

Adele J. Pope  
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March 11, 2015

The Honorable Daniel E. Shearouse  
Clerk of Court  
Supreme Court of South Carolina  
1231 Gervais Street.  
PO Box 11330  
Columbia, South Carolina 29211

BY HAND DELIVERY

Re: *Wilson v. Dallas*  
Appellate Case No. 2013-001649

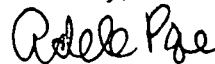
Dear Mr. Shearouse:

In connection with the above-referenced matter, enclosed please find the Original and seven (7) copies of the RETURN OF APPELLANT TO MOTION OF DAVID C. SOJOURNER, JR. TO INTERVENE IN APPEAL, with certificate of service.

Kindly file the originals and required copies, and return a file-stamped copy of the Reply and certificate of service with the courier who delivers this letter.

Thank you for your help.

Sincerely,



Adele J. Pope  
S.C. Bar No. 4501

Enclosures

cc: Counsel as shown on Proofs of Service

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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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.....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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**RETURN OF APPELLANT TO MOTION OF DAVID C. SOJOURNER, JR.  
TO MOTION TO INTERVENE IN APPEAL**

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David C. Sojourner, Jr. ("Sojourner") asserts that both he and Russell L.  
Bauknight ("Bauknight") are necessary parties to this appeal. He does so after sharing  
in legal fees expended by Bauknight at the rate of \$3 Million per year from funds  
entertainer James Brown gave to his "I Feel Good" Foundation for scholarships for

needy students.<sup>1</sup>

Sojourner's appointments were improper. He has damaged the "I Feel Good" Trust's 890 copyrights and abandoned Brown's noble estate plan. He has ignored the mandate of *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). He has violated the Due Process and statutory rights of Appellant ("Pope"), Robert Buchanan, Jr. ("Buchanan"), and heirs and devisees who support the "I Feel Good" Trust.

Sojourner's motion to intervene should be denied.

### **General Objections to Sojourner Motion to Intervene**

Appellant refutes all claims in the Sojourner motion not addressed herein. She notes that Respondents Tommie Rae Hynie ("Tommie Rae"), Terry Brown ("Terry"), Forlando Brown ("Forlando"), James B., David Cannon and Albert Dallas have not filed briefs herein, and are bound by her statement of the case, which she incorporates.

Under Rule 201 SCRE Pope asks that the Court take judicial notice of filings in Case 4900;<sup>2</sup> FOIA #1;<sup>3</sup> FOIA # 2;<sup>4</sup> the Forlando Suit; and Appellate Case Nos. 2013-

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<sup>1</sup> The \$3 million annual figure is based on 2 months of 2013 in which Bauknight paid Nexsen Pruet ("NP") \$125,000 per month and Sojourner's firm \$125,000 per month. Bauknight's counsel will not release attorneys' fees paid in 2014, but says it is under \$3 million.

<sup>2</sup> Richland County Case 2010-CP-40-4900 filed by the AG, others May 19, 2010.

<sup>3</sup> FOIA #1, Richland County Case No. 2012-CP-40- 350, Pope vs. AG Wilson and the Legacy Trust, commenced in Newberry Cty. Aug. 3, 2011. Pope seeks a copy of the Legacy Trust and amendments, and a copy of the \$4.7 Million "appraisal." Moved by the AG to Richland Cty. See Exhibit A, where in 2013 the AG's in-house counsel says he consents to a hearing, while the AG's Case 4900 counsel simultaneously seeks a stay of all hearings. [No hearing has been held in the two years since.]

<sup>4</sup> Pope FOIA #2 was commenced August 10, 2011 to obtain a copy of the public Wingate Litigation Agreement. It was consolidated with Case 4900. The Agreement, withheld by the AG, was made public Nov.15, 2013 in federal Case 3:08-cv-00014-WOB-JGB (the "Forlando Suit").

000794, 2013-2582 and 2014-000250. Finally, she incorporates herein her U.S. Supreme Court Petition for Certiorari filed February 17, 2015 as No.14-1031.

**Sojourner's Appointments Violate the *Wilson* Remand Directions.**

When they were replaced on May 26, 2009, Buchanan and Pope had filed in Aiken County their appointment of two successor PR/Trustees, former Warner music executive Ray Gonzales, Esq. and Ronald Stanley, Esq. When the AG's 2012 settlement brought many matters to a halt, Buchanan and Pope were working with the AG to appoint a third trustee he suggested. [Ltr. AG, 7/30/08].

Sojourner's appointment ignores the designations and the Advisory Board.

