3 required to disgorge any of that money that I received for
4 what I did. And the only caveat is that I reserve the
5 right to take any position I need to if the settlement in
6 Columbia is somehow challenged by a party.

7 THE COURT: Well, I have certainly reviewed the full
8 submission and I find that no disgorgement is warranted.
9 That fees that were paid to you were certainly earned and
10 appropriate and represented your diligent efforts in your
11 various responsibilities with the Estate and would find
12 absolutely no disgorgement is required.

13 Mr. Newsome?

14 MR. NEWSOME: Your Honor, I'll say, if we could, could
15 we work with Mr. Buchanan as counsel to submit a proposed
16 order on this? And we certainly agree he should not be
17 required to disgorge anything. We just want to, I think
18 that the, our interpretation of the Supreme Court's
19 opinion and what you're required to do is to review fees

20 in connection with the 1647 case.

21 THE COURT: That's correct.

22 MR. NEWSOME: We certainly don't object to you
23 affirming that the \$153,000 paid for his services as
24 Special Administrator pursuant to your prior order is
25 reasonable and also should not be subject to

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1 disgorgement.

2 But our position is the only fees that the Estate
3 Trust paid in connection with the 1647 case was this
4 \$500,000 payment to Mr. Buchanan. There weren't any other
5 fees case, fees payable to where you got other fee
6 submissions but those were the only fees paid that need to
7 be reviewed pursuant to, I think you assigned case 1348.
8 There are other submissions you received which can all be
9 subsumed by creditors claims.

10 THE COURT: That's correct. They were received from
11 Mr. Bailey, Ms. Tressa Hayes, Ms. Pope, maybe some -- I
12 got them all right here.

13 But anyway, as we discussed on the phone you would
14 handle those as a creditor's claim-type situation.

15 MR. NEWSOME: Yes, sir.

16 THE COURT: Well, do me a favor then. That's my
17 ruling. And I may not have been as articulate as I
18 should. It's been a long day. My voice is about gone.

19 If you would, please, both of you, in conjunction, do
20 the order with Mr. Braithwaite and Mr. Buchanan obviously.

21 MR. BUCHANAN: And Mr. Watson.

22 THE COURT: And Mr. Watson. And then it's nothing we
23 have to do overnight, but make sure Mr. Buchanan has an
24 opportunity to comment that the language in there protects

25 him in the event something goes awry in Columbia with the

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1 current litigation before Judge Manning.

2 MR. NEWSOME: Absolutely.

3 THE COURT: Anything else we need to put on the
4 record?

5 MR. NEWSOME: No, sir.

6 THE COURT: Mr. Buchanan?

7 MR. BUCHANAN: I can't think of anything, Your Honor.

8 THE COURT: Well, if we've left something out, for
9 goodness sakes, call me and we'll supplement the record.

10 MR. BUCHANAN: Okay.

11 THE COURT: Mr. Bauknight, how are you doing?

12 MR. BAUKNIGHT: I'm tired, Your Honor. I had a long
13 day, too.

14 END OF PROCEEDINGS: 3:55 p.m.

15 ***

16 CERTIFICATE OF REPORTER

17 STATE OF SOUTH CAROLINA)

18 COUNTY OF AIKEN)

19 I, Cheri L. Young, Registered Professional Reporter
20 and Official Court Reporter for the State of South
21 Carolina, Second Circuit-At Large, do hereby certify that
22 the foregoing proceedings were written stenographically by
23 me using computer-aided translation; further, that the
24 foregoing is a true, accurate and complete record, to the
25 best of my skill and ability, of all the proceedings had

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1 and evidence introduced in the hearing of the captioned
2 case, relative to appeal, in the Court of Common Pleas for
3 Aiken County, on the 8th day of October, 2013.

Page 6

4 I do further certify that I am neither of kin,
5 counsel, nor interest to any party hereto.

6 I have hereunder set my hand this 23rd day of
7 December, 2013.

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Cheri L. Young, RPR
11 Official Court Reporter

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF AIKEN

CIRCUIT COURT
2013-CP-02-01337

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4

5 ADELE POPE,
Plaintiff,

6 -vs-

TRANSCRIPT OF RECORD

7 ESTATE OF JAMES BROWN,
et al,

8 Defendant.

9

Heard on Tuesday, December 3, 2013

10

Aiken, South Carolina

11

12 BEFORE:

13

THE HONORABLE DOYET A. EARLY, III

14

15 APPEARANCES:

16

Counsel on Behalf of the Plaintiff:
Adele J. Pope, Esq.

17

18

Counsel on Behalf of the Defendant:
W. George Newsome, III, Esq.
Frederick A. Crawford, Esq.

19

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Russell L. Bauknight, Esq.

21

22

23

Cheri L. Young, RPR
Circuit Court Reporter
P O Box 5232
Aiken, SC 29804-5232

24

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1 ON TUESDAY, DECEMBER 3, 2013 AT 10:05 A.M.:

2 THE COURT: The first thing I have this morning is the

3 James Brown case of Adele Pope versus the Estate of James

4 Brown.

5 we have a motion to dismiss filed by the Defendants.

