

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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SC Court of Appeals

Appellate Case No. 2013-001649

Ex parte: Adele J. Pope, Appellant,

In Re: Estate of James Brown a/k/a James Joseph Brown,
Respondent

RECORD ON APPEAL

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

APPELLANT

Eugene C. Covington, Jr., SC Bar No. 1422
211 Pettigru Street
Post Office Box 2343
Greenville, South Carolina 20602
(864) 242-9000

ATTORNEY FOR RESPONDENT
ALBERT H. DALLAS

Robert N. Rosen, SC Bar No.4918
18 Broad Street, Suite 201
Charleston, South Carolina 29401
(843) 377-1700

ATTORNEY FOR RESPONDENT
TOMMIE RAE HYNIE

Albert P. Shahid, Jr.
89 Broad Street
Charleston, South Carolina 29401
(843) 853-4500

ATTORNEY FOR RESPONDENT JAMES B.

Tanya Amber Gee, SC Bar No. 6112
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900

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

John A. Donsbach, Sr.
Post Office Box 212139
Martinez, Georgia 30917-2139
(706) 650-8750

ATTORNEY FOR RESPONDENTS TERRY
BROWN AND FORLANDO BROWN

David G. Cannon
Post Office Box 865
Barnwell, South Carolina 29812

PRO SE

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 Appellant,

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

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

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

Appellate Case No. 2013-001649

ORDER

This court issued an order declining to act on a motion to dismiss because Russell L. Bauknight was not a party to this appeal. Mr. Bauknight has filed a petition for rehearing, stating the Estate of James Brown (the estate) and the James Brown 2000 Irrevocable Trust u/a/d August 1, 2000 (the trust) should be listed as parties to this appeal and Mr. Bauknight should be able to represent the estate's and the trust's interests in this appeal. Because Mr. Bauknight has now been appointed as

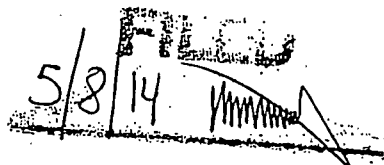
the personal representative of the estate and trustee of the trust by the interim order of Judge Doyet A. Early III, this court agrees. The estate and trust are adverse parties and should be listed as Respondents in this appeal. See Rule 202, SCACR (stating adverse parties shall be known as the respondents). As reflected by the caption to this order, the estate and trust have been added as Respondents. Accordingly, on behalf of the estate and trust, Mr. Bauknight, as the personal representative and trustee, shall be permitted to file briefs and argue at oral argument should any argument be held. Mr. Bauknight's previously filed motion to dismiss is denied at this time and the parties shall proceed with initial briefing.


FOR THE COURT

Columbia, South Carolina

cc:

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



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
the Respondents,

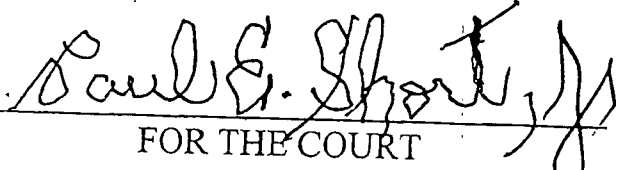
And Alan Wilson, in his Capacity as Attorney General of
South Carolina, Deanna J. Brown Thomas, and Robert L.
Buchanan, Jr., are Additional Interested Persons.

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

Appellate Case No. 2013-001649

ORDER

A motion to dismiss was filed by the attorneys for Russell L. Bauknight. Because Mr. Bauknight is not a party to this appeal, the court declines to act on the motion.


FOR THE COURT

Columbia, South Carolina

cc:

Adele J. Pope

David B. Bell, Esquire

Matthew D. Bodman, Esquire

Eugene C. Covington, Jr., Esquire

Robert N. Rosen, Esquire

Albert P. Shahid, Jr., Esquire

William W. Wilkins, Esquire

J. David Black, Esquire

Fred Lewis Kingsmore, Jr., Esquire

Burl F. Williams, Esquire

David G. Cannon

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

~~WILEY~~ 10.3.13
Liz Hodges
Amita Knoepper Fall
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:

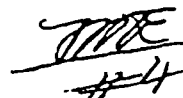
(a) Notwithstanding the fact that he inherited the Estate on the verge of insolvency, with less than \$13,000 in the Estate's bank account, Mr. Bauknight oversaw the repayment of over \$14 Million on the Pullman bond debt seven years ahead of schedule.

(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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Trust.

(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.

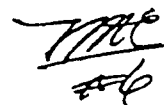
(n) Mr. Bauknight has resolved the Estate matters with the Internal Revenue Service and various state taxing authorities, and has filed all income tax returns for James Brown and the Estate and Trust for all periods, both during his tenure as Personal Representative and during the tenure of the prior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

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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

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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.

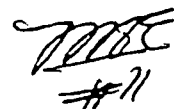
9. David C. Sojourner, Jr. has been practicing in the area of estate and gift planning and probate administration for more than twenty-six years, and is certified as a specialist in estate planning and probate law and tax law by the South Carolina Supreme Court. Since 2001, Mr. Sojourner has been selected 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.

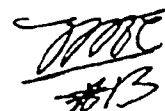
13. The tumultuous history of the Estate and Trust and the litigation surrounding the same, juxtaposed to the list of Mr. Bauknight's accomplishments detailed above, leaves this Court with the firm factual conclusion that it is in the best interests of the Estate and Trust for Mr. Bauknight to serve, 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.

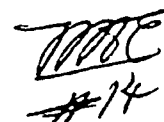
CONCLUSIONS OF LAW

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.

JME
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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

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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

JAE
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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.

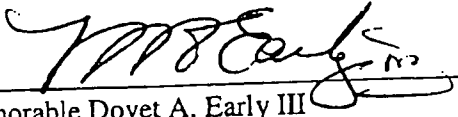
4. Mr. Bauknight's prior appointments as Special Trustee and Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the Court.

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

~~September~~ Oct 1, 2013.

Bamberg, South Carolina

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2008-CP-02-1647

Henry D. McMaster, et al

Albert H. Dallas, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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: Ms. Pope's motion to Vacate, Set Aside, Alter or Amend this Court's administrative orders, which were filed on June 13, 2013, is hereby DENIED.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : see Ms. Pope's motion for additional case numbers

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 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

0136
 Judge Code

July 10, 2013
 Date

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan McMaster	Daryl J Brown Janise 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: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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:
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	Date
		6/13/2013

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)

Liz Godard by L. Skene

Liz Godard - Clerk of Court

Court Reporter

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

Liz Godard
C.C.P. & G.S. 11:30

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS
Deputy Clerk (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.

[Signature]
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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.

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AND IT IS SO ORDERED.



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



~~Barnwell~~, South Carolina

June 13, 2013

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

Liz G. Knapp, 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

Liz G. Knapp
Liz G. Knapp, S.C.
C.C.C.P. & G.A., Aiken County, S.C.
Anita Knapp
Anita Knapp
Deputy Clerk

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

60.13
Liz G. Knapp
Liz G. Knapp
Anita Knapp
Anita Knapp
Deputy Clerk

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

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.

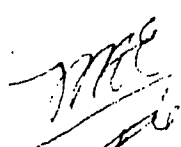
8. **2010-GS-06-137; 139: David Cannon Restitution (General Sessions Proceeding)**

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:

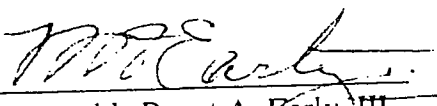
A. Adele Pope (former fiduciary, pro se)

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

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).

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

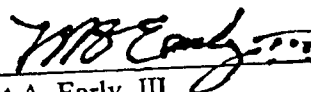
simultaneously by the Estate and one or more of James Brown Enterprises, Inc., the 2000 Irrevocable Trust and other Brown Entities.

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.

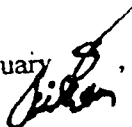
Based on the foregoing, IT IS ORDERED, ADJUDGED AND DECREED:

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.



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

January , 2008
_____, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina,

Petitioner,

vs.

ALBERT H. DALLAS, ALFRED A. BRADLEY and DAVID G. CANNON, individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust, DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN, VANISHA BROWN, LARRY BROWN; DEANNA J. BROWN, individually and on behalf of her minor child, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY [REDACTED] and CARRINGTON [REDACTED] and TONYA BROWN; TERRY BROWN, ROMUNZO BROWN and FORLANDO BROWN, TOMMIE RAE HYNIE BROWN, JAMES [REDACTED], CINNAMON N.M. PARRIS, LARHONDA PETTIT and JEANETTE MITCHELL,

Respondents.

IN RE:

THE JAMES BROWN IRREVOCABLE TRUST u/a/d August 1, 2000

IN THE COURT OF COMMON PLEAS SECOND JUDICIAL CIRCUIT CASE NUMBER 2008-CP-02-1647

(On Removal to Circuit Court from Probate Court 2007-ES-02-0056)

NOTICE OF MOTION AND MOTION TO DISMISS TOMMIE RAE HYNIE AS A PARTY TO THIS ACTION

TO: ALL COUNSEL FOR THE ABOVE-NAMED:

YOU WILL PLEASE TAKE NOTICE THAT, subject to his Motion to Recuse the Honorable Doyet A. Early, III, David G. Cannon hereby moves before the Presiding Judge of the Court of Common Pleas for Aiken County for an Order dismissing Tommie Rae Hynie as a party to this action as she has no standing to bring or participate in any action relating to the James Brown Trust dated August 1, 2000.



The grounds for this Motion are set forth in David G. Cannon's Response to Amended Petition for Removal and Restraint of Trustees and Response to Motion to Remove to Circuit Court, Requests for Affirmative Relief, Requests for Interpleader and Mandamus previously filed with the Court which is incorporated herein by reference as Exhibit 1.

The further grounds for this Motion are that Tommie Rae Hynie had no preexisting or vested interest in the James Brown Irrevocable Trust dated August 1, 2000 at the time of her ceremonial marriage to James Brown in 2002.

The further grounds being as follows:

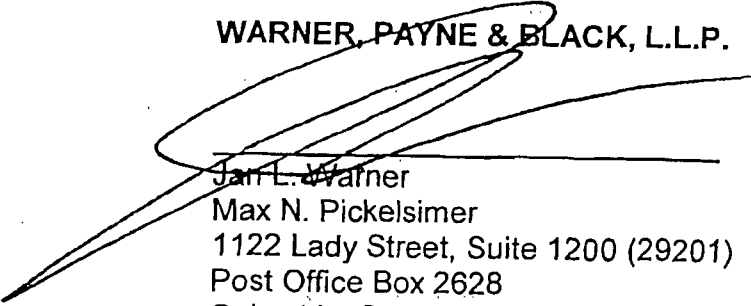
1. The James Brown Irrevocable Trust was established on August 1, 2000.
2. Tommie Rae Hynie married in a ceremony to James Brown in 2002.
3. Tommie Rae Hynie was married to another person at the time of her purported marriage to James Brown in 2002.
4. Tommie Rae Hynie brought an action in the Family Court for the Ninth Judicial Circuit Charleston County to annul her previous marriage in 2003 and a Decree was issued on April 15, 2004 granting her an annulment.
5. By Consent Order dated August 14, 2004 of the Family Court for the Second Judicial Circuit for Aiken County, Tommie Rae Hynie waived her right to make any claim of common law marriage to James Brown.
6. Tommie Rae Hynie and James Brown never had a ceremonial marriage since the issuance of either the April 15, 2004 Decree or the August 14, 2004 Consent Order.



7. Based upon the law of the State of South Carolina, without a ceremonial marriage, Tommie Rae Hynie has no claim.

PLEASE TAKE FURTHER NOTICE that this Motion shall be based upon such additional memoranda, affidavits, and arguments as may be presented to the Court at a hearing on this Motion.

WARNER, PAYNE & BLACK, L.L.P.



Jan L. Warner
Max N. Pickelsimer
1122 Lady Street, Suite 1200 (29201)
Post Office Box 2628
Columbia, South Carolina 29202
Telephone: (803) 799-0554
Facsimile: (803) 799-2517
ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina
November 25, 2008

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN)	
)	
)	Case No.: 08-CP-02-1647
HENRY DARGAN McMASTER, in his)	
capacity as Attorney General of the State of)	
South Carolina; and others)	
)	
Petitioners.)	RETURN AND OBJECTION TO
v.)	REQUEST OF DAVID B. BELL
)	FOR PRO HAC VICE STATUS
ALBERT H. DALLAS, ALFRED A. BRADLEY)	
and DAVID G. CANNON, (purported) Trustees)	
and others)	
)	
Respondents.)	
)	
IN RE:)	
THE JAMES BROWN 2000 IRREVOCABLE)	
TRUST u/a/d August 1, 2000)	
)	

Respondents Robert L. Buchanan, Jr. and Adele J. Pope, as Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust (the "PR/Trustees" of the "Estate/Trust"), through their undersigned counsel, submit this Return and Objection to the proposed Admission *pro hac vice* of David B. Bell, Esquire and in support of revocation of his Pro Hac Vice status in all other James Brown Cases in which he is participating (including but not limited to Case No 2007-CP-02-0122 ("Case 122") and Case 2008-872 ("Case 872").

David B. Bell, Esquire should not be admitted pro hac vice because:

1. Bell has violated and circumvented the *pro hac vice* rules in this and other cases.
2. Bell is involved in an irreconcilable conflict in which he simultaneously purports to represent Forlando Brown in a Federal Lawsuit in which Forlando:
 - a. Asserts he is an impoverished student who only want to see to the implementation of his Grandfather's Estate Plan; and
 - b. Is a joint venturer and 55% owner of TJBL, LLC, which is an entity attempting to purchase all of James Brown's assets; and

c. In which he seeks an injunction against the 2000 Trust and damages against Buchanan and Pope for losses he, Terry Brown, Cannon, Dallas and others have caused through interference with the Christie's sale, interference with Beech Island, and other interference

AND AT THE SAME TIME

a.. Bell represents Terry Brown in state court and seeks to repudiate the Estate Plan of James Brown and seeks a disastrous right of first refusal which will destroy the Estate/Trust of James Brown

2. Bell failed to file the *pro hac vice* Application for Admission prior to making an appearance in the case, in violation of Rule 404 (c).

3. On April 10, 2009 Bell wrote counsel Tressa T. Hayes accusing PR/Trustee Robert L. Buchanan, Jr. of violations of Canon 5 of the Code of conduct for United States Judges: asserting that "we believe Bob should immediately resign as PR/Trustee"; and asserting that if he had "...not heard from you or Bob Buchanan by April 15 then I will address these issue [sic.] in appropriate fashion."[See Exhibit 1]

4. Bell's letter of April 10 came after Bell, on information and belief, had assisted his clients in filing two disciplinary complaints against another attorney in connection with James Brown matters. On information and belief, the Bell letter of April 10 related to Mr. Buchanan and the two filed disciplinary filings were all for the purpose of intimidation and/or to obtain an impermissible collateral advantage.

5. Bell has received prior warnings from the Court for violations of *pro hac vice* rules in James Brown cases.

6. *Pro hac vice* admission is a privilege bestowed within the discretion of this Court. Mr. Bell's flagrant, inappropriate filings and conduct should not entitle him to *pro hac vice* status in this or any other James Brown case.

The following facts, and the attachments hereto, along with the record in this and the above-referenced cases, support the denial of *pro hac vice* status to Mr. Bell in this case without a hearing, and the revocation of such status in other James Brown cases:

James Brown died on December 25, 2006. By early January 2007, according to Bell's client Forlando Brown ("Forlando"), the family had reached agreement with

Cannon & Dallas with respect to running the James Brown 2000 Trust.²

According to **Forlando**, they continued the plan to overturn James Brown's Estate Plan.³ By March, **Forlando** had fired Levenson and aligned himself with Dallas & Cannon. At Dallas and Cannon's suggestion, he engaged **Bell**.⁴ **Forlando** became a part of the Cox venture to sell James Brown assets for \$100 Million.⁵

On October 31, 2008 **Forlando**, under oath, denied knowledge of proposed \$100 Million sale.⁶

²See Appointment of Deanna, Yamma to Board, Ex. Assistant: JB MED. Foundation dtd. 1.26/06; Depos. F. Brown, Federal Suit, 9/27/08, p 231 ff: "...Because before all these litigations, before all this litigation started, Deanna and Yamma were asked to be the Co-Trustees with Mr. Dallas and Mr. Cannon and Mr. Bradley . . . And the family, for quite some time, was on board . . . they were going to be Trustees and share in a good majority of the proceeds. That was their deal. That's what they wanted. The children wanted to share in a large percentage of the proceeds and be Trustees. And Deanna and Yamma were going to be Trustees with Buddy Dallas, Bradley and Cannon. . . but they wanted to have ninety percent of the control, and the Trustee can't give somebody that. . . . But the children decided that if they couldn't have Buddy, Al and-- Buddy, Al and David as their puppets on a puppet string to do what they wanted them to do, they were going to do this. And let me tell you. It was a considerable amount of discussion that went in to bringing the contest they did, with all of us and Louis. . ."

³ See Depos. of F. Brown, Forlando Federal Suit: Complaint Case 122 dtd. 1.24/07: My Grandfather's final shame. On file in this case, Case 872, and Case 122.

⁴ See deposition, F. Bell, Federal Suit, p. 121:

7 Q Okay. When you left Mr. Levenson, what did you do
8 to find other counsel?

9 A I went to talk with my Trustee at the time, Buddy
10 and Al, or actually Buddy and David. Al wasn't
11 that much involved in it, and asked them for help.
12 You know, I needed to figure out a course of action
13 in all this. Lewis has told me a bunch of lies.
. . . and

17 they looked around for us and found proper
18 representation for us.

19 Q Okay. They referred you to Mr. Bell?

20 A Yes, sir

⁵ See Ex. R, Mot. Dtd. 1/9/00, Business interests of **Forlando**, Terry Cox, Cannon, Dallas and others.

⁶ Deposition, Forlando Brown, October 31, 2007

In November 2008 **Bell**, on information and belief, without seeking pro hac vice admission, filed in the Probate Court for Aiken County a new case on behalf of Velma Brown seeking one half of James Brown's Estate.⁷

On November 20 Buchanan & Pope were appointed PR/Trustees with the approval of **Forlando**, other Bell clients.⁸ Fewer than 45 days later, **Forlando**, through **Bell** and others filed a frivolous Federal Suit⁹ containing statements both knew or should have known to be false and /or misleading. They sought to enjoin the 2000 Trust from any action and return Cannon & Dallas as Trustees. The Federal Suit, though without merit and brought in bad faith for an improper purpose, threatened irreparable harm to the James Brown Irrevocable Trust: vigorous defense was necessary; and the defense cost has been more than \$400,000.

By 2008 **Forlando & Terry** had become joint venturers in the **TJBL, LLC**, And participated in the \$100 Million purchase offers. **Forlando**, under oath, asserts he has majority control of **TJBL, LLC**.

In 2008 **Bell** assisted **Forlando & Romunzo** in filing 2 disciplinary actions against Levenson.

In 2008 **Bell** also filed a false affidavit in the Federal Suit, asserting he was misled by Buchanan and Pope.¹⁰

According to **Forlando**, he joined with other family member to try to stop the Christie's sale which took place in July, 2008. This was a direct violation of an Order of the Court, causing loss to the Estate/Trust.¹¹

⁷ See Petition, Velma Brown. 1 day after **Bell** filed a verified petition asserting she and Brown were never divorced, their divorce documents were discovered. **Bell** withdrew the case.

⁸ See Order of the Honorable Doyet A. Early, III dated November 20, 2007, Case 2007-CP-02-0122.

⁹ See Ex. F Mot. Dtd. 1/9/09, Complaint of Forlando Federal Suit.

¹⁰ This false **Bell** affidavit asserted that **Bell** had relied on Pope and Buchanan when he signed a September, 2007 stipulation on behalf of **Forlando, Terry & Romunzo**. A later joint affidavit of Buchanan & Pope confirms that this was false, and that **Bell** had not even discussed the stipulation with either of them before signing it.

¹¹ See Deposition, Forlando Brown Fed. Suit, dtd. 9/27/08, pp. : Motion Buchanan/Pope for Damages related to Christie's sale dtd. 7/27/08, Declaratory Jmt.(Part of Case 122), not yet heard by this Court; Television Press conference of Deanna Thomas, 7/17/08.

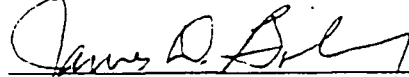
In 2009 **Bell's** local counsel asserted that **Forlando** is not a party to this case¹² In 2009 **Forlando, Terry & Romunzo** reunited with Yamma & others..¹³

In April, 2009 **Bell** demanded that Buchanan resign as PR/Trustee or face a judicial grievance. [Exhibit 1]

The documents referenced on the attached Schedule A, and attached hereto, and the record in this and other cases referenced herein, of which the Court is asked to take judicial notice, support this opposition.

The undersigned respectfully request that if the Court does not deny granting such *pro hac vice status* without a hearing, that the Court grant a hearing at which Bell and his clients are required to give sworn testimony about their irreconcilable conflicts and inappropriate behavior.

Respectfully submitted,



James D. Bailey
Law Office of James D. Bailey, PC
100 Park Avenue SW
PO Box 2376
Aiken, South Carolina 29802
Telephone: 803-648-9529
Facsimile: 803-642-6041

Tressa T. H. Hayes
Shiple & Hayes, P.C.
445 Meeting Street
West Columbia, South Carolina 29169
Telephone: 803-794-7588

¹² See Bodman ltr. Dtd. 1/8/09. This was after **Forlando, Terry & Romunzo** had filed an objection to the Settlement in this case. **Bell** used, however, the case number of another case in which he has been admitted *pro hac vice*. In this case **Terry & Forlando** seek to destroy Brown's Estate Plan for personal benefit, while in the Federal Suit **Forlando/Bell** falsely asserts that Buchanan/ Pope should be removed as PR/Trustees for not defending Brown's Estate Plan.

¹³ Prior to her testimony in this case, the PR/Trustee's lawyer in another case received, and advised Pope of, a call to him from L. Levenson to the effect that "settling" parties would damage Pope/Buchanan if they did not resign as PR/ and Trustees. [See transcript, hearing] They did not resign. Thereafter **Bell** sent Exhibit 1 to Buchanan.

Facsimile: 803-739-2024

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

May 18, 2009

Schedule A
Documents and Testimony Relied on For Return

1. Letter of David Bell, Esquire dated April 10, 2009 (Copy attached)
2. Testimony of Adele J. Pope re: threats prior to testimony.
3. 2/22/08 Affidavit of David Bell, Esq.
(Forlando Federal Suit)
4. 02/07/08 Responsive Pleadings of Terry Brown, Romunzo Brown, and Forlando Brown
(Demand for Jury Trial)
[Case 872]
5. 3/27/08 Objection to Motion to Admit David Bell Pro Hac Vice in Case No. 2008-cp-02-
0827 [Case 872]
6. 3/03/08 Defendants' Reply Memorandum in Support of Motion to Dismiss
Plaintiff's Complaint and Amended Complaint
(Forlando Federal Suit)
7. 3/24/08 Plaintiff Forlando Brown's Motion for Preliminary and Permanent
Injunction Plaintiff
(Forlando Federal Suit)
8. 4/11/08 Response to Petition to Revoke Attorney David Bell's Pro Hac Vice
Admission [Case 872]
9. 4/14/08 Affidavit of Adele J. Pope [Case 872]
10. 4/28/08 Plaintiffs' Motions (Frank S. Mcgaughey, Iii, Esq.)(122) (William B.
Shearer, Jr., Esq.)(Joel A. Katz, Esq.) (122)
11. 4/29/08 Second Amendment to Complaint

Exhibit I

LAW OFFICE OF
DAVID B. BELL

619 GREENE STREET
POST OFFICE BOX 1011
AUGUSTA, GEORGIA 30902-1011

DAVID B. BELL

SHARON BLAIR PROCK

April 10, 2009

JOHN C. BELL
(706-733-1567)

AREA CODE 706
TELEPHONE 733-1567
706-733-0111
FAX 706-733-2307
E-MAIL: DBELL@DBELLFIRM.COM
davidbell@dbellfirm.com

VIA FACSIMILE# 1-803-739-2924

Tressa T. H. Hayes
Shipley & Hayes, P.C.
Attorneys at Law
445 Meeting Street
West Columbia SC 29169

Dear Tressa Hayes:

I am in receipt of Jim Bailey's letter that suggests communications go to you while he is involved with his daughter's wedding.

Judge Early is currently having to decide who will serve as the permanent trustee for the James Brown Charitable trust. For reasons set forth in this letter we believe that Bob Buchanan should immediately resign as trustee and not seek to have Judge Early allow him to continue serving as Trustee. This will allow Judge Early to appoint Bob's replacement.

For several decades, Bob Buchanan has served as an United States Magistrate Court Judge. As such, his conduct is regulated by Canon 5 of the Code of Conduct for United States Judges.

Paragraph C(1) of Canon 5 prohibits part-time Magistrates from being involved with business and financial dealings that involve lawyers who come before the court on which the Judge serves. At least one (1) of the lawyers in the James Brown case has a criminal practice that has caused him to represent clients in front of Bob.

Paragraph B of Canon 5 comes into play because it prohibits a judge from being involved with an organization that is regularly engaged in adversary proceedings in any court. If nothing else, the James Brown case is adversarial.

Canon 5(B)(2) prohibits a part-time Magistrate from soliciting funds for a charitable organization. The Trustees for the James Brown Charitable Trust will be required to raise money for the Charitable Trust. The Trustee's activity in marketing the assets of the trust, selling the assets of the trust and raising funds for the trust would

Tressa T. H. Hayes
April 10, 2009
Page 2

violate Canon 5(B)(2). A part-time Federal Magistrate is limited as to financial activity in the capacity of Trustee.

Under Canon 5(B)(3) a part-time Federal Magistrate cannot give investment advice to an organization to which he serves as a trustee or director. The role of Trustee requires Bob Buchanan to render financial decisions. His responsibilities as Trustee create violations of Canon 5(B)(3).

Finally A(2) applicable to part-time Magistrates prohibits Bob from appearing in a court on which he serves as a Magistrate. Bob violates this rule because he is a party to several actions currently pending in the Federal District Court of South Carolina, the court on which he serves as a part-time Magistrate.

The quoted sections of the Code of Conduct for United States Judges prohibit Bob Buchanan from serving as both a United States Magistrate Judge and the PR, Trustee in the James Brown case. Therefore, we believe Bob should immediately resign as Trustee/PR.

At this time I am not sharing this letter with the court or other attorneys in this case. As a matter of professional courtesy I am affording Bob Buchanan an opportunity to address this concern. However, if I have not heard from you or Bob Buchanan by April 15 then I will address these issue in appropriate fashion.

I am,

Sincerely,



David B. Bell

DBB:jhs

Exhibit 268

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

DARYL J. BROWN and Others,

Plaintiffs,

v.

DAVID G. CANNON and Others,

Defendants

IN RE:

ESTATE OF JAMES BROWN AND THE

JAMES BROWN 2000 IRREVOCABLE TRUST)

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

) CIVIL ACTION NO. 2007-CP-02-0122

) MOTION TO QUASH SUBPOENA
) AND

) FURTHER SUPPORTING RELEASE
) OF DOCUMENTS UNDER SEAL

**COPY
ORIGINAL FILED**

MAY 17 2012 *gbo*

**AIKEN COUNTY
CLERK OF COURT**

TO: TOMMIE RAE HYNIE AND HER COUNSEL, AND ALL OTHER PARTIES.

YOU WILL PLEASE TAKE NOTICE that at the hearing to be held in the above matter at 1:30 p.m. on Tuesday, May 22, 2012 at the Lexington County Courthouse, Main Street, Lexington, South Carolina, or as soon thereafter as she may be heard, Adele J. Pope, *pro se*, will move before the Honorable Doyet A. Early, III, for an Order as follows:

a. Quashing the subpoena of Tommie Rae Hynie, a/k/a Brown, served on her at 8:45 p.m. Friday, May 11, 2012, a copy of which is attached hereto as Exhibit A; and

b. Directing that the diary copies and all documents filed under seal in this Court or the Aiken County Probate Court or Family Court which relate to James Brown, Tommie Rae Hynie, the Estate of James Brown, and/or the James Brown 2000 Irrevocable Trust be unsealed.

The grounds of the motions are:

1. Movant has made formal written objection to the defective Subpoena. [Ex.B]

2. The Subpoena was intended to harass, seeking information covering a period

of more than 5 years, the originals of most being in 145+ banker's boxes to which Hynie

has had access for 4 years, and to which Pope has been denied access for 2 years.

3. Unless limited in duration and deemed to have expired in 2008, the Diary Orders violate the Due Process and First Amendment rights of movant and perhaps 100 others not even identified in the caption or body of the Diary Orders.

4. Hynie's subpoena is intended to chill movant's First Amendment rights.

5. Documents related to the Hynie/Brown civil status, the Estate of James Brown and other documents placed under seal (and future similar documents), should be and remain unsealed because:

a. Movant and Buchanan need them in the Forlando Federal Counterclaims;

b. Movant needs to consult them for her affidavit due May 30, 2012 in the Cannon fee/costs affidavit in this Case 122;

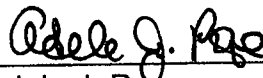
c. Disclosure will prevent fraud related to valuation;

d. The media is entitled to scrutinize these documents.

e. Movant needs them for her professional writings; and

f. No basis exists for them to be sealed.

This Motion is based on the Affidavit of Adele J. Pope filed herewith, the South Carolina Probate Code, South Carolina Rules of Civil Procedure and the entire file in this matter.



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
803/413-0753
Pro Se

May 14, 2012

AFFIRMATION

I certify that I have communicated in writing with opposing counsel in an attempt to resolve this motion prior to it, and/or that such communication would serve no useful purpose.

Abdo J. Papp

Exhibit A

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON)

SUBPOENA IN A CIVIL CASE

IN RE: THE ESTATE OF JAMES BROWN a/k/a)
JAMES JOSEPH BROWN)

Docket No. 2007-ES-02-0056 (case pending in
Aiken County Probate Court); 2007-CP-02-0122
(case pending in Aiken County Court of
Common Pleas)

TO: Adele J. Pope, 1228 Walnut Street, Newberry, SC 29108

YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the
above case.

PLACE OF TESTIMONY Lexington County Judicial Center 205 East Main Street Lexington, SC 29072	COURTROOM tbd (before Judge Early) DATE AND TIME May 22, 2012 1:30 (<input type="checkbox"/> A.M./ <input checked="" type="checkbox"/> P.M.)
---	--

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a
deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , (<input type="checkbox"/> A.M./ <input type="checkbox"/> P.M.)
---------------------	---

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in
your possession, custody or control at the place, date and time specified below (list documents or objects):

1. All written and electronic communications related to the disclosure or dissemination of the contents of, or
copies of, any diary of Tommie Rae Brown.
2. All written and electronic communications with Sue Summer, from December 26, 2006 to date.
3. All written and electronic communications with any reporter, blogger, website, or other media outlet related
to any diary of Tommie Rae Brown.

PLACE Lexington County Judicial Center 205 East Main Street Lexington, SC 29072	DATE AND TIME May 22, 2012, 1:30 (<input type="checkbox"/> A.M./ <input checked="" type="checkbox"/> P.M.)
--	---

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sd

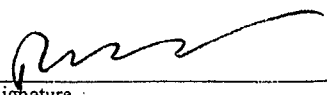
YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , (<input type="checkbox"/> A.M./ <input type="checkbox"/> P.M.)
----------	---

MAY 17 2012
AIKEN COUNTY

ANY SUBPOENAED ORGANIZATION NOTIFIED BY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL
PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR
OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON
WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS
KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.



May 10,

2012

Robert N. Rosen,
Attorney for Petitioner Tommie Rae Brown

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

Rosen Law Firm, LLC, 18 Broad Street, Suite 201, Charleston, SC 29401

843-377-1700

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

Custodial Parent (if applicable): _____

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Exhibit B

WRITTEN OBJECTION TO SUBPOENA TO ADELE J. POPE - AIKEN #2007-CP-02-0122

Reply Reply All QuickReply Forward Delete Download Message Display Headers Translate Printer Friendly

From: Adele Pope
To: RNrosen@rosen-lawfirm.com

Date: 5/12/2012 6:46:39 AM

TO: Robert N. Rosen, Esquire
Rosen Law Firm, LLC
18 Broad Street, Suite 201, Charleston, SC 29401

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

Re: Service of Subpoena, Friday Evening, May 11, 2012, 8:45 p.m.

Mr. Rosen:

Tonight I was served at about 8:45 p.m. with a subpoena which refers to a case pending in the Aiken County Probate Court as well as the above- referenced Case number ("Case 122"). The subpoena fails to show the parties to the case, and fails to contain a caption showing the parties.

Along with the subpoena, the process server handed me a check for \$75, payable to "Adele Pope and Robert N. Rosen." This clearly does not comply with the applicable rule. Kindly reissue a check to me, to be received by Tuesday.

The subpoena imposes an undue burden on me for the following reasons:

1. The written and electronic communications related to the disclosure or dissemination of the contents of, or copies of, any diary of Tommie Rae Hynie (a/k/a Brown) span a period of more than five years.
2. Written and electron communications with reporters, bloggers, websites, or other media outlets related to any diary of Tommie Rae Brown are not under my control; their research would result in a heavy burden; and the documents can be acquired by Tommie Rae Hynie from the same source.
3. You have failed to allow a reasonable time for the completion of this request
4. Communications prior to the 2008 Diary Orders which are the subject of the hearing, and possibly other documents, may be protected matter.
5. The subpoena requires me to produce documents which Tommie Rae Hynie's counsel is capable of obtaining from public sources and/or Russell Bauknight, her trustee.
6. I am an unretained expert on the issue of Tommie Rae Hynie's status as a non-spouse of James Brown; its impact on the James Brown Probate Proceeding; and its relationship to the heirs provisions of the Federal Copyright Act. As a result, some of the requested documents may be my intellectual property.

I will nevertheless accomplish as much of the task as possible before the hearing if, in addition to correcting the witness fee, you provide me by Tuesday with an additional check for \$750 -- the estimated reasonable cost of seach and production of the documents which you have requested.

I will look forward to receiving the check or checks from you by Tuesday, May 15. his communication is intended to comply with Rule 11.

Adele Pope

**COPY
ORIGINAL FILED**
MAY 17 2012 *Sak*
AIKEN COUNTY
CLERK OF COURT

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

**APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS**

**Doyet A. Early, III, Circuit Court Judge
CASE NO. 2008-CP-2-1647**

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Daryl J. Brown, on behalf of his minor children, Lindsey B. and Janise B.; Deanna J. Brown Thomas, on behalf of her minor child, Jason L.; Yamma N. Brown, on behalf of her minor children, Sydney L., Carrington L., and Tonya B.; Vanisha Brown; Larry Brown; Tommie Rae Hynie Brown; and James B., through his Guardian ad Litem .. Respondents,

v.

Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust; Adele J. Pope and Robert L. Buchanan, Jr., Personal Representatives of the Estate of James Brown and Trustees of the James Brown 2000 Irrevocable Trust; Terry Brown; Romunzo Brown; Forlando Brown; Cinnamon N.M. Paris; LaRhonda Petitt; Jeanette Mitchell; and Russell L. Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust,

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

And Albert H. Dallas, Alfred A. Bradley, and David G. Cannon, Individually and as (purported) Trustees of the James Brown 2000 Irrevocable Trust; Terry Brown; Romunzo Brown; Forlando Brown; Cinnamon N.M. Paris; LaRhonda Petitt; Jeanette Mitchell; and Russell L. Bauknight, as Special Administrator and Special Trustee for the Estate of James Brown and the James Brown 2000 Irrevocable Trust are Respondents.

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

**RUSSELL L. BAUKNIGHT'S PETITION FOR REHEARING
PURSUANT TO RULE 221(a), SCACR**

Russell L. Bauknight ("Mr. Bauknight") hereby petitions this Court pursuant to Rule 221(a), SCACR, and the fiduciary duty he owes the James Brown Estate and James

Brown 2000 Irrevocable Trust ("Estate and Trust") for a rehearing of the matter decided by Opinion No. 27227 issued February 27, 2013 ("Opinion").

Independent of his selection as the trustee for the Settlement Agreement Charitable Trust and Legacy Trust, Mr. Bauknight was also appointed as the Personal Representative and Trustee of the Estate and Trust. Pursuant to these appointments, and consistent with his fiduciary duties, Mr. Bauknight is and always has been in fact and by law independent of the Attorney General. In his capacity as the Personal Representative and Trustee of the Estate and Trust he does not serve "at the A[ttorney] G[eneral]'s pleasure" and the record is totally void of any justification for his removal. For nearly four years, he has directed his energies to overseeing the music and entertainment business that is the Estate and Trust, and substantially increasing its value and ability to fund scholarships for deserving students. To conclude that Mr. Bauknight's "continued association with the Estate and Trust presents a significant conflict" has absolutely no basis in fact.

This Court erroneously directed Mr. Bauknight's removal as Personal Representative and Trustee of the Estate and Trust in contravention of S.C. Code. Ann. §§ 62-3-611 and 62-7-706 (the removal statutes). Consequently, this Court is requested to issue an amended opinion deleting the language directing removal, or, at the very least, in the interest of fairness to Mr. Bauknight and to comply with the mandatory provisions of the removal statutes, remand to the circuit court with instructions to provide notice and conduct a hearing regarding Mr. Bauknight's continuation as the Personal Representative and Trustee.

I. MR. BAUKNIGHT AND THE ATTORNEY GENERAL

A. Mr. Bauknight Has Never Served at the Pleasure of the Attorney General with Regard to his Fiduciary Position as the Personal Representative and Trustee to the James Brown Estate and the James Brown 2000 Irrevocable Trust

Upon the motion of all of the interested parties, the Honorable Doyet A. Early, III appointed Mr. Bauknight as Personal Representative of the James Brown Estate, and Trustee of the James Brown 2000 Irrevocable Trust. (Bauknight Affidavit ¶2, Attached as Exhibit A). The Honorable Sue H. Roe issued a Certificate of Appointment for each of these fiduciary positions held by Mr. Bauknight. (Bauknight Affidavit ¶3). Those appointments complied with the original Trust Agreement, and South Carolina law.¹ For nearly four years, Mr. Bauknight has diligently executed his fiduciary duties totally independent of the Attorney General.

The Settlement Agreement and the Legacy Trust did contain provisions providing the Attorney General with the authority to appoint and remove the fiduciary of the Settlement Agreement Charitable Trust and the Legacy Trust. But the authority granted to the Attorney General under those documents never materialized because this appeal challenged their very existence. And, any authority these documents gave the Attorney General did not and could not apply to Mr. Bauknight's appointment as the Personal Representative and Trustee of the Estate and Trust. Removal from those positions could only occur by court order **after** notice and hearing. S.C. Code. Ann. §§ 62-3-611 and 62-7-706. Accordingly, for the last four years Mr. Bauknight has served in fact and by law as the independent Personal Representative and Trustee of the Estate and

¹ As this Court stated in its Opinion, Brown's original trust agreement provided that Trustee selection could be made by the court with jurisdiction over the trust.

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.

his removal. The Attorney General has never attempted to influence Mr. Bauknight, had no authority to remove him as Personal Representative and Trustee, and there is no evidence in the record that his continued service presents a “conflict.” At the very least, for the sake of fairness (statutory requirements aside) he should be given an opportunity to show that this Court’s conclusion that he should be removed is completely unfounded.

As the Court recognized in its Opinion, notice and a hearing are required by Section 62-3-611 before a personal representative may be removed. This Court’s Opinion erroneously ignores the procedure required by the South Carolina legislature in order to remove Mr. Bauknight. This issue was not before the Court, there was no notice of this issue to Mr. Bauknight, there was no hearing held, nor was Mr. Bauknight afforded the opportunity to brief and argue the law and facts relevant to this issue.

Similarly, Section 62-7-706 requires a finding of fact justifying removal before a Trustee may be removed. This Court’s Opinion erroneously ignores the legal requirements imposed by this statute. This issue was not before the Court, there was no notice of this issue to Mr. Bauknight, nor was Mr. Bauknight afforded the opportunity to brief and argue the law and facts relevant to this issue.

Because there is no basis in fact in the record to justify the Court’s direction of Mr. Bauknight’s removal, this Court should delete such language in an amended opinion, or, at the very least, this Court should remand the matter to the lower court to conduct a hearing and make appropriate findings on whether Mr. Bauknight should continue to serve as the Personal Representative and Trustee of the Estate and Trust.

III. UNINTENDED CONSEQUENCES OF THE COURT'S DECISION

While the consequences of an informed decision by a court should normally not determine the final outcome, Mr. Bauknight's service to the Estate and Trust cannot be ignored for it attests to his exercise of sound business judgment uninfluenced by the Attorney General or anyone else for that matter. When Mr. Bauknight was appointed, the Estate and Trust was practically insolvent and on the verge of collapse. (Bauknight Affidavit ¶12). It had no working capital. (Bauknight Affidavit ¶13). Through his efforts, and his efforts alone, the Estate and Trust is now poised to become a substantial global entertainment entity that will generate untold millions of dollars for scholarships for deserving students. His removal could very well significantly jeopardize this bright future. This Court can be assured that this is not "the sky is falling" argument. It is based on a full understanding of the dynamics involved.

Since May 26, 2009—for the last 46 months—Mr. Bauknight has done everything in his power to stabilize and then resurrect the James Brown Estate and Trust. Since his appointment, he has not paid himself a single penny in fiduciary commissions. (Bauknight Affidavit ¶17). Mr. Bauknight has foregone payment for his work, effectively floating the Estate and Trust. This allowed working capital to accumulate more rapidly which in turn contributed significantly to its success. During his service he has compromised or paid all of the outstanding state and federal taxes from 2006-2008 that were not (but should have been) paid by the prior fiduciaries; for federal estate tax purposes he attained a professional valuation of the James Brown Estate³; after an

³ On March 26, 2009, the settling parties entered into an addendum to the settlement agreement that included the Terry Brown right-of-first-refusal. One year later, on March 15, 2010, Mr. Bauknight retained the professional valuation firm. Six months

Internal Revenue Service audit, the IRS accepted the independent valuation of \$4.7 million and its methodology and concluded that the James Brown Estate did not owe federal estate taxes.⁴ Mr. Bauknight also identified and collected unpaid licensing agreement fees due from sound and recording studios, resulting in over \$3.5 million in previously unidentified and unpaid fees being paid into the Estate and Trust. (Afterman Affidavit ¶¶ 13-14, Attached as Exhibit B).

After putting the Estate and Trust's fiscal "house in order," Mr. Bauknight hired for the first time a music management professional to assist him in overseeing the James Brown music business. Mr. Bauknight retained Mr. Peter Afterman, an accomplished professional music manager.⁵ Mr. Afterman helped to broker music licensing deals for commercial advertisements with companies such as Chanel, Gatorade, and Volkswagen. (Afterman Affidavit ¶11). These deals generated \$2.5 million for the Estate and Trust. (Afterman Affidavit ¶12).

As a result of the above management decisions made by Mr. Bauknight, the Pullman bond (which at the time of his appointment as the Personal Representative and Trustee indebted the Estate by \$13 million) was paid off eight years early in 2011, and the Estate and Trust are now saving significant amounts of money that can be used to fund scholarships for deserving students. (Bauknight Affidavit ¶¶ 14-16).

after that, on September 3, 2010, the firm completed its valuation work and issued the valuation opinion that was, after audit, accepted by the IRS. The timing of the right-of-first-refusal and the valuation opinion occurred one and one-half years apart; these two events are completely separate and unrelated.

⁴ Of course, the value of the Estate has since increased. This is because of Mr. Bauknight's sound business practices.

⁵ Peter Afterman is the founder of Inaudible Productions, Inc., which is based in Los Angeles, California. The firm is a full-service music and film company. See <http://inaudibleprod.com/about/>, last visited on March 13, 2013. Among other famous musicians, it represents the Rolling Stones.

Directing that Mr. Bauknight should be removed as the Personal Representative and Trustee of the Estate and Trust jeopardizes the stability and success of the Estate and Trust going forward. Mr. Bauknight has been interacting with the music, film, and general commercial world as the Personal Representative and Trustee for almost four years. He is a known figure, understands the entertainment business, and he provides those industries certainty in his leadership.

Knowing the tumultuous history of the James Brown Estate and Trust, the music and film industry principals have insisted on protections through contracts cognizant that changes in estate and trust administration can detrimentally affect their intellectual property investments; as such, most of the music industry managers, licensing companies, and other movie businesses have structured their contracts with the right to terminate or walk away due to changes in the fiduciary who administers the Estate and Trust. (Afterman Affidavit ¶9). In order to enter into these deals, Mr. Bauknight was required to agree to these standard contract provisions. (Bauknight Affidavit ¶21). Several contracts could be terminated if Mr. Bauknight is replaced as the fiduciary and the Estate and Trust may never be able to regain those exclusive rights.

One of the most important actions Mr. Bauknight has taken as the Personal Representative and Trustee, and the one which has poised the Estate and Trust for tremendous success, is striking a deal to create a biographical motion picture based on the life and music of James Brown (the "Biopic").⁶ (Afterman Affidavit ¶ 15). For the last

⁶ Recent successful biographical films include *Ray* (regarding Ray Charles) and *Walk the Line* (regarding Johnny Cash). The Rolling Stones' list of the 100 greatest artists places Ray Charles at number ten (10) and Johnny Cash at number thirty-one (31). James Brown is placed at number seven (7).

four years, Mr. Bauknight has worked to put together this deal. (Bauknight Affidavit ¶24). Recently, he entered into an option contract with Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Films (owned by Mick Jagger) to produce the James Brown Biopic.⁷ (Afterman Affidavit ¶15; Bauknight Affidavit ¶25-26). The Biopic, if it is brought to the Hollywood screen, will have a tremendous impact on the value of the Estate and Trust. In the industry, this type of biographical motion picture is the springboard for a renewed public interest in the music of the artist depicted. This deal alone has the potential to catapult the Estate and Trust into a global business enterprise that could substantially increase its revenue and value through increased music sales and licenses resulting from the publicity of the Biopic (*i.e.*, more funds for scholarships). (Afterman Affidavit ¶16). Mr. Bauknight is also presently in the negotiation stage of creating a show at the famed Apollo Theatre, creating a touring tribute show, and a documentary regarding the life of James Brown. (Bauknight Affidavit ¶31). This Court's Opinion (unknowingly) places all of these deals at risk. (*E.g.*, Afterman Affidavit ¶17).

Since February 27, 2013, the date of this Court's Opinion, numerous calls from industry professionals have been made requesting some form of assurance regarding Mr. Bauknight's ongoing authority. (Bauknight Affidavit ¶22). Absent being able to provide assurance regarding the direction of the James Brown Estate and Trust, and considering the past tortuous litigation history, Mr. Bauknight believes that a number of contracts and

See <http://www.rollingstone.com/music/lists/100-greatest-artists-of-all-time-19691231/james-brown-20110420>, last visited March 13, 2013.

⁷ *See* <http://www.rollingstone.com/music/news/james-brown-biopic-set-to-begin-casting-soon-20130116>, last visited March 13, 2013;
<http://www.express.co.uk/news/showbiz/371407/Movie-mogul-Brian-Glazer-loves-having-Mick-Jagger-as-a-partner-on-James-Brown-biopic>, last visited March 13, 2013.

ongoing deal negotiations could simply fall by the wayside and that it is unlikely that a future fiduciary will be able to revive these important business deals that he has worked all these years to achieve for the Estate, Trust, and future scholarships.⁸ (Bauknight Affidavit ¶23; Afterman Affidavit ¶17).

Pursuant to Rule 221(a), SCACR, Mr. Bauknight respectfully requests that this Court remove the language from the Opinion (1) directing the circuit court to appoint a new Personal Representative and Trustee, and (2) stating that Mr. Bauknight's continued service to the Estate and Trust presents a significant conflict. At the very least, Mr. Bauknight respectfully requests that this Court direct the circuit court to hold a hearing to determine whether he should continue to serve as the Personal Representative and Trustee of the James Brown Estate and 2000 Irrevocable Trust.

CONCLUSION

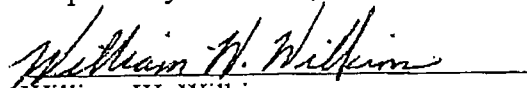
Mr. Bauknight has labored for nearly four years to stabilize and resurrect (from virtual insolvency) the Estate and Trust. Mr. Bauknight is the Personal Representative and Trustee of the James Brown Estate and James Brown 2000 Irrevocable Trust; in this capacity he is not and has never been, by law, agreement, or otherwise, beholden to or serving at the pleasure of the Attorney General; he does not labor under a conflict of interest. Even if the Attorney General exceeded its statutory authority in some other regard, that action had nothing to do with Mr. Bauknight's court appointment as the Personal Representative and Trustee of the Estate and Trust and his continued service in these capacities. For this Court to conclude otherwise is unfair to Mr. Bauknight; it is

⁸ See <http://thegrio.com/2013/01/17/casting-for-james-brown-biopic-is-underway/> (quoting Eddie Murphy acknowledging the difficulty in aligning all of the competing interests for the legal right to use James Brown's story).

improvident in its misunderstanding of the risk to the future funding of scholarships for deserving students; and it departs from the mandatory legal process set forth in the removal statutes.

Mr. Bauknight hereby respectfully requests that this Court amend Opinion No. 27227 issued February 27, 2013, and re-issue an Opinion consistent with the requests set forth above.

Respectfully submitted,



William W. Wilkins
NEXSEN PRUET, LLC
55 East Camperdown Way (29601)
Post Office Drawer 10648
Greenville, South Carolina 29603-0648
(864) 370-2211

*Attorney for Russell L. Bauknight, as the
Court-Appointed Personal Representative of
the James Brown Estate and Trustee of the
James Brown 2000 Irrevocable Trust*

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN

) CASE NUMBER: 2008-CP-02-0872

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

Plaintiffs,

v.

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

Defendants.

COPY
ORIGINAL FILED

MAY 23 2013
10:08
AIKEN COUNTY
CLERK OF COURT

Motion for Expedited Relief to Protect
The James Brown "I Feel Good" Trust

TO: ALL PARTIES AND THEIR COUNSEL

YOU WILL PLEASE TAKE NOTICE that Adele J. Pope will move before the Honorable Doyet A. Early, III, at the Aiken County Courthouse located at 109 Park Avenue S.E., Aiken, South Carolina, ten (10) days after service hereof, or as soon thereafter as she may be heard, pursuant to S. C. Trust Code Sections 62-7-405, Section 62-7-103 and other applicable law for an Order allowing her to protect and enforce The James Brown "I Feel Good" Trust, James Brown's private foundation dedicated solely to the education of needy and deserving students, as set out herein.

The grounds of this motion are:

1. Entertainment icon James Brown died Christmas Day 2006 leaving his worldwide music empire to the "I Feel Good" Trust which he created by Will and Revocable Trust on August 1, 2000 (the "2000 Estate Plan").
2. Serving as a backup to Brown's noble plan to dedicate the bulk of his fortune to needy students is his Estate Plan executed in 1999.
3. Both Estate Plans leave Brown's music empire to the "I Feel Good" Trust for scholarships for needy students.
4. The main difference is that the 2000 "I Feel Good" scholarships are for SC and Georgia students, while the 1999 scholarships are limited to students at Voorhees, USC Aiken and USC Salkehatchie.
5. On December 26, 2007 Plaintiffs began this action to set aside the 2000 Estate Plan.
6. Movant and Defendant Robert Buchanan, Jr., then PR-Trustees, responded by defending the 2000 Estate Plan and offering the 1999 Will for Probate if – and only if – the 2000 Plan was found defective.

7. On information and belief, others with a right to enforce BOTH plans have taken steps between August 10, 2008 and May 8, 2013 which may have impaired the Estate/2000 Trust's defense, making it important that the Court recognize Movant's continued authority to maintain this proceeding to enforce the "I Feel Good" Trust. [See Exhibit A]

8. The May 8, 2013 decision of the S.C. Supreme Court in *Wilson v. Dallas*, and reactions of Plaintiffs make it imperative to proceed on an expedited basis to protect the "I Feel Good" Trust and conclude this case.

9. Since August 2008, when this case was stayed, all Plaintiffs and Brown's companion Tommie Rae have confirmed Brown's desires as set out in the 2000 Estate Plan, stating in Richland County Case 4900:

...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. [Mem. Opp. P.2, 8/27/10]

10. It is also now clear that a proper determination of heirs – as begun by Rodney Peeple, Esq., – as a baseline for the protection of James Brown's Royalties under the Federal Copyright Act – is critical and can be completed with ease in this case.

11. Movant has a direct interest in the outcome of these matters in addition to her support of private philanthropy. She is seeking in Federal Case No. 3:08-cv-00014 an equitable offset of the interest of Forlando Brown in the 2000 Trust and of Terry Brown in the Estate (now owned by Forlando) for damages Forlando caused Movant and Robert Buchanan, Jr. in a 5 ½ -year-old Complaint Forlando asked the Court to

dismiss in in 2012.¹

12. In the interest of justice and judicial economy, the Court could and should issue its Order requiring that the following expedited steps be taken – none of which should await the appointment of Successor PR/Trustees as directed by *Wilson v.*

Dallas:

- a. Add USC Aiken, USC Salkehatchie and Voorhees as parties so they may add to the protection of the “I Feel Good” Trust, and direct that they be served by Plaintiffs;
- b. Confirm Movant’s authority under Sections 62-7-305 and 62-7-103 to maintain this proceeding for the protection of the “I Feel Good” Trust;
- c. Add former minors (3) – Jason, Lindsey and Janice – as parties and poll them to determine if they ratify the challenges to the 2000 Trust made by their parents when they were minors.
- d. Realign the former minors, if appropriate, and correct the caption;
- e. Substitute Attorney General Alan Wilson (“AG Wilson”) for AG McMaster;
- f. Appoint a GAL for Sydney L. and Carrington L. unless their mother has abandoned the challenge which would destroy their interest in the 2000 Trust.
- g. Add Lisa – daughter of Brown and Velma – as an heir/Defendant;
- h. Direct DNA testing for Deon (incarcerated), James Curtis, Tonya and James B if they seek to remain as parties and claimed heirs;
- i. Retain or add any of the four who pass DNA testing as parties/heirs.

¹ In November 2010, after failing to timely respond to the Counterclaims of Robert Buchanan, Jr., in Richland Case 4900, Terry moved to be relieved from default.

On January 4, 2011 he transferred his entire interest in the Estate to Forlando.

In early 2012 Forlando asked the Federal Court to dismiss his claims against Buchanan and Pope, but they are seeking damages in their counterclaims, including Movant’s request for equitable offset of Forlando’s interest in the 2000 Trust and Terry’s in the Estate. Discovery in the Federal Case ends in September 2013.

- j. Appoint a GAL for Deon (if a child) and Venisha.
- k. Require all Plaintiffs to respond to the Estate/2000 Trust's First Interrogatories issued on August 12, 2008.
- l. Convene a hearing in 90 days, on or about September 1, 2013, to determine how the case will proceed, and issue a Scheduling Order.
- m. Hear dispositive motions, if possible, by December 15, 2013.

This motion is based on the South Carolina Rules of Civil Procedure, especially Rule 19; the S.C. Trust Code: such Affidavits and matters as shall be properly presented to the Court prior to the hearing on this matter.

By: Adele Pope
Adele J. Pope, *Pro Se*
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
adele@popelawfirm.com

May 20, 2012

AFFIRMATION OF COUNSEL

I certify pursuant to Rule 11 of the South Carolina Rules of Civil Procedure that prior to filing this motion I communicated, orally or in writing, with opposing counsel, and have attempted in good faith, to resolve the matter contained in the motion, or that consultation would serve no useful purpose.

Adele Pope
Adele J. Pope

Exhibit A
Law Office of Adele J. Pope, P.C.
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

May 17, 2013

The Honorable Alan Wilson
Attorney General for the State of South Carolina
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549

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

Dear Attorney General Wilson:

Our Supreme Court's May 7 decision seemed to make certain that James Brown's \$100 Million worldwide music empire would go to The James Brown "I Feel Good" Trust, Brown's private foundation dedicated solely to providing scholarships for needy students in S.C. and Georgia.

Actions by his companion and certain others over the last week, however, suggest they interpret the decision to say: go back and redo the settlement; keep the \$50 Million from the "I Feel Good" Trust; but get rid of Bob Buchanan and Adele Pope so there won't be another appeal.

They do so even though all have now confirmed in Court filings:

...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. [Mem. Opp. P.2, 8/27/10]

I do not believe the Court's intention was that everyone seeking to save the "I Feel Good" Foundation be silenced.

James Brown had not only a 2000 Estate Plan creating the "I Feel Good" Trust but a nearly-identical 1999 Estate Plan. In the 1999 Plan the "I Feel Good" scholarships were for students at Voorhees, USC Aiken and USC Salkehatchie only.

Ltr. to AG Wilson
May 17, 2013
Page 2

I write to ask that you support me, as a private citizen with a special interest in saving James Brown's "I Feel Good" Trust, by endorsing my pursuit of admission to probate of the 1999 Will solely as a backup to Brown's valid 2000 Estate Plan.

I believe your support for this backup – insuring that in all events Brown's fortune will go for scholarships for needy students – will bring a swift end to all challenges and save the "I Feel Good" Foundation.

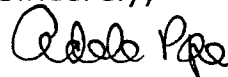
With a hearing set for May 29 immediate action is critical.

I am taking the liberty of copying this to the heads of the three institutions designated in the 1999 Estate Plan, other philanthropists and thinkers – and a few mere lawyers like myself. I seek any input they can give to you or to me to make sure that the "I Feel Good" Foundation is saved.

I am able to meet with you or your staff at any time to discuss this.

Thank you in advance for your consideration.

Sincerely,



Adele J. Pope

Dr. Cleveland Sellers, Jr. - Voorhees
Dr. Ann C. Carmichael - USC Salkehatchie
Dr. Sandra Jordan - USC Aiken
Mr. George Dean Johnson, Jr.
Mr. John Rainey
Mrs. Deborah Spence
Dr. JoAnn Turnquist – Central Carolina Community Foundation
Mr. Steve Lambert - the Graham Foundation
H. Ronald Stanley, Esq.
W. Steven Johnson, Esq.
Freddie Kingsmore, Esq.
William Wilkins, Esq.
Dr. Tania Sosiak
Robert Buchanan, Jr.

b. Directing any fiduciary who has not filed a complete accounting for his service from the death of James Brown through May 8, 2013 to do so within 30 days.

c. Requiring any fiduciary who has paid compensation to David G. Cannon, Alfred Bradley, or the Estate of Alfred Bradley, to fully account for such payments within 30 days.

d. Requiring each fiduciary (who may act jointly with a co-fiduciary), by August 1, 2013, to produce and place at a central location (office of Buchanan suggested) for inspection and copying (to the extent not already on file with the Court for public inspection):

A. A complete, verified, accounting of such fiduciary's services and the benefit of said services to the Estate/2000 Trust;

B. A complete accounting of all legal services paid, incurred, approved or promised by said fiduciary since the death of James Brown for which the Estate/2000 Trust, through said fiduciary, has paid, agreed to pay, contracted to pay and/or may be asked to pay.

C. All legal fees which said fiduciary claims should be paid by the Estate/2000 Trust in relation to his or her service, or which were paid by said fiduciary from Estate/2000 Trust funds, including a detailed description of the services performed by each attorney, and showing:

(1) Case: (i.e., Forlando Federal Suit; Cannon Appeal; Dallas Appeal; Case 1647; Case 4900; FOIA #1, FOIA #2);

(2) Each attorney performing services, with hours and rate;

(3) The service of non-attorney personnel, with hours and rate; and

(4) A copy of the engagement letter or contract.

e. All parties shall have access to the books and records of the Estate/2000 Trust, including appraisals, fee contracts, offers, royalty records, etc. to prepare their claim and evaluate the claims of other fiduciaries.

f. Any party may be deposed by any other party on or before September 15, 2013.

g. Each Party shall, by September 15, 2013, file with the Court his or her recommendation as to:

(1) The Full Commission to be paid to all fiduciaries during the 7-year period from the death of James Brown to Dec. 31, 2013;

(2) The amount to be paid to – or claimed from – each of the Six fiduciaries who have served during such period;

(3) The amount already ordered such fiduciary under the January 8, 2008 Order in Case 122 and/or by any other Order, with a statement of who received notice of the Order or a right to be heard in relation to the award.

(4) The amount due all fiduciaries under the January 8, 2008 Order, and other orders, which remains unpaid.

(5) The amount (or a reasonable range) of legal fees and costs incurred, paid, promised, or contracted for the benefit of the Estate/2000 Trust which should, in the opinion of said fiduciary, be paid for the 7-year period by the Estate/Trust, and the Attorneys to be paid/not paid;

(6) Any amounts which, in the opinion of the fiduciary, must be disgorged in accordance with *Wilson v. Dallas*.

(7) In fewer than 25 pages, an explanation for said position.

The grounds of this motion are:

1. On May 8, 2013 the Supreme Court directed the Honorable Doyet A. Early, III:

to 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.

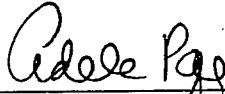
2. Dallas is in bankruptcy; Bauknight has represented to that Court, on behalf of the Estate, that this case is the appropriate forum to determine all fiduciary fees; and, on information and belief, Dallas does not object.

3. Judicial economy and the *Wilson v. Dallas* directive will be served by

expediting this case.

4. This matter may, and should, proceed, prior to the appointment of permanent PR/Trustees in accordance with Brown's documents, as directed in *Wilson v. Dallas*.

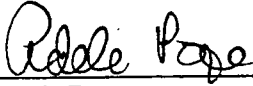
This motion is based on the motion, affidavit and filings of Movant in 2011 and 2012 in this case, the South Carolina Rules of Civil Procedure, the decision in *Wilson v. Dallas* and such matters as shall be properly presented to the Court prior to the hearing on this matter.

By: 
Adele J. Pope, Pro Se
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
adele@popelawfirm.com

May 21, 2012

AFFIRMATION OF COUNSEL

I certify pursuant to Rule 11 of the South Carolina Rules of Civil Procedure that prior to filing this motion I communicated, orally or in writing, with opposing counsel, and have attempted in good faith, to resolve the matter contained in the motion, or that consultation would serve no useful purpose.


Adele J. Pope

May 23, 2013

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

) Case No.: 08-CP-02-1647

HENRY DARGAN McMASTER, in his
capacity as Attorney General of the State of
South Carolina; DARYL J. BROWN, on behalf
of his minor children, LINDSEY DELORES
BROWN and JANISE VANISHA BROWN;
DEANNA J. BROWN THOMAS, on behalf of
her minor children, JASON BROWN LEWIS;
YAMMA N. BROWN, on behalf of her minor
children, SYDNEY L., CARRINGTON L.
and TONYA BROWN; VANISHA
BROWN; and LARRY BROWN; TOMMIE RAE
HYNIE BROWN; JAMES B., through his
Guardian ad Litem,

Petitioners,

v.

ALBERT H. DALLAS, ALFRED A. BRADLEY
and DAVID G. CANNON, individually and as
(purported) Trustees of the James Brown
2000 Irrevocable Trust; ADELE J. POPE and
ROBERT L. BUCHANAN, JR., individually and
as (purported) Personal Representatives of the
Estate of James Brown and Trustees of the
James Brown 2000 Irrevocable Trust; TERRY
BROWN; ROMUNZO BROWN; FORLANDO
BROWN CINNAMON N.M. PARRIS;
LARHONDA PETIT, JEANETTE MITCHELL
and RUSSELL L. BAUKNIGHT

Respondents.

IN RE:

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

COPY
ORIGINAL FILED

MAY 23 2013
10:10
AIKEN COUNTY
CLERK OF COURT

) MOTION FOR SCHEDULING
) ORDER AND APPOINTMENT OF
) LIMITED SA/ST
) TO COMPLY WITH MANDATE OF
) SUPREME COURT DECISION
) WILSON V. DALLAS

TO: ALL PARTIES TO THIS ACTION AND THEIR CURRENT AND PRIOR COUNSEL

YOU WILL PLEASE TAKE NOTICE THAT Adele J. Pope, pursuant to the directive
in the May 8, 2013 S. C. Supreme Court Decision of *Wilson v. Dallas*, Opinion No. 27227,

will move before the Honorable Doyet A. Early, III, at the Aiken County Courthouse located at 109 Park Avenue S.E., Aiken, South Carolina, ten (10) days after service hereof, or as soon thereafter as she may be heard, for a Scheduling Order and appointment of Limited Special Administrator/Special Trustee for specific litigation ("Limited SA/ST"), expediting compliance with the mandate of the Supreme Court that this Court:

... 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 Grounds of this motion are that an Order directing the following will not only expedite such compliance but serve justice and judicial economy:

1. Any attorney designated on Schedule A and/or any other attorney paid or seeking payment from the Estate/2000 Trust shall within 45 days file a verified claim (or supplement) with the Probate Court for Aiken County, with a copy to Brent Fortson, Esquire, counsel for Plaintiff in Case 2008-CP-02-1426, for any services rendered from December 25, 2006 - May 8, 2013, and any future payment claimed in this or any related James Brown action. for which said attorney has or will seek compensation from the Estate/2000 Trust¹.