**Bauknight's Ltd. Special Trustee ("ST") Appointment Violated Due Process.**

The October 1 appointment of Sojourner as limited ST directly violates the *Wilson* remand and the Due Process rights of heirs, devisees, beneficiaries and others required by the SCPC to be served. A detailed chronology of the constitutional deficiencies of the October 1, 2013, Order is found at pages 4-5 of Appellant's Reply to Return of David C. Sojourner, Jr., dated January 30, 2014, filed in Appellate Case No. 2013-002582. Said reply is incorporated herein by reference.

**The *ex parte* Sojourner Limited SA Appointment Order should be Declared Void.**

While Sojourner's limited ST appointment lacked the basics of procedural Due Process, with no service and a "hearing" where no questions were allowed to be asked, the October 10 Order of the Honorable Sue H. Roe, Probate Judge, is even more troublesome.

Judge Roe dispensed with any hearing; appointed Sojourner limited SA on a

defective petition not served on anyone ; and her clerk hand-delivered the order to one of Bauknight's NP attorneys for service on all Interested Persons. The required service did not take place.

When Appellant found the order in the probate file, she moved to have it reconsidered and declared void. Judge Roe, *sua sponte*, filed an order transferring the motion to alter to Judge Early. No hearing has been held in more than a year.

What is significant is that Sojourner defends the *ex parte* order.

Even if Sojourner were properly defending the estate plan, the *ex parte* order would cast great doubt on his authority to act.

#### **Sojourner's Point of View is the Same as That of Bauknight.**

In the September 4, 2013 appointment "hearing" Bauknight, reminded Jg. Early that his position was the same as Sojourner's, and he would control the checkbook.

In a letter filed in Case 2013-002582 on January 31, 2014, Sojourner stated:

Ms. Pope has unsuccessfully attempted during the past several months to inject herself into the underlying case, 2008-CP-02-1647, by seeking the authorization to act *pro bono publico* on behalf of the Estate and Trust and some of the beneficiaries. In spite of Ms. Pope's efforts, the Circuit Court has not authorized Ms. Pope to act in this capacity...

As more fully explained by David Black in his letter...Ms. Pope's argument that the Interim Order continues an injunction mischaracterizes the Orders on appeal and is nonsensical.

Days before claiming to be a party to this appeal, Sojourner moved to strike Pope's motion to alter Jg. Early's order finding Tommie Rae to be Brown's spouse.

#### **Sojourner and Bauknight Have Placed the 1999 Will in Great Jeopardy.**

James Brown's own 1999 voice tape and his 1999 will make Brown's final 2000

estate plan to leave the bulk of his fortune to educate needy students ironclad. Brown's intention was further demonstrated by the admission on August 27, 2010, in Case 4900 by Tommie Rae and all other challengers to Brown's estate plan 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]

On May 8, 2013, the Estate/2000 Trust was poised to summarily dispense with the baseless challenges made between December 19 and 26, 2007. Almost two years later the "I Feel Good" Trust is in greater jeopardy that it was on that day. It is, in part, because Sojourner's has placed the 1999 will in jeopardy under the 10-year rule of the SCPC.

#### **Sojourner's Support for the \$4.7 Million Claimed Value of Brown's Assets.**

Sojourner is a tax lawyer. He knows the importance of understating or overstating assets on the estate tax return by \$79 million. He knows the importance of knowing the size of an estate you are charged with protecting. Yet Sojourner has never challenged Bauknight's claimed value of \$.5 Million for Brown's tangible personal property, or the claimed \$4.7 Million value and "appraisal" of Brown's worldwide music empire.

In a reply filed by AG Wilson with this Court in June 2011, the assault on Buchanan and Pope's correct \$84 Million value of the music empire continued. The AG and Bauknight said:

....Appellants challenge the reliability of the appraisal upon which the tax records were based, stating that it has not been "tested in any court."...

Appellants' myopic focus on asset valuation can only be explained,

then, by ... their nearly \$5 Million personal representative fee petition ( R pp. 2879 80).

### NO ONE EVER MADE AN OFFER

...To be clear, from the date of James Brown's death until Russell Bauknight was appointed PR/Trustee no one conducted due diligence to determine the value of the assets...

As of the date of James Brown's death, the intellectual property assets of his Estate were worth roughly \$4.7 Million....

### CONCLUSION

...Appellants' opposition to the supplement is simply an attempt to appear reasonable regarding their fee petition. The basis for their valuation argument has been shown to be groundless. The documents addressing the positive tax consequences from the Settlement Agreement and the date of death valuation should be considered by this Court. [Emphasis supplied]

Yet on May 19, 2010, AG McMaster had sued Buchanan and Pope in Case 4900 for the following claimed wrongdoing, as set out in paragraph 18 of the complaint:

- i. Failing to sell the assets of the estate and trust at a prudent time, for example, by failing to accept an offer to the estate and trust for \$100 million in November, 2007<sup>5</sup>.