6 I will allow each side 15 minutes.

7 MR. NEWSOME: Thank you, Your Honor.

8 Before we start, can I just give you a quick status
9 update? There are some resolutions of some creditor's
10 claims that will relate to Ms. Pope's claim. I just
11 wanted to update the Court.

12 We have reached agreement to settle Mr. Bailey's claim
13 for legal fees which Ms. Pope's claim also includes a
14 claim, not just for fiduciary commissions but also for
15 legal fees. So that portion of his claim is being
16 resolved as well as that portion of hers.

17 And then also, Tressa Hayes. We've reached a
18 settlement with her as well that will resolve her claim.
19 So I just wanted to update the Court as to that.

20 THE COURT: Have those claims been paid yet or how is
21 that?

22 MR. NEWSOME: We're in the process of doing that now.
23 I think one of them will be before the year end. One of
24 them, I think, for tax reasons will be shortly after.

25 THE COURT: I understand. Thank you.

3

1 MS. POPE: Your Honor, could I say something about
2 that, please?

3 THE COURT: Yes, ma'am.

4 MS. POPE: Your Honor, my complaint contained that
5 because the notice of disallowance purported to disallow
6 the claims of Mr. Bailey and Ms. Hayes, and I was forced
7 to include that in the complaint. And I would like if
8 Mr. Newsome would tell the amount that each of them is
9 being paid so that we'll have it in the record.

10 Mrs. Hayes has reported to me that she is being paid
11 \$50,000 in addition -- I think that's correct, in addition
12 to all of the amounts that she was paid --
13 THE COURT: An additional 50,000.
14 MS. POPE: -- for her service. And I have not spoken
15 to Mr. Bailey. But I would appreciate if we could --
16 those two worked very, very hard to protect the Estate and
17 Trust.
18 THE COURT: I understand.
19 MS. POPE: And I would like it on the record.
20 THE COURT: Well, I mean, you're welcome to put it on
21 the record now.
22 MR. NEWSOME: I'm happy to, Judge. And actually I do
23 have a procedural question that I guess it could have some
24 bearing on that. I didn't bring the files but I'm doing
25 this from memory which is always dangerous, but Tressa

4

1 Hayes, I believe her claim was for approximately \$75,000
2 of unpaid fees. And she was paid prior to --
3 THE COURT: The resolution was for an additional
4 \$50,000; is that correct?
5 MR. NEWSOME: We're paying her 50 of the 75 that she
6 had claimed.
7 THE COURT: Thank you. And how about Mr. Bailey?
8 MR. NEWSOME: And then Mr. Bailey had a claim for fees
9 of about, just under 85,000 was the amount of his claim
10 plus interest. And we resolved that for a payment of
11 42,500.
12 THE COURT: Thank you.
13 MR. NEWSOME: And one question that they each had, I
14 told them I would just address it. I don't believe that

15 there's any need for the Court to review those fees under
16 the Supreme Court opinion. They both submitted
17 information as to their fees --

18 THE COURT: They did.

19 MR. NEWSOME: -- as part of that review. Mr. Bailey's
20 fees, if you look at them, most of his fees relate to time
21 prior to May 26th of '09 --

22 MS. POPE: Your Honor, I would prefer that this not be
23 on the record because I'm going to have to refute how they
24 reached the amount. I haven't spoken to Mr. Bailey. He
25 listed me as an expert witness in his case. I think it's

5

1 unfair to talk about --

2 MR. NEWSOME: I'll withdraw it. I don't want it on
3 the record anyway, Judge.

4 MS. POPE: Thank you, Your Honor.

5 THE COURT: Thank you. All right. Let's start
6 arguments.

7 MR. NEWSOME: Thank you, Your Honor. I have an extra
8 copy of my motion if you need it. I've already given a
9 copy to the court reporter.

10 THE COURT: I've read it yesterday as a matter of
11 fact.

12 MR. NEWSOME: All right. May it please the Court,
13 Your Honor. I represent Russell Bauknight in his
14 fiduciary capacity as Personal Representative of the
15 Estate of James Brown, also as Trustee of the James Brown
16 2000 Irrevocable Trust, and also in his fiduciary
17 capacities as Special Administrator of the Estate and
18 Special Trustee of the Trust.

19 We're here on our motion to dismiss Ms. Pope's

20 complaint under Rule 12(b)(6) of the South Carolina Rules
21 of Civil Procedure for failure to state facts sufficient
22 to constitute a cause of action. And, Your Honor, as you
23 know, in considering our motion you must rule solely on
24 the allegations contained in the complaint. The question
25 is whether in the light most favorable to Ms. Pope, and if

6

1 there's a doubt to resolve it in her behalf, whether the
2 complaint states any valid claim for relief. If she fails
3 to state facts sufficient to constitute a cause of action,
4 the Court may dismiss the complaint.