2. A Notice of the Filing and Placement with Mr. Fortson shall be served on all parties to this action, Case 872, Case 1426, Richland County Case 4900 and the Forlando Brown Federal Suit.

3. Such claim shall contain the following information:

a. A copy of the engagement letter, contract, or other basis of the claim;

b. A chronological description of the services, broken down by attorney; to the extent possible segregated into the following matters:

(1) Case 122;(2) Dallas Appeal; (3) Cannon Appeal; Case 1647; (4) Case 1647 Appeal; (5) Case 872; Case 322; (6) Forlando Suit; (7) General Administration;(8) Hollander matters; (9) Jones matters;

¹ For Claims with respect to any attorney or former fiduciary totaling, in the aggregate, less than \$10,000, the payor Fiduciary may submit a Report of Claim/Payment in lieu of the Claim.

(10) FOIA #1; (11) FOIA #2; Case 4900 (12) Case 322;(13) general administration (14) valuation and tax compliance.

c. The fiduciary served (ie, Bauknight as PR), and any client other than the Estate/2000 Trust represented in the same matter and/or at the same time.

d. The standard hourly rate of attorney, whether or not the fee was contingent;

e. Other clients served at the time or in the same matter;

f. Fees and costs allocated to the matter.

g. An explanation of how the representation and/or other actions of client coordinated with the representation have or are intended to benefit the Estate/2000 Trust.

h. All amounts paid to date, segregated by fees per attorney and costs;

i. All amounts authorized by Court Order in any case, but not paid;

j. A reasonable estimate of all fees and costs to conclude the relevant matter.

4. Mr. Fortson shall make his copies available for inspection and copying during normal business hours, charging 10c per page for copies.

5. Any party, client of claimant or other Interested Person may view the claims and file in this Case, a Preliminary Statement of Objection to any claim within 30 days after receipt of notice of its filing (supplementation).

6. The Preliminary Statement of Objection shall be no more 1 Page, and shall state:

a. The current and past relationship, if any, to the Claimant;

b. How the services of claimant did or did not benefit the Estate/2000 Trust.

c. A request for notice, if desired, of any hearing as to the determination of the claim.

7. The Court appoints _____, Esq., who certifies to the Court that he/she is not currently a party or counsel to any party in the following matters and has no conflict in vigorously representing the interest of the Estate/2000 Trust, as Limited SA/ST to conduct expeditiously, and complete, if possible the following litigation on behalf of the Estate/2000 Trust:

- a. Case 4900, filed May 19, 2013, by (among others) former PR/Trustee Bauknight against former PR/Trustees Buchanan and Pope.
 - b. U.S. District Court Case No. 3:08-cv-00014, Commenced against former PR/Trustees Buchanan and Pope, Individually and as Trustees, on January 2, 2008.
 - c. Case 872 commenced against former PR/Trustee Buchanan and Pope and others on December 26, 2007, but only to the extent of proper joinder of the parties and the conduct of discovery;
 - d. The Gag Order Appeal and/or remand pending in the Supreme Court, former PR/Trustee Pope, Appellant and former PR/Trustee Bauknight and others, respondents.
 - e. Richland County and Newberry County Freedom of Information ("FOIA") cases in some of which former PR/Trustee Pope is a Plaintiff and former PR/Trustee seeks to intervene, obtains sanctions against Pope and/or other relief.
 - f. To be paid from the Estate monthly \$325 per hour, with costs, as incurred.
8. On or before September 1, 2013, the SA/ST shall, and Movant and all others may, file a Status Report with this case.
9. This Court shall hold a status conference and motion hearing on all matters on a day certain set by the Court in September 2013 to establish:
- a. The amount of all fiduciary claims and attorneys' fees as ascertained in this Case and Case 1426.
 - b. Which claims and/or fiduciary claims are unopposed;
 - c. The Status of Case 4900, the Forlando Federal Suit, Case 872 and Case 4900; and
 - d. To direct the next steps to comply with the Supreme Court's directive.

This motion is based on the S.C. Probate Code, the decision in *Wilson v. Dallas* and facts developed since May 19, 2010 which show all Plaintiffs have conceded in Case 4900 that:

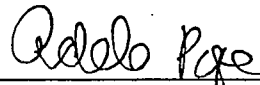
...the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This objective was the often stated and well-known desire of James Brown. [Mem. Opp. P.2, 8/27/10]

Further, Forlando Brown, who has vigorously asserted the validity of the 2000 Will and 2000 Trust, is now the holder of the interest of his father Terry under the Will.

Further, the *Wilson v. Dallas* DNA testing for non-presumed claimed heirs and action to join proper parties to allow the proposed 1999 Will to be admitted as a backup to Brown's valid 2000 Estate Plan in Case 872 is necessary in that matter to comply with the Supreme Court's directive.

These developments, and the actions proposed above, will expedite the Court's compliance with the Supreme Court's *Wilson v. Dallas* mandate.

Respectfully submitted,



Adele J. Pope, *Pro Se*
1228 Walnut Street
Newberry, South Carolina 29108
803-413-0753
adele@popelawfirm.com

May 22, 2012

AFFIRMATION OF COUNSEL

I certify pursuant to Rule 11 of the South Carolina Rules of Civil Procedure that prior to filing this motion I communicated, orally or in writing, with opposing counsel, and have attempted in good faith, to resolve the matter contained in the motion, or that consultation would serve no useful purpose.



Adele J. Pope

Schedule A

All Attorneys who have performed legal services, and/or contracted to perform legal services for the Estate of James Brown and/or The James Brown 2000 Irrevocable Trust (the "Estate/Trust") and/or who believe that they have performed services for the benefit of the Estate/Trust from December 25, 2006 through May 8, 2013 and who have received or expect to receive compensation from the Estate and/or 2000 Trust for this and/or future services, including but not limited to the following:

A. Attorneys - one or more of Original Trustees Cannon, Dallas & Bradley

1. Strom Thurmond, Jr., Esq.
2. David Martin, Esq.
3. Rodeny Peeples, Esq.
4. Camden Lewis, Esq. - Lewis & Babcock ("L&B")
5. Ariel King, Esq. - L&B
6. Keith Babcock, Esq. - L&B
7. Jonathan Harling, Esq. - L&B
8. William Hammond, Esq. - Hull Towell ("HT")
9. William Tucker, Esq. - HT
10. Steve Sidmans, Esq. - Greenberg Traurig ("GT")- Atlanta
11. Joel Katz, Esq. - GT
12. Leon Friedman, Esq. - NYC
13. William Custer, Powell Goldstein ("PG"), now Brian Cave, LLP. -Atlanta
14. Jennifer Dempsey, Esq. - PG.
15. William Shearer, Esq. - PG.
16. Stanley Jackson, Esq.
17. James Huff, Esq.
18. Angela Kirby, Esq. - McAngus Goudelock ("MG")
19. Sherry Lydon, Esq.
20. Eric Bland, Esq.
21. Ronnie Richter, Esq.
22. Jan Warner, Esq.
23. Max Pickelsimer, Esq.
24. Brent Fortson, Esq. - Greenville
25. Richard Ness, Esq.
26. Gene Covington, Esq.
27. Art Gold, Esq. - Chicago
28. Wayne Byrd, Esq. - Turner Padgett ("TP")
29. Audra Byrd, Esq. - TP
30. R. Hawthorne Barret, Esq. - TP
31. Curtis L. Ott, Esq. - TP
32. Wes Kirkland, Esq.

B. Attorneys - Russell Bauknight (plus some listed for others)

33. David Black, Esq. - Nexsen Pruet ("NP")
34. Freddie Kingsmore, Esq. - NP
35. William Wilkins, Esq. - NP
36. William Klett, Esq. - NP
37. William Newsome, Esq. - NP
38. Rick Reames, Esq. - NP
39. Stephen P. Groves, Sr., Esquire
40. Kenneth Wingate, Esq. - Sweeney, Wingate & Barrow, P.C. ("SWB")
41. Mark Gende, Esq. - SWB
42. Erin Hayes, Esq. - SWB
43. Rett Kendall, Esq. - SWB
44. Kendall Few, Esq. - Court-Appointed - Recovery from Cannon Group, others
45. James Gilreath, Esq. Court-Appointed with Few
46. Todd Boudreaux, Esquire - Augusta
47. Julio E. Mendoza, Esq.- NP
48. George, A. Scott, Jr., Esq. - NP
49. G. Markus Knight, Esq. - NP

C. Attorneys - one or both of Bob Buchanan and Adele Pope (plus some listed for others) [both also *pro se* at times]

50. Adele Pope, Esq.
51. Bob Buchanan, Esq.
52. James Bailey, Esq.
53. Tressa T. H. Hayes, Esq.
54. Ray Gonzales, Esq.
55. Alan Rothschild, Esq.
56. Harley Ruff, Esq.
57. James Richardson, Esq.
58. Daryl Williams, Esq.
59. Cal Watson, Esq.
60. Elizabeth Gray, Esq.
61. Tom Young, Esq.
62. Adam Silvernail, Esq.

D. Attorneys - Forlando Brown (plus some listed for others)

63. Michael Melanokos, Esq.
64. William Q. Bird, Esq.
65. Andrew J. King, Esq.
66. John Sparks, Esq. - Atlanta
67. David B. Bell, Esq.
68. The Hon. Ernest Finney,

69. Jerry Leo Finney, Esq.
70. Ronnie Maxwell, Esq.
71. Matthew Bodman, Esq.
72. Louis Levenson, Esq.
73. David Yount, Esq.

E. Attorneys - Others (plus some listed for others)

74. Robert Rosen, Esq.
75. Alan Medlin, Esq.
76. Heyward Carter, Esq.
77. Jean Lee, Esq.
78. Steven Slotchiver, Esq.
79. Peter Shahid, Esq.
80. David L. Michel, Esq.
81. Chris Paton, Esq.
82. Lori Chrisman, Esq.
83. William Barr, Esq.
84. James Griffin, Esq.
85. Wes Hayes, Esq.

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS

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

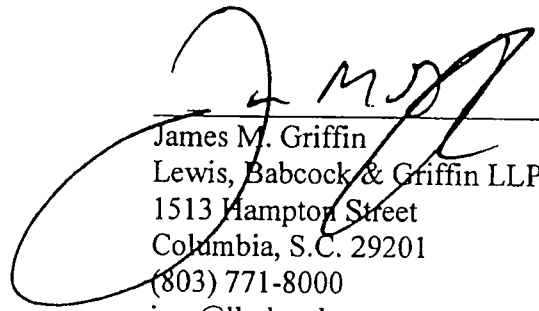
Case No.: 2008-CP-02-1647

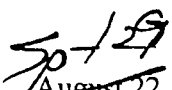
**MOTION TO BE RELIEVED AS
COUNSEL**

The undersigned, counsel of record for LaRhonda Pettit and Nicole Parrish hereby moves the Court for an order allowing him to withdraw as counsel in the above case. In support of this Motion, the undersigned would state that this is at the request of Ms. Pettit and Ms. Parrish and their releases are attached as Exhibit A respectively.

The undersigned respectfully requests that Ms. Pettit and Ms. Parrish be provided a sufficient period of time to locate replacement counsel.

Respectfully submitted,


James M. Griffin
Lewis, Babcock & Griffin LLP
1513 Hampton Street
Columbia, S.C. 29201
(803) 771-8000
jmg@lblegal.com


August 22, 2013
Columbia, South Carolina

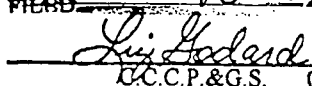
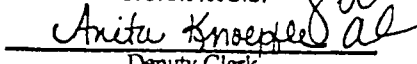

FILED 10.7.13

Liz Adard
C.C.P.&G.S.

Anita Knoepfel
Deputy Clerk

EXHIBIT A

FILED 107.13
Liz Godard
U.C.P.&G.S. 750
Anita Knoepfle
Deputy Clerk

May 24, 2013

I, LaRhonda Pettitt Brown Waller, hereby acknowledge the release of all documents to be delivered to me by Lewis, Babcock & Griffin, and/or James M. Griffin. I also hereby discharge them from any further responsibility for handling any legal matters on behalf regarding the Estate of James Brown.

 5/24/13
LaRhonda Pettitt
12580 Piping Rock Dr. Apt #64
Houston, TX 77077

Notice to release Legal Counsel

2013, May 21

Office of Lewis, Babcock & Griffin

1513 Hampton Street

Columbia, SC 29201

To Mr. Jim Griffin,

Please accept this letter as formal release from any obligation and or contract to litigate on my behalf to represent me as legal counsel, effective immediately.

Thank you in advance for your effort, services and cooperation.

If you have any questions, please contact me at your earliest convenience.

Sincerely,



Nicole Parris

906-1010 Pacific Blvd.

Vancouver, BC Canada

V6Z-2X8

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

) Complaint¹ 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
)
) (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 16
DAY OF MAY A.D. 2013

JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.
BY: [Signature] CLERK

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/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 their 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, Peebles, 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. Peebles, 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 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 caused in Richland County compels 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 intent) 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 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 servng 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.

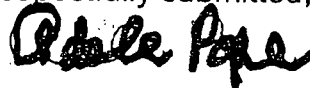
Prayer

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.

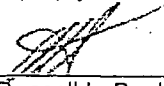
Signature: 
Name: Russell L. Bauknight
Address: 1517 Gervais St.
Columbia, SC 29201
E-mail: rbauknight@bpscpas.com
Telephone (O): 803.771.8943
Telephone (H):

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, having been 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. Ariel 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.

Exhibit 7

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 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

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

Defendant

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

**PLAINTIFFS' MOTION TO STRIKE
DEFENDANT POPE'S OFFERS OF
JUDGMENT**

TO: ADAM SILVERNAIL, ESQUIRE, AND DARYL WILLIAMS, ESQUIRE,
ATTORNEYS FOR DEFENDANT POPE, AND TO THE DEFENDANT ABOVE-
NAMED:

YOU WILL PLEASE TAKE NOTICE that Plaintiffs intend to move, and do hereby so
move, for an Order from the Court striking the following "Offers of Judgment" filed by
Defendant Pope in this matter:

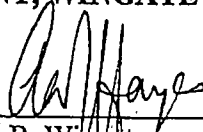
1. Defendant Pope's Offer of Judgment to Lindsey Delores Brown and Janise B.
(attached hereto as Exhibit A).
2. Defendant Pope's Offer of Judgment to the South Carolina Attorney General and
Russell Bauknight as Agent for the South Carolina Attorney General (attached
hereto as Exhibit B).
3. Defendant Pope's Corrected Offer of Judgment to Lindsey Delores Brown and
Janise B. (attached hereto as Exhibit C).
4. Defendant Pope's Offer of Judgment to Tonya Brown (attached hereto as Exhibit
D).
5. Defendant Pope's Offer of Judgment to Daryl Brown (attached hereto as Exhibit
E).
6. Defendant Pope's Offer of Judgment to Russell Bauknight (attached hereto as
Exhibit F)
7. Defendant Pope's Offer of Judgment to Terry Brown (attached hereto as Exhibit
G).
8. Defendant Pope's Offer of Judgment to Jason Brown-Lewis (attached hereto as
Exhibit H).
9. Defendant Pope's Offer of Judgment to Tommie Rae Hynie Brown (attached
hereto as Exhibit I).
10. Defendant Pope's Offer of Judgment to Venisha Brown (attached hereto as
Exhibit J), and
11. Defendant Pope's Offer of Judgment to Carrington L.(attached hereto as Exhibit
K).
12. Defendant Pope's Offer of Judgment to Sydney L. (attached hereto as Exhibit L).

13. Defendant Pope's Offer of Judgment to Deanna Brown Thomas (attached hereto as Exhibit M).
14. Defendant Pope's Offer of Judgment to the Estate of James Brown (attached hereto as Exhibit N).
15. Any other offers that have been served - or may soon be served - on any Plaintiff in this matter.

This Motion is made pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, and is based upon the fact that these offers contain material that is "redundant, immaterial, impertinent or scandalous". These offers are also improper and do not comport with the requirements of Rule 68 of the South Carolina Rules of Civil Procedure. Plaintiffs requests that the Court strike these offers from the record in this matter, and that the Court award Plaintiffs the fees and costs associated with responding to these offers and making this Motion, as well as any other relief the Court deems just and proper. Plaintiffs reserve the right to supplement with Memorandum of Law.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.



Kenneth B. Wingate
Mark V. Gende
Aaron J. Hayes
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR THE PLAINTIFFS

Columbia, South Carolina

August 13, 2012

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN
 The 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 documents which have been filed in my office this

THE COURT OF COMMON PLEAS
 Civil Action No. 2008-CP-02-1647

Alan Wilson, in his capacity as Attorney General of the State of South Carolina, and others,

D. A. Early
 C.C.C.P. & G.A., Aiken County, S.C.
Anita Smith
 Deputy Clerk

v.
 Albert H. Dallas, and others,

Defendants

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

- : Case No. 2007-CP-02-1222
- 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
- Case No. 2013-CP-02-1348

) MOTION TO VACATE, SET ASIDE,
) ALTER OR AMEND
) ORDERS DATED JUNE 13, 2013

TO: ALL PARTIES NAMED ABOVE AND THEIR COUNSEL:

YOU WILL PLEASE TAKE NOTICE that on July 2, 2013, or as soon thereafter as she may be heard, Defendant Adele J. Pope, *pro se*, will move before the Honorable Doyet A. Early, III ("Jg. Early") , 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) and (b) SCRCP, for an order vacating, setting aside, altering and/or amending his two Orders of Jg. Early, filed and received by Movant on June 13, 2013, and the Order of the Clerk dated that same day and received June 18, 2013 (the "June 13 Orders"). Copies of the June 13 Orders are attached hereto as Exhibits A, B and C.

Summary of Relief Requested

The Court failed to find, consider and order that three June 13 Orders, cast as "administrative," are not. They were issued without notice or hearing to determine and

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and adversely affect substantial rights of Movant, Robert Buchanan, Jr. and every attorney and fiduciary who has worked since 2007 to defend James Brown's noble project, embodied in two valid Estate Plans¹ executed in 2000 and 1999, to dedicate his \$100 Million music empire solely for scholarships for needy students.

The Court failed to find, conclude and order that Russell Bauknight – after *Wilson v. Dallas*-- is continuing to serve and act on behalf Brown's companion Tommie Rae Hynie ("Tommie Rae"), her son in Richland County cases and elsewhere, and that such action is directly adverse to *Wilson v. Dallas* and the "I Feel Good" Trust.

The Court failed to find, conclude and order that by "collapsing" Case 872 - the will and trust contest –into Case 1647 without adding the beneficiaries, proponents or fiduciaries of the two Estate Plans; directing the Clerk to remove motions from the Clerk's records before they are heard; and allowing the Clerk to create a new case, the June 13 Orders place Brown's \$100 Million "I Feel Good" Trust and Movant in immediate jeopardy and violate the Due Process, First Amendment, S. C. Probate Code ("SCPC") and S.C. Trust Code ("SCTC") rights of Movant, Buchanan and fiduciaries and attorneys subject to nonpayment or disgorgement under *Wilson v. Dallas*.

The Court failed to find, conclude and order that the June 13 Orders are so

¹ Four days after securing a \$26 Million loan from the N.Y. Teachers ("TIAA"), on June 15, 1999 Brown executed a revocable Trust creating \$285,000 trusts to educate 7 designated grandchildren. His worldwide music empire was given to The James Brown "I Feel Good" Trust, his private foundation dedicated solely for scholarship for needy students study at Voorhees, U.S.C. Aiken and U.S.C. Salkehatchie.

On August 1, 2000 Brown executed his final Estate Plan by executing a Will and funding an Irrevocable Trust which was substantially identical. Scholarships, however, were expanded to be available to needy students studying in South Carolina and Georgia.

materially at odds with the letter and spirit of *Wilson v. Dallas* and fundamentally unfair to Movant, the incarcerated Deon and Venisha, Voorhees, the minors Sydney and Carrington and others that they should be voided. Because the State has taken control of this \$25 Million review and disgorgement which subject people to loss of property previously granted them and civil contempt, safeguards to provide fundamental fairness must be implemented.

The Court failed to find conclude and order that it lacks jurisdiction – without notice or hearing – to deny Movant or others standing the Aiken Case or cases not subject to the jurisdiction of this Court, and the June 13 Order violate Due process by attempting to destroy Movant's of property and First Amendment Rights where she has clear standing:

1. In all Aiken County James Brown estate and trust cases because she is being sued by the Estate/2000 Trust;
2. In Richland Cty. Case 4900 because she is being sued by the Estate/2000 Trust;
3. In the Richland County FOIA cases where the Estate/2000 Trust is seeking sanctions against her and attempting to intervene;
4. In the Forlando Federal Suit where she, Robert Buchanan, Jr. are seeking equitable offset from Forlando and Bauknight has failed to protect the 2000 Trust.
5. In Case 872, the will and trust contest, where she is an "other" under the Trust Code, with rights to enforce the "I Feel Good" Trust, 2000 and 1999 Wills.
6. In Case 122 where Movant's property interest in her own commission claim is directly affected by the reasonableness of her opposition to paying \$23.5 Million from the "I Feel Good" Trust to Tommie Rae, and Tommie Rae's claim were untimely, filed in the wrong court and otherwise defective – and Tommie Rae is bound by her less-than \$4.7 Million valuation, reducing her maximum elective share (even if she had been Brown's spouse) to less than \$1.5 Million.

7. In Case 122 and 872, because the issue of whether Tommie Rae was Brown's spouse is pending in Case 4900, which has exclusive jurisdiction over the issue, and if she is ousted Bauknight could attempt to circumvent jurisdiction of the Richland Court with an inconsistent finding.

8. In Case 122 because her First Amendment Rights are being denied under Five-year-old Gag Orders which are Unconstitutional and should be declared void or expired.

9. In Case 1426 and all others cases as shown in the Motion the June 13 Orders direct the Clerk to strike from the record without hearing.

Specific Objections

Without limiting the above general objections Movant further asserts that the June 13 Orders should be declared void and set aside, or amended in their entirety, for the following reasons:

1. The Court failed to find, conclude and order that June 13 Orders lacked jurisdiction and violated the Due Process Rights of Movant, Buchanan and others by the incorrect assertion that *Wilson v. Dallas* denied Movant standing to participate in this and other James Brown cases where Due Process, the SCPC and SCTC confer such standing on them and:

a. The *Wilson v. Dallas* remand in Case 1647 directly affects the \$1,473,550, with interest at 8 3/4% she was awarded, and the \$500,300 with interest Buchanan was awarded under the January 8, 2008 Order of Jg. Early in Aiken Case 122.

b. The Estate/2000 Trust is currently suing Movant for not accepting a \$100 Million offer to sell Brown's assets while telling the Supreme Court there was no such offer and the music empire was worth less than \$4.7 Million.

c. The Estate/2000 Trust is currently seeking sanctions against Movant and attempting to intervene in two separate cases under the S.C. Freedom of Information Act ("FOIA")

d. Bauknight, after securing *ex parte* appointment *before* the remittitur in *Wilson*

v. Dallas, delivered a Notice of Disallowance intended to prevent *Wilson v. Dallas* review of the \$20 Million in fiduciary fees and commissions he has paid or proposed to pay, and to prevent release of his and Tommie Rae's fee contracts.

2. The Court failed to find, conclude and order that Movant and all persons subject to nonpayment and/or disgorgement of funds previously awarded them by Court Order have Due Process, SCPC and SCTC standing and rights to notice and hearing in all James Brown cases which might affect the outcome of the disgorgement.

3. The Court failed to find and conclude that Bauknight continues to serve the interests of Tommie Rae and her child, placing Movant and the "I Feel Good" Trust in great jeopardy as set out in the Complaint in Case 2013-CP-02-1337.²

4. The Court failed to find, conclude and order that the June 13 Orders were issued without notice or hearing; are not administrative orders, as named; deprive Movant of substantial and material rights; contain material, prejudicial and incorrect findings about *Wilson v. Dallas* and the status of the James Brown cases; exceed the jurisdiction of the Court in material particulars; exceed the jurisdiction of the Clerk, who lacks jurisdiction to commence a new case, issue a proper summons or obtain jurisdiction over attorneys subject to non-payment and possible disgorgement of \$25 Million or more; name improper parties; fail to name the persons subject to review and

² Despite their 2010 filing in Case 4900 confirming that Brown's Estate Plan was long known to be what he wanted, at the May 29 status conference, counsel for Tommie Rae and some of Brown's children asked the Court to reinstate the settlement, with off-the-record evidence they assert demonstrates Tommie Rae and others, after *Wilson v. Dallas*, should re-take \$50 Million, securing without public review about \$19 Million in attorneys' fees for counsel for Tommie Rae, Bauknight and 4 or 5 of Brown's dozen children; and without scrutiny of their incorrect Federal Copyright Act claims; without notifying Voorhees and 1999 Estate Plan beneficiaries and proven heirs; and without allowing the Court in Case 4900 to conclude the decision pending before it that Tommie Rae was not Brown's spouse. With AG Wilson out of the case, Bauknight made no objection, abandoning both the 2000 and 1999 Estate Plans.

disgorgement; fail to establish a fair procedure to present and/or challenge payment, nonpayment and possible disgorgement of monies already earned and/or paid; exclude supporters of the "I Feel Good" Trust; and violate the Due Process, First Amendment and Equal Protections rights of Movant and fiduciaries and attorneys who have served them in support of the 2000 and 1999 Estate Plan.

5. The Court failed to find, conclude and order that no person challenging the 2000 Estate Plan or 1999 Estate Plan should be or participate in the selection of an SA/ST or the three fiduciaries to uphold the Will/2000 Trust as mandated by *Wilson v. Dallas*.

6. The Court failed to find, conclude and order that "collapsing" Case 872 into Case 1647 will violate the Due Process rights of Voorhees and other proponents, beneficiaries and fiduciaries of the "I Feel Good" Trust under both the 2000 or 1999 backup Will and Trust, and/or including the rights of incarcerated claimed heirs Deon and Venisha and minors Sydney and Carrington.

7. The Court failed to find, conclude and order that Movant and Buchanan, with others, have standing to remain in all James Brown cases referenced in the June 13 Orders - being designated as an Interested Persons – for at least the following reasons:

a. Movant and Buchanan are creditors and Interested Persons under S.C. Probate Code § 62-1-201 (20) ("SCTC") and S. C. Trust Code § 62-7-501 whose claim and property rights are affected thereby;

b. Movant and Buchanan are "others" and statutory "beneficiaries" under S. C. Trust Code §62-7-103 and § 62-7-405 and other sections. ("SCTC");

c. Under the SCTC, SCPC and the U.S. and S.C. Constitutions Movant and Buchanan have standing because Movant is being sued and has counterclaims

against, the Estate/2000 Trust in Case 4900 and Buchanan's settlement in Case 4900 is pending review as void.

d. Movant and Buchanan have standing because they are seeking equitable offset from the Estate and/or 2000 Trust in the Forlando Federal Suit, to be charged and offset against Forlando's share of the 2000 Trust and Terry's share of the Estate, which was transferred to Forlando in January 2011.

e. As a placeholder for Voorhees and other fiduciaries and beneficiaries of Brown's 1999 Estate Plan which, but for her standing, could put in jeopardy \$100 Million in scholarships if not protected against the 10-year limit of SCPC §62-3-108.

f. Movant has standing to seek removal of Bauknight, voiding of his *ex parte* actions and the other relief sought by her in the Complaint in Case 2013-CP-02-1337, the allegations of which are incorporated herein by reference.

g. Being gagged by unconstitutional 5-year old Gag Orders, Movant has standing in Case 122 to seek a declaration they are void.

h. Movant continue to have standing under the Public Interest doctrine because: AG Wilson has withdrawn from the Aiken James Brown cases and Bauknight's actions have placed the "I Feel Good" Trust in jeopardy, a matter of public importance.

8. The Court failed to find, conclude and order that the *Wilson v. Dallas* remand was intended to protect the "I Feel Good" Trust; confer all Interested Persons with standing to conduct a fair review in this case of the \$20+ Million commissions and attorneys' fees Bauknight has paid and proposes to pay; the \$6 Million commission claim of Dallas; the \$2,147,221 commission claim of Buchanan and the \$2,845,930 commission claim of Movant, and that Movant and Buchanan – having faithfully served as either appointed PR/Trustee or Statutory PRs for 5 ½ years – have a right to challenge Bauknight's claim in this proceeding that he acted in the interest of the

Estate/2000 Trust during his 4-year void claimed appointment.³

9. The Court failed to find conclude and order that since Bauknight's claimed 4-year appointment as PR/Trustee was declared void by *Wilson v. Dallas* and he was working against the interest of the "I Feel Good" Trust during the time and has valued the music empire at less than \$4.7 Million , Due Process requires that he, Movant and Buchanan must present – in the same forum and subject to cross examination– evidence of the extent and value, if any of their service as statutory "personal representatives" from May 26, 2009 - May 8, 2013 under SCPC §62-1-201 (30), and the Court should consider at the same time and in the same Case 1647:

- a. Bauknight's management of the assets; failure to account to the AG for 4 years; and failure to account to the Court for acts since 2011.
- b. Bauknight's unsupported less-than \$4.7 Million at-death value of the music empire and refusal to file the "appraisal" as required;
- c. Bauknight's misrepresentations to the Court about Brown's heirs and

³ Movant incorporates and asks the Court to take judicial notice of the Joint Affidavit of Buchanan and Pope filed in this Case, Case 872 and Case 122 on July 14, 2009 after the Court's May 26 approval of the McMaster settlement, esp. Chart 5, which shows: Buchanan was awarded \$97,059 as SA , plus interest at the legal rate until paid, by Order of Jg. Early dtd. 1/8/08. No appeal or reconsideration of the Jan. 8 Order was sought by anyone. He was fully paid this amount before May 26, 2009. Movant was awarded a SA fee of \$219,941, of which she has been not been paid \$47,972 , plus interest since 5/26/2009.

Under the January 8 Order, as of May 26, 2009 Buchanan was entitled to \$500,300 as a partial PR/Trustee commission and Movant \$1,473,550. As explained in the Affidavit, the disparity resulted from Movant's greater hours and substantially larger staff, which the Order contemplated.

Under the January 8 Order interest accrued at the legal rate, which is 8 3/4%, from May 26, 2009. Movant who has not been paid any portion of the amount due as of May 26, 2009.

In 2010 the Estate/2000 Trust, by Bauknight, who also acted "on behalf of" Tommie Rae and her son, sued Movant and Buchanan in Case 4900, and defense was necessary to prevent – as the Estate/2000 Trust attempted – the abandonment of the *Wilson v. Dallas* appeal and loss of this Court-awarded payment. The Estate/Trust has told the Case 4900 Court Jg. Early's findings about Movant and Buchanan's service in the January 8, March 8 and April 8, 2008 Orders are "dicta."

the Federal Copyright Act termination provisions;

d. Bauknight's intentional rejection of acknowledged, DNA-proven heirs LaRhonda, Jeanette and Nicole, and daughter Lisa, damaging the Estate/Trust's Royalty Copyright interests;

e. Bauknight's continuing protection of Tommie Rae and attempts to prevent DNA testing of her son under the Peebles protocol.

f. Bauknight's creation, since the first *Wilson v. Dallas* of a second secret entity not presented to AG Wilson.

g. The value of Buchanan and Movant's successful defense of the "I Feel Good" Trust and the \$285,000 Trusts for the 7 grandchildren in the *Wilson v. Dallas* appeal;

10. The Court failed to find, conclude and order that Bauknight has told the Richland County Court this Court's finding in the April 8, 2008 Order and others, that Buchanan and Movant's service was ethical and appropriate are "dicta," and accused Movant and Buchanan of a federal felony in James Brown matters, giving both standing to remain and refute the false charges so long as Bauknight speaks for the Estate/2000 Trust in any capacity and so long as the value of Brown's assets affects any case.

11. The Court failed to find, conclude and order that it lacks jurisdiction to issue orders covering matters now – at the request of the Estate/2000 Trust — within the exclusive jurisdiction of the Richland County Court in Case 4900.

12. The Court failed to find, conclude and order that a Litigation SA/ST with direction to support the Will and 2000 Trust – should conclude for the Estate/2000 Trust Case 4900, the FOIA Cases, and the Forlando Suit, all of which must be concluded to complete the *Wilson v. Dallas* mandated review.

13. The Court failed to find, conclude and order that Bauknight's *ex parte* appointments should be declared void and/or strictly limited to the protection of assets

of the Estate/2000 Trust until he has accounts for his actions since 2011 and files his less-than \$4.7 Million appraisal, as required.

14. The Court failed to find, conclude and order that Bauknight has worked against the Estate/2000 Trust and the "I Feel Good" since the May 8 decision, including attempting to prevent DNA testing of Tommie Rae's son.

15. The Court failed to find, conclude and order that Bauknight has represented to the Federal Bankruptcy Court (Dallas Bankruptcy) that all commissions must be determined in a single proceeding in which all fiduciaries are parties.

16. The Court failed to find, conclude and Order that the June 13 Orders exceed both the jurisdiction of the Court and the Clerk in that the Clerk lacks jurisdiction to create a case; issue a summons; or otherwise secure personal jurisdiction over attorneys subject to review and possible disgorgement.

17. The Court failed to find, conclude and Order that it is manifestly unjust to remove Buchanan and Movant as parties to Case 1647; deny proper notice and a hearing to James D. Bailey, Esq. , Tressa T.H. Hayes, Esq. and Harley Ruff, Esq.; refuse to grant notice and hearing, and approve, Movant's request for the Estate/2000 Trust to pay Bailey \$110,000 and Hayes approximately \$85,000 for their years of valuable service to the Estate/2000 Trust; and subject the 3 to possible disgorgement without notice or hearing.

18. The Court failed to find, conclude and order that directing the Clerk to remove from the Public Records the following properly-filed (and other) motions prior to hearing them violated the Due Process rights of Movant and others; and that the motions provide a reasonable procedure for compliance with the *Wilson v. Dallas*

remand, and should be heard and granted:

- a. Motion for Scheduling Order and Appointment of Limited SA/ST to Comply With Mandate of Supreme Court Decision in *Wilson v. Dallas*, dtd. 5/22/13, this case.
- b. Motion to Expedite Intervention; Add Parties; and Determine Commissions and Attorneys' Fees, dtd. 5/21/2013, 2008-CP-02-1426 (Dallas \$6 Million Claim)
- c. Motion for Expedited Relief to Protect The James Brown "I Feel Good" Trust, dtd. 5/21/13 Case 2008-CP-02-0872 ("Case 872");

19. The Court failed to find, conclude and order, that the Supreme Court's May 8 decision declared the settlement void; confirmed the termination of Movant and Buchanan; voided Bauknight's appointment; and remanded Buchanan's July 14, 2009 \$2,147,221 commission claim and Movant's \$2,845,930 claim of the same date, for 1 ½ years of service as appointed PR/Trustees and 4 years as statutory personal representatives under § 62-1-201 (30), securing their standing as Interested Persons and parties in this Case and every James Brown case in which their property rights or claims might be affected. SEE §62-1-201 (20).

20. The Court failed to find, conclude and order that Due Process and the SCTC require that Movant and all fiduciaries and attorneys paid or seeking payments from the Estate/2000 Trust for this or any related matter and/or subject to potential disgorgement under *Wilson v. Dallas* for service in this or any related case remain or be added as parties/Interested Persons under § 62-2-201 (20) and be able to:

- a. challenge Bauknight's less than \$4.7 Million claimed at-death value of Brown's \$100 Million music empire;
- b. challenge Bauknight's claim that he and his attorneys served the Estate/2000 Trust and backup 1999 Estate Plan;
- c. challenge the \$20 Million Bauknight proposes to pay himself and attorneys

for Tommie Rae, himself and others, including almost \$10 Million to attorneys for Tommie Rae and her son.

d. challenge the \$6 Million commission claim of Albert Dallas;

e. Challenge the \$110,000 request of Movant for James Bailey, Esq., and \$85,000 for Tressa Hayes;

f. Challenge payment of approximately \$400,000 Movant seeks as offset from the share of Forlando/Terry in the Estate/2000 Trust for the Forlando Suit.

21. The Court failed to find, conclude and order that to “collapse” case 872 – the actual “will and trust contest” --into this Case, which was never the will and trust contest, is unnecessary; violates the Due Process Rights of Movant, the incarcerated Deon and Venisha, Voorhees and all other heirs, beneficiaries, fiduciaries and proponents of the 2000 and 1999 Estate Plans who are necessary parties to a “will and trust contest;” and that the consolidation will interfere and not comply with the mandated review required by *Wilson v. Dallas*, which held:

We direct the circuit court, upon proper application, to appoint fiduciaries to oversee these matters in accordance with the provisions of Brown's estate and trust documents, and to evaluate the propriety of all fees, as specified above, that are related to this case. [Emphasis supplied.]

22. The Court failed to find, conclude and order that the Estate/2000 Trust secured venue of Case 4900 and the FOIA cases in Richland County, which retains sole jurisdiction over those matters until conclusion or proper transfer.

This motion is based on the S. C. Rules of Civil Procedure; and the entire record of the above cases which the Court has considered in the June 13 Order; the United States Constitution, SCTC and SCPC, including Case 1337.

The undersigned certifies that consultation with opposing counsel would serve
no useful purpose

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

June 23, 2013

Pro Se

**-COPY
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STATE OF SOUTH CAROLINA *LAW*

JUN 24 2013

COUNTY OF AIKEN

Alan Wilson, in his capacity as Attorney
General of the State of South Carolina; and
others, Plaintiffs,

v.
Albert H. Dallas, and others,

Defendants

IN RE:

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

) IN THE COURT OF COMMON PLEAS

) **Civil Action No. 2008-CP-02-1647**

) : Case No. 2007-CP-02-1222

) Case No. 2008- CP-02-0872

) Case No. 2008-CP-02-0322

) Case No. 2010-CP-02-0721

) Case No. 2012-CP-02-1059

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) 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

) Case No. 2013-CP-02-1348

) MEMORANDUM IN SUPPORT OF

) MOTION TO VACATE, SET ASIDE,

) ALTER OR AMEND

) ORDERS DATED JUNE 13, 2013

In its historic *Wilson v. Dallas* decision of May 8, 2013, the South Carolina Supreme Court restored to James Brown's \$100 Million "I Feel Good" Foundation about \$50 Million an unjust settlement proposed to take from scholarships Brown has set up for needy and deserving students in two valid Estate Plans.¹

The 2000 and 1999 Estate plans were considered virtually ironclad on August 10, 2008 when the settlement was reached. In filings in 2010 Brown's companion Tommie Rae Hynie ("Tommie Rae") and all who contested the Estate Plans and were parties to the settlement told the Richland County Court why:

...the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This

¹ The only major difference in the 2000 and 1999 Trusts was that scholarships under the 1999 "I Feel Good" Trust were limited to Voorhees, U.S.C. Salkehatchie and U.S.C. Aiken. Scholarships under the irrevocable 2000 Trust were more broadly available, to students in studying S. C. and Georgia.

objective was the often stated and well-known desire of James Brown. [Mem. Opp. P.2, 8/27/10]

Barely a month after the *Wilson v. Dallas* decision an *ex parte* appointment and three "administrative" orders issued on June 13, 2013 without notice or hearing (the "June 13 Orders") once again threaten to dismantle Brown's "I Feel Good" Foundation and destroy the careers, reputations and livelihood of Movant and the handful of fiduciaries and attorneys who vigorously defended the "I Feel Good" Trust and Brown's \$285,000 education trusts for 7 grandchildren for 5 ½ years, as required by his Estate Plan.

To understand how the June 13 Orders trample on First Amendment, Due Process and S.C. Probate and Trust Code² rights; why Movant has standing to be in all James Brown cases; and why fundamental fairness fiduciaries demands that they be voided, one must begin with the Christmas 2006 death of the Godfather of Soul.

James Brown's Death to the August 10, 2008 Settlement

Entertainment icon James Brown died on December 25, 2006.³ Within hours

² "SCPC" and "SCTC."

³ Brown and companion Tommie Rae Hynie ("Tommie Rae") separated in the summer of 2006. She was in California. None of Brown's children or grandchildren were present.

Brown's Heirs are: 3 children acknowledged after passing the DNA protocol established by Rodney Peoples, Esq. - (1) LaRhonda; (2) Jeanette; and (3) Nicole; Five born of his 3 marriages - (4) Terry; (5) Larry; (6) Lisa; (7) Deanna; and (8) Yamma; Six Acknowledged in the 2 Estate Plans - (9) Venisha (incarcerated) and (10) Daryl.

A possible eleventh is (11) Deon, incarcerated in California and who has asked Jg. Early to appoint a GAL for him and allow him to take the DNA test established by Peoples.

All 11 were born before Brown's vasectomy in about 1984 which attorney and Trustee Albert "Buddy" Dallas asserts was "damage control" after a California court directed that Brown support Deon when he was a teenager. Tommie Rae's son - born during her marriage to another and before the ceremony with Brown - is the only person to claim that Brown fathered him after the vasectomy.

Brown's trusted companion and trustee, David Cannon, secured for himself the last of the \$13 Million+ Million he secretly took from Brown between 1999 and 2006.⁴

Brown disposed of his \$100 Million music empire through his Last Will and an Irrevocable Trust executed and funded on August 1, 2000. The Trust had been operating for 6 ½ years; owned his Beech Island home estate; and was providing education benefits for grandson Forlando ^{and} others.⁵ It provided:

⁴ Cannon, Albert "Buddy" Dallas and Al Bradley, with daughter Deanna, served as Brown's fiduciaries from 1999 - 2006. In 2006 Deanna and Cannon picked up Brown's Estate Planning file which contained both the 1999 and 2000 Estate Plans; the Deed of Brown's home estate to the 2000 Trust; and Memoranda of Trust filed in Aiken County, SC and Richmond County, Ga.

The 1999 Estate Plan - creating the first version of the "I Feel Good" Trust, was signed on June 15, 1999, 4 days after Brown and his company, JBE, Inc. borrowed \$26 Million from N.Y. Teachers ("TIAA"). Much of the \$13+ Million Cannon took was from a Morgan Stanley account holding TIAA funds.

In early 2000, Brown prepared a voice tape of his wishes, but delayed signing the Estate Plan for several months to read the 2000 Will and Trust. Daughter Venisha and Tommie Rae were present and witnessed a related Advisory Board document.

⁵ All of Brown's children and past and future spouses were specifically omitted from Brown's 2000 and 1999 Trusts, which gave \$285,000 education trusts to 7 grandchildren. Both the 2000 and 1999 Wills gave personal and household effects ("PHE") to 6 children of the 10 children.

In addition, Brown's 10 children, acting by majority, have certain termination rights under the Federal Copyright Act related to Brown's 800+ songs published. (the "Termination Rights").

The Termination Rights are hard to exercise; and come only 56 years after Brown's pre-1978 songs were released and 35 years after the 1978 and later songs. SEE, for example, Gurnick & Grinblat, *Nine Ways to Avoid Copyright Termination, Part 1 and Part 2*.

To protect "I Feel Good" Trust's Copyrights from false Heirs claims and provide for appropriate negotiations with real heirs about Termination Rights, a DNA protocol was established by attorney Rodney Peeple, Esq. for the original PR/Trustees. Tommie Rae's son refused to submit to the DNA protocol even though the Estate paid his \$300.

In 2008 by Jg. Early signed an Order consented to by Bob, Adele and Levenson making a baseline Heirs-at-death determination part of Case 2008-CP-02-872 ("Case 872").

As copyright termination approaches as to each of the 800+ songs the Estate or "I Feel Good" Trust may negotiate with any 6 of the 10 to start a Termination proceeding. Congress' intent was to allow authors and their heirs to secure a better deal during the last years of Copyright protection, which had been extended by Congress. SEE Smith, W. *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* (Discussion Draft, April 2011).

b. \$285,000 Education Trusts for 7 designated grandchildren; and

c. The remainder – then about \$80 Million – to the “I Feel Good” Trust, Brown’s private foundation dedicated solely for scholarships for needy students.

A June 15, 1999 “backup” Will and Trust was substantially identical.⁶ Both Estate Plans specifically disinherited all past and future spouses and other claimed heirs; contained *In Terrorem* forfeiture clauses; and directed Brown’s fiduciaries to “vigorously defend” against all challenges.

On January 8, 2007 six of Brown’s children and grandson Forlando agreed to pay Attorney Levenson \$150,000 plus 30% of what he could get them from the “I Feel Good” Trust. Tommie Rae hired attorneys and appears to have agreed to give them 45% of what they could get her.⁷

Aware of the *In Terrorem* forfeiture clauses, none filed suit for almost a year.

On March 7, 2007 Adele Pope (“Adele”) and Robert Buchanan, Jr., (“Bob”) were appointed nonfiduciary SAs of Brown’s estate.⁸

In March 2007 some handwritten notes Tommie Rae had abandoned in Brown’s home were found. They were transcribed and widely disseminated and discussed for

In order to avoid the Self-dealing requirements contained in the “I Feel Good” Trust and the Internal Revenue Code, Brown’s fiduciaries must negotiate at arm’s length with the proven heirs as to copyright terminations and any family trustee would be required to abstain.

⁶ Scholarships under the “I Feel Good” Trust in the 1999 revocable Trust were for needy students at Voorhees, U.S.C. Salkehatchie and U.S.C. Aiken, while in the 2000 irrevocable Trust potential scholarship recipients were broadened to include students studying in S.C. and Georgia.

⁷ Tommie Rae’s attorney’s contract and those of all settling parties were presented to Jg. Early in 2009, who subsequently ordered them delivered by the Clerk to Bob and Adele. The Clerk did not have them then, and does not now have them as of June 10, 2013. The Levenson contract was produced in the Forlando Federal Suit. Forlando stated Tommie Rae told him of the 45% contingency.

⁸ Adele was nominated by Tommie Rae’s counsel and Levenson. Bob was nominated by counsel for the original trustees, (the “Cannon Group”).

almost a year.⁹

In June the Cannon Group began plans to sell the music empire for \$100 Million; be paid a \$15 Million in commissions; and get secret options or a "kickback" from the IPO to be formed.

In July 2007 Cannon and Dallas tried to move the 2000 Trust to Georgia just before Bob and Adele discovered \$900,000 Cannon took in 2006.

On August 10 Jg. Early signed an Order accepting Cannon's resignation and making 90 boxes of Brown's historical documents, including Tommie Rae's writings, public.

On October 12 TJBL made the first of three \$90 -\$100 million offers for Brown's music empire.

On October 31 daughter Deanna and grandson Forlando confirmed in depositions the Estate Plan was what Brown wanted. Forlando said he was satisfied with Bob and Adele.

On November 15, Brown's Inventory & Appraisalment ("I&A") valued Brown's assets at \$100 Million less the \$15 Million TIAA debt, based on the TIAA offer¹⁰.

On November 20, 2007 Jg. Early appointed Bob and Adele PR/Trustees under the 2000 Estate Plan, which required them to "vigorously defend" the Estate Plan.

⁹ Dallas, Bradley and counsel Wayne Byrd, Esq. asserted they provide material proof Tommie Rae was not Brown's spouse.

¹⁰ Brown earned \$18 Million in road show revenues between 2003-2006 and an *additional* \$3 Million a year in Royalties. In 2007 he was listed on Forbes' list of "Top Earning Dead Celebrities."

On December 26, 2007 5 of Brown's children contested the 2000 Estate Plan.¹¹

On January 2, 2008 Forlando sued the 2000 Trust, Bob and Adele in Federal court.¹² He sought to enjoin the 2000 Trust until the Cannon Group was reinstated.

On January 8, 2008 Jg. Early awarded Bob \$97,059 and Adele \$219,941 in SA fees for March - Nov. 20, 2007 and partial PR/Trustee commissions, with interest at the legal rate on all unpaid amounts.¹³

In January 2008 Forlando's family filed 6 grievances against Levenson in 2 states, asserting the 30% contract was forged.

On March 7, 2008 Jg. Early rejected Dallas' attempt to return as Trustee¹⁴.

¹¹ The will and trust contest became Aiken County Case No. 2008-CP-02-0872 ("Case 872"). In May 2008 it was segregated from Case 2007-CP-02-0122 ("Case 122") by Jg. Early. Tommie Rae had filed a defective elective share claim in the wrong court in early 2007. On December 19, 2007 she also filed defective challenges to the Will and 2000 Trust. Motions to Dismiss are pending as to all challenges.

Under the June 13 Orders, Bauknight, who has proclaimed that Tommie Rae's elective share claim was a "slam dunk," will represent the Will/2000 Trust in Case 872, which will be "collapsed" into *Wilson v. Dallas*. Bob, Adele and all fiduciaries and beneficiaries of the 2000 and 1999 Estate Plans who oppose the dismantling of the "I Feel Good" Trust are ejected from 1647 or have never been properly made parties. The Estate/2000 Trust's (Bob's and Adele's) pre-May 26, 2009 request for alternate probate of the 1999 Will and motions to add Voorhees, Salkehatchie and other fiduciaries and beneficiaries of the 1999 Estate Plan, as well as Deon and other identified claimed heirs, to case 872 are pending. They are in jeopardy of being abandoned by Bauknight.

¹² The "Forlando Federal Suit"

¹³ As of May 26, 2009 Adele was owed about \$47,000 on her SA fee. Bob was fully paid. As of that day, Adele was owed \$1,473,550 under the January 8 Order and Bob \$500,300. The partial commission and interest under the January 8 Order was a deposit towards their full commissions. On July 14, 2009 Bob and Adele requested a commission of \$2,147,221 for Bob and \$2,845,930 for Adele. This contemplated and included the four years from May 26, 2009 until May 8, 2009 that they defended the Will and Trust, and backup 1999 "I Feel Good" Trust and \$285,000 grandchildren's trusts in accordance with their duty under the 2000 Estate Plan. The Ga. AG objected at a December 21 hearing, but no objection was made or appeal taken from the January 8 Order.

¹⁴ Deceased former trustee Al Bradley supported Cannon and Dallas and failed to uncover or seek return of the \$13+ Million Cannon took. He did, however, help uncover a document – the Dallas Schedule B – Cannon & Dallas fabricated after Brown died. In 2012 the Estate made a small settlement with Bradley's Estate.

In early 2008 Jg. Early declined Forlando's request to disqualify Levenson in the will and trust contest, confirming Levenson's 30% contract contemplated it.

On February 20 and March 7 Jg. Early, without a hearing or affidavit to support the request, signed three Gag Orders in Case 122 which purported to gag scores of people from discussing the widely-known contents of handwritten notes Tommie Rae made after Brown discovered she was married when they conducted a 2001 ceremony.

On February 27 and March 27 TJBL made additional \$90 Million - \$100 Million offers for Brown's assets. The newly-filed will and trust contests prevented serious consideration of the offers at that time.

On March 7, 2008 Terry and Forlando testified supporting the Estate Plan.

In March 2008 the Cannon Group sued for \$15 Million in commissions.¹⁵ By August 2008 Bob and Adele had moved for Summary Judgment as to the three.

In April 2008 Jg. Early ordered an Heirs determination/part of Case 872, even though many of the 10 identified heirs were excluded from the 2000 Will and Trust.¹⁶

In filings in their will and trust contest, the Levenson clients confirmed their position that Hynie and her son are not Brown's heirs.

On April 1, 2008 Jg. Early directed Bob and Adele to sign the Christie's contract

¹⁵ By Order of Jg. Early dtd. 1/8/08 attorneys Few & Gilreath were engaged to sue to recover for the Estate/2000 Trust's losses since 1999. By March 2008 they had sued the Cannon Group to recover the \$13+ Million Cannon misappropriated, and Morgan Stanley, where Cannon had placed - then taken - \$10 Million of the TIAA proceeds.

¹⁶ Establishing the correct Heirs-at-death provides a baseline for the "I Feel Good" Trust to protect its copyrights over the coming decades. Deon 's (incarcerated) request to be DNA tested is pending, as is the Estate's paid-for request to DNA test Tommie Rae's son, the only claimed child born after Brown's vasectomy. He was born during her marriage to another, before the ceremony with Brown, and has refused a DNA test under protocol set up by Rodney Peebles, Esq. for Brown's original PRs.

to sell several hundred items of personal property.¹⁷

On April 8, 2008 Jg. Early found Bob's and Adele's service as SA s and PR/Trustees through April 8, 2008 to be both ethical and appropriate. He ordered the Cannon Group to pay all attorneys' fees and costs of Case 122¹⁸.

Bob and Adele responded to the five children's will and trust contest in Case 872 seeking to uphold the Will and 2000 Trust and, in the alternative, admit the 1999 backup Will if the 2000 Estate Plan failed.¹⁹

By July 9 former PR/Trustee Dallas, Forlando's Powell Goldstein lawyers and others were interfering with the Christie's sale. Dallas filed a motion with the Court of Appeals to stop the sale.

On July 14 the Christie's sale was approved by the Court of Appeals, three days before the sale.

¹⁷ The "Grammy" was specifically listed in the selection for sale, and in later filings with the Court of Appeals. No objection was made to the sale of the Grammy until the Wingate suit on May 19, 2010 – almost 3 years after the sale. Levenson was present when the Christie's counsel urged Bob and Adele to proceed with the sale, assuring them that there was no impediment to the sale and that the Academy's filing was a baseless threat. Bob and Adele – based on the chill Dallas and others had placed on the sale and the legal costs to be involved, elected to withdraw the Grammy. It was sent to the S.C. State Museum for safekeeping, along with thousands of other items Bob and Adele place at 4 museums for safekeeping pending the outcome of Case 872, as authorized by Jg. Early's Feb. 20, 2008 Order in Case 122.

¹⁸ James Bailey, Esq. protected the Estate/2000 Trust in Case 122, 872 and 1647 for approximately 18 months. He was paid approximately \$100,000 as shown on accountings for the period before May 26, 2009. With interest since 2009 he is owed approximately \$110,000 for his valuable service. Tressa Hayes, who protected the Estate/2000 Trust in the Cannon and Dallas appeals and assisted James Richardson, Esq. on the *Wilson v. Dallas* appeal should be paid \$85,000. James Richardson, Esq., primary appellate counsel informed the Supreme Court – prior informing Bob and Adele – that his service in saving the "I Feel Good" Trust would be *pro bono publico*.

¹⁹ Because of the "incorporation by reference" clauses of Brown's 2000 and 1999 Wills, Brown's desire to leave his music empire solely to needy students through the "I Feel Good" Trust was recorded for more than 6 years before his death in four separate estate planning documents over two years; and the recorded deed placing his home estate in the 2000 Trust; and Memoranda of Trust filed in two states.

In late July the Estate/2000 Trust filed a motion to charge Dallas and others with the cost of interference with the Christie's sale. The motion is still pending²⁰.

On July 30 AG McMaster notified Bob and Adele of his support for their permanent appointment as 2 of Brown's three trustees. He confirmed the importance of the Advisory Board's involvement in the selection process²¹.

All of that would change fewer than two weeks later.

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

On August 12, 2008, Tommie Rae's attorneys informed Bob and Adele they had conducted a mediation and settled the case. The settlement terms remained secret until October 2008.

On September 25, 2008 Court-appointed CPA Wm. Sellars filed the Estate Tax Return, showing Brown's assets at approximately \$100 Million less the TIAA Debt.²²

On October 25 Tommie Rae and the 5 children made public what they would take from the "I Feel Good" Trust in the August 10 settlement:

- a. Tommie Rae would get 25% – about \$25 Million, with her lawyers getting about \$10 Million of that.

²⁰ Jg. Early approved the Christie's sale in Orders dtd. Feb. 20 and April 1, 2008. The April 1 Order found certain children had interfered with the sale, but not caused any damage. It stated that anyone who delayed or damaged the Christie's sale would be liable for damages.

²¹ In 2008 Bob and Adele appointed Jg. (Ret'd) Walter Williams, Dr. Ann Carmichael (U.S. C. Salkehatchie), Dr. Leonard McIntyre (Interim-President, S.C. State) and Dr. Inez Tenenbaum (former S.C. Superintendent of Education) to the Advisory Board of the 2000 Trust.

²² Bob's and Adele's valuation of the music empire was consistent with: (a) a formula presented to Jg. Early on Nov. 14, 2007 for valuation of Royalties and Publicity Rights on the Estate Tax Return, and not objected to by AG Master or any other person; (b) the 3 Letters of Intent of TJBL; (c) Forlando's sworn testimony in September 2008 that \$150 Million offers were still available for the music empire; and Brown's \$5+ Million annual earnings.

b. The "Levenson Clients" would get 25% - about \$25 Million, with at least \$7.5 Million to Levenson for the 8-month-old challenge to the Estate Plan.

c. There would be no DNA testing, and all would treat themselves as Brown's heirs - ignoring real heirs La Rhonda, Jeanette, Lisa, Nicole -- possibly Deon and others.²³

The Estate's motions to add Voorhees, U.S.C. Aiken and U.S.C. Salkehatchie - with claims far superior to settling parties - and for partial summary judgment as to Tommie Rae under Lukich, the 2000 Trust and her prenuptial agreement, were stayed and are still pending.

On October 24, 2008 the settling parties filed Case 1647, which became *Wilson v. Dallas*. They asked for removal of all fiduciaries and appointment of Russell Bauknight SA/ST.

By November 2008 Bob and Adele, with Jim Bailey, had resolved \$32+ Million of claims cases in favor of the Estate/2000 Trust and prepared others for trial.²⁴

²³ It was this knowingly incorrect designation of "Heirs" - wholly at odds with the facts and law, and ignoring half of Brown's real heirs - which began to take on a life of its own. By 2011 the claims had become so exaggerated that Deanna told the media that - but for the settlement - there would be no assets in the "I Feel Good" Trust in 10 years. Bauknight made a similar claim to the Supreme Court, asserting that Copyright Termination rights are "all this case is about."

All settling parties have reported that their Termination Rights were placed in the Settlement Entity/Legacy Trust. The Legacy Trust sued Bob and Adele in 2010 in Case 4900.

Through L&B, engaged by Bauknight, the Legacy Trust has attempted to prevent release of documents under FOIA. After the May 8 decision L&B informed Jg. Manning that it may not have a client.

Whether the Legacy Trust holds Terry's Termination Rights or whether they were transferred to Forlando is at issue in both as to Bob's and Adele's counterclaims in the Forlando Federal Suit and Adele's counterclaims against Terry/Forlando and the Legacy Trust in Case 4900.

²⁴ The Estate (Bob & Adele) acknowledged that Peebles and Lewis & Babcock ("L&B") had performed valuable service in defending the Estate, 2000 Trust and Estate Plan; established stipulated facts; and agreed with Peebles and L&B for the Court to set their fees on the stipulated facts. L&B had no knowledge of the Cannon Group's attempts to transfer the 2000 Trust to Ga. or that Dallas and Cannon had fabricated a second "Schedule B" after Brown's death.

On November 18 and 19, 2008, in hearings in the Forlando Federal Suit, Bob and Adele prevented Forlando from obtaining an injunction against the 2000 Trust.

On January 8, 2009 Jg. Early appointed Russell Bauknight SA/ST for the sole purpose of considering and making a recommendation about the settlement.

On January 30 Levenson called Bob to threaten Rule 11 sanctions and other problems if Bob and Adele did not support the settlement and resign.

By January 30, 2009 Bob and Adele – as required by the Will and 2000 Trust -- objected to the settlement for numerous reasons, including:

1. It was unjust to set aside two valid Estate Plans and give \$50 Million to people who lacked even probable cause to contest the two Wills.
2. Tommie Rae was not Brown's spouse, and she and her child not Heirs.
3. The settlement intentionally excluded DNA-proven Heirs who had Termination Rights greater than a number of the settling parties.
4. Voorhees, Salkehatchie and Aiken, beneficiaries of the 1999 Will were not given notice, although their claim to the \$100 Million "I Feel Good" Trust was superior to that of the settling parties.
5. Incarcerated claimed son Deon and others were not given proper notice.
6. It dismantled \$285,000 education Trusts for minors without GALs.

On January 30, 2009 Terry joined the settlement; was given almost 5% of Brown's assets and a right of first refusal ("ROFR") to buy Brown's assets. Minutes later, Russell recommended that the Court approve the settlement.

From January 30 to March 23 Bob and Adele, represented by Bailey and Hayes, defended the Estate Plan.²⁵ The record is clear that protecting the "I Feel Good" Trust

²⁵ Bailey, Hayes and Harley Ruff, Esq. assisted the Estate/2000 Trust and

and \$285,000 Trust for Brown's 7 grandchildren was paramount.

In March 2009 Terry/Forlando's attorney wrote to threaten Bob with a judicial grievance if Bob did not resign. Bob sent it to Jg. Early²⁶.

On May 22, 2009 Bob and Adele accounted for their acts to that date and filed documents to show that they had designated attorney^{Early} Ronald Stanley, Esq. and former Warner Music Executive Ray Gonzalez (also an attorney) as their successors as provided in the Will/2000 Trust.

On May 26, 2009 Jg. Early approved the Settlement and the *Wilson v. Dallas* appeal process began. For one year there was relative quiet.

Before Case 4900: May 2009 to May 2010

Although believing the settlement to be unjust and filing the required appeal of the May 26 Order in *Wilson V. Dallas*, Bob and Adele made enormous efforts to ease

²⁶ Attorney David Bell, Esq., has been active with Dallas, Forlando and Terry in a host of dirty tricks in State and Federal Court since 2008, to include: (1) six grievances against Levenson and the accusation that he forged the 30% contract; (2) attaching the fabricated Dallas/Cannon Schedule B to the Trust as part of the Complaint in the Forlando Federal Suit; (3) Threatening Bob, a part-time Federal Magistrate Judge, with a judicial grievance even though his service was permitted by the Federal Court; and (4) actively participating for Forlando in Case 1647 for months without seeking or obtaining *pro hac vice* status, while his sponsor in other James Brown cases asserted Forlando was never made a party to Case 1647.

Since January 2009 Bell continues to represent at the same time:

1. Terry, who supports Bauknight's less-than \$4.7 Million value of the music empire and Forlando, who has stated under oath it is "bogus."
2. Terry, who – until May 8 – supported the settlement before the Supreme Court, and Forlando, who opposed the same settlement in Federal Court.

Terry sued Bob and Adele in 2010 in Case 4900 for appealing the settlement. Then he concealed from the Federal Court, Supreme Court and Case 4900 Court for 2 years that Terry's interest in the Estate was transferred to Forlando, who opposes the Settlement.

the transition of management pending the appeal to Bauknight²⁷.

On June 2, 2009 they met with Bauknight and attorney Freddie Kingsmore; and offered to meet weekly. They urged Bauknight to take up the 2-year GreenLight Publicity Rights contract which could begin immediately and was expected to bring in at least \$1 Million a year for the two years during the appeal.

Bauknight and Kingsmore made two memorable statements:

- a. Kingsmore said the GreenLight contract sounded like a good idea, but he had to check with David Bell.
- b. Bauknight said the one thing he would not do was fight to hold onto his position.

On June 4, 2009 the tone changed. Bauknight directed attorneys Few and Gilreath, who were suing Cannon, not to speak confidentially with Bob and Adele — gutting the \$13 Million case against Cannon.

In the summer of 2009 Bob and Adele opposed Tommie Rae's attempts to obtain discovery as to their commissions, but filed a detail claim, affidavit and charts clearly setting out what was owed them under the January 8 Order and what their full claim would be at the conclusion of their service to James Brown. The Court is asked to take judicial notice of the entire claim.

On November 6, 2009 the Court of Appeals made clear that effective on May 26 all responsibility and liability for management of the Estate/2000 Trust pending the *Wilson v. Dallas* appeal rested with Bauknight.

²⁷ By June 24 Bob and Adele had prepared and delivered to Bob about 150 banker's boxes of documents; and Inventory and Description of all pending cases; and other information to facilitate smooth administration.

In February 2010 Cannon was indicted for taking \$12+ Million from Brown and uttering a 2008 forgery to cover up some of the takings.

