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STATE OF SOUTH CAROLINA  
In the Supreme Court

**S.C. SUPREME COURT**

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APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

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

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Appellate Case No. 2013-001649

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

v.

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

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

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**MOTION TO SUPPLEMENT RECORD  
AND MEMORANDUM IN SUPPORT OF MOTION**

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TO: THE HONORABLE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE  
COURT:

Based on the State action by Attorney General Alan Wilson ("AG Wilson") and

the James Brown Legacy Trust ("Legacy Trust") since January 16, 2015 to advance the joint effort of the State/AG and Respondents Tommie Rae Hynie ("Tommie Rae"), Terry Brown ("Terry") and Forlando Brown ("Forlando") to reinstate the 2008 settlement brokered by former AG Henry McMaster, and to destroy the reputations and careers of Robert Buchanan, Jr. ("Buchanan") and Appellant, Appellant respectfully moves this Honorable Court to supplement the record with the following documents:

1. The Proposed Order (and Order, if signed) jointly presented to the Honorable L. Casey Manning ("Judge Manning") by AG Wilson, the Legacy Trust, Tommie Rae and others on or about January 30, 2015. [Exhibit A is a copy of said order, with emphasis added.]
2. The AG's copy of the handwritten notes of Tommie Rae and transcript thereof, originally made public by Order of the Honorable Doyet A. Early, III by Order dtd. 8/10/07.
3. The Proposed Order (and Order, if signed) by which the Legacy Trust seeks Judge Early's exemption of Tommie Rae, Terry, Forlando and others holding assets assigned to the Legacy Trust from making those assets available for the Legacy Trust's liability in the mediation in in Richland County Case 2010-CP-40-4900 ("Case 4900").
4. The signature pages and addenda of the Wingate 40% contingency fee contract authorizing Case 4900, showing signatures for the Legacy Trust, David Bell, Esq., ("Bell"), Louis Levenson, Esq. ("Levenson") and counsel for Tommie Rae.
5. The January 2011 Legacy Trust amendment; assignment by Terry to Forlando of his Legacy Trust interest; and email of Sr. Assistant AG Sonny Jones distributing same.
6. The Legacy Trust's answer in Appellant's 2011 FOIA suit seeking the the \$4.7 million appraisal.
7. Any document by the Legacy Trust advising the IRS or any other authority of its going out of existence "at this time."
8. Pages 1-3 and 32 - end, the PhilPott, Ball & Werner "appraisal" of James Brown Estate, filed in Federal Case No. 3:08-cv-00014-WOB under seal.

The grounds of of this motion are that since AG Wilson advised this Court on January 16, 2015 that the Legacy Trust does not exist "at this time," and his role in the James Brown cases was passive [AG Ret. Dtd. 1/16/15, p.1], both AG Wilson and the Legacy Trust which he controls, have taken active and aggressive steps to damage Appellant and Buchanan, and advance the announced intention of Tommie Rae and Levenson to reinstate the AG's 2008 settlement which dismembered the "I Feel Good" Trust and severely damaged its copyrights under the Federal Copyright Act termination rights provisions.

This motion is supported by public acts of the AG, including through his counsel of record in Case 4900; statements made on behalf of the AG's trustee Russell L. Bauknight ("Bauknight") at a hearing before the Honorable Doyet A. Early, III ("Judge Early") on February 2, 2015; and the record in this appeal.

### **Memorandum in Support of Motion**

At great personal hardship, from May 2009 until May 2013, Buchanan and Appellant conducted the appeal which became *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013).

By May 10, 2013, AG Wilson, the Legacy Trust and Tommie Rae had sought a stay of Case 4900 and two 2011 FOIA cases they had succeeded in moving from Newberry. (The stay request was made formal in 2014.)

On May 29, 2013, Tommie Rae and Levenson announced their intention to reinstate the AG's 2008 settlement. Bell began to siphon off copyright termination rights from non-favored heirs.

On June 13, 2013, Judge Early issued orders, without notice or hearing, purporting to eject Appellant and Buchanan from James Brown trust and estate cases. Those orders are the subject of this appeal.

In October 2014, Russell Bauknight ("Bauknight") claimed Appellant could not be paid for any work she has done for the Estate/2000 Trust until Case 4900 is concluded.