5 We also believe that she lacks standing to bring
6 certain causes of action that she's attempting to bring.
7 And we've included in our motion that she cannot bring
8 those actions. In the alternative, we've asked the Court
9 to move for a more definite statement to the extent that
10 the complaint's not dismissed. We feel like it's a
11 shotgun complaint and not drafted in a way that we can
12 reasonably respond.

13 And, Judge, I do want to say at the outset that
14 Ms. Pope has filed a claim against the Estate. She's a
15 creditor of the Estate. We don't deny that. She has
16 absolutely every right to have her claim adjudicated. We
17 think there's a proper forum for that.

18 And in the case, the Court's assigned a case number to
19 her creditor's claim. And we believe that she's an
20 interested party as to that aspect of the Estate but only
21 that aspect of the Estate.

22 So for that reason we believe that the balance of her
23 complaint other than the petition for allowance should be
24 dismissed and either she should be allowed to, I think the

25 proper thing to do would be to allow her to re-plead her

7

1 petition for allowance of the claim.

2 Looking at her complaint, Your Honor, she alleges four
3 causes of action. I'm going to address each one in turn.
4 If you look at page three of the complaint, Ms. Pope cites
5 as her first cause of action, quote, voiding appointment,
6 settlement and notice in granting of claims.

7 She then has 221 paragraphs in her first cause of
8 action. If you take all of that language in the light
9 most favorable to Ms. Pope, it appears she's asking the
10 Court for four different things in her first cause of
11 action: One, to void Mr. Bauknight's appointment as
12 Special Administrator and Special Trustee; two, to void
13 the settlement of Bob Buchanan's claims; three, to void
14 notice of disallowance issued by Mr. Bauknight disallowing
15 Ms. Pope's claim.

16 THE COURT: What was the third one?

17 MR. NEWSOME: The third one is to void the notice of
18 disallowance that Mr. Bauknight issued, disallow her
19 claim; and four, she asks the Court to order Mr. Bauknight
20 to pay her claim.

21 So, even though we're still on the first cause of
22 action it appears she's really asking for four different
23 things. And unfortunately, none of those things that
24 she's asking for are causes of action. There's no statute
25 cited. There's no case law. I'm not familiar with

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1 anything in the probate code that creates causes of action
2 to do the things that she's asking for. You know, so for
3 that reason we think that the first cause of action should

4 be dismissed.

5 And I also want to point out for the Court that her
6 request to void Mr. Bauknight's appointment as Special
7 Administrator and Special Trustee is really just a
8 thinly-veiled attempt to appeal a non-appealable order.
9 And I want to remind Your Honor that she previously
10 appealed the probate court's order appointing
11 Mr. Bauknight as Special Administrator back in 2009.

12 And Your Honor sitting as an appellate court dismissed
13 that appeal citing the Boyce case which Ms. Pope was
14 involved as a lawyer in the Boyce case. So she knows that
15 the appointment of a special administrator is a temporary
16 order, therefore it's an interlocutory. It's not
17 appealable. So because she can't appeal that she's trying
18 to get around that by asking you to void those
19 appointments.

20 So we think, because she's well aware of the law we
21 think not only should it be dismissed we would ask you to
22 sanction Ms. Pope and require her to pay our legal fees
23 for us to respond to that complaint.

24 She also asks the Court to void the settlement between
25 Bob Buchanan and Mr. Bauknight. Again, there's no cause

9

1 of action that allows her to do this. She's not a party
2 to that settlement. She lacks standing to attack it. She
3 knows that. And so for, again, for those reasons not only
4 do we think you should dismiss that portion of the
5 complaint but we would ask you to sanction Ms. Pope and
6 require her to pay our legal fees for having to address
7 that.

8 The next thing she does is ask the Court to void the
Page 7

9 notice of disallowance issued by Mr. Bauknight. Again,
10 there's no cause of action to void the notice of
11 disallowance. And for that reason that portion of the
12 complaint should be dismissed. Ms. Pope should be
13 required to pay our legal fees for responding to that.

14 And I guess it's also important to point out as to her
15 request to void the notice of disallowance and to have the
16 Court order payment of her claim, there's a proper forum
17 for relief which is to petition for allowance of claim.
18 The Court's assigned a case number. All we have to do is
19 move forward in that action. She could file a motion for
20 summary judgment and argue that the Court's prior order
21 resolves that claim.

22 And so there is a proper forum for relief. But rather
23 than going down that proper forum, she's filed this
24 complaint where there's no cause of action. So, again, we
25 think dismissal and sanctions are appropriate.

10

1 On page 48 of the complaint, Ms. Pope alleges a second
2 cause of action and this is for, quote, removal and
3 accounting of Bauknight, appointment of SA/ST for
4 litigation on behalf of the will and 2000 Trust, and an
5 SA/ST for management under the will and 2000 Trust. And
6 the second cause of action contains an additional 60
7 paragraphs of allegations. Unlike the first cause of
8 action, the second cause of action does reference real
9 causes of action. We still believe dismissal is proper
10 because she's failed to allege facts sufficient to
11 constitute a cause of action, or she lacks standing to
12 bring them.