On March 19, 2010 Bob's Time Detail shows:

call Cal Watson and Betsy Gray; telephone call, Adele all re [Tommie Rae's lawyer's] threats to sue and effort to divide Adele and me.

Shortly thereafter, Bauknight's attorney also threatened suit by attorney Kenneth Wingate, Esq. if Bob and Adele did not drop the *Wilson v. Dallas* appeal and resign. Both felt that their duty to the Estate Plan did not allow it.

On May 18 "someone" told former Attorney General McMaster that the statute of limitations would expire on the following day and that he would breach his fiduciary duty as Attorney General if he did not authorize a suit against Bob and Adele.

It is still unclear whether AG McMaster did or did not properly authorize a private attorney – Wingate – to sue Bob and Adele in the name of the AG/State while simultaneously representing Tommie Rae and others who seek to destroy the "I Feel Good" Trust. But it happened on May 19, 2010 when Richland County Case 2010-CP-40-4900 ("Case 4900") was filed.

Case 4900 & Estate Funds to Secure Tommie Rae Release from Bob's Claims

On May 19, 2010 the Estate/2000 Trust sued Bob and Adele in Richland County Case 4900,²⁸ alleging they had breached their fiduciary duty and committed breaches of trust, including:

- a. Failure to accept the \$100 Million offer made to Dallas in 2007.
- b. Pursuing the *Wilson v. Dallas* appeal of the settlement.

²⁸ Richland County Case No. 2010-CP-40-4900.

In the Complaint Bauknight asserted in Case 4900 that he was acting on behalf of: the Estate; the 2000 Trust; Tommie Rae; Tommie Rae's son (who has no GAL); the Legacy Trust; the Attorney General of South Carolina; and others.

On June 19, 2013 Bauknight still purports to speak on behalf of all of those even though AG Wilson has asked to be dropped as a party.

On August 27, 2010, Tommie Rae, Bauknight and all of the Case 4900 Plaintiffs made the defense of their challenges to the 2000 and 1999 Estate Plans easier by asserting in Case 4900:

...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. [Mem. Opp. P.2, 8/27/10]

In October 2010 Bob and Adele answered²⁹ and counterclaimed, in part, by asserting no duty to Tommie Rae because she was not Brown's spouse, and for abuse of process.

In November 2010 Plaintiffs moved to be relieved from default after Wingate failed to timely respond to the Counterclaims.

On May 18, 2012 the Estate/2000 Trust and Tommie Rae moved to compel Bob to comply with a settlement which required Bob to release Tommie Rae and others from his counterclaims in order to get \$500,000 he had been due under the January 8

²⁹ The Answer and Counterclaims in Case 4900 asserts, in part, that Bob and Adele owed no duty to Tommie Rae, who was not Brown's spouse; Tonya; or Tommie Rae's son; that the Minor Plaintiffs need a GAL; that Bob's and Adele's duty to the adult will and trust contestants ended when they challenged the Will and Trust, and they were required to defend the Estate Plan; and that Bob and Adele protected Plaintiff Jason Lewis and Lindsey Brown. It asserts that any loss to the Estate/2000 Trust and "I Feel Good" Trust was caused by Bauknight and the settling parties, not Bob and Adele..

Order since May 26, 2009.

Adele responded that Bob should be paid the \$500,000 but the settlement with Bob should be declared void because Estate funds were used to secure a benefit for Tommie Rae.

Because the Estate/2000 Trust prevailed in attempts to change the venue of Case 4900, the The Richland Court now has exclusive jurisdiction over a number of matters, including whether Tommie Rae was Brown's spouse. Despite this *Wilson v. Dallas* requires scrutiny of how Estate funds were used to benefit Tommie Rae in Case 4900 and what Wingate expects to be paid, and from whom.

The June 13 Orders purport to control the conduct of Case 4900, the FOIA Cases and even the Forlando Federal Case by declaring that Adele lacks standing to proceed in any James Brown estate of trust case. Such a finding exceed the jurisdiction of the Court; violates Adele's Due Process rights and fundamental fairness as well as her rights as an Interested Person, "Other" "creditor" and statutory "beneficiary" under the SCPC and SCTC. The Orders should be declared void.

Bauknight Uses the \$4.7 Million Value to Accuse Bob and Adele of a Felony

In December 2010 – four years after Brown died – Bauknight told the IRS that Brown's worldwide music empire and \$13 Million claim against Cannon were both worth less than \$4.7 Million when Brown died.

In February 2011 Bob and Adele separately learned of the representation from the IRS. Each separately wrote Bauknight's attorneys asking them to insure that their names not be associated with Bauknight's claims that assets they valued at about \$84 Million should be reduced to \$4.7 Million in the Estate Tax proceeding. They did not

contact the IRS.³⁰

In May 2011 Bauknight filed a sworn I&A with the less than \$4.7 value and asked the Supreme Court to accept it as part of the *Wilson v. Dallas* ROA.

Thereafter Bauknight –purporting to speak for the Estate, 2000 Trust and State/AG began widely accusing Bob and Adele of the federal felony of overstating Brown's music empire by \$79 Million on the Estate Tax Return– at more than 15 times what he asserted was its real value – for the improper purpose of obtaining a \$5 Million commission.

Bauknight's egregious false allegation that Bob and Adele committed a federal crime threatens their already-awarded commissions under the January 8 Order and causes other grave damage. It is particularly troublesome that it came as Bauknight was suing Bob and Adele for not accepting a \$100 Million 2007 offer for the music empire which he told the Supreme Court was never made.

In the three years since he began making these false, career-threatening allegations, Bauknight has not filed the purported less-than \$4.7 "appraisal" or any information about it as required by the SCPC. He asserts it is under "lock and key."³¹

The Due Process rights of those of 85 attorneys who have worked on James

³⁰ Both received copies of correspondence from the IRS with their names on it, and appearing to have agreed to a proposed adjustment.

³¹ To remove Adele and the fiduciaries and attorneys who know Bauknight's less-than \$4.7 Million value to be false from the James Brown cases, while leaving Bauknight in them, deprives all of a the level playing field required by Due Process where their property rights and possible disgorgement are threatened, as well as their rights as creditors under the 2000 Estate Plan, SCPC and SCTC. The June 13 Orders purport to deprive Adele and others of their right to correct this false valuation – used by Bauknight under Color of State authority to try to deprive Adele and Bob of property, reputation and livelihood both in Case 4900 and in the Aiken County James Brown cases.

Brown matters and are seeking to be paid from the Estate/2000 Trust, as well as their rights under the SCPC and SCTC, will be denied if Adele and all others are not allowed to scrutinize this egregious devaluation which damages the "I Feel Good" Trust.

The Estate & 2000 Trust Seek to Enter FOIA Suits

In 2011, at the suggestion of Bob, Adele sought certain public documents under the South Carolina Freedom of Information Act ("FOIA"), to include:

- a. A copy of the Legacy Trust AG McMaster which sued Bob and Adele in 2010, and amendments.³²
- b. A copy of the Wingate Litigation Agreement and authorization for Wingate to sue in the name of the State/AG and Bauknight to claim that he acts "on behalf of the Attorney General of South Carolina " in Case 4900.

In response, one of Bauknight's 20+ attorneys advised Adele the Legacy Trust would sue her or seek sanctions if she continued to seek Legacy Trust documents under FOIA, although the Legacy Trust was created by AG McMaster.

By September 2011 Bauknight had engaged L&B to fight the Legacy Trust's FOIA compliance.

On September 23, 2011 AG Wilson informed Jg. Manning he was ready and more than willing to produce the Wingate Litigation Retention Agreement, but Russell stopped release.

From 2011 until today Wingate, the Estate/2000 Trust through Bauknight, and Tommie Rae have fought to prevent release of the Litigation Retention Agreement,

³² In 2013 Adele received AG McMaster's January 2011 Legacy Trust not under FOIA, but from Forlando's public release of it. The amendment was prepared by Bauknight's attorneys for AG McMaster. It was not disclosed by Bauknight to the Supreme Court on May 4, 2011 when he asked the Supreme Court to supplement the record ("ROA") in *Wilson v. Dallas* with his less-than \$4.7 Million value. On July 1, 2011 the Supreme Court declined to supplement the record with the less-than \$4.7 Million value.

clearly mandated for review under *Wilson v. Dallas*.

The Estate/Trust's involvement in the FOIA cases continues. The June 13 Orders purport to deprive Adele and others of their FOIA rights and condone the Estate/Trust's extraordinary attempts to intervene in FOIA cases and consolidate them with a tort case from which the Attorney General is asking to be released.

All of this may help Bauknight and Tommie Rae. It does not help the "I Feel Good" Trust. The June 13 Orders prevent proper review of these extraordinary acts under *Wilson v. Dallas*.

The Estate, 2000 Trust and Cannon's Million Dollar Mansion

While SAs, and then as PR/Trustees, Bob and Adele were interested in the *civil* issues related to Cannon's misappropriations and the claim of the Cannon Group for \$15 Million in commission and options or a "kickback" from the IPO to be created after the \$100 Million sale.

On their watch – from Nov. 20, 2007 – May 26, 2009 – the following occurred:

1. The million-dollars mansion Cannon was building in the Carribean was photographed.
2. Cannon's \$13+ Million takings were uncovered;
3. Cannon's and Dallas' combined \$11 Million commission claims were disallowed; they sued; and Bob and Adele were ready for Summary Judgment. in favor of the Estate after brief discovery.
4. Few & Gilreath filed suit against Cannon, Morgan Stanley and others to recover the \$13+ Million takings.
5. The April 8 Order directed the Cannon Group to pay the attorneys' fees and costs of the year-long litigation which ended in their resignations.

In the 4 years between May 26, 2009 and May 8, 2013 Bauknight took virtually

no action to recover anything from Cannon and allowed Dallas' \$6 Million claim to stand, including:

a. Almost as a first act, Bauknight directed Few/Gilreath not to discuss the Cannon case with Bob and Adele.

b. Bauknight left Cannon's 2008 forgery to cover up about \$3.5 Million of the taking virtually unmentioned.

c. In November 2010, after Cannon's indictment, Bauknight & Wingate listed Cannon and Dallas as the Estate/2000 Trust's witnesses against Bob and Adele.

d. On January 31, 2011 Bauknight sought sanctions against Bob and Adele for filing a brief which would help collect the \$1.2 Million Cannon owed – and still owes – for attorneys' fees and costs in Case 122.

e. In October 2011 Bauknight failed to seek restitution from Cannon even though Cannon owns a Million Dollar mansion on Roatan.

f. In 2012 Bauknight blamed AG Wilson for his failure to seek restitution.

g. In 2012 Bauknight insisted that completing the Dallas \$6 Million claim was unnecessary.

Bauknight, Tommie Rae, the Shield Law and the Gag Orders

In 2012 Bauknight bitterly fought "on behalf of" Tommie Rae to prevent discussion of the widely-known contents of the her writings which came to be known as the Hynie "diary." He did so in the name of the Estate/2000 Trust even though his actions were openly and directly at odds with the best interest of the "I Feel Good" Trust and the Estate.

In the first half of 2012, Bauknight and Hynie spent months trying to prevent Jg.Early from conducting a hearing on Adele's request to ungag the scores of people who have read and discussed Tommie Rae's writings and said she was not Brown's

spouse . He did so even though he and Tommie Rae had named at least 14 of them as witnesses in their Case 4900 suit against Bob and Adele.

Both Tommie Rae and Bauknight admit that discussion and dissemination of the widely-known-for-years contents of the writings will cause irreparable harm to Tommie Rae's claim to be Brown's spouse and take nearly 25% of the "I Feel Good" Trust. That is good for the "I Feel Good" Trust. It is good for the protection of Brown's Royalty copyrights to 800+ songs, about half of the \$100 Million he left to the "I Feel Good" Trust. It is good for the \$285,000 grandchildren's shares the settlement destroyed.

On May 12 Jg.Early conducted a hearing on Adele's request to declare the Gag Orders void or expired.

At that hearing Bauknight – to the dismay of everyone familiar with the James Brown cases – told Jg.Early that he [Jg. Early] had already declared Tommie Rae to be Brown's spouse.

This act of extreme disloyalty to the Estate/2000 Trust – coupled with the fact that it was both material and incorrect — alone demonstrates that Bauknight is committed to Tommie Rae and has not; cannot; and will not protect the "I Feel Good" Trust.

These matters were not before the Supreme Court. Aided by an excellent lead counsel, serving *pro bono publico* to save the "I Feel Good" Foundation, Bob and Adele took little heed of protecting themselves, desiring only to fulfill their duty to the Estate Plan.

After the May 12 hearing, Bauknight did not stop. Bauknight and Wingate – speaking for AG Wison – went on a witch hunt to try to prove that Adele was leaking the

"diary" contents to the media. Bauknight even joined Tommie Rae in accusing Adele of lying to Jg. Early, asserting that her statements were "works of fiction."

On July 12, 2012 Jg. Early found he lacked jurisdiction to hear Adele's motion to declare the Gag Order void or expired. On appeal, Bauknight joined Tommie Rae in her continued vitriol.

In direct violation of the S.C. Shield law – and after Jg. Early had accepted Adele's representation that she had not disclosed the "diary" contents to anyone – Bauknight and Wingate, speaking for AG Wilson– subpoenaed a reporter's notes in an effort to prove Adele was the "longtime friend" who revealed the "diary" contents to the reporter.

The witch hunt was called off by AG Wilson after the national media erupted in a shower of criticism over Wingate's action.

By 2013 both grandson Forlando and Dallas had – without prompting – discussed under oath the contents of the "diary" in sworn testimony in Case 4900 and the Forlando Federal Suit. The witch hunt was over.

Following the May 8 decision, Adele's motion to declare the Gag Orders void or expired are now before Jg. Early.

The June 13 Orders, however, violate the Due Process and First Amendment rights of Adele, Bob and all who seek to have the 5-year-old Gag Orders declared void rather than violating them at their peril remain. Fair play demands that these person not be deprived of a legal remedy to exercise their First Amendment Rights. The June 13 Orders should be voided.

Bauknight's *Ex Parte* Appointments and the Notice of Disallowance

Before the Remittitur was handed down, Bauknight presented two courts with, and obtained, *ex parte* "emergency" appointments as SA/ST without notice or a hearing.

Instead of limiting Bauknight to actions necessary to preserve and protect the assets pending *Wilson v. Dallas* review, the *ex parte* orders gave Bauknight the authority to conduct litigation – even to ratify his own secret actions.

The *ex parte* appointments were extraordinary in light of the fact that Bauknight has not filed the required accountings for his actions since 2010; has created at least two LLCs without providing information to AG Wilson; has, without basis, openly declared Tommie Rae's elective share to be a "slam dunk;" has violated SCPC provisions related to filing requirements related to his less-than \$4.7 Million valuation of Brown's worldwide music empire; and has failed in four years to collect a dime from Cannon, who retains his million-dollar Caribbean retirement home.

Bauknight has used the *ex parte* appointments to ask Jg. Manning to stay Case 4900 and the FOIA Cases until Jg. Early concludes all matters. He did so even though Jg. Early cannot finalize the Attorneys' fee and commission issues until the Estate/2000 Trust's claims against Adele and hers – and possibly Bob's – against the Estate/2000 Trust are resolved.

At the May 29 status conference Bauknight used his secret *ex parte* appointment as SA to take two actions intended to avoid the *Wilson v. Dallas* scrutiny of the \$20 Million or more he proposes to pay himself, his 20+ attorneys and those of Tommie Rae and other settling parties. He did so by:

1. Delivering a totally unnecessary Notice of Disallowance of Bob's and Adele's claim, pending since July 2009, threatening disgorgement even of her partial SA payment for 2007; and
2. Arguing that Adele and Bob must be banned for all James Brown Cases, without presenting a single proposal for how the 2000 Estate Plan and 1999 Backup Estate Plan will be protected.
3. Acquiescing in Tommie Rae's request to go in chambers and state off the record "evidence" they assert will justify taking \$50 Million from the "I Feel Good" Foundation again, with no mention of the Due Process Rights of Voorhees and the other beneficiaries and fiduciaries of the 1999 Backup Estate Plan; the 2000 Estate Plan and others.

The June 13 Orders condoning Bauknight's actions should be voided or strictly limited to asset management and accounting. Litigation for the Estate/2000 Trust should be conducted by someone who is not aligned with Tommie Rae.

Case 1337 and Bauknight's Second *Ex Parte* Order

On June 10, 2013 – forced by the unnecessary Bauknight Notice of Disallowance – Adele filed Case 2013-CP-02-1337 seeking voiding of Bauknights *ex parte* appointments, or limiting them so he cannot further damage the "I Feel Good: Trust and asking the Court to conclude Case 4900 and the FOIA Cases; appoint an SA/ST who will protect Brown's Will and 2000 Trust, and the backup 1999 Will and Trust in accordance with the *Wilson v. Dallas* mandate.

Bauknight was served through an authorized representative by June 13.

In response, he returned to the Probate Court on June 13 for another "emergency" *ex parte* order, as broad as the first. The June 13 Orders condone Bauknight's actions and should be vacated.

Adele's Standing to be in All James Brown Cases

As set out on page 6 of the Motion, Adele has standing to participate in this and all James Brown estate and trust cases at least until the Estate/2000 Trust's claims and her counterclaims against them are resolved in Case 4900. She is an Interested Person under the SCTC and her claims and property rights are affected by each of the cases. She and Bob qualify as "others" and statutory "beneficiaries" under the Trust Code.

Both her First Amendment and Due Process rights confer standing on Adele to remain in Case 122 until the Gag Orders are voided and her First Amendment rights restores.

Now that AG Wilson has withdrawn from the Aiken Cases, Adele has clear "other" status under §62-7-405 in relation to the "I Feel Good" Trust as embodied in the 2000 and 1999 Estate Plans. This is especially true where Bauknight has shown that he will not defend or enforce either the 2000 or 1999 Estate Plan.

Adele has standing to protect the "I Feel Good" Trust.

Relationship with the Attorney General

Where lawyers have long, unblemished careers – 35 years for Adele – and are falsely accused by the State's chief legal officer of having committed a federal felony, it is impossible to avoid discord.

The accusations made by Tommie Rae and others – had they not been backed by the mighty power of the State – would be worthy of overlooking. When made by Wingate and Russell on behalf of the Attorney General they posed a true threat to

Bob's and Adele's livelihood, reputations and property rights in the already-ordered commissions.

Immediately after the first *Wilson v. Dallas* decision Adele met with AG Wilson, and she and her counsel in Case 4900 met again with AG Wilson's staff. The substance of those conversation was Adele's relief that the Supreme Court had saved \$50 Million for the "I Feel Good" Foundation; almost nothing had been lost except the years; and it was time to move forward to protect the "I Feel Good" Foundation.

Prior to the notifying the Supreme Court of his intention to do so, AG Wilson personally called Adele to notify her of his plan to seek to withdraw from Case 4900.

AG Wilson told the Supreme Court AG McMaster did not want to sue Bob and Adele in Case 4900, but did so only because he was advised by "someone" that the statute of limitations would expire the next day and he would breach his fiduciary not to.

Releases since May 8 make clear that Bauknight was not authorized to assert that he was suing "on behalf of the Attorney General of South Carolina." It also appears that former AG McMaster never authorized Wingate to bring Case 4900 in the name of the State/AG.³³

AG Wilson has now withdrawn from the Aiken County Cases. Having previously supported Tommie Rae in the Hynie "diary" Gag Order appeal, he agreed to be dismissed as a party to that appeal before it was dismissed as moot.

While differences clearly remain, including Adele's concern that public

³³ Wingate has now moved to withdraw as counsel for the State/AG. His authority to have brought Case 4900 in the name of the State/AG is clouded. One of the AG's assistants allowed himself to be introduced at the first hearing as a client, and attended many Case 4900 hearing as a client.

documents which should have been produced under FOIA have not been produced for two years, there is no hostility.

Direction to Remove Adele's Motions from the Public Records Prior to Hearing

The June 13 Orders take the unprecedented step of directing – without a hearing – that the Clerk of Court remove from the public records three (or more) motions timely filed in accordance with the Court's directions: To do so would violate fundamental fairness and Adele's Due Process rights, as well as her rights as an Interested Party under the SCPC and creditor.

The Three Motions were:

1. Motion for Scheduling Order and Appointment of Limited SA/ST to Comply with Mandate of Supreme Court Decision, *Wilson v. Dallas*; (Case 1647);
2. Motion to Expedite Intervention; Add Parties; and Determine Commissions and Attorney's Fees (Case 1426, Dallas Claim Case)
3. Motion for Expedited Relief to Protect The James Brown "I Feel Good" Trust, dtd. 5/21/13 Case 2008-CP-02-0872 ("Case 872");

Each of the motions was timely. Each should be heard and considered.

Directing the Court to remove filed motions from the public record without notice or hearing violates fundamental Due Process Rights of Adele and those affected by the motion

Case 2013-CP-02-1348 Exceeds Clerk's Jurisdiction, Violates Due Process

The dismissal of Dallas, Bob and Adele from case 1647, coupled with creation of a new case – not just a new number – exceeds the Jurisdiction of the Court and Clerk because the Clerk lacks the authority to determine parties, issue a Summons and take other steps to acquire jurisdiction over and give proper notice to as many as 85 people

who may be subject to nonpayment or even disgorgement of \$20 Million or more.

The Clerk's June 13 Order named as the Plaintiff Henry McMaster, an AG who left office more than two years ago. Defendants include minor Sydney, who has no GAL. Also named as Defendants are Jason Brown-Lewis and Lindsey Delores Brown. These two – since achieving majority several years ago -- have never sought to be in any James Brown Aiken case except Case 4900.

Not named are the fiduciaries and attorneys who are covered by the *Wilson v. Dallas* mandate – those who have been paid or seek payment from the Estate/2000 Trust in Case 1647 or any related matter. Adele's Motion for Scheduling Order and Appointment of Limited SA/ST dated May 22, 2012 [3] [sic] in Case 1647 names about 85 lawyers who have worked on James Brown matters.

Due Process, fundamental fairness and the SCPC demand that personal jurisdiction be obtained over anyone subject to nonpayment or disgorgement.

The deficiency is not the fault of the Clerk. She cannot ascertain from the records who must be named. She cannot secure jurisdiction over them. It can, and should, be done as part of Case 1647.

The June 13 Orders violate and lack of identification of the parties, personal jurisdiction over them and other components of the June 13 Order Due Process to all attorneys subject to nonpayment and/or disgorgement. They must be added to Case 1647 as Interested Person and given adequate notice and opportunity to be heard. If they have a separate claims case pending, it should be consolidated and/or concluded.

Twenty Million dollars or more are at stake in the process, as is the possible future of the "I Feel Good" Foundation.

Bauknight's Prior Statements

On November 1, 2011 Bauknight made the following representations to the Supreme Court:

- a. Tommie Rae's elective share claim was a "slam dunk."
- b. Copyright Termination Rights is "all this case is about."
- c. He knows the value of the assets [less than \$4.7 Million...]
- d. Brown's Estate/2000 Trust has no corpus "to speak of"
- e. If Tommie Rae doesn't get the termination rights, the settling children will.

Each of these statements must be considered and subject to scrutiny in both the appointment and payment/disgorgement review. Failure to do so places the "I Feel Good" Trust which our Supreme Court has just saved in jeopardy.

Conclusion

Reviewing \$25 Million or more in paid or claimed fees and commissions of fiduciaries and attorneys presents a substantial challenge. Where disgorgement or nonpayment under previous order or valid contracts is threatened particular attention must be given to Due Process rights and a procedure that comports with fundamental fairness. The June 13 Orders fail to do that. Without notice or hearing, the Orders add parties; grant and deny standing and trample on the Due Process and First Amendment rights and SCTC and SCPC rights of Adele, Bob, the attorneys who served the Estate Plan under valid contracts with them and the beneficiaries of the 2000 and 1999 Estate Plans.

In addition to denying fundamental fairness, the June 13 Orders exceed the

jurisdiction of the Court and Clerk, attempting to control matter over which the Richland County and Federal Courts have jurisdiction.

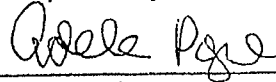
The Courts findings that Adele lacks standing to participate in cases related to the estate and trust of James Brown cannot stand where she is currently defending herself against false claims by the Estate/2000 Trust in Case 4900.

Bauknight has demonstrated that he cannot and will not protect either the "I Feel Good" Trust.

Based on the facts set out herein and in the motion the Court should:

1. Void the June 13 Orders in their entirety;
2. Confirm that Adele and all former fiduciaries have standing to remain in Case 1647, which is not the will and trust contest.
3. Confirm that Case 872, the will and trust contest will not be collapsed into Case 1647;
4. Direct that the motions filed by Adele be heard at the Court's earliest convenience
5. Voiding all appointments of Bauknight

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

Pro Se

June 24, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

69451

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

RECEIVED

The Honorable Doyet A. Early, III, Circuit Court Judge
The Honorable Liz Godard, Clerk of Court

AUG 16 2013
SC Court of Appeals

Case No. 2007-CP-02-0122; Case No. 2008-CP-02-0872
Case No. 2007-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
Case No. 2008-CP-02-1647; Case No. 2013-CP-02-1348

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

v.

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

OF WHOM:

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

AND:

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

AND:

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

IN RE:

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

**MOTION TO DISMISS APPEAL
FOR LACK OF STANDING**

Pursuant to Rule 240, SCACR, the Estate of James Brown and Russell L. Bauknight, the Special Administrator of the Estate of James Brown and the Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (collectively, "the Estate and Trust") move this Court for an Order dismissing a Notice of Appeal filed by Adele J. Pope, a former trustee and personal representative. The grounds for this Motion are as follows:

1. The removal of Adele Pope as a fiduciary to the James Brown Estate and Trust was previously litigated and decided in the circuit court, wherein Ms. Pope was given notice and an opportunity to be heard. On May 26, 2009, after affording her an opportunity to be heard, the circuit court removed her for cause. In Wilson v. Dallas, ___ S.C. ___, 743 S.E.2d 746 (2013), the Supreme Court affirmed the circuit court's removal of Ms. Pope as a fiduciary.

2. Undeterred by her removal, Ms. Pope has now switched gears and has attempted to assert herself in the underlying proceedings and re-litigate issues in her individual capacity rather than as a fiduciary. In response to her improper conduct, the circuit court properly relied on the Supreme Court's decision in Wilson to determine that she is not a party and lacks standing.

3. Ms. Pope does not have standing to appeal any of the Orders.

4. This Court, therefore, should dismiss her Notice of Appeal for lack of standing and order her to cease attempting to assert herself in the underlying litigation.

BACKGROUND

The Circuit Court removed Adele Pope for cause from her role as fiduciary on May 26, 2009. Pursuant to Section 62-3-611 of the Probate Code, Ms. Pope received noticed and an opportunity to be heard. The Circuit Court found that her removal was in the best interests of the Estate.

In Wilson v. Dallas, ___ S.C. ___, 743 S.E.2d 746, 766-67 (2013), the Supreme Court affirmed. The Court held that Ms. Pope was given adequate notice and an opportunity to be heard, and that the circuit court properly removed her for cause. Specifically, the Court noted that Ms. Pope (and the other Appellant in that case) (1) had an irreconcilable conflict with the settling parties to the estate litigation, (2) "sought \$5 million in fees for their services as fiduciaries for a relatively short interval of time[,]" (3) diverted a large amount of funds raised for the estate to first pay their own attorneys' fees, and (4) improperly attempted to sell Mr. Brown's GRAMMY award at an auction before the National Academy of Recording Arts and Sciences halted the auction and reclaimed the award. Id. 767. The Court concluded that "[t]hese 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." Id.

Following the issuance of the remittitur, and to carry out the Supreme Court's decision, the circuit court issued an Administrative Order that removed Ms. Pope as a party and ordered that her separate fee petition for fiduciary commissions

proceed under a separate case number. (Ex. A, Administrative Order dated June 13, 2013 involving Cases 1647, 0122, and 0872). The Circuit Court also issued a second Administrative Order for administering 13 separate and pending James Brown related cases and claims. (Ex. B, Administrative Order, dated June 13, 2013 involving Cases 1647 through 1759).

Undeterred by her removal by the circuit court and Supreme Court, Ms. Pope filed a Motion to Vacate the Orders dated June 13, 2013 (Ex. C, Motion to Vacate). In her motion, she claims, among other things, that the Orders are "directly adverse to the *Wilson v. Dallas* and the 'I Feel Good' Trust"; that the Orders "place Brown's \$100 Million 'I Feel Good' Trust and Movant in immediate jeopardy; and that the Orders are "materially at odds with the letter and spirit of *Wilson v. Dallas*. *Id.*, pp. 1-3. Ms. Pope also submitted a 23-page affidavit in which she claimed that the current fiduciary is "trying to pay \$20 Million . . . which should go to the 'I Feel Good' scholarships"; that the trust funds should be disbursed in a certain order or priority; that the current fiduciaries "cannot properly defend the ironclad 2000 and 1999 Estate Plans" to the detriment of the Estate; that the "I Feel Good Trust" is in jeopardy; and that the State's involvement of the valuation was "unprecedented and wrong." (Ex. D, Affidavit of Adele Pope). In other words, Ms. Pope is attempting to re-litigate issues involving the Estate and Trust litigation, despite that fact that she is *not* a party, has *no* legal interest in the litigation, and *lacks* standing to pursue these matters.

The Estate and Trust filed a Memorandum in Opposition to Pope's Motion to Vacate on July 9, 2013. (Ex. E). On July 10, the Circuit Court denied Ms. Pope's Motion to Vacate. (Ex. F). On July 29, 2013, Ms. Pope filed a Notice of Appeal with

this Court and, on July 29, filed an Amended Notice. In her Notice, she appeals the two June 13 Administrative Orders, and the denial of her Motion to Vacate. (Ex. G). Ms. Pope is not a party to any of those Orders, nor is she referenced in those Orders except to confirm and re-iterate that she is no longer a party to the Estate and Trust litigation. Ms. Pope also seeks to appeal from a Clerk of Court Order creating a separate case to handle a review of fees pursuant to the Wilson v. Dallas decision. Ms. Pope does not have standing to appeal that Order. Moreover, that Order is not immediately appealable; it merely creates a civil action file where former and present fiduciaries, parties, and attorneys have been instructed to file a statement of fees paid by the Estate in relation to the Wilson v. Dallas appeal.

ARGUMENT

ADELE POPE LACKS STANDING TO APPEAL THE ORDERS INVOLVING THE JAMES BROWN TRUST AND ESTATE LITIGATION.

A party dismissed from a lawsuit lacks standing to appeal subsequent orders. "An appeal filed by one who has ceased to be a party to a suit is a mere nullity." Nance v. Nationwide Ins. Co., 273 S.C. 617, 619, 258 S.E.2d 105, 106 (1979). "A party cannot appeal from a decision which does not affect his or her interest, however erroneous and prejudicial it may be to some other person's rights and interests." Beaufort Realty Co., Inc. v. Beaufort County, 346 S.C. 298, 301, 551 S.E.2d 588, 589-90 (Ct. App. 2002); see also Rule 201(b), SCACR ("Only a party aggrieved by an order, judgment, sentence or decision may appeal.").

In Brock v. Bennett, 313 S.C. 513, 443 S.E.2d 409 (Ct. App. 1994), this Court held that a former trustee of a church lacked standing to enforce a conveyance of land to the church. The Court reasoned that the former trustee's "interest in the real

property in issue was by virtue of his office as trustee of the church and as a member of [the church]." Id. at 519, 442 S.E.2d at 412. Because he was no longer a trustee or member of the church, he lacked standing to enforce the conveyance. Id.; see also Nalley v. Longdale, 734 S.E.2d 908, 919 (Ga. Ct. App. 2012) ("Because Harley Jr. is no longer the trustee, however, he lacks standing to pursue claims on behalf of the remainder beneficiaries for the return of the trust fund."); Cavanaugh v. State, 599 P.2d 965, 967 (Colo. Ct. App. 1979) (holding former trustee lacked standing; "after removal, a trustee is no longer acting on behalf of the beneficiaries; thus, he no longer has any interest in the subject matter of the action[.]").

In this case, Ms. Pope was removed for cause by the circuit court, and the Supreme Court affirmed this removal in Wilson v. Dallas. Nevertheless, she refuses to acknowledge the clear language of Wilson v. Dallas, and is attempting to re-litigate issues involving trust beneficiaries over which she has no standing to pursue. Her removal meant she was no longer acting on behalf of the beneficiaries. It also meant she could not seek the relief she sought in her Motion to Vacate, including claims that:

- The corpus of the trust was "in jeopardy";
- The June 13 Orders are "materially at odds" with the Wilson decision;
- Twenty million dollars should go to the "I Feel Good" Trust;
- Trust funds should be disbursed in a certain order of priority;
- Current fiduciaries are incapable of defending the trusts; and
- The State's involvement in the valuation was "unprecedented and wrong."

(Exs. C and D). Even if these alleged claims had merit, they would belong to the Estate and Trust, and not a former fiduciary who was removed for cause.

Ms. Pope has no legal interest in how the Estate and Trust is administered and how related litigation is handled. And she cannot attempt to manufacture standing by asserting that her claims are in an “individual capacity” when they are merely a veiled attempt to re-litigate Estate and Trust claims that have either already been decided or will be decided in the future in litigation involving parties who have standing.¹

When an issue has been actually litigated and determined by a valid and final judgment, that determination is conclusive in a subsequent action on the same or different claim. Zurcher v. Bilton, 379 S.C. 132, 135-36, 666 S.E.2d 224, 226 (2008). Her removal as a fiduciary has been litigated and decided in the circuit court and affirmed by the Supreme Court. The Wilson decision exhausted her right to continue fighting this issue. This Court, therefore, should dismiss Ms. Pope’s appeal.

CONCLUSION

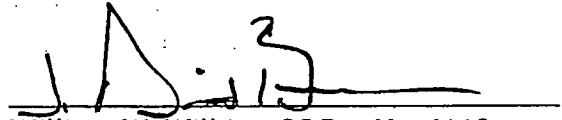
Ms. Pope continues to bring actions purportedly on behalf of the Estate and Trust of James Brown. Her actions, however, are contrary to her words. Rather than helping the beneficiaries of the Estate and Trust, her continued attempts to interject herself into the Estate and Trust proceedings are wasting assets, and causing the Estate and Trust to expend legal fees fighting unnecessary, non-meritorious, and distracting litigation. All of this is on top of previous inappropriate actions when she was a fiduciary—such as seeking \$5 million in fees for a relatively small amount of work, paying fees to fiduciaries ahead of other claims, and

¹ The only individual claim that Ms. Pope has is her separate fee petition for fiduciary commissions, a petition to which the Circuit Court has assigned a separate case number.

improperly seeking to sell Mr. Brown's GRAMMY—which ultimately led to her removal for cause.

Both the Circuit Court and the Supreme Court have ordered her removed for cause. She lacks standing to bring this appeal. The Estate and Trust asks that this Court dismiss the appeal, and order her to cease filing motions in the Estate and Trust litigation (except in her separate fee-petition case). At some point, this has to end.

Respectfully submitted,



William W. Wilkins, SC Bar No. 6112
J. David Black, SC Bar No. 68499
Fred L. Kingsmore, Jr. SC Bar No. 7485
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
Post Office Drawer 2426
Columbia South Carolina 29202
(803) 771-8900 / (803) 727-1409
WWilkins@nexsenpruet.com
DBlack@nexsenpruet.com
FKingsmore@nexsenpruet.com

Attorneys for Russell L. Bauknight, the
Special Administrator of the Estate of
James Brown and the Special Trustee of
the James Brown August 1, 2000
Irrevocable Trust Agreement

August 16, 2013

Columbia, South Carolina

71311

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

FEB 18 2014

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

SC Court of Appeals

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

Case No. 2007-CP-02-0122; Case No. 2008-CP-02-0872
Case No. 2007-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
Case No. 2008-CP-02-1647; Case No. 2013-CP-02-1348

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

v.

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

OF WHOM:

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

AND:

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

AND:

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

IN RE:

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

MOTION TO RECONSIDER

Russell L. Bauknight respectfully asks this Court to reconsider its January 30, 2014 order, which declined to act on his motion to dismiss on the ground that Mr. Bauknight was not a party to this appeal.¹ As explained in more detail below, the orders on appeal impact pending litigation involving the Estate of James Brown and The James Brown 2000 Irrevocable Trust, for which Mr. Bauknight serves as the Personal Representative, Special Administrator, Trustee, and Special Trustee. As such, Mr. Bauknight is an indispensable party to this appeal.

I. Mr. Bauknight, as Special Administrator and Special Trustee, was a party to all orders on appeal.

Appellant Adele Pope appeals from four orders of Judge Early, three of which are dated June 13, 2013, and one of which is dated July 10, 2013. The three appealed orders from June integrally affect the Estate and Trust as follows:

Order #1 is an administrative order affecting over a dozen Estate of James Brown cases currently pending in Aiken County. Among other things, this order carries out the Supreme Court's May 8, 2013 opinion affirming the trial court's May 26, 2009 removal of Ms. Pope from her prior fiduciary positions for cause. Ms. Pope was previously named as a party to these matters in her fiduciary capacity. The trial court order removes Ms. Pope from all matters in such capacity and directs the Clerk of Court to open a new civil action for review of Ms. Pope's individual fees. This order also confirms the separate appointments of Mr. Bauknight as the proper fiduciary to conduct the orderly

¹ This motion is appropriate under Rule 221(c), SCACR because the January 30, 2014 order had the effect of dismissing Mr. Bauknight as a party to the appeal, thereby finally deciding his future due process rights to file motions, file briefs, and present oral argument in this appeal.

administrative duties of the estate and trust as Special Administrator and Special Trustee. The appointment of Mr. Bauknight is temporary, and it was made to ensure that the Estate and Trust had a fiduciary until a permanent fiduciary could be appointed. The order concludes by directing that all Aiken County Civil actions list the proper fiduciary, Mr. Bauknight (not Ms. Pope) as the responding party.

Order #2 is a formal order in Case Numbers 2008-CP-020-1647 (addressing challenges to the validity of James Brown's will and trust, spousal claims, and an omitted child claim), 2007-CP-02-122 (addressing whether to award costs and fees to former fiduciaries Albert Dallas and David Cannon), and 2008-CP-02-872 (addressing Will, Trust, and Property matters). In this order, Judge Early refuses to consider the myriad documents filed by Ms. Pope because pursuant to the Supreme Court's May 8, 2013 opinion, she was removed from her fiduciary capacities for cause, and therefore, she is no longer a party to these matters.

Order #3 is a Form 4 order in Case Number -1647 (addressing, as described above, challenges to the Estate and Trust), which merely assigns a new case number to review Ms. Pope's individual fee request as required by Order #1.

After the orders above were issued by the trial court (and despite the fact that her removal was fully litigated and affirmed by the Supreme Court's May 8, 2013 opinion), Ms. Pope filed a motion to vacate, set aside, alter or amend all three orders. In this motion, Ms. Pope alleged that Mr. Bauknight "has not; cannot; and will not protect the 'I Feel Good' Trust" and asked Judge Early to void all appointments of Mr. Bauknight. See Motion to Vacate, p. 21 & p. 30 (attached as Exhibit A). A hearing on this motion was held on July 9, 2013, at which Mr. Bauknight's attorneys argued against the motion. Judge Early denied Ms. Pope's motion in Order #4, dated July 10, 2013.

II. Mr. Bauknight is an adverse party of the Appellant and has a due process right to respond to this appeal.

Rule 202 of the South Carolina Appellate Court Rules governs the designation of parties on appeal, explaining that the “adverse party” shall be known as the Respondent. *Cf. Bank of America, N.A. v. Drape*, 405 S.C. 214, 220, 746 S.E.2d 478, 481 (Ct. App. 2013) (“A real party in interest for purposes of standing is a party with a real, material, or substantial interest in the outcome of the litigation.”). Here, Ms. Pope is appealing from orders of Judge Early that, among other things, found she had no standing in the Estate and Trust litigation and denied her request to void the appointment of Mr. Bauknight as the temporary fiduciary. Mr. Bauknight is an adverse party, as recognized by Ms. Pope in the prior underlying court proceedings and when she served him as a Respondent with her Notice of Appeal and Amended Notice of Appeal.

The confusion in this case may arise from the caption on the Notice of Appeal. That caption does not list the Estate and Trust as Respondents and does not mirror the proper caption used on the formal orders on appeal, which are simply titled “In re: The Estate of James Brown a/k/a: James Joseph Brown.” Instead, the caption that Ms. Pope uses is the same as that used by the Supreme Court in its May 8, 2013 opinion, which reversed the settlement agreement and separately affirmed the trial court’s “for cause” removal of Ms. Pope from her prior fiduciary position. *See Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). Mr. Bauknight (who had been appointed as the new fiduciary) was a party to that appeal. Likewise, Mr. Bauknight (who currently serves as the temporary fiduciary until that position is permanently filled) is a party to *this* appeal.

Another source of possible confusion may come from a later order, dated October 3, 2013, from which Ms. Pope also appealed. Judge Short dismissed Ms. Pope’s appeal from that order on the same date he issued this order, which found that Mr. Bauknight

was not a party to this appeal. In the October 3, 2013 order, Judge Early appointed Mr. Bauknight as Personal Representative of the Estate and Trustee of the Trust on an interim basis, but also appointed David C. Sojourner, Jr. as the Limited Trustee and Limited Special Administrator for defending the Trust and the Estate against the 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”). See pp. 9 and 19-20 of October 3, 2013 order (attached as Exhibit B). Although the Will and Trust Challenges are now being defended by Mr. Sojourner, Mr. Bauknight continues to have “full, absolute, and exclusive authority to carry out the Estate’s administration and the Trust’s administration, and all business 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[.]” *Id.* at p. 20.

As detailed above, the orders on appeal in this matter involve over a dozen pending cases involving the Estate of James Brown. The cases do not involve Ms. Pope and most of these cases do not include Will and Trust Challenges. For instance:

- Case No. 2007-CP-02-122 involves the determination of attorney’s fees and costs to be awarded to former fiduciaries David Cannon and Albert Dallas;
- Case Nos. 2008-CP-02-322 and -721 are state law cases against former James Brown advisors brought by attorneys James Gilreath and J. Kendall Few;
- Case Nos. 2008-CP-02-1426, -1712, -2127, -1556, and -1557 are creditor’s claims filed separately by Albert Dallas, Rodney Peeples, the Internal Revenue Service, Charles Bobbit, and Intrigue Music Management; and
- Case No. 2013-CP-02-1348 involves the review of fees paid as a result of the appeal from the May 2009 settlement agreement.

Mr. Bauknight is a necessary party to this appeal because, as the Personal Representative, Special Administrator, Trustee, and Special Trustee of James Brown's Estate and Trust, he is the only party that can speak for the Estate and Trust on matters, like those listed above, that do not involve Will and Trust challenges.

For the foregoing reasons, Mr. Bauknight asks this Court to reconsider its January 30, 2014 order finding he was not a party and act on his motion to dismiss Ms. Pope's improper appeal.

Respectfully submitted,


William W. Wilkins, SC Bar No. 6112
J. David Black, SC Bar No. 68499
Tanya A. Gee, SC Bar No. 70191
NEXSEN PRUET, LLC
Post Office Drawer 2426
Columbia South Carolina 29202
(803) 771-8900 / (803) 727-1409
WWilkins@nexsenpruet.com
DBlack@nexsenpruet.com
TGee@nexsenpruet.com

Attorneys for Russell L. Bauknight, the
Special Administrator of the Estate of
James Brown and the Special Trustee of
the James Brown August 1, 2000
Irrevocable Trust Agreement

February 18, 2014

Columbia, South Carolina

Exhibit A

Ms. Pope's Motion to Vacate

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Henry D. McMaster and Others,
 Plaintiffs

CASE NO.
2008-CP-02-1647
Other Cases - See Attachment A

v.

Albert H. Dallas and Others,
 Defendants
check box above indicating submitting party

MOTION INFORMATION FORM
AND COVER SHEET

<u>name S.C. Bar no. and address of movant</u> Adele J. Pope SC Bar # 4501 1228 Walnut Street Neyberry, South Carolina 29108 telephone: (803) 413-0753 fax:	<u>name S.C. Bar no. and address of interested persons or counsel</u> See Service List
---	---

MOTION HEARING REQUESTED (attach written motion and complete Sections I and III)
 FORM MOTION, NO HEARING REQUESTED (complete Sections II and III

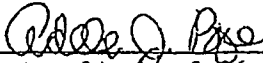
SECTION I: Hearing Information

Nature of Motion: Motion to Vacate, Set Aside, Alter or Amend Orders dated June 13, 2013
Estimated Time Needed: 30 Minutes Court Reporter Needed: YES

SECTION II: Motion Type

- Written Motion Attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Movant

6/24/13
Date Submitted

SECTION III: Motion Fee

- PAID-AMOUNT: \$25.00
 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, SCRPC)
 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 _____

RECEIVED

CLERK'S VERIFICATION

- Collected by: _____
 MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

DATE FILED: _____ JUN 25 2013

NEXSEN PRUET, LLC

Attachment A

Additional Cases

Case No. 2007-CP-02-1222
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
Case No. 2013-CP-02-1348

Service List:

J. David Black, Esquire
Nexsen Pruet, LLC
PO Drawer 2426
Columbia, South Carolina 29202

Louis Levenson, Esq.
Levenson & Associates
125 Broad Street, SW
Atlanta, Georgia 30303

Robert N. Rosen, Esquire
Christopher Paton, Esquire
S. Alan Medlin, Esquire
David L. Michel
18 Broad Street, Suite 201
Charleston, South Carolina 29401

The Honorable Alan Wilson
Attorney General of South Carolina
P.O. Box 11549
Columbia, South Carolina 29211

Robin A. Braithwaite, Esquire
Braithwaite, Farmer, Boni and Timmerman
759 Richland Avenue, West
Aiken, South Carolina 29802-0324

Albert H. Dallas, Esquire
304 Black Street
Thomson, Georgia 30824

David B. Bell, Esquire
Bell & Bell Associates
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1011

With a Copy to:

The Honorable Doyet A. Early
Post Office Box 90
Bamberg, South Carolina 29003

Kenneth B. Wingate, Esquire
Mark V. Gende, Esq.
Sweeney, Wingate & Barrow, PA
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211

Exhibit B

October 3, 2013 Order

(Not subject to this appeal. The appeal from this order was dismissed on January 30, 2014)

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

COURT OF COMMON PLEAS
07-CP-02-0122

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

TRANSCRIPT OF RECORD

FEBRUARY 9, 2007
AIKEN, SOUTH CAROLINA

B E F O R E:

THE HONORABLE D.A. EARLY, III, JUDGE.

A P P E A R A N C E S:

LOUIS LEVENSON, ESQ.
DAVID YOUNT, ESQ.
ATTORNEY FOR THE HEIRS

ROBERT N. ROSEN, ESQ.
ATTORNEY FOR THE TOMI RAE HYNIE BROWN

RODNEY A. PEEPLES, ESQ.
DAVID W. MILLER, ESQ.
JAMES STROM THURMOND, JR., ESQ.
WILLIAM RAY MASSEY, ESQ.
ATTORNEYS FOR THE PERSONAL REPRESENTATIVES

LISA H. HICKLIN
OFFICIAL COURT REPORTER

1 GENTLEMEN FOR YEARS. THESE ARE THE THREE GENTLEMEN THAT
2 HE CHOSE TO BE HIS TRUSTEES AND HE CHOSE TO BE PERSONAL
3 REPRESENTATIVES. I'M BOUND BY HIS WISHES UNLESS YOU CAN
4 PRESENT CREDIBLE EVIDENCE THAT COMES WITHIN THE STATUTE
5 THAT PERMITS ME TO REMOVE THEM AND OR TO APPOINT A SPECIAL
6 ADMINISTRATOR. IT DOES GIVE ME CONCERN THAT THEY MAY
7 PERHAPS BE CREDITORS OF THE ESTATE. IT GIVES ME CONCERN
8 THAT THERE IS LITIGATION IN NEW YORK GOING ON. I AM GOING
9 TO HAVE TO DEAL WITH ALL OF THAT, BUT I ALSO HAVE TO
10 BALANCE THE FACT THAT MR. BROWN CHOSE THESE THREE
11 GENTLEMEN BASED ON LONG YEARS OF FRIENDSHIP AND SERVICE
12 AND I HAVE TO RESPECT HIS WISHES AS WELL.

13 MR. ROSEN: WE AGREE WITH THAT. THAT'S WHY WE DID
14 NOT ASK FOR THEIR REMOVAL.

15 THE COURT: WHAT ARE YOU ASKING FOR IF YOU DON'T WANT
16 THEM REMOVED? DO YOU WANT A SPECIAL ADMINISTRATOR TO
17 SERVE IN ADDITION TO THEM --

18 MR. ROSEN: YES, SIR.

19 THE COURT: -- OR IN CONJUNCTION TO THEM?

20 MR. ROSEN: YES, SIR. IN FACT, AS I UNDERSTAND IT, A
21 SPECIAL ADMINISTRATOR CAN BE APPOINTED FOR ALL SORTS OF
22 PURPOSES. FOR EXAMPLE, YOU CAN APPOINT A SPECIAL
23 ADMINISTRATOR TO OVERSEE WHAT THEY'RE DOING AND YOU CAN
24 ISSUE -- WE'VE ALSO ASKED FOR AN INJUNCTION. WE BELIEVE
25 YOU ABSOLUTELY SHOULD RESTRAIN THEM FROM SELLING ANY

1 ASSETS. FOR EXAMPLE, THIS LITIGATION GOING ON IN NEW
2 YORK, LITERALLY IF YOU DON'T ACT TOMORROW, YOU KNOW, THEY
3 CAN SIGN A CONTRACT TO SIGN ALL OF MR. BROWN'S BOOK OF
4 MUSIC WHICH COULD BE WORTH \$100 MILLION -- THEY COULD SELL
5 IT FOR 20 MILLION IN ORDER TO RECEIVE THEIR 2 MILLION.

6 I MEAN, I AM CASTING NO ASPERSIONS. IF IT WERE ME --
7 IF IT WERE ME -- IF I WERE THEY, I WOULD ASK FOR A SPECIAL
8 ADMINISTRATOR. I THINK IT'S IN THEIR INTEREST SO THAT NO
9 ONE LATER CAN SAY THAT ANYTHING HAS GONE WRONG IN THIS
10 CASE.

11 THE COURT: YOUR POSITION IS, MR. ROSEN, DO NOT
12 DISMISS MR. CANNON, ET AL, AND LEAVE THEM ON AS P.R. AND A
13 SPECIAL ADMINISTRATOR TO ACT AS SORT OF AN ARM OF THE
14 COURT TO, FOR LACK OF A BETTER TERM, TO OVERSEE WHAT THEIR
15 ADMINISTRATION OF THE ESTATE AND OR TRUST?

16 MR. ROSEN: THAT'S CORRECT, AND YOUR HONOR HAS WIDE
17 DISCRETION IS MY UNDERSTANDING. YOU CAN GIVE THE SPECIAL
18 ADMINISTRATOR CERTAIN POWERS, AND, OF COURSE, ALL OF THIS
19 IS SUBJECT TO YOUR REVIEW. IF YOU APPOINT A SPECIAL
20 ADMINISTRATOR -- LET'S SAY WE GOT THE MOST HONEST C.P.A.
21 IN SOUTH CAROLINA AND WE ALL AGREED THAT HE WAS THE RIGHT
22 PERSON. HE CAN REPORT TO THE COURT. THAT'S WHAT HE WOULD
23 DO. HE WOULD REPORT TO THE PARTIES. HE WOULD PROTECT THE
24 P.R. IN THE SENSE THAT IF HE SAID THE DEAL IN NEW YORK WAS
25 IN THE INTEREST OF THE ESTATE, WELL, THEN, NO ONE COULD

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

COURT OF COMMON PLEAS
07-CP-02-0122

IN RE: ESTATE OF JAMES BROWN)
A/K/A JAMES JOSEPH BROWN)

TRANSCRIPT OF RECORD

JUNE 13, 2007
AIKEN, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DOYET A. EARLY, III, JUDGE.

A P P E A R A N C E S:

LOUIS LEVENSON, ESQ.
ATTORNEY FOR THE HEIRS

KEITH M. BABCOCK, ESQ.
ATTORNEY FOR THE PERSONAL REPRESENTATIVES

ROBERT N. ROSEN, ESQ.
ATTORNEY FOR TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQ.
ATTORNEY FOR THE GUARDIAN AD LITEM

ANGELA CHRISTY TYNER, ESQ.
ATTORNEY FOR CERTAIN HEIRS

WILLIAM F. HAMMOND, ESQ.

LISA H. HICKLIN
OFFICIAL COURT REPORTER

1 MR. BABCOCK: NO, IT'S NOT, BUT IT DOES GO TO THE
2 EXTENT OF DISCOVERY THAT MR. LEVENSON BASED UPON WHAT'S
3 BEFORE THE COURT SHOULD BE ABLE TO DO. OBVIOUSLY, YOU
4 KNOW, GOING TO NEW YORK AND DOING THOSE DEPOSITIONS --

5 THE COURT: HE IS NOT ATTACKING THE EXISTENCE OF THE
6 TRUST OR WILL BY TRYING TO FIND OUT WHERE THE MONEY WENT
7 THAT MAY SHOULD HAVE GONE INTO THE TRUST THAT HIS CLIENT
8 HAD A POTENTIAL INTEREST IN.

9 MR. BABCOCK: BUT THE CLIENTS' POTENTIAL INTEREST,
10 YOUR HONOR, INVOLVES WHAT AT MAXIMUM WOULD BE A \$2 MILLION
11 EDUCATIONAL TRUST. THAT'S THE ISSUE, AND IF THERE IS
12 \$2 MILLION AT THE END OF THE DAY, THEN THERE'S YOU KNOW,
13 THAT'S ALL THERE IS.

14 THE COURT: I AM SORT OF INTERESTED IN WHERE IT WENT.

15 MR. HAMMOND: JUDGE, CAN I MAKE ONE COMMENT?

16 THE COURT: YOU MAY. STAND UP.

17 MR. HAMMOND: IF I TOLD YOU TODAY IN 1999 WHEN THEY
18 DID THE BOND DEAL THAT WE HANDED MR. BROWN \$15 MILLION IN
19 1999, NONE OF THAT WENT IN THE TRUST. WE DON'T KNOW WHERE
20 IT WENT, AND WHO IS GOING TO TRACE IT, AND WHO IS GOING TO
21 DETERMINE WHAT HE DID WITH IT?

22 THE COURT: WELL, CAN YOU TELL ME THAT?

23 MR. HAMMOND: NO. NOBODY IN THE WORLD CAN TELL YOU
24 THAT.

25 THE COURT: WELL, THIS MORGAN STANLEY GUY CAN SAY I

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

COURT OF COMMON PLEAS
07-CP-02-122

IN RE: ESTATE OF JAMES BROWN)
A/K/A JAMES JOSEPH BROWN)

TRANSCRIPT OF RECORD

SEPTEMBER 24, 2007
AIKEN, SOUTH CAROLINA

B E F O R E:

THE HONORABLE D.A. EARLY, III, JUDGE.

A P P E A R A N C E S:

LOUIS LEVENSON, ESQ.
DAVID YOUNT, ESQ.
ATTORNEYS FOR THE HEIRS

KEITH M. BABCOCK, ESQ.
W. JONATHAN HARLING, ESQ.
ATTORNEYS FOR THE PERSONAL REPRESENTATIVES

ROBERT N. ROSEN, ESQ.
DAVID L. MICHEL, ESQ.
T. HEYWARD CARTER, JR., ESQ.
S. ALAN MEDLIN, ESQ.
J.W. NELSON CHANDLER, ESQ.
ATTORNEYS FOR TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQ.
ATTORNEY FOR THE GUARDIAN AD LITEM

STANLEY G. JACKSON, ESQ.
ATTORNEY FOR MR. DALLAS AND MR. BRADLEY

1 NOW, ON THAT FIRST RECOMMENDATION AT THE HEARING THAT
2 WE HELD IN THIS COURT ON AUGUST 10, 2007 AT WHICH TIME
3 MR. CANNON RESIGNED HIS POSITION AS SPECIAL ADMINISTRATOR
4 -- STRIKE THAT -- AS PERSONAL REPRESENTATIVE AND TRUSTEE
5 OF THE VARIOUS TRUSTS AND AT WHICH TIME HE TENDERED OVER
6 TO THE COURT THE SUM OF \$350,000, AT THAT TIME I ORDERED
7 MR. CANNON TO MAKE A FULL ACCOUNTING TO THE SPECIAL
8 ADMINISTRATORS WITHIN 30 DAYS. THAT WOULD HAVE BEEN
9 SEPTEMBER 10, 2007.

10 MRS. POPE, MR. BUCHANAN, HAS THAT ACCOUNTING BEEN
11 MADE?

12 MR. BUCHANAN: YOUR HONOR, WE'VE NOT RECEIVED IT.

13 THE COURT: MR. BLAND, MR. RICHTER, I AM GOING TO
14 CALL YOUR CLIENT AND FIND OUT WHY IT HAS NOT BEEN MADE.
15 MR. CANNON, COME AROUND, PLEASE.

16 MR. BLAND: YOUR HONOR, CAN WE FIRST ADDRESS SOME
17 MATTERS ON RECORD BEFORE YOU CALL MR. CANNON?

18 THE COURT: SUCH AS?

19 MR. BLAND: WE'D FIRST LIKE TO DISCLOSE TO THE COURT
20 THAT WE WERE NOT RETAINED UNTIL ABOUT A WEEK AGO AND SINCE
21 THAT TIME WE ARE PREPARED TODAY TO PRODUCE DOCUMENTS IN
22 CONNECTION WITH THE ACCOUNTING THAT I BELIEVE YOUR HONOR
23 ORDERED ON THE TENTH AT THE HEARING EVEN THOUGH I HAVEN'T
24 SEEN A WRITTEN ORDER. WHAT'S HAPPENED, THOUGH, SINCE
25 AUGUST 10 IS THE OTHER PARTIES HAVE KIND OF ADDED TO WHAT

1 MISTAKEN BELIEF THAT MR. CANNON HAS SIMPLY IGNORED THE
2 DIRECTIVES FROM THE BENCH. HE HAS SOUGHT TO COMPLY WITH
3 WHAT YOU ORDERED TODAY.

4 THE COURT: MR. RICHTER, MR. BLAND, THE COURT IS VERY
5 CONCERNED THAT IT WAS NOT DONE TIMELY. THERE IS NO --
6 THERE IS NO AMBIGUITY. IT WAS CLEAR AS IT COULD BE, CLEAR
7 AS A BELL. IF YOU CAN'T COMPLY WITH THE COURT ORDER I
8 DON'T KNOW WHAT TO DO WITH SOMEBODY OTHER THAN HOLD THEM
9 IN CONTEMPT. IT FURTHER CONCERNS ME THAT THE SPECIAL
10 ADMINISTRATOR NOW SAYS THEY ALLEGE THAT LOSSES NOW MAY
11 EXCEED \$7 MILLION. HAD THIS INFORMATION BEEN TIMELY
12 PROVIDED, WE COULD PERHAPS BE MORE KNOWLEDGEABLE ABOUT
13 THAT BELIEF THAT THEY HAD.

14 MR. RICHTER: YOUR HONOR, ONE OF THE ITEM OF
15 PARTICULAR CONCERN AS I UNDERSTAND IT WAS A \$5 MILLION
16 CHECK THAT DID NOT HAVE THE PAID-TO SIGN LINE FILLED IN.
17 THAT CHECK IS REPRESENTED IN THE DOCUMENTS THAT ARE BEING
18 PRODUCED. I DON'T WANT TO MISSTATE ANYTHING TO THE COURT.
19 MY UNDERSTANDING IS THAT THE PAPER TRAIL WILL SHOW THAT
20 THOSE FUNDS WERE WIRE TRANSFERRED INTO MORGAN STANLEY.
21 THEY DEPOSED THE MORGAN STANLEY REPRESENTATIVE MR. LIZZIO.
22 I GATHERED THEY UNDERSTAND FROM MR. LIZZIO WHAT ULTIMATELY
23 BECAME OF THOSE FUNDS, BUT I BELIEVE THAT THE PRODUCTION
24 THAT WE HAVE WILL SHOW AND WILL ACCOUNT SPECIFICALLY FOR
25 THAT ONE ITEM.

1 COSTS IF LITIGATION DETERMINED BENEFICIAL TO THE TRUST,
2 AND, CLEARLY, YOUR HONOR, WHAT ALL COUNSEL HERE HAVE DONE
3 IS HELP BRING TO THE ATTENTION OF THE COURT THAT THERE ARE
4 MATTERS THAT BUT FOR THE INTERVENTION OF LAWYERS WOULD NOT
5 HAVE BEEN DISCOVERED AND SOMEONE HAS TO PAY FOR THAT AND
6 THE PROBLEM IS, JUDGE, IF THAT MONEY IS NOT ORDERED TO BE
7 PAID SOONER, IT MAY GO ELSEWHERE, AND I MEAN NO DISRESPECT
8 TO MY BROTHERS AT THE BAR, BUT THE REALITY IS THE DEFENSE
9 OF THE CLAIM IS NOT AS IMPORTANT AS THOSE WHO HAVE BROUGHT
10 TO THE ATTENTION OF THE COURT THE PROBLEMS WITH THE
11 CLAIM -- THE SPECIAL ADMINISTRATORS' FEES, THE LAWYERS'
12 FEES WHICH HAVE NOT BEEN CONSIDERED AND AWARDED BY THE
13 COURT AND I WOULD RESPECTFULLY URGE YOUR HONOR TO EXERCISE
14 YOUR DISCRETION TO SET A SUM CONSISTENT WITH THE TOTALITY
15 OF THE CIRCUMSTANCES.

16 MRS. POPE AND BUCHANAN SAY IT'S \$7 MILLION OR MORE OF
17 MISSING MONIES. NOW, TO UNCOVER AND REVEAL THE TRUTH OF
18 THOSE CIRCUMSTANCES IS GOING TO TAKE MORE THAN A \$250
19 NOMINAL SUM TO RECOMPENSE THE PARTIES AND BRING TO THE
20 ATTENTION OF THE COURT THE PROBLEMS. I AM NOT SAYING WHO
21 SHOULD BE AWARDED IT. I AM NOT SAYING YOUR HONOR TO WRITE
22 A CHECK TO MY OFFICE, BUT I THINK THERE SHOULD BE A SUM IN
23 THE REGISTRY OF THE ESTATE AND OR THE TRUST AVAILABLE FOR
24 SUCH COMPENSATION IF YOUR HONOR DECIDES IT'S APPROPRIATE.
25 I WOULD ASK FOR THAT AWARD.

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

COURT OF COMMON PLEAS
07-CP-02-122

IN RE: ESTATE OF JAMES BROWN)
A/K/A JAMES JOSEPH BROWN)

TRANSCRIPT OF RECORD

NOVEMBER 15 & 20, 2007
BAMBERG, SOUTH CAROLINA

B E F O R E:

THE HONORABLE D.A. EARLY, III, JUDGE.

A P P E A R A N C E S:

LOUIS LEVENSON, ESQ.
DAVID YOUNT, ESQ.
ATTORNEYS FOR THE HEIRS

KEITH M. BABCOCK, ESQ.
W. JONATHAN HARLING, ESQ.
ATTORNEYS FOR THE PERSONAL REPRESENTATIVES

ROBERT N. ROSEN, ESQ.
DAVID L. MICHEL, ESQ.
M. JEAN LEE, ESQ.
S. ALAN MEDLIN, ESQ.
ATTORNEYS FOR TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS

A. PETER SHAHID, JR., ESQ. (11/20)
ATTORNEY FOR THE GUARDIAN AD LITEM

STANLEY G. JACKSON, ESQ.
ATTORNEY FOR MR. DALLAS AND MR. BRADLEY

1 BROWN AS GRANTOR, SAID ACTION IN THE SUPERIOR COURT OF
2 RICHMOND COUNTY, CIVIL ACTION FILE NO. 2001-RCCV-728, A
3 DEPOSITION GIVEN UNDER OATH THE 18TH DAY OF JULY 2002 WITH
4 YOUR ATTORNEY MR. DALLAS PRESENT? DO YOU RECALL GIVING
5 DEPOSITION TESTIMONY AT THAT TIME?

6 THE WITNESS: I WAS DEPOSED AT THAT TIME, YES.

7 Q DO YOU RECALL BEING ASKED IF YOU HAD A COMMISSION OF
8 LIKE OVER \$4.9 MILLION? WAS THAT RELATED TO YOUR
9 NEGOTIATING AND GETTING THE DEAL DONE? DO YOU RECALL
10 BEING ASKED THAT QUESTION?