In March 2015 the claimed \$4.7 Million "appraisal" remains hidden by Bauknight. It is under seal in the Forlando Suit, where it has been seen by Buchanan, Appellant and Forlando. Under oath, Forlando has called the appraisal "bogus."

AG Wilson refuses to produce either the appraisal or a single supporting document in FOIA #2. AG Wilson asserts that neither his office nor that of AG McMaster ever saw the "appraisal." Sojourner appears never to have even asked to

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<sup>5</sup> Challenges filed by Tommie Rae and Levenson, and AG McMaster's claim that they had not been properly appointed , prevented serious consideration of the 2007 offer at that time.

see it, even though Bauknight was required by the Probate Code to file it.

**Sojourner Failed to Seek Correction of IRS Records to Protect the Estate Plan.**

In 2007 Tommie Rae, claiming substantial knowledge of Brown's finances, asserted Brown's "book of music" alone was worth \$100 Million.

In November 2007 Respondent Dallas filed an I&A valuing the music empire at \$83 million, based on an offer by TJBL.

In 2007 neither the AG nor anyone else objected when Buchanan and Pope presented Jg. Early with a formula to valued Brown's copyrights and publicity rights.

On Sept. 25, 2008, the estate tax return valued the music empire at \$84 million.

The following month Pope was questioned extensively about the estate tax return by Bell, and Forlando's Powell Goldstein counsel, in a hearing in the Forlando Suit. Buchanan was also questioned. No objection was made to the \$84 million value.

In late 2010 and 2011, supported by the State's chief legal officer, Bauknight told the IRS and this Court that Brown's music empire was worth \$4.7 million when he died.

Bauknight told the IRS Tommie Rae was Brown's wife. He claimed a charitable deduction of only about \$2 million for what Brown gave to the "I Feel Good" Foundation.

On March 6, 2013, Pope and her Case 4900/ FOIA attorney Adam Silvernail, Esq., visited AG Wilson. Pope explained how the inaccurate statements to the IRS needed to be corrected. Pope suggested the correction could – and should – be done quietly by anyone other than Bauknight, as a followup to the first *Wilson* decision.

Sojourner, with knowledge that Tommie Rae was not Brown's spouse; the \$4.7 million is inaccurate and damages to the "I Feel Good" Foundation; and that Levenson

and Tommie Rae were seeking to reinstate the AG's settlement, has taken no action to correct either the \$79 million understatement or the incorrect claim she is the spouse.

**Sojourner Allows Afterman and Tommie Rae to Exercise Termination Rights.**

On November 1, 2011, Bauknight told this Court that copyrights termination rights were all this case is about.

On September 4, 2011, Bauknight described his relationship to Peter Afterman:

MR. BAUKNIGHT:

..I hired Peter shortly after taking this position. Mr. Afterman markets music for the Rolling Stones.... Peter has been instrumental in leading the charge marketing the intellectual property of the estate.

Afterman's Inaudible Productions website asserts he was hired by the State of South Carolina to manage James Brown's music.

On September 23, 2013, a copyright lawyer accused Afterman of assisting Tommie Rae and James B. in filing termination rights elections, the purpose of which is to take copyright royalties from the "I Feel Good" Trust (the "Tomirae Terminations").

Bauknight and Sojourner have done nothing either to report to the courts, or stop, the Tomirae Terminations.

**Sojourner is Partially Responsible for the Improper Hynie Spousal Order.**

Sojourner has taken steps to advance Tommie Rae's spousal claims, including:

1. Sojourner did not depose Tommie Rae, allowing her to evade any deposition for eight years.
2. Sojourner helped Bauknight suppress the so-called Hynie "diary."
3. Sojourner consented to summary judgment on stipulated "facts" which excluded material facts showing Tommie Rae was not Brown's spouse.

After Jg. Early declared Hynie to be Brown's spouse, Sojourner moved to strike Appellant's Motion to Alter, Amend or Vacate.

**Sojourner's Position is Identical to Bauknight's Position.**

Bauknight's and Sojourner's positions have been identical for almost a year and a half. Both are working to help Tommie Rae, Bell, and Levenson reinstate the AG's settlement. The settlement dismembers the "I Feel Good" Trust and hurts the copyrights. Both have attacked Pope for daring to try to save the "I Feel Good" Foundation and the copyrights.

**Sojourner's Motion to Intervene is Not Timely, and Is Intended to Delay.**

If Sojourner had wished to protect the Will and "I Feel Good" Trust, he would have asked to be a party in 2013, and respected the automatic stay.