13 So I'll talk about the standing in a minute.

14 We've got the same issue with the second cause of
15 action which also goes to the motion for more definite
16 statement. In the second cause of action it appears
17 taking everything in the light most favorable to Ms. Pope
18 she's asking for three things: Removal for Mr. Bauknight
19 in all of his fiduciary positions; requiring him to
20 account to the Court; and to appoint Special Administrator
21 and Special Trustee really for a variety of different
22 things.

23 And as an initial matter, Your Honor, after Ms. Pope's
24 complaint was filed, David Sojourner was appointed by this
25 Court as Limited Special Trustee by the probate court as

11

1 Limited Special Administrator and so -- to handle will
2 contest matters. And so, therefore, while we don't
3 believe she had standing to bring this complaint, at least
4 that portion of the relief she's asking for is now moot
5 because of the Court's order appointing Mr. Sojourner.

6 In talking about standing, I thought it would be
7 helpful, Your Honor, just to have -- I'd like to hand up,
8 if I could, I've already given Ms. Pope a copy, but these
9 are the relevant statutes that I want to refer to.

10 And first I'd refer you to 62-3-611 which is the
11 statute of the probate code that deals with termination of
12 appointment of a PR. It also deals with termination of
13 appointment of a Special Administrator. And you don't
14 need to read the whole statute because the very first
15 language says, a person interested in the Estate may
16 petition for removal.

17 So the question then is, is Ms. Pope a person
18 interested in the Estate?

19 The next code section I would refer you to is 62-7
20 -706 which is the relevant section of the trust code
21 dealing with removal of a trustee, and also Special
22 Trustee and Section (a) says that a reason set forth in
23 Section (b) the settlor, a co-trustee or a beneficiary may
24 request the Court to remove a trustee, or a trustee may be
25 removed by the Court on its own initiative.

12

1 So Ms. Pope's not a settlor or co-trustee. The
2 question is, is she a beneficiary for purposes of
3 bringing, having standing to bring an action to remove
4 trustee.

5 I next refer you to 62-1-201 which is the definition
6 section of the probate code. There's a couple of relevant
7 definitions but the first is paragraph 2 which defines
8 beneficiary. And it says: As it relates to trust
9 beneficiaries includes a person who has any present or
10 future interest, vested or contingent, and also includes
11 the owner of an interest by assignment or other transfer
12 and, and this is the important language, as it relates to
13 a charitable trust, includes any person entitled to
14 enforce the trust.

15 Okay. We'll get back to that.

16 And I also want to refer you to paragraph 20.
17 Paragraph 2 deals with her standing to involve herself in
18 trust matters. Paragraph 20 determines whether she's an
19 interested person for purposes of involving herself in
20 estate matters.

21 An interested person is broadly defined as heirs
22 designees, children, spouses, creditors, beneficiaries and
23 any others having a property right in or claim against the

24 trust estate or the estate of the decedent or a protected
25 person which may be affected by the proceeding.

13

1 And also includes persons having authority to
2 appointment PRs and other fiduciaries representing
3 interested persons. The last sentence is also important.
4 The meaning as it relates to particular persons may vary
5 from time to time and must be determined according to the
6 particular purposes of and matter involved in any
7 proceeding.

8 So if you look at the relevant language in this code
9 section, an interested person includes a creditor having a
10 claim against an estate which may be affected by the
11 proceeding.

12 Okay. So, from looking at that the question is
13 whether or not Ms. Pope alleges or has standing because
14 the causes of action she seeks to bring affects her right
15 to collect a claim.

16 And in certain instances it's clear that she does
17 not. For example, she asks the Court to appoint a Special
18 Administrator and Special Trustee to appoint guardians ad
19 litem for minor beneficiaries in some of the litigation in
20 Richland County. That matter has no bearing on her claim.
21 Therefore she lacks standing to bring that action. If it
22 is a matter that directly affects her claim, she might
23 have standing. That's why the Court has to look at the
24 meaning of interested person. All right.

25 And I'll also refer you, Your Honor, to the next

14

1 statute 62-7-405(c) which says the settlor of a charitable

2 trust, trustee and AG among others may maintain a
3 proceeding to enforce the trust. Ms. Pope alleges that
4 she is a, quote, other under that statute. We disagree
5 with that. That refers to something called a special
6 interest doctrine where in limited circumstances a private
7 person can actually sue on behalf of the charitable
8 trust.

9 That's limited to situations where the AG is not
10 involved. The AG is involved in this case, so it would
11 not be appropriate.

12 Further, it requires some person with a special
13 interest that's different from the general public. For
14 example, if the AG were not involved and a needy student
15 who was interested in applying for a scholarship, they
16 might be determined to have a special interest that would
17 allow them to pursue a private action where the AG is not
18 involved. But Ms. Pope doesn't have that special
19 interest.

20 In addition, the Supreme Court has determined that
21 it's not in the best interests of the Estate that she be
22 involved further. So, of all those people that might have
23 special interest Ms. Pope definitely does not.