11 MR. RICHTER: YOUR HONOR, I AM GOING TO OBJECT TO HIM
12 ASKING THIS QUESTION. IN 2002 THERE WAS NO JEOPARDY, NOR
13 WAS THERE ANY THREAT OF JEOPARDY. HE HAS INVOKED HIS
14 RIGHT AS TO THE BASIS OF ANY PAYMENT. IF MR. LEVENSON
15 WANTS TO MOVE INTO EVIDENCE OR PUBLISH PORTIONS OF A
16 DEPOSITION TRANSCRIPT, HE CAN FOLLOW THE RULE IN THAT
17 REGARD, BUT AS FAR AS ASKING THE WITNESS QUESTIONS IN THAT
18 REGARD I WOULD ASK HIM TO INVOKE HIS RIGHT.

19 MR. LEVENSON: MAY I RESPOND TO HIS OBJECTION? THE
20 ISSUE IS WILLFULNESS. THAT'S EVIDENTLY THE ISSUE THAT
21 THIS GENTLEMAN HAS PLACED BEFORE YOUR HONOR IN ORDER TO
22 AVOID WHATEVER SANCTION MIGHT BE APPROPRIATE UPON ONE WHO
23 IS WILLFULLY IN VIOLATION OF AN ORDER OF THE COURT, AND I
24 AM ATTEMPTING TO INDUCE EVIDENCE TO HELP YOUR HONOR
25 UNDERSTAND AS THE FINDER OF FACT WHETHER THIS WITNESS IS

1 COMPLETED.

2 Q NOW, SOMETIME AFTER AUGUST 10, 2007 DID YOU COME TO
3 LEARN THAT AMENDED CORPORATE TAX RETURNS KNOWN AS 1120X'S
4 FOR THE "C" CORPORATION KNOWN AS JAMES BROWN ENTERPRISES
5 FILED AMENDED TAX RETURNS FOR 2004, 2005, AND 2006?

6 A THAT'S CORRECT.

7 Q TELL THE COURT WHAT YOU KNOW ABOUT AS HOW THOSE TAX
8 RETURNS -- STRIKE THAT -- HOW THOSE AMENDED TAX RETURNS
9 FOR '04, '05 AND '06 GOT FILED.

10 A BILL HAMMOND LOOKED AT THE TAX RETURNS AND DISCUSSED
11 THEM WITH PHIL FARR AND I. WE KNEW THAT WE -- I THINK WE
12 DID 2003, TOO, DIDN'T WE?

13 THE COURT: IT DOESN'T MATTER. GO AHEAD.

14 THE WITNESS: I THINK. AND BILL HAMMOND EXPLAINED
15 THAT WE HAD TO AMEND THOSE RETURNS AND DO CERTAIN THINGS
16 IN ORDER FOR THE TRUST TO MAINTAIN ITS 5013C STATUS. HE
17 SAID HE THOUGHT IT WOULD BE ALL RIGHT THE WAY THEY WERE,
18 BUT IF WE AMENDED IT THEN HE KNEW IT WOULD BE LOCKED IN.
19 WE HAD TO FILE THESE TAX RETURNS AND AMEND THEM BECAUSE IF
20 THE 5013C WAS LOST, IT WOULD COST \$39 MILLION IN TAXES TO
21 JAMES BROWN ENTERPRISES AND WE KNEW BY TALKING TO
22 MRS. POPE THAT THEY WERE NOT GOING TO BE FILED, AND, SO, I
23 FELT THAT SINCE I HAD HAD THE RESPONSIBILITY AND PHIL FARR
24 FELT THAT HE HAD HAD THE RESPONSIBILITY THAT WE WANTED TO
25 AMEND THOSE RETURNS IN ORDER TO KEEP THE JAMES BROWN

1 MR. RICHTER: YOUR HONOR, WITH REGARD TO THE FURTHER
2 INQUIRY INTO THE SUBJECT MATTER OF THE PREPARATION AND
3 FILING OF THE AMENDED RETURNS I WOULD ADVISE THE CLIENT TO
4 ASSERT HIS FIFTH AMENDMENT RIGHTS.

5 MR. LEVENSON: RESPECTFULLY, JUDGE -- WELL, I'M
6 SORRY. I WON'T RESPOND.

7 THE COURT: I AM GOING TO BE OVERLY CAUTIOUS WITH
8 HIM. HE'S --

9 MR. LEVENSON: WELL, MR. CANNON, DO YOU --

10 THE COURT: THE TESTIMONY HAS JUST BEEN INCREDIBLE UP
11 TO NOW. BASICALLY, WHAT YOU'RE ASKING IS REDUNDANT.

12 Q MR. CANNON, DO YOU HAVE AN ANSWER NOW THAT YOU'VE
13 HEARD YOUR COUNSEL'S ADVICE?

14 A I WILL TAKE THE ADVICE OF MY COUNSEL.

15 Q AND REFUSE TO ANSWER THE QUESTION?

16 A I TAKE THE ADVICE OF MY COUNSEL.

17 Q MR. CANNON, WITH RESPECT TO THE ACCOUNTING DID YOU
18 EVER ISSUE A CHECK IN THE AMOUNT OF \$5 MILLION OUT OF THE
19 ACCOUNT OF JAMES BROWN ENTERPRISES WITH NO PAYEE ON IT?
20 LET ME MARK -- WHAT ARE WE UP TO, PLEASE, MA'AM?

21 THE COURT REPORTER: TWENTY-TWO.

22 MR. LEVENSON: TWENTY-TWO.

23 (WHEREUPON, COURT'S EXHIBIT NO. 22 WAS MARKED FOR
24 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

25 Q LET ME SHOW YOU EXHIBIT 22. I ASK YOU IF YOU

1 THE WITNESS: I DON'T RECALL ANYTHING GENERALLY.

2 THE COURT: WAS THERE ANY CONVERSATION THAT YOU
3 ADVISED HIM TO AMEND THE RETURNS AND IT WOULD SAVE THE
4 ESTATE SOME 39 -- \$30 MILLION?

5 THE WITNESS: WELL, THE ONLY THING THAT I CAN THINK
6 OF THAT WOULD HAVE INVOLVED ME SAYING SOMETHING ABOUT 39
7 -- \$39 MILLION SOUNDS LIKE THE DEDUCTION THAT WOULD HAVE
8 BEEN AVAILABLE TO THE ESTATE IF THE "I FEEL GOOD" TRUST
9 WAS A 501C3, AND AT ONE PARTICULAR TIME WAY BACK WE
10 OBTAINED SOME INFORMATION THAT AN EXTENSION HAD BEEN FILED
11 FOR JAMES BROWN ENTERPRISE AND THAT EXTENSION WAS AN 1120S
12 WHICH IS AN "S" CORPORATION EXTENSION AND --

13 THE COURT: THAT'S WAY BEFORE AUGUST 10 OF 2007,
14 ISN'T IT?

15 THE WITNESS: THAT'S RIGHT, BUT, I MEAN, IN
16 DETERMINING WHAT STATUS WAS I'M TRYING TO FIGURE OUT WHERE
17 THIS CONVERSATION CAME FROM ABOUT THE 39 MILLION. I NEVER
18 TOLD ANYBODY THAT THERE HAD TO BE AMENDED RETURNS FOR ANY
19 TAX PURPOSE OTHER THAN THERE WAS MILLIONS OF DOLLARS OF
20 UNREPORTED INCOME AND DEDUCTIONS THAT NEEDED TO BE
21 REFLECTED IN THE RETURNS.

22 THE COURT: MILLIONS OF DOLLARS OF UNREPORTED INCOME?

23 THE WITNESS: INCOME AND DEDUCTIONS GOING BOTH WAYS.

24 THE COURT: ALL RIGHT. LET'S BE VERY SPECIFIC. AT
25 THE HEARING LAST WEEK MR. CANNON SAID NOTWITHSTANDING THE

2009.04.06

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

COURT OF COMMON PLEAS
08-CP-02-1647

HENRY MCMASTER,)
PLAINTIFF,)
V.)
RUSSELL BAUKNIGHT, ET AL.,)
DEFENDANTS.)

TRANSCRIPT OF RECORD

APRIL 6, 2009
AIKEN, SOUTH CAROLINA

B E F O R E :

THE HONORABLE DOYET A. EARLY, III, JUDGE.

A P P E A R A N C E S :

LOUIS LEVENSON, ESQ.
ATTORNEY FOR THE THE HEIRS

ROBERT N. ROSEN, ESQ.
DAVID L. MICHEL, ESQ.
T. HEYWARD CARTER, ESQ.
S. ALAN MEDLIN, ESQ.
ATTORNEYS FOR TOMI RAE HYNIE BROWN

ADELE J. POPE, ESQ.
ROBERT L. BUCHANAN, JR., ESQ.
SPECIAL ADMINISTRATORS/PERSONAL REPRESENTATIVES

A. PETER SHAHID, JR., ESQ.
ATTORNEY FOR THE GUARDIAN AD LITEM

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STEPHEN M. SLOTCHIVER, ESQ.
GUARDIAN AD LITEM

DAVID B. BELL, ESQ.
MATTHEW D. BODMAN, ESQ.
ATTORNEYS FOR TERRY BROWN, FORLANDO BROWN, AND
ROMUNZO BROWN

C. HAVIRD JONES, ESQ.
JULIUS C. NICHOLSON, III, ESQ.
SOUTH CAROLINA ATTORNEY GENERAL'S OFFICE

R. WAYNE BYRD, ESQ.
ATTORNEY FOR MR. DALLAS AND MR. BRADLEY

JAMES D. BAILEY, ESQ.
TRESSA T. H. HAYES, ESQ.
ATTORNEYS FOR THE PERSONAL REPRESENTATIVES

MAX N. PICKELSIMER, ESQ.
ATTORNEY FOR MR. CANNON

SONJA R. TATE, ESQ.
ATTORNEY FOR MR. DALLAS

KAYMANI D. WEST, ESQ.
ATTORNEY FOR GREENBERG TRAUERIG

DARYL L. WILLIAMS, ESQ.
ATTORNEY RELATED TO FEDERAL LITIGATION

FRED L. KINGSMORE, JR., ESQ.
ATTORNEY FOR RUSSELL L. BAUKNIGHT

LISA H. DAVENPORT
OFFICIAL COURT REPORTER

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I N D E X . O F W I T N E S S E S

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♀

1 THE COURT: YES, SIR.

2 MR. MEDLIN: SURE. YOUR HONOR, WE HAVE ON OUR TEAM

3 WHAT I CONSIDER TO BE AMONG THE BEST TAX LAWYERS, NOT JUST
4 IN THE STATE OF SOUTH CAROLINA, BUT IN THE COUNTRY.
5 HEYWARD CARTER AND PATTY SCARBOROUGH WHO ARE HERE TODAY
6 FROM HIS FIRM -- EDWARD BENNETT, HENRY CHANDLER, JEAN LEE
7 FROM HIS FIRM HAVE ALL BEEN INVOLVED PRIMARILY WITH THE
8 DETERMINATION OF TAX ISSUES, AND, YOUR HONOR, I CAN ASSURE
9 YOU THAT WE HAVE WORKED DILIGENTLY TO BE CONCERNED WITH
10 AND TO TRY TO DEAL WITH AND COVER ALL OF THE TAX CONCERNS
11 THAT EXIST, NOT JUST WITH RESPECT TO THE CHARITABLE --

12 MR. BAILEY: YOUR HONOR --

13 THE COURT: YES?

14 MR. BAILEY: I AM GOING TO OBJECT. THERE IS NO
15 TESTIMONY BEING PRESENTED. THIS IS SIMPLY A LEGAL
16 STATEMENT FROM -- ARGUMENT, RATHER, FROM COUNSEL. WE HAVE
17 NO TESTIMONY. WE HAVE NO OPPORTUNITY TO CROSS EXAMINE.

18 THE COURT: YOUR OBJECTION IS NOTED. I ASKED FOR A
19 REPRESENTATION OF COUNSEL AS TO WHAT THEY'VE DONE. I AM
20 GOING TO ALLOW IT TO BE DONE AT THIS TIME.

21 MR. MEDLIN: YOUR HONOR, I HAVE THE RESUMES OF
22 MR. CARTER, ET AL., IF YOU'D LIKE TO SEE THEM.

23 THE COURT: I WOULD. LET'S MAKE THEM PART OF THE
24 RECORD. YOUR HONOR, IF I MAY, THIS PACKET SHOULD INCLUDE
25 THE RESUME OF MR. CARTER, MS. SCARBOROUGH, MS. LEE,

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1 MR. CHANDLER, AND MR. BENNETT.

2 (WHEREUPON, MEDLIN'S EXHIBIT NO. 11 WAS MARKED FOR
3 IDENTIFICATION ONLY.)

4 THE COURT: YOU MAY PROCEED.

5 MR. MEDLIN: FIRST OFF, IT IS OF PARAMOUNT IMPORTANCE
6 TO EVERY ONE OF THE SETTLING PARTIES THAT TAXES BE SAVED

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7 WHERE FEASIBLE AND THAT THE CHARITABLE EXEMPTION FOR THE
8 CHARITABLE TRUST BE PROTECTED, AND IN EVERY DOCUMENT THAT
9 WE HAVE SIGNED, YOUR HONOR, WE HAVE RECOGNIZED THAT IF FOR
10 ANY REASON WE MIGHT BE WRONG -- BECAUSE WE DISAGREE WITH
11 MR. RUFF IN A NUMBER OF WAYS -- BUT IF FOR ANY REASON WE
12 MAY BE WRONG, WE WILL DO WHATEVER IT TAKES TO CURE THE
13 PROBLEM EVEN IF IT MEANS A DETRIMENT TO MY CLIENT,
14 MR. LEVENSON'S CLIENTS, OR MR. BELL'S CLIENTS. WE'RE
15 GOING TO PROTECT THE CHARITABLE EXEMPTION.

16 THE ATTORNEY GENERAL IS GOING TO INSIST THAT WE
17 PROTECT THE CHARITABLE EXEMPTION. SO, EVEN THOUGH IN
18 COMING TO THE DETERMINATION ABOUT WHETHER TO SETTLE AS WE
19 HAVE DISCUSSED IN THIS COURTROOM BEFORE, YOUR HONOR, IT
20 REALLY IS JUST A QUESTION OF THE ULTIMATE DOLLARS THAT GO
21 TO THE CHARITY, AND WE WILL ARGUE LATER, YOUR HONOR, THAT
22 THE CHARITY HAS DONE VERY WELL BY THIS SETTLEMENT. IN
23 FACT, PERHAPS BETTER THAN IT WOULD HAVE DONE IN ANY OTHER
24 CIRCUMSTANCE, BUT EVEN THEN WE STILL ARE DEDICATED TO
25 PROTECTING THE CHARITABLE EXEMPTION.

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1 MRS. POPE TESTIFIED THAT I TOLD HER THAT WE DIDN'T
2 HAVE AN ACCOUNTANT BACK IN AUGUST. YOUR HONOR, I'M NOT --

3 THE COURT: I JUST WANT TO KNOW WHAT Y'ALL HAVE DONE
4 BY WAY OF DUE DILIGENCE, NOT WHAT MRS. POPE SAID.

5 MR. MEDLIN: I UNDERSTAND, YOUR HONOR, BUT THE POINT
6 BEING SIMPLY WE DON'T HAVE AN ACCOUNTANT BECAUSE WE HAVE
7 SOME OF THE BEST TAX LAWYERS IN THE COUNTRY. YOUR HONOR,
8 I HAVE ALSO SOUGHT VARIOUS OPINIONS FROM OTHER TAX EXPERTS
9 IN THE COUNTRY, BUT I WOULD RATHER YOUR HONOR BE ALLOWED
10 TO KEEP THAT CONFIDENTIAL BECAUSE THEY DID SO AS A FAVOR
11 TO ME AND I JUST DON'T THINK THEY SHOULD BE BROUGHT INTO

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12 IN ANY WAY THIS CASE. SO, WE'RE NOT RELYING ON THEIR
13 OPINIONS, BUT YOU'VE ASKED HOW MUCH DUE DILIGENCE WE HAVE
14 DONE. IT IS PLENTY.

15 THE COURT: WELL, AS A RESULT OF YOUR DUE DILIGENCE
16 ARE -- IS YOUR TEAM OF THE OPINION, NUMBER ONE, THAT THE
17 TRUST AS PERTAINS TO THE NEEDY CHILDREN WILL QUALIFY?

18 MR. MEDLIN: WE ARE OF THAT OPINION, YOUR HONOR. WE
19 BELIEVE THAT THE FIRST CONCERN MENTIONED BY MR. ROOF WHICH
20 IS THAT THERE IS NOT A DIRECT PASSING IS, IN FACT, NOT A
21 CONCERN. THERE IS A DIRECT PASSING WE BELIEVE TO THE
22 CHARITY THE WAY WE STRUCTURED THE OVERALL SETTLEMENT AND
23 OUR UNDERSTANDING IS THAT EVERYBODY IS CONTRIBUTING BACK
24 TO WHAT IS, IN EFFECT, AN INVESTMENT.

25 THE COURT: YOU ARE COGNIZANT OF THAT ISSUE AND

82

1 CONCERN IN DRAFTING THE DOCUMENTS?

2 MR. MEDLIN: YES, WE WERE, YOUR HONOR. IN FACT, FROM
3 THE VERY FIRST DRAFT -- AND I DON'T HOLD MYSELF OUT TO BE
4 A TAX EXPERT. LET ME MAKE CLEAR FOR THE COURT, BUT FROM
5 THE VERY FIRST DRAFT WHICH I PARTICIPATED IN THE HEAT OF
6 THE MEDIATION ON AUGUST 10 WE WERE CONCERNED ABOUT THAT
7 ISSUE, AND, SO, THAT HAS BEEN A COMMON THEME THROUGHOUT
8 ALL OF THE VARIOUS ITERATIONS OF THE SETTLEMENT AS WE HAVE
9 IMPROVED IT AS WE BROUGHT MR. BELL'S CLIENT ON BOARD.

10 Q BUT, AGAIN, MR. BELL'S CLIENT WAS ALSO HAPPY TO SIGN
11 AN AGREEMENT THAT SAID WE'RE GOING TO PRESERVE THAT
12 CHARITABLE EXEMPTION. WE THINK THERE ARE SEVERAL WAYS TO
13 DEAL WITH THE SO-CALLED SELF-DEALING CONCERN ABOUT THE
14 RIGHT OF FIRST REFUSAL. THE FIRST IS UNDER THE
15 ADMINISTRATION EXCEPTION. NOW, PART OF THIS IS BECAUSE WE

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16 TAKE THE POSITION THAT MR. BROWN'S 2000 TRUST IS VALID,
17 WAS, IN FACT, DEEMED TO BE A REVOCABLE TRUST BASED ON
18 TESTIMONY FROM THE TRUSTEES AND, IN FACT, BASED ON
19 TESTIMONY FROM MRS. POPE ABOUT HOW MUCH CONTROL MR. BROWN
20 INSISTED ON RETAINING. THEN WE WOULD DEEM THAT TO BE A
21 REVOCABLE TRUST AND THAT GIVES US THE TRIGGER TO ASK FOR
22 THE ADMINISTRATIVE EXCEPTION -- THE ADMINISTRATION
23 EXCEPTION, I SHOULD SAY.

24 BUT THERE ARE OTHER WAYS TO FIX THIS. WE CAN CONVERT
25 FROM THE PRIVATE FOUNDATION WHICH IS HOW MRS. POPE AND

83

1 MR. BUCHANAN QUALIFIED THE CHARITABLE TRUST. WE CAN
2 CONVERT TO A PUBLIC CHARITY AND AS MR. RUFF HIMSELF NOTED
3 THE SELF-DEALING CONCERNS GO AWAY.

4 THE COURT: HAVE YOU DONE THAT?

5 MR. MEDLIN: WELL, YOUR HONOR, WE CAN'T DO ANYTHING
6 UNTIL WE HAVE CONTROL OF THE SETTLEMENT ENTITY.

7 THE COURT: BUT YOU HAVE CONSIDERED IT AND KNOW THAT
8 OPTION IS AVAILABLE?

9 MR. MEDLIN: ABSOLUTELY, YOUR HONOR. AND, SO, THE
10 CONVERSION TO A PUBLIC CHARITY IS ANOTHER OPTION, BUT EVEN
11 IF THESE DIDN'T WORK, THEN WE'RE DEDICATED TO REMOVING
12 WHAT OTHER PROVISIONS MIGHT OTHERWISE CAUSE A PROBLEM FOR
13 THE CHARITABLE EXEMPTION AND THAT WOULD BE OUR LAST
14 RESORT, BUT IT WOULD BE A RESORT, YOUR HONOR.

15 NOW, WITH RESPECT TO PRIVATE LETTER RULINGS IT IS
16 CERTAINLY SOMETHING THAT WE WOULD CONSIDER DOING. IN
17 FACT, WE MAY WELL ASK FOR AT LEAST ONE PRIVATE LETTER
18 RULING AND MAYBE MORE. WE'RE FAMILIAR WITH PRIVATE LETTER
19 RULINGS, YOUR HONOR, AND LET ME SUGGEST THAT OUR COUNSEL
20 HAS BEEN INVOLVED IN FAR MORE THAN JUST TWO REQUESTS FOR

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21 PRIVATE LETTER RULINGS IN THEIR CAREERS. WE KNOW VERY
22 WELL WHAT A PRIVATE LETTER RULING IS ABOUT WHICH IS A
23 REQUEST OF THE IRS TO BLESS THIS PARTICULAR SITUATION, AND
24 WHAT WE WOULD SUBMIT TO THE COURT IS THAT NONE OF US HAS
25 EVER BEEN INVOLVED IN THE REQUEST FROM THE IRS FOR A

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1 FAVORABLE PRIVATE LETTER RULING WHEN THE FIDUCIARIES ARE
2 VEHEMENTLY OPPOSED TO THE DEAL. THAT'S A SURE -- THAT'S A
3 CERTAINTY WE THINK THAT THE IRS WOULD REJECT THE PRIVATE
4 LETTER RULING REQUEST.

5 THE FIDUCIARIES WHO ARE OPPOSED TO THE VERY DEAL THAT
6 WE'RE ASKING THE IRS TO APPROVE ARE GOING TO BE OPPOSED TO
7 IT AND THE IRS IS GOING TO TAKE ADVANTAGE OF THAT. ONCE A
8 FIDUCIARY WHO IS NOT OPPOSED TO THE SETTLEMENT IS IN
9 PLACE, YOUR HONOR, THAT WOULD BE THE APPROPRIATE TIME TO
10 GET A PRIVATE LETTER RULING. AGAIN, WE INTEND FOR THE
11 ATTORNEY GENERAL TO DRIVE THAT BUS. THE ATTORNEY GENERAL
12 IS GOING TO BE THE PERSON THAT WE LISTEN TO WHEN WE MAKE
13 DECISIONS ABOUT WHETHER WE ASK FOR THIS PLR OR WHETHER WE
14 ASK FOR ANOTHER PLR BASED ON THE RESULTS OF THAT FIRST
15 PARTICULAR PLR AND, AGAIN, BECAUSE WE'RE DEDICATED TO
16 PRESERVING THE CHARITABLE EXEMPTION.

17 FINALLY, WITH RESPECT TO THE MARITAL DEDUCTION, AS
18 MR. RUFF HIMSELF ADMITTED IT WOULD BE EXTRAORDINARY IN A
19 NORMAL CASE WHEN YOU HAVE THE FACTS THAT WE HAVE WHERE NO
20 ONE ELSE CAN OBJECT OTHER THAN POSSIBLY MR. AHMED TO ASK
21 FOR A DETERMINATION FROM THE SUPREME COURT OF SOUTH
22 CAROLINA, BUT, YOUR HONOR, THAT CERTAINLY IS FAIR GAME FOR
23 A PRIVATE LETTER RULING, AND WE MAY WELL ASK FOR THAT
24 ISSUE TO BE DETERMINED IN A PRIVATE LETTER RULING.

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25 SO, WE HAVE DONE A LOT OF DUE DILIGENCE. WE HAVE

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1 CIRCULATED AMONG US A PARED DOWN 11-PAGE MEMORANDUM THAT
2 MR. JONES TOLD ME YESTERDAY HAD SOMETHING WEIGHTY IN EVERY
3 SINGLE SENTENCE. THIS IS NOT SOMETHING THAT WE'RE TAKING
4 LIGHTLY. THIS IS SOMETHING THAT WE BELIEVE IS DOABLE, AND
5 THIS IS SOMETHING THAT WE ARE GOING TO ENSURE IS DOABLE
6 BECAUSE, AGAIN, THE ATTORNEY GENERAL IS GOING TO MAKE US
7 DO IT. SO, WHATEVER IT TAKES TO FIX IT, YOUR HONOR, WE'RE
8 GOING TO FIX IT, IF, IN FACT, THERE IS EVEN A PROBLEM.

9 THE COURT: MR. JONES, ANYTHING YOU WANT TO ADD TO
10 THAT? I ASSUME THAT Y'ALL ALL STAND BY WHAT THE PROFESSOR
11 SAYS?

12 MR. JONES: YES, SIR, YOUR HONOR. I WOULD ALSO SAY
13 THAT I AM NOT A TAX EXPERT. I REVIEWED THE INFORMATION AS
14 PROVIDED TO US FROM THE TAX EXPERTS AND I THINK AS
15 REPRESENTED TO THE COURT THAT THE ATTORNEY GENERAL IS
16 GOING TO PROTECT THE CHARITABLE TRUST AS SET FORTH IN THE
17 SETTLEMENT ENTITY AND WE'RE GOING TO DO EVERYTHING TO MAKE
18 SURE IT IS TAKEN CARE OF AND WE HAVE A CONTROL OVER THE
19 CHARITABLE TRUST AND THE SETTLEMENT ENTITY WITH THAT IN
20 MIND. SO, WE'LL MAKE SURE THAT THIS CHARITABLE TRUST AS
21 SET UP PER THIS SETTLEMENT WILL BE CARRIED FORTH PROPERLY.

22 THE COURT: ALL RIGHT. ANYTHING FROM ANYBODY ELSE?
23 ALL RIGHT. I ALSO WANTED TO HANDLE THE ATTORNEYS' FEES BY
24 WAY OF SOME TYPE OF PROTECTIVE ORDER.

25 MR. MEDLIN, WHAT IS YOUR STANCE ON THAT, POSITION ON

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1 THAT?

2 MR. MEDLIN: WELL, YOUR HONOR, AGAIN, WE'RE HAPPY TO

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3 PROVIDE INFORMATION TO THE COURT THAT THE COURT WANTS. I
4 DON'T THINK THE ATTORNEYS' FEES WOULD BE OF ANY GREAT
5 SURPRISE TO THE COURT ONCE DISCLOSED, BUT WE WOULD LIKE TO
6 CORRECT A MISPERCEPTION I THINK THAT WAS PERHAPS GIVEN
7 FROM TESTIMONY FROM THE FIDUCIARIES. THE ATTORNEYS' FEES
8 ARE GOING TO BE PAID FROM WHATEVER PASSES TO THE SETTLING
9 PARTIES.

10 FOR EXAMPLE, MRS. BROWN IS GOING TO HAVE
11 23.75 PERCENT OF THE OVERALL SETTLEMENT ENTITY. PART OF
12 THAT AS YOU KNOW FROM THE MOST RECENT CONVENING OF THIS
13 HEARING, YOUR HONOR, IS GOING TO BE SET ASIDE FOR
14 JAMES BROWN, II. HER ATTORNEYS' FEES ARE GOING TO BE PAID
15 FROM HER SHARE. HER ATTORNEYS' FEES ARE NOT COMING OUT OF
16 THE CHARITABLE TRUST POCKET AND THE SAME FOR
17 MR. LEVENSON'S CLIENTS AND THE SAME FOR MR. BELL'S
18 CLIENTS.

19 SO, IT DOESN'T INCREASE THE COST TO THE ATTORNEY
20 GENERAL IN ANY WAY. IN FACT, WE THINK WE HAVE A GOOD
21 FAITH ARGUMENT THAT EVEN THOUGH THE CLIENTS ARE PAYING
22 THEIR OWN ATTORNEYS' FEES AND NOT COMING OUT OF THE
23 ATTORNEY GENERAL'S POCKET THAT THESE COULD BE DEDUCTIBLE
24 WHICH, IN FACT, WOULD BENEFIT THE ATTORNEY GENERAL, THE
25 CHARITY, AND HE WOULD RECEIVE MORE, BUT WHATEVER THE

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1 ATTORNEYS' FEES ARE ARE NOT BEING PAID FROM THE CHARITABLE
2 SHARE. THE ATTORNEYS' FEES ARE BEING PAID BY EACH
3 INDIVIDUAL SETTLING PARTY.

(STATEMENT BY MR. MEDLIN)

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1 YOUR HONOR, WE BELIEVE THIS SETTLEMENT AGREEMENT
2 EFFECTIVELY RESOLVES ALL LITIGATION AMONG THE
3 BENEFICIARIES AND POTENTIAL BENEFICIARIES, NOT ONLY AT THE
4 STATE COURT LEVEL BUT AT THE FEDERAL LEVEL AND THE
5 INTERNATIONAL LEVEL BECAUSE THERE MAY BE INTERNATIONAL
6 FEDERAL -- INTERNATIONAL COPYRIGHT ISSUES AS WELL. THE
7 ONLY LITIGATION THAT WILL REMAIN AS WE SEE IT, YOUR HONOR,
8 WILL BE LITIGATION THAT TAKES PLACE -- AND I HATE TO USE
9 THIS TERM, BUT I WANT TO USE IT IN A TYPICAL ESTATE
10 ADMINISTRATION -- CLAIMS FOR AND AGAINST THE ESTATE BY
11 THIRD PARTIES. THE BENEFICIARIES HAVE RESOLVED ALL OF
12 THEIR DISPUTES. EVEN THE SO-CALLED NON-SETTLING
13 PARTIES -- MR. GRIFFIN'S CLIENTS AND MR. BARR'S CLIENTS --
14 HAVE STIPULATED BACK IN MARCH, I BELIEVE IT WAS, THAT THEY
15 UNDERSTAND THAT WE'RE NOT TRYING TO IMPOSE ON THEIR
16 RIGHTS, BUT, YOUR HONOR, WE THINK THAT THE ONLY ISSUE
17 THAT'S GOING TO ARISE WITH THEM IS GOING TO BE AS TO THEIR
18 RIGHTS, IF ANY, TO THE FEDERAL COPYRIGHT TERMINATION
19 RIGHTS.

20 THE ONLY OTHER REMAINING LITIGATION, YOUR HONOR, THAT

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21 WE FORESEE IF THIS SETTLEMENT IS APPROVED IS THE PROMISED
22 APPEAL FROM MRS. POPE AND MR. BUCHANAN WHO TESTIFIED UNDER
23 OATH, YOUR HONOR, THAT THERE WAS NOT A GOOD FAITH
24 CONTROVERSY AND THAT THERE WAS NOT ENOUGH EVIDENCE TO COME
25 TO A SETTLEMENT AT THIS STAGE, AND, YET, YOUR HONOR, LAST

(STATEMENT BY MR. MEDLIN)

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1 FRIDAY THEY MADE AN OFFER OF SETTLEMENT. NOW, I DON'T
2 UNDERSTAND HOW THAT CAN HAPPEN WHEN THEY HAVE BEEN TELLING
3 US THAT WE DIDN'T HAVE THE GROUNDS TO CREATE A SETTLEMENT,
4 AND, YET, THEY TAKE THE POSITION NOW THAT THEY CAN PROPOSE
5 A SETTLEMENT. MAYBE THEY HAVE NOW DECIDED THERE IS A GOOD
6 FAITH CONTROVERSY.

7 MR. BAILEY: YOUR HONOR, I OBJECT TO THIS. THIS WAS
8 NOT ANYTHING THAT WAS BROUGHT OUT IN THE HEARINGS
9 THROUGHOUT.

10 MR. MEDLIN: YOUR HONOR, THIS WAS MAILED --

11 MR. BAILEY: AND THIS IS SETTLEMENT NEGOTIATIONS AND
12 SHOULD NOT BE DISCUSSED IN THIS MANNER.

13 THE COURT: WELL, RULE 68, OFFER OF COMPROMISE.

14 MR. MEDLIN: YOUR HONOR, THEY MAILED YOU A COPY.

15 MR. BAILEY: NO, WE DID NOT MAIL A COPY OF IT TO THE
16 COURT. IT APPARENTLY WAS FILED, BUT NOT PRESENTED TO THE
17 COURT.

18 THE COURT: WELL, IT WAS SENT TO ME. I'LL JUST PUT
19 IT LIKE THAT. I'VE GOT IT. ALL RIGHT. IT HAS NOT BEEN
20 BROUGHT UP IN THE HEARINGS. SO, MOVE ALONG.

21 MR. MEDLIN: ALL RIGHT, YOUR HONOR. AGAIN, THE ONLY
22 PARTIES WHO HAVE AN INTEREST IN DETERMINING WHETHER THERE
23 SHOULD BE A SETTLEMENT HAVE SETTLED. THE PERSONAL
24 REPRESENTATIVES AND TRUSTEES HAVE INPUT UNDER THE LAW AS

12 THEN THE ATTORNEY GENERAL ACCORDING TO MRS. POPE AND
13 MR. BUCHANAN ON BEHALF OF THE CHARITIES WOULD BE THE
14 PRIMARY BENEFICIARIES. THE ATTORNEY GENERAL WANTS THE
15 FIDUCIARIES REPLACED EITHER WAY. SO, THAT'S AN ISSUE
16 WE'RE NOT GOING TO AVOID, AND THEN FINALLY, YOUR HONOR, AT
17 SOME POINT IF WE HAVE TO WE WILL DISCUSS WHETHER THERE IS
18 CAUSE FOR REMOVAL. WE DON'T WANT TO DO THAT, YOUR HONOR.
19 SO, HOPEFULLY, BY APPROVING THIS SETTLEMENT WE'LL AVOID
20 THAT PROBLEM.

21 NOW, IT'S VERY IMPORTANT TO US FOR ANY NUMBER OF
22 REASONS THAT WE REPLACE THE FIDUCIARIES AS A PART OF THE
23 SETTLEMENT AGREEMENT, BUT THE MOST IMPORTANT REASON, YOUR
24 HONOR, IS THEY'VE ALREADY SAID THAT THEY'RE GOING TO
25 APPEAL ANY APPROVAL OF THE SETTLEMENT. AT THAT POINT THEY

(STATEMENT BY MR. MEDLIN)

117

1 HAVE AN IRRECONCILABLE CONFLICT OF INTEREST. THEY CAN'T
2 SERVE AS BENEFICIARIES UNDER AN APPROVED -- THEY CAN'T
3 SERVE THE BENEFICIARIES UNDER AN APPROVAL SETTLEMENT
4 AGREEMENT IF THEY'RE OPPOSING THE VERY SETTLEMENT.

5 THE FIDUCIARIES HAVE ARGUED THAT DEANNA HAD A
6 CONFLICT OF INTEREST AND LOST HER RIGHT TO SERVE AS
7 TRUSTEE BECAUSE SHE BROUGHT A TRUST CONTEST. THAT'S THE
8 VERY SAME IDEA, YOUR HONOR, THAT WE SUGGEST AS A PROBLEM
9 IF THE SETTLEMENT IS APPROVED AND THE FIDUCIARIES AREN'T
10 REPLACED. THEY WILL BE IN AN IRRECONCILABLE CONFLICT OF
11 INTEREST SITUATION. THE ESTATE WILL NOT BE ABLE TO MOVE
12 FORWARD IN THAT CASE.

13 NOW, YOUR HONOR, WE THINK THERE ARE ANY NUMBER OF
14 REASONS TO APPROVE THIS SETTLEMENT AND WE'VE TALKED ABOUT
15 A LOT OF THOSE OVER THE LAST EIGHT DAYS OF TESTIMONY AND

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7 CHILD? THAT'S NOT PRESERVING THE LEGACY OF JAMES BROWN.
8 THAT'S ATTACKING THE LEGACY OF JAMES BROWN. MR. BROWN
9 PAID FOR THE VERY ACTION THAT MS.~BROWN BOUGHT AGAINST
10 MR. AHMED FINDING THAT THERE WAS NO IMPEDIMENT TO HER
11 MARRIAGE TO MR. BROWN.

12 YOUR HONOR, THE ATTORNEY GENERAL RECOGNIZED IN OUR
13 DISCUSSIONS THAT ANY ATTEMPT TO OVERTURN THAT FAMILY COURT
14 ORDER BY CREATING SOME NEW RULES THAT A THIRD PARTY COULD
15 DO IT WHICH BY THE WAY THE LUKICH CASE CONFIRMED COULDN'T
16 BE DONE COULD CREATE JUDICIAL CHAOS. THE FAMILY COURT
17 DEALS WITH RELATIONSHIPS BETWEEN TWO PEOPLE. NOW, IF I
18 GET DIVORCED FROM MY WIFE AND SOME THIRD PARTY HAS THE
19 OPPORTUNITY TO COME IN AND INTERVENE, THERE WOULD BE CHAOS
20 AND CERTAINLY TO INTERVENE TO OVERTURN -- EXACTLY THE
21 OPPOSITE OF THE SITUATION THAT THE FIDUCIARIES ALLEGE.
22 CONSEQUENTLY, BY THE LAW OF THE CASE JAMES BROWN, II, IS
23 THE SON OF TOMI RAE BROWN AND MR. BROWN BECAUSE UNDER THE
24 LAW OF SOUTH CAROLINA EVEN IF A CHILD IS ILLEGITIMATE BORN
25 OUT OF WEDLOCK THE SUBSEQUENT MARRIAGE OF THE PARENTS

(STATEMENT BY MR. MEDLIN)

137

1 LEGITIMIZES THE CHILD, AND, CERTAINLY, EVEN IF HE WEREN'T
2 LEGITIMATE IT DOESN'T PREVENT HIM FROM BEING A BIOLOGICAL
3 CHILD, BUT HE IS THE LEGITIMATE CHILD OF JAMES BROWN AND
4 TOMI RAE BROWN.

5 NOW, YOUR HONOR, I WANT TO SPEND A FEW MINUTES AND I
6 KNOW YOUR HONOR IS WANTING TO ME TO BE FINISHED, BUT I
7 THINK IS A VERY IMPORTANT PART OF THIS DISCUSSION AND IT'S
8 TO GET INTO THE DISCUSSION OF THE TERMINATION RIGHTS UNDER
9 THE FEDERAL COPYRIGHT LAW. THE FEDERAL COPYRIGHT LAW

(STATEMENT BY MR. MEDLIN)

138

1 PUBLISH WHICH IS A STICK IN THE BUNDLE OF COPYRIGHTS THAT
2 CAN BE ASSIGNED, HAD HE LIVED THAT LONG WOULD HAVE HAD THE
3 RIGHT TO TERMINATE. HE CAN TAKE IT BACK FROM THE
4 PUBLISHER AND THEN SELL IT TO ANOTHER PUBLISHER OR THE
5 SAME ONE, BUT IT GAVE HIM A CHANCE TO MAKE A NEW DEAL.

6 MRS. POPE AS I RECALL ADMITTED ON THE STAND THAT MANY
7 OF HIS SONGS HAD BEEN ASSIGNED TO PUBLISHERS AS TO THE
8 PUBLISHING RIGHTS. THEY'RE ALSO WRITER'S RIGHTS AND THE
9 PLEADINGS THEY FILED ON FRIDAY, FOOTNOTE SIX, IT SAYS THAT
10 EITHER ALL OR THE MAJORITY -- I CAN'T REMEMBER EXACTLY,
11 YOUR HONOR, BECAUSE IT REALLY DOESN'T MAKE THAT MUCH OF A
12 DIFFERENCE FOR PURPOSES OF THIS POINT -- HAVE BEEN
13 ASSIGNED BY MR. BROWN TO EITHER JAMES BROWN ENTERPRISES,
14 INC., OR JAMES BROWN, LLC, AND PERHAPS TO GERONIMO MUSIC
15 AND OTHERS, BUT TO THOSE TWO ENTITIES. HE'S ALSO ASSIGNED

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25 ARTICLE IT TALKS ABOUT HOW VALUABLE THESE RIGHTS ARE AND
(STATEMENT BY MR. MEDLIN)

141

1 AT THE VERY LAST PARAGRAPH IT SAYS THESE RIGHTS ARE
2 IMMENSELY VALUABLE.

3 LET'S TAKE AN EXAMPLE OF THAT, YOUR HONOR. 1956, I
4 BELIEVE, MR. BROWN WROTE HIS FIRST BIG HIT, "PLEASE PLEASE
5 PLEASE." CORRECT ME IF I AM WRONG, SOMEONE. IT'S NOT,
6 PLEASE, PLEASE, PLEASE, PLEASE AS THE FIDUCIARIES KEEP
7 ALLEGING. IT IS THREE PLEASURES. IN 2012 THAT TERMINATION
8 RIGHT KICKS IN.

9 NOW, LET ME JUST USE THIS AS AN EXAMPLE BECAUSE WE
10 DON'T HAVE REAL NUMBERS FOR THIS BECAUSE, AGAIN, WE
11 HAVEN'T BEEN PRIVY TO REAL NUMBERS AND I DON'T THINK
12 ANYBODY HAS HAD ANY EXPIRATION. LET'S ASSUME THAT A
13 PUBLISHER WOULD PAY A HALF A MILLION DOLLARS TO PUBLISH
14 THAT SONG FOR THE REST OF THE SEVEN-YEAR PERIOD, AND LET'S
15 ASSUME THAT THE STREAM OF INCOME TO THE WRITER WAS WORTH A

(STATEMENT BY MR. MEDLIN)

142

1 THE WRITER'S SHARE IF IT OWNS THE ENTITIES TO WHICH THEY
2 WERE ASSIGNED. THE PUBLISHER WOULD GET THE PUBLISHING
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3 RIGHTS ALL ALONG, BUT AT SOME POINT WHEN THE TERMINATION
4 RIGHT KICKS IN THE TERMINATION RIGHT TAKES OVER THE VALUE.

5 SO, WITH RESPECT TO WHATEVER ROYALTY RIGHTS THE
6 ESTATE MIGHT HAVE, THEN THOSE RIGHTS ARE GOING TO BE
7 SMALLER THE SOONER THOSE TERMINATION RIGHTS WOULD ARISE.
8 THE LATER THE TERMINATION RIGHTS WOULD ARISE THOSE RIGHTS
9 WOULD BE GREATER BECAUSE THE TOTAL VALUE WOULD INCLUDE THE
10 CURRENT RIGHTS TO THE STREAM OF INCOME AND THE TERMINATION
11 RIGHT AT THE APPROPRIATE TIME.

12 NOW, AGAIN, WE HAVE NO WAY OF KNOWING THE VALUE OF
13 THIS. WE SUSPECT IT'S SUBSTANTIAL. WE BELIEVE MRS. POPE
14 WHEN SHE GIVES US THIS ARTICLE ON FRIDAY WHERE THE AUTHOR
15 SAYS -- BY THE WAY, HE'S CONDUCTING AN ABA SEMINAR ON
16 THIS -- WHERE THE AUTHOR SAYS THESE ARE IMMENSELY VALUABLE
17 RIGHTS BECAUSE IT MAKES SENSE THESE ARE IMMENSELY VALUABLE
18 RIGHTS.

19 UNDER NO CIRCUMSTANCE WOULD THE ATTORNEY GENERAL OF
20 SOUTH CAROLINA ON BEHALF OF THE CHARITY GET ANY OF THOSE
21 TERMINATION RIGHTS. UNDER NO CIRCUMSTANCE. NOT UNDER
22 THIS PHANTOM 2002 AMENDMENT BECAUSE IT DIDN'T HAPPEN.
23 NOW, WE BELIEVE -- AND MR. JONES CAN REFUTE THIS -- THAT
24 THE ATTORNEY GENERAL IS HAPPY WITH THE SETTLEMENT WITHOUT
25 THE TERMINATION RIGHTS; THAT IT WAS UNDER MY DESCRIPTION

(STATEMENT BY MR. MEDLIN)

143

1 JUST A CHERRY ON TOP OF THE THE ICE CREAM SUNDAY. BUT IT
2 IS AN EXAMPLE OF WHAT THE CHARITY MAY WELL END UP WITH
3 BECAUSE OF THESE TERMINATION RIGHTS.

4 PERSONAL REPRESENTATIVES AND TRUSTEES HAVE TAKEN MANY
5 CONTRADICTORY POSITIONS IN THIS CASE, YOUR HONOR. IN
6 PLEADING AFTER PLEADING AND IN AFFIDAVITS THEY HAVE

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7 ALLEGED THAT THE ATTORNEY GENERAL HAS GIVEN AWAY
8 \$50 MILLION, SOMETIMES 65 PERCENT OF THE OVERALL VALUE OF
9 THE THE ESTATE WHICH RANGES ANYWHERE FROM 100 MILLION TO
10 183 MILLION TO WHATEVER IT HAPPENS TO BE ON THAT
11 PARTICULAR DAY. IT IS THEIR JOB, BY THE WAY, TO KNOW WHAT
12 THE VALUE OF THE ESTATE IS; NOT OURS. WE DON'T KNOW
13 BECAUSE WE HAVEN'T BEEN GIVEN THAT INFORMATION AND I DON'T
14 BELIEVE THEY HAVE THAT INFORMATION BASED ON THEIR
15 TESTIMONY.

16 THEY ARGUE THAT MR. BAUKNIGHT HAS A CONFLICT OF
17 INTEREST, AND, SO, THEREFORE, CANNOT SERVE AS A TRUSTEE OF
18 BOTH THE JAMES BROWN LEGACY TRUST AND THE CHARITABLE
19 TRUST. FIRST OF ALL, WITH ALL OF THE BENEFICIARIES'
20 CONSENT CONFLICTS ARE PERMISSIBLE. THERE IS NO CONFLICT
21 HERE, BUT, AGAIN, IT'S IRONIC THAT THEY CLAIM THEY DON'T
22 HAVE A CONFLICT OF INTEREST EVEN THOUGH MR. JONES HAS BEEN
23 SINGING THAT SONG SINCE THE FIRST DAY HE WAS INVOLVED IN
24 THE CASE BECAUSE HE SAID WITH RESPECT TO THE VERY CRITICAL
25 ISSUE OF WHETHER THE ESTATE OR TRUST OWNS ASSETS --

(STATEMENT BY MR. MEDLIN)

144

1 MR. JONES IS SAVVY. HE KNEW THAT IF THE ESTATE OWNED THE
2 ASSET MY CLIENT MIGHT GET UP TO 50 PERCENT OF IT. HE'S
3 BEEN CLAIMING THEY HAVE A CONFLICT OF INTEREST. OH, NO,
4 WE DON'T HAVE A CONFLICT OF INTEREST. MR. BOUKNIGHT DOES.
5 WELL, THEY DO AND HE DOESN'T.

6 THEY CLAIM THE ADVISORY BOARD SHOULD BE NAMED AS
7 PARTIES, YET THEY DIDN'T NAME ANYBODY ON THE ADVISORY
8 BOARD AS PARTIES, AND, YES, THEY DO IN THEIR PLEADINGS SAY
9 AT SOME POINT MRS. THOMAS GAVE UP HER RIGHT TO BE ON THE
10 ADVISORY BOARD BY CONTESTING THE TRUST. WELL, LET'S
11 ASSUME FOR THE MOMENT THAT THAT IS ACCURATE. THEY DIDN'T

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12 NAME HER BEFORE THE CONTEST WAS BROUGHT. THEY DIDN'T
13 BRING HER IN OR TALK TO HER BEFORE THE CONTEST WAS BROUGHT
14 WHICH WAS SOME WINDOW OF TIME AND THEY HAVEN'T NAMED ANY
15 OF THEIR ADVISORY BOARD IN THEIR PLEADINGS JUST LIKE THEY
16 HAVEN'T NAMED SALKEHATCHIE, AIKEN, AND VOORHEES.

17 THEY OPPOSE THE SETTLEMENT AGREEMENT BECAUSE THEY SAY
18 THE RIGHT OF FIRST REFUSAL WILL CAUSE A TAX PROBLEM WHICH
19 WE TOLD YOUR HONOR THIS MORNING WE THINK IS NOT A TAX
20 PROBLEM. YET, THEY PROPOSE TO DO THE VERY SAME THING
21 THEMSELVES. THEY WANT TO SELL THE HOUSE TO ONE OF THE
22 FAMILY MEMBERS FOR A REDUCED VALUE. WE ASK FOR THE
23 APPOINTMENT OF A SPECIAL ADMINISTRATOR, SPECIAL TRUSTEE.
24 THEY SAID THERE IS NO EMERGENCY. THEN A FEW WEEKS LATER
25 THEY ASKED FOR A SPECIAL ADMINISTRATOR AND SPECIAL TRUSTEE

(STATEMENT BY MR. MEDLIN)

145

1 BECAUSE THEY SAID THERE IS AN EMERGENCY, AND NOW A FEW
2 WEEKS LATER AS OF FRIDAY THEY'VE WITHDRAWN THAT ACCORDING
3 TO THEIR PLEADINGS PRESUMABLY BECAUSE THAT EMERGENCY ISN'T
4 THERE. WELL, IS THERE AN EMERGENCY OR NOT?

5 THEY SUE DALLAS, BRADLEY, AND CANNON FOR UNDUE
6 INFLUENCE FOR FINANCIAL ISSUES, BUT, YET, SAY WE HAVE NOT
7 ONE SCINTILLA OF EVIDENCE TO ACT IN GOOD FAITH TO DO THE
8 SAME THING. NOW, YOUR HONOR, A WILL AND TRUST ARE THE
9 ULTIMATE FINANCIAL DOCUMENTS. THAT'S WHERE YOU DISPOSE OF
10 YOUR PROPERTY. NOW, YOU MAY HAVE OTHER REASONS FOR DOING
11 WHAT YOU DO, BUT THE ONLY THING YOU CAN DO THROUGH A WILL
12 OR TRUST IS DISPOSE OF YOUR PROPERTY. HOW THEY DRAW THE
13 LINE BETWEEN UNDUE INFLUENCE DURING LIFETIME FOR FINANCIAL
14 ISSUES AND UNDUE INFLUENCE AT DEATH IS BEYOND ME. IT
15 SEEMS PRETTY INCONSISTENT.

(STATEMENT BY MR. JONES)

148

1 GOING ON IT'S JUST GOING TO DRAG MR. BROWN'S LEGACY
 2 THROUGH THE MUD. MRS. POPE'S OWN TESTIMONY DID SOME OF
 3 THAT AND IT WILL PROBABLY BE A LOT MORE THAN THAT IF THIS
 4 LITIGATION CONTINUES. WE DON'T WANT THAT, YOUR HONOR, FOR
 5 MR. BROWN. TO APPROVE THE SETTLEMENT IS TO HONOR
 6 MR. BROWN'S LEGACY AND TO SAVE IT. THANK YOU, YOUR HONOR.

7 THE COURT: MR. JONES?

8 MR. JONES: YES, YOUR HONOR. THANK YOU. AS
 9 PROFESSOR MEDLIN HAS SAID YOU MIGHT SAY WE'VE TALKED AND
 10 WE AGREED TO WITH HIS COMMENTS AND WE ALSO TALKED TO
 11 MR. LEVENSON. I WANT TO MAKE SOME COMMENTS, YOUR HONOR,
 12 BRIEFLY CONCERNING THE UNIQUENESS OF THE AG IN THIS
 13 MATTER.

14 AS YOU'VE HEARD US SAY BEFORE THE AG HAS AUTHORITY TO
 15 PROTECT THE INTEREST OF THE CHARITABLE TRUST. THAT COMES
 16 FROM THE PARENS PATRIAE AUTHORITY TO PROTECT THE PUBLIC
 17 INTEREST. IT'S NO DIFFERENT THAN THE AUTHORITY THAT MY
 18 ATTORNEY GENERAL IS IN THE WATER LAWSUIT THAT'S IN THE
 19 ORIGINAL JURISDICTION OF THE U.S. SUPREME COURT. IT IS
 20 RECOGNIZED THAT IN THAT PUBLIC INTEREST ALSO IS A
 21 RESPONSIBILITY BY THE ATTORNEY GENERAL TO PROTECT
 22 CHARITABLE BENEFICIARIES AND THAT IS ESPOUSED IN COMMON
 23 LAW AND IS ESPOUSED IN CODE SECTION 1-7-130. 1-7-130.
 24 AND IT'S ALSO SET FORTH IN THE PROBATE CODE AT 62-7-405.

25 I THINK YOUR HONOR MIGHT BE AWARE OF THE FACT THAT

(STATEMENT BY MR. JONES)

149

1 THE TREATISES ON THE AG IN PROTECTING CHARITABLE TRUST
 2 RECOGNIZED THAT DUE TO LACK OF RESOURCES THAT THE AG CAN'T
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3 BE EVERYWHERE, AND, THEREFORE, IN CERTAIN SITUATIONS OTHER
4 PARTIES MAY COME FORWARD AND PRESENT TO THE COURT MATTERS
5 TO PROTECT THE CHARITABLE TRUST. IF YOUR HONOR WILL DO
6 RESEARCH ON CHARITABLE TRUSTS IN SOUTH CAROLINA YOU'LL SEE
7 SOME OF THESE CASES THAT DIDN'T INVOLVE THE ATTORNEY
8 GENERAL OR THE ATTORNEY GENERAL MIGHT HAVE APPEARED BUT ON
9 NOMINALLY. SO, IT'S AN ISSUE THAT THE COURTS HAVE
10 RECOGNIZED AND THE STATUTES AND THE PROBATE COURT
11 RECOGNIZED THAT THERE COULD BE A LACK OF RESOURCES, BUT IT
12 DOES ADDRESS IN THE PROBATE CODE THAT A SETTLOR OR
13 TRUSTEE, THE AG OR SOMEONE WITH SPECIAL INTEREST CAN MOVE
14 TO PROTECT THE CHARITABLE TRUST BECAUSE THE AG CAN'T BE
15 EVERYWHERE. THE GENERAL LAW IS WHEN THE AG APPEARS HE
16 CONTROLS THE LITIGATION.

17 THE RESOURCE ISSUE THAT IS AN OBSTACLE IN A LOT OF
18 CHARITABLE TRUST CASES, YOUR HONOR, WAS NOT AN OBSTACLE IN
19 THIS CASE. YOUR HONOR HAS SEEN MYSELF APPEAR AT EVERY
20 HEARING SINCE WE INTERVIEWED. I HAVE JASON NICHOLSON WITH
21 ME. I HAVE MARY FRANCES JOWERS. OUR OFFICE -- THE
22 ATTORNEY GENERAL -- WE HAVE AT LEAST TOTAL SIX ATTORNEYS
23 THAT HAVE THEIR FINGERPRINTS ON THIS FILE. WE'VE HAD SIX
24 STAFF MEMBERS. SO, WE'VE GOT A TOTAL OF 12 PEOPLE THAT'S
25 BEEN WORKING ON THIS CASE. AS YOUR HONOR CAN SEE, IT DOES

(STATEMENT BY MR. JONES)

150

1 TAKE SOME TIME AND ENERGY.

2 SO, WITH THAT I'D LIKE TO DISPEL ANY THOUGHT THAT, OF
3 COURSE, THE AG GOT IN THIS THING, AND WHAT ARE WE GOING TO
4 DO? MY GOODNESS, IT IS A MAJOR CASE AND WE GOT TO SETTLE
5 IT. WE GOT INTO THIS CASE. HENRY MCMASTER GAVE US THE
6 RESOURCES. I HAVE NEVER BEEN DENIED ANY RESOURCE THAT WE

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7 NEED TO MOVE FORWARD IN THE CASE. SO, THE GENERAL LAW IS
8 WHEN THE AG COMES IN HE TAKES OVER, AND THE ONLY -- THE
9 PERSON THAT THE AG LOOKS TO IS YOUR HONOR IN A COURT OF
10 EQUITY.

11 SO, THE AG HAS TO PRESENT HIS CASE AS TO WHAT'S THE
12 BEST INTEREST OF THE CHARITABLE BENEFICIARIES. YOU CAN
13 IMAGINE, YOUR HONOR, IF ONCE THE AG APPEARED YOU HAD SOME
14 OTHER BENEFICIARIES, SPECIAL INTERESTS OR WHATEVER ALSO
15 APPEARING, THERE WILL BE CONFLICTING POSITIONS GOING ON
16 ALL THE TIME. THE GENERAL LAW IN SOUTH CAROLINA IS THAT
17 WHEN THE AG APPEARS AND HE SETTLES A MATTER FOR STATE
18 AGENCIES THAT THE AGENCY CAN'T COMPLAIN IF THEY WANT TO --
19 THE STATE V COOLEY CASE IS A 1948 CASE, I BELIEVE, YOUR
20 HONOR AND I CAN GET THE CITE TO YOU IF YOU'D LIKE, BUT IF
21 IT'S FAIR AND REASONABLE AND IT'S JUST AND THERE'S A
22 CONTROVERSY, THE COURT IS GOING TO ADOPT WHAT THE ATTORNEY
23 GENERAL RECOMMENDS.

24 YOUR HONOR, WE APPEARED IN THIS CASE IN SEPTEMBER OF
25 '07. WHEN WE FIRST WALKED IN THERE WAS DOCUMENT FLOATING

(STATEMENT BY MR. JONES)

151

1 AROUND ABOUT ALL THE ASSETS OF THE TRUST OR THE ASSETS OF
2 THE ESTATE AND TRUST GOING TO THE ESTATE. THAT'S HOW WE
3 WALKED IN, AND IT TOOK US A WHILE TO GET OUR ARMS AROUND
4 THIS CASE. I EVEN HEARD PEOPLE SAY EARLIER ON IN THE
5 FIRST THREE OR FOUR MONTHS IT LOOKS LIKE THE AG DOESN'T
6 WANT TO SETTLE OR HE'S NOT IN THE MODE TO SETTLE. HE IS A
7 SCORCHED-EARTH TYPE OF SITUATION BECAUSE HOW VIGOROUSLY WE
8 WERE OPPOSING. YOUR HONOR REMEMBERS ME STANDING UP OR
9 MEMBERS OF OUR OFFICE STANDING UP SAYING, YOUR HONOR, WE
10 WANT THE ISSUE OF THE ASSETS OF THE IRREVOCABLE TRUST
11 LITIGATED. WE WANT TO MAKE A DETERMINATION. DON'T MAKE A

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25 ATTORNEY GENERAL. YOU SEE FROM THE AUGUST 10 DOCUMENT

(STATEMENT BY MR. JONES)

155

1 THAT HE SIGNED IT. HE ALSO SIGNED THE ADDENDUM HIMSELF.

2 SO, WHAT WE HAVE IS WE HAVE WHAT WE THOUGHT WAS A

3 FAIR RESOLUTION AND AS PROFESSOR MEDLIN MENTIONED THE

4 RENEWAL AND TERMINATION RIGHTS WEREN'T A KICKER IN THE

5 CASE AT THE TIME. WHAT WE WANTED TO DO IS END ALL

6 LITIGATION AND NOT KNOWING ABOUT THEIR NEW TERMINATION

7 RIGHTS INDEPTH ONE POINT WAS IS THERE THAT WOULD CONTINUE

8 ON WITH LITIGATION WITH THE GROUP WE HAD NOT COUNTING

9 MR. BELLS' CLIENTS AT THE TIME. HE SAID, WELL, THESE

10 RENEWAL AND TERMINATION RIGHTS COULD HAVE BEEN ISSUES. WE

11 WANT TO INCLUDE THOSE, TOO, BECAUSE WE DON'T WANT ANYMORE

12 LITIGATION AS FAR AS JAMES BROWN.

13 THE LEGACY HAS BEEN DRUG THROUGH THE MUD ENOUGH.

14 EVERYBODY IS KIND OF SAYING IF I MEET THEM AND WHAT DO YOU

15 DO AT THE AG'S OFFICE AND IS THAT CASE OVER? IT IS JUST

16 THE GENERAL -- AND YOUR HONOR IS PROBABLY AWARE OF IT,

17 TOO -- JUST GENERAL CONVERSATION ABOUT IT AND SO WE NEED

18 TO LOOK AT HOW TO RESOLVE IT.

19 ALSO, THERE IS THE COST OF LITIGATION. OUR OFFICE

20 WILL BE THERE FOR A LONG TIME -- AS LONG AS IT TOOK, BUT

21 WE REALIZED THAT THE TRUSTEES AND PR'S CAN INCUR SOME

22 FEES, AND, YOUR HONOR, ONE THING I MAY ADDRESS THAT

23 MR. MEDLIN HAS TALKED ABOUT IS WE NEED TO LOOK AT THIS

24 TRUST TO SEE IF WE'RE GOING TO MODIFY IT, AND TO MODIFY IT

25 IN THIS SENSE WE BRING IT BACK BEFORE YOUR HONOR IS NOW IT

(STATEMENT BY MR. JONES)

156

1 TAKES KIDS FROM KINDERGARTEN THROUGH COLLEGE IS THAT

2 FEASIBLE? I NEVER HAVE SEEN ONE DO THAT BEFORE. WE MIGHT

1 State of South Carolina) In the Court
2 County of Aiken) Of Common Pleas
3
4 Docket No. 2007-CP-02-0122
5
6
7 In Re:)
8 The Estate of James Brown) Transcript of Record
9 a/k/a James Joseph Brown)
10
11 May 22, 2012
12 Lexington, South Carolina
13
14 B E F O R E:
15 The Honorable Doyet A. Early, Judge.
16
17 A P P E A R A N C E S:
18 Adele Pope, Esquire
19 David Black, Esquire
20 Fred Kingsmore, Esquire
21 Sonny Jones, Esquire
22 Professor Alan Medlin, Esquire
23 Louis Levenson, Esquire
24 Mary-Francis Jowers, Esquire
25 Robert Braithwaite, Esquire
Robert Rosen, Esquire
Brenda J. Sigwald, Circuit Court
P.O. Box 206, Jackson, South Carolina 29831

1 THE COURT: Are you a plaintiff in the Columbia
2 case?

3 MR. BLACK: We are -- Your Honor, we're a party in
4 Case 122 and that's the case and that's the case you're
5 asking about.

6 THE COURT: Well, how about 4900?

7 MR. BLACK: I represent Mr. Bauknight in his
8 capacity, but Mr. Gende is here on 4900, Your Honor.

9 THE COURT: Well, everybody's suing everybody. I'm
10 listening to you.

11 MR. BLACK: Your Honor, Case 122 was the Dallas and
12 Cannon appeal that Your Honor is well aware of, where they
13 were removed from power, they appealed Your Honor's orders.
14 That went up to the South Carolina Court of Appeals.

15 THE COURT: They sent it back.

16 MR. BLACK: They sent it back down to you again.

17 THE COURT: And I settled attorney's fees and I
18 awarded prevailing party a hundred some odd thousand
19 dollars. It went back up and they reviewed the affidavit
20 of Mr. Levenson and found some fees in there that were not
21 related to the contempt and affirmed the ruling and
22 modified the finding -- or modified the results by reducing
23 the fee by a certain amount.

24 MR. BLACK: That's correct, Your Honor. Something
25 else very important happened when it was at the Court of

1 Appeals. Ms. Pope filed a brief after Your Honor's order
2 issued, trying to step into the trust and estate suit. She
3 says, okay well I'm pro se, but I'm going to file my own
4 brief. That was struck by the South Carolina Court of
5 Appeals, Your Honor. She is not a party to that action.
6 On remittitur, on remand, came back to Your Honor, she is
7 not a party. Under Rule 2, Rule 3, Your Honor, we have the
8 rules of civil procedure for a good reason. She's not a
9 party. Commencement of an action, she doesn't have a right
10 to be in Case 122. We've offered a very simple resolution
11 to fix this problem. She's a party to 4900. They've
12 acknowledged today, they think it's subject to discovery.

13 If it is, there are motions there before Judge
14 Manning. If Judge Manning determines that those papers
15 could come in, Judge Manning's decision, he can look at
16 that and it'll come in. Mr. Rosen said, I have a copy, we
17 can look it up that way. And then she says with a straight
18 face to Your Honor that, I want to use them because I don't
19 think Tomie Rae is the spouse of James Brown.

20 Your Honor, you know what you did on May 26th,
21 2009, you determined that Tomie Rae was the spouse of James
22 Brown. She is trying to undue your order -- your order
23 that is on appeal to the South Carolina Supreme Court.
24 That's what's going on here today, Your Honor. It's not
25 for professional writings, it's not for all of her

1 affidavits. That's what's happening. And it's
2 disingenuous to say anything else, Your Honor.

