

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONYA BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: James Brown 2000 Irrevocable Trust
dated August 1, 2000

CASE NO: 2009-CP02-01810

ORDER IN RE:
APPOINTMENT OF SPECIAL TRUSTEE

5.16.13
Liz Godard
C.C.P. & G.S.
Arita Knoepfle 925
Deputy Clerk

This matter came before me on emergency petition of Petitioner, Russell L. Bauknight, in his capacity as Special Trustee of the James Brown 2000 Irrevocable Trust dated August 1, 2000 (the "Trust"), by and through his counsel, whereby he requested pursuant to applicable South Carolina law, including but not limited to certain provisions of the South Carolina Trust Code, S.C. Code Ann. § 62-7-704 and South Carolina Probate Code S.C. Code Ann. § 62-3-614, that the Court immediately, and without hearing, or as soon as possible and before any other matter, address its Order dated August 3, 2009 appointing Russell Bauknight as Special Trustee in light of the Order of the South Carolina Supreme Court issued on May 8, 2013. After full consideration and after determination that emergency exists, the Court finds as follows:

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina, do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 20 day of September 2013.
Liz Godard
C.C.P. & G.S., Aiken County, S.C.
Deputy Clerk

1. By order of the South Carolina Supreme Court dated May 8, 2013, Bauknight's appointment as Trustee was held to be void. By its terms, this Court's Order dated August 3, 2009 appointing Bauknight as Special Trustee is valid until such time as the appeals of various orders related to the removal of former Trustees and the appointment of Bauknight as Trustee have been finally concluded.

2. In order to avoid irreparable harm to the Trust, and to adequately protect, preserve, and manage the Trust assets, and to secure the Trust's proper ongoing administration, it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business and affairs of the Trust. As an example, James Brown's residence and real estate are titled in the name of the Trust. The residence and surrounding real estate require constant maintenance, supervision and security. Currently there is ongoing construction and other work at the residence and those projects require constant and continuing supervision and maintenance by the Trustee. A work crew is in the middle of replacing the HVAC system and repairing duct work and is scheduled to be at the residence next week. The residence also houses and protects a portion of the remaining furnishings and iconic household property of James Brown, which property requires continuing oversight and protection through onsite personnel and ongoing security is necessary. In addition, the Trustee has agreed to store and safeguard at the residence and care for certain other iconic personal property of James Brown. This personal property also requires ongoing attention, supervision and security by the Trustee and its agents. Any interruption of the Trustee's authority to continue these arrangements would result in irreparable harm to the Trust.

3. Mr. Bauknight entered into an agreement with a joint venture of Imagine

Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Pictures (owned by Mick Jagger) granting an option to produce a movie on the life of James Brown. The Estate stands to lose millions of dollars in the future if the movie option is not exercised. The Trust as remainder beneficiary of the Estate is a required party to the agreement. The producers have expressed concern (in light of the continuing litigation) over whether they will exercise the option and continue to move forward with the movie. The revised Order of the Supreme Court declaring Mr. Bauknight's appointment as Trustee to be void creates even more uncertainty over whether the producers will exercise the option.

4. This Court's Order is necessary in order to adequately protect, preserve, and manage the Trust's assets, and serves the Trust's proper administration.

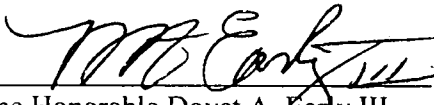
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED

1. This Order confirms this Court's Order dated August 3, 2009 and grants continuing and ongoing authority of Russell L. Bauknight as Special Trustee, pending further order of this Court, with the full, exclusive and absolute authority to carry out the administration of the Trust, and all business related thereto, including but not limited to authority to execute, confirm and/or ratify any prior actions taken on behalf of the Trust by a fiduciary. This authority includes, but is not limited to authority to execute, confirm and/or ratify any and all documents necessary to complete the agreement to produce and finalize the movie on the life of James Brown.

DAE
#3

2. No bond is required to be posted in connection with this Order.

AND IT IS SO ORDERED.


The Honorable Doyet A. Early III

Aiken, South Carolina
May 26 2013

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONYA BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: James Brown 2000 Irrevocable Trust
dated August 1, 2000

CASE NO: 2009-CP02-01810

**MEMORANDUM RE:
AUTHORITY FOR EMERGENCY
APPOINTMENT OF SPECIAL TRUSTEE**

5.16.13
Liz Hadland
C.C.P. & G.S.
Anita Knoepfle 9th at
Deputy Clerk

Pursuant to the fiduciary duties that Mr. Bauknight owes as Trustee of the James Brown 2000 Irrevocable Trust ("the Trust"), he respectfully submits the following memorandum setting forth the authority for this Court to confirm its prior Order dated August 3, 2009 and grant continuing and ongoing authority of Russell L. Bauknight as Special Trustee, pending further order of this Court, with the full, exclusive and absolute authority to carry out the administration of the Trust. The emergency need for this order flows from the potential gap in authority over Trust administration that will likely occur following the Supreme Court's May 8, 2013 Opinion. Furthermore, as detailed below, the potential gap in authority has begun to create instability over whether a movie deal regarding the life of James Brown will be produced.

DISCUSSION

The South Carolina Trust Code § 62-7-704 authorizes the Court to appoint a special fiduciary or trustee. The basis for this authority is as follows:

S.C. Code Ann. § 62-7-704(e):

This provision of the Trust Code provides that:

(e) Whether or not a vacancy in trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust. The procedure for such appointment and the notice requirement shall be the same as set forth for special administrators under South Carolina Code Section 62-3-614.

S.C. Code Ann. § 62-7-704(e) (emphasis added). This section specifically provides this Court with the authority to appoint a special fiduciary—that is, a Special Trustee—for a trust if the court considers the appointment necessary for the administration of the trust. Implicit in the authority to appoint a special fiduciary for a trust is the authority to confirm and clarify that appointment.

As detailed in the Application regarding Appointment of Special Trustee, this Court's order is necessary because it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business and affairs of the Trust.

The South Carolina Trust Code, section 62-7-704(e), provides that the procedure for the appointment of a special fiduciary “shall be the same as set forth for special administrators under South Carolina Code Section 62-3-614.”