24 So, for all those reasons, Your Honor, we think that
25 the petition for allowance should go forward, the balance

15

1 of the complaint should be dismissed, and Ms. Pope should
2 be required to pay our legal fees for having to respond.

3 THE COURT: You have a minute and a half left if you'd
4 like it.

5 MR. NEWSOME: And then also, Your Honor, to the extent
6 that you do not dismiss the complaint, then I would ask

7 that you require Ms. Pope to file an indefinite

8 statement. Thank you.

9 THE COURT: Ms. Pope.

10 MS. POPE: Your Honor, I'm a lucky creditor because
11 since May 8th of 2013, I've been working pro bono to do
12 the same thing I wanted to be paid for between November
13 20th, 2007 and May 8th, 2013.

14 You might remember a little chart we presented to Your
15 Honor back in March of 2009. That little chart said that
16 if James Brown's intentions as set out in his Last Will
17 and Testament of August 1, 2000 were followed and as of
18 that day \$77.5 million would have been put in the James
19 Brown I Feel Good Trust and two million for scholarships
20 for his grandchildren.

21 That didn't happen.

22 In the course of those years, there were five people
23 working to save the James Brown Estate plan and I Feel
24 Good Trust: Jim Richardson who served pro bono for four
25 years to save the Trust; Tressa Hayes who worked for about

16

1 now 50,000, less an 100,000 for four years not just to do
2 the appellate work to save the Trust but to do the
3 appellate work to keep felon David Cannon and Buddy Dallas
4 from returning as trustees. She provided a valuable
5 service; James Bailey who defeated \$31 million worth of
6 claims and left in the hands of the successor 15 million
7 more of baseless claims by David Cannon, Buddy Dallas and
8 Al Bradley that were not resolved until I asked to
9 intervene in 2011 and 2012. They did wonderful valuable
10 work.

11 So did I.

12 And I am a lucky creditor because what will help save
 13 my claim may also help restore or keep what Jim Richardson
 14 allowed our Supreme Court to restore. And that is \$91
 15 million of the \$100 million that should be today in the
 16 James Brown I Feel Good Trust, and seven \$285,000 Trusts
 17 for his grandchildren. Money Russell Bauknight refuses to
 18 pay even though those grandchildren are saying they want
 19 the money and they support James Brown's Estate Plan.

20 So, I'm also lucky today in that you must accept the
 21 allegations in my complaint as true. I worked hard on
 22 this complaint because I was, I was now working pro bono
 23 as an other, as a citizen, and as a person who has a
 24 special interest in James Brown and knowledge of the
 25 damage that will be done to James Brown if his Estate Plan

17

1 is undone again, after the Supreme Court has saved it, has
 2 saved the \$91 million.

3 I didn't want to bring this lawsuit. Let me tell you
 4 what happened to force this lawsuit to be brought.

5 On May 8th, the Supreme Court declared that every
 6 appointment of Mr. Bauknight including all his Special
 7 Administrator and all his PR Trustee appointments were
 8 void. His appointments were void.

9 Before the remittitur came down he raced to the Court
 10 and secured not just -- well, first he didn't tell
 11 anybody. And second he didn't do anything to just secure
 12 the assets. Oh no. He got a broad, broad ex parte
 13 no-notice order that not only allowed him to ratify his
 14 own action but to go and make sure he kept punishing
 15 Tressa Hayes, Adele Pope, Bob Buchanan and Jim Bailey and
 16 he used it to do that.

17 Now Mr. Newsome says there is no law. Well, as I
18 understand the law in South Carolina what happens before a
19 remittitur comes down is void for lack of jurisdiction.

20 Mr. Bauknight's appointment -- now we must, we must
21 look at the complaint and we must remember what is the day
22 of the complaint and what is the day of the notice of
23 disallowance. Later we might talk about what's been
24 mitigated, but for today, for purposes of the 12(b)(6)
25 motion, we must look at where we were when this complaint

18

1 was filed on June 10th.

2 Mr. Bauknight's appointments were void. The
3 remittitur had not come down. And he grabbed that
4 appointment ex parte and used it. Now let me tell how he
5 used it because we were all there. Unfortunately there is
6 no record.

7 On May 29th Mr. Levenson stood up. Mr -- the counsel
8 for Ms. Tommie Rae Hynie stood up. Here's what they said
9 to Your Honor. We need to go to the back room and redo
10 this deal. We need to go back and just ruin, dismember
11 again the James Brown I Feel Good Trust which the Supreme
12 Court had just saved.

13 And then counsel for Mr. Bauknight stood up. And do
14 you know what they said? Not a word. They said, we got
15 to get rid of Adele Pope.

16 What sense did that make? I already had a claim. A
17 claim that was already allowed by Your Honor. It was
18 allowed twice under the probate code that Mr. Newsome has
19 handed you. It was allowed first because Bob Buchanan and
20 I as Personal Representatives had allowed it, and
21 Trustees. And then, as Mr. Medlin would like to say, with

22 belt and suspenders, we came to Your Honor and asked him
23 to approve a claim we had already allowed.