3 THE COURT: Thank you.

4 Mr. Williams.

5 MR. WILLIAMS: Regarding the finality of the last
6 of the three orders, it is on it's face not a final order.

7 THE COURT: I agree with that.

8 MR. WILLIAMS: No party waged any position on
9 admissibility or discoverability. The motions -- Ms. Hynie
10 Brown's motions, which were the subject of the order will
11 be held in abeyance pending further order of this Court.
12 If -- there was nothing to appeal.

13 THE COURT: I know.

14 MR. WILLIAMS: It was always an invitation to come
15 back and see you. Thank you.

16 THE COURT: Ms. Pope?

17 MS. POPE: Your Honor, I'd like to clarify a few
18 things please. First of all, as my affidavit says, I have
19 not and I would not violate Your Honor's order even though,
20 quite frankly, to the extent that it purports to limit more
21 than a hundred people from talking about something they
22 already knew, I do believe that it could be appropriately
23 attacked as void even if it had been appealable and not
24 appealed because of its strong First Amendment implications
25 which I believe are at play here.

1 I know the contents, the contents have guided all
2 of my thinking. I heard for the first time just a few
3 moments ago that Your Honor determined on May 26th, 2009
4 that Ms. Hynie was the wife of James Brown. That is the
5 first time that I am aware that anyone made that
6 argument -- I mean, has asserted that that was the finding.
7 The finding was an approval of an agreement among certain
8 people to -- to stipulate that she was the spouse and
9 people who were not parties to that, I was not a party, Mr.
10 Dallas was not a party, many other people -- Forlando was
11 not a party, many other people.

12 The order specifically said that no one else not a
13 party to that agreement is bound by their stipulation that
14 she is the wife. Mr. Buchanan is not bound by that
15 stipulation and I -- I respectfully disagree with any
16 suggestion that Your Honor made that finding. Your Honor
17 specifically refused to proceed with a determination -- a
18 correct determination of heirs. And all of my professional
19 writing with respect to this issue has been about the
20 terrible damage that results from a failure to properly
21 determine heirs when there are royalty issue -- copyright
22 issues within an estate.

23 I don't want to discuss that today, but the
24 suggestion that Your Honor made an heirs determination
25 rather than simply approving a settlement is just simply

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2008-CP-02-01647

3

4

5 HENRY DARGAN McMASTER, et al,
Plaintiff,

6 -vs-

TRANSCRIPT OF RECORD

7 ALBERT H. DALLAS, et al,
Defendant.

8

9

Heard on Tuesday, July 9, 2013

10

Aiken, South Carolina

11

BEFORE:

12

THE HONORABLE DOYET A. EARLY, III

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14

15

APPEARANCES:

16

Adele J. Pope, Esq.	J. David Black, Esq.
Erin Richardson Stuckey, Esq.	David Bell, Esq.
Albert P. Shahid, Jr., Esq.	
Fred L. Kingsmore, Esq.	Robert N. Rosen, Esq.
Christopher Patton, Esq.	Rodney A. Peeples, Esq.
James R. Gilreath, Esq.	Mary Frances G. Jowers, Esq.
Norma Anne Turner Jett, Esq.	

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21 COURT REPORTER NOTE: NOT EVERYONE PRESENT GAVE APPEARANCE
22 TO COURT REPORTER. LISTING MAY NOT BE INCLUSIVE.

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Cheri L. Young, RPR
Circuit Court Reporter
P O Box 5232
Aiken, SC 29804-5232

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EXHIBIT INDEX

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4 Defendant Bauknight's:

MAR

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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

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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.

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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

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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

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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

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

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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.

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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 un gagging 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

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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 Forlano 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

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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

18

1 point, if I could draw the Court's attention to number
2 two, the May 26 order, that's the May 26, 2009 order she's
3 referring to, and other orders in Case 1647 along with the
4 orders in 1810, are currently under appeal to the South
5 Carolina Court of Appeals in a consolidated appeal.

6 That's very important when we look at what the Supreme
7 Court did and the Court of Appeals in consolidating that.
8 The May 26 order did not specifically relieve Buchanan and
9 Pope of, nor assign Bauknight the duty to preserve and
10 protect the trust and estate during the pendency of the
11 1647, 1810 appeal, leaving movants, Ms. Pope, unsure of
12 their duty, if any, to address conflicts of interest as
13 she's now trying to do again, either to remove PR trustees
14 or as SAs as she's again trying to do today under this
15 court's un-appealed orders.

16 Then she skips to number four. In number four she
17 references an opinion from the South Carolina Court of
18 Appeals, a court that also applied judicial estoppel
19 against Ms. Pope. And she says that that question is now
20 resolved, Your Honor.

21 She says the circuit court explicitly removed Pope and

22 Buchanan as PRs -- now keep in mind that was in 2009 --
23 and appointed Bauknight. In doing so the circuit court
24 relieved Pope and Buchanan of any fiduciary duty to the
25 estate or trust.

19

1 They don't have an interest in that, Your Honor. They
2 are not PR trustees. To the extent that she has an
3 individual interest, she's correct. She's a creditor.
4 All of those cases she's filed that in, though, she's not
5 named individually. She was named in her official
6 capacity. She's not a proper party by the Supreme Court's
7 own ruling.

8 At the same time the circuit court relieved Pope and
9 Buchanan of their duties, it also placed upon
10 Mr. Bauknight the fiduciary duty to manage and control the
11 estate and trust. Thus Bauknight should be substituted --
12 this is back in 2009 in the same case -- because the
13 liability for mismanagement of the estate or trust now
14 falls on him.

15 Ms. Pope then says -- now, this clarifies things for
16 us -- the pending outcome of the 1647 appeal, and we were
17 relieved. As of May 26 of 2009 she was relieved as PR and
18 trustee.

19 So then, Your Honor, you see that she's going to file
20 a substitution on the cases. And she attaches Exhibit A.
21 So if we turn to Exhibit A, it's a letter dated November
22 18th, 2009, directed to Mr. Bauknight. This letter goes
23 through and talks about the cases that will be substituted
24 according to her motion. And if the Court sees -- if the
25 Court sees number one, it says Case 122.

1 That was one of the will contest cases that turned
2 into the Dallas-Cannon appeal. Ms. Pope now is alleging
3 she's a proper party in that case.

4 Case 1426. She's alleging she's a proper party in
5 that claim. That's the Dallas claim.

6 The Bradley claim, she's alleging she's a proper
7 party.

8 She gets down to Case 322. That's the case that
9 Mr. Gilreath argued last week. That's the lawsuit against
10 Greenberg Traurig. She's moved to be substituted there.
11 Again with a reference to 122, a reference to 872 which is
12 this will-trust case that she now alleges is improper to
13 be consolidated. And then it goes on and on to the point
14 of naming 23 cases that she says she needs to be
15 substituted in as of November of 2009, Your Honor.

16 Judicial estoppel prevents her from now taking a
17 contrary position.

18 But then we look at what the Court of Appeals has done
19 with Ms. Pope's filings. And on November 6th of 2009, the
20 Court of Appeals issued an order to Ms. Pope.

21 If we can mark this as Bauknight Exhibit B, please.

22 (Thereupon, Bauknight Exhibit B, Court of Appeals
23 order of 11-6-2009, was marked and received into
24 evidence.)

25 MR. BLACK: Your Honor, this is a letter from the

21

1 South Carolina Court of Appeals.

2 MS. POPE: Excuse me, Your Honor. Could I have a copy
3 of the exhibits that he's handing up so I can see what
4 he's saying? Thank you.

5 MR. BLACK: This is a letter from the South Carolina
Page 17

6 Court of Appeals dated November 6, 2009 to Mr. James
7 Richardson which was Ms. Pope's appellate counsel.

8 It says, Dear Mr. Richardson: Enclosed is a copy of
9 an order of the Court with regards to the above case. All
10 parties are advised that the matters referred to in the
11 accompanying order will be consolidated under the case
12 tracking number as bolded above. The caption for all
13 future documents filed in this matter shall include the
14 case caption as appears below.

15 So Your Honor sees that it references Ms. Pope's
16 notice of appeal.

17 So we next go to Ms. Pope's notice of appeal that she
18 filed with the South Carolina Court of Appeals.

19 (Thereupon, Bauknight Exhibit C, Appeal of
20 Pope/Buchanan to SC COA dated 10-13-09, was marked and
21 received into evidence.)

22 THE COURT: Very well. Go ahead.

23 MR. BLACK: Your Honor, this is a copy of what was
24 filed with the South Carolina Court of Appeals by Mr. Jim
25 Richardson, Ms. Pope's appellate counsel. And you'll see

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

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.

24

1 THE COURT: I'm sorry. You have five minutes and
2 eleven seconds.

3 MS. JETT: On behalf of Mr. Dallas, Your Honor, we do
4 reiterate that the Supreme Court --

5 THE COURT: Has Mr. Dallas filed anything in the
6 motion to reconsider?

7 MS. JETT: In 1426, Your Honor. It was not my
8 understanding until today that Ms. Pope was asserting that
9 she should also be made a party into his case.

10 Your Honor, we oppose that. Ms. Pope has no more
11 standing than any other South Carolinian to advocate for
12 the trust. That is the attorney general's job if and when
13 it becomes appropriate.

14 Your Honor, Ms. Pope seems to believe her claim is in
15 direct competition with Mr. Dallas's claim. But her claim
16 in whatever amount as determined by this Court is an
17 administrative claim, not a mere creditor's claim. We
18 concede that. And her claim is not in direct competition
19 with Mr. Dallas's claim.

20 Your Honor, she has no place in Mr. Dallas's case and
Page 20

21 we do ask the Court to let its order from June 13th stand.

22 THE COURT: Thank you.

23 MS. JETT: Thank you.

24 THE COURT: Anyone else on behalf of any other person
25 involved? We got four minutes if anyone wants to speak.

25

1 Mr. Bell?

2 MR. BELL: Thank you, Your Honor. Your Honor, one
3 thing --

4 MS. POPE: Your Honor, I object to Mr. Bell speaking.
5 He's not admitted pro hoc vice in about five of the cases
6 and his sponsoring lawyer is here in two of the cases. I
7 object that he speak --

8 THE COURT: Thank you.

9 MS. POPE: -- in any matter except 872 and 122.

10 THE COURT: Your objection is noted. Mr. Bell?

11 MR. BELL: Your Honor --

12 THE COURT: Three minutes and 40 seconds.

13 MR. BELL: Thank you. I'll be much shorter than that.

14 Your Honor, it's interesting that Ms. Pope brought
15 this on behalf of Bob Buchanan and herself. And I'd point
16 out to the Court that Bob Buchanan settled with his
17 claim. By order of this Court he was paid \$500,000.

18 I think it needs to be determined, is he revoking his
19 settlement which would mean he'd have to pay back the
20 500,000. But he has settled and out. So her motion
21 should be by her alone and not by Mr. Buchanan and her.

22 Thank you.

23 THE COURT: Thank you.

24 MR. BELL: Thank you.

25 THE COURT: Anything else? Ms. Jowers?

1 MS. JOWERS: I had not planned to say anything since
2 there's a fiduciary in place. But I did just want to
3 address, the attorney general certainly disagrees with
4 many of the statements and characterizations that have
5 been made.

6 Thank you, Your Honor.

7 THE COURT: Thank you. And I have your proposed order
8 that I will address.

9 Mr. Rosen, you got two minutes and 47 seconds.

10 MR. ROSEN: Yes. We just join in Mr. Black's
11 argument.

12 But I will say, Your Honor, in listening to all these
13 arguments, the Supreme Court has spoken on this. In fact,
14 Justice Toal dissented and said she shouldn't have been
15 replaced. I think the issue is very clear. I think Your
16 Honor's order is correct. And we just join in Mr. Black's
17 argument.

18 THE COURT: Thank you.

19 MR. SHAHID: Your Honor, if I may make my appearance
20 known. I'm Peter Shahid on behalf of the guardian ad
21 litem Slotchiver. We agree with the arguments. She has
22 no standing any further.

23 THE COURT: Thank you. Anyone else?

24 All right. Ms. Pope, you used your entire 20 minutes,
25 but I will allow you -- what do you need?

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.

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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

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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

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1 you understand why.

2 MR. ROSEN: I do, Your Honor.

3 THE COURT: I mean, there's been all kinds of
4 assertions by lawyers and everyone else about things said
5 back there that just absolutely was not true. So
6 everything's on the record.

7 So I assume somebody is here for Mr. Levenson and his
8 contest of the will.

9 MR. ROSEN: He is not here and, you know, Mr. Levenson
10 is so well educated on the ins and outs of this case, but
11 if there's no way to do it, there's no way to do it.

12 THE COURT: There's no way to do it.

13 MR. ROSEN: We'll just muddle through.

14 THE COURT: But, I mean, I have all due respect in the
15 world for Mr. Levenson and all of y'all, but I just don't
16 have the means of doing it unless I move the court
17 reporter back there and everybody comes back there. Just
18 can't do it.

19 But I think we can -- I mean, I'm not going to
20 sanction him for not being here.

21 MR. ROSEN: Your Honor, I hesitate to make the
22 suggestion because what I know about cell phones mostly
23 comes from my children, but perhaps there's some way to

24 have a speaker phone set up so it could all be on the
25 record. But maybe not.

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1 You know, in Charleston County they can put people on
2 telephones.

3 THE COURT: We're not in Charleston.

4 We start doing that, next time Mr. Rosen is going to
5 do it and then Mr. Shahid and then somebody else.

6 All right. Pursuant to my administrative order and
7 the order of the Supreme Court -- the decision of the
8 Supreme Court, my order was signed on 6-13, June 13 and
9 filed. And it provided for 45 days for application to be
10 made for the handling, I think is how the Supreme Court
11 said, of the balance of this case. That 45 days has not
12 yet expired.

13 I think the language was upon proper application,
14 which I've received none, to appoint fiduciaries to
15 oversee these matters. I assume these matters are the
16 litigation of the three issues at hand, i.e., the will
17 contest; Mr. Rosen, your client's claims; and the young
18 child's claim.

19 And then in addition to that, obviously we have to
20 continue with the administration of the estate, dealing
21 with marshalling of any assets, those assets that are out
22 there, continuing to deal with a number of claims that are
23 still outstanding and in general probating of the estate
24 and then once all of that is done the setting up of the
25 trust, depending on how the other contests come out.

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1 So we got, as I see it, a two-prong approach to this
2 thing, i.e., handling the contest against the will, the

3 child's claim, Mr. Rosen, your client's claim.

4 At the same time we have, obviously we want the estate
5 to continue to be administered and to move forward in a
6 very deliberate manner and maximizing all of the
7 opportunities, i.e., for example, the movie contract, et
8 cetera.

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.

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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.

6 But at the same time Nexsen Pruet through Mr. Black
7 has informed me that they feel like or they made a

8 decision or will be making a decision or will be
9 petitioning the Court to carve out Mr. Bauknight from
10 having to be involved in the litigation, i.e., the will
11 contest and the child and Mr. Rosen's client's claim.

12 And they have contacted Mr. David Sojourner. For
13 those of you who do not know, Mr. Sojourner is highly
14 distinguished as an estate lawyer, estate planner and the
15 role of estates. He has not made application to this
16 Court but I see him sitting in the courtroom so I assume
17 he is going to make application as a special administrator
18 for the sole purpose of defending the estate against the
19 claims made by Rosen, Levenson and Shahid.

20 Obviously I can't deal with that and the 45 days
21 expires on June 28 -- strike that, July 28. And I still
22 have not received an official application, whatever
23 application may be, from anyone.

24 Assuming that Mr. Sojourner applies and I don't know
25 that anybody else will and whoever I do appoint for that I

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1 want that person to hit the ground running and I want
2 these three cases put on a very strict scheduling order
3 for early disposition. I mean, they've been around for a
4 long time.

5 So in that regards I'm going to need to know from
6 Levenson et al, Rosen et al, Shahid et al, what needs to
7 be done to put your case in a position that it can be
8 tried or either heard on a non-jury basis. I assume,
9 obviously, the challenge based on undue influence and
10 competency is a factual issue, highly factual issue that
11 will have to be tried.

12 Mr. Rosen, I'm not so sure about your claim. Is it

13 factual or legal?

14 MR. ROSEN: Your Honor, we've given that a great deal
15 of thought. The issue of the validity of the marriage we
16 think is a legal issue. In fact, we filed a motion for
17 summary judgment. There's no way to keep track of this
18 file. I have a hard enough time keeping track of my part
19 of it, but we filed a motion for summary judgment on the
20 grounds that there's no genuine issue of material fact as
21 to Mrs. Brown's marriage to Mr. Brown. She's entitled to
22 summary judgment on the issue of the validity of the
23 ceremonial marriage. In other words, not talking about
24 the prenup. That arguably is a factual issue. Not
25 talking about common-law marriage, but whether or not the

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1 ceremonial marriage is valid.

2 That's really a legal question. It's been debated to
3 death. Everybody in this room has read the cases, the
4 Rubich (phonetically) case, et cetera. So we think that's
5 ready for summary judgment as soon as a possible time
6 because either we're in or we're out. I mean, if she is
7 the wife, then somebody, if they choose to, can raise this
8 issue about prenuptial. We'd be happy to meet that either
9 in front of Your Honor or in front of a jury, however you
10 may want us to do it.

11 THE COURT: So what you're telling me succinctly is
12 that you have a motion filed for summary judgment that may
13 be ripe as soon as I appoint someone as a -- if I do that,
14 as a special administrator, for contesting -- or handling
15 the contest against the estate?

16 MR. ROSEN: Right. But we would request Your Honor
17 and, you know, Mr. Medlin is not here but he feels very

18 strongly that we need a different case number for the
19 elective share, the omitted spouse and the omitted child.
20 Now these are separate cases. I mean --

21 THE COURT: I think my administrative order addressed
22 that; if anybody felt like that, just make a motion and I
23 can sever all three of them out, let them go --

24 MR. ROSEN: We'll file that motion. We think we can
25 get in front of you on summary judgment, depending on what

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1 happens next, whenever you want. I mean, talk about fast,
2 we can do it in two weeks. So whenever everybody is
3 ready, we're ready.

4 THE COURT: All right.

5 MR. ROSEN: And then that will tell us a lot. If you
6 say she's not the wife, well, you know, then it's been
7 good knowing everybody and I guess we just go --

8 THE COURT: I guess you go to Columbia.

9 MR. ROSEN: -- go up to Columbia or whatever. But if
10 she is the wife under ceremonial marriage, then we have to
11 defend --

12 THE COURT: I understand all of that but the point of
13 my question is this. That you are -- it would not be a
14 lot of discovery needed, you don't think, in order to
15 address that issue.

16 MR. ROSEN: No discovery, no discovery. And I mean
17 none, because either she's married or she isn't. That's
18 purely a legal matter.

19 THE COURT: Mr. Bell?

20 MR. BELL: Your Honor --

21 MR. ROSEN: Your Honor, let me object to Mr. Bell's
22 participation. I am going to take exception to this.

23 Mr. Bell is not admitted to this case. He is admitted pro
24 hoc vice under the will and trust dispute. He's not --
25 his client's not parties, will never be parties to this

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1 case involving Tommie Rae for a variety of reasons. And
2 in any event, he's not admitted to address this issue.

3 THE COURT: Thank you. All right. Hold on. I'll get
4 to all y'all in a minute.

5 Mr. Shahid, what's the status of your situation?

6 MR. SHAHID: Judge, I think probably we may be in the
7 same boat with Ms. Tommie Rae Brown on filing a
8 dispositive motion as well. I'd like a little more time
9 to explore that and see, because it really doesn't depend
10 on the successor or the special administrator that you're
11 going to appoint. But I think perhaps if we file a
12 dispositive motion, we may be able to abstract a
13 resolution of this case as well.

14 THE COURT: Well, here's the concern. Obviously 45
15 days is not up until the end of the month, this month.
16 And if I appoint someone they can't do it the next week.
17 They've got to get their feet wet and become familiar with
18 the issues and obviously they have to -- I have to
19 consider how much time they will need to be in a position
20 to defend those motions and et cetera.

21 Of course, Mr. Levenson's situation's a whole
22 different ball game. I assume that's going to require a
23 good bit of discovery, or perhaps. I don't know. And
24 obviously that is a jury trial without any question.

25 So my thoughts are this. Obviously I can't enter into

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1 any scheduling orders until I address carving out however
2 I handle the administration of the estate, whether it be
3 leaving some of it with Bauknight and carving out the
4 contest or however, but I can't do that until my 45 days
5 is up.

6 But assuming I appoint somebody, then obviously I've
7 got to set out with them with you involved, see how much
8 time it will take them to become acclimated and then be in
9 a position to argue dispositive motions and then depending
10 on the ruling in those where they would go as far as any
11 other final disposition of those cases.

12 And then Mr. Levenson's situation is entirely
13 different because I got to set a trial date and then fill
14 in between the trial date and now what all has to be done,
15 i.e., discovery then dispositive motions, et cetera. So
16 that's where we stand.

17 Ms. Pope?

18 MS. POPE: Your Honor, I'm extremely concerned that a
19 fiduciary is appointed to conduct the litigation on behalf
20 of the will and trust. That's -- the first thing they'll
21 have to consider is the matters over which the Richland
22 County Court has exclusive jurisdiction.

23 It has before it in a case filed on May 19th, 2010 in
24 which Ms. Hynie told the Richland County Court that
25 everything over here was over. The State told the

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1 Richland County Court everything here was over. And that
2 case has now been pending since May 19th, 2010. We are
3 four depositions away from trial. That's the first
4 decision for the person appointed to protect the estate
5 and trust in litigation --

6 THE COURT: Ms. Pope, in all due respect and all due
7 respect to you, you know, I respect you personally and
8 professionally, I've gotten my marching orders from the
9 Supreme Court. I'm going to handle the will contest,
10 Mr. Rosen's client's contest, Mr. Shahid's young man's
11 contest and my courtroom -- and this courtroom, and I'm
12 going to do it with all the efficiency that I can.

13 I have nothing to do with the case in Richland
14 County. That's Judge Manning's case. I don't know what's
15 going on in it. I don't want to know what's going on
16 it -- well, I shouldn't say that. I just don't have
17 anything in that case.

18 MS. POPE: Your Honor, the fiduciary appointed to
19 protect the estate plan of James Brown wants to know
20 what's going on in that case.

21 THE COURT: Well --

22 MS. POPE: And my FOIA rights are being held up in
23 that case.

24 THE COURT: Well, Ms. Pope, I can't tell you anything
25 to do but go to Judge Manning and complain by motion or

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1 whatever. I don't have any jurisdiction over your
2 Columbia case.

3 MS. POPE: And in the Columbia case the question
4 squarely before the Court is, is Tommie Rae the wife of
5 James Brown.

6 THE COURT: Well --

7 MS. POPE: Squarely before that Court with sole and
8 exclusive jurisdiction until it's resolved.

9 THE COURT: Well, I think there's a rule where the
10 same issue's pending in two cases. I mean, obviously one

11 can be held in abeyance until the other one is decided.

12 MS. POPE: And, Your Honor, it's this one.

13 THE COURT: I am moving forward as directed by the
14 Supreme Court in these cases in Aiken County in the most
15 efficient, legal way I know, considering everybody's
16 position.

17 MS. POPE: I understand --

18 THE COURT: But I've got my marching orders. I've
19 already been through this thing and I'm now handling it in
20 Aiken, what I have left. What I have left is the contest
21 Mr. Levenson has, Mr. Rosen's claim, Mr. Shahid's claim.

22 MS. POPE: What you have left, Your Honor, is a suit
23 for 10s of millions of dollars against Bob Buchanan and
24 me.

25 THE COURT: I do not have that.

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1 MS. POPE: You do, Your Honor.

2 THE COURT: How?

3 MS. POPE: Because the person who is appointed to
4 administer the estate of James Brown under his valid will
5 is a party to that case, has sued me.

6 THE COURT: Well, I don't know anything about the case
7 in Richland. I don't -- other than Mr. Buchanan has
8 settled for a sum as set out in the documents.

9 MS. POPE: That -- I was not given notice of that
10 hearing, if Your Honor will recall.

11 THE COURT: Well, Mr. Buchanan came before me asking
12 me to approve the settlement in this court, in his claims
13 that he had in this court.

14 MS. POPE: I understand. Yes, Your Honor.

15 THE COURT: Anyway, Ms. Pope, I am going to -- if I

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

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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

21 Supreme Court has said: We are aware that a suit has been
22 filed in Richland County seeking damages to Brown's estate
23 allegedly during appellate service. I guess that's Pope
24 and Mr. Buchanan. And then it mentions something about
25 FOIA.

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1 I just don't know how I can be held hostage in moving
2 about deciding this case with what's going on in
3 Columbia. I'm not going to be in that situation.

4 MS. POPE: Your Honor, I don't think it's being held
5 hostage --

6 THE COURT: Well, maybe that's a bad choice of words.

7 MS. POPE: -- to decide there are matters over which
8 at the request of Mr. Bauknight, the State of South
9 Carolina and Tommie Rae, the Richland County case has
10 taken exclusive jurisdiction. We fought the
11 jurisdiction. We thought it should be here, venue. But
12 it's not.

13 THE COURT: Well, I don't know that they've got --

14 MS. POPE: And therefore --

15 THE COURT: -- exclusive jurisdiction. I mean, if
16 they had exclusive jurisdiction the Supreme Court would
17 have told me to sit tight.

18 MS. POPE: Your Honor, they have sole jurisdiction.

19 THE COURT: Okay.

20 MS. POPE: Until it's concluded over the matters
21 there. I think that's what the probate code says.

22 We didn't want it there, Your Honor. We wanted it
23 back here. We thought that was wrong.

24 THE COURT: Well, with all due respect to everybody, I
25 certainly didn't want it back.

1 (Laughter.)

2 THE COURT: All right. I understand your position.

3 MS. POPE: Thank you, Your Honor.

4 THE COURT: I will do as I deem necessary.

5 MR. BLACK: Your Honor, you do have a technological
6 advance in the courtroom. I see Mr. Ness was able to pull
7 up the opinion. I was going to reference the same thing.

8 Just for the record, the opinion before the South
9 Carolina Supreme Court has nothing to do with the case
10 coming from Richland County.

11 THE COURT: I understand.

12 MR. BLACK: Your Honor, I also -- just to make sure
13 the record is also correct, that was Mr. Bauknight's
14 admiral decision. He debated about that --

15 THE COURT: You're talking about 4900?

16 MR. BLACK: No, Your Honor. His decision on the
17 separate SA issue. You had referenced it being a Nexsen
18 Pruet decision and I can't --

19 THE COURT: Well, maybe I misstated on that.

20 MR. BLACK: It was Mr. Bauknight's decision after a
21 thorough review, after reviewing the expert witness's
22 materials indicating there was no conflict, but it was
23 Mr. Bauknight facilitating his duties of --

24 THE COURT: Well, is anyone aware of anyone else who
25 is interested in applying or making an application or upon

1 proper application?

2 MS. POPE: Your Honor, I know a number of people who
3 would be interested in serving. And I was hoping to have
4 a ruling from Your Honor so I wouldn't get slapped down if

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

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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.

10 THE COURT: Thank you.

11 MR. BELL: We'll just file a motion. And we will get
12 that before Your Honor.

13 THE COURT: Just tell me what you want to tell me.

14 MR. BELL: Your Honor, Mr. Rosen mentioned the summary
15 judgment motion filed in Tommie Rae Hynie's matter, status
16 of the case.

17 The history of that, and I refresh the memory of the
18 Court, because it was so far back, I filed a notice to
19 take Ms. Hynie's deposition. Right before that was taken,
20 Wayne Byrd sent out an e-mail with a copy of Ms. Hynie's
21 personal diary. Mr. Rosen filed a motion with Your Honor
22 to stay the proceedings until the issue of the diary could
23 be resolved. And at that time you indicated to me that we
24 would be given adequate discovery time before there was a
25 ruling.

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1 while the stay was in place, the discovery, Mr. Rosen
2 filed a motion for summary judgment. He is absolutely
3 correct on the record as it stands, there's no issue. That
4 is because there has been no discovery proceedings.

5 And what we would ask for is an adequate time to
6 conduct discovery and the Court's ruling on whether the
7 diary of Ms. Hynie would be admissible in those
8 proceedings.

9 THE COURT: That's why I'm asking for a scheduling
10 order.

11 MR. BELL: Yes, Your Honor.

12 THE COURT: But I'm sort of at a standstill until I
13 address this issue of the application that the Court has
14 told me to do. So as soon as that is done which will be

15 in early April -- strike that -- in early August, I would
16 urge all of you to think about a scheduling order because
17 I'm going to issue one. And it's much easier for me to
18 let y'all give me some dates, but if not we're going to
19 move forward with all the deliberate speed we can. I'm
20 going to finish this up.

21 MR. ROSEN: Your Honor, I think the most important
22 thing is getting the cases divided up.

23 THE COURT: Well, make the motion.

24 MR. ROSEN: We'll make that motion and perhaps that
25 could either be handled over the phone. I mean, it's

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1 administrative.

2 And then if Mr. Bell wants to be heard in any
3 particular case, he could move to be admitted in that
4 particular case.

5 THE COURT: Well, does anybody have any opposition to
6 severing, I'm just going to use it by lawyers' names,
7 Mr. Levenson's claim, Mr. Rosen's claim or Mr. Shahid's
8 claim?

9 MS. POPE: I do, Your Honor.

10 THE COURT: Thank you.

11 MS. POPE: Because we do not even yet have proper
12 parties in 872. Vorhees has not been added. There is no
13 guardian ad litem for Vanisha who is jailed.
14 USC-salkehatchie has not been added. USC-Aiken has not
15 been added. The parties are not even correct. The notion
16 of severing before we even get 872 in a position to
17 protect the estate plan is premature.

18 THE COURT: Thank you. Mr. Rosen, make your motion.

19 MR. ROSEN: We'll make the motion.

20 THE COURT: Thank you. Anything else?

21 As to Ms. Pope's motion to reconsider, I respectfully
22 deny the same. I have obviously read and reread many
23 times my orders of my responsibility from the Supreme
24 Court.

25 With all due respect to Ms. Pope, it is unquestionable

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1 that the Supreme Court has upheld her removal as a
2 fiduciary. And by no longer being a fiduciary in this
3 court, I find that she does not have standing other than
4 the fact that she has obviously all the rights in the
5 world to protect herself concerning her personal
6 representative and trustee commissions and any other type
7 of remuneration that she deems that she is entitled to.
8 And obviously that will be heard at the appropriate time
9 by this Court.

10 And I will issue an order affirming my original
11 administrative order and we'll move forward. I'll have it
12 probably in a form order within a day or two.

13 Thank y'all very much. I hope you have a wonderful
14 rest of the week. Thank you.

15 MR. ROSEN: Thank you, Your Honor.

16 MR. BLACK: Thank you, Your Honor.

17 MR. SHAHID: Thank you, Your Honor.

18 END OF PROCEEDINGS: 2:15 P.M.

19 * * * *

20 CERTIFICATE OF REPORTER

21 STATE OF SOUTH CAROLINA)

22 COUNTY OF AIKEN)

23 I, Cheri L. Young, Registered Professional Reporter
24 and Official Court Reporter for the State of South

25 Carolina, Second Circuit-At Large, do hereby certify that

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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.

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Cheri L. Young, RPR
Official Court Reporter

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LAST WILL
OF
JAMES BROWN

H. Dewain Herring, Esquire
Law Offices of H. Dewain Herring, LLC
3612 Landmark Dr., Suite A
Columbia, South Carolina 29204

*LAST WILL AND TESTAMENT
OF
JAMES BROWN*

Introductory Clause

ITEM I

General Bequest of Personal and Household Effects With a Mandatory Memorandum

ITEM II

Pour-Over Gift to Trustee of Testator's Inter Vivos Trust

ITEM III

Alternate Provision to Incorporate Trust by Reference if Pour-Over is Invalid

ITEM IV

Naming the Personal Representative, Personal Representative Succession, Personal
Representative's Fees and Other Matters
Naming Individuals as Personal Representative
Individual Personal Representatives Succession
Fee Schedule for Individual Personal Representative
Personal Representative Voting Rights

ITEM V

Definition of Personal Representative

ITEM VI

Powers for Personal Representative

ITEM VII

Definition of Words Relating to the Internal Revenue Code

ITEM VIII

Statement by Testator of Intent Not to Exercise Power of Appointment

ITEM IX

Severability and State Law to Govern

ITEM X

**Provisions as to any Contest of my Estate Plan
Testimonium, Attestation and Self-Proving Affidavit**

them, the decision of my Personal Representative to be in all respects binding upon my issue. If any beneficiary hereunder is a minor, my Personal Representative may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility and the receipt of the person to whom it is distributed shall be a complete discharge of my Personal Representative. The cost of packing and shipping such property shall be charged against my estate as an expense of administration.

ITEM II

Pour-Over Gift to Trustee of Testator's Inter Vivos Trust. I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to *Alford A. Bradley, Albert H. Dallas, David G. Cannon* as Trustee(s) under that certain Irrevocable Trust Agreement between me as Grantor and *Alford A. Bradley, Albert H. Dallas, David G. Cannon* as Trustee(s) executed prior to or of even date with the execution of this Will. My Trustees shall add the property bequeathed and devised by this Item to the principal of the above Trust and shall hold, administer and distribute the property in accordance with the provisions of the Irrevocable Trust Agreement including any amendments made solely by the Trustee(s), if any had to be made to carry out the terms of said Trust.

ITEM III

Alternate Provision to Incorporate Trust by Reference if Pour-Over is Invalid. In the event for any reason the bequest and devise above is ineffective and invalid, then I hereby give, devise and bequeath the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, to *Alford A. Bradley, Albert H. Dallas, David G. Cannon* as Trustee(s) to be held, administered and distributed in accordance with the provisions of that certain Trust Agreement between me as Grantor and *Alford A. Bradley, Albert H. Dallas, David G. Cannon* as Trustee(s) executed prior to or of even date with the execution of this Will, which Irrevocable Trust Agreement is hereby incorporated by reference and made a part hereof the same as if the entire Trust Agreement were set forth herein, including any amendments thereto made solely by the Trustee(s), if any had to be made to carry out the terms of said Trust.

ITEM IV

Naming the Personal Representative, Personal Representative Succession, Personal Representative's Fees and Other Matters. The provisions for naming the Personal Representative, Personal Representative succession, Personal Representative's fees and other matters are set forth below:

(1) **Naming Individuals as Personal Representative.** I hereby nominate, constitute and appoint as Personal Representatives of this my Last Will and Testament *Alford A. Bradley, Albert H. Dallas, David G. Cannon*, and direct that they shall serve without bond.

(2) **Individual Personal Representatives Succession.** If any of the three (3) individual Personal Representative should fail to qualify as Personal Representative hereunder, dies, or for any reason should cease to act in such capacity, the remaining Personal Representative(s) shall continue to serve and shall elect and/or appoint another Representative so that at all times there are three (3) individual Personal Representative(s) serving. If the Personal Representatives are unable to come to such agreement as to a successor then they are obligated to seek the advise of the Advisory Board Members set out in that certain Advisory Board document signed and dated of even date with this Will, if there is a then recognized Board in effect. If the Advisory Board is unable to persuade the remaining Personal Representative(s) to reach an election or appointment, then, absent an agreement the court having jurisdiction over this Will shall then appoint the remaining individual Personal Representative who shall also serve without bond.

(3) **Fee Schedule for Individual Personal Representative.** For its services as Personal Representative, the individual Personal Representative shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses.

(4) **Personal Representative Voting Rights.** If there is more than one Personal Representative serving, then the vote of the Personal Representatives for any action hereunder must be by majority action of the Personal Representatives.

ITEM V

Definition of Personal Representative. Whenever the word "Personal Representative" or any modifying or substituted pronoun therefor is used in this my Will, such words and respective pronouns shall include both the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Personal Representative named herein and to any successor or substitute Personal Representative acting hereunder, and such successor or substitute Personal Representative shall possess all the rights, powers and duties, authority and responsibility conferred upon the Personal Representative originally named herein.

ITEM VIII

Statement by Testator of Intent Not to Exercise Power of Appointment. I hereby refrain from exercising any power of appointment that I may have at the time of my death.

ITEM IX

Severability and State Law to Govern. If any part of this Will shall be invalid, illegal or inoperative for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. Regardless of the situs of execution of this Will, it is acknowledged that it is deemed to have been executed in conformity with and shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

ITEM X

Provisions as to any Contest of My Estate Plan. Should any beneficiary under this Will or my Irrevocable Trust, and as amended, dated prior to or of even date with this Will and as referred to herein, become an adverse party in a proceeding for the probate of my Will or in any manner contest the validity of my Irrevocable Trust, such beneficiary shall forfeit his or her entire interest thereunder and such interest shall pass to such other beneficiaries as would be entitled to take as if such beneficiary predeceased me. Furthermore, any person not provided for in this Will, my Irrevocable Trust or other such instrument, whether or not claiming to be a beneficiary or party in interest, shall not have standing or be qualified to contest, claim an interest in or otherwise dispute the disposition of my estate, as I herewith disclaim and disinherit any such persons. Any such alleged claim shall be considered an affront to my wishes and shall be challenged as such by my fiduciaries.

**END OF PAGE
SEE NEXT PAGE FOR EXECUTION**

IRREVOCABLE TRUST AGREEMENT
OF
JAMES BROWN

H. Dewain Herring, Esquire
Law Offices of H. Dewain Herring, LLC
3612 Landmark Dr., Suite A
Columbia, South Carolina 29204

IRREVOCABLE TRUST AGREEMENT

Introductory Clause

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Provisions for Grantor During Lifetime

ARTICLE II

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ARTICLE III

Grantor's Right to Add Property

ARTICLE IV

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Continuance of *The Brown Family Education Trust* and *The James Brown "I Feel Good" Trust*

ARTICLE VI

***The Brown Family Education Trust* Introductory Provision
Division Into Shares for Grandchildren
Income/Discretionary Invasion of Principal for Grandchildren
Distribution of Shares and Termination of Trust**

ARTICLE VII

***The James Brown "I Feel Good" Trust* Introductory Provision
Purpose of The James Brown "I Feel Good" Trust
Intention of The James Brown "I Feel Good" Trust
Discretion to Sell Trust Property
Trustee Must Not Engage in Self-dealing
Trustee Must Not Distribute as to Incur Taxes Upon This Trust
Power of Amendment**

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Trustee Succession, Trustee's Fees and Other Matters
Individual Trustees Succession
Final Succession If All Individual Trustees Cannot Act
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Fee Schedule for Corporate Trustee
Trustee Voting Rights
Limitations on Trustees

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ARTICLE X

Powers for Trustee

ARTICLE XI

Provision for Trustee to Act as Trustee for Beneficiary Under Age Twenty-One

ARTICLE XII

**Trustee's Discretion in Making Payments to a Person Under Age Twenty-One,
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ARTICLE XIII

Power of Trustee (s) Successions

ARTICLE XIV

Discretion in Trustee to Terminate Small Trust and Distribute to Income Beneficiary

ARTICLE XV

Definition of Words Relating to the Internal Revenue Code

ARTICLE XVI

**Payment of Funeral Expenses and Expenses of Last Illness of Income
Beneficiary**

ARTICLE XVII

Personal Trust

ARTICLE XVIII

Beneficiary's Spouse

ARTICLE XIX

Severability and State Law to Govern

ARTICLE XX

Spendthrift Provision

ARTICLE XXI

Provisions as to any Contest of Grantor's Estate Plan

ARTICLE XXII

Declaration of Children

Testimonium Clause

IRREVOCABLE TRUST AGREEMENT

Introductory Clause. This Agreement made between *James Brown*, also known as "The Godfather of Soul", hereinafter referred to as the Grantor and *Alford A. Bradley, Albert H. Dallas, David G. Cannon* hereinafter referred to singularly and/or collectively as the Trustee(s). For and in consideration of the mutual covenants and promises set forth herein Grantor and Trustee(s) agree:

ARTICLE I

Grantor transfers and delivers to Trustee(s), in trust, the property described in Schedule A, B and/or C attached and incorporated by this reference. Receipt of the property is acknowledged by Trustee(s). The property, and any other property subject to this trust, shall constitute the trust estate, and shall be held in trust for the uses and purposes expressed in this trust agreement and shall be subject to the conditions provided in this instrument.

ARTICLE II

This trust shall be irrevocable. Grantor waives the right and the power to alter, amend, revoke, or terminate the trust or any of the terms of this trust agreement. Grantor renounces any power to determine or control, by alteration, amendment, revocation, termination, or otherwise, the beneficial enjoyment of the principal or income of the trust. Grantor renounces any interest in the income or principal of the trust estate, whether vested or contingent, including any reversionary interest or possibility of reverter.

ARTICLE III

Grantor and any other person shall have the right at any time to add property acceptable to Trustee(s) to this trust. The property, when received and accepted by Trustee(s), shall become part of the trust estate.

ARTICLE IV

The Trustee(s) shall hold, manage, invest and reinvest the Trust Property, shall collect and receive the income from it and, after deducting all necessary expenses incident and as allowed herein for administration of this Trust, shall dispose of the income and principal as follows:

At anytime and from time to time Trustee(s) may distribute to or for the benefit of any beneficiary so much of the principal and income of the Trust as Trustee(s) shall determine in Trustee(s)'s absolute and sole discretion. The income not so distributed shall be accumulated and added to the principal of the Trust.

Payments made to or for beneficiaries pursuant to this section need not be equal and shall be made in the Trustee(s)'s absolute and sole discretion.

Payments may be made currently and during the life of the Grantor:

- To or for the benefit of the Grantor during his life
- To or for the benefit of the Beneficiaries of the Brown Family Education Trust pursuant to its terms as set out
- To or for the benefit of the Beneficiaries of the James Brown "I Feel Good" Trust pursuant to its terms as set out.

Upon the death of the Grantor all principal and undistributed income of this Trust shall at that time be consolidated, distributed and paid over to the Trustee(s) of the Brown Family Education Trust and the Trustee(s) of The James Brown "I Feel Good" Trust and shall continue to be administered as therein set out.

ARTICLE V

Continuance of *The Brown Family Education Trust* and *The James Brown "I Feel Good" Trust*. Upon the death of the Grantor, the Trustee shall divide the remaining Trust Estate (which shall include any property which may be added from the Grantor's's general estate) into Two (2) separate shares, hereinafter designated as "*The Brown Family Education Trust*" and "*The James Brown "I Feel Good" Trust*." The two shares shall be equal, subject only to the limitation imposed on *The Brown Family Education Trust* by the maximum available generation-skipping transfer exemption as computed by the following formula. *The Brown Family Education Trust* shall be a fraction of the Trust Estate (undiminished by estate, inheritance, succession, death or similar taxes), the numerator of which shall be an amount equal to the Grantor's available generation-skipping transfer exemption as hereafter defined and the denominator shall be an amount equal to the value of the Trust Estate. For purposes of establishing such fraction the values as finally determined in the Grantor's federal estate tax proceedings shall be used. The Grantor recognizes that the numerator of such fraction may be zero, in which case no property shall be distributed under this paragraph to *The Brown Family Education Trust*. The Grantor also recognizes that the numerator of such fraction may be equal to or greater than the denominator, in which case the entire Trust Estate shall be distributed to *The Brown Family Education Trust*.

The James Brown "I Feel Good" Trust shall be the balance of the Trust Estate.

The Brown Family Education Trust and *The James Brown "I Feel Good" Trust* shall be administered as hereinafter set forth.

ARTICLE VI

The Brown Family Education Trust Introductory Provision. *The Brown Family Education Trust* shall be held, administered and distributed as follows:

(1) **Division Into Shares:** Upon the death of the Grantor, the Trustee shall divide this Trust as then constituted into equal separate shares so as to provide one (1) share for each then living grandchild, who has not reached the age of Thirty-Five (35), of the Grantor. Each share shall be distributed or retained in trust as hereinafter provided.

(2) **Income/Discretionary Invasion of Principal.** Net income from each share so provided for above shall be paid to or applied for the benefit of such grandchild for that grandchild's education and related education expenses until complete distribution of the share as herein provided. Any income not so paid or applied shall be accumulated and added to principal for that share. In addition to income, the Trustee may pay to or apply for the benefit of such grandchild such sums from the principal of his or her share as in its sole discretion shall be necessary or desirable from time to time for his or her education, taking into consideration to the extent the Trustee deems advisable, any other income or resources of such grandchild known to the Trustee. My intent is to provide for any and all primary, secondary and post-secondary education, whether grade school, middle school, high school, vocational training, college or post-graduate education, or professional schooling, for each grandchild as can best encourage and allow each grandchild to reach his or her full potential. This directive shall include, but not necessarily be limited to, public, private, parochial, denominational and/or any government schooling and educational opportunities.

(3) **Distribution of Shares and Termination of Trust.** After division into shares for the Grantor's grandchildren, upon each grandchild of the Grantor attaining the age of Thirty-five (35) years, or death, whichever first occurs, and prior to complete distribution of his or her share, the undistributed balance of such named grandchild's share shall be added to *The James Brown "I Feel Good" Trust* and shall thereafter be administered and distributed according to its terms. When no grandchild is living who is under the age of Thirty-five (35) years, *The Brown Family Education Trust* shall terminate, and all accumulated income and principal shall be paid over and added to *The James Brown "I Feel Good" Trust* and shall thereafter be administered and distributed according to its terms.

ARTICLE VII

The James Brown "I Feel Good" Trust Introductory Provision. *The James Brown "I Feel Good" Trust* shall be held, administered and distributed as follows:

(1) **Purpose of *The James Brown "I Feel Good" Trust*.** It is my intent that the net income and such portions of principal of this Trust as determined by my Trustees in their sole and absolute discretion, shall be used solely for the tuition, educational expenses, and financial

assistance of and for poor and financially needy children, youth, or young adults (Who are both qualified and deserving) who seek and have need of such assistance to obtain and further their education at the many educational entities and/or institutions available in the States of South Carolina and Georgia. My Trustee(s) may, upon their discretion, include any of my heirs and issue herein defined for purposes of fulfilling the terms of this Trust.

My Trustee(s) shall exercise their sole and absolute discretion in making the decisions necessary to fulfill the terms and directives of this Trust. The Trustee(s) are however, directed to make payment directly to such educational entities and/or institutions. All entities and/or institutions shall qualify as bodies corporate, politic or educational under IRS Code 501 (C)(3), 115,117, et seq., status and as amended, or such other same or similar IRS Code and/or Section status as shall achieve tax free income and distribution as I desire that the maximum benefit be for education.

(2) My intent is to provide for any and all primary, secondary, and post-secondary education, whether grade school, middle school, high school, vocational training, college or post-graduate education, or professional schooling, for each of the beneficiaries as can best encourage and allow each of the beneficiaries to reach his or her full potential. This directive shall include, but not necessarily be limited to, public, private, parochial, denominational and/or any government schooling and educational opportunities.

(3) **Discretion to Sell Trust Property.** I authorize and empower my Trustee to sell any portion or all of said property at private or public sale at such price as they deem most advantageous, at such time or times as my Trustee may deem advisable in its discretion, and to execute good and sufficient deeds and other instruments necessary or proper to convey and transfer the same to the purchasers, who shall not be bound to see to the application of the purchase money. I direct that my Trustee shall convert the assets of this Trust to income producing assets within such reasonable time as in my Trustee's sole discretion, it shall determine is most advantageous to carry out my intent and the purposes of this Trust.

(4) **Trustee must not Engage in Self-dealing.** My Trustee is prohibited from engaging in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1986, from retaining any excess business holding as defined in Section 4943© of the Internal Revenue Code of 1986, from making any investments which would subject the Trust to tax under Section 4944 of the Internal Revenue Code of 1986, and from making any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1986. My Trustee shall make distributions at such time and in such manner as to not subject the Trust to tax under Section 4942 of the Internal Revenue Code of 1986.

(5) **Trustee must not distribute as to incur taxes upon this Trust.** All principal held and distributions made as described herein shall be for such entities, organizations, funds, as shall qualify under such provisions of the Internal Revenue Code, and as amended so that such principal and distributions are exempt from payment of taxes.

(6) **Power of Amendment.** The Trustee(s) shall have the power to amend the 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, and as amended.

ARTICLE VIII

Trustee Succession, Trustee's Fees and Other Matters. The provisions for naming the Trustee, Trustee succession, Trustee's fees and other matters are set forth below:

(1) **Individual Trustees Succession.** If any of the three (3) individual Trustee should fail to qualify as Trustee hereunder, dies, or for any reason should cease to act in such capacity, the remaining Trustee(s) shall continue to serve and shall elect and/or appoint another Trustee so that at all times there are three (3) individual Trustee(s) serving. The notice and election provisions of Article XIII, Powers of Trustee(s) Succession shall be followed.

(2) No Trustee(s) or Successor Trustee(s) shall be required to give any bond or other security.

(3) **Fee Schedule for Individual Trustee.** For its services as Trustee(s), the Trustee(s) shall receive reasonable compensation for the services rendered and reimbursement for reasonable expenses.

(4) **Trustee Voting Rights.** If there is more than one Trustee serving, then the vote of the Trustees for any action hereunder must be by majority action of the Trustees.

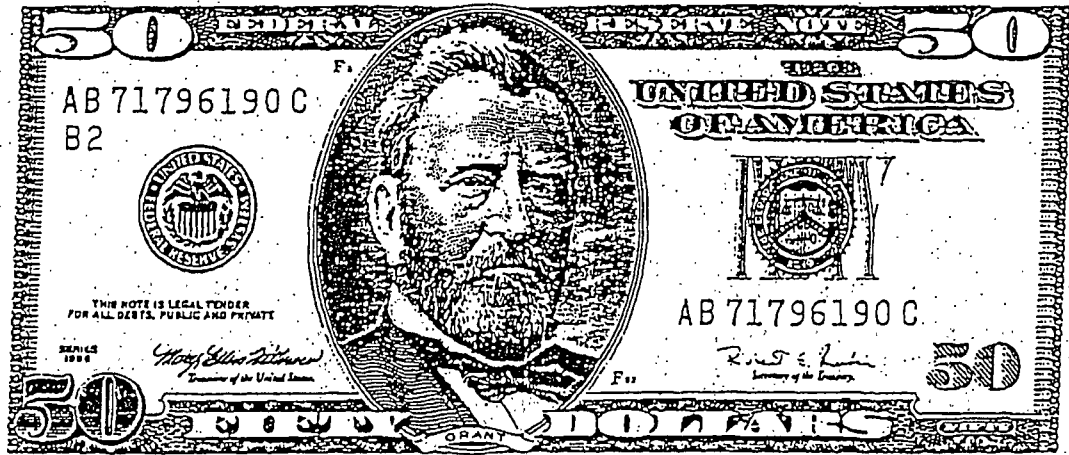
(5) **Limitations on Trustees.** No person who at any time is acting as Trustee hereunder shall have any power or obligation to participate in any discretionary authority which has been given to the Trustee so as to pay principal or income to such person, or for his or her benefit or in relief of his or her legal obligations.

(6) **Advisory Board.** There shall exist an Advisory Board of three (3) initial members. This Board shall confer with and advise the Trustee(s) in such a manner as would be consistent with Grantors objectives for this Trust. The Trustee(s) may consider, but are not obligated to follow advisories as propounded by the Advisory Board. The Initial Members shall be designated in/or by a separate writing, reference thereto being craved and to be given effect as if such Advisory Board Members were set forth herein.

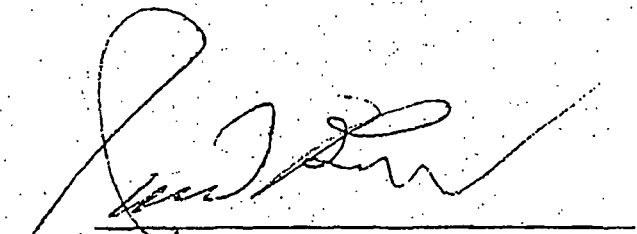
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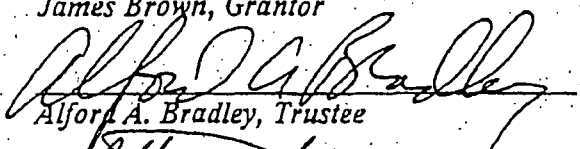
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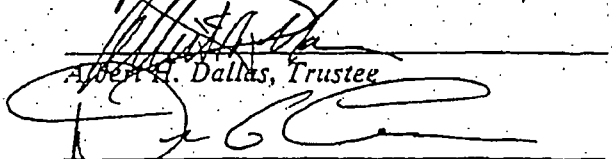
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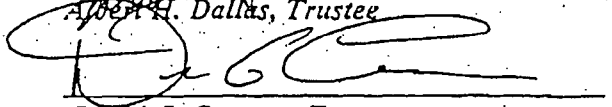


- 2) All ownership interest(s) in James Brown Enterprises, Inc.
- 3) All ownership interest(s) in my primary residence, including all land and improvements located #30 Douglas Drive, Beech Island, SC 29841 together with such other acreage and property within the vicinity. (See Attached Real Estate Description)
- 4) All ownership interest(s) in


James Brown, Grantor


Alford A. Bradley, Trustee


Albert A. Dallas, Trustee


David G. Cannon, Trustee

STATE OF SOUTH CAROLINA) AMENDMENTS AND RATIFICATION
) OF AMENDMENTS AND OTHER ACTIONS,
COUNTY OF AIKEN) JAMES BROWN 2000 IRREVOCABLE TRUST

This is an Amendment and Ratification of Amendments and other actions, JAMES BROWN 2000 IRREVOCABLE TRUST, executed on July 28, 2008 by Robert L. Buchanan, Jr. and Adele J. Pope (described herein as the "Trustees").

RECITALS:

WHEREAS, James Brown created an irrevocable Trust dated August 1, 2000 (the "Trust") under which The James Brown "I Feel Good" Trust, a charitable educational Trust, was established at his death; and

WHEREAS, James Brown died on December 25, 2006, leaving a last Will dated August 1, 2000 which devises his residuary estate to the Trust, with the majority to pass, by formula, to the "I Feel Good" Trust; and

WHEREAS, the Will of James Brown also established a new Trust, identical to the Trust, should the devise to the Trust be invalid; and

WHEREAS, the three original Trustees of the Trust, David G. Cannon, Albert H. Dallas and Alfred A. Bradley did not at any time between August 1, 2000 and November 20, 2007 apply for recognition of exemption of the James Brown "I Feel Good" Trust under Section 501(c)(3) of the Internal Revenue Code; and

WHEREAS, on or before November 20, 2007 the original Trustees resigned and the Trustees were duly appointed as Trustees of the Trust and all of its subtrusts, including The James Brown "I Feel Good" Trust, on November 20, 2007; and

WHEREAS, between November 30, 2007 and July 14, 2008 the former Trustees have challenged the authority of the Trustees to act under the Trust, and many Interested Parties have challenged the validity of the Will and the Trust; and

WHEREAS, on July 14, 2008, the Honorable Jasper M. Cureton, Judge, South Carolina Court of Appeals, confirmed the authority of the Trustees to act under the Trust and its subtrusts pending an appeal of two of the former Trustees' unsuccessful attempts to withdraw their resignations; and

WHEREAS, although the Trustees do not believe that the challenges of the former Trustees and others impaired their authority to protect the Trust, including the James Brown "I Feel Good" Trust, during the period, they now desire to take all necessary action to confirm that

the actions they have taken on behalf of the Trust, including The James Brown "I Feel Good" Trust are valid and remain in full force and effect; and

WHEREAS, Paragraph (6) of Article VII of the Trust provides that the Trustees shall have the power to amend The James Brown "I Feel Good" 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, and as amended; and

WHEREAS, prior to submission of the Application for Recognition of The James Brown "I Feel Good" Trust on December 5, 2007, the Trustees took certain actions, including the adoption of By-laws and the adoption of an Amendment to Article VII of the Trust, to insure qualification of the Trust; and

WHEREAS, after submission to the Internal Revenue Service, in order to insure qualification, additional amendments were made to the Trust as requested by the Internal Revenue Service for qualification; and

WHEREAS, The James Brown "I Feel Good" Trust had no assets on November 20, 2007 and has had no additions since that time, but does have an expectation of a substantial devise provided it qualifies under Section 501(c)(3) of the Internal Revenue Code; and

WHEREAS, to insure the proper administration, the Trustees now desire to confirm and ratify the actions taken by the Trustees between November 20, 2007 and the date hereof, including the adoption of the By-Laws and Amendments to the Trust referenced herein;

NOW, THEREFORE, IT IS RESOLVED:

FIRST

The James Brown "I Feel Good" Trust is hereby amended by adding a new paragraph 5 (a) of Article VII of the Trust, to be located after paragraph 5 and before paragraph 6, which shall read as follows:

Article VII

(5a) The name of the organization is **The James Brown "I Feel Good" Trust.**

The organization is organized exclusively for charitable, religious, educational, and/or scientific purposes under section 501(c)(3) of the Internal Revenue Code.

Upon the dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose.

The Trustees agree that no part of the net earnings of the organization shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the organization shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the purpose clause hereof. No substantial part of the activities of the organization shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the organization shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these articles, the organization shall not carry on any other activities not permitted to be carried on (a) by an organization exempt from federal income tax under section 501(c)(3) of the internal Revenue Code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code.

Termination, Dissolution, or Winding Up. Upon the termination, dissolution, or winding up of the Trust, the assets of the Trust remaining after payment, or provision for payment, of all its debts and liabilities shall be distributed to such organization or organizations organized and operated for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or the federal government, or to a state or local government, for a public purpose. Such distribution shall be made in accordance with all applicable provisions of the laws of the State of South Carolina.


SECOND

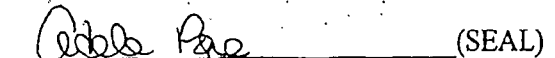
Except as modified above, the Trust shall in all respects remain in full force and effect.

FURTHER RESOLVED, that each action taken by the Trustees between their appointment on November 20, 2007 and July 28, 2008, including but not limited to all actions related to the adoption of By-Laws of The James Brown "I Feel Good" Trust; the Application for Recognition of Exemption submitted to the Internal Revenue Service on behalf of The James Brown "I Feel Good" Trust, and the adoption of the above amendments to the Trust, is hereby ratified, confirmed and/or approved; and

FURTHER RESOLVED, to the extent allowed by law, and necessary under the circumstances, these actions are approved and ratified nunc pro tunc as of the original date of the action.

IN WITNESS WHEREOF, the Trustees have set their hands and affixed their seals as of the day and year above written.


Robert L. Buchanan, Jr., Trustee (SEAL)


Adele J. Pope, Trustee (SEAL)

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
)
IN THE MATTER OF:)
THE ESTATE OF JAMES BROWN)
)
ALBERT H. DALLAS,)
) Plaintiff,)
) vs.)
ROBERT L. BUCHANAN, JR. AND)
ADELE J. POPE, PERSONAL)
REPRESENTATIVES OF THE ESTATE)
OF JAMES BROWN,)
) Defendants.)
) _____)

IN THE COURT OF COMMON PLEAS
Case Number 2008-CP-02-1426

**Brief in Support of Intervention
without Hearing or Expedited Hearing
and Scheduling Order**

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
)
IN THE MATTER OF:)
THE ESTATE OF JAMES BROWN)
)
ALFRED A. BRADLEY,)
) Plaintiff,)
) vs.)
ROBERT L. BUCHANAN, JR. AND)
ADELE J. POPE, PERSONAL)
REPRESENTATIVES OF THE ESTATE)
OF JAMES BROWN,)
) Defendants.)
) _____)

IN THE COURT OF COMMON PLEAS
Case Number 2008-CP-02-1427

**Brief in Support of Intervention
without Hearing or Expedited Hearing
and Scheduling Order**

This Brief supports the arguments and record to be made by Adele J. Pope in the above cases on February 29, 2012. Pope asserts:

1. Intervention of Robert L. Buchanan, Jr. and Pope ("B&P") should be granted' as a matter of right with no hearing, or after an expedited hearing.
2. A Scheduling Order approximately as set out herein will promote judicial economy by promptly resolving \$11 Million of claims in 4-year-old cases.
3. Intervention and a Scheduling Order will serve the ends of justice by aiding recovery of some or all of the \$17 Million taken by Cannon, which is in jeopardy and secreted here and/or abroad.

~~I. Incorporation of Brief in Case 2008-CP-02-1425 ("Cannon Claim")~~

Pope attaches and incorporates by reference all facts and arguments in her Brief in Support of Intervention and Dismissal dated February 12, 2012 in the Cannon Claim case.¹ She supplements the Cannon Brief with facts and arguments specific to Dallas and Bradley set out below.

II. Intervention should be granted as a matter of right.

For each reason set out in the Cannon Brief, B&P should be allowed to promptly intervene. B&P have a direct interest in seeing that Dallas and Bradley's commission claims are defeated as a result -- at a minimum -- of their failure to oversee and stop Cannon's takings. Their fraud upon the Court as found in the final orders of Judge Early dated March 7 and April 8, 2008 in Case 2007-CP-02-0122 should preclude PR commissions.

Of critical importance, Dallas -- and perhaps the Estate of Bradley -- have valuable information about the millions being secreted by Cannon, in which B&P have a direct interest.²

III. Dallas has valuable information about the missing \$17 Million.

Dallas and Bradley served as Co-fiduciaries with Cannon as his \$17 Million takings were being discovered. Bradley and Dallas were present when Cannon's 1999

¹ Pope corrects the following date in her Brief dtd. Feb. 12, 2012 in Case 2008-CP-02-1425: The McMaster request for a SLED investigation of Cannon was on **November 19, 2007**.

² On June 4, 2009 Bauknight, through David Black, Esq., directed Messrs Few and Gilreath not to discuss any confidential matters related to the claims of the Estate/2000 Trust against Cannon, Dallas, Bradley and others in Case 2008-CP-02-0322 ("Case 322") with B&P. B&P and Messrs. Few and Gilreath have honored that request.

~~\$5 Million "check to nobody" was discovered, and when Cannon testified and told the Court~~

the money had gone to Brown's Morgan Stanley account ("MS"). It did not go into MS. It is still missing, and was never reported on Cannon's income tax returns. Dallas may have additional information to help find it.

In addition, Dallas' interaction with both Cannon and Brown's daughter Deanna, one of three children asserting in January 2007 that valuable assets are hidden on the Home Estate and elsewhere, may lead to recovery of the hidden assets. The following supplemental chronology suggests why.

a. Events of 2002:

On **June 18** Cannon, with Dallas present³, admits Cannon was "paid" "commission of \$4.9 million from TIAA deal"..."over and above the [MS funds]."

On **November 13** Cannon forms 7th Decade Productions, LLC to manage Brown's bookings. Cannon agrees for 7th Decade to report/pay Brown's taxes.⁴

[F. Copidas (later) tells SLED 7th Decade was formed by or with Dallas.]

b. Events over 1999 - 2006 period:

Dallas may have additional information about the incorrect tax returns prepared for Brown by Phil Farr, Dallas's personal accountant and other matters such as the multiple corporations created by Cannon, with his wife and/or nephew, including: GSC, LLC; A-Com Link; M&D, LLC; VoicePort; GSL, LLC; J&D South Carolina, LLC; Saunders Group.

Dallas may also have knowledge about the "investments" in Honduras.

³ Dallas was the lawyer for Brown and the 2000 Trust at the referenced Cannon deposition, part of the SouthTrust Bank foreclosure suit.

⁴ In March 2007 Cannon advises SA s Pope & Buchanan of 7th Decade's obligation to pay all of Brown's unpaid taxes.

~~c. Events of Last Months of Brown's life and just after Brown's death.~~

Dallas necessarily has information about the following events which directly relate to the Dallas/Bradley commission claims and are critical to recovery of the missing millions:

In **July** Cannon deposits \$1,794,830 into 7th Decade, from Brown's June/July European Tour. Also Cannon receives \$900,000 check for Brown's royalties.

From **July - December 28** Cannon takes \$900,000.00 royalty funds.

In **August** Cannon deposits \$255,000 from Brown's 8/18 - 8/21 California Tour into 7th Decade.

In **September** Cannon deposits \$830,034 from Brown's 9/1 - 9/20 September Tour into 7th Decade.

In **October 2006** Brown & son Daryl attend Atlanta meeting with Dallas, Cannon and others, which Copidas later reports to SLED.

On **October 18-20, 2006** Cannon & Dallas sign document which would give each more than 5% of a refinance of the TIAA loan. Brown signs after the 2.

In **November** Cannon deposits \$899,182 from Brown's Oct/Nov. Tour to Russia, Finland, London, etc. in 7th Decade.

On **December 25** Brown dies with almost none of the \$50+ Million he earned between 1999 - 2006 and none of the \$16 Million TIAA loan⁵.