S.C. Code Ann. § 62-3-614:

Section 62-3-614(2) provides that, “[i]f it appears to the court that an emergency

exists, appointment may be ordered without notice.”¹ As detailed in the Application regarding Appointment of Special Trustee an emergency presently exists in the following respects:

1. By order of the South Carolina Supreme Court dated May 8, 2013, Bauknight’s appointment as Trustee was held to be void. By its terms, this Court’s Order dated August 3, 2009 appointing Bauknight as Special Trustee is valid until such time as the appeals of various orders related to the removal of former Trustees and the appointment of Bauknight as Trustee have been finally concluded.

2. In order to avoid irreparable harm to the Trust, and to adequately protect, preserve, and manage the Trust assets, and to secure the Trust’s proper ongoing administration, it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business and affairs of the Trust. James Brown’s residence and real estate are titled in the name of the Trust. The residence and surrounding real estate require constant maintenance, supervision and security. Currently there is ongoing construction and other work at the residence and those projects require constant and continuing supervision and maintenance by the Trustee. A work crew is in the middle of replacing the HVAC system and repairing duct work and is scheduled to be at the residence next week. The residence also houses and protects a portion of the remaining furnishings and iconic household property of James Brown, which property requires continuing oversight and protection through onsite personnel and ongoing security is necessary. In addition, the Trustee has agreed to store and safeguard at the residence and care for certain other iconic personal property of James Brown. This personal property also requires ongoing attention, supervision and security by the Trustee and its agents. Any interruption of the Trustee’s authority to continue these arrangements could result in irreparable harm to the Trust.

3. Mr. Bauknight entered into an agreement with a joint venture of Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Pictures (owned by Mick Jagger) granting an option to produce a movie on the life of James Brown. The Estate of James Brown (the “Estate”) received an initial payment of \$50,000 for this agreement. If the producers exercise their option under the agreement, the Estate will receive an additional \$950,000 payment. The Estate stands to lose millions of dollars in the future if the movie option is not exercised. The Trust is a required party to this agreement as a remainder beneficiary of

¹ S.C. Code Ann. § 62-3-614(1) also allows appointment of a special administrator without notice.

the Estate. The producers have expressed concern (in light of the continuing litigation) over whether they will exercise the option and continue to move forward with the movie. The revised Order of the Supreme Court declaring Mr. Bauknight's appointment as Trustee to be void creates even more uncertainty over whether the producers will exercise the option.

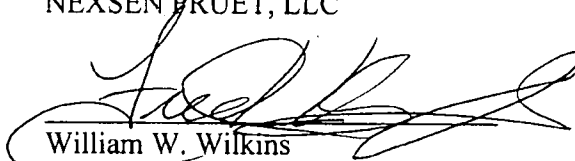
An emergency exists regarding the Trust and the authority outlined above is consistent with this Court's prior appointment of a special trustee pursuant to its order dated August 3, 2009. The emergency need for this order flows from the potential gap in authority over Trust administration that will likely occur following the Supreme Court's May 8, 2013 Opinion and the timing of authority granted in this Court's August 3, 2009 order. Accordingly, pursuant to section 62-3-614 this Court has the authority to issue the requested order without notice.

CONCLUSION

Sections 62-7-704(e) and 62-3-614 provide this Court with the authority to issue the requested order based upon the circumstances detailed above. Accordingly, pursuant to the fiduciary duty Mr. Bauknight owes as Trustee of the James Brown Trust, he respectfully requests that this Honorable Court issue an order confirming its prior Order dated August 3, 2009 and granting the continuing and ongoing authority of Russell L. Bauknight as Special Trustee, pending further order of this Court, with the full, exclusive and absolute authority to carry out the administration of the Trust, and all business related thereto, including but not limited to authority to execute, confirm, and/or ratify any prior actions taken on behalf of the Trust by a fiduciary and to execute, confirm, and/or ratify any and all documents necessary to complete the agreement to produce and finalize the movie on the life of James Brown.

Respectfully submitted,

NEXSEN PRUET, LLC

A handwritten signature in black ink, appearing to read 'Fred L. Kingsmore, Jr.', written over a horizontal line.

William W. Wilkins

J. David Black

Fred L. Kingsmore, Jr.

Nexsen Pruet, LLC

P. O. Drawer 2426

Columbia, South Carolina 29202

(803) 771-8900

Columbia, South Carolina

May 14, 2013

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONYA BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: James Brown 2000 Irrevocable Trust
dated August 1, 2000

CASE NO: 2009-CP02-01810

APPLICATION/PETITION IN RE:
APPOINTMENT OF SPECIAL TRUSTEE

5.16.13
Liz Gaddard
C.C.P. & G.S.
Anita Knoepfle 925
Deputy Clerk

Petitioner, Russell Bauknight, in his capacity as Special Trustee of the James Brown 2000 Irrevocable Trust dated August 1, 2000 (the "Trust"), by and through his undersigned counsel, hereby requests pursuant to applicable South Carolina law, including but not limited to, certain provisions of the South Carolina Trust Code, that the Court immediately, and without hearing, or as soon as possible and before any other matter, address its Order dated August 3, 2009 appointing Russell Bauknight as Special Trustee in light of the Order of the South Carolina Supreme Court issued on May 8, 2013, for the following reasons

1. By order of the South Carolina Supreme Court dated May 8, 2013, Bauknight's appointment as Trustee was held to be void. By its terms, this Court's Order dated August 3, 2009 appointing Bauknight as Special Trustee is valid until such time as the appeals of various orders related to the removal of former Trustees and the appointment of Bauknight as Trustee have been finally concluded.

2. In order to avoid irreparable harm to the Trust, and to adequately protect, preserve, and manage the Trust assets, and to secure the Trust's proper ongoing administration, it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business and affairs of the Trust. James Brown's residence and real estate are titled in the name of the Trust. The residence and surrounding real estate require constant maintenance, supervision and security. Currently there is ongoing construction and other work at the residence and those projects require constant and continuing supervision and maintenance by the Trustee. A work crew is in the middle of replacing the HVAC system and repairing duct work and is scheduled to be at the residence next week. The residence also houses and protects a portion of the remaining furnishings and iconic household property of James Brown, which property requires continuing oversight and protection through onsite personnel and ongoing security is necessary. In addition, the Trustee has agreed to store and safeguard at the residence and care for certain other iconic personal property of James Brown. This personal property also requires ongoing attention, supervision and security by the Trustee and its agents. Any interruption of the Trustee's authority to continue these arrangements would result in irreparable harm to the Trust.