24 Your Honor approved it January 8th, 2008. Everybody
25 praised us then because we weren't opposed to the

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1 settlement. No appeal. On May 26, the day we were
2 replaced, and if you'll read Your Honor's order, despite
3 what the Supreme Court says, Your Honor's orders says you
4 did not remove us because you were holding that for later.
5 You were holding that for later.

6 Now, everything took on a life of its own after that.
7 But that's not what the May 26 order said. And the ruling
8 of the Supreme Court for whatever it is was simply to
9 approve Your Honor's order.

10 Now that said, on May 26, the day we were replaced,
11 Bob Buchanan was owed \$500,000 and I was owed a million-
12 four. Bob and I agreed on that. Nobody disagreed. That
13 was because I had about 10 members of my staff. Now,
14 Judge, I have not been paid for being Special
15 Administrator in 2007. I have not been paid a nickel as
16 PR or Trustee. And I didn't just work a short 18 months
17 because the law now is that during Mr. Bauknight's void
18 appointment we have to look and see who was serving the
19 Trust and Estate -- the Trust during those four years.
20 Who was it? Was it Mr. Bauknight who was trying to give
21 \$25 million to Ms. Hynie or was it Bob Buchanan and me?

22 All right. Now, I'm going to run out of time so I'm
23 going to tell you that I refer to every single allegation
24 in my complaint to show, first, that there was no
25 complaint to disallow as to almost all of my claim because

20

1 Mr. Bauknight had been withholding that \$1.4 million since
2 2009 to try to kill Bob Buchanan and me. It didn't work
3 for me. It worked for Bob.

4 We'll talk about that story later.

5 But Bob never abandoned his duty to the Estate and
6 2000 Trust. Unfortunately because of a settlement reached
7 by Mr. Bauknight purporting to speak for the State of
8 South Carolina when he had no such authority, no such
9 authority, and that's in the complaint, Bob, Bob, to get
10 the money, Your Honor had ordered him in May of 2006, had
11 to give up his counterclaims against Ms. Hynie.

12 And he couldn't even protect himself on a petition for
13 rehearing in the Supreme Court.

14 I didn't want to bring this complaint, but the day
15 Mr. Bauknight carrying or saying he carried the authority
16 of the State of South Carolina accused me of the federal
17 felony of overstating James Brown's assets by \$79 million
18 so I could get a \$5 million commission, every move in this
19 Estate became my problem.

20 Further, I have worked harder than anyone else and
21 know more about the destruction that Mr. Bauknight has
22 caused by his, not ignorance but intentional misstatement
23 of the federal copyright law to you, Your Honor -- not to
24 you, Your Honor, because, remember, on March of 2009, he
25 came in here. In January when he recommended this

21

1 outrageous settlement --

2 THE COURT: Please address it to me.

3 MS. POPE: Sir?

4 THE COURT: Please address your remarks to me.

5 MS. POPE: I'm sorry.

6 On January 2009 when Mr. Bauknight recommended this
7 outrageous settlement to you which the Court has now
8 voided, he told Your Honor he thought these assets in this
9 Estate were worth about 80 million. He didn't know. He
10 told Your Honor he didn't know anything about the federal
11 copyright laws.

12 If Your Honor will remember, he came back in March
13 saying he knew all about it. So starting in March 2009,
14 Mr. Bauknight knew that that woman who was not the wife
15 was taking \$25 million from this Estate, 11 million or
16 more for her -- 10 million or more for her lawyers, that
17 there was no basis whatsoever for her to have.

18 If he cared about this Estate, he would have called me
19 on February 27th and said, how can we save it? Look, I
20 didn't want to be famous. You know, I just wanted to do
21 my job. I wanted to do the job that Your Honor appointed
22 me to do without my asking. And so did Bob.

23 Bob had to quit because he was worn out. Fortunately
24 I'm an old lady but, you know, Judge, when you call
25 somebody who is in the middle of her career a felon and

22

1 that felony charge goes to the very heart of her ability
2 to practice law and to do what she has cheerfully done for
3 30 years, it's time to call it to a halt.

4 Now, Mr. Bauknight didn't stop. He didn't stop. He
5 didn't stop with that. He, it wasn't enough that most of
6 my full commission had already been earned, about two
7 million of the two million eight was earned on May 26,
8 2009. I've been working pro bono for this James Brown I
9 Feel Good Trust for years and I will keep working for
10 years.

11 I am an other under the trust code. I do care about
12 what Your Honor appointed me to do.

13 I hope Mr. Bauknight does care, but there is no
14 evidence now that he does. And I wouldn't have mentioned
15 Mr. Sojourner but I'm going to tell you, I read yesterday
16 that Mr. Sojourner just tried to prevent naming Michael
17 Brown as an heir. That shows Mr. Sojourner -- who's
18 protecting the copyrights? Who's protecting? They don't
19 need all those people to get together. They need to buy
20 the copyright cooperation from the five cheapest people;
21 LaRhonda, Daryl -- they don't need them all.