On November 3, 2014, Judge Early, *sua sponte*, announced that he and Judge Manning would be directing joint mediation of Appellant's claim and Case 4900. It would be the second mediation for Case 4900. At the first mediation, held October 12, 2012:

1. Appellant was gagged by the so-called "Hynie 'diary' Gag Orders." which Judge Early declined to lift<sup>1</sup>;
2. Appellant did not have the public \$4.7 million "appraisal", which AG Wilson refuses to release under FOIA or in Case 4900 discovery.[ Both Appellant and Respondent Forlando Brown ("Forlando") now the appraisal (as confidential) in Federal Case No. 3:08-cv-00014-WOB].

[Although he is aligned with the AG and Legacy Trust in Case 4900, Forlando has testified at deposition about the "diary" contents and asserted the \$4.7 "appraisal" is "bogus."]

3. Appellant did not have the public Wingate 40% Contract, which was signed by Bauknight, Bell, Levenson and counsel for Tommie Rae, and NOT signed by AG Wilson and about a dozen other Case 4900 Plaintiffs.
4. Appellant did not have the now-released emails which show that Tommie Rae's lawyer, Sr. Assistant AG Jones and counsel for Bauknight orchestrated the devaluation of Brown's assets from the correct approximately \$85 million to \$4.7 million for the music empire and \$.5 million for the personal property.

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<sup>1</sup> Since May 8, 2013, Judge Early has not responded to Appellant's repeated requests for a hearing to lift the Gag Orders so she may protect herself from the joint action of the AG and Tommie Rae both in Case 4900 and a FOIA suit in which Tommie Rae is seeking sanctions against her.

5. Appellant did not yet have the complete documents to show that Bauknight, the AG and Bell colluded in a secret 2011 amendment to the Legacy Trust and transfer of Terry rights of first refusal to buy the music empire to Forlando.

On November 24, 2014, Tommie Rae and others asserted in a hearing before Judge Early that the Legacy Trust continues, with Bauknight as its trustee, and that it is bound by agreement made in 2008.

In November and December 2014, the AG's and Legacy Trust's counsel of record made demands on behalf of AG, the Legacy Trust, Tommie Rae and other members of the Plaintiffs' Group as to the conduct of the mediation. The AG and the Legacy Trust, through counsel, claimed that the parties were not required to attend the mediation and that two 2011 FOIA cases must be part of the mediation.

In early January 2015, Keith Babcock, Esq., claimed that the Legacy Trust, a Case 4900 Plaintiff/Counterclaim Defendant for more than four years, has not existed since May 8, 2013. Believing this incorrect, Appellant moved this Court to make the Legacy Trust a Respondent and moved before Judge Early to require the successors to its assets and liabilities, if dissolved, to appear at mediation with authority to commit its assets to a settlement.

On January 13, 2015, Judge Early signed an order declaring Tommie Rae to be Brown's spouse. AG Wilson advised Appellant that he would not seek reconsideration of the Order, even with knowledge of the damage to the "I Feel Good" Trust's copyrights and of the contents of the public Hynie "diary" which Judge Early declined to consider in the order.

On January 16, 2015, AG Wilson filed a Return to Appellant's request that he,

the Legacy Trust, and certain heirs of James Brown be made respondents. He did not advise the Court of the Tommie Rae spousal order.

On January 20, 2015, Judge Early filed the joint mediation in Case 4900 and Appellant's claims case.

On January 22, 2015, Appellant learned of Judge Early's spousal orders.

On January 23, 2015, Appellant asked this Court to supplement the record with the spousal order and stay the spousal proceeding.

On January 23, 2015, someone apparently disgruntled with the spousal order mailed a copy of the so-called "diary" from Augusta to a journalist.

On January 30, 2015, the journalist published the Hynie "diary," the contents of which have been known to all Case 4900 parties since 2007. As Appellant advised Judge Early in 2012, Appellant believes 2008 gag orders related to the "diary" are unconstitutional, but until January 30, 2015 did not discuss or use their contents to protect herself from the vitriolic attacks made on Buchanan and Appellant by the AG, the Legacy Trust and Tommie Rae in Case 4900 and FOIA cases.

On or about January 30, joint Case 4900 counsel for the AG, the Legacy Trust and Tommie Rae presented a proposed order seeking to relieve the Legacy Trust, AG and Tommie Rae from default in Case 4900. This action by a Trust which claims it does not exist at this time severely damages Appellant

On February 2, 2015, this Court stayed an *ex parte* order of Judge Early seeking to stop publication of the "diary."

At a hearing before Judge Early on February 2 counsel for Mr. Bauknight

asserted that Mr. Bauknight cannot attend the Case 4900 mediation on behalf of the Legacy Trust, and sought to exempt Respondent Forlando, a successor to its assets and liabilities if it no longer exists, from being required to attend.