3. Mr. Bauknight entered into an agreement with a joint venture of Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Pictures (owned by Mick Jagger) granting an option to produce a movie on the life of James Brown. The Estate of James Brown (the "Estate") received an initial payment of \$50,000 for this agreement. If the producers exercise their option under the agreement, the Estate will receive an additional \$950,000 payment. The Estate stands to lose millions of dollars in the future if the movie option is not exercised. The Trust is a required party to this agreement as a remainder beneficiary of the Estate. The producers have expressed concern (in light of the continuing litigation) over whether they will exercise the option and continue to move forward with the movie. The revised Order of the Supreme Court declaring Mr. Bauknight's appointment as Trustee to be void creates even more uncertainty over whether the producers will exercise the option.

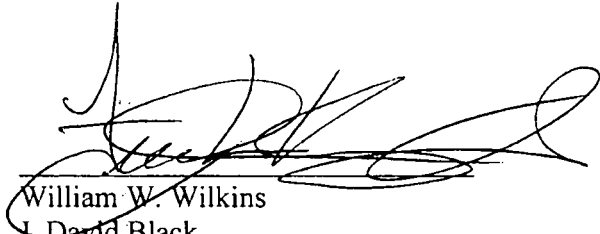
CONCLUSION

WHEREFORE, Petitioner prays that this Honorable Court, without hearing, issue its order:

1. Confirming this Court's Order dated August 3, 2009 and granting the continuing and ongoing authority of Russell L. Bauknight as Special Trustee, pending further order of the Court, with the full, exclusive and absolute authority to carry out the administration of the Trust, and all business related thereto, including but not limited to authority to execute, confirm and/or ratify any prior actions taken on behalf of the Trust by a fiduciary. The authority includes but is not limited to authority to execute, confirm and/or ratify any and all documents necessary to complete the agreement to produce and finalize the movie on the life of James Brown;

2. For such other relief as this Court deems necessary and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William W. Wilkins", is written over a horizontal line.

William W. Wilkins
J. David Black
Fred L. Kingsmore, Jr.
Nexsen Pruet, LLC
P. O. Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900

Columbia, South Carolina

May 14th, 2013

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2009CP0201810**

Henry Dargan McMaster	<table style="width:100%;"> <tr> <td style="width:50%;">James Brown</td> <td style="width:50%;">Adele J Pope</td> </tr> <tr> <td>Robert L Buchanan Jr</td> <td>Russell L Special Referee Bauknight</td> </tr> </table>	James Brown	Adele J Pope	Robert L Buchanan Jr	Russell L Special Referee Bauknight
James Brown	Adele J Pope				
Robert L Buchanan Jr	Russell L Special Referee Bauknight				
PLAINTIFF(S)	DEFENDANT(S)				

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

5/16/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 5-16-13, and a copy mailed first class or placed in the appropriate attorney's box on 5-16-13; to attorneys of record or to parties (when appearing pro se) as follows:

Clyde H. Jones Jr. PO Box 1549 Columbia, SC 29211

William W. Wilkins PO Drawer 10648 Greenville, SC 296030648

J. David Black PO Drawer 2426 Columbia, SC 292022426

Fred Lewis Kingsmore Jr. PO Drawer 2426 Columbia, SC 292022426

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Clerk

Liz Godard - Clerk of Court

Court Reporter

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 Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

6/13/2013

Date

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
For Clerk of Court Office Use Only
I, the 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 20 day of June, 2013
C.C.P. & G.S., Aiken County, S.C.
Deputy Clerk

6.13.13
Liz Hodard
C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

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 Ldkmopp

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.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

2008 CP02 01647

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONYA BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: Estate of James Brown

CASE NO: 2007-ES02-0056

ORDER IN RE:
APPOINTMENT OF SPECIAL
ADMINISTRATOR

cert/copy

FILED

6.13 2013

Liz Godard
C.C.P. & G.S.

Anita Knoepfle 1220
Deputy Clerk

On May 28, 2013 Remittitur issued and was filed in the Circuit Court in Alan Wilson v. Albert Dallas, 2008-CP-02-0647. The Circuit Court held a Status Conference regarding the James Brown Estate and Trust matters On May 29, 2013.

This matter originally came before the Court on emergency petition of Petitioner, Russell Bauknight, in his capacity as Special Administrator of the Estate of James Brown (the "Estate"); by and through his counsel, whereby he requested pursuant to applicable South Carolina law, including but not limited to, Sections 62-3-614 and 62-3-617 of the South Carolina Probate Code, that the Court immediately, and without hearing, or as soon as possible and before any other matter, address its Order dated August 6, 2009 appointing Russell Bauknight as Special Administrator in light of the Order of the South

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of *February* 2013

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

Shannon Grooms
Deputy Clerk

#1
of 4 pages
SHP

Carolina Supreme Court issued on May 8, 2013. After full consideration and after determination that emergency existed pursuant to S.C. Code §62-3-614, the Court issued its order dated May 9, 2013. In light of the Remittitur, the Court finds as follows:

1. By order of the South Carolina Supreme Court dated May 8, 2013, Bauknight's appointment as Personal Representative was held to be void. By its terms, this Court's Order dated August 6, 2009 appointing Bauknight as Special Administrator is valid until such time as the appeals of various orders related to the removal of former Personal Representatives and the appointment of Bauknight as Personal Representative have been finally concluded. This Court's Order dated May 9, 2013 was issued prior to issuance of Remittitur in the appeal. Remittitur issued and was filed in the Circuit Court on May 28, 2013.

2. The Estate and Trust of James Brown may suffer irreparable harm, and in order to adequately protect, preserve, and manage the Estate assets, and to secure the Estate's proper ongoing administration, it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business of the Estate. As an example of the daily management responsibilities of the Estate, Mr. Bauknight receives on average eight to ten "music clearances" a week. If there is even a question in the marketplace that Mr. Bauknight might not have authority to act on behalf of the Estate, the Estate will suffer irreparable and substantial financial harm.

3. Mr. Bauknight entered into an agreement with a joint venture of Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Pictures (owned by Mick Jagger) granting an option to produce a movie on the life of James Brown. The Estate stands to lose millions of dollars in the future if the movie option is not exercised.

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of 4 pages
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The producers have expressed continuing concern (in light of the continuing litigation and the filing of Remittitur) over whether they will exercise the option and continue to move forward with the movie. The revised Order of the Supreme Court declaring Mr. Bauknight's appointment as Personal Representative to be void creates even more uncertainty over whether the producers will exercise the option.

4. This Court's Order is necessary in order to adequately protect, preserve, and manage the Estate's assets, and serves the Estate's proper administration.