On **December 26 - January** Cannon & Dallas appoint Deanna trustee; Yamma Executive Assistant to trustees. They share access to Home Estate until January 23.

On **January 3** Bradley becomes trustee. Deanna, Yamma abandon positions.

On **January 9** Deanna, Yamma, Forlando and others hire Louis Levenson, Esq. to investigate wrongdoing by Cannon, Dallas & others.

On **January 23** Dallas on grounds with Cannon, 2 attorneys and 2 investigators while photographing taking place; hidden safe entered.

⁵ The majority of his \$25 Million royalties was used to reduce the TIAA debt

[Dallas (later) agrees he would not be surprised if cash found on Home Estate.]
On **January 24** Dallas/Cannon subject of proposed emergency relief.

In **February** Cannon sends \$233,000 of \$1+ Million sent to Roatan in 2007.

IV. Intervention and a Scheduling Order will Promote Judicial Economy and help recover the missing millions.

As the following chronology shows, Dallas, Cannon and Bradley have allowed
these cases to languish and not conducted any discovery since **August 19, 2008**:

a. Procedural Events of 2008

Order dated **August 19** of Jg. Early gives separate case numbers to 1425
(Cannon), 1426 (Dallas) and 1427(Bradley), but leaves consolidated for
discovery.

Dallas, Cannon, Bradley conduct no discovery.

b. Procedural Events of 2009

Dallas, Cannon, Bradley conduct no discovery.

c. Procedural Events of 2010

Dallas, Cannon Bradley conduct no discovery
In **March** Wayne , Audra Byrd, Esq. and firm seek relief as counsel.
[Dallas/Bradley become pro se when relief granted.]

In **April** Estate/2000 Trust's \$13+ Million Case 322 against Dallas segregated
because of anticipated Dallas Bankruptcy.

On **June 27** Bradley dies.

On **September 30** Dallas files Bankruptcy. Claims his \$6 Million Case 1426
claim is worth \$6 Million - his most valuable asset.

d. Procedural Events of 2011

In **March** Bauknight asks Bky. Court to have Dallas' \$6 Million claim heard
in Aiken by Jg. Early.

Bradley Estate does not move for substitution of PR or conduct discovery.

On **October 10** Estate/2000 Trust advise stipulation of dismissal as to Bradley in Case 322 is forthcoming.

Proposed Amended Complaint, Case 322, retains \$13+ Million claim against Cannon.

On **September 30** Jg. Barrett order frees Dallas to pursue \$6 Million claim in Aiken. He conducts no discovery.

e. Procedural Events of 2012

Dallas does not oppose intervention; agrees cases must be decided; confirms he would not be surprised if money were hidden on the Home Estate.

No further discovery by Plaintiffs is needed. They have elected not to conduct any for almost three years. The only discovery needed by B&P is the deposition of Dallas, and possibly of Cannon.

With the Scheduling Order suggested below the \$15+ Million of Dallas/Bradley/Cannon claims could all be resolved -- most likely in favor of the Estate -- before October 2012. And possibly some of the missing millions recovered.

V. The Court's *Sua Sponte* Scheduling Order will serve the ends of Justice.

If this Court issues a *sua sponte* Scheduling Order substantially in accordance with the schedule set out below, the 4-year-old claims will be finally resolved within months. Both the ends of justice and judicial economy will be served.

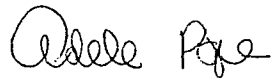
1. By April 15 - Individual parties respond to complaints.
2. Replies, etc. in accordance with SCRCP.
3. All parties directed to file briefs setting forth PR/2000 Trust trustee claims for service from August 1, 2000 - December 31, 2011 by June 15.
4. Depositions of Cannon/ Dallas at day and time certain before June 30.

5. All motions to be filed by July 15, 2012.
6. Motions to be heard on day certain about August 1.
7. Mediation by August 30.
8. Trial on or after September 1, 2012.

VII. Conclusion

On February 29, 2012 this Court should declare that no hearing is necessary and grant the intervention as requested. In the interest of justice and judicial economy, the Court should issue a Scheduling Order to bring the Dallas and Bradley claims to a final conclusion in 2012.⁶

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com

Pro Se

February 17, 2012

⁶ The final determination and/or payment of commissions of Bauknight, Buchanan and Pope may be unable to be concluded prior to the final conclusion of Richland County Case 4900, including Buchanan/Pope's counterclaims against Bauknight and others. That Case has been pending for 21 months (since May 19, 2010) and no Plaintiff/Counterclaim Defendant has yet submitted to a deposition. There is no basis to delay final conclusion of the Dallas/Bradley claims for Case 4900 or any other matter.



Adam Silvernaillawfirm.com

Yesterday's Hearing

Message

Early, Doyet A. Law Clerk (Austin H. Crosby) <dearlylc@sccourts.org> Wed, May 23, 2012 at 11:49 AM
 To: "DBlack@nexsenpruet.com" <DBlack@nexsenpruet.com>, "rbwaite@bfbtlaw.com" <rbwaite@bfbtlaw.com>, "MVG@swblaw.com" <MVG@swblaw.com>, "agsjones@scag.gov" <agsjones@scag.gov>, "mfjowers@scag.gov" <mfjowers@scag.gov>, "fkingsmore@nexsenpruet.com" <fkingsmore@nexsenpruet.com>, "amedlin@sc.rr.com" <amedlin@sc.rr.com>, "Michel, David L." <d_michel@yahoo.com>, "adam@silvernaillawfirm.com" <adam@silvernaillawfirm.com>, "cwatson@sowell.com" <cwatson@sowell.com>, "dwilliams@jeterandwilliams.com" <dwilliams@jeterandwilliams.com>, "mrosen@rosen-lawfirm.com" <mrosen@rosen-lawfirm.com>, "dallaslaw@classicsouth.net" <dallaslaw@classicsouth.net>, "rbuchananjr@atlanticbbn.net" <rbuchananjr@atlanticbbn.net>, "louis@levensonlaw.com" <louis@levensonlaw.com>

All:

Judge Early wants to remind everyone that you have 15 days from today to submit any additional affidavits, memoranda, etc. with regard to yesterday's hearing. Mrs. Pope, Judge Early would like for you to identify the specific language in the Order that you believe gags or prohibits you from discussing the diaries.

If there are any questions, please do not hesitate to contact me.

Austin H. Crosby
 Law Clerk to the Honorable D.A. Early, III
 The Circuit Court of the 2nd Judicial Circuit
 PO Box 90
 Bamberg, SC 29003
 Telephone: 803.245.4004
 Fax: 803.245.2983
 dearlylc@sccourts.org

In re Estate of James Brown

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From: [Robert Rosen](#)

To: dearlyc@sccourts.org; dearlyj@sccourts.org

Cc:

adele@popelawfirm.com, dwilliams@jeterandwilliams.com, MVG@swblaw.com, agsjones@scag.gov, mfjowers@scag.gov, FKingsmore@ne
[B. Paton,DBlack@nexsenpruet.com](mailto:B.Paton,DBlack@nexsenpruet.com)

Dear Judge Early -

Please allow us to provide an update on some important recent developments that affect the hearing currently scheduled for this Thursday, July 12, 2012, in Bamberg. For the reasons discussed below, please also allow us to respectfully request a continuance to the hearing.

On Thursday, July 5, 2012, Judge Manning held a status conference in the 4900 case. Counsel for the settling parties and Mr. Buchanan's counsel reported that they had reached a global settlement agreement. The settling parties' counsel then requested that Judge Manning issue an order requiring Ms. Pope to mediate with the settling parties. Consistent with her previous refusal to engage in voluntary mediation, Ms. Pope's counsel objected, claiming the need for additional discovery. Nevertheless, Judge Manning informed counsel that he would sign an order requiring Ms. Pope to mediate, and a proposed order consistent with his oral order was sent to Judge Manning today.

Moreover, with our concurrence, we understand that Mr. Buchanan will ask that you rescind your order of May 24, 2012 which, according to the recent global settlement agreement, is no longer necessary to effectuate disbursement to Mr. Buchanan.

Based on these events, and for other reasons, we ask that, in the interest of judicial economy and to save unnecessary expenses for the parties, especially the charity, the hearing scheduled for this Thursday be continued pending mediation with Ms. Pope.

The matters on the agenda for this Thursday essentially fall into two categories: the diary matter and the motion to reconsider the order of May 24, 2012, lifting as to Mr. Buchanan the prohibition of the order of September 16, 2009.

We believe that the matters in both categories are not ripe, moot, and/or currently unnecessary and wasteful.

The diary matter:

The agenda for the hearing includes the motions to strike Ms. Pope's affidavits and her request to address those motions. The issue underlying these motions relates to your orders from four years ago to protect the diary from improper use and dissemination, without appropriate process.

As clearly shown in her previous pleadings and numerous affidavits, Ms. Pope urgently asserts that she must be able to use the diary as follows: (1) to defend herself in the 4900 case, (2) to defend herself in the federal case, (3) to help with her fee claim, (4) to alert the Supreme Court that Judge

Wilkins' opinion expressed at oral argument about the marital status issue was incorrect, and (5) to allow the media to publish the diary to prove that the settling parties were wrong (and that, consequently, so were you).

None of these reasons justify her urgency:

1. Mr. Buchanan has settled and is out of all cases, including the 4900 case (other than his right to pursue counterclaims against Forlando Brown in the federal case). Judge Manning has indicated that he intends to sign an order requiring Ms. Pope to mediate the 4900 case, despite her prior refusal and objections; until that mediation process is concluded, Judge Manning presumably will not address the numerous outstanding motions in the 4900 case, including those involving the issue of whether and how the diary can be used by Ms. Pope. (It may be that, later, at an appropriate time and under appropriate circumstances, Judge Manning may rule that she can use the diary, but for this Court to release the diary before that determination by Judge Manning effectively takes away his judicial authority on that issue, based on Ms. Pope's representations that she will disseminate the diary to the media and the Supreme Court.)
2. In the federal suit, Forlando Brown's claims have been dismissed, and although counterclaims against him by Ms. Pope and Mr. Buchanan remain, the judge has stayed that case until the South Carolina Supreme Court rules on the settlement matter.
3. Ms. Pope's fee claim is not ripe, regardless of the status of the September 16, 2009 order. The South Carolina Probate Code allows an estate to offset any counterclaims against a creditor. Until the 4900 case is resolved, the estate, and this Court, will not know the extent of any counterclaim as part of the calculus in determining whether she is entitled to be paid any additional fees.
4. To alert the Supreme Court about the diary is unquestionably improper at this stage. Ms. Pope knew all along about the contents of the diary and presumably, if it is so definitive and conclusive about the marital status issue as she now indicates, to the extent that it has any relevance to the overall validity of the settlement, why didn't she move to lift the order while she was fighting the settlement? She failed to attempt to get such vital, according to her, information to this Court and to the Supreme Court at the appropriate time, yet now she wants to do so because of an opinion expressed during oral argument that is completely consistent with the position that at least one of the parties took during the estate case and which was agreed to by all the settling parties?
5. To disseminate the diary to the media would cause irreparable harm to Mrs. Brown, just as the dissemination of anyone's private documents, without permission and without proper judicial process, would cause irreparable harm to anyone: The publication of the diary cannot be rescinded.

Thus, the motions to strike Pope's affidavits currently scheduled for Thursday deal mainly with the diary issue or other matters not currently and properly before this court. To hear them now, just because Ms. Pope, with dubious standing, insists is going to create a waste of the court's time. By reviewing Ms. Pope's affidavits, especially her supplemental affidavit dated July 9, 2012 (which, according to her title, confirms the veracity of her previous affidavits); it is clear that to properly address her position about the affidavits in a way that she requests, much argument and much testimony will be necessary — based on the history of this case, possibly days.

The May 24, 2012 Order:

As noted above, due to the global settlement agreement with Mr. Buchanan, the motions related to your order of May 24, 2012 are no longer necessary.

Thus, in the interest of judicial economy and to save expenses for the estate, we respectfully request that you continue the hearing previously scheduled for this Thursday so that the settling parties may better focus their efforts on the spirit of compromise and mediation.

Respectfully,

Robert Rosen
Alan Medlin

Mary Frances Jowers

From: Adele Pope <adele@popelawfirm.com>
Sent: Tuesday, July 10, 2012 4:44 PM
To: dearylc@sccourts.org
Cc: Sonny Jones; Mary Frances Jowers; rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com; louis@levensonlaw.com; DBlack@nexsenpruet.com; FKingsmore@nexsenpruet.com; cpaton@rosen-lawfirm.com; rnrosen@rosen-lawfirm.com; AJH@swblaw.com; MVG@swblaw.com; d_michel@yahoo.com
Subject: Re: RE: In re Estate of James Brown

Dear Austin:

I object strongly to the continuation of the hearing, and have set out some of my objections hastily in a email to Jduge Early.

If it has not arrived, I urge you NOT to continue the hearing, and to proceed with declaring that my filings were proper and that the Gag Orders which have been ignored by two Attorneys General and 20 lawyers for four years be declared void -- something I have sought since March and which Mr. Rosen -- without cause -- continues to delay.

I also notify you that nobody reported a global settlement with Mr. Buchanan on July 5 in Case 4900. It is continuing to be worked on. I have strong objection to the attempt to compel Bob Buchanan to abandon his support of James Brown's estate plan without resigning and/or notifying the S. C. Supreme Court that someone purporting to represent the Attorney General of South Carolina is trying to make him abandon (secretly) his duty to the "I Feel Good" Trust. Finally, it has now come to light that Mr. Wingate may not even represent Daryl Brown, in addition to not legally representing the State of South Carolina, making his purported clients' obligations to pay on my counterclaims a serious impediment to mediation.

When convenient, Mr. Rosen has asked that Jg. Early stay out of Judge Manning;s case. When convenient, he asks you to act in accord with it. I respectfully submit that my rights to speak freely about the public Hynie diaries are not tied to the Richland County Case.

Thank you for your consideration of my request not to delay this hearing. I respectfully submit that my constitutional rights should not be subject to a majority vote.

Sincerely,

Adele Pope

July 10, 2012

<-----Original Message----->

From: Early, Doyet A. Law Clerk \ (Austin H. Crosby) [dearylc@sccourts.org]

Sent: 7/10/2012 4:30:43 PM

To: Robert Rosen

Cc:

adele@popelawfirm.com,dwilliams@jeterandwilliams.com,MVG@swblaw.com,agsjones@scag.gov,mfjowers@scag.gov ,FKingsmore@nexsenpruet.com,Michel, David

L.,rlbuchananjr@atlanticbbn.net,louis@levensonlaw.com,AJH@swblaw.com,Chris B. Paton,DBlack@nexsenpruet.com

Subject: RE: In re Estate of James Brown

354

All:

Pursuant to Mr. Rosen and Mr. Medlin's request for a continuance, do any of the parties have an objection to the hearing scheduled for Thursday being continued? All interested parties please respond and let us know your position. I have received the emails from the Attorney General's office and Mr. Black stating they join in the request for a continuance.

Austin H. Crosby
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

From: Robert Rosen [mailto:rnrosen@rosen-lawfirm.com]
Sent: Tuesday, July 10, 2012 4:13 PM
To: Early, Doyet A. Law Clerk (Austin H. Crosby); Early, Doyet A.
Cc: adele@popelawfirm.com; dwilliams@jeterandwilliams.com; MVG@swblaw.com; agsjones@scag.gov; mfjowers@scag.gov; FKingsmore@nexsenpruet.com; Michel, David L.; rlbuchananjr@atlanticbnn.net; louis@levensonlaw.com; AJH@swblaw.com; Chris B. Paton; DBlack@nexsenpruet.com
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Thus, in the interest of judicial economy and to save expenses for the estate, we respectfully request that you continue the hearing previously scheduled for this Thursday so that the settling parties may better focus their efforts on the spirit of compromise and mediation.

Respectfully,

Robert Rosen
Alan Medlin

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RE: PLEASE CONDUCT HEARING OR ISSUE ORDER ON VOIDING GAG ORDERS

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From: Early, Doyet A. Law Clerk \ (Austin H. Crosby)

To: Adele Pope; DBlack@nexsenpruet.com

Cc: AGSJONES@scag.gov, Early, Doyet

A., rlbuchananjr@atlanticbbn.net, dwilliams@jeterandwilliams.com, louis@levensonlaw.com, FKingsmore@nexsenpruet.com, FKingsmore@lawfirm.com, rnrosen@rosen-lawfirm.com, MFJowers@scag.gov, AJH@swblaw.com, MVG@swblaw.com, Michel, David L., rbauknight@bpsc

All:

Judge Early has ruled to dismiss Ms. Pope's Motion to Declare Void/Moot the three (3) orders relating to the personal diary of Tommie Rae Brown because he finds this Court lacks subject matter jurisdiction. The signed order is being mailed to Aiken today for filing.

Austin H. Crosby
Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

From: Adele Pope [mailto:adele@popelawfirm.com]

Sent: Tuesday, July 10, 2012 5:56 PM

To: Early, Doyet A.; Early, Doyet A. Law Clerk (Austin H. Crosby); DBlack@nexsenpruet.com

Cc: AGSJONES@scag.gov; Early, Doyet A.; Early, Doyet A. Law Clerk (Austin H. Crosby); rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com; louis@levensonlaw.com; FKingsmore@nexsenpruet.com; FKingsmore@nexsenpruet.com; cpaton@rosen-lawfirm.com; rnrosen@rosen-lawfirm.com; MFJowers@scag.gov; AJH@swblaw.com; MVG@swblaw.com; Michel, David L.; rbauknight@bpscpas.com

Subject: PLEASE CONDUCT HEARING OR ISSUE ORDER ON VOIDING GAG ORDERS

Judge Early:

In response to Mr. Black:

1. You have already had a hearing on my Motion asking that you declare the Hynie Diary Gag Orders void ab initio or declaring that they expired in 2008.
2. I presented a proposed Order to you.
3. You have not signed the Order.
4. Mr. Bauknight and Ms. Hynie -- after the proposed order was presented -- called me a liar; filed motions to strike; and asked that you delay issuing your Order related to voiding the Gag Orders until they could be heard about my being a liar.
5. There was no basis for the filings, and they were interposed for one purpose -- to delay your ruling on the 4-year-old Gag Orders which all had violated and ignored. It worked.
6. You scheduled an hearing for July 12, 2012 on whether to strike my filings, granting them the delay they-- wanted..
7. I asked that you expedite the hearing because it was delaying an Order on a matter heard some time ago, and a request to void the Gag

Orders made months ago.

8. It is now clear the very persons seeking delay in voiding the Gag Orders -- Mr. Levenson, the Attorney General, Mr. Rosen, Mr. Medlin and others -- have all violated the Diary Gag Orders since 2008. None have turned in their copies. Bob and I are the only one who followed the correct procedure, and I the only one asking to confirm that these void orders are void or expired.

9. It will not taken any time to issue an Order voiding the Gag Order, simply disregarding the allegations that I am a liar. That could be done Thursday at the hearing -- or before.

10. Failure to issue the Order ruling on my request to declare the Gag Orders void or expired severely violates my First Amendment Right and Due Process.

11. If you decline to rule with me on voiding the Gag Orders, please rule against me, so I can make a decision about whether to ask an appellate court about whether these improper threats and the Gag Orders must stay in place forever -- or are void or expired as I have asked the Court to decide.

I believe that The James Brown "I Feel Good" Trust is negatively impacted when six law firms spend the afternoon -- for the second time -- doing whatever they can to delay this Court's ruling that void orders are void.

Please consider my rights, and not majority rule, on this important constitutional issue and conduct the hearing or issue your order on voiding these 4-year old Gag Orders which they say apply to me -- and apparently nobody else -- preventing my telling the truth about what I know.

I respectfully request that I be able to put this plea on the record on Thursday.

Thank you for your consideration.

Adele Pope

July 10, 2012

<-----Original Message----->

From: Black, David [DBlack@nexsenpruet.com]

Sent: 7/10/2012 4:23:42 PM

To: Sonny Jones; dearlyj@sccourts.org; dearlyc@sccourts.org

Cc: rlbuchananjr@atlanticbnn.net, dwilliams@jeterandwilliams.com, louis@levensonlaw.com, Kingsmore, Fred L., adele@popelawfirm.com, Chris B. Paton, Robert Rosen, Mary Frances

Jowers, AJH@swblaw.com, MVG@swblaw.com, d_michel@yahoo.com, rbauknight@bpscpas.com

Subject: RE: In re Estate of James Brown

Dear Judge Early,

The James Brown Trust and Estate joins the settling parties request that the July 12 hearing be continued.

The Trust and Estate will enter the court mandated mediation process in the spirit of compromise and with the hope of resolving the litigation with Ms. Pope. Moving forward with what will likely be an adversarial motions hearing on July 12th will be counterproductive to the mediation process and any settlement efforts.

Thank you for your consideration.

David Black

Counsel to Mr. Bauknight as PR of the James Brown Estate and Trustee of the James Brown Trust

J. David Black
Member
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, SC 29201
PO Drawer 2426 (29202)
T: 803.540.2072, F: 803.727.1409
DBlack@nexsenpruet.com

From: Sonny Jones [mailto:AGSJONES@scag.gov]
Sent: Tuesday, July 10, 2012 4:21 PM
To: dearlyj@sccourts.org; dearlyc@sccourts.org
Cc: rlbuchananjr@atlanticbnn.net; dwilliams@jeterandwilliams.com; louis@levensonlaw.com; Black, David; Kingsmore, Fred L.; adele@popelawfirm.com; Chris B. Paton; Robert Rosen; Mary Frances Jowers; AJH@swblaw.com; MVG@swblaw.com; d_michel@yahoo.com
Subject: Re: In re Estate of James Brown

Dear Judge Early,

The Attorney General's Office also supports the settling parties' request that the motions scheduled for July 12th be continued pending court-mandated mediation with Ms. Pope in the 4900 action.

C. Havird Jones, Jr.
Assistant Deputy Attorney General
Office of the South Carolina Attorney General
P.O. Box 11549
Columbia, SC 29211
Phone: 803.734.3654
Fax: 803.734.3677
agsjones@scag.gov

>>> Robert Rosen <rrosen@rosen-lawfirm.com> 7/10/2012 4:12 PM >>>

Dear Judge Early -

Please allow us to provide an update on some important recent developments that affect the hearing currently scheduled for this Thursday, July 12, 2012, in Bamberg. For the reasons discussed below, please also allow us to respectfully request a continuance to the hearing.

On Thursday, July 5, 2012, Judge Manning held a status conference in the 4900 case. Counsel for the settling parties and Mr. Buchanan's counsel reported that they had reached a global settlement agreement. The settling parties' counsel then requested that Judge Manning issue an order requiring Ms. Pope to mediate with the settling parties. Consistent with her previous refusal to engage in voluntary mediation, Ms. Pope's counsel objected, claiming the need for additional discovery. Nevertheless, Judge Manning informed counsel that he would sign an order requiring Ms. Pope to mediate, and a proposed order consistent with his oral order was sent to Judge Manning today.

Moreover, with our concurrence, we understand that Mr. Buchanan will ask that you rescind your order of May 24, 2012 which, according to the recent global settlement agreement, is no longer necessary to effectuate disbursement to Mr. Buchanan.

Based on these events, and for other reasons, we ask that, in the interest of judicial economy and to

save unnecessary expenses for the parties, especially the charity, the hearing scheduled for this Thursday be continued pending mediation with Ms. Pope.

The matters on the agenda for this Thursday essentially fall into two categories: the diary matter and the motion to reconsider the order of May 24, 2012, lifting as to Mr. Buchanan the prohibition of the order of September 16, 2009.

We believe that the matters in both categories are not ripe, moot, and/or currently unnecessary and wasteful.

The diary matter:

The agenda for the hearing includes the motions to strike Ms. Pope's affidavits and her request to address those motions. The issue underlying these motions relates to your orders from four years ago to protect the diary from improper use and dissemination, without appropriate process.

As clearly shown in her previous pleadings and numerous affidavits, Ms. Pope urgently asserts that she must be able to use the diary as follows: (1) to defend herself in the 4900 case, (2) to defend herself in the federal case, (3) to help with her fee claim, (4) to alert the Supreme Court that Judge Wilkins' opinion expressed at oral argument about the marital status issue was incorrect, and (5) to allow the media to publish the diary to prove that the settling parties were wrong (and that, consequently, so were you).

None of these reasons justify her urgency:

1. Mr. Buchanan has settled and is out of all cases, including the 4900 case (other than his right to pursue counterclaims against Forlando Brown in the federal case). Judge Manning has indicated that he intends to sign an order requiring Ms. Pope to mediate the 4900 case, despite her prior refusal and objections; until that mediation process is concluded, Judge Manning presumably will not address the numerous outstanding motions in the 4900 case, including those involving the issue of whether and how the diary can be used by Ms. Pope. (It may be that, later, at an appropriate time and under appropriate circumstances, Judge Manning may rule that she can use the diary, but for this Court to release the diary before that determination by Judge Manning effectively takes away his judicial authority on that issue, based on Ms. Pope's representations that she will disseminate the diary to the media and the Supreme Court.)
2. In the federal suit, Forlando Brown's claims have been dismissed, and although counterclaims against him by Ms. Pope and Mr. Buchanan remain, the judge has stayed that case until the South Carolina Supreme Court rules on the settlement matter.
3. Ms. Pope's fee claim is not ripe, regardless of the status of the September 16, 2009 order. The South Carolina Probate Code allows an estate to offset any counterclaims against a creditor. Until the 4900 case is resolved, the estate, and this Court, will not know the extent of any counterclaim as part of the calculus in determining whether she is entitled to be paid any additional fees.
4. To alert the Supreme Court about the diary is unquestionably improper at this stage. Ms. Pope knew all along about the contents of the diary and presumably, if it is so definitive and conclusive

about the marital status issue as she now indicates, to the extent that it has any relevance to the overall validity of the settlement, why didn't she move to lift the order while she was fighting the settlement? She failed to attempt to get such vital, according to her, information to this Court and to the Supreme Court at the appropriate time, yet now she wants to do so because of an opinion expressed during oral argument that is completely consistent with the position that at least one of the parties took during the estate case and which was agreed to by all the settling parties?

5. To disseminate the diary to the media would cause irreparable harm to Mrs. Brown, just as the dissemination of anyone's private documents, without permission and without proper judicial process, would cause irreparable harm to anyone: The publication of the diary cannot be rescinded.

Thus, the motions to strike Pope's affidavits currently scheduled for Thursday deal mainly with the diary issue or other matters not currently and properly before this court. To hear them now, just because Ms. Pope, with dubious standing, insists is going to create a waste of the court's time. By reviewing Ms. Pope's affidavits, especially her supplemental affidavit dated July 9, 2012 (which, according to her title, confirms the veracity of her previous affidavits), it is clear that to properly address her position about the affidavits in a way that she requests, much argument and much testimony will be necessary — based on the history of this case, possibly days.

The May 24, 2012 Order:

As noted above, due to the global settlement agreement with Mr. Buchanan, the motions related to your order of May 24, 2012 are no longer necessary.

Thus, in the interest of judicial economy and to save expenses for the estate, we respectfully request that you continue the hearing previously scheduled for this Thursday so that the settling parties may better focus their efforts on the spirit of compromise and mediation.

Respectfully,

Robert Rosen
Alan Medlin

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REQUEST FOR EXPEDITED HEARING/RULING ON MOTION TO VACATE DISMISSAL-GAG ORDERS

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From: Adele Pope

To: dearylc@sccourts.org

Cc: DBlack@nexsenpruet.com,AGSJONES@scag.gov,dearlyj@sccourts.org,dearlyj@sccourts.org,rbuchananjr@atlanticbbn.net,dwilliams-lawfirm.com,rnrosen@rosen-lawfirm.com,MFJowers@scag.gov,AJH@swblaw.com,MVG@swblaw.com,d_michel@yahoo.com,d_michel@yahoo.com,rbauknight@bpscpas.com

The Honorable Doyet A. Early, III

Re: Request for Expedited Hearing and/or Ruling, Motion to Reconsider, Vacate, Set Aside..Order Dismissing Petition/Application to Declare Hynie "Diary" Gag Orders Void or expired
Aiken County Case No. 2007-CP-02-0122 ("Case 122")

Dear Judge Early:

I thank the Court for accomodating my personal schedule by allowing the clerk to provide me a copy of the July 12 Order Dismissing my Petition/Application to Declare the Hynie "diary" Gag Orders void or expired.

I have today served by mail my Motion to Reconsider, Vacate, etc., the Dismissal Order which requests an expedited hearing and/or ruling on this important matter.

I respectfully request that the Court schedule its hearing on this matter at the Court's earliest convenience on July 30, 2012 or as soon thereafter as possible.

Should the Court determine that you will rule without necessity of a hearing, I request the opportunity to submit an Order consistent with the Court's decision as soon as it is made.

Thank you in advance for the Court's consideration.

Sincerely,

s/

Adele J. Pope

1228 Walnut Street

Newberry, South Carolina 29108

July 14, 2012

P.S. I note for the Court and counsel a typrgraphical error in the Motion referencing (twice) the Fifth Amendment to the U.S. Constitution as the "Fourth," but believe the error - discovered after mailing -- will be clear from the countext.ajp

Sent: 7/12/2012 10:31:15 AM

To: Adele Pope; DBlack@nexsenpruet.com

Cc: AGSJONES@scag.gov,Early, Doyet

A.,rbuchananjr@atlanticbbn.net,dwilliams@jeterandwilliams.com,louis@levensonlaw.com,FKingsmore@nexsenpru-lawfirm.com,rnrosen@rosen-lawfirm.com,MFJowers@scag.gov,AJH@swblaw.com,MVG@swblaw.com,Michel, David L.,rbauknight@bpscpas.com

SWORN STATEMENT OF

ALBERT H. DALLAS, ESQ.

July 20, 2012

9:55 a.m.

304 Black Street
Thomson, Georgia

Jan Alderfer Russell, CCR-B-2438, RPR

364

APPEARANCES OF COUNSEL

On behalf of the Defendants:

ADAM T. SILVERNAIL, Esq.
Law Office of Adam T. Silvernail, LLC
1218 Taylor Street
Columbia, South Carolina 29202

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(Exhibits 1 through 3 have not been attached to the original transcript but have been retained by Attorney Silvernail.)

P R O C E E D I N G S

1
2 MR. SILVERNAIL: I would like to
3 state here at the beginning that we are
4 here today taking the sworn statement of
5 Mr. Albert H. Dallas, Esquire, in the
6 matter of Bauknight and others versus Pope
7 and others, because by letter -- or by
8 communication from Mr. Mark Gindy, counsel
9 for the plaintiffs in this case, we have
10 been advised of Judge Casey Manning's oral
11 order that we not proceed with the
12 deposition that was scheduled for this
13 morning. And so we are proceeding with a
14 sworn statement, but in light of that oral
15 order will not proceed with a deposition
16 this morning.

17 And with that, we'll go right into
18 it.

19 ALBERT H. DALLAS, ESQ.

20 having been first duly sworn, was examined and
21 testified as follows:

EXAMINATION

22
23 BY MR. SILVERNAIL:

24 Q. Mr. Dallas, would you state your full name
25 for the record, please. **367**

1 A. My name is Albert Hawes Dallas, born
2 12/09/42.

3 Q. Okay. And your current address?

4 A. 4834 Highway 171, Gibson, G-I-B-S-O-N,
5 Georgia, 30810.

6 Q. And let's start back at the beginning.
7 Tell me, if you would, how long ago did you meet
8 Mr. James Brown?

9 A. I met the Godfather in October 1984 and
10 worked with him thereafter continuously until his
11 death December 25th, 2006.

12 Q. And in what capacity did you work for
13 Mr. Brown?

14 A. I served as Mr. Brown's counsel, friend;
15 over that period of time, rarely a day during that
16 interval that he and I were not in communication
17 about something. I never served as Mr. Brown's
18 entertainment counsel. I was his personal attorney.
19 I was his family attorney. I was his band's
20 attorney. And when you add all those people up,
21 there was a constant problem associated with
22 something and for those years it was my
23 responsibility and challenge, if you will, to keep
24 Mr. Brown not just on his side of the road, which I
25 was incapable of doing, but it was my best effort to

1 keep him between the ditches, and there were many,
2 many -- there were many, many obstacles along the
3 way. Mr. Brown was a very complex personality.

4 Q. And were you very familiar with
5 Mr. Brown's business dealings?

6 A. Well, I would have to say on a personal
7 basis, yes. Throughout his entertainment business I
8 would say no, or if I knew of something, it was after
9 the fact. It would have already occurred when it
10 filtered down to me. Mr. Brown had counsel in
11 Atlanta, Los Angeles, Chicago, New York. He dealt
12 with a number of entertainment lawyers.

13 Q. And have you served in any fiduciary
14 capacity for Mr. Brown?

15 A. I was named personal representative and
16 trustee of his will and trust dated August 1, 2000.

17 Q. And if you would, give us a summary of
18 what those documents provided for.

19 A. Well, succinctly, the will and the trust
20 provided essentially the same thing.

21 (Cellular phone interruption.)

22 MR. DALLAS: Go off the record.

23 (Off the record.)

24 MR. DALLAS: Okay. Go ahead.

25 Q. (By Mr. Silvernail) You were giving us a

1 summary of what Mr. Brown's August 1st, 2000 will and
2 trust accomplished.

3 A. Succinctly, it provided that to six named
4 children he left household personal effects, he left
5 a fund to educate his blood grandchildren, he had a
6 provision in the documents that read that if a court
7 of competent jurisdiction determines that I am
8 survived by a wife, I am presently not married, but
9 if I am survived by a wife, she shall receive a
10 sustenance only and not that to which she had become
11 accustomed.

12 Having dealt with children, grandchildren,
13 and any would-be wife, Mr. Brown then left to needy
14 and underprivileged children to be educated in
15 institutions in Georgia and South Carolina the rest
16 of his fortune. In very layman's terms, that is
17 Mr. Brown's testamentary scheme. Very simple, very
18 altruistic, quite easily understood, and then he
19 armed those documents with an in terrorem clause, I-N
20 T-E-R-R-O --

21 Q. R-E-M.

22 A. -- R-E-M clause, which from a layman's
23 perspective says, if you object to any term and
24 provision of my will, then you get nothing. And that
25 document was drafted by, at the time, a very well-

1 deposition, Deanna Brown testified repeatedly that no
2 one would dictate to her father, that he made his own
3 decisions. Deanna Brown even said she didn't have
4 any problem with Dallas and Bradley and Cannon. She
5 just felt like they could run the estate better than
6 we could. Well, I'm not even going to argue that,
7 but it was James Brown who decided who he wanted to
8 run his estate and his affairs. Nobody else made
9 that decision for him.

10 Q. And you were present when he signed the
11 will and trust on August 1st, 2000?

12 A. I was. Along with Vanisha Brown, and
13 either Larry or Daryl Brown was present. I would
14 not -- I don't recall if it was Daryl or Larry, but
15 one of them, as well as Tomi Rae. Tomi Rae Hynie was
16 present. Mr. Brown, when we arrived at the
17 mansion -- and you got permission to go into the
18 mansion. You didn't just drive in. There was a
19 guard at the gate. And that included Mr. Brown's
20 children. The children were not free to just come
21 and go as they would in mine or your home. They came
22 and went at Mr. Brown's direction. The usual
23 familial understandings or customs did not apply to
24 James Brown and his children. I mean, and who am I
25 to say that's right or wrong. That's the way he

1 the right decision that he made? No. Was it wrong?
2 I don't know. They weren't shooting at me.

3 Q. Now, you mentioned a moment ago that
4 present on the day of the will and trust were signed
5 was Tomi Rae Hynie. Tell me who she is.

6 A. Tomi Rae Hynie was a person that was
7 introduced to Mr. Brown by one of the backup singers,
8 Candace, in a Dallas, Texas airport. And Mr. Brown
9 invited her, after meeting her, to become a singer.
10 And then a relationship developed later between Tomi
11 Rae Hynie and Mr. Brown.

12 It was never known until after Mr. Brown
13 had a ceremonial marriage that Ms. Hynie was still
14 married to her husband Ahmed, who is Pakistani. And
15 the last I heard from Mr. Ahmed, he was still in
16 Pakistan. But they were never divorced.

17 Q. Do you believe that this ceremonial
18 marriage between Tomi Rae Hynie and James Brown was
19 valid when it was made?

20 A. That the marriage was?

21 Q. Yes.

22 A. I believe under South Carolina law and I
23 know under Georgia law, you can only be married to
24 one person at that time, so the answer to that
25 question is no. I believe even a subsequent

1 annulment of a marriage does not breathe life into an
2 otherwise void marriage. Ms. Hynie was married to
3 Mr. Ahmed at the time she engaged in a bogus wedding
4 to go Mr. Brown. Mr. Brown was extremely hurt,
5 embarrassed, and he never remarried her. He never
6 remarried her. Although Ms. Hynie begged him to
7 remarry her. She planned to -- she threatened to
8 leave Mr. Brown if he didn't. Mr. Brown chose not to
9 remarry her. Ms. Hynie had made arrangement to have
10 Mr. Brown come to Las Vegas and they would be married
11 in Las Vegas, but Mr. Brown had told me he would
12 never remarry her. And he didn't.

13 Q. Are you aware of whether Ms. Hynie ever
14 threatened to bring a civil lawsuit against
15 Mr. Brown?

16 A. She brought a -- there were some --
17 Mr. Brown had indicated to me that she says she was
18 going to sue him, or whatever, and I said, "Well,
19 Mr. Brown, we'll deal with it if she does." I do
20 recall -- I want to say my best recollection is mid
21 summer, mid to late summer 2006, I got a call one
22 morning about 4:00 a.m. at my home, and I never
23 failed to answer Mr. Brown's call. It didn't matter,
24 I would take his call if it was 2:00 in the morning
25 or 5:00 in the morning. It was Mr. Brown.

1 "Mr. Dallas. Good morning, Mr. Brown." And he
2 immediately went into his concern. "Mr. Dallas, what
3 is Ms. Hynie to me? She's not my wife. What is she
4 to me, Mr. Dallas?" I said, "Mr. Brown, she would be
5 a guest in your home. "Mr. Dallas, would you speak
6 to Ms. Hynie." And she got on the phone to me and I
7 said, "Ms. Hynie, you are a guest in Mr. Brown's
8 home. You stay at his pleasure. If he asks you to
9 leave, then you must leave. You have no legal right
10 in his dwelling." I said, "That is the legal
11 answer." And she says, "Thank you, Mr. Dallas." And
12 Mr. Brown got back on the phone. "Thank you,
13 Mr. Dallas. I have told her, but she won't listen.
14 I have told her, but she won't listen." That ended
15 that conversation.

16 Then shortly thereafter, Ms. Hynie took
17 off to the West Coast. My best recollection is that
18 was sometime in August, late August, early September,
19 2006. And then the next thing I hear about Ms. Hynie
20 is she is on the West Coast. She and Mr. Brown had
21 separated.

22 Q. And Ms. Hynie had a child?

23 A. She did.

24 Q. Do you recall approximately when the child
25 was born?

1 MR. DALLAS: Let's go off.

2 (Mr. Dallas' sworn statement

3 adjourned at 10:44 a.m.)

4 (Recess was taken.)

5 (Mr. Dallas' sworn statement resumed

6 at 11:16 a.m.)

7 Q. (By Mr. Silvernail) Let me think for just
8 a moment where we were.

9 You have been named a witness by the
10 plaintiffs, including Russell Bauknight, the current
11 trustee of James Brown's trust and personal
12 representative of his estate, along with Ms. Tomi Rae
13 Hynie and several of the claimed heirs of Mr. Brown
14 that was filed in May of 2010 against Adele Pope and
15 Bob Buchanan; are you aware of that lawsuit?

16 A. I've been informed. I've never seen the
17 lawsuit, the pleadings, or responses. I know nothing
18 of the lawsuit.

19 Q. Have you ever been contacted by Ken
20 Wingate, a lawyer in Columbia?

21 A. Never had the pleasure of meeting
22 Mr. Wingate.

23 Q. Nor Mark Gindy?

24 A. Nor Mark Gindy.

25 Q. Has anybody ever contacted you, other than

1 somebody on behalf of my client, in relation to that
2 lawsuit?

3 A. I would not -- I would not say absolutely
4 no contact. There's been so much contact, I will say
5 that I do not recall having been called by either of
6 those gentlemen.

7 Q. Were you aware that you had been named as
8 a witness prior to us informing you?

9 A. No.

10 Q. Are you aware at all at this point of what
11 the substance of that lawsuit purports to be?

12 A. As I said earlier, I've never seen the
13 pleadings.

14 Q. The suit concerns Adele Pope and Bob
15 Buchanan's service as personal representatives and
16 trustees and certain other actions of other people.
17 Are you familiar at all with the service of Mrs. Pope
18 and Mr. Buchanan?

19 A. I would be familiar with their service
20 from approximately March the 27th, 2007 until
21 November 20, 2007. After that, it's only been what
22 you read in the newspaper or some incidental contact.
23 I really have not been involved in any detail beyond
24 November the 20th, 2007.

25 Q. And between March the 7th and November the

1 South Carolina, and if it does, then nobody will have
2 the right to rely on their will or their trust,
3 because that would mean the Attorney General, if
4 there is any charitable feature to it, can rewrite it
5 for you. I can just imagine that James Brown, you
6 know, is in a cold sweat in his crypt.

7 Q. At the risk of being a touch redundant in
8 light of that, do you believe that settlement was
9 just and reasonable in the approval of that
10 settlement?

11 A. I think it's preposterous. I don't know
12 how you could ever face James Brown and say,
13 Mr. Brown, we better than you know how to leave your
14 estate. Even though you told us what to do, if a
15 Court found that you're survived by a wife. Well, to
16 my knowledge there's never been a court finding that
17 she's the wife. And if you did find that she was the
18 wife, it says she shall receive a sustenance only and
19 not that to which she has become accustomed. You
20 know, I didn't sweat for what Mr. Brown accumulated.
21 He did. And it was he and only he that should have
22 the right to say to whom it goes. He did say. He
23 wanted it to go to needy and underprivileged
24 children.

25 Q. Have you become aware that in the time

1 since his appointment Russell Bauknight has filed an
2 amendment to the inventory appraisement, valuing,
3 Mr. Brown's music empire at about \$4.7 million at his
4 date of death on December 25th, 2006?

5 A. I have only heard that. Again, I would
6 have to ask what truck that appraiser came in on. It
7 certainly wouldn't be anything that is calculated
8 from reality.

9 Q. Do you have a belief or knowledge, and you
10 touched on this a bit earlier, but on what the value
11 of Mr. Brown's assets was on his date of death?

12 A. My opinion of value is, as I have earlier
13 stated, and I am certainly no expert on evaluation
14 except much like real estate, you use comparables.
15 When Elvis' estate sold the year earlier for 115
16 million, and you consult with Joel Katz of Greenberg
17 Traurig, who is chairman of some 1,700 member law
18 firm worldwide that does nothing except is the
19 primary factor in entertainment law throughout the
20 world, Mr. Katz and I had discussions in early 2007,
21 it was his belief, as it was mine, that during the
22 course of 2007 it could have been sold for \$100
23 million, less the debt, less the fees, leaving, you
24 know, 70- to \$80 million, you know, in the coffers
25 for the use of needy and underprivileged children.

1 Mr. Dallas. I've got to do something." I think
2 Mr. Brown was a lot sicker his last year than any of
3 us realized he was. And as I said, Mr. Brown called
4 the shots. Nobody else called them for him.

5 Q. In 2007 when these offers or discussions
6 came about and you mentioned you presented the things
7 that came to Judge Early and to the parties, was
8 there any interest in a sale from the children, or
9 the claimed children, or Tomi Rae, or anybody, all of
10 these folks who had filed the litigation?

11 A. Well, I think you have to answer that
12 question yes, otherwise what did they want out of the
13 litigation; they wanted money. The only money to
14 speak of would have been a sale of the royalty
15 rights; the persona, the personal image of James
16 Brown. I'm not sure that anybody that properly
17 evaluated, you know, the persona and image of James
18 Brown, which I would estimate to be, the image alone
19 would be worth at least half of whatever number the
20 totality is evaluated at. I hate to end a sentence
21 with an at. But that's my observation. Just the
22 scream of James Brown, that scream that only James
23 Brown can do. I know that we had talks of doing
24 alarm clocks, instead of it being an alarm, it would
25 be the James Brown alarm clock, the scream. That's

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

Case No. 08-CP-02-1647
(Estate of James Brown)

In Re:

The Estate of James Brown
A/K/A JAMES JOSEPH BROWN

AFFIDAVIT OF RUSSELL L. BAUKNIGHT

PERSONALLY APPEARED BEFORE ME, the affiant, Russell L. Bauknight, who, being sworn, deposes and states the following:

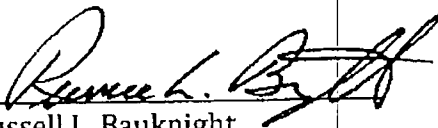
1. I am a resident of Richland County, South Carolina.
2. On May 26, 2009, nearly four years ago, the Honorable Doyet A. Early, III appointed me as Personal Representative of the James Brown Estate, and Trustee of the James Brown 2000 Irrevocable Trust.
3. The Honorable Sue H. Roe also properly issued a Certificate of Appointment for each of these fiduciary positions (see attached Certificate of Appointment).
4. The appointments complied with the original Trust Agreement and South Carolina law.
5. Separate and apart from the above appointments, I was also selected as the trustee for the Settlement Agreement Charitable Trust and Legacy Trust; the corpus of each of those trusts is a future expectancy interest.
6. Pursuant to the Circuit Court's order restricting distributions pending the outcome of this appeal, neither the Legacy Trust nor the Settlement Agreement Charitable Trust ever received a transfer of assets from the Estate or Trust.
7. I do **not** serve at the pleasure of the Attorney General nor am I beholden to him in any way.

8. The Attorney General has no independent authority to remove me from my fiduciary capacities of Personal Representative of the James Brown Estate or Trustee of the James Brown 2000 Irrevocable Trust.
9. I am an independent fiduciary and have done everything in my power to benefit the Estate and Trust.
10. A telling example of my independence deals with the Cannon plea hearing. When I learned that the Attorney General did not recommend restitution at the plea hearing I was livid. My immediate response was to contact the Attorney General, to challenge that decision, and do everything I could to remedy that failing.
11. As a direct result of my challenge to the Attorney General, on September 26, 2012, the Honorable George C. James, Jr. ordered that a restitution hearing occur. At that hearing, as the victim representative for the Estate and Trust, I will present evidence that Cannon should pay restitution to the Estate and Trust.
12. On May 26, 2009 when I began my service as Personal Representative and Trustee, the Estate was in shambles, teetering on the verge of bankruptcy.
13. The poor condition of the Estate was largely due to prior fiduciaries placing their own financial interests above that of the Estate and Trust.
14. The Estate was also encumbered by a \$26 million bond with a principal balance due of approximately \$13 million (Pullman bond) that hung like an albatross around its neck because all royalty income was captured to pay towards the bond.
15. When I took over, the Pullman bond was scheduled to be paid off in 2019.
16. Now, the \$13 million balance on the Pullman bond has been paid off eight years early, and the Estate and Trust is now prepared to fund scholarships for deserving children who attend school in South Carolina and Georgia.
17. I am not seeking reconsideration of this Court's opinion to keep this job for personal gain - unlike prior fiduciaries; I have yet to pay myself a commission, instead using Estate and Trust revenue to put the James Brown Estate and Trust in a position to provide scholarships for deserving children.

18. I believe my fiduciary duty to the Estate and Trust compels me to ask that I remain the fiduciary because my removal at this time will jeopardize the Estate and Trust.
19. I firmly believe that the Court's decision that I should be removed as a fiduciary with respect to the Estate and Trust will cause devastating consequences of which this Court is unaware.
20. For instance, there are multiple contracts that will prove very lucrative to the Estate, Trust, and future scholarship recipients, that are subject to cancellation if I am removed from my position as a fiduciary.
21. I did not ask that these cancellation provisions be placed in the contracts, but the other contracting parties demanded that they be included because of the tortuous history (prior to my appointment) of instability of the administration of the Estate and Trust.
22. Since the Court issued its opinion on February 27, 2013 the Estate and Trust have received numerous telephone calls and letters from record companies and motion picture companies asking for some form of reassurance that I will remain the fiduciary for administration of the Estate and Trust.
23. The Estate and Trust have made all reasonable efforts to reassure these companies/individuals that they need not worry. However, I fear that should I be removed, many of these companies/individuals will exercise their option to terminate the contracts given the unfortunate, continued uncertainty surrounding the Estate and Trust.
24. Furthermore, since my appointment in 2009 I have reached out to several movie studios hoping to renew interest in rights to a James Brown biographical motion picture.
25. Now, nearly four years later, I am pleased to report that I am presently in the middle of negotiating a motion picture deal for a biographical movie on the life of James Brown (Biopic).
26. The motion picture deal is with Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Films (owned by Mick Jagger) to produce the James Brown Biopic.

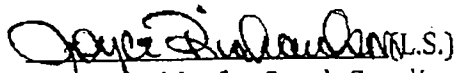
27. The Biopic, if it is brought to the Hollywood screen, will have a tremendous impact on the value of the James Brown Estate and Trust.
28. In the industry, this type of biographical motion picture is the springboard for a renewed public interest in the music of the artist depicted.
29. The Estate and Trust is near finalizing the Biopic deal and stands to substantially increase its revenue and value through increased music sales and licenses resulting from the publicity of the Biopic.
30. The producers of this movie have made it abundantly clear that continued instability of the Estate and Trust administration will call into question our ability to move forward on this deal which would make millions of dollars for the Estate and Trust.
31. I am also presently in negotiations and the deal-making stage of creating a show at the famed Apollo Theatre, creating a touring tribute show, and finalizing a documentary regarding the life of James Brown.
32. This Court's Opinion (unknowingly) puts all of these deals at risk.
33. Accordingly, I would respectfully request that this Court allow me to move forward in my fiduciary capacities as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust which will allow me to complete these important time sensitive deals for the Estate, Trust, and future scholarship recipients.

FURTHER AFFIANT SAYETH NAUGHT,


Russell L. Bauknight

SWORN and subscribed to before me

This 14th day of March, 2013


(S.)
Notary Public for South Carolina

My commission expires: 3-2-2014

Adele Pope

From: Early, Doyet A. Law Clerk (Adam C. Ness) <dearlylc@sccourts.org>
Sent: Friday, May 17, 2013 11:07 AM
To: Chris B. Paton
Cc: louis@levensonlaw.com; Early, Doyet A.; AGSJONES@scag.gov; Adele Pope; rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com; FKingsmore@nexsenpruet.com; Robert Rosen; MFJowers@scag.gov; AJH@swblaw.com; MVG@swblaw.com; Michel, David L.; dallaslaw@classicssouth.net; dblack@nexsenpruet.com; rbauknight@bpscpas.com; gcovington@covpatlaw.com; amedlin@sc.rr.com; shahidlo@bellsouth.net; steve@slotchiverlaw.com
Subject: RE: James Brown - hearing to set new PR

Dear All:

Please be advised that Judge Early will use the May 29th hearing date to conduct a status conference. At the status conference, he will expect that each of you be prepared to discuss the future track of the James Brown Estate and Trust litigation. By way of example: now that the settlement agreement has been reversed, what cases are presently pending, and how do the parties propose to move their respective cases forward?

Also, as a general housekeeping matter, please be advised that when any party seeks a ruling from Judge Early, they will be expected to comply with **standard motions practice** protocol—that is, filing a motion, accompanied by the proper motion coversheet and filing fee, etc. Thank you in advance.

Sincerely,

Adam C. Ness, Esq.

Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit
PO Box 90
Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org

From: Early, Doyet A. Law Clerk (Adam C. Ness)
Sent: Wednesday, May 15, 2013 9:49 AM
To: Chris B. Paton
Cc: louis@levensonlaw.com; Early, Doyet A. Law Clerk (Adam C. Ness); Early, Doyet A.; AGSJONES@scag.gov; Adele Pope; rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com;

FKingsmore@nexsenpruet.com; Robert Rosen; MFJowers@scag.gov; AJH@swblaw.com; MVG@swblaw.com; Michel, David L.; dallaslaw@classicsouth.net; dblack@nexsenpruet.com; rbauknight@bpscpas.com; gcovington@covpatlaw.com; amedlin@sc.rr.com; shahidlo@bellsouth.net; steve@slotchiverlaw.com

Subject: Re: James Brown - hearing to set new PR

All:

This is set for May 29th at 2:00 pm in Barnwell.

Any materials for the Judge's consideration must be received no later than the Friday before. If they number more than 10 pages, they must be submitted in hard copy form.

Sincerely,

Adam C. Ness, Esq.

Law Clerk to the Honorable D.A. Early, III
The Circuit Court of the 2nd Judicial Circuit

PO Box 90

Bamberg, SC 29003

Telephone: 803.245.4004

Fax: 803.245.2983

dearlylc@sccourts.org

On May 14, 2013, at 3:36 PM, "Chris B. Paton" <cpaton@rosen-lawfirm.com> wrote:

Adam:

Counsel for Tommie Rae Brown also can attend a hearing in Barnwell on May 29 at 2:00 pm.

Thanks.

Chris Paton, Esquire
Rosen Law Firm, LLC
The Peoples Building
18 Broad Street, Suite 201 (29401)
P.O. Box 1840 Charleston, SC 29402
843-377-1700 843-377-1709 (fax)
cpaton@rosen-lawfirm.com
www.rosen-lawfirm.com

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-----Original Message-----

From: Louis Levenson [<mailto:louis@levensonlaw.com>]

Sent: Tuesday, May 14, 2013 1:49 PM

To: 'Early, Doyet A. Law Clerk (Adam C. Ness)'; 'Early, Doyet A.'

Cc: AGSJONES@scag.gov; 'Adele Pope'; rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com; FKingsmore@nexsenpruet.com; Chris B.

Paton; Robert Rosen; MFJowers@scag.gov; AJH@swblaw.com;

MVG@swblaw.com; 'Michel, David L.'; dallaslaw@classicssouth.net;

dblack@nexsenpruet.com; rbauknight@bpscpas.com;

gcovington@covpatlaw.com

Subject: RE: James Brown - hearing to set new PR

Judge Early

I am only available on Wed. the 29th at 2 PM.

Thank you

Louis Levenson

Levenson & Associates, Attorneys At Law

125 Broad Street, S.W.

Atlanta, GA 30303

Direct: (404) 396-7555

Office: (404) 659-5000; Fax: (404) 659-1355

E-Mail: louis@levensonlaw.com

<http://www.levensonlaw.com/>

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-----Original Message-----

From: Early, Doyet A. Law Clerk (Adam C. Ness) [<mailto:dearlyc@sccourts.org>]

Sent: Tuesday, May 14, 2013 1:46 PM

To: Early, Doyet A.

Cc: AGSJONES@scag.gov; Early, Doyet A. Law Clerk (Adam C. Ness); Adele Pope;

rlbuchananjr@atlanticbbn.net; dwilliams@jeterandwilliams.com;

louis@levensonlaw.com; FKingsmore@nexsenpruet.com; cpaton@rosen-lawfirm.com;

rnrosen@rosen-lawfirm.com; MFJowers@scag.gov; AJH@swblaw.com;

MVG@swblaw.com; Michel, David L.; dallaslaw@classicsouth.net;

dblack@nexsenpruet.com; rbauknight@bpscpas.com;

gcovington@covpatlaw.com

Subject: James Brown - hearing to set new PR

Dear All:

Judge Early would like to schedule a hearing regarding the appointment of a new Personal Representative, regarding the above-named matter.

Provided he has received the remittitur from the South Carolina Supreme Court, Judge Early is available to hear this matter on May 29 or 30, in Barnwell, at 2:00 pm.

Everyone, please respond regarding your availability on the dates and times listed above.

Also, if anyone notices I have failed to copy a necessary party, please forward this on to them.

Sincerely,

Adam C. Ness, Esq.

Law Clerk to the Honorable D.A. Early, III The Circuit Court of the 2nd Judicial Circuit PO Box 90<x-apple-data-detectors://0/0> Bamberg, SC 29003<x-apple-data-detectors://0/0>

Telephone: 803.245.4004<tel:803.245.4004>
Fax: 803.245.2983<tel:803.245.2983>
dearlylc@sccourts.org<mailto:dearlylc@sccourts.org>

On May 9, 2013, at 2:16 PM, "Adele Pope"
<adele@popelawfirm.com<mailto:adele@popelawfirm.com>> wrote:

May 9, 2013

Dear Judge Early:

I am pro se as to all James Brown matters currently pending before you in Aiken County. In light of three things that happened during the last few weeks, I ask that you schedule a Status Conference for all counsel in all Aiken County James Brown matters as soon as possible. Those are:

- a. A request by the Wingate Firm, which represents some Aiken County Interested Persons, for a delay in Richland County Case 4900 and two Freedom of Information Act Cases until you rule on certain matters in Aiken County.

[I oppose the request. AG Wilson is seeking to be dropped as a party to Case 4900. As to one FOIA matter, Lewis & Babcock is seeking to dismiss the James Brown Legacy Trust as a party. As to both FOIA cases, AG Wilson indicated this week a willingness to have a hearing as soon as possible.]

- b. A notice by Gene Covington, Esq., counsel for Albert Dallas, that he intends to proceed with a deposition of Charles Bobbitt (about 82) to preserve his testimony in one or more of the Aiken Cases.

[I do not oppose the deposition, whether before or after a status conference.]

- c. The Supreme Court's Ruling of May 8, 2013 in Case 1647.

I respectfully request that the agenda include:

1. Scheduling my Motion to Intervene in the Dallas Claim matter, which Mr. Dallas does not oppose.
2. Review of matters which might be more efficiently concluded in the 3-year-old Richland County Case 4900.
3. Scheduling of matters to be heard after the Remittitur in Case 1647.

I have tried to include all counsel, but ask that others help me by circulating this. I also request that -- for efficiency -- my counsel in Richland Case 4900 and the Forlando Federal Suit be deleted from you list as they do not represent me in any Aiken Case.

Thank you for your consideration.

Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753
adele@popelawfirm.com<<mailto:adele@popelawfirm.com>>

<-----Original Message----->

From: Black, David

[DBlack@nexsenpruet.com<<mailto:DBlack@nexsenpruet.com>>]

Sent: 7/10/2012 4:23:18 PM

Law Office of Adele J. Pope, P.C.
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

May 17, 2013

The Honorable Alan Wilson
Attorney General for the State of South Carolina
State of South Carolina
P.O. Box 11549
Columbia, SC 29211-1549

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

Dear Attorney General Wilson:

Our Supreme Court's May 7 decision seemed to make certain that James Brown's \$100 Million worldwide music empire would go to The James Brown "I Feel Good" Trust, Brown's private foundation dedicated solely to providing scholarships for needy students in S.C. and Georgia.

Actions by his companion and certain others over the last week, however, suggest they interpret the decision to say: go back and redo the settlement; keep the \$50 Million from the "I Feel Good" Trust; but get rid of Bob Buchanan and Adele Pope so there won't be another appeal.

They do so even though all have now confirmed in Court filings:

...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. [Mem. Opp. P.2, 8/27/10]

I do not believe the Court's intention was that everyone seeking to save the "I Feel Good" Foundation be silenced.

James Brown had not only a 2000 Estate Plan creating the "I Feel Good" Trust but a nearly-identical 1999 Estate Plan. In the 1999 Plan the "I Feel Good" scholarships were for students at Voorhees, USC Aiken and USC Salkehatchie only.

Ltr. to AG Wilson
May 17, 2013
Page 2

I write to ask that you support me, as a private citizen with a special interest in saving James Brown's "I Feel Good" Trust, by endorsing my pursuit of admission to probate of the 1999 Will solely as a backup to Brown's valid 2000 Estate Plan.

I believe your support for this backup - insuring that in all events Brown's fortune will go for scholarships for needy students - will bring a swift end to all challenges and save the "I Feel Good" Foundation.

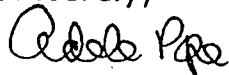
With a hearing set for May 29 immediate action is critical.

I am taking the liberty of copying this to the heads of the three institutions designated in the 1999 Estate Plan, other philanthropists and thinkers - and a few mere lawyers like myself. I seek any input they can give to you or to me to make sure that the "I Feel Good" Foundation is saved.

I am able to meet with you or your staff at any time to discuss this.

Thank you in advance for your consideration.

Sincerely,



Adele J. Pope

Dr. Cleveland Sellers, Jr. - Voorhees
Dr. Ann C. Carmichael - USC Salkehatchie
Dr. Sandra Jordan - USC Aiken
Mr. George Dean Johnson, Jr.
Mr. John Rainey
Mrs. Deborah Spence
Dr. JoAnn Turnquist - Central Carolina Community Foundation
Mr. Steve Lambert - the Graham Foundation
H. Ronald Stanley, Esq.
W. Steven Johnson, Esq.
Freddie Kingsmore, Esq.
William Wilkins, Esq.
Dr. Tania Sosiak
Robert Buchanan, Jr.

391

Mary Frances Jowers

From: Early, Doyet A. Law Clerk (Adam C. Ness) <dearlylc@sccourts.org>
Sent: Wednesday, July 10, 2013 3:16 PM
To: Adele Pope
Cc: Early, Doyet A.; Early, Doyet A. Law Clerk (Adam C. Ness); louis@levensonlaw.com; amedin@sc.ri.com; rnrosen@rosen-lawfirm.com; cpaton@rosen-lawfirm.com; mattbodmanlaw@aol.com; DavidBell@davidbelllawfirm.com; shahidlo@bellsouth.net; steve@slotchiverlaw.com; BWilkins@nexsenpruet.com; DBlack@nexsenpruet.com; Sonny Jones; Mary Frances Jowers; jim@gilreathlaw.com; Phyllis@jkendallfew.com; steve.morrison@nelsonmullins.com; tim.mckissock@nelsonmullins.com; dallaslaw@classicsouth.net; gcovington@covpatlaw.com; dcannon@barnwellsc.com; rlbuchananjr@atlanticbbn.net; jdbaileylaw@bellsouth.net; WByrd@TurnerPadget.com; info@ochintonpa.com; Early, Doyet A. Secretary (Karin Coker); adam@silvernaillawfirm.com; dwilliams@jeterandwilliams.com; Knoepfle, Anita; Norma Jett; Richard B. Ness
Subject: Re: James Brown - Status Conferences & Motions

All:

Judge Early has DENIED Ms. Pope's motion to vacate the June 13, 2013 administrative orders.

I will be putting the signed order in the mail to the Aiken clerk's office tomorrow.

Sincerely,

Adam C. Ness, Esq.

Law Clerk to the Honorable D.A. Early, III The Circuit Court of the 2nd Judicial Circuit PO Box 90<x-apple-data-detectors://0/0> Bamberg, SC 29003<x-apple-data-detectors://0/0>

Telephone: 803.245.4004<tel:803.245.4004>

Fax: 803.245.2983<tel:803.245.2983>

dearlylc@sccourts.org<mailto:dearlylc@sccourts.org>

On Jul 10, 2013, at 9:00 AM, "Adele Pope" <adele@popelawfirm.com<mailto:adele@popelawfirm.com>> wrote:

July 10, 2013

Dear Judge Early:

Since Your Honor has indicated you will rule shortly on my Motion for Reconsideration of the June 13 Orders which was heard yesterday, I write again to request that Your Honor assist with the delivery to me of the documents referenced below which your Order of March 15, 2010 in Case 1647 directed that the Clerk provide to me.

At the July 2 hearing you asked me to outline the issue to you, which I did below.

Since the copies of the documents which Your Honor delivered to the Clerk on March 15, 2010 remain missing, I respectfully request that you help me complete the record of my motion by directing counsel to re-submit to the Clerk and to me these documents which Your Honor has found not to be confidential. I believe they include: (1) The

Contingency Fee Arrangements of Mr. Levenson and (2) Counsel for Tommie Rae; (3) the Fee Agreement of counsel for Terry Brown (interest now owned by Forlando); (4) the Fee and Commission agreements of the GAL for James B. and his attorney; and (5) the fee and commission agreements of Mr. Bauknight and his counsel, all as presented to you after April 6, 2009 and prior to the May 26, 2009 Order.

As Your Honor is aware from my filings and argument at yesterday's hearing, my Motion relates in material part to these commissions and fees.

If, as is appears, the copy of these documents Your Honor delivered to the Clerk in 2010 has been lost, I ask your help in securing replacement copies of this valuable part of the record. Thank you.