On February 3, Judge Early asked Mr. Bauknight's counsel to prepare an order.


For too long the State/AG and the Legacy Trust, for the benefit of Tommie Rae, Levenson and Bell, have been allowed to attack and intimidate Appellant and Buchanan, then disappear when their positions are shown to be unsound. The AG, for example, now says his staff never saw the \$4.7 million appraisal on which he relied to accuse Appellant and Buchanan of a federal felony. Yet emails show the devaluation of Brown's music empire from a correct \$84 million to \$4.7 million was orchestrated by the AG's office with Tommie Rae's advisors.

The disappearance of the AG's Legacy Trust "at this time" when it has been a Plaintiff in Case 4900 for nearly five years and a party to a stalled FOIA suit for more than three, constitutes manifestly unjust state action. Appellant and Buchanan are entitled to a level playing field as they attempt to restore their reputations and careers.

### CONCLUSION

For the reasons set forth herein, this Court should supplement the record as requested.

Respectfully submitted,



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S.C. Bar No. 4501

February 4, 2015

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██████████; 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██████████ and Carrington L██████████; 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██████████; 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██████████ and CARRINGTON L██████████; 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

ORDER GRANTING PLAINTIFFS' MOTION TO SET ASIDE ENTRY OF DEFAULT

Exhibit A

**THIS MATTER COMES BEFORE THE COURT** on Plaintiffs' Motion to Set Aside the Entry of Default in the above-referenced action. Having considered the Plaintiffs' Motion and Affidavit and after having heard and carefully considered the arguments set forth by both parties during a hearing on this matter on December 17, 2012, the Court hereby finds and orders as follows:

1. Defendants filed an Affidavit of Default on November 10, 2010 claiming that Plaintiffs had failed to serve a timely answer to their counterclaims.
2. Plaintiffs promptly filed a Motion to Set Aside Entry of Default and served an Answer to the Counterclaims upon receipt of the Affidavit of Default. Both the Motion and Answer to Counterclaims were filed and served on November 16, 2010.
3. Plaintiffs have presented evidence of a meritorious defense to the Counterclaims.
4. Defendants are not prejudiced by this Court setting aside the default.
5. Plaintiffs have demonstrated good cause for setting aside the entry of default, and the Court has considered each of the factors set forth in Wham v. Shearson Lehman Bros., 298 S.C. 462, 465, 381 S.E.2d 499, 502 (Ct. App. 1989).
6. Therefore, the record in this case demonstrates that the Plaintiffs have shown good cause for failing to serve an answer on or before November 1, 2010 and the interests of justice will be served by vacating any entry of default.
7. As further evidence showing good cause for the Plaintiffs' failure to timely answer, and as a separate and independent grounds for setting aside any default, pursuant to Rule 55(a), SCRCF, the Plaintiffs were "otherwise defend[ing]" in this matter by actively contesting Defendants' Rule 12, SCRCF motions to dismiss and change venue in response to the Plaintiffs' Complaint.

8. Pursuant to Rule 55(e), SCRCP, the Attorney General was never in default. In any event, the foregoing analysis would apply to the Attorney General as well.

**ACCORDINGLY, IT IS HEREBY ORDERED** that:

- (a) the Entry of Default is set aside as to all Plaintiffs for good cause shown pursuant to Rule 55, SCRCP; and
- (b) the Attorney General was never in default.

**AND IT IS SO ORDERED.**

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The Honorable L. Casey Manning  
Circuit Judge  
Fifth Judicial Circuit

Columbia, South Carolina

\_\_\_\_\_, 2015

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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.

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**PROOF OF SERVICE**

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I certify that on the 4th day of February, 2015, I have served the MOTION  
TO SUPPLEMENT RECORD AND MEMORANDUM IN SUPPORT OF  
MOTION on the parties described below by depositing a copy of same in the  
United States Mail, postage prepaid, addressed to their attorneys of record as  
follows:

**ATTORNEYS OF RECORD FOR RESPONDENTS OR RESPONDENTS**

John A. Donsbach, Sr., Esquire  
Post Office Box 212139  
Martinez, GA 30917-2139

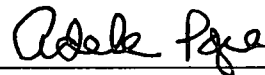
David G. Cannon  
P. O. Box 865  
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Eugene C. Covington, Jr., Esquire  
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*Pro Se*

February 4, 2015