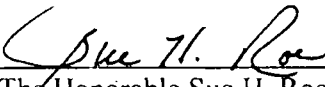
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. This Order confirms this Court's Orders dated August 6, 2009 and May 9, 2013 and grants continuing and ongoing authority of Russell L. Bauknight as Special Administrator, pending further order of the Court, with full, exclusive and absolute authority to carry out the administration of the Estate, and all business related thereto, including but not limited to authority to execute, confirm and/or ratify any prior actions taken on behalf of the Estate by a fiduciary. This authority includes, but is not limited to authority to execute, confirm and/or ratify any and all documents necessary to complete the agreement to produce and finalize the movie on the life of James Brown and to continue licensing the use of the music and other intellectual property of James Brown.

2. No bond is required to be posted in connection with this Order.

3 of 4 pages
SAR

AND IT IS SO ORDERED.

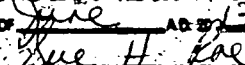

The Honorable Sue H. Roe
Aiken County Probate Judge
Post Office Box 1576
Aiken, South Carolina 29802-1576

Aiken, South Carolina

June 13, 2013

**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 THE

13th DAY OF June AD 2013

JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.

CLERK

6-13-13
FILED
Liz Godard
C.C.P. & G.S.
1730
Anita K. Joseph
Deputy Clerk
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

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] fiduciary 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.

MRE
#1

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of February 2015

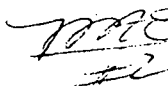
C.C.P. & G. S., Aiken County, S.C.

Deputy Clerk
Shannon Gowers

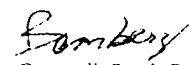
The Supreme Court referenced specific actions that it relied on in holding that Ms. Pope's service as a fiduciary was not in the best interest of the estate. The opinion specifically mentioned the \$5 million dollars in fees she sought as fiduciary for a relatively short interval of time, paying her 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.

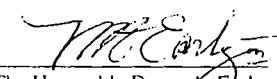
This Court is aware that Ms. Pope has filed a separate fee petition for Personal Representative and Trustee commissions. If Ms. Pope's fee petition is litigated, then pursuant to past practices, the Probate Court is hereby directed to assign the case to the Circuit Court, and the Clerk of Court is hereby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



AND IT IS SO ORDERED.


~~Barnwell~~, South Carolina

June 13, 2013


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

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 Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

6/13/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 13th day of June, 2013, and a copy mailed first class or placed in the appropriate attorney's box on 13th day of June, 2013, 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

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Sharon G. GAO

Court Reporter

Liz Godard - Clerk of Court

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

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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2007CP0200122

Deanna Brown Thomas Larry Brown	Terry Brown Daryl J. Brown	Albert H Dallas Tommie Rae Hynie- Brown	David G Cannon Russell L Bauknight
Lindsey Delores Brown Venisha Brown Sydney Lumar	Janise Vanisha Brown Yamma N. brown Lumar		

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

6/13/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on 13th day of June, 2013, and a copy mailed first class or placed in the appropriate attorney's box on 13th day of June, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Louis Levenson 125 Broad St., SW, Atlanta, GA 30303
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201
Daryl L. Williams PO Box 7425 Columbia, SC 29202

Robert N. Rosen 18 Broad St. Ste. 201 Charleston, SC 29401
J. David Black PO Drawer 2426 Columbia, SC 292022426
William W. Wilkins PO Drawer 10648 Greenville, SC
296030648
Max Nathan Pickelsimer PO Box 2628 Columbia, SC
29202
William George Newsome III PO Drawer 2426 Columbia,
SC 292022426
Eugene C. Covington Jr. PO Box 2343 Greenville, SC
29602

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Shannon Fox etc

Court Reporter

Liz Godard - Clerk of Court

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

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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0200872

Daryl J. Brown	Lindsey Delores Brown	Tommie Rae Brown	James Joseph Brown II
Janise Vanisha Brown	Vanisha Brown	Cinnamon Nicole Paris	Larhonda Pettit
Larry Brown	Deanna J. brow Thomas	Jeantte Mitchell	Terry Brown
Jason Brown Lewis	Yanma N. Brown	Romunzo Brown	Forlando Brown
Sydney Lumar		Henry Dargan McMaster	

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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6/13/2013

Circuit Court Judge

Judge Code

Date

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296030648

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Shannon Grubis

Court Reporter

Liz Godard - Clerk of Court

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

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

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

6.13 13
Liz Godard
C.C.P. & G.S.
Anita Knoepfle 30
Deputy Clerk

ADMINISTRATIVE ORDER

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

cert/copy

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

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this
20 day of February 2015
Liz Godard
C.C.P. & G. S., Aiken County, S.C.
Shannon Gowers
Deputy Clerk

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

A handwritten signature in black ink, appearing to be "MCE" with a flourish underneath.

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

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

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

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

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

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



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

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

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

Other Matters concerning Case 122:

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

A. Adele Pope (former fiduciary, pro se)



B. Robert Buchanan (former fiduciary, pro se)

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

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

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

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

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

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

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

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

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

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

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



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

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

A. Adele Pope (former fiduciary, pro se)

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

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

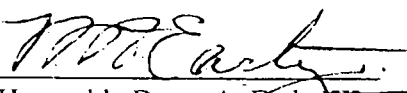
A. Adele Pope (former fiduciary, pro se)

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

16. Other Administrative Issues:

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

AND IT IS SO ORDERED.


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

Barnwell, South Carolina
June 13, 2013

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan McMaster

Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney LumarLindsey Delores Brown
Vanisha Brown
Deanna J. brow Thomas
Yamma N Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

6/13/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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:

Probate

Louis Levenson 125 Broad St., SW Atlanta, GA 30303

Matthew Day Bodman 1500 Calhoun St. Columbia, SC 29201

Daryl L. Williams PO Box 7425 Columbia, SC 29202

James M. Griffin PO Box 11208, Columbia SC 29211

Robert N. Rosen 18 Broad St. Ste. 201 Charleston, SC 29401

J. David Black PO Drawer 2426 Columbia, SC 292022426

William W. Wilkins PO Drawer 10648 Greenville, SC 296030648

Max Nathan Pickelsimer PO Box 2628 Columbia, SC 29202

William George Newsome III PO Drawer 2426 Columbia, SC 292022426

Eugene C. Covington Jr. PO Box 2343 Greenville, SC 29602

Adele Pope, Robert Buchanan, James Bailey, James B Richardson, Alfred A Bradley, CA Reid Sr Memorial Funeral Home, Grenberg Taurig, Rita Udom, Peter John Nosal