**Allowing Sojourner to Intervene Would Prejudice Appellant.**

Under the standard of *Davis v. Jennings*, 304 S.C. 502, 504, 405 SC.2d 601, 603, intervention is inappropriate. It will cause extreme hardship to Appellant.

Appellant is still being sued by AG Wilson and Tommie Rae in Case 4900. Her FOIA rights have been denied since 2011. She is now working *pro bono publico*, but has not been paid for her PR/Trustee service before May 8, 2013.

Respondents Tommie Rae, Terry, Forlando and James B. have relied on Bauknight to use "I Feel Good" Trust funds to protect them, and himself, and to attack Pope. Sojourner should not be allowed to use additional James Brown funds to do the same.

**Sojourner's Motion is Made in Bad Faith.**

The record is clear that Sojourner seeks to intervene to damage Appellant and the "I Feel Good" Foundation, and benefit Tommie Rae, Bell and Levenson.

**Conclusion**

The motion of Sojourner to intervene should be denied. As requested earlier, the Attorney General should be added as a party because of his involvement in Case 4900 and 4-year FOIA noncompliance. The Court should proceed expeditiously with this matter. To avoid further harm to Appellant, Buchanan and the "I Feel Good" Trust, Case 4900 and the FOIA matters should be concluded without delay.

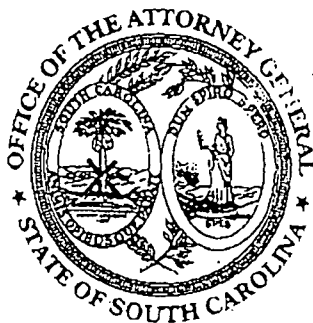
Respectfully submitted,



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March 11, 2015

# Exhibit A



ALAN WILSON  
ATTORNEY GENERAL

March 7, 2013

The Honorable L. Casey Manning  
Judge, Fifth Judicial Circuit  
P.O. Box 192  
Columbia, SC 29202

Re: Pope v. Wilson, Attorney General and Bauknight 2012-CP-40-350 (Pope FOIA I)  
Pope v. Wilson 2010-CP-40-4900 (Pope FOIA II consolidated with *Bauknight*)

Dear Judge Manning:

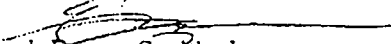
I am hopeful that these cases can be resolved as a result of the hearing set for March 18, 2013.

As you know the Attorney General, strongly supports the Freedom of Information Act as have his predecessors. Without waiving our existing jurisdictional and other defenses to this litigation including all motions, we believe that our Answer and attachments in the Pope I suit that I am filing by mail today and proposed Amended Answer and attachments in Pope II, respond to the FOIA's at issue. These filings in Pope I make clear that we have no documents that could be considered responsive to that FOIA except for a draft of the Legacy Trust attached to our Answer herein. These filings in Pope II provide all the documents that we have that could be considered responsive to that FOIA except for a three page private part of the alleged attorneys fee contract which we have no objection to disclosing if your Honor rules that it may be released. We respectfully request a ruling from the Court regarding the production of this document in the main action in case 4900. We will be prepared to submit this document to the Court and Plaintiff at the hearing on the 18th if the Court rules that it may be produced.

A number of motions are scheduled for the hearing and two new ones are designed to get the above responses before the Court. Although we do not waive these motions, we believe that they may be heard in a relatively summary manner because we have responded to the FOIAs at issue. I am enclosing copies of the additional filings for your reference and an updated motions list reflecting the two additional motions which has not been reviewed by Plaintiff's counsel.

Thank you for your consideration of these matters. If you have questions, please let me know.

Respectfully submitted,

  
J. Emory Smith, Jr.

Assistant Deputy Attorney General

cc: Adam T. Silvermail, Esquire  
Keith M. Babcock, Esquire  
Ariail E. King, Esquire  
J. Calhoun Watson, Esquire  
The Honorable Jeanette W. McBride

Daryl L. Williams, Esquire  
Robin A. Braithwaite, Esquire  
Kenneth B. Wingate, Esquire  
Mark V. Gende, Esquire

STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM AIKEN COUNTY  
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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.....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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PROOF OF SERVICE

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I certify that on the 11<sup>th</sup> day of March, 2015, I have served the RETURN OF APPELLANT TO MOTION OF DAVID C. SOJOURNER, JR. TO INTERVENE IN APPEAL 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**

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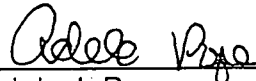
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S.C. Bar No. 4501

*Pro Se*

March 11, 2015