22 And now Mr. Bauknight is sitting there letting others
23 usurp what ought to be in the I Feel Good Trust.

24 I urge Your Honor, I've said it all in here, I am
25 startled to hear that my 65-page complaint is inadequate

23

1 when the case of Medlock versus University Health said
2 anybody can file a petition for allowance of claim. You
3 hardly know what you need.

4 I am a beneficiary under both the trust code and the
5 estate code. As it is defined, beneficiary is a person
6 with a right to enforce a trust.

7 Mr. Newsome misstated. The attorney general is not in
8 this proceeding. If he were here protecting the Trust we
9 wouldn't need some other, some pro bono, publico citizen
10 like me to protect the Trust.

11 So I am an other. I am a creditor. According to
12 Mr. Bauknight, my claim is worth more than half of the
13 Estate. I am a counter-claimant in a false suit brought
14 by me -- against me and against Bob Buchanan by the Estate
15 and Trust. I am a counter-claimant in that suit for --

16 actually, I didn't bring that suit.

17 I am a claimant for attorney's fees in two separate
18 FOIA actions where Mr. Bauknight has intervened on behalf
19 of Mrs. Hynie, and on behalf of Terry Brown, and on behalf
20 of the people who are seeking -- Mr. Bauknight today is
21 the agent for Tommie Rae Hynie in a case in Richland
22 County.

23 He cannot serve the Estate. He cannot protect the
24 Trust. He will not protect the Trust. We need a Special
25 Administrator. Your Honor's April 8th order did it. Poor

24

1 Mr. Sojourner doesn't know what his duty is and isn't
2 doing it, unfortunately.

3 We need -- looking at this complaint, Your Honor
4 cannot dismiss any portion of this. His appointment was
5 void. The disallowance was both void and unnecessary
6 because the bulk of the claim was already both allowed and
7 Court approved.

8 It is just more attempt to crush anyone who wants to
9 save the James Brown I Feel Good Trust.

10 THE COURT: Thank you.

11 MS. POPE: Thank you.

12 THE COURT: Two minutes in reply.

13 MR. NEWSOME: Thank you, Your Honor.

14 First, the Supreme Court's opinion very clearly held
15 that Ms. Pope's continued services as fiduciary is not in
16 the best interests of the Estate. It's obvious from her
17 argument that she's continuing to try to involve herself
18 in every aspect of the Estate administration. And so
19 she is -- it's the law of case that she's not to be
20 involved in the Estate other than she's a creditor. We

Page 20

21 don't dispute she has a right to be involved in that
22 aspect.

23 I do want to address one thing she keeps saying. She
24 said Mr. Bauknight's accused her of a felony. That's just
25 not true. Now she's alleged that you got to take it as

25

1 being true. But the only person that's accused Adele Pope
2 of a felony is Adele Pope. She keeps publishing
3 everything she files with the Court, but the reality is
4 Mr. Bauknight and Ms. Pope disagree about the
5 date-of-death value of James Brown's music.

6 Mr. Bauknight hired an investment banker and had a
7 valuation prepared. And she's disagreeing with that
8 valuation. And that's okay. She has the right do that.
9 That can actually be adjudicated as part of her creditor's
10 claim. But nobody's accused her of a felony. She keeps
11 repeating it citing herself for the argument that
12 somebody's accused her of a felony. There's a
13 disagreement as to the value. And I think she
14 misunderstands that. The valuation as of the date of
15 death is a snapshot of what James Brown's date of death,
16 what the situation was then.

17 Today we're in a very different situation. The
18 financial circumstances have improved dramatically. She
19 herself admitted that they were able to discharge \$31
20 million in creditor's claims. So the Estate is in a much
21 better financial position than it was on date of death.
22 So it's a misstatement to say her creditor's claim takes
23 up half of the Estate. The Estate's different today than
24 it was on the date of Mr. Brown's death.

25 THE COURT: Thank you.

1 MR. NEWSOME: She also says Bob had to quit because he
2 was worn out. She's trying to drag him back in. We've
3 reached a resolution that he's satisfied with and she has
4 no standing to bring that up.

5 She argues that there was no notice given on the
6 appointment of SA/ST. Your Honor knows the statute
7 specifically says on an emergency basis it can be done
8 without notice to interested parties. And that was what
9 was done.

10 So, and again, she has no standing to attack and try
11 to void those appointments. Her interest is as a creditor
12 and we need to move forward and resolve her claim.

13 THE COURT: Thank you. I will take it under
14 advisement. I request proposed orders from both sides
15 within -- Ms. Pope, you have a personal matter that may
16 preclude 15 days. Tell me what suits you.

17 MS. POPE: Today is the 3rd. If I could have until
18 the 20th, Your Honor, I'd appreciate it.

19 THE COURT: Gentlemen, is that fine, the 20th?

20 MR. NEWSOME: Yes, sir.

21 THE COURT: Thank you. By the 20th. All right.
22 We'll stand adjourned.

23 MR. CRAWFORD: Judge Early, I still have a motion
24 pending on behalf of Mr. Bauknight individually.

25 THE COURT: Mr. Crawford, how much time do you need?

1 MR. CRAWFORD: Maybe three minutes or less.

2 THE COURT: Three minutes.

3 MR. CRAWFORD: If it please the Court. Fred Crawford

4 on behalf of Mr. Bauknight individually.