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard - Clerk of Court

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

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

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:

William H. Latham, PO Box 11070, Columbia SC 29211
J. Kendall Few 95 Stillhouse Ridge Greer, SC 29650
James R. Gilreath PO Box 2147 Greenville, SC 29602
Leland Malchow - PO Box 460, Augusta 30903

ATTORNEY(S) FOR THE PLAINTIFF(S)

Oshun C. Hinton, 235 E. Main St. Still, SC 29730
Stephen G. Morrison PO Box 11070 Columbia, SC 29211
David G Cannon P O Box 865 Barnwell, SC 29812
Eugene C. Covington Jr. PO Box 2343 Greenville, SC 29602
Adele Pope, Robert Buchanan, Phillip G Farr, Keith Emge,
Morgan Stanley, Max Pickelsimer, Arthur J Davidson, Audra
Byrd *Jacqueline Hollander, Wayne Byrd*

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

HENRY DARGAN McMASTER, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONYA BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: James Brown 2000 Irrevocable Trust
dated August 1, 2000

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

IN THE COURT OF COMMON PLEAS 2015

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

Deputy Clerk

CASE NO: 2009-CP02-01810

ORDER IN RE:
APPOINTMENT OF SPECIAL TRUSTEE

FILED 6-13-13
Liz Godard
CCC.P. & G.S.
Arita Knoepfle 11/30
Deputy Clerk

On May 28, 2013 Remittitur issued and was filed in the circuit court in Alan Wilson v. Albert Dallas, 2008-CP-02-01647. This Court held a Status Conference regarding the James Brown Estate and Trust matters on May 29, 2013.

This matter originally came before me on emergency petition of Petitioner, Russell L. Bauknight, in his capacity as Special Trustee of the James Brown 2000 Irrevocable Trust dated August 1, 2000 (the "Trust"), by and through his counsel, whereby he requested pursuant to applicable South Carolina law, including but not limited to certain provisions of the South Carolina Trust Code, S.C. Code Ann. § 62-7-704 and South Carolina Probate Code S.C. Code Ann. § 62-3-614, that the Court immediately, and without hearing, or as soon as possible and before any other matter,

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address its Order dated August 3, 2009 appointing Russell Bauknight as Special Trustee in light of the Order of the South Carolina Supreme Court issued on May 8, 2013. After full consideration and after determination that emergency existed, the Court issued its order dated May 16, 2013. In light of the Remittitur, the Court finds as follows:

1. By order of the South Carolina Supreme Court dated May 8, 2013, Bauknight's appointment as Trustee was held to be void. By its terms, this Court's Order dated August 3, 2009 appointing Bauknight as Special Trustee is valid until such time as the appeals of various orders related to the removal of former Trustees and the appointment of Bauknight as Trustee have been finally concluded. This Court's Order dated May 16, 2013 was issued prior to issuance of Remittitur in the appeal. Remittitur issued and was filed in the circuit court on May 28, 2013.

2. In order to avoid irreparable harm to the Trust, and to adequately protect, preserve, and manage the Trust assets, and to secure the Trust's proper ongoing administration, it is imperative that there not be any gap in time where no fiduciary is appointed to manage the business and affairs of the Trust. As an example, James Brown's residence and real estate are titled in the name of the Trust. The residence and surrounding real estate require constant maintenance, supervision and security. Currently there is ongoing construction and other work at the residence and those projects require constant and continuing supervision and maintenance by the Trustee. The residence also houses and protects a portion of the remaining furnishings and iconic household property of James Brown, which property requires continuing oversight and protection through onsite personnel and ongoing security is necessary. In addition, the Trustee has agreed to store and safeguard at the residence and care for certain other iconic personal property of

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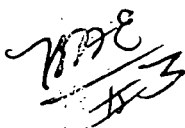
James Brown. This personal property also requires ongoing attention, supervision and security by the Trustee and its agents. Any interruption of the Trustee's authority to continue these arrangements would result in irreparable harm to the Trust.

3. Mr. Bauknight entered into an agreement with a joint venture of Imagine Entertainment (owned by Ron Howard and Brian Grazer) and Jagged Pictures (owned by Mick Jagger) granting an option to produce a movie on the life of James Brown. The Estate stands to lose millions of dollars in the future if the movie option is not exercised. The Trust as remainder beneficiary of the Estate is a required party to the agreement. The producers have expressed continuing concern (in light of the continuing litigation and the filing of Remittitur) over whether they will exercise the option and continue to move forward with the movie. The revised Order of the Supreme Court declaring Mr. Bauknight's appointment as Trustee to be void creates even more uncertainty over whether the producers will exercise the option.

4. This Court's Order is necessary in order to adequately protect, preserve, and manage the Trust's assets, and serves the Trust's proper administration.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED

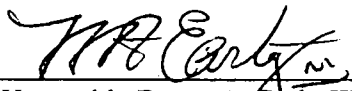
1. This Order confirms this Court's Orders dated August 3, 2009 and May 16, 2013 and grants continuing and ongoing authority of Russell L. Bauknight as Special Trustee, pending further order of this Court, with the full, exclusive and absolute authority to carry out the administration of the Trust, and all business related thereto, including but not limited to authority to execute, confirm and/or ratify any prior actions taken on behalf of the Trust by a fiduciary. This authority includes, but is not limited to

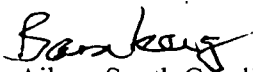


authority to execute, confirm and/or ratify any and all documents necessary to complete the agreement to produce and finalize the movie on the life of James Brown.

2. No bond is required to be posted in connection with this Order.

AND IT IS SO ORDERED.


The Honorable Doyet A. Early III


Aiken, South Carolina
June 13, 2013

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2009CP0201810**

Henry Dargan McMaster

James Brown

**Russell L Special
Referee Bauknight**

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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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.**

6/13/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

Probate

Clyde H. Jones Jr. PO Box 11549 Columbia, SC 29211

William W. Wilkins PO Drawer 10648 Greenville, SC
296030648

J. David Black PO Drawer 2426 Columbia, SC 292022426
Fred Lewis Kingsmore Jr. PO Drawer 2426 Columbia, SC
292022426

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by C. Skenepple

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

Russell L. Bauknight, as Special Administrator
of the Estate of James Brown, Deceased, and
as Special Trustee of the James Brown 2000
Irrevocable Trust,
and
James Brown Enterprises, Inc.,
Plaintiffs,

v.