I also request that you publish the ex parte email and Ethics Opinion of Prof. Crystal which was not sent to me by Mr. Black, counsel for Russell Bauknight, when he communicated directly with Your Honor between the July 2 and July 9 hearings. I was unaware of this communication and Ethics Opinion until yesterday when Your Honor announced it, and the communication relates directly to my motion yesterday as well as my pending Case 2013-CP-02-1337, filed June 10, 2013, in which Mr. Bauknight is both an individual party and a party in his fiduciary capacity.

Thank you for your assistance in helping me obtain these documents.

Sincerely,

Adele J. Pope

cc: Interested Persons - As per Jg. Early's above Distribution List Clerk of Court

<-----Original Message----->

>From: Early, Doyet A.

>[dearlyj@sccourts.org<mailto:dearlyj@sccourts.org>]

>Sent: 7/2/2013 7:12:25 PM

>To: adele@popelawfirm.com<mailto:adele@popelawfirm.com>

>Cc:

>dearylc@sccourts.org<mailto:dearylc@sccourts.org>;dearylc@sccourts.org<

>mailto:dearylc@sccourts.org>;louis@levensonlaw.com<mailto:louis@leveno

>nlaw.com>;amedlin@sc.rr.com<mailto:amedlin@sc.rr.com>;

>rnrosen@rosen-lawfirm.com<mailto:rnrosen@rosen-lawfirm.com>;cpaton@rose

>n-

>lawfirm.com<http://lawfirm.com>;mattbodmanlaw@aol.com<mailto:mattbodman

>law@aol.com>;DavidBell@davidbelllawfirm.com<mailto:DavidBell@davidbell

>awfirm.com>;shahidlo@bellsout

>h.net<http://h.net>;steve@slotchiverlaw.com<mailto:steve@slotchiverlaw.

>com>;BWilkins@nexsenpruet.com<mailto:BWilkins@nexsenpruet.com>;DBlack@n

>exsenpruet.com<mailto:DBlack@nexsenpruet.com>;SJon

>es@scag.gov<mailto:es@scag.gov>;MFJowers@scag.gov<mailto:MFJowers@scag.

>gov>;jim@gilreathlaw.com<mailto:jim@gilreathlaw.com>;Phyllis@jkendallfe

>w.com<mailto:Phyllis@jkendallfew.com>;steve.mo

>rrison@nelsonmullins.com<mailto:rrison@nelsonmullins.com>;tim.mckissock

>@nelsonmullins.com<mailto:tim.mckissock@nelsonmullins.com>;dallaslaw@cl

>assicsouth.ne<mailto:dallaslaw@classicsouth.ne>

>t;gcovington@covpatlaw.com<mailto:gcovington@covpatlaw.com>;dcannon@bar

>nwellsc.com<mailto:dcannon@barnwellsc.com>;rlbuchananjr@atlanticbbn.net

><mailto:rlbuchananjr@atlanticbbn.net>;jdb

>aileylaw@bellsouth.net<mailto:aileylaw@bellsouth.net>;WByrd@TurnerPadge
>t.com<mailto:WByrd@TurnerPadget.com>;info@ochintonpa.com<mailto:info@oc
>hintonpa.com>;dearlysc@sccourt
>s.org<http://s.org>;dearlysc@sccourts.org<mailto:dearlysc@sccourts.org>;adam@silvernaillawfirm.com<mailto:adam
>@silvernaillawfirm.com>;dwilliams@jeterandwilliams.
>com
>Subject: Re: James Brown - Status Conferences & Motions
>
>Thank you
>
>Sent from my iPhone
>
>On Jul 2, 2013, at 7:08 PM, "Adele Pope"
><adele@popelawfirm.com<mailto:adele@popelawfirm.com><mailto:adele@popelawfirm.com>> wrote:
>
>Law Office of Adele J. Pope, P.C.
>1228 Walnut Street
>Newberry, South Carolina 29108
>July 2, 2013
>
>The Honorable Doyet A. Early, III
>(via email)
>
>Re: Wilson V. Dallas - Case No. 2008-CP-02-1647 and Case No.
>2009-CP-02-1810
>
>Dear Judge Early:
>
>I write at your direction to request that you direct the counsel, GAL
>and parties involved to deliver to me and file with the clerk -- if
>possible before July 9,
>2013 -- the following documents which you Ordered on March 15, 2010 be
>delivered to Robert Buchanan, Jr. and me BY THE CLERK; but which the
>Clerk did not have then, and does not have now:
>
>"Any and all documents related to attorneys' fees and/or compensation,
>and/or costs and/or fees of guardians ad litem and their counsel
>presented to this Court in the above cases, including but not limited
>to the contingency fee contract of Louis Levenson, Robert Rosen and the
>fee of the Guardian ad Litem for James B."
>
>You asked that I outline in the email what I stated to the Court in the
>hearing which took place in Bamberg, S.C. this morning, which was:
>
>On or about March 10, 2010 Bob Buchanan and I filed a motion asking for
>the above documents which, according to our motion, were delivered to
>Your Honor in accordance with an April 6, 2009 oral Order during the
>Case 1647 Settlement hearings.
>
>In the Order Your Honor issued on March 15, 2010, the Court stated that
>it was delivering to the Clerk the documents which had been delivered
>to the Court, and directed the Clerk to deliver them to Bob and me.

>The Order, entitled "ORDER RELATED TO RELEASE OF INFORMATION RELATED TO ATTORNEYS'
>FEES AND COMPENSATION," found that the Court had made no findings for
>necessity of confidentiality as to the documents.
>
>We checked with the Clerk in 2010 and the documents were not in her possession.
>The same was true in a recent check.
>
>As I stated today, and was stated in our 2010 motion, we have a copy of
>the Levenson 30% plus \$150,000 contract from the Forlando Suit, but Mr.
>Levenson declined to send us or the Clerk a copy. We did not inquire of other counsel.
>
>In June 2013 the Office of the Clerk of Court confirmed again that they
>have none of the documents, and I advised a Sr. Assistant Clerk that I
>would address the matter with the Court.
>
>In connection with my Motion to Alter, Amend and Vacate the June 13
>Orders in Case
>1647 and other cases, which is to be heard next Tuesday July 9, I am in
>need of these documents, and today requested your help in getting them.
>
>Thank you,
>
>Adele J. Pope
>July 2, 2013
>
>P.S. I have taken the liberty of adding my counsel in Richland County
>Case 2010-
>CP-40-4900 ("Case 4900") and the Forlando Brown Federal Suit to the
>Distribution List to keep them informed of my action. I am pro se in all Aiken County matters.
>
>
>
>
>
><-----Original Message----->
>From: Early, Doyet A. Law Clerk \ (Adam C. Ness\
>[dearylc@sccourts.org<mailto:dearylc@sccourts.org><mailto:dearylc@sccou
>rts.org>]
>Sent: 6/13/2013 11:31:28 AM
>To:
>louis@levensonlaw.com<mailto:louis@levensonlaw.com><mailto:louis@levens
>onlaw.com>;
>amedlin@sc.rr.com<mailto:amedlin@sc.rr.com><mailto:amedlin@sc.rr.com>;
>rnrosen@rosen-
>lawfirm.com<http://lawfirm.com><mailto:rnrosen@rosen-lawfirm.com>;
>cpaton@rosen-
>lawfirm.com<http://lawfirm.com><mailto:cpaton@rosen-lawfirm.com>;
>mattbodmanlaw@aol.com<mailto:mattbodmanlaw@aol.com><mailto:mattbodmanla
>w@aol.com>;
>DavidBell@davidbelllawfirm.com<mailto:DavidBell@davidbelllawfirm.com><m
>ailto:DavidBell@davidbelllawfirm.com>;
>shahidlo@bellsouth.net<mailto:shahidlo@bellsouth.net><mailto:shahidlo@b

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STATE OF SOUTH CAROLINA

JUN 24 2013

COUNTY OF AIKEN

Alan Wilson, in his capacity as Attorney General of the State of South Carolina; and others,
Plaintiffs,

v.
Albert H. Dallas, and others,

Defendants

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

) IN THE COURT OF COMMON PLEAS.
) **Civil Action No. 2008-CP-02-1647**
) : Case No. 2007-CP-02-1222
) 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
) Case No. 2013-CP-02-1348
) MEMORANDUM IN SUPPORT OF
) MOTION TO VACATE, SET ASIDE,
) ALTER OR AMEND
) ORDERS DATED JUNE 13, 2013

In its historic *Wilson v. Dallas* decision of May 8, 2013, the South Carolina Supreme Court restored to James Brown's \$100 Million "I Feel Good" Foundation about \$50 Million an unjust settlement proposed to take from scholarships Brown has set up for needy and deserving students in two valid Estate Plans.¹

The 2000 and 1999 Estate plans were considered virtually ironclad on August 10, 2008 when the settlement was reached. In filings in 2010 Brown's companion Tommie Rae Hynie ("Tommie Rae") and all who contested the Estate Plans and were parties to the settlement told the Richland County Court why:

...the establishment of a Charitable Trust intended to provide financial assistance to deserving students who seek education in South Carolina and Georgia. This

¹ The only major difference in the 2000 and 1999 Trusts was that scholarships under the 1999 "I Feel Good" Trust were limited to Voorhees, U.S.C. Salkehatchie and U.S.C. Aiken. Scholarships under the irrevocable 2000 Trust were more broadly available, to students in studying S. C. and Georgia.

objective was the often stated and well-known desire of James Brown. [Mem. Opp. P.2, 8/27/10]

Barely a month after the *Wilson v. Dallas* decision an *ex parte* appointment and three "administrative" orders issued on June 13, 2013 without notice or hearing (the "June 13 Orders") once again threaten to dismantle Brown's "I Feel Good" Foundation and destroy the careers, reputations and livelihood of Movant and the handful of fiduciaries and attorneys who vigorously defended the "I Feel Good" Trust and Brown's \$285,000 education trusts for 7 grandchildren for 5 ½ years, as required by his Estate Plan.

To understand how the June 13 Orders trample on First Amendment, Due Process and S.C. Probate and Trust Code² rights; why Movant has standing to be in all James Brown cases; and why fundamental fairness fiduciaries demands that they be voided, one must begin with the Christmas 2006 death of the Godfather of Soul.

James Brown's Death to the August 10, 2008 Settlement

Entertainment icon James Brown died on December 25, 2006.³ Within hours

² "SCPC" and "SCTC."

³ Brown and companion Tommie Rae Hynie ("Tommie Rae") separated in the summer of 2006. She was in California. None of Brown's children or grandchildren were present.

Brown's Heirs are: 3 children acknowledged after passing the DNA protocol established by Rodney Peeples, Esq. - (1) LaRhonda; (2) Jeanette; and (3) Nicole; Five born of his 3 marriages - (4) Terry; (5) Larry; (6) Lisa; (7) Deanna; and (8) Yamma; Six Acknowledged in the 2 Estate Plans - (9) Venisha (incarcerated) and (10) Daryl.

A possible eleventh is (11) Deon, incarcerated in California and who has asked Jg. Early to appoint a GAL for him and allow him to take the DNA test established by Peeples.

All 11 were born before Brown's vasectomy in about 1984 which attorney and Trustee Albert "Buddy" Dallas asserts was "damage control" after a California court directed that Brown support Deon when he was a teenager. Tommie Rae's son - born during her marriage to another and before the ceremony with Brown - is the only person to claim that Brown fathered him after the vasectomy.

Brown's trusted companion and trustee, David Cannon, secured for himself the last of the \$13 Million+ Million he secretly took from Brown between 1999 and 2006.⁴

Brown disposed of his \$100 Million music empire through his Last Will and an Irrevocable Trust executed and funded on August 1, 2000. The Trust had been operating for 6 ½ years; owned his Beech Island home estate; and was providing education benefits for grandson Forlando ^{and others} others.⁵ It provided:

⁴ Cannon, Albert "Buddy" Dallas and Al Bradley, with daughter Deanna, served as Brown's fiduciaries from 1999 - 2006. In 2006 Deanna and Cannon picked up Brown's Estate Planning file which contained both the 1999 and 2000 Estate Plans; the Deed of Brown's home estate to the 2000 Trust; and Memoranda of Trust filed in Aiken County, SC and Richmond County, Ga.

The 1999 Estate Plan - creating the first version of the "I Feel Good" Trust, was signed on June 15, 1999, 4 days after Brown and his company, JBE, Inc. borrowed \$26 Million from N.Y. Teachers ("TIAA"). Much of the \$13+ Million Cannon took was from a Morgan Stanley account holding TIAA funds.

In early 2000, Brown prepared a voice tape of his wishes, but delayed signing the Estate Plan for several months to read the 2000 Will and Trust. Daughter Venisha and Tommie Rae were present and witnessed a related Advisory Board document.

⁵ All of Brown's children and past and future spouses were specifically omitted from Brown's 2000 and 1999 Trusts, which gave \$285,000 education trusts to 7 grandchildren. Both the 2000 and 1999 Wills gave personal and household effects ("PHE") to 6 children of the 10 children.

In addition, Brown's 10 children, acting by majority, have certain termination rights under the Federal Copyright Act related to Brown's 800+ songs published. (the "Termination Rights").

The Termination Rights are hard to exercise; and come only 56 years after Brown's pre-1978 songs were released and 35 years after the 1978 and later songs. SEE, for example, Gurnick & Grinblat, *Nine Ways to Avoid Copyright Termination, Part 1 and Part 2*.

To protect "I Feel Good" Trust's Copyrights from false Heirs claims and provide for appropriate negotiations with real heirs about Termination Rights, a DNA protocol was established by attorney Rodney Peeple, Esq. for the original PR/Trustees. Tommie Rae's son refused to submit to the DNA protocol even though the Estate paid his \$300.

In 2008 by Jg. Early signed an Order consented to by Bob, Adele and Levenson making a baseline Heirs-at-death determination part of Case 2008-CP-02-872 ("Case 872").

As copyright termination approaches as to each of the 800+ songs the Estate or "I Feel Good" Trust may negotiate with any 6 of the 10 to start a Termination proceeding. Congress' intent was to allow authors and their heirs to secure a better deal during the last years of Copyright protection, which had been extended by Congress. SEE Smith, W. *Private Foundations, Copyright Heirs and Musical Millionaires: why the James Brown "I Feel Good" Trust doesn't...* (Discussion Draft, April 2011).

b. \$285,000 Education Trusts for 7 designated grandchildren; and

c. The remainder – then about \$80 Million – to the “I Feel Good” Trust, Brown’s private foundation dedicated solely for scholarships for needy students.

A June 15, 1999 “backup” Will and Trust was substantially identical.⁶ Both Estate Plans specifically disinherited all past and future spouses and other claimed heirs; contained *In Terrorem* forfeiture clauses; and directed Brown’s fiduciaries to “vigorously defend” against all challenges.

On January 8, 2007 six of Brown’s children and grandson Forlando agreed to pay Attorney Levenson \$150,000 plus 30% of what he could get them from the “I Feel Good” Trust. Tommie Rae hired attorneys and appears to have agreed to give them 45% of what they could get her.⁷

Aware of the *In Terrorem* forfeiture clauses, none filed suit for almost a year.

On March 7, 2007 Adele Pope (“Adele”) and Robert Buchanan, Jr., (“Bob”) were appointed nonfiduciary SAs of Brown’s estate.⁸

In March 2007 some handwritten notes Tommie Rae had abandoned in Brown’s home were found. They were transcribed and widely disseminated and discussed for

In order to avoid the Self-dealing requirements contained in the “I Feel Good” Trust and the Internal Revenue Code, Brown’s fiduciaries must negotiate at arm’s length with the proven heirs as to copyright terminations and any family trustee would be required to abstain.

⁶ Scholarships under the “I Feel Good” Trust in the 1999 revocable Trust were for needy students at Voorhees, U.S.C. Salkehatchie and U.S.C. Aiken, while in the 2000 irrevocable Trust potential scholarship recipients were broadened to include students studying in S.C. and Georgia.

⁷ Tommie Rae’s attorney’s contract and those of all settling parties were presented to Jg. Early in 2009, who subsequently ordered them delivered by the Clerk to Bob and Adele. The Clerk did not have them then, and does not now have them as of June 10, 2013. The Levenson contract was produced in the Forlando Federal Suit. Forlando stated Tommie Rae told him of the 45% contingency.

⁸ Adele was nominated by Tommie Rae’s counsel and Levenson. Bob was nominated by counsel for the original trustees, (the “Cannon Group”).

almost a year.⁹

In June the Cannon Group began plans to sell the music empire for \$100 Million; be paid a \$15 Million in commissions; and get secret options or a "kickback" from the IPO to be formed.

In July 2007 Cannon and Dallas tried to move the 2000 Trust to Georgia just before Bob and Adele discovered \$900,000 Cannon took in 2006.

On August 10 Jg. Early signed an Order accepting Cannon's resignation and making 90 boxes of Brown's historical documents, including Tommie Rae's writings, public.

On October 12 TJBL made the first of three \$90 -\$100 million offers for Brown's music empire.

On October 31 daughter Deanna and grandson Forlando confirmed in depositions the Estate Plan was what Brown wanted. Forlando said he was satisfied with Bob and Adele.

On November 15, Brown's Inventory & Appraisalment ("I&A") valued Brown's assets at \$100 Million less the \$15 Million TIAA debt, based on the TIAA offer¹⁰.

On November 20, 2007 Jg. Early appointed Bob and Adele PR/Trustees under the 2000 Estate Plan, which required them to "vigorously defend" the Estate Plan.

⁹ Dallas, Bradley and counsel Wayne Byrd, Esq. asserted they provide material proof Tommie Rae was not Brown's spouse.

¹⁰ Brown earned \$18 Million in road show revenues between 2003- 2006 and an *additional* \$3 Million a year in Royalties. In 2007 he was listed on Forbes' list of "Top Earning Dead Celebrities."

On December 26, 2007 5 of Brown's children contested the 2000 Estate Plan.¹¹

On January 2, 2008 Forlando sued the 2000 Trust, Bob and Adele in Federal court.¹² He sought to enjoin the 2000 Trust until the Cannon Group was reinstated.

On January 8, 2008 Jg. Early awarded Bob \$97,059 and Adele \$219,941 in SA fees for March - Nov. 20, 2007 and partial PR/Trustee commissions, with interest at the legal rate on all unpaid amounts.¹³

In January 2008 Forlando's family filed 6 grievances against Levenson in 2 states, asserting the 30% contract was forged.

On March 7, 2008 Jg. Early rejected Dallas' attempt to return as Trustee¹⁴.

¹¹ The will and trust contest became Aiken County Case No. 2008-CP-02-0872 ("Case 872"). In May 2008 it was segregated from Case 2007-CP-02-0122 ("Case 122") by Jg. Early. Tommie Rae had filed a defective elective share claim in the wrong court in early 2007. On December 19, 2007 she also filed defective challenges to the Will and 2000 Trust. Motions to Dismiss are pending as to all challenges.

Under the June 13 Orders, Bauknight, who has proclaimed that Tommie Rae's elective share claim was a "slam dunk." will represent the Will/2000 Trust in Case 872, which will be "collapsed" into *Wilson v. Dallas*. Bob, Adele and all fiduciaries and beneficiaries of the 2000 and 1999 Estate Plans who oppose the dismantling of the "I Feel Good" Trust are ejected from 1647 or have never been properly made parties. The Estate/2000 Trust's (Bob's and Adele's) pre-May 26, 2009 request for alternate probate of the 1999 Will and motions to add Voorhees, Salkehatchie and other fiduciaries and beneficiaries of the 1999 Estate Plan, as well as Deon and other identified claimed heirs, to case 872 are pending. They are in jeopardy of being abandoned by Bauknight.

¹² The "Forlando Federal Suit"

¹³ As of May 26, 2009 Adele was owed about \$47,000 on her SA fee. Bob was fully paid. As of that day, Adele was owed \$1,473,550 under the January 8 Order and Bob \$500,300. The partial commission and interest under the January 8 Order was a deposit towards their full commissions. On July 14, 2009 Bob and Adele requested a commission of \$2,147,221 for Bob and \$2,845,930 for Adele. This contemplated and included the four years from May 26, 2009 until May 8, 2009 that they defended the Will and Trust, and backup 1999 "I Feel Good" Trust and \$285,000 grandchildren's trusts in accordance with their duty under the 2000 Estate Plan. The Ga. AG objected at a December 21 hearing, but no objection was made or appeal taken from the January 8 Order.

¹⁴ Deceased former trustee Al Bradley supported Cannon and Dallas and failed to uncover or seek return of the \$13+ Million Cannon took. He did, however, help uncover a document – the Dallas Schedule B – Cannon & Dallas fabricated after Brown died. In 2012 the Estate made a small settlement with Bradley's Estate.

In early 2008 Jg. Early declined Forlando's request to disqualify Levenson in the will and trust contest, confirming Levenson's 30% contract contemplated it.

On February 20 and March 7 Jg. Early, without a hearing or affidavit to support the request, signed three Gag Orders in Case 122 which purported to gag scores of people from discussing the widely-known contents of handwritten notes Tommie Rae made after Brown discovered she was married when they conducted a 2001 ceremony.

On February 27 and March 27 TJBL made additional \$90 Million - \$100 Million offers for Brown's assets. The newly-filed will and trust contests prevented serious consideration of the offers at that time.

On March 7, 2008 Terry and Forlando testified supporting the Estate Plan.

In March 2008 the Cannon Group sued for \$15 Million in commissions.¹⁵ By August 2008 Bob and Adele had moved for Summary Judgment as to the three.

In April 2008 Jg. Early ordered an Heirs determination ^{part of} Case 872, even though many of the 10 identified heirs were excluded from the 2000 Will and Trust.¹⁶

In filings in their will and trust contest, the Levenson clients confirmed their position that Hynie and her son are not Brown's heirs.

On April 1, 2008 Jg. Early directed Bob and Adele to sign the Christie's contract

¹⁵ By Order of Jg. Early dtd. 1/8/08 attorneys Few & Gilreath were engaged to sue to recover for the Estate/2000 Trust's losses since 1999. By March 2008 they had sued the Cannon Group to recover the \$13+ Million Cannon misappropriated, and Morgan Stanley, where Cannon had placed - then taken - \$10 Million of the TIAA proceeds.

¹⁶ Establishing the correct Heirs-at-death provides a baseline for the "I Feel Good" Trust to protect its copyrights over the coming decades. Deon 's (incarcerated) request to be DNA tested is pending, as is the Estate's paid-for request to DNA test Tommie Rae's son, the only claimed child born after Brown's vasectomy. He was born during her marriage to another, before the ceremony with Brown, and has refused a DNA test under protocol set up by Rodney Peeples, Esq. for Brown's original PRs.

to sell several hundred items of personal property.¹⁷.

On April 8, 2008 Jg. Early found Bob's and Adele's service as SA s and PR/Trustees through April 8, 2008 to be both ethical and appropriate. He ordered the Cannon Group to pay all attorneys' fees and costs of Case 122¹⁸

Bob and Adele responded to the five children's will and trust contest in Case 872 seeking to uphold the Will and 2000 Trust and, in the alternative, admit the 1999 backup Will if the 2000 Estate Plan failed.¹⁹

By July 9 former PR/Trustee Dallas, Forlando's Powell Goldstein lawyers and others were interfering with the Christie's sale. Dallas filed a motion with the Court of Appeals to stop the sale.

On July 14 the Christie's sale was approved by the Court of Appeals, three days before the sale.

¹⁷ The "Grammy" was specifically listed in the selection for sale, and in later filings with the Court of Appeals. No objection was made to the sale of the Grammy until the Wingate suit on May 19, 2010 – almost 3 years after the sale. Levenson was present when the Christie's counsel urged Bob and Adele to proceed with the sale, assuring them that there was no impediment to the sale and that the Academy's filing was a baseless threat. Bob and Adele – based on the chill Dallas and others had placed on the sale and the legal costs to be involved, elected to withdraw the Grammy. It was sent to the S.C. State Museum for safekeeping, along with thousands of other items Bob and Adele place at 4 museums for safekeeping pending the outcome of Case 872, as authorized by Jg. Early's Feb. 20, 2008 Order in Case 122.

¹⁸ James Bailey, Esq. protected the Estate/2000 Trust in Case 122, 872 and 1647 for approximately 18 months. He was paid approximately \$100,000 as shown on accountings for the period before May 26, 2009. With interest since 2009 he is owed approximately \$110,000 for his valuable service. Tressa Hayes, who protected the Estate/2000 Trust in the Cannon and Dallas appeals and assisted James Richardson, Esq. on the *Wilson v. Dallas* appeal should be paid \$85,000. James Richardson, Esq., primary appellate counsel informed the Supreme Court – prior informing Bob and Adele – that his service in saving the "I Feel Good" Trust would be *pro bono publico*.

¹⁹ Because of the "incorporation by reference" clauses of Brown's 2000 and 1999 Wills, Brown's desire to leave his music empire solely to needy students through the "I Feel Good" Trust was recorded for more than 6 years before his death in four separate estate planning documents over two years; and the recorded deed placing his home estate in the 2000 Trust; and Memoranda of Trust filed in two states.

In late July the Estate/2000 Trust filed a motion to charge Dallas and others with the cost of interference with the Christie's sale. The motion is still pending²⁰.

On July 30 AG McMaster notified Bob and Adele of his support for their permanent appointment as 2 of Brown's three trustees. He confirmed the importance of the Advisory Board's involvement in the selection process²¹.

All of that would change fewer than two weeks later.

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

On August 12, 2008, Tommie Rae's attorneys informed Bob and Adele they had conducted a mediation and settled the case. The settlement terms remained secret until October 2008.

On September 25, 2008 Court-appointed CPA Wm. Sellars filed the Estate Tax Return, showing Brown's assets at approximately \$100 Million less the TIAA Debt.²²

On October 25 Tommie Rae and the 5 children made public what they would take from the "I Feel Good" Trust in the August 10 settlement:

- a. Tommie Rae would get 25% – about \$25 Million, with her lawyers getting about \$10 Million of that.

²⁰ Jg. Early approved the Christie's sale in Orders dtd. Feb. 20 and April 1, 2008. The April 1 Order found certain children had interfered with the sale, but not caused any damage. It stated that anyone who delayed or damaged the Christie's sale would be liable for damages.

²¹ In 2008 Bob and Adele appointed Jg. (Ret'd) Walter Williams, Dr. Ann Carmichael (U.S. C. Salkehatchie), Dr. Leonard McIntyre (Interim President, S.C. State) and Dr. Inez Tenenbaum (former S.C. Superintendent of Education) to the Advisory Board of the 2000 Trust.

²² Bob's and Adele's valuation of the music empire was consistent with: (a) a formula presented to Jg. Early on Nov. 14, 2007 for valuation of Royalties and Publicity Rights on the Estate Tax Return, and not objected to by AG Master or any other person; (b) the 3 Letters of Intent of TJBL; (c) Foriando's sworn testimony in September 2008 that \$150 Million offers were still available for the music empire; and Brown's \$5+ Million annual earnings.

b. The "Levenson Clients" would get 25% - about \$25 Million, with at least \$7.5 Million to Levenson for the 8-month-old challenge to the Estate Plan.

c. There would be no DNA testing, and all would treat themselves as Brown's heirs – ignoring real heirs La Rhonda, Jeanette, Lisa, Nicole -- possibly Deon and others.²³

The Estate's motions to add Voorhees, U.S.C. Aiken and U.S.C. Salkehatchie – with claims far superior to settling parties – and for partial summary judgment as to Tommie Rae under Lukich, the 2000 Trust and her prenuptial agreement, were stayed and are still pending.

On October 24, 2008 the settling parties filed Case 1647, which became *Wilson v. Dallas*. They asked for removal of all fiduciaries and appointment of Russell Bauknight SA/ST.

By November 2008 Bob and Adele, with Jim Bailey, had resolved \$32+ Million of claims cases in favor of the Estate/2000 Trust and prepared others for trial.²⁴

²³ It was this knowingly incorrect designation of "Heirs" – wholly at odds with the facts and law, and ignoring half of Brown's real heirs – which began to take on a life of its own. By 2011 the claims had become so exaggerated that Deanna told the media that – but for the settlement – there would be no assets in the "I Feel Good" Trust in 10 years. Bauknight made a similar claim to the Supreme Court, asserting that Copyright Termination rights are "all this case is about."

All settling parties have reported that their Termination Rights were placed in the Settlement Entity/Legacy Trust. The Legacy Trust sued Bob and Adele in 2010 in Case 4900.

Through L&B, engaged by Bauknight, the Legacy Trust has attempted to prevent release of documents under FOIA. After the May 8 decision L&B informed Jg. Manning that it may not have a client.

Whether the Legacy Trust holds Terry's Termination Rights or whether they were transferred to Forlando is at issue in both as to Bob's and Adele's counterclaims in the Forlando Federal Suit and Adele's counterclaims against Terry/Forlando and the Legacy Trust in Case 4900.

²⁴ The Estate (Bob & Adele) acknowledged that Peeples and Lewis & Babcock ("L&B") had performed valuable service in defending the Estate, 2000 Trust and Estate Plan; established stipulated facts; and agreed with Peeples and L&B for the Court to set their fees on the stipulated facts. L&B had no knowledge of the Cannon Group's attempts to transfer the 2000 Trust to Ga. or that Dallas and Cannon had fabricated a second "Schedule B" after Brown's death.

On November 18 and 19, 2008, in hearings in the Forlando Federal Suit, Bob and Adele prevented Forlando from obtaining an injunction against the 2000 Trust.

On January 8, 2009 Jg. Early appointed Russell Bauknight SA/ST for the sole purpose of considering and making a recommendation about the settlement.

On January 30 Levenson called Bob to threaten Rule 11 sanctions and other problems if Bob and Adele did not support the settlement and resign.

By January 30, 2009 Bob and Adele -- as required by the Will and 2000 Trust -- objected to the settlement for numerous reasons, including:

1. It was unjust to set aside two valid Estate Plans and give \$50 Million to people who lacked even probable cause to contest the two Wills.
2. Tommie Rae was not Brown's spouse, and she and her child not Heirs.
3. The settlement intentionally excluded DNA-proven Heirs who had Termination Rights greater than a number of the settling parties.
4. Voorhees, Salkehatchie and Aiken, beneficiaries of the 1999 Will were not given notice, although their claim to the \$100 Million "I Feel Good" Trust was superior to that of the settling parties.
5. Incarcerated claimed son Deon and others were not given proper notice.
6. It dismantled \$285,000 education Trusts for minors without GALs.

On January 30, 2009 Terry joined the settlement; was given almost 5% of Brown's assets and a right of first refusal ("ROFR") to buy Brown's assets. Minutes later, Russell recommended that the Court approve the settlement.

From January 30 to March 23 Bob and Adele, represented by Bailey and Hayes, defended the Estate Plan.²⁵ The record is clear that protecting the "I Feel Good" Trust

²⁵ Bailey, Hayes and Harley Ruff, Esq. assisted the Estate/2000 Trust and

and \$285,000 Trust for Brown's 7 grandchildren was paramount.

In March 2009 Terry/Forlando's attorney wrote to threaten Bob with a judicial grievance if Bob did not resign. Bob sent it to Jg. Early²⁶.

On May 22, 2009 Bob and Adele accounted for their acts to that date and filed documents to show that they had designated attorney^{e ar} Ronald Stanley, Esq. and former Warner Music Executive Ray Gonzalez (also an attorney) as their successors as provided in the Will/2000 Trust.

On May 26, 2009 Jg. Early approved the Settlement and the *Wilson v. Dallas* appeal process began. For one year there was relative quiet.

Before Case 4900: May 2009 to May 2010

Although believing the settlement to be unjust and filing the required appeal of the May 26 Order in *Wilson V. Dallas*, Bob and Adele made enormous efforts to ease

²⁶ Attorney David Bell, Esq., has been active with Dallas, Forlando and Terry in a host of dirty tricks in State and Federal Court since 2008, to include: (1) six grievances against Levenson and the accusation that he forged the 30% contract; (2) attaching the fabricated Dallas/Cannon Schedule B to the Trust as part of the Complaint in the Forlando Federal Suit; (3) Threatening Bob, a part-time Federal Magistrate Judge, with a judicial grievance even though his service was permitted by the Federal Court; and (4) actively participating for Forlando in Case 1647 for months without seeking or obtaining *pro hac vice* status, while his sponsor in other James Brown cases asserted Forlando was never made a party to Case 1647.

Since January 2009 Bell continues to represent at the same time:

1. Terry, who supports Bauknight's less-than \$4.7 Million value of the music empire and Forlando, who has stated under oath it is "bogus."
2. Terry, who – until May 8 – supported the settlement before the Supreme Court, and Forlando, who opposed the same settlement in Federal Court.

Terry sued Bob and Adele in 2010 in Case 4900 for appealing the settlement. Then he concealed from the Federal Court, Supreme Court and Case 4900 Court for 2 years that Terry's interest in the Estate was transferred to Forlando, who opposes the Settlement.

the transition of management pending the appeal to Bauknight²⁷.

On June 2, 2009 they met with Bauknight and attorney Freddie Kingsmore;^{and} offered to meet weekly. They urged Bauknight to take up the 2-year GreenLight Publicity Rights contract which could begin immediately and was expected to bring in at least \$1 Million a year for the two years during the appeal.

Bauknight and Kingsmore made two memorable statements:

- a. Kingsmore said the GreenLight contract sounded like a good idea, but he had to check with David Bell.
- b. Bauknight said the one thing he would not do was fight to hold onto his position.

On June 4, 2009 the tone changed. Bauknight directed attorneys Few and Gilreath, who were suing Cannon, not to speak confidentially with Bob and Adele — gutting the \$13 Million case against Cannon.

In the summer of 2009 Bob and Adele opposed Tommie Rae's attempts to obtain discovery as to their commissions, but filed a detail claim, affidavit and charts clearly setting out what was owed them under the January 8 Order and what their full claim would be at the conclusion of their service to James Brown. The Court is asked to take judicial notice of the entire claim.

On November 6, 2009 the Court of Appeals made clear that effective on May 26 all responsibility and liability for management of the Estate/2000 Trust pending the *Wilson v. Dallas* appeal rested with Bauknight.

²⁷ By June 24 Bob and Adele had prepared and delivered to Bob about 150 banker's boxes of documents; and Inventory and Description of all pending cases; and other information to facilitate smooth administration.

In February 2010 Cannon was indicted for taking \$12+ Million from Brown and uttering a 2008 forgery to cover up some of the takings.

On March 19, 2010 Bob's Time Detail shows:

call Cal Watson and Betsy Gray; telephone call, Adele all re [Tommie Rae's lawyer's] threats to sue and effort to divide Adele and me.

Shortly thereafter, Bauknight's attorney also threatened suit by attorney Kenneth Wingate, Esq. if Bob and Adele did not drop the *Wilson v. Dallas* appeal and resign. Both felt that their duty to the Estate Plan did not allow it.

On May 18 "someone" told former Attorney General McMaster that the statute of limitations would expire on the following day and that he would breach his fiduciary duty as Attorney General if he did not authorize a suit against Bob and Adele.

It is still unclear whether AG McMaster did or did not properly authorize a private attorney – Wingate – to sue Bob and Adele in the name of the AG/State while simultaneously representing Tommie Rae and others who seek to destroy the "I Feel Good" Trust. But it happened on May 19, 2010 when Richland County Case 2010-CP-40-4900 ("Case 4900") was filed.

Case 4900 & Estate Funds to Secure Tommie Rae Release from Bob's Claims

On May 19, 2010 the Estate/2000 Trust sued Bob and Adele in Richland County Case 4900,²⁸ alleging they had breached their fiduciary duty and committed breaches of trust, including:

a. ~~Failure to accept the \$100 Million offer made to Dallas in 2007.~~

b. Pursuing the *Wilson v. Dallas* appeal of the settlement.

²⁸ Richland County Case No. 2010-CP-40-4900.

{ In the Complaint Bauknight asserted in Case 4900 that he was acting on behalf of: the Estate; the 2000 Trust; Tommie Rae; Tommie Rae's son (who has no GAL); the Legacy Trust; the Attorney General of South Carolina; and others.

On June 19, 2013 Bauknight still purports to speaks on behalf of all of those even though AG Wilson has asked to be dropped as a party.

On August 27, 2010, Tommie Rae, Bauknight and all of the Case 4900 Plaintiffs made the defense of their challenges to the 2000 and 1999 Estate Plans easier by asserting in Case 4900:

...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. [Mem. Opp. P.2, 8/27/10]

In October 2010 Bob and Adele answered²⁹ and counterclaimed, in part, by asserting no duty to Tommie Rae because she was not Brown's spouse, and for abuse of process.

In November 2010 Plaintiffs moved to be relieved from default after Wingate failed to timely respond to the Counterclaims.

On May 18, 2012 the Estate/2000 Trust and Tommie Rae moved to compel Bob to comply with a settlement which required Bob to release Tommie Rae and others from his counterclaims in order to get \$500,000 he had been due under the January 8

²⁹ The Answer and Counterclaims in Case 4900 asserts, in part, that Bob and Adele owed no duty to Tommie Rae, who was not Brown's spouse; Tonya; or Tommie Rae's son; that the Minor Plaintiffs need a GAL; that Bob's and Adele's duty to the adult will and trust contestants ended when they challenged the Will and Trust, and they were required to defend the Estate Plan; and that Bob and Adele protected Plaintiff Jason Lewis and Lindsey Brown. It asserts that any loss to the Estate/2000 Trust and "I Feel Good" Trust was caused by Bauknight and the settling parties, not Bob and Adele..

Order since May 26, 2009.

Adele responded that Bob should be paid the \$500,000 but the settlement with Bob should be declared void because Estate funds were used to secure a benefit for Tommie Rae.

Because the Estate/2000 Trust prevailed in attempts to change the venue of Case 4900, the The Richland Court now has exclusive jurisdiction over a number of matters, including whether Tommie Rae was Brown's spouse. Despite this *Wilson v. Dallas* requires scrutiny of how Estate funds were used to benefit Tommie Rae in Case 4900 and what Wingate expects to be paid, and from whom.

The June 13 Orders purport to control the conduct of Case 4900, the FOIA Cases and even the Forlando Federal Case by declaring that Adele lacks standing to proceed in any James Brown estate of trust case. Such a finding exceed the jurisdiction of the Court; violates Adele's Due Process rights and fundamental fairness as well as her rights as an Interested Person, "Other" "creditor" and statutory "beneficiary" under the SCPC and SCTC. The Orders should be declared void.

Bauknight Uses the \$4.7 Million Value to Accuse Bob and Adele of a Felony

In December 2010 – four years after Brown died – Bauknight told the IRS that Brown's worldwide music empire and \$13 Million claim against Cannon were both worth less than \$4.7 Million when Brown died.

In February 2011 Bob and Adele separately learned of the representation from the IRS. Each separately wrote Bauknight's attorneys asking them to insure that their names not be associated with Bauknight's claims that assets they valued at about \$84 Million should be reduced to \$4.7 Million in the Estate Tax proceeding. They did not

contact the IRS.³⁰

In May 2011 Bauknight filed a sworn I&A with the less than \$4.7 value and asked the Supreme Court to accept it as part of the *Wilson v. Dallas* ROA.

Thereafter Bauknight – purporting to speak for the Estate, 2000 Trust and State/AG began widely accusing Bob and Adele of the federal felony of overstating Brown’s music empire by \$79 Million on the Estate Tax Return– at more than 15 times what he asserted was its real value – for the improper purpose of obtaining a \$5 Million commission.

Bauknight’s egregious false allegation that Bob and Adele committed a federal crime threatens their already-awarded commissions under the January 8 Order and causes other grave damage. It is particularly troublesome that it came as Bauknight was suing Bob and Adele for not accepting a \$100 Million 2007 offer for the music empire which he told the Supreme Court was never made.

In the three years since he began making these false, career-threatening allegations, Bauknight has not filed the purported less-than \$4.7 “appraisal” or any information about it as required by the SCPC. He asserts it is under “lock and key.”³¹

The Due Process rights of those of 85 attorneys who have worked on James

³⁰ Both received copies of correspondence from the IRS with their names on it, and appearing to have agreed to a proposed adjustment.

³¹ To remove Adele and the fiduciaries and attorneys who know Bauknight’s less-than \$4.7 Million value to be false from the James Brown cases, while leaving Bauknight in them, deprives all of a the level playing field required by Due Process where their property rights and possible disgorgement are threatened, as well as their rights as creditors under the 2000 Estate Plan, SCPC and SCTC. The June 13 Orders purport to deprive Adele and others of their right to correct this false valuation – used by Bauknight under Color of State authority to try to deprive Adele and Bob of property, reputation and livelihood both in Case 4900 and in the Aiken County James Brown cases.

Brown matters and are seeking to be paid from the Estate/2000 Trust, as well as their rights under the SCPC and SCTC, will be denied if Adele and all others are not allowed to scrutinize this egregious devaluation which damages the "I Feel Good" Trust.

The Estate & 2000 Trust Seek to Enter FOIA Suits

In 2011, at the suggestion of Bob, Adele sought certain public documents under the South Carolina Freedom of Information Act ("FOIA"), to include:

- a. A copy of the Legacy Trust AG McMaster which sued Bob and Adele in 2010, and amendments.³²
- b. A copy of the Wingate Litigation Agreement and authorization for Wingate to sue in the name of the State/AG and Bauknight to claim that he acts "on behalf of the Attorney General of South Carolina " in Case 4900.

In response, one of Bauknight's 20+ attorneys advised Adele the Legacy Trust would sue her or seek sanctions if she continued to seek Legacy Trust documents under FOIA, although the Legacy Trust was created by AG McMaster.

By September 2011 Bauknight had engaged L&B to fight the Legacy Trust's FOIA compliance.

On September 23, 2011 AG Wilson informed Jg. Manning he was ready and more than willing to produce the Wingate Litigation Retention Agreement, but Russell stopped release.

From 2011 until today Wingate, the Estate/2000 Trust through Bauknight, and Tommie Rae have fought to prevent release of the Litigation Retention Agreement,

³² In 2013 Adele received AG McMaster's January 2011 Legacy Trust not under FOIA, but from Forlando's public release of it. The amendment was prepared by Bauknight's attorneys for AG McMaster. It was not disclosed by Bauknight to the Supreme Court on May 4, 2011 when he asked the Supreme Court to supplement the record ("ROA") in *Wilson v. Dallas* with his less-than \$4.7 Million value. On July 1, 2011 the Supreme Court declined to supplement the record with the less-than \$4.7 Million value.

clearly mandated for review under *Wilson v. Dallas*.

The Estate/Trust's involvement in the FOIA cases continues. The June 13 Orders purport to deprive Adele and others of their FOIA rights and condone the Estate/Trust's extraordinary attempts to intervene in FOIA cases and consolidate them with a tort case from which the Attorney General is asking to be released.

All of this may help Bauknight and Tommie Rae. It does not help the "I Feel Good" Trust. The June 13 Orders prevent proper review of these extraordinary acts under *Wilson v. Dallas*.

The Estate, 2000 Trust and Cannon's Million Dollar Mansion

While SAs, and then as PR/Trustees, Bob and Adele were interested in the *civil* issues related to Cannon's misappropriations and the claim of the Cannon Group for \$15 Million in commission and options or a "kickback" from the IPO to be created after the \$100 Million sale.

On their watch – from Nov. 20, 2007 – May 26, 2009 – the following occurred:

1. The million-dollars mansion Cannon was building in the Carribbean was photographed.
 2. Cannon's \$13+ Million takings were uncovered;
 3. Cannon's and Dallas' combined \$11 Million commission claims were disallowed; they sued; and Bob and Adele were ready for Summary Judgment. in favor of the Estate after brief discovery.
 4. Few & Gilreath filed suit against Cannon, Morgan Stanley and others to recover the \$13+ Million takings.
-
5. The April 8 Order directed the Cannon Group to pay the attorneys' fees and costs of the year-long litigation which ended in their resignations.

In the 4 years between May 26, 2009 and May 8, 2013 Bauknight took virtually

no action to recover anything from Cannon and allowed Dallas' \$6 Million claim to stand, including:

- a. Almost as a first act, Bauknight directed Few/Gilreath not to discuss the Cannon case with Bob and Adele.
- b. Bauknight left Cannon's 2008 forgery to cover up about \$3.5 Million of the taking virtually unmentioned.
- c. In November 2010, after Cannon's indictment, Bauknight & Wingate listed Cannon and Dallas as the Estate/2000 Trust's witnesses against Bob and Adele.
- d. On January 31, 2011 Bauknight sought sanctions against Bob and Adele for filing a brief which would help collect the \$1.2 Million Cannon owed – and still owes – for attorneys' fees and costs in Case 122.
- e. In October 2011 Bauknight failed to seek restitution from Cannon even though Cannon owns a Million Dollar mansion on Roatan.
- f. In 2012 Bauknight blamed AG Wilson for his failure to seek restitution.
- g. In 2012 Bauknight insisted that completing the Dallas \$6 Million claim was unnecessary.

Bauknight, Tommie Rae, the Shield Law and the Gag Orders

In 2012 Bauknight bitterly fought "on behalf of" Tommie Rae to prevent discussion of the widely-known contents of the her writings which came to be known as the Hynie "diary." He did so in the name of the Estate/2000 Trust even though his actions were openly and directly at odds with the best interest of the "I Feel Good" Trust and the Estate.

In the first half of 2012, Bauknight and Hynie spent months trying to prevent

Jg. Early from conducting a hearing on Adele's request to ungag the scores of people who have read and discussed Tommie Rae's writings and said she was not Brown's

spouse . He did so even though he and Tommie Rae had named at least 14 of them as witnesses in their Case 4900 suit against Bob and Adele.

Both Tommie Rae and Bauknight admit that discussion and dissemination of the widely-known-for-years contents of the writings will cause irreparable harm to Tommie Rae's claim to be Brown's spouse and take nearly 25% of the "I Feel Good" Trust. That is good for the "I Feel Good" Trust. It is good for the protection of Brown's Royalty copyrights to 800+ songs, about half of the \$100 Million he left to the "I Feel Good" Trust. It is good for the \$285,000 grandchildren's shares the settlement destroyed.

On May 12 Jg.Early conducted a hearing on Adele's request to declare the Gag Orders void or expired.

At that hearing Bauknight – to the dismay of everyone familiar with the James Brown cases – told Jg.Early that he [Jg. Early] had already declared Tommie Rae to be Brown's spouse.

This act of extreme disloyalty to the Estate/2000 Trust – coupled with the fact that it was both material and incorrect — alone demonstrates that Bauknight is committed to Tommie Rae and has not; cannot; and will not protect the "I Feel Good" Trust.

These matters were not before the Supreme Court. Aided by an excellent lead counsel, serving *pro bono publico* to save the "I Feel Good" Foundation, Bob and Adele took little heed of protecting themselves, desiring only to fulfill their duty to the Estate

Plan.

After the May 12 hearing, Bauknight did not stop. Bauknight and Wingate – speaking for AG Wison – went on a witch hunt to try to prove that Adele was leaking the

"diary" contents to the media. Bauknight even joined Tommie Rae in accusing Adele of lying to Jg. Early, asserting that her statements were "works of fiction."

On July 12, 2012 Jg. Early found he lacked jurisdiction to hear Adele's motion to declare the Gag Order void or expired. On appeal, Bauknight joined Tommie Rae in her continued vitriol.

In direct violation of the S.C. Shield law – and after Jg. Early had accepted Adele's representation that she had not disclosed the "diary" contents to anyone – Bauknight and Wingate, speaking for AG Wilson– subpoenaed a reporter's notes in an effort to prove Adele was the "longtime friend" who revealed the "diary" contents to the reporter.

The witch hunt was called off by AG Wilson after the national media erupted in a shower of criticism over Wingate's action.

By 2013 both grandson Forlando and Dallas had – without prompting – discussed under oath the contents of the "diary" in sworn testimony in Case 4900 and the Forlando Federal Suit. The witch hunt was over.

Following the May 8 decision, Adele's motion to declare the Gag Orders void or expired are now before Jg. Early.

The June 13 Orders, however, violate the Due Process and First Amendment rights of Adele, Bob and all who seek to have the 5-year-old Gag Orders declared void rather than violating them at their peril remain. Fair play demands that these person not

be deprived of a legal remedy to exercise their First Amendment Rights. The June 13 Orders should be voided.

Bauknight's *Ex Parte* Appointments and the Notice of Disallowance

Before the Remittitur was handed down, Bauknight presented two courts with, and obtained, *ex parte* "emergency" appointments as SA/ST without notice or a hearing.

Instead of limiting Bauknight to actions necessary to preserve and protect the assets pending *Wilson v. Dallas* review, the *ex parte* orders gave Bauknight the authority to conduct litigation – even to ratify his own secret actions.

The *ex parte* appointments were extraordinary in light of the fact that Bauknight has not filed the required accountings for his actions since 2010; has created at least two LLCs without providing information to AG Wilson; has, without basis, openly declared Tommie Rae's elective share to be a "slam dunk;" has violated SCPC provisions related to filing requirements related to his less-than \$4.7 Million valuation of Brown's worldwide music empire; and has failed in four years to collect a dime from Cannon, who retains his million-dollar Caribbean retirement home.

Bauknight has used the *ex parte* appointments to ask Jg. Manning to stay Case 4900 and the FOIA Cases until Jg. Early concludes all matters. He did so even though Jg. Early cannot finalize the Attorneys' fee and commission issues until the Estate/2000 Trust's claims against Adele and hers – and possibly Bob's – against the Estate/2000 Trust are resolved.

At the May 29 status conference Bauknight used his secret *ex parte* appointment as SA to take two actions intended to avoid the *Wilson v. Dallas* scrutiny of the \$20 Million or more he proposes to pay himself, his 20+ attorneys and those of Tommie Rae and other settling parties. He did so by:

1. Delivering a totally unnecessary Notice of Disallowance of Bob's and Adele's claim, pending since July 2009, threatening disgorgement even of her partial SA payment for 2007; and
2. Arguing that Adele and Bob must be banned for all James Brown Cases, without presenting a single proposal for how the 2000 Estate Plan and 1999 Backup Estate Plan will be protected.
3. Acquiescing in Tommie Rae's request to go in chambers and state off the record "evidence" they assert will justify taking \$50 Million from the "I Feel Good" Foundation again , with no mention of the Due Process Rights of Voorhees and the other beneficiaries and fiduciaries of the 1999 Backup Estate Plan; the 2000 Estate Plan and others.

The June 13 Orders condoning Bauknight's actions should be voided or strictly limited to asset management and accounting. Litigation for the Estate/2000 Trust should be conducted by someone who is not aligned with Tommie Rae.

Case 1337 and Bauknight's Second *Ex Parte* Order

On June 10, 2013 – forced by the unnecessary Bauknight Notice of Disallowance – Adele filed Case 2013-CP-02-1337 seeking voiding of Bauknights *ex parte* appointments, or limiting them so he cannot further damage the "I Feel Good: Trust and asking the Court to conclude Case 4900 and the FOIA Cases; appoint an SA/ST who will protect Brown's Will and 2000 Trust, and the backup 1999 Will and Trust in accordance with the *Wilson v. Dallas* mandate.

Bauknight was served through an authorized representative by June 13.

In response, he returned to the Probate Court on June 13 for another "emergency" *ex parte* order, as broad as the first. The June 13 Orders condone

Bauknight's actions and should be vacated.

Adele's Standing to be in All James Brown Cases

As set out on page 6 of the Motion, Adele has standing to participate in this and all James Brown estate and trust cases at least until the Estate/2000 Trust's claims and her counterclaims against them are resolved in Case 4900. She is an Interested Person under the SCTC and her claims and property rights are affected by each of the cases. She and Bob qualify as "others" and statutory "beneficiaries" under the Trust Code.

Both her First Amendment and Due Process rights confer standing on Adele to remain in Case 122 until the Gag Orders are voided and her First Amendment rights restores.

Now that AG Wilson has withdrawn from the Aiken Cases, Adele has clear "other" status under §62-7-405 in relation to the "I Feel Good" Trust as embodied in the 2000 and 1999 Estate Plans. This is especially true where Bauknight has shown that he will not defend or enforce either the 2000 or 1999 Estate Plan.

Adele has standing to protect the "I Feel Good" Trust.

Relationship with the Attorney General

Where lawyers have long, unblemished careers – 35 years for Adele – and are falsely accused by the State's chief legal officer of having committed a federal felony, it is impossible to avoid discord.

The accusations made by Tommie Rae and others – had they not been backed by the mighty power of the State – would be worthy of overlooking. When made by Wingate and Russell on behalf of the Attorney General they posed a true threat to

Bob's and Adele's livelihood, reputations and property rights in the already-ordered commissions.

Immediately after the first *Wilson v. Dallas* decision Adele met with AG Wilson, and she and her counsel in Case 4900 met again with AG Wilson's staff. The substance of those conversation was Adele's relief that the Supreme Court had saved \$50 Million for the "I Feel Good" Foundation; almost nothing had been lost except the years; and it was time to move forward to protect the "I Feel Good" Foundation.

Prior to the notifying the Supreme Court of his intention to do so, AG Wilson personally called Adele to notify her of his plan to seek to withdraw from Case 4900.

AG Wilson told the Supreme Court AG McMaster did not want to sue Bob and Adele in Case 4900, but did so only because he was advised by "someone" that the statute of limitations would expire the next day and he would breach his fiduciary not to.

Releases since May 8 make clear that Bauknight was not authorized to assert that he was suing "on behalf of the Attorney General of South Carolina." It also appears that former AG McMaster never authorized Wingate to bring Case 4900 in the name of the State/AG.³³

AG Wilson has now withdrawn from the Aiken County Cases. Having previously supported Tommie Rae in the Hynie "diary" Gag Order appeal, he agreed to be dismissed as a party to that appeal before it was dismissed as moot.

While differences clearly remain, including Adele's concern that public

³³ Wingate has now moved to withdraw as counsel for the State/AG. His authority to have brought Case 4900 in the name of the State/AG is clouded. One of the AG's assistants allowed himself to be introduced at the first hearing as a client, and attended many Case 4900 hearing as a client.

documents which should have been produced under FOIA have not been produced for two years; there is no hostility.

Direction to Remove Adele's Motions from the Public Records Prior to Hearing

The June 13 Orders take the unprecedented step of directing – without a hearing – that the Clerk of Court remove from the public records three (or more) motions timely filed in accordance with the Court's directions. To do so would violate fundamental fairness and Adele's Due Process rights, as well as her rights as an Interested Party under the SCRC and creditor.

The Three Motions were:

1. Motion for Scheduling Order and Appointment of Limited SA/ST to Comply with Mandate of Supreme Court Decision, *Wilson v. Dallas*; (Case 1647);
2. Motion to Expedite Intervention; Add Parties; and Determine Commissions and Attorney's Fees (Case 1426, Dallas Claim Case)
3. Motion for Expedited Relief to Protect The James Brown "I Feel Good" Trust, dtd. 5/21/13 Case 2008-CP-02-0872 ("Case 872");

Each of the motions was timely. Each should be heard and considered.

Directing the Court to remove filed motions from the public record without notice or hearing violates fundamental Due Process Rights of Adele and those affected by the motion

Case 2013-CP-02-1348 Exceeds Clerk's Jurisdiction, Violates Due Process

The dismissal of Dallas, Bob and Adele from case 1647, coupled with creation of a new case – not just a new number – exceeds the Jurisdiction of the Court and Clerk

because the Clerk lacks the authority to determine parties, issue a Summons and take other steps to acquire jurisdiction over and give proper notice to as many as 85 people

who may be subject to nonpayment or even disgorgement of \$20 Million or more.

The Clerk's June 13 Order named as the Plaintiff Henry McMaster, an AG who left office more than two years ago. Defendants include minor Sydney, who has no GAL. Also named as Defendants are Jason Brown-Lewis and Lindsey Delores Brown. These two – since achieving majority several years ago -- have never sought to be in any James Brown Aiken case except Case 4900.

Not named are the fiduciaries and attorneys who are covered by the *Wilson v. Dallas* mandate – those who have been paid or seek payment from the Estate/2000 Trust in Case 1647 or any related matter. Adele's Motion for Scheduling Order and Appointment of Limited SA/ST dated May 22, 2012 [3] [sic] in Case 1647 names about 85 lawyers who have worked on James Brown matters.

Due Process, fundamental fairness and the SCPC demand that personal jurisdiction be obtained over anyone subject to nonpayment or disgorgement.

The deficiency is not the fault of the Clerk. She cannot ascertain from the records who must be named. She cannot secure jurisdiction over them. It can, and should, be done as part of Case 1647.

The June 13 Orders violate and lack of identification of the parties, personal jurisdiction over them and other components of the June 13 Order Due Process to all attorneys subject to nonpayment and/or disgorgement. They must be added to Case 1647 as Interested Person and given adequate notice and opportunity to be heard. If

they have a separate claims case pending, it should be consolidated and/or concluded.

Twenty Million dollars or more are at stake in the process, as is the possible future of the "I Feel Good" Foundation.

Bauknight's Prior Statements

On November 1, 2011 Bauknight made the following representations to the Supreme Court:
Tommie Rae's elective share claim was a "slam dunk."

b. Copyright Termination Rights is "all this case is about."

c. He knows the value of the assets [less than \$4.7 Million...]

d. Brown's Estate/2000 Trust has no corpus "to speak of"

If Tommie Rae doesn't get the termination rights, the settling children will.

Each of these statements must be considered and subject to scrutiny in both the appointment and payment/disgorgement review. Failure to do so places the "I Feel Good" Trust which our Supreme Court has just saved in jeopardy.

Conclusion

Reviewing \$25 Million or more in paid or claimed fees and commissions of fiduciaries and attorneys presents a substantial challenge. Where disgorgement or nonpayment under previous order or valid contracts is threatened particular attention must be given to Due Process rights and a procedure that comports with fundamental fairness. The June 13 Orders fail to do that. Without notice or hearing, the Orders add parties; grant and deny standing and trample on the Due Process and First Amendment rights and SCTC and SCPC rights of Adele, Bob, the attorneys who served the Estate Plan under valid contracts with them and the beneficiaries of the 2000 and 1999 Estate Plans.

In addition to denying fundamental fairness, the June 13 Orders exceed the

jurisdiction of the Court and Clerk, attempting to control matter over which the Richland County and Federal Courts have jurisdiction.

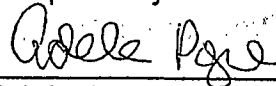
The Courts findings that Adele lacks standing to participate in cases related to the estate and trust of James Brown cannot stand where she is currently defending herself against false claims by the Estate/2000 Trust in Case 4900.

Bauknight has demonstrated that he cannot and will not protect either the "I Feel Good" Trust.

Based on the facts set out herein and in the motion the Court should:

1. Void the June 13 Orders in their entirety;
2. Confirm that Adele and all former fiduciaries have standing to remain in Case 1647, which is not the will and trust contest.
3. Confirm that Case 872, the will and trust contest will not be collapsed into Case 1647;
4. Direct that the motions filed by Adele be heard at the Court's earliest convenience
5. Voiding all appointments of Bauknight

Respectfully submitted,



Adele J. Pope
1228 Walnut Street
Newberry, South Carolina 29108
(803) 413-0753

Pro Se

June 24, 2013

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

HENRY DARGAN McMASTER, in his
capacity as Attorney General of the State of
South Carolina; and others

) Case No.: 2008-CP-02-1647

Petitioners,

) AFFIDAVIT OF ADELE J. POPE
) IN SUPPORT OF VOIDING
) ORDERS DATED JUNE 13, 2013

v.

ALBERT H. DALLAS and others

Respondents.

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JUL 09 2013 *3a*

AIKEN COUNTY
CLERK OF COURT

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

IN RE:

) Case Nos. 2007-CP-02-0122;
) 2008-CP-02-0872; 2008-CP-02-0322;
) 2008-CP-02-0721; 2012-02-1059;
) 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-02-1348

Estate of James Brown and the James Brown
2000 Irrevocable Trust

PERSONALLY APPEARED BEFORE ME, ADELE J. POPE, who being duly sworn,
deposes and says:

1. This affidavit is based on my own personal knowledge and belief.

2. I am informed and believe that the Orders dated June 13, 2013 of The Honorable Doyet A. Early, III ("Jg. Early") and the Aiken County Clerk of Court should be declared void for every reason stated in my Motion and Memorandum and because they cause irreparable harm to my First Amendment Rights; my Due Process Rights; my rights as a creditor with an approximately \$2 Million allowed and Court-approved claim; threaten disgorgement without Due Process even of my partial payment for SA work in 2007; destroy my right to defend myself in Aiken County and elsewhere against the false, career-

threatening claim of the State and Russell Bauknight acting "on behalf of the Attorney General of South Carolina" (the "State" or "AG/State") that Robert Buchanan, Jr. ("Bob") and I committed a federal felony by an intentional false statement to the IRS to obtain \$5 Million; destroy my right both to defend myself and pursue counterclaims against the State and Estate/2000 Trust which sued me in 2010 in Richland County; and destroy my right to pursue proper counterclaims related to fraudulent misrepresentations of Forlando and Terry Brown in the now-abandoned frivolous Federal Suit of Forlando Brown.

3. I am informed and believe that I have standing – and the best way to prevent loss of my \$2+ Million twice-allowed and court-approved claim and protect myself from slander by Nexsen Pruet attorneys and false claims of the State/AG, and Bauknight still pending in Richland County Case 2010-CP-40-4900 ("Case 4900") and the FOIA cases – is to complete Case 4900, the FOIA suits and the Forlando Suit, the findings and results of which should be made an appropriate part of the *Wilson v. Dallas* remand.

4. I am informed and believe that Nexsen Pruet and Bauknight are trying to again pay \$20 Million from James Brown's Estate and 2000 Trust, which should go to the "I Feel Good" scholarships under BOTH the 2000 and 1999 Estate Plans to themselves, Louis Levenson, Esq., and lawyers for Tommie Rae and Terry/Forlando.

5. I am informed and believe that concluding Case 4900 and the Forlando Federal Suit will show that the Legacy Trust, which Bauknight and Nexsen Pruet have faithfully served since May 26, 2009 and Wingate since May 2010, and which holds the Federal Copyright Act Termination Rights of Terry, Larry, Deanna and Yamma – and possibly Venisha and Daryl -- [Tommie Rae and James B. have no such rights.], should be disbursed in the following order of priority:

- a. First, to pay my counterclaim judgment against the Legacy Trust, or Bauknight d/b/a The Legacy Trust, in Case 4900;
- b. Next, to pay my attorneys' fees in the FOIA suits where Bauknight and Nexsen Pruet engaged both Wingate and Lewis & Babcock to interfere with my FOIA rights, and Wingate seeks sanctions against me for exercising my FOIA rights.
- c. Next, to pay my judgment against Forlando/Terry in the Forlando Federal Suit, from Forlando/Terry's interest;
- d. Next, to pay Bob's judgment against Forlando/Terry in the Forlando Suit;
- e. Next, to pay Lewis & Babcock who, on information and belief, were engaged by Nexsen Pruet and Bauknight for the Legacy Trust without disclosure that they would be working against the interest of their former client the Estate/2000 Trust and against their clients LaRhonda and Nicole, REAL DNA-proven heirs of James Brown whom they properly acknowledged while serving the Estate in 2007.
- f. Next, to apply Bauknight's claimed commission as trustee of the Legacy Trust to pay my judgment against him in Case 4900; and
- g. Finally, if any remains, to pay such portion of the \$20 Million Bauknight, Nexsen Pruet, Levenson and Tommie Rae's attorneys are now trying to pay themselves from the "I Feel Good" Trust, taking it from scholarships for needy students.

6. I am informed and believe that this Court lacks jurisdiction to conclude my interest in the Forlando Suit or Case 4900 where the Estate/2000 Trust sued Bob and me; Estate Funds were used to buy Tommie Rae and Bauknight releases from Bob's counterclaims; the Richland County Court has sole and exclusive jurisdiction to hear and conclude Case 4900, and material issues necessary for the *Wilson v. Dallas* remand are before that Court, including: Tommie Rae Hynie is not Brown's spouse; her son is not Brown's presumed son and has rejected DNA testing; and Bauknight committed fraud on the Court by his valuation and other acts and attempted to cause \$50 Million loss to the

Estate/2000 Trust for his benefit and Tommie Rae's.

7. I am informed and believe that I have standing to show that Bauknight should not be paid by the Estate/2000 Trust because he – still speaking “on behalf of the Attorney General of South Carolina” – continues to interfere with my rights under the S.C. Freedom of Information Act (“FOIA”), damaging the Estate/2000 Trust and me; engaged 3 Law Firms – Nexsen Pruet, Wingate and Lewis & Babcock --to attempt to deny me my FOIA rights; and attempted to interfere with the State's Shield Law for Tommie Rae's benefit and to damage me.