5 We have also filed a motion to dismiss pursuant to
6 Rule 12(b)(6) on the grounds that the complaint states no
7 facts which constitute a cause of action against
8 Mr. Bauknight individually.

9 As you heard from the arguments of counsel,
10 Mr. Newsome and Ms. Pope, everything about the 62-page
11 complaint deals with what Mr. Bauknight has done or not
12 done in his capacity as a fiduciary, in many different
13 fiduciary capacities involved with the Estate and Trust of
14 James Brown.

15 As you look at the complaint, if you would turn, Your
16 Honor, to page 62 paragraph 289 and to the prayer on page
17 63 subparagraph 6, all she's doing is seeking to collect
18 attorney's fees for Mr. Bauknight individually for matters
19 related solely to the administration of the Estate and/or
20 the Trust. There's no factual basis for that. And there
21 were no allegations either in the complaint or in
22 Ms. Pope's argument a moment ago about anything that
23 Mr. Bauknight has done individually.

24 I submit to you that putting him individually in the
25 complaint was done to harass him. It was vindictive.

28

1 It's done because she was replaced by him as a fiduciary
2 in the Estate. There's absolutely no basis for this.

3 I would ask that the complaint be dismissed, that I be
4 awarded attorney's fees, and that she be sanctioned for
5 bringing this frivolous action pursuant to the South
6 Carolina Frivolous Proceedings Sanctions Act and
7 Mr. Bauknight in his individual capacity be dismissed.

8 THE COURT: Thank you.

9 MR. CRAWFORD: Alternatively, Your Honor, just as
10 Counsel Newsome has said, if you see fit to keep him in
11 this lawsuit which we hope that you will not, that the
12 complaint be required to be amended and be more definite
13 and be more certain so we know exactly what allegations
14 she has or claims constituting a cause of action against
15 Mr. Bauknight in his individual capacity.

16 THE COURT: Thank you. Ms. Pope, three minutes.

17 MS. POPE: Yes, Your Honor.

18 Your Honor, the law, the probate code is entirely
19 clear that all I needed to do was allege allegations
20 against the Estate and 2000 Trust in an accounting or any
21 other appropriate proceeding. And as a result,
22 Mr. Bauknight would be liable for everything that he had
23 done wrong.

24 I care about the needy children James Brown intended
25 to protect. So when I brought this action I made clear

29

1 that I wanted, as I have in every other action where I've
2 been sued by the Estate and Trust, I don't want the needy
3 children to pay for Mr. Bauknight's wrongdoing.

4 I need to be paid, but to the extent possible I want
5 Forlando's fraud to come out of the share that he and
6 Terry own of the Estate. I want Mr. Bauknight's bad
7 behavior to be charged against Mr. Bauknight individually
8 and not against the needy children. That is why I didn't
9 even have to name him separately. And the suggestion in
10 Mr. Crawford's motion to dismiss that I must separate his
11 acts is just simply contrary to the code. His acts of
12 wrong doing while he held or claimed those various titles,
13 including a claimed title under a void appointment before

14 the remittitur, caused him to be individually liable.

15 And as to sanctions, I think you have to ask for those
16 after you win but, so I would object to that. But the law
17 is clear, I do not have to separate what Mr. Bauknight did
18 wrong wearing any fiduciary hat. I just have to talk
19 about it in the complaint and I have talked about it in
20 great detail and I incorporate the complaint.

21 THE COURT: Thank you. Mr. Crawford, anything in
22 response?

23 MR. CRAWFORD: I think the complaint speaks for
24 itself. There's absolutely no allegations against him for
25 anything wrong in his individual capacity and the

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1 complaint should be dismissed.

2 THE COURT: Thank you. Likewise on that, by the 20th
3 of December. We stand adjourned. We'll start criminal
4 court in 15, 16, 17 minutes.

5 MR. CRAWFORD: Thank you, Your Honor.

6 END OF PROCEEDINGS: 10:46 A.M.

7 * * *

8 CERTIFICATE OF REPORTER

9 STATE OF SOUTH CAROLINA)

10 COUNTY OF AIKEN)

11 I, Cheri L. Young, Registered Professional Reporter
12 and Official Court Reporter for the State of South
13 Carolina, Second Circuit-At Large, do hereby certify that
14 the foregoing proceedings were written stenographically by
15 me using computer-aided translation; further, that the
16 foregoing is a true, accurate and complete record, to the
17 best of my skill and ability, of all the proceedings had
18 and evidence introduced in the hearing of the captioned
19 case, relative to appeal, in the Court of Common Pleas for
20 Aiken County, on the 3rd day of December, 2013.

16 I do further certify that I am neither of kin,
17 counsel, nor interest to any party hereto.

18 I have hereunder set my hand this 2nd day of February,
2014.

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24

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Cheri L. Young, RPR
Official Court Reporter