David G. Cannon, Judge Alford A. Bradley,
Joel A. Katz, Greenberg Traurig, LLP,
Enterprise Bank of South Carolina, and Phillip
G. Farr, CPA,
Defendants.

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

C/A No.: 2008-CP-02-322

**ORDER GRANTING
PLAINTIFFS' MOTION
TO AMEND THEIR FIRST
AMENDED COMPLAINT**

8.8.13
FILED
Liz Gaddard
C.C.P. & G.S.
Anita Knoepfle 930
Deputy Clerk

This matter came before the court on Plaintiffs' Motion to Amend their First Amended Complaint. A hearing was held on July 2, 2013 in the Bamberg County Court of Common Pleas. Present at the hearing were James Gilreath and Kendall Few, attorneys for Plaintiffs and Stephen Morrison and Erin Stuckey attorneys for Joel Katz and Greenberg Traurig.

The Plaintiffs originally brought this action on February 5, 2008 and amended the complaint as of right on March 18, 2008 before responsive pleadings were filed. Pursuant to Rule 15 of the South Carolina Rules of Civil Procedure, the Plaintiffs now move to amend their First Amended Complaint to add James Brown, LLC as an additional Plaintiff; to further develop and add additional allegations against Defendants Greenberg Traurig, LLP ("Greenberg Traurig") and Joel A. Katz ("Katz") for their alleged negligent representation of James Brown, James Brown Enterprises, Inc. and James Brown, LLC; to delete Albert H. Dallas and Alfred Bradley and Enterprise Bank as Defendants in this civil action number. The claims against Defendant Dallas, having been severed by this Court, remain in civil action number 2010-CP-02 and General

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
in civil action number 2010-CP-02 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
20 day of February 2013
Liz Gaddard
C.C.P. & G.S., Aiken County, S.C.
Shannon Gower
Deputy Clerk

721. The proposed Second Amended Complaint was attached to Plaintiffs' Motion to Amend as Exhibit 1. The original and First Amended Complaint contained four causes of action, namely, breach of fiduciary duty, negligence, civil conspiracy and aiding and abetting along with a request for both actual and punitive damages. The proposed Second Amended Complaint retains the first three causes of action and damage claims while dropping the aiding and abetting count against Enterprise Bank. It does not seek any new causes of action nor does it add any new defendant parties.

The proposed Second Amended Complaint arises out of the same conduct, transactions, and occurrences of the claims set forth in the prior pleadings. Specifically, the additional factual allegations in sub-paragraphs (j) – (v) of paragraph 82 of the proposed amended complaint, relate to damages Plaintiffs claim they sustained from their inability to collect sampling royalties from the Universal Records settlement due to the alleged negligence of Defendants Greenberg Traurig and Katz. It also adds a corresponding sentence to paragraph 87(d) of the **DAMAGES** section pertaining to the same negligence of Greenberg Traurig and Katz. The only other material change involving the remaining parties is the addition of Defendant Katz as a named defendant in the caption immediately preceding paragraph 95 to the Third Cause of Action for civil conspiracy. The caption to the Third Cause of Action in the First Amended complaint included only defendants Cannon, Bradley, Dallas and Greenberg Traurig without naming Katz. However, paragraph 89, which was incorporated into the Third Cause of Action, specifically named Katz as liable for special damages on Plaintiffs' claim for civil conspiracy. The new caption to the Third Cause of Action simply corrects the typographical omission.

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All other changes derive from the deletion of defendants Bradley, Dallas and Enterprise Bank as parties and from references to James Brown, LLC as a named plaintiff (e.g., ¶¶ 3, 85(b) and 92).

South Carolina Rule of Civil Procedure 15(a) provides that "a party may amend his pleading only by leave of court or by written consent by the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party." In describing the liberal amendment policy for pleadings, the South Carolina Supreme Court has stated:

Rule 15, SCRCF, provides that leave to amend shall be freely given when justice requires and does not prejudice any other party. . . . It is well established that a motion to amend or supplement is addressed to the discretion of the trial judge and the party opposing the motion has the burden of establishing prejudice.

Tanner v. Florence Co. Treasurer, 336 S.C. 552, 558, 521 S.E.2d 153, 156 (1999)

(internal citations omitted).

"In the absence of a proper reason, such as bad faith, undue delay, or prejudice, a denial of leave to amend is an abuse of discretion." Forrester v. Smith & Steel Builders, Inc., 295 S.C. 504, 507, 369 S.E.2d 156, 158 (Ct. App. 1988) quoting, Keniston v. Roberts, 717 F.2d 1295 (9th Cir. 1983). Delay in seeking the amendment will not be a sufficient reason to deny it unless the amendment prejudices the defendant. Id.; see also James F. Flanagan, South Carolina Civil Procedure, 130 (3d ed. 2010). Prejudice to defeat a motion to amend the pleadings under Rule 15(a) means the lack of opportunity to prepare for the issue or the inability to introduce additional evidence. See, Stanley v. Kirkpatrick, 357 S.C. 169, 592 S.E.2d 296 (2004) (holding no prejudice existed when claim arises out of same facts as previously alleged); see also James F. Flanagan, South Carolina Civil Procedure at 130.

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The First Amended Complaint included allegations about the Pullman Group bond transaction (§ 30) and the Universal Records settlement (§§ 50-51). However, an audit of the Universal Records settlement was not completed by the Mr. Bauknight until after the First Amended Complaint was filed. Plaintiffs were thus unaware of the sampling issue from the Universal Records settlement until after the filing of the First Amended Complaint. The additional negligence allegations against Defendants Greenberg Traurig and Katz in paragraph 82 (j) – (v) stem directly from their roles in the Pullman Group bond transaction and the Universal Records settlement. These allegations in paragraph 82 arise out of the same facts as previously alleged but include material information subsequently learned from the audit and the documents later obtained from the files of Greenberg Traurig and Katz. Defendants Greenberg Traurig and Katz, therefore, are not prejudiced by the allegations in the proposed Second Amended Complaint.

The Defendants claim the Plaintiffs failed to meet the pleading requirements of S.C. Code § 15-36-100(b) which requires a plaintiff bringing a professional negligence action against a South Carolina licensed attorney to file an affidavit of an expert witness. The statute however applies only to actions against South Carolina licensed attorneys. Mr. Katz in his affidavit filed with this court in his Motion to Dismiss for Lack of Personal Jurisdiction stated, "I am licensed to practice law in Georgia and Tennessee . . . I am not licensed to practice law in South Carolina . . ." (See Katz Affidavit, dated May 19, 2008, §§ 7-8). This same argument was raised in this same case by another defendant, Phillip G. Farr, CPA, a Georgia-licensed CPA, and was rejected by this court in its order dated January 11, 2011 on the basis that Farr as an out of state professional not licensed in South Carolina could not avail himself of 15-36-100(b).

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The Defendants also raised in opposition to the proposed amended complaint the argument that the amendment is futile due to the alleged running of the statute of limitations on Plaintiffs' negligence claims against the Defendants. A recitation of the timeline is important in understanding the inapplicability of this argument.

- February 5, 2008 – Complaint filed along with discovery requests for documents.
- February 19, 2008 – Plaintiff s submitted discovery requests to Defendants.
- March 18, 2008 – Plaintiffs filed First Amended Complaint.
- June 3, 2010 – Plaintiffs filed Motion to Compel against Defendants requiring the Defendants as attorney for the Plaintiffs to produce a copy of their files.
- November 30, 2010 – This court issued an order on Motion to Compel requiring Defendants to comply with Plaintiffs' discovery requests for copies of Plaintiffs' files.
- December 9, 2010 through January 28, 2011 – Plaintiffs received approximately 55,907 pages of documents produced by Greenberg Traurig.
- October 10, 2011 – Plaintiffs filed Motion to Amend Plaintiffs' First Amended Complaint.

The Plaintiffs' original and first amended Complaint filed in 2008 specifically pled allegations regarding the Pullman bond financing transaction. While the Defendants complain that the prior pleadings referenced other defendants – namely Dallas, Cannon and Bradley – as involved in that transaction, the allegations in the earlier Complaint clearly raise the Pullman bond transaction as an issue in this case. As pointed out in Whitfield Const. Co. v. Bank of Tokyo, cited by the Defendants Greenberg and Katz in their memorandum, “the test to be used in determining whether or not an amendment should be allowed to relate back under Rule 15(c) to the date of the original pleading to avoid the statute of limitations is . . . whether the claim . . . asserted in the amended pleading arouse out of the conduct, transaction or occurrence set forth in

WBC
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the original pleading.” Whitfield Cons. Co. v. Bank of Tokyo Trust Co., 338 S.C. 207, 223 n. 19, 525 S.E.2d 888, 897 (Ct. App. 1999)(emphasis added).

The Plaintiffs’ sampling claim against the Defendants arose out of the transaction and occurrence set forth in the original complaint. As the court in Whitfield Const. Co. pointed out, the prior pleadings must place the opposing party on notice that the transaction or occurrence is at issue in the case. Plaintiffs’ prior pleadings clearly specify that the Pullman bond financial transaction was at issue. The Defendants therefore should have anticipated that discovery would be conducted regarding the Pullman bond financing and that the Defendants’ activities regarding the transaction would be examined and noticed by the Plaintiffs. Because the Pullman bond financing transaction was one of the transactions alleged to have been improperly handled, it is entirely predictable that the Plaintiffs would uncover during discovery the conduct which would support an allegation that Defendants’ mishandled the transaction. It is apparent the Defendants were aware that the Pullman bond financing and their role in it would be examined as evidenced by the Defendants’ refusal to produce discovery until compelled by this court to do so. Plaintiffs’ proposed Second Amended Complaint therefore relates back to the allegations in the prior pleadings which were filed well-within the statute of limitations.

At the hearing counsel for Plaintiffs argued that the Federal case of Hartley v. Dombrowski, 744 F. Supp.2d 328 (2010) was instructive in a situation such as the case at hand. In Hartley, the Court citing Wright & Miller, section 1497, stated “[w]hen a suit is filed ... defendant knows that the whole transaction described in it will be fully sifted, by amendment if need be, and that the form of the action or the relief prayed or the law relied on will not be confined to their first statement. Id. at 335.

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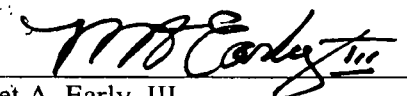
Paragraphs 82(l) – (o) describe various documents found in the Greenberg Traurig files that Plaintiffs claim led to the sampling claim in Plaintiffs' proposed Second Amended Complaint. Plaintiffs allege these documents show the mishandling of the sampling royalties because of the Defendants' desire to complete the Pullman bond refinancing and were discoverable only upon the document production produced in this case as part of the Pullman bond transaction.

Finally, Defendants complain that they would be prejudice by the amendment. The Defendants have shown no facts to support the manner in which they would be prejudiced other than to claim the lapse of time. See Stanley v. Kirkpatrick, 357 S.C. 169, 592 S.E.2d 296 (2004) (stating "[t]he burden is not on the movant, but on the party opposing the motion to show how it is prejudice."). Instead, Defendants improperly withheld production causing this court to issue an order to compel production after which the Plaintiffs filed their motion to amend within a reasonable time frame given the volume of documents produced. (*cf* Health Promotion Specialists, LLC v. S.C. Board of Dentistry, #2011-200626, : 2013 WL 2631075, at *4 (S.C. – June 12, 2013)(denying a motion to amend after nine (9) years from original complaint where a plaintiff sought to add allegations based on discovery yet to be conducted and adding an additional legal theory improper under the South Carolina Tort Claims Act)).

Therefore, for all the above reasons, it is hereby,

ORDERED that the Plaintiffs Motion to Amend its First Amended Complaint is granted.

Banking, South Carolina
This 7 day of August, 2013


Doyet A. Early, III
Presiding Circuit Court Judge

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0200322**

Russell L Bauknight

**David G Cannon
alfred A Bradley
GREENBERG
TRAURIG LLP**

**Albert H Dallas
Joel A Katz
ENTERPRISE BANK
OF SC**

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

8/8/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **3-8-13**, and a copy mailed first class or placed in the appropriate attorney's box on **8-8-13**, to attorneys of record or to parties (when appearing pro se) as follows:

J. Kendall Few 95 Stillhouse Ridge Greer, SC 29650
James R. Gilreath PO Box 2147 Greenville, SC 29602
David Black

Stephen G. Morrison PO Box 11070 Columbia, SC 29211
David G Cannon P O Box 865 Barnwell, SC 29812
Eugene C. Covington Jr. PO Box 2343 Greenville, SC
29602
Rodney Peebles

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W. K. Peebles

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

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

IN RE:

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

INTERIM ORDER

10.3.13
Liz Hedard
C.C.P. & G.
Anita Knoepfle 430
Deputy Clerk

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

BACKGROUND

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Hedard, 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

20 day of *February* 2013

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

Shannon
Deputy Clerk

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).

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.

NOTE
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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



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.

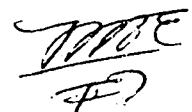
(t) Mr. Bauknight, through his professional contacts, retained other professionals necessary for administration on a deferred-pay or financially beneficial basis.

(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.

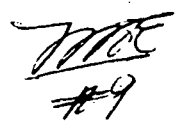
6. The Court is mindful of the ongoing litigation being pursued by Messrs. Kendall Few and Jim Gilreath on behalf of the Estate against former professionals that James Brown

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.

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.

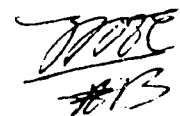
13. The tumultuous history of the Estate and Trust and the litigation surrounding the same, juxtaposed to the list of Mr. Bauknight's accomplishments detailed above, leaves this Court with the firm factual conclusion that it is in the best interests of the Estate and Trust for Mr. Bauknight to serve, 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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#14

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 Hynic 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.

JMB
#15

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

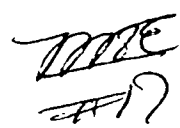
WCE
#16

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
#18

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

DAE
#19

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.

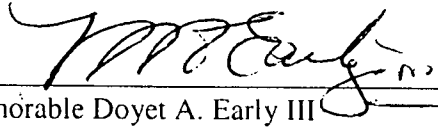
4. Mr. Bauknight's prior appointments as Special Trustee and Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the Court.

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

DAE
#2

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~~ 1, 2013.

Bamberg, South Carolina

EXHIBIT LIST

1. Mr. Russell L. Bauknight's Petition for Formal Appointment of Successor Personal Representative and Trustee
2. (a) Mr. David C. Sojourner, Jr.'s Petition for Formal Appointment as Limited Special Administrator

(b) Mr. David C. Sojourner, Jr.'s Petition for Formal Appointment as Limited Special Trustee
3. Letter of recommendation delivered on behalf of Judge Neal W. Dickert by Mr. David B. Bell on July 17, 2013
4. Letter from Mr. Scott Keniley filed on July 24, 2013
5. Letter from Dr. W.M. Grooms, CPA filed on July 24, 2013
6. E-mail from Rev. Larry Fryer delivered on August 12, 2013
7. September 4, 2013 Hearing Transcript
8. September 11, 2013 Hearing Transcript

EXHIBIT 1

FILED 10-3 2006 3
Liz Gader
C.C.P. & G.S.
Anita Knoepke 430
Deputy Clerk

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN RE:

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

IN THE CIRCUIT COURT

APPLICATION/PETITION FOR SUCCESSOR
PERSONAL REPRESENTATIVE AND TRUSTEE

CASE NUMBER: 2009-CP-02-1810
2007-ES-02-0056
2008-CP-02-1647



INFORMAL



FORMAL

The Applicant/Petitioner, Russell L. Bauknight, hereby files this application pursuant to the Aiken County Circuit Administrative Order dated June 13, 2013. The original application is adopted, except as hereinafter noted. Certain matters addressed in the original application are presently the subject of litigation in Aiken County and the litigation has not reached final resolution. In addition, pursuant to prior court orders, appointments have been made and changes have occurred in the office of Personal Representative and, pursuant to probate court proceedings, filings of the will and inventory and appraisements have now been made with the probate court.

The name and address of the most recent duly qualified and acting Personal Representative for this Estate and Trustee for this Trust is: Russell L. Bauknight, 1517 Gervais Street, Columbia, SC 29202.

The appointment of the above Personal Representative and Trustee was addressed in the Opinion of the South Carolina Supreme Court in *Wilson v. Dallas*, --- S.E.2d ---, 2013 WL 2005103 (2013), dated May 8, 2013, which opinion confirmed the removal of the prior fiduciaries for cause and held that Mr. Bauknight had leave to apply for the fiduciary positions.

The name and address of the proposed successor Personal Representative and successor Trustee is: Russell L. Bauknight, 1517 Gervais Street, Columbia, SC 29202.

It is anticipated the applicant's capacity as Personal Representative and Trustee, if so appointed, would be subject to authority granted in any order of this Court and/or the Aiken County Probate Court to an appointed Special Administrator and/or Special Trustee for designated specific and limited purposes to the extent provided in any such orders. Russell L. Bauknight's standing and priority for this appointment is based on the *Wilson v. Dallas* opinion and his status as a creditor of this Estate for proper fiduciary commissions and his status as the currently serving Special Administrator of the Estate of James Brown and Special Trustee of the James Brown 2000 Irrevocable Trust, as appointed to such capacities by Orders of this Court and the Aiken County Probate Court.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 26th
date of July, 2013.

Signature: [Signature]
Name: Russell L. Bauknight
Address: 1517 Gervais Street
Columbia, SC 29202

Notary Public for South Carolina
My commission Expires: 3-2-2014

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE:
TIME:
PLACE:

The petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this _____ day of _____, 2013.

Doyet A. Early III, Aiken County, Circuit Court Judge

ORDER OF APPOINTMENT

IT IS HEREBY ORDERED that the above application/petition for successor Personal Representative and successor Trustee be

☐ GRANTED ☐ DENIED

Executed this _____ day of _____, 2013.

Doyet A. Early III, Aiken County, Circuit Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this Estate and Trustee of the James Brown 2000 Revocable Trust.

Signature: _____
Name: Russell L. Bauknight
Address: 1517 Gervais Street
Columbia, SC 29201

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE CIRCUIT COURT

CASE NOS. 2008-CP02-1647
2009-CP02-1810
2007-ES02-0056

IN RE:

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

SUMMONS

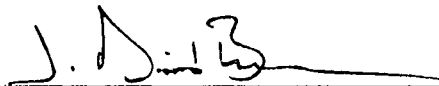
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JUL 29 2013 *250*

AIKEN COUNTY
CLERK OF COURT

TO: ALL NECESSARY PARTIES:

YOU ARE HEREBY SUMMONED and required to answer the Application/Petition for Successor Personal Representative and Trustee in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Application/Petition upon counsel listed below at Nexsen Pruet, LLC, P.O. Drawer 2426, Columbia, SC 29202, within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Petition within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Petition.


Fred L. Kingsmore, Jr.
William G. Newsome III
J. David Black
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202
803.771.8900

Columbia, South Carolina,

July 29, 2013.

Attorneys for Petitioner Russell L. Bauknight, in
his capacity as Special Administrator of the Estate
of James Brown and Trustee of the