8. I am informed and believe that I have standing to demonstrate that Bauknight and Nexsen Pruet have irreconcilable conflicts; have not; will not; and cannot properly defend the ironclad 2000 and 1999 Estate Plans of James Brown, and have been working since May 8, 2013 to try to secure funds for Tommie Rae and prevent DNA testing of her son, all of which damages not only Brown's Estate and 2000 Trust but my valid claims and the valid claims of Tressa Hayes, Esq., James Bailey, Esq., Bob and others who worked to save the \$50 Million Bauknight, Tommie Rae and Terry tried to take from the “I Feel Good” Trust.

9. I am informed that because Bauknight's actions put the “I Feel Good” Trust in jeopardy by the 10-year-probate requirement for the 1999 Will, I have the right – as both a creditor and an “other” under the Trust Code – to continue to seek formal probate of the 2000 and 1999 backup Wills and to demonstrate that “collapsing” Case 872 into Case 1647 violates my Due Process rights and those of: Voorhees; all “others” desiring to save the “I Feel Good” Trust; U.S.C. Salkehatchie; U.S.C. Aiken; the incarcerated Venisha and Deon; minors Sydney and Carrington; all named fiduciaries and beneficiaries of the 2000

and 1999 Wills who are not contesting the Estate Plan; and VALID, DNA-proven heirs LaRhonda, Jeanette and Nicole and daughter of 1st marriage Lisa.

10. I am informed and believe that my motions should not be stricken because to do so violates my Due Process and 1st Amendment Rights and those of the persons and entities named above, and because they provide a fair process to complete the *Wilson v. Dallas* remand, which will, on information and belief, demonstrate that none of Bauknight, Nexsen Pruet or Wingate can or should speak for the Estate/2000 Trust because of:

1. The Less-than \$4.7 Million "appraisal" & related documents;
2. The Legacy Trust amendment which was not revealed to the Court;
3. Their positions as to the Gag Orders;
4. Their loyalty to Tommie Rae, her son, Terry, Tonya and others.
5. Their concealing the Wingate Litigation Retention Agreement.

11. I am informed and believe that I have standing in any case which is reviewing facts which might impair my right to demonstrate that Bob and I are not subject to any disgorgement; that Bauknight and Wingate may be; and that the correct commission for the 6 ½ years since Brown's death is:

- a. Cannon: \$0
- b. Dallas: \$0
- c. Bob: approximately \$2.1 Million as claimed;
- d. Bauknight: \$0
- e. Estate of Al Bradley: No disgorgement
- f. Adele: approximately \$2.8 Million as claimed.

12. I am informed and believe that I retain this standing in all of the above cases

until Case 4900 is concluded; the Forlando Federal Suit is concluded; Tommie Rae is determined not to be Brown's spouse; the Heirs are properly determined; the Gag Order is lifted; the less-than \$4.7 Million is determined to have been a fraud on the Court; and Case 2013-CP-02-1337 ("Case 1337") which I was forced to bring is concluded.

13. I am informed and believe that Bauknight and Nexsen Pruet acted in bad faith in obtaining the ex parte appointments before the *Wilson v. Dallas* Remittitur and delivering the purported Notice of Disallowance to me on May 29 because it was intended to require disgorgement without Due Process and circumvent court scrutiny of the \$20 Million Bauknight proposes to pay Nexsen Pruet, his other attorneys, himself, Levenson and lawyers for Tommie Rae.

14. I am informed and believe that Case 1337 should proceed in tandem with Case 4900 and be heard before completion of the *Wilson v. Dallas* remand.

15. I am informed and believe Case 4900 and the Forlando Federal Suit will also show:

a. Bob and I properly served as PR/Trustees under Brown's Will and Trust until May 26, 2009 as set out in our July 2009 claims and Affidavit, with attachments, which I incorporate herein.

b. Bob and I, with our *Pro Bono Publico* lead attorney James Richardson, Esq. and engaged counsel James Bailey and Tressa Hayes, defended and then restored to the "I Feel Good" Trust efficiently, preventing payment of \$20 Million to Bauknight, Nexsen Pruet, Wingate, Levenson and lawyers for Tommie Rae, to reward them for destroying James Brown's "I Feel Good" foundation.

c. The State/AG's support of Tommie Rae and Bauknight's outrageous and knowingly false claims to the Courts and other behavior was unprecedented, and has been stopped by *Wilson v. Dallas*; they are withdrawing from the Aiken Cases; and they should return ONLY to help defend and support the 2000 and Backup 1999 Estate Plans, if needed.

d. To the extent the Supreme Court sensed extreme discord, Nexsen

Pruet/Bauknight's media blitz the day before the Supreme Court oral arguments and the State/AG's false felony charges were the primary contributing factors and the State's retreat from the James Brown cases is a first step to restoring Bob's and my unjustly damaged reputations.

e. David Bell, Esq. who has filed a false affidavit with the Federal Court, fabricated grievances; participated in cases without *pro hac vice* admission; threatened a grievance against Bob; filed six grievances against Louis Levenson; and otherwise engaged in outrageous conduct while representing Terry and Forlando should not be paid anything from Brown's Estate/2000 Trust.

f. The 10 Nexsen Pruet Lawyers and 4 attorneys at Sweeney, Wingate have served Tommie Rae, the Legacy Trust and some of the Levenson Clients; and should not be paid by the Estate/2000 Trust.

g. Bauknight, but for the *Wilson v. Dallas* decision, would have done far more damage to the "I Feel Good" Trust and the Grandchildren's Trust than David Canon's \$12+ million takings between 1999 and 2006.

16. I am informed and believe that because Bauknight's appointment was void, Bob and I, as statutory "Personal Representatives" under the SCPC provided greater value than Russell or others or the 4 years from May 26, 2009 to May 8, 2013 where:

a.. Cannon, despite his wrongful acts, supported the Estate/2000 Trust; and tried at the trial level to stop the AG/Bauknight's settlement, which would have taken \$50 Million from the Estate Plan.

b. Dallas tried to stop the the Settlement, even filing a Petition to Remove Bauknight for recommending it, but then failed to pursue the appeal or seek admission to probate of the 1999 Estate Plan..

c.. Bob and I defended against the Settlement; conducted the appeal; and defended against the State/AG's suit to make us drop the appeal, restoring the \$50 Million Bauknight tried to take, including the \$20 Million he proposed to pay to himself, Nexsen Pruet and other attorneys.

d. Bauknight managed the assets, but hired Nexsen Pruet, Wingate, Lewis and Babcock to fight against the Will and 2000 Trust and damage the Estate/Trust; engaged in direct conflicts of interest; failed to account; concealed a the fabricated "appraisal;" and made repeated and material misrepresentations to the Courts about Bob and me, value, heirs and the Federal Copyright Act.

17. I am informed and believe that I have standing to show in Case 4900 that Estate funds should not have been used to secure releases for Tommie Rae, Bauknight and the AG/State as to Bob's counterclaims in Case 4900, damaging my claims.

18. I incorporate herein the Complaint in Case 1337 and the entire record which the Court has reviewed in issuing the June 13 Orders, as well as the transcript of arguments, ROA and decisions in *Wilson v. Dallas*, the Dallas appeal and the two Cannon appeals.

19. I ask the Court to take judicial notice and find that all former challengers of the Estate Plan have confirmed there was no basis to bring Case 872 (the "will and trust contest"), because they have admitted in Case 4900:

...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. [Mem. Opp. P.2, 8/27/10]

20. I am informed and believe that *Wilson v. Dallas* did not intend, and cannot be read to, deny me standing in any James Brown estate and trust case, nor can it be read to authorize any Court to direct that motions I filed be removed from the public record before hearing and/or any direction to the Clerk to commence an action; and/or any direction to the Clerk to refuse filings made by me and properly tendered to the Court.

21. I am informed and believe that the motions the Court directed the Clerk to strike were filed in accordance with Jg. Early's direction; were necessary and appropriate; and should be heard.

22. I am informed and believe that when there is a level playing field and Case 4900 concluded it will be clear that by May 18, 2010 most clients had been forgotten –

including the Estate of James Brown and the 2000 Trust --and the James Brown cases were being orchestrated by Tommie Rae's lawyers, Bauknight, Nexsen Pruet, Wingate and Levenson, expecting about \$20 Million from Brown's "I Feel Good" Trust;

23. I am informed and believe that the AG/State violated Bob's and my civil rights when the AG – because an unidentified "someone" told him he should join Tommie Rae and other out-of-state citizens in allowing Wingate to bring a frivolous suit against me for tens of millions of dollars – did so to try to stop the *Wilson v. Dallas* appeal.

24. I am informed and believe that the State's involvement in and support of Bauknight's fraudulent less-than- \$4.7 Million valuation of Brown's music empire was unprecedented and wrong, but can now be corrected with little damage if the Estate/Trust are saved, and I told this to the Attorney General before he called to tell me he would be seeking to withdraw from Case 4900.

25. I am informed and believe that the State's false accusation – based on Bauknight's \$4.7 Million claim-- that Bob and I committed a federal felony, then supporting Bauknight in concealing the alleged basis for the career-threatening false criminal allegation was wrong, and told this to the Attorney General before he notified me that he was seeking to withdraw from Case 4900.

26. Some of the facts on which my standing to continue all James Brown Cases is based are:

- a. On **December 25, 2007** Brown died owning \$100 Million music empire.
- b. On **August 10, 2007** most Brown documents and files were made public, including the handwritten notes later known as the Hynie "diary."
- c. On **October 12, 2007** TJBL made 1st of 3 \$90 - \$100 Million offers for Brown's

music empire.

d. On **November 14, 2007** Bob and I, still SAs, asked Jg. Early to approve a formula for valuing Brown's Music Empire (Royalties and Publicity Rights) on the Estate Tax Return.

e. On **Nov. 15, 2007**: Bradley & Dallas I&A correctly valued the music empire at \$100 Million less the \$15 Million TIAA Debt.

f. On **November 15, 2007** - Jg. Early asked for objections to Bob's and my valuation proposal, which produced a result close to Dallas/Bradley I&A. There were none. Bob & I were appointed PR/Trustees on **November 20** with duty to "vigorously defend" Will and Trust.

g. On **Dec. 21** Bob and I asked Jg. Early to approve our own allowed claim for SA fees and ongoing PR/Trustee partial commission payments. Tommie Rae's counsel praised our work and our asking for Court approval even though we could have paid ourselves under the Will/2000 Trust without specific Court allowance of the claim.

h. On **Dec. 26, 2007** 5 of Brown's 10 acknowledged/proven/presumed children challenged the Will & Trust. Tommie Rae had also filed various defective claims, including in the wrong Court.

i. On **January 2, 2008**: Forlando, through Powell Goldstein and Bell, filed a frivolous suit to enjoin the 2000 Trust until Cannon Group returned. **Today** the frivolous suit has been abandoned; 2000 Trust and Bob have counterclaim for fees and costs, including of Forlando's \$285,000 Trust share. I have additional claim for Terry's share of Estate in Case 4900 and Forlando Suit based on fraudulent concealment of transfer to Forlando.

j. On **January 8, 2008** Jg. Early approved Bob's and my SA and PR/Trustee ongoing payments, with legal interest on unpaid amounts as follows:

1. SA Fees of \$317,000 and costs, with Bob getting about 30% and Adele about 70%, based on time and costs. [See Claim]:
2. PR/Trustee Commissions on hourly basis, for Bob, Adele & Staff, plus costs, etc.
3. Interest at the legal rate on all amounts not promptly paid.

K. On **February 5, 2008**: Estate/2000 Trust sued Cannon Group, others for \$12+ Million taken between 1999 and 2006.

l. On **Feb. 20, 2008** Jg. Early issued the first 1st Christie's sale Order, allowing family holdbacks.

m. On **March 7, 2008** Jg. Early held a hearing on the propriety of Bob's and my appointment and service at our request because the AG had challenged our appointment. That day Jg. Early also issued the last of 3 Gag Orders, without hearing, preventing all discussion of the widely-known contents of Hynie "diary" – writing she left in Brown home after they separated in 2006.

n. In **March 2008**: Jg. Early ruled Levenson's 30% contract (plus \$150,000) with Forlando contemplated the Will and Trust contest.

t. On **April 1, 2008** Jg. Early directed Bob & me to sign the Christie's contract, with "Grammy" specified. The Order found that some of Levenson's clients had taken steps to interfere with the sale, but not caused any damage to date. The Order directed that anyone interfering with the sale would be subject to pay damages.

u. On **April 8, 2008** Jg. Early found in a detailed Order that all of Bob's and my service to that day as SAs and PR/Trustees both ethical and appropriate. He incorporated the **March 7, 2008** order with additional positive findings.

v. By **April 8, 2008** Powell Goldstein was representing Forlando as a secret 39% owner of TJBL, which had made 3 offers to buy Brown's assets; with Bell, Forlando in the Federal Suit where he was posing as an impoverished student; and Terry, who made 2 of the 3 offers with TJBL; and TJBL. [Ltr. Sparks to Cox, others, 4/9/08]

w. From **2007 - 2013** Powell Goldstein has refused to deliver its file related to the defective 2007 attempt to move the 2000 Trust to Georgia. Since 2009 Bauknight has not obtained the file; worked with Powell Goldstein while it was suing the 2000 Trust; and even attempted to abandon –during his now-void service --the Trust's claim for attorneys' fees for the frivolous suit.

x. When we were replaced on **May 26, 2009** Bob's and my twice-allowed claim was:

SA Fees: Bob - paid in full; Adele owed: just over \$47,000 + interest [See claim]

PR/Trustee Commissions:

Bob paid:

Bob Due: just over \$500,000

Adele paid: \$0

Adele Due: \$1.4

Plus Interest at 8 3/4% until paid [See claim]

y. **Today** Bauknight has refused for four years to pay my twice-allowed claim, causing it to increase to more than \$2 Million. [See May 29, 2013.]

z. On **July 9, 2008**, after interference by Hammond, Dallas, Hollander, Powell Goldstein & others, Dallas filed a motion in the Ct. of Appeals to stop Christie's sale.

aa. On **July 12** AG/State joined in our request to approve sale, with Grammy listed.

ab. On **July 14, 2008**, after we filed the Christie's catalogue with the Court, with the Grammy listed as Item 168 with an estimate of \$15,000 - \$20,000, the Christie's sale was again approved, as it had been in 2 earlier orders.

ac. On **July 17, 2008**: Deanna and Rev. Al Sharpton appeared on television to try to chill the Christie's sale. According to Forlando, the family had money available to buy, but were advised by their attorneys not to.

Christie's counsel urged the sale of the Grammy despite a last-minute motion filed by the Academy to stop it. Bob & I, with Levenson present but not participating, made the decision not to incur the \$5 - \$10,000 legal fees to defend legal sale. No sale was required and other factors suggested it should be withdrawn. It was returned to the S.C. State Museum and remained there for safekeeping with other items under the February 20, 2008 Order.

ad. On **July 24** Bob & I filed a motion for costs for interference with Christie's sale by Dallas, others, under the April 1 Order. That motion has not been heard.

ae. On **July 30, 2008** AG McMaster wrote Bob and me confirming his support for our permanent appointment as Trustees of the 2000 Trust. [He had never challenged our appointment as PR s.]

af. In **August 2008** Bob and I filed Summary Jmt. motions to defeat \$15+Million Commission claims of Dallas, Cannon & Bradley. [They sued after disallowance.] **Today** Bauknight and Nexsen Pruet have not had these heard.

ag. On **August 12, 2008** – Tommie Rae's lawyer directed Bob and me to "stand down" and stop administering Estate and AG/State notified Jg. Early of settlement.

ah. By **September 1, 2008** - State/AG and Tommie Rae advised Bob & me that they "speak as one."

ai. On **September 25, 2008** - Bob and I filed the Estate Tax Return, valuing the Royalties/Publicity Rights and claims against Cannon, etc., at approximately \$100 Million less TIAA Debt. This was consistent with Court-approved formula.

aj. On **September 27, 2008** - Forlando was deposed in Federal Suit. He confirmed offers of \$150 Million for Brown's music empire were still available.

ak. From **Sept. - October 2008**: Bob and I defeated \$32+ Million in claims cases.

al. In **October, 2008** Cannon gave SLED a forged "contract" with Brown, intended to cover up some of his \$12+ Million taken between 1999 - 2006.

am. In **October 2008**: Tommie Rae – speaking for the State/AG --threatened suit if Bob and Adele did not begin immediate transition out.

an. In **October 2008** State/AG, Tommie Rae & others filed Case 1647 to remove all prior fiduciaries & appoint Bauknight. They failed to reveal Bauknight was already planning to be Trustee of Settlement Entity/Legacy Trust.

ao. On **January 8, 2009**: Jg. Early appointed Bauknight SA/ST, to review the settlement.

ap. On **January 30, 2009**: Levenson threatened Bob with Rule 11 sanctions if Bob and I did not withdraw opposition to settlement and resign.

aq. On **January 30, 2009** the State/AG offered Terry 4.79% of Brown's assets and Right of First Refusal ("ROFR") to buy Brown assets to abandon long-held support for Estate Plan. Bauknight, not knowing value, recommended taking about \$50 Million from "I Feel Good" Trust and destroying \$285,000 Education Trusts for 7 grandchildren.

ar. On **January 30** Brown's real heirs LaRhonda, Nicole and Jeanette departed from case 1647 based on State/AG's stipulation not to interfere with any Federal Rights. State/AG immediately began to do so.

as. In the **spring of 2009** James B. filed a Petition for Review of Bob's and my compensation. Bob & I challenged his standing. The motion is pending.

at. In **March 2009** Bell threatened Bob with a judicial grievance if he did not resign as PR/Trustee.

au. In **March 2009** Tommie Rae's lawyer revealed that State/AG and Legacy Trust/Settlement Entity were getting "tax advice" from Powell Goldstein, the lawyers who helped Cannon and Dallas try to move the Trust from S.C.

av. On **March 4, 2009** the AG/State assured Jg. Early that the State was

responsible for the proper operation of the Legacy Trust and charitable trust to be created by AG as part of settlement. Settling parties asserted any sale to Terry will be at "fair market value."

aw. On **March 31, 2009** because State/AG and Bauknight proposed destruction of the "I Feel Good" Trust and \$285,000 Grandchildren's Trust Bob and I proposed a settlement that would end litigation; give children in Will and James B. 14% for abandoning all claims; and Tommie Rae 7% - but NOT acknowledge her to be spouse.

\$10,000 would be paid to Heirs Cinnamon, LaRhonda and Nicole.

If accepted, this would have been extremely generous, allowing Tommie Rae dignity while making clear she was not the spouse.

The settlement would have paved the way for decades of proper management of the Copyrights with REAL children and grandchildren.

ax. On **April 6, 2009** Jg. Early directed Tommie Rae's lawyers, Levenson, James B., Terry and other settling parties to turn in their fee and cost arrangements to Jg. Early. He later – and correctly – found they were not confidential and should be released to Bob and me by the Clerk – who does not have the

ay. **From 2009 - 2013** the State/AG made no objection as Bell simultaneously represented Terry & Forlando as they took opposite positions in two Courts, including:

- | | | |
|----|--|---|
| 1. | Terry: Music Empire \$4.7 Million | Forlando: \$4.7 Million "bogus" at least \$100 Million |
| 2. | Terry: No offers to buy assets | Forlando: 3 \$90 - \$100 Million offers were made. \$150 Million avail. |
| 3. | Terry: Hynie Gag Order should stay. | Forlando: Openly violated Gag |
| 4. | Terry: Tommie Rae is spouse | Forlando: Tommie Rae is not spouse and knew it. James not son because of Brown's vasectomy. Father known. |
| 5. | Terry: Tommie Rae & son control Fed. Copyright Termination Rights. | Forlando: Neither has any. |

6. Terry: Bauknight/ Lawyers get \$20MM Forlando: AG "treachery".

az. On **May 26, 2009** Jg. Early issued his order approving AG's settlement.

ba. **By May 26, 2009** Deon – imprisoned in California and supported by Brown during minority¹ sought counsel and to be part, and is a likely heir under the Copyright Act.

bb. **May 26, 2009 - May 8, 2013** BOTH Bob/Adele and Russell fit statutory definition of PR in Probate Code:

(1) Bauknight managed assets, but fought Will and 2000 Trust;

(2) Bob & Adele protected Will and Trust, but did not manage assets.

bc. On **June 4, 2009** Nexsen Pruet and Bauknight gutted the case against Cannon and Dallas – and severely impaired the claim as to GT – by directing Messrs. Few & Gilreath not to speak with Bob and me about anything confidential in Case 322.

bd. In **June 2009** Nexsen Pruet and Bauknight rejected the GreenLight deal after consulting with Bell, on information and belief causing at least \$2 Million damage.

be. **By June 10, 2009** Bauknight had:

1. Hired 10 lawyers at NP to represent what he would later say was a less-than \$4.7 Million music empire;

2. Gutted the case to recover \$12+ Million taken by Cannon by directing Messrs. Few/Gilreath not to speak confidentially to Bob and Adele, who had uncovered the takings.

3. Rejected, on instruction of Bell, the Corbis/Greenlight 2-year Publicity Rights contract which would have earned at least \$1 Million per year, in addition to Royalties.

¹According to Dallas, orders to support Deon prompted Brown to secure his vasectomy in the early 80s. Although he had more than 10 claimed children before the vasectomy, Brown and last wife Adrienne (married after the vasectomy) were unable to have children and the only post-vasectomy claimant to be Brown's child is Tommie Rae's son, born in 2001 but before she had the 2001 ceremony with Brown and during her marriage to another. Through a GAL in Aiken he has refused official DNA testing and now-void settlement exempted him.

bf. By **July 14, 2009** Tommie Rae and James B's attorneys were harassing us about our full commission, which we made clear would include the known-appeal in *Wilson v. Dallas*. To avoid two appeals, on or about that day we filed our full commission request – which is for the 5 ½ years we were first Court-appointed PR/Trustees and then statutory PRs: Bob: about \$2.1 Million and Adele: about \$2.8 Million, plus counsel fees and costs.[See Claim.]

bg.. From **2009 until 2013** the State/AG and Bauknight asserted this commission was outrageous, while 5 State Lawyers and 20 Lawyers worked for the State and Bauknight to defeat the Estate Plan and proposed to pay the following from funds Brown gave to the "I Feel Good" Trust:

Tommie Rae's counsel & son's : \$10+ Million - exact requested from Jg. Early;
Levenson: Between \$7.2 Million and \$8.7 Million;
Bauknight: Undisclosed - being sought from Jg. Early
Bauknight's 20+ attorneys: [at least] \$3.5 Million
Forlando/Terry's 10 attorneys: Undisclosed - being sought from Jg. Early

bh. On **September 30, 2009** State/AG and Bauknight represented no attorneys' fees or commissions will be paid to Settling parties or counsel until successful conclusion of Case 1647 appeal.

bi. On **March 15, 2010**: Jg. Early ordered release of all Settling parties' fees, fees of GAL for Tommie Rae's son and commissions of Bauknight by Clerk. [Had been given to Court at settlement hearing in 2009.] None in Clerk's office.

bj. On **March 22, 2010**: Tommie Rae's lawyer threatened Bob's lawyer that State/AG had hired Wingate Firm and would sue if *Wilson v. Dallas* appeal not dropped.

bk. In **April 2010** : Bob and I presented a detailed proposal giving Settling Parties everything they asked for provided Supreme Court approved. No response.

bl. On **May 18, 2010** "someone" advised AG that he would breach his fiduciary duty if he did not sue Bob and me the next day – said to be the day the statute of limitations expired.

bm. On **May 19, 2010** State/AG, AND Bauknight on behalf of State/AG, as well as Estate/2000 Trust and Tommie Rae, sued Bob & me for tens of millions of dollars for alleged breach of trust, fiduciary duty, all using single private law firm ("Wingate") to include:

- (1) Not accepting \$100 Million 2007 offer; and
- (2) Conducting *Wilson v. Dallas* appeal.

bn. On **August 30, 2010** a Sr. Assistant to AG attended hearing and Wingate introduced him as a "client" as Bob's and my Motion to Dismiss – in part based on State/AG's improper use of private counsel – was being considered by Court. Jg. Casey Manning declined to dismiss or change venue.

bo. On **September 30, 2010** Dallas filed for bankruptcy, listing his \$6 Million commission claim as his largest asset. **Today**, almost 3 years later, Bauknight has listed Dallas as the Estate/2000 Trust's witness (along with Cannon) in Case 4900 and failed to defeat this claim.

bp. In **October 2010** Bob & I answered in Case 4900, including that Tommie Rae, Tonya and Tommie Rae's son are not heirs, devisees or beneficiaries, and Bob & I never owed them a duty; counterclaimed for Abuse of Process, Civil Conspiracy, Attorneys' fees and fraud under the Probate Code..

bq. In **November 2010** the State/AG listed Cannon and Dallas as its witnesses against Bob & me in Case 4900. 12+ of the witnesses listed by AG/State and Tommie Rae previously confirmed she was not Brown's spouse, but are now gagged by Gag Orders.

br. By **December 2010** Wingate was seeking relief from default for failing to respond to our counterclaims and delaying discovery requests..

bs. Between **Dec. 31, 2010 - Jan. 7, 2011** State/AG and Terry, with other attorneys, amended Legacy Trust/Settlement Entity and Terry assigned his interest in Estate, including ROFR to Forlando.

bt. From **2011 - 2013** Bauknight, the State/AG, Nexsen Pruet and Wingate concealed the Terry/Forlando transfer and the Legacy Trust amendments from all courts.

bu. On **January 11, 2011** AG McMaster left office and AG Wilson took office.

bv. On **January 31, 2011** the State/AG and Nexsen Pruet sought sanctions against Bob and me in the Court of Appeals for a filing a brief which would help recover \$1.2 Million costs of Case 122 from Cannon under the April 8, 2008 Order, Case 122. The Court struck the brief, but decline to impose sanctions.

bw. In **February 2011** Bob suggested to me to seek documents not being produced by Wingate in 4900 through FOIA.

bx. On **May 4, 2011** Bauknight filed an I&A asserting Brown's music empire & claims against Cannon, etc. worth less than \$4.7 Million; and PHE about \$500,000.

by. On **May 4, 2011** the State/AG, Bauknight and Tommie Rae asked the Court to supplement ROA with less-than \$4.7 Million valuation.

bz. On **June 2011** I requested a copy of Legacy Trust which sued her, with amendments, under FOIA.

ca. **July 1, 2011**, Supreme Court declines to supplement ROA in *Wilson v. Dallas*.

cb. On **July 15, 2011** Bauknight/Nexsen Pruet threatened me with sanctions or a lawsuit if I exercised myFOIA rights to get copy of Legacy Trust and amendments by the Attorney General.

cc. In **August 2011** I filed FOIA suits after State/AG refused to produce:

- (1)Wingate Litigation Retention Agreement for State/AG to sue Bob & Adele;
- (2) Legacy Trust, with amendments
- (3) Information about Less-than \$4.7 Million valuation, and appraisal;

br. In **September 2011**: Bauknight hired powerful Lewis & Babcock to fight FOIA compliance, including release of secret January 2011 amendment to the Legacy Trust.

bs. **September 30, 2011**: Based in part on Nexsen Pruet/Bauknight's representation that PR Commission is 5% and all commission claims must be heard in same proceeding, the Dallas Georgia Bankruptcy Judge released the Dallas \$6 Million claim to Aiken. From **2011 - 2013 (Today)** Bauknight/Nexsen Pruet did nothing to defeat the Dallas claim, while using Dallas as a witness against Bob and me.

bt. In the **Fall of 2011**, the State/AG condoned an unprecedented attempted entry of Bauknight, Estate/2000 Trust and non-residents, including minors, into FOIA cases and attempts to consolidate 2 FOIA cases with Case 4900. Nexsen Pruet, Lewis and Babcock and Wingate all promoted the effort to violate my FOIA rights.

bu. On **October 28, 2011**: Cannon was allowed to enter *Alford* Plea. State/AG and Bauknight sought no restitution or damage, even though he owns a \$1 Million retirement home in Carribean. The State ignored my Victim's Statement

for needy students, telling the Court there were no victim's statements.

bv. On **October 31, 2011**: Bauknight's Nexsen Pruet attorney Black was quoted in 331 news outlets saying returning Bob and Adele to PR/Trustee service would be like throwing "hand grenade" into the James Brown proceedings:

bw. On **November 1, 2011** the State/AG condoned/endorsed Nexsen Pruet/Bauknight's known incorrect statements to the S.C. Supreme Court:

- (1) Nobody's trying to buy Brown's assets. [Asserts no offers to buy.]
- (2) Copyright Termination Rights are "all this case is about." [The Royalties make up only about half of the \$100 Music empire, and Termination Rights do not apply to Publicity Rights.]
- (3) The Estate/2000 Trust has no corpus "to speak of." [The Royalties and Publicity Rights are both corpus, and under the Principal and Income Act a substantial portion of the Royalty receipts will also be applied to principal, allowing the "I Feel Good" Trust to endure in perpetuity.]
- (4) Tommie Rae's Elective Share claim was a "slam dunk."
- (5) If Tommie Rae doesn't get the Termination Rights the settling children will. [Ignores that LaRhonda, Jeanette, Lisa and Nicole have Termination Rights higher than Venisha, Daryl & Tommie Rae's son, and equal to 4 others. Deon is probably child, incarcerated.]

bx. By **December 2011**: Based on Bauknight's representations re: Commissions, I had moved to intervene in Cannon/Dallas/Bradley commission claims cases. Bauknight resisted, even though Dallas and Bankruptcy Trustee consented.

by. **October 31, 2011**: Bauknight's attorneys reported in 331 new outlets as saying returning Buchanan and Pope would be like throwing a "hand Grenade" into the James Brown proceedings.

bz. From **Jan. - May 2012**: State/AG and Bauknight resist Adele's attempts to have a hearing on voiding the Hynie "diary" Gag Orders and proceeding with discovery on Dallas \$6 Million commission claim were delay by State/AG and Bauknight.

ca. On **January 10, 2012** Levenson, argued to be paid more than \$100,000 for a single motion in Case 122. Told Supreme Court he had visited Cannon's \$1 Million Caribbean home, for which the Estate/2000 Trust paid \$4,000 even though Bauknight/Nexsen Pruet did nothing in 3 years to recover mansion for

the Estate/2000 Trust.

cb. In **May 2012** Nexsen Pruet/Bauknight told Jg. Early he [Jg. Early] had already declared Tommie Rae to be Brown's spouse. I was present and corrected this false statement which would have severely damaged both the Estate/2000 Trust AND Bob's and my claims and the rights of the beneficiaries of the 2000 and 1999 Estate Plans had I not been there to correct it.

cc. From **May 2012 to 2013 (Today)** Nexsen Pruet and Bauknight have made vitriolic filings in the Supreme Court (previously joined by the AG/State) asserting Tommie Rae is Brown's spouse and attempting to prevent voiding of the 5-year-old Gag Orders that are stopping 12+ witnesses in Case 4900 from telling the full truth – that Tommie Rae was not Brown's spouse and knew it.

cd. Between **February 27, 2013 and May 8, 2013** Bauknight/Nexsen Pruet worked with counsel for Tommie Rae's son, sharing information about the less-than \$4.7 Million valuation he has refused to disclose as required by the Probate Code, in an attempt to have that minor justify his less-than \$4.7 Million valuation to the Court.

ce. On **May 8, 2013** the S.C. Supreme Court voided Bauknight's appointments and remanded this Case to appoint PR/Trustees in accordance with Brown's documents – 3 PR/Trustees who will "vigorously defend" the Estate Plan upon proper application.

cf. On **May 9** Bauknight and Wingate, both still speaking for the State/AG, asked Jg. Manning to delay my FOIA rights and Case 4900 for what may be years. They told Jg. Manning that the Supreme Court's having removed a footnote between its 2 decisions meant my FOIA rights should be delayed for years, as should Tommie Rae's deposition and all of Case 4900.

cg. On **May 9**, before the Remittitur, Bauknight obtained *ex parte* SA and ST appointments in 2 Courts.

ch. In accordance with Jg. Early's direction, I filed 3 motions in several Aiken Cases to suggest a proper procedure for the *Wilson v. Dallas* remand.

ci. On **May 29**, Levenson and Tommie Rae's lawyers – still making false representations about the Federal Copyright Act rights of their clients – asked the Court to hear in secret facts they said would support re-doing their settlement. AG Wilson withdrew. Bauknight took no action to suggest that this was entirely contrary to the 2000 Will, the 2000 Trust, the 1999 Will and the 1999 Trust.

cj. On **May 29** Nexsen Pruet/Bauknight, under the authority of *ex parte*

appointments which are, on information and belief, void, hand-delivered a Notice of Disallowance which purported to disallow my already twice-allowed PR/Trustee partial commission approved in the January 8, 2008 Order AND threaten disgorgement of my still-only-partially paid SA fee from 2007, as well as to threaten Bob and attempt to enforce the improper use of Estate funds to buy a release from Tommie Rae in Case 4900.

ck. On **June 10** I filed Case 1337.

cl. On **June 13, 2013** Jg. Early and the Clerk issued Orders which place my allowed partial commission in jeopardy; place my partially paid SA fee in jeopardy; trample on the rights of the devisees and beneficiaries who support the 1999 and 2000 Estate Plan; and otherwise threatened destruction again of the "I Feel Good" Trust and \$285,000 Grandchildren's Trusts.

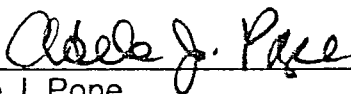
cm. In **June 2013** when I delivered my Motion to Reconsider, etc. to the Clerk I was told that Jg. Early had instructed her not to allow me to file anything in any case except 1337. When I explained that my Motion was in a number of other Cases, particularly 1637, she excused herself to make a phone call; returned; and allowed me to make the motion.

cn. On **July 2, 2013** Jg. Early suggested that he intends to allow Nexsen Pruet, a firm which has irrevocable conflicts and cannot possibly defend the Estate Plan or deal fairly with my claims, to remain as litigation counsel.

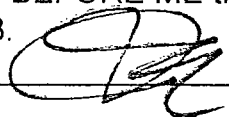
co. On **July 2, 2013** I asked Jg. Early to require the Settling parties and counsel to send to the clerk and me copies of their fee arrangements which were presented to Jg. Early in the 2009 hearings; are not confidential; and which the Clerk was ordered to give to Bob and me on March 15, 2010. They were not in the Clerk's office then, and were not there in June 2013.

28. I ask the Court to void the June 13 Orders and restore my rights, including to protect the 2000 and 1999 Estate Plans where my interest as a creditor and "other" is served by doing so.

FURTHER DEPONENT SAYETH NOT.


Adele J. Pope

SWORN TO BEFORE ME this 3rd day
of July, 2013.

 (L.S.)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

IN RE:

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

**BAUKNIGHT'S MEMORANDUM IN
OPPOSITION TO POPE'S MOTION TO
RECONSIDER
JUNE 13, 2013 ADMINISTRATIVE
ORDERS**

Case No.: 2008-CP-02-1647
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

On May 29, 2013 this Court held a status conference¹ 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 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. On June 13, 2013 this Court entered the referenced administrative orders. On June 24, 2013 Ms. Pope filed a motion² to

¹ Ms. Pope attended and participated in the May 29, 2013 status conference hearing.

² In addition to the above thirteen actions, Ms. Pope's motion was improperly filed in several other James Brown related cases.

reconsider, amend, or vacate the administrative orders. Ms. Pope fails to raise any issue that merits this court amending, reconsidering, or vacating its June 13, 2013 administrative orders.

This Court's May 26, 2009 order removed Ms. Pope from her fiduciary positions relating to the James Brown Estate and Trust. Nearly four years later, on May 8, 2013 the South Carolina Supreme Court affirmed this court's prior orders removing Ms. Pope for cause. As the Supreme Court stated, "[Ms. Pope's] continued service as [a] fiduciar[y] is not in the best interest of the estate." *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013). Accordingly, upon remand this court properly entered administrative orders removing Ms. Pope in her fiduciary capacities and consolidating the will contest actions.

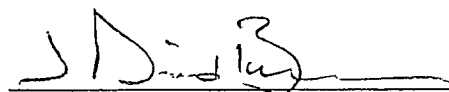
Collateral Estoppel now prevents Ms. Pope from relitigating her removal. Under the doctrine of collateral estoppel, also known as issue preclusion, when an issue has been actually litigated and determined by a valid and final judgment, the determination is conclusive in a subsequent action whether on the same or a different claim. *Zurcher v. Bilton*, 379 S.C. 132, 135-36, 666 S.E.2d 224, 226 (2008) (stating an issue litigated and determined by a valid and final judgment is conclusive in a subsequent action whether on the same or a different claim); *see also, S.C. Prop. and Cas. Ins. Guar. Assoc. v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991).

In 2009 Ms. Pope objected to her removal from the James Brown Estate and Trust litigation. On May 8, 2013, the S.C. Supreme Court rejected Ms. Pope's argument concerning her removal. It is now the law of the case and the final judgment of the South Carolina Supreme Court that Ms. Pope has been removed from her fiduciary positions and is no longer a party to

the James Brown Estate and Trust litigation. Ms. Pope's motion to reconsider, amend, or vacate must be denied.

To the extent allowed by South Carolina law, the South Carolina Frivolous Proceedings Sanction Act (FCPSA) and Rule 11, SCRCP, the Estate and Trust moves for fees and costs incurred in responding to Ms. Pope's frivolous and unnecessary motion. *See Runyon v. Wright*, 322 S.C. 15, 471 S.E.2d 160 (1996) (Rule 11 sanction for frivolous filing or argument, or for bad faith filing); *Pool v. Pool*, 321 S.C. 84, 467 S.E.2d 753 (Ct. App. 1996), *aff'd as modified*, 329 S.C. 324, 494 S.E.2d 820 (1998) (standard for FCPSA sanction is frivolity). The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith (i.e., to cause unnecessary delay) whether or not there is good ground to support it. *See Johnson v. Dailey*, 318 S.C. 318, 457 S.E.2d 613 (1995); *see also* John Freeman, *Know When to Fold*, S.C. LAW., May-June 1996, at 11 (discussing "the permissible limits of puffing and bluffing in the conduct of civil litigation").

Respectfully submitted,



J. David Black, SC Bar No. 68499
Fred L. Kingsmore, Jr.
NEXSEN PRUET, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
(803) 771-8900

Attorneys for Russell L. Bauknight, as the Court Appointed
Special Administrator of the James Brown Estate and
Special Trustee of the James Brown 2000 Irrevocable Trust

Adele Pope

From: Robert Rosen <rnrosen@rosen-lawfirm.com>
Sent: Wednesday, July 10, 2013 9:41 AM
To: Adele Pope; dearylj@sccourts.org
Cc: dearylc@sccourts.org; dearylc@sccourts.org; louis@levensonlaw.com; amedlin@sc.rr.com; Chris B. Paton; mattbodmanlaw@aol.com; DavidBell@davidbelllawfirm.com; shahidlo@bellsouth.net; steve@slotchiverlaw.com; BWilkins@nexsenpruet.com; DBlack@nexsenpruet.com; SJones@scag.gov; MFJowers@scag.gov; jim@gilreathlaw.com; Phyllis@jkendallfew.com; steve.morrison@nelsonmullins.com; tim.mckissock@nelsonmullins.com; dallaslaw@classicssouth.net; gcovington@covpatlaw.com; dcannon@barnwellsc.com; rlbuchananjr@atlanticbbn.net; jdbaileylaw@bellsouth.net; WByrd@TurnerPadget.com; info@ochintonpa.com; dearylsc@sccourts.org; dearylsc@sccourts.org; adam@silvernaillawfirm.com; dwilliams@jeterandwilliams.com; Andrew Chandler; David Michel (david@michellawoffice.com); Heyward Carter Jr Esquire (Carter@eckb.com); Jean Lee
Subject: RE: James Brown - Status Conferences & Motions

Dear Judge Early,

I object to Mrs. Pope writing directly to the Court regarding any matter in this case.

Although Mrs. Pope does not seem to recognize it, she was discharged for cause and four members of the Supreme Court (Justice Toal dissenting) affirmed in explicit, crystal clear terms. Mrs. Pope is no longer a party to any case except her fee petition case. Her injecting herself into cases to which she is not a party is costly to all of our clients and to the administration of justice and frankly is beginning to amount to contempt of court. Her jumping up at hearings would be punishable by the contempt power if she were not a fellow member of the bar to whom the court has shown the greatest patience.

My objection is that I cannot respond to constant emails and frivolous filings except by taking time away from other clients. I therefore request that Mrs Pope be instructed to file motions if she seeks a court order as required by SCRCP 7(b) ("An application to the court for an order shall be by motion...").

I suspect she will be filing numerous motions which can all be heard at a time convenient to all interested counsel. If Mrs Pope plans to use these cases to get information for other cases, then I will move for sanctions. Indeed I plan to move for sanctions with regard to any future filings that violate Rule 11.

Sincerely yours,
Robert Rosen

From: Adele Pope [mailto:adele@popelawfirm.com]
Sent: Wednesday, July 10, 2013 9:00 AM
To: dearylj@sccourts.org
Cc: dearylc@sccourts.org; dearylc@sccourts.org; louis@levensonlaw.com; amedlin@sc.rr.com; Robert Rosen; Chris B. Paton; mattbodmanlaw@aol.com; DavidBell@davidbelllawfirm.com; shahidlo@bellsouth.net; steve@slotchiverlaw.com; BWilkins@nexsenpruet.com; DBlack@nexsenpruet.com; SJones@scag.gov; MFJowers@scag.gov; jim@gilreathlaw.com;

Phyllis@jkendallfew.com; steve.morrison@nelsonmullins.com; tim.mckissock@nelsonmullins.com;
dallaslaw@classicsouth.net; gcovington@covpatlaw.com; dcannon@barnwellsc.com;
rlbuchananjr@atlanticbbn.net; jdbaileylaw@bellsouth.net; WByrd@TurnerPadget.com;
info@ochintonpa.com; dearlysc@sccourts.org; dearlysc@sccourts.org; adam@silvernaillawfirm.com;
dwilliams@jeterandwilliams.com

Subject: Re: James Brown - Status Conferences & Motions

July 10, 2013

Dear Judge Early:

Since Your Honor has indicated you will rule shortly on my Motion for Reconsideration of the June 13 Orders which was heard yesterday,

I write again to request that Your Honor assist with the delivery to me of the documents referenced below which your Order of March 15, 2010 in Case 1647 directed that the Clerk provide to me.

At the July 2 hearing you asked me to outline the issue to you, which I did below.

Since the copies of the documents which Your Honor delivered to the Clerk on March 15, 2010 remain missing, I respectfully request that you help me complete the record of my motion by directing counsel to re-submit to the Clerk and to me these documents which Your Honor has found not to be confidential. I believe they include: (1) The Contingency Fee Arrangements of Mr. Levenson and (2) Counsel for Tommie Rae; (3) the Fee Agreement of counsel for Terry Brown (interest now owned by Forlando); (4) the Fee and Commission agreements of the GAL for James B. and his attorney; and (5) the fee and commission agreements of Mr. Bauknight and his counsel, all as presented to you after April 6, 2009 and prior to the May 26, 2009 Order.

As Your Honor is aware from my filings and argument at yesterday's hearing , my Motion relates in material part to these commissions and fees.

If, as is appears, the copy of these documents Your Honor delivered to the Clerk in 2010 has been lost, I ask your help in securing replacement copies of this valuable part of the record. Thank you.

I also request that you publish the ex parte email and Ethics Opinion of Prof. Crystal which was not sent to me by Mr. Black, counsel for Russell Bauknight, when he communicated directly with Your Honor between the July 2 and July 9 hearings. I was unaware of this communication and Ethics Opinion until yesterday when Your Honor announced it, and the communication relates directly to my motion yesterday as well as my pending Case 2013-CP-02-1337, filed June 10, 2013, in which Mr. Bauknight is both an individual party and a party in his fiduciary capacity.

Thank you for you assistance in helping me obtain these documents.

Sincerely,

Adele J. Pope

cc: Interested Persons - As per Jg. Early's above Distribution List
Clerk of Court

<-----Original Message----->

>From: Early, Doyet A. [dearlyj@sccourts.org]

>Sent: 7/2/2013 7:12:25 PM

>To: adele@popelawfirm.com

>Cc:

>dearlyc@sccourts.org; dearlyc@sccourts.org; louis@levensonlaw.com; amedlin@sc.rr.com;

>rnrosen@rosen-lawfirm.com; [>\[lawfirm.com\]\(mailto:lawfirm.com\); \[mattbodmanlaw@aol.com\]\(mailto:mattbodmanlaw@aol.com\); \[DavidBell@davidbelllawfirm.com\]\(mailto:DavidBell@davidbelllawfirm.com\); \[>\\[h.net\\]\\(mailto:h.net\\); \\[steve@slotchiverlaw.com\\]\\(mailto:steve@slotchiverlaw.com\\); \\[BWilkins@nexsenpruet.com\\]\\(mailto:BWilkins@nexsenpruet.com\\); \\[DBlack@nexsenpruet.com\\]\\(mailto:DBlack@nexsenpruet.com\\); \\[>\\\[es@scag.gov\\\]\\\(mailto:es@scag.gov\\\); \\\[MFJowers@scag.gov\\\]\\\(mailto:MFJowers@scag.gov\\\); \\\[jim@gilreathlaw.com\\\]\\\(mailto:jim@gilreathlaw.com\\\); \\\[Phyllis@jkendallfew.com\\\]\\\(mailto:Phyllis@jkendallfew.com\\\); \\\[>\\\\[rison@nelsonmullins.com\\\\]\\\\(mailto:rison@nelsonmullins.com\\\\); \\\\[tim.mckissock@nelsonmullins.com\\\\]\\\\(mailto:tim.mckissock@nelsonmullins.com\\\\); \\\\[>\\\\\[t;gcovington@covpatlaw.com\\\\\]\\\\\(mailto:t;gcovington@covpatlaw.com\\\\\); \\\\\[dcannon@barnwellsc.com\\\\\]\\\\\(mailto:dcannon@barnwellsc.com\\\\\); \\\\\[rlbuchananjr@atlanticbbn.net\\\\\]\\\\\(mailto:rlbuchananjr@atlanticbbn.net\\\\\); \\\\\[>\\\\\\[aileylaw@bellsouth.net\\\\\\]\\\\\\(mailto:aileylaw@bellsouth.net\\\\\\); \\\\\\[WByrd@TurnerPadget.com\\\\\\]\\\\\\(mailto:WByrd@TurnerPadget.com\\\\\\); \\\\\\[info@ochintonpa.com\\\\\\]\\\\\\(mailto:info@ochintonpa.com\\\\\\); \\\\\\[>\\\\\\\[s.org\\\\\\\]\\\\\\\(mailto:s.org\\\\\\\); \\\\\\\[dearlysc@sccourts.org\\\\\\\]\\\\\\\(mailto:dearlysc@sccourts.org\\\\\\\); \\\\\\\[adam@silvernaillawfirm.com\\\\\\\]\\\\\\\(mailto:adam@silvernaillawfirm.com\\\\\\\); \\\\\\\[>\\\\\\\\[com\\\\\\\\]\\\\\\\\(mailto:com\\\\\\\\)\\\\\\\]\\\\\\\(mailto:dwilliams@jeterandwilliams.</p></div><div data-bbox=\\\\\\\)\\\\\\]\\\\\\(mailto:dearlysc@sccourt</p></div><div data-bbox=\\\\\\)\\\\\]\\\\\(mailto:jdb</p></div><div data-bbox=\\\\\)\\\\]\\\\(mailto:dallaslaw@classicsouth.ne</p></div><div data-bbox=\\\\)\\\]\\\(mailto:steve.mo</p></div><div data-bbox=\\\)\\]\\(mailto:SJon</p></div><div data-bbox=\\)\]\(mailto:shahidlo@bellsout</p></div><div data-bbox=\)](mailto:cpaton@rosen-</p></div><div data-bbox=)

>Subject: Re: James Brown - Status Conferences & Motions

>

>Thank you

>

>Sent from my iPhone

>

>On Jul 2, 2013, at 7:08 PM, "Adele Pope"

><adele@popelawfirm.com<<mailto:adele@popelawfirm.com>>> wrote:

>

>Law Office of Adele J. Pope, P.C.

>1228 Walnut Street

>Newberry, South Carolina 29108

>July 2, 2013

>

>The Honorable Doyet A. Early, III

>(via email)

>

>Re: Wilson V. Dallas - Case No. 2008-CP-02-1647 and

> Case No. 2009-CP-02-1810

>

>Dear Judge Early:

>

>I write at your direction to request that you direct the counsel, GAL and parties

>involved to deliver to me and file with the clerk -- if possible before July 9,
>2013 -- the following documents which you Ordered on March 15, 2010 be delivered
>to Robert Buchanan, Jr. and me BY THE CLERK, but which the Clerk did not have
>then, and does not have now:
>
>"Any and all documents related to attorneys' fees and/or compensation,
>and/or costs and/or fees of guardians ad litem and their counsel presented to this
>Court
>in the above cases, including but not limited to the contingency fee
>contract of Louis Levenson, Robert Rosen and the fee of the Guardian ad Litem for
>James B."
>
>You asked that I outline in the email what I stated to the Court in the hearing
>which took place in Bamberg, S.C. this morning, which was:
>
>On or about March 10, 2010 Bob Buchanan and I filed a motion asking for the above
>documents which, according to our motion, were delivered to Your Honor in
>accordance with an April 6, 2009 oral Order during the Case 1647 Settlement
>hearings.
>
>In the Order Your Honor issued on March 15, 2010, the Court stated that it was
>delivering to the Clerk the documents which had been delivered to the Court, and
>directed the Clerk to deliver them to Bob and me.
>The Order, entitled "ORDER RELATED TO RELEASE OF INFORMATION RELATED TO
ATTORNEYS'
>FEES AND COMPENSATION," found that the Court had made no findings for necessity
>of confidentiality as to the documents.
>
>We checked with the Clerk in 2010 and the documents were not in her possession.
>The same was true in a recent check.
>
>As I stated today, and was stated in our 2010bmotion, we have a copy of the
>Levenson 30% plus \$150,000 contract from the Forlando Suit, but Mr. Levenson
>declined to send us or the Clerk a copy. We did not inquire of other counsel.
>
>In June 2013 the Office of the Clerk of Court confirmed again that they have none
>of the documents, and I advised a Sr. Assistant Clerk that I would address the
>matter with the Court.
>
>In connection with my Motion to Alter, Amend and Vacate the June 13 Orders in Case
>1647 and other cases, which is to be heard next Tuesday July 9, I am in need of
>these documents, and today requested your help in getting them.
>
>Thank you,
>
>Adele J. Pope

>July 2, 2013

>

>P.S. I have taken the liberty of adding my counsel in Richland County Case 2010-
>CP-40-4900 ("Case 4900") and the Forlando Brown Federal Suit to the Distribution
>List to keep them informed of my action. I am pro se in all Aiken County matters.

>

>

>

>

>

><-----Original Message----->

>From: Early, Doyet A. Law Clerk \ (Adam C. Ness\)

>[dearylc@sccourts.org<mailto:dearylc@sccourts.org>]

>Sent: 6/13/2013 11:31:28 AM

>To: louis@levensonlaw.com<mailto:louis@levensonlaw.com>;

>amedlin@sc.rr.com<mailto:amedlin@sc.rr.com>; [rnrosen@rosen-](mailto:rnrosen@rosen-lawfirm.com)

>[cpaton@rosen-](mailto:cpaton@rosen-lawfirm.com)

>[lawfirm.com](mailto:cpaton@rosen-lawfirm.com)<mailto:cpaton@rosen-lawfirm.com>;

>mattbodmanlaw@aol.com<mailto:mattbodmanlaw@aol.com>;

>DavidBell@davidbelllawfirm.com<mailto:DavidBell@davidbelllawfirm.com>;

>shahidlo@bellsouth.net<mailto:shahidlo@bellsouth.net>;

>steve@slotchiverlaw.com<mailto:steve@slotchiverlaw.com>;

>BWilkins@nexsenpruet.com<mailto:BWilkins@nexsenpruet.com>;

>DBlack@nexsenpruet.com<mailto:DBlack@nexsenpruet.com>;

>SJones@scag.gov<mailto:SJones@scag.gov>;

>MFJowers@scag.gov<mailto:MFJowers@scag.gov>;

>jim@gilreathlaw.com<mailto:jim@gilreathlaw.com>;

>Phyllis@jkendallfew.com<mailto:Phyllis@jkendallfew.com>;

>steve.morrison@nelsonmullins.com<mailto:steve.morrison@nelsonmullins.com>;

>tim.mckissock@nelsonmullins.com<mailto:tim.mckissock@nelsonmullins.com>;

>dallaslaw@classicsouth.net<mailto:dallaslaw@classicsouth.net>;

>gcovington@covpatlaw.com<mailto:gcovington@covpatlaw.com>;

>dcannon@barnwellsc.com<mailto:dcannon@barnwellsc.com>;

>adele@popelawfirm.com<mailto:adele@popelawfirm.com>;

>rlbuchananjr@atlanticbbn.net<mailto:rlbuchananjr@atlanticbbn.net>;

>jdbaileylaw@bellsouth.net<mailto:jdbaileylaw@bellsouth.net>;

>WByrd@TurnerPadget.com<mailto:WByrd@TurnerPadget.com>;

>dcannon@barnwellsc.com<mailto:dcannon@barnwellsc.com>;

>info@ochintonpa.com<mailto:info@ochintonpa.com>

>Cc: Early, Doyet A., Early, Doyet A. Secretary \ (Karin Coker\)

>Subject: James Brown - Status Conferences & Motions

>

>All:

>

> Status conferences & Motions (see below) are set for July 2, 2013,

>@ 10 AM, in Bamberg.

>
> At that time, the parties will inform the court of the present
>status of the litigation, what remains to be done in order to set date for final
>disposition, if mediation is a viable means of resolution, and proposed scheduling
>orders.
>
> In lieu of attending the status conference, the court will consider
>a joint statement by both sides addressing these issues. This MUST be submitted 10
>days before the scheduled conference. The joint statement does not apply to case
>2008-CP-02-01647.
>
> Additionally, the court will hear the following:
>
>
>1. Motion to Amend in case # 2008-CP-02-00322
>
>2. Motion to Dismiss in case # 2012-CP-02-01059
>
>
>
>Sincerely,
>
>Adam C. Ness, Esq.
>Law Clerk to the Honorable D.A. Early, III
>The Circuit Court of the 2nd Judicial Circuit
>PO Box 90
>Bamberg, SC 29003
>Telephone: 803.245.4004
>Fax: 803.245.2983
>dearlylc@sccourts.org<<mailto:dearlylc@sccourts.org>>
>
>

BUCHANAN LAW OFFICE, P.A.

ATTORNEYS AND COUNSELORS AT LAW

212 Newberry Street, N.W.

Post Office Box 463

Aiken, South Carolina 29802-0463

(803) 649-2586

(803) 649-1392 (Facsimile)

rlbuchananjr@atlanticbbn.net

Robert L. Buchanan, Jr.

July 26, 2013

Honorable Doyet A. Early, III

Bamberg, SC 29

Re: Robert L. Buchanan, Jr. Response to Administrative Order Dated June 13, 2013, In Re: The Estate of James Brown A/K/A: James Joseph Brown (Cases No. 2008-CP-02-1647; 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), *In re James Brown: Review of fees paid in Case 1647 appeal of May 26, 2009 settlement agreement*

Dear Judge Early:

In March 2007 I was appointed as one of two Special Administrators of the Estate of James Brown. I did not seek the position, but at the request of the court I agreed to assist in a limited role. I did not anticipate encountering all that followed. On November 20, 2007, I was suddenly appointed as a co-Personal Representative of the Estate of James Brown and as a co-Trustee of the James Brown 2000 Irrevocable Trust at a hearing in Bamberg. I did not seek the appointment, and I did not expect it. Believing that the resignations of the former PR/Trustees would enable the estate and trust to turn the corner and seeing everyone that day, including the settling parties, unanimously recommended Mrs. Pope and me for the position, I did not anticipate what would subsequently develop. I do not believe any reasonable person, viewing matters objectively, would have anticipated at that time the course of events that followed.

In January 2008 an order was filed which specified the terms of my remuneration. See Attachment "A." This order was not appealed. There is no question that I was entitled to be paid under this order.

Also in January 2008, James Brown's grandson, then Forlando by name, sued me in federal court. This lawsuit resulted, *inter alia*, in my professional liability carrier refusing to renew my coverage. See Attachment "C."

During the period of time commencing February 27, 2008 and continuing through April 21,

Judge Early
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July 26, 2013

2009, I was paid \$153,000.00. See Attachment "B." Those funds were deposited into my law firm operating account. The following summary of my income (and the detail is available if you wish to review it) for the three years immediately prior to my appointment and for the four successive years, including the year of my appointment, illustrates the overwhelming nature of my service under the appointment, which overtook my law practice. It also illustrates the importance of these payments to me, which are included in the gross receipts for the respective years. The summary is as follows:

<u>Practice Year</u>	<u>RLB, JR. Practice Gross Receipts</u>	<u>RLB, Jr. Salary</u>	<u>Net Practice Earnings</u>
<u>3 YEARS PRIOR TO APPOINTMENT</u>			
2004	859,630.52	164,000	496,729.36
2005	293,148.31	52,000	80,986.85
2006	1,027,680.33	176,000	593,570.51
<u>4 SUCCESSIVE YEARS, INCLUDING THE YEAR OF APPOINTMENT</u>			
2007	290,765.33	52,000	61,626.07
2008	315,111.57	53,000	87,659.67
2009	186,707.25	52,000	(36,829.07)
2010	175,617.25	52,000	(24,662.66)

Beginning in August 2008 and continuing until May 2009 some persons related to the Estate and Trust forged a settlement. I invited the settling parties to provide me with evidence to support the settlement and to include necessary persons who were not at their table. Without a meaningful response and under those circumstances, I testified that I believed the will and trust instruments and existing South Carolina law would require me to appeal "this settlement at this time." I did appeal. In the spring of 2010, I was given an ultimatum by the settling parties: dismiss the appeal or be sued. In May 2010, they sued me for \$10,000,000.00 in Case 4900 in Richland County. This lawsuit caused, *inter alia*, my successor professional liability carrier to refuse to renew my coverage and to sue me. See Attachment "C."

As I was and am the sole breadwinner in my household, through the years I utilized assets, which my wife and I owned jointly, to supplement the lost earnings. The following summaries approximate loan amounts and asset liquidations and illustrate what I did in this respect (and the details are available if you desire to review them):

Money Market Account (Jointly Owned)	Dates:	May 2007	May 2011
	Balances:	\$144,000.00	\$600.00
	Status:	Closed	

Home Equity Loan (Jointly Owned) (Secured)	Dates: May 2007 Balances: -0- Status: Interest only payments have been made, totaling \$28,870.60 as of 7/25/2013, and the principal balance has not been reduced	May 2011 \$166,000.00
Life Insurance Loan (Wife's Policy)	Dates: July 2010 September 2011 Status: Paid off with interest following settlement in Case No. 4900 (see below)	Borrowed \$35,000.00 Borrowed \$8,749.45
Life Insurance Loan (Husband's Policy)	Date: September 2010 Status: Uncertain	Borrowed \$4,700.00
Life Insurance Loan	Date: September 2011 Status: Uncertain	Borrowed \$1,900.00
MasterCard	Dates: March 2007 Summer 2011 Status: Paid off upon settlement in Case No. 4900	Balance -0- Balance \$47,270.00
Visa	Dates: March 2007 Summer 2011 Status: Paid down upon settlement in Case No. 4900	Balance nominal Balance \$23,417.00
Bank Loans (Unsecured) Status:	Dates: 2010 Rolled over 2 or 3 times and satisfied out of proceeds of real estate mortgage loan referenced immediately below	\$25,000.00
Bank Loan (Secured) (Jointly owned)	Dates: 2012 (Office) (prior to settlement) Status: Making interest-only payments, a total of \$3,522.53 through 7/25/13, and principal remains unpaid	\$62,000.00
Professional Liability Insurance Issues	See Attachment "C"	

Judge Early
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In 2012, I settled out of Richland County Case No. 4900 in which I was a defendant-counterclaimant. See Attachment "D." I had to go back to work. After this last year, I think (and hope) I am now about half way to reestablishing my law practice. I received \$500,000.00 in settlement proceeds. I paid an attorney fee and federal and state taxes out of the settlement.

I am including herewith as Attachment "E" an itemized statement showing my time through March 31, 2012. This itemization does not include any interest (as provided for in Attachment "A") and includes my hourly rate at \$300.00. (With respect to Attachment "E," there are a few entries with minor discrepancies between "E" and the summary attached to my affidavit dated July 13, 2009. I believe Attachment "E" is more accurate because it was prepared more recently and with the assistance of my CPA. Hence, until and unless I learn differently, the summary attached to the July 13th affidavit is hereby amended to conform to Exhibit "E." (I can furnish details if you want them.)

I remain a party to the federal case (Forlando William Brown), but only as a counterclaimant. I remain a defendant-counterclaimant in another federal case in which Cincinnati Insurance Company sued me.

I am transmitting a hard copy of this correspondence and the attachments to you by FedEx so that it will be there Monday. I would appreciate your marking the hard copy "Filed." I am also sending a scanned copy of same to you and others via e-mail today. If you prefer that I file it otherwise, either in hard copy or electronically, please let me know and I will do so. And if you need anything other or further from me for your purposes in this matter, I will be happy to provide it.

With thanks and warmest personal regards, I am

Yours truly,


Robert L. Buchanan, Jr.

Cc: All persons shown on Judge Early's e-mail distribution list, via e-mail only

/rlb, Jr.

ATTACHMENT A

From: "Alan Medlin" <amedlin@sc.rr.com>
To: "Black, David; , ;Doyet A. Law Clerk Early \ (Austin H. Crosby);dearlysc@sccourts.org;dearlyj@sccourts.org"
<DBlack@nexsenpruet.com;DBlack@nexsenpruet.com;dearlyc@sccourts.org;dearlysc@sccourts.org;dearlyj@sccourts.org>
Cc: "'Levenson Louis", "Rosen Robert", "Chris Paton", "Matt Bodman", "Adele Pope", "Jones Sonny", "Williams, Burl F.", "Wilkins, William W." " <louis@levensonlaw.com;mrosen@rosen-lawfirm.com;cpaton@rosen-lawfirm.com;mattbodmanlaw@aol.com;adele@popelawfirm.com;AGSJONES@scag.gov;BWilliams@nexsenpruet.com;BWilliams@nexsenpruet.com;BWilkins@nexsenpruet.com;BWilkins@nexsenpruet.com>
Subject: Re: Pope Motion For Discovery
Date: 8/9/2013 2:38:41 PM

Dear Judge Early: Mrs. Brown concurs with Mr. Bauknight.
Thank you.

From: Black, David
Sent: Friday, August 09, 2013 10:09 AM
To: Doyet A. Law Clerk Early (Austin H. Crosby) ; dearlysc@sccourts.org ; dearlyj@sccourts.org
Cc: Levenson Louis ; S. Alan Medlin ; Rosen Robert ; Chris Paton ; Matt Bodman ; Adele Pope ; Jones Sonny ; Williams, Burl F. ; Wilkins, William W.
Subject: Pope Motion For Discovery

Dear Judge Early:

On behalf of Mr. Bauknight, Special Administrator to the James Brown Estate, and Special Trustee to the James Brown August 1, 2000 Irrevocable Trust Agreement, please accept this response as the Estate and Trust's formal objection to Ms. Pope's August 1, 2013 Motion filed with the Aiken County Clerk of Court regarding the production of documents.

As this Court is aware, Ms. Pope has filed a notice of appeal from the Administrative Orders entered by Your Honor in furtherance of the Supreme Court's Opinion in *Wilson v. Dallas*. Ms. Pope does not have standing to appeal these Administrative Orders because she is no longer a party to these proceedings. The Supreme Court ruled unequivocally that Ms. Pope was removed from her fiduciary positions for cause. The Administrative Orders simply carried out the Supreme Court's ruling.

Next week, Mr. Bauknight will file a motion to dismiss the appeal filed by Ms. Pope. We firmly believe that the Court of Appeals will dismiss Ms. Pope's appeal, and put an end to her continuous efforts to meddle in, and thwart, the orderly administration of the Estate and Trust. Because Mr. Bauknight will soon file a motion to dismiss her appeal, Mr. Bauknight objects to Ms. Pope's motion, and hereby requests that it be held in abeyance until the Court of Appeals rules upon his motion to dismiss her appeal.

Thank you for your attention to this matter.

David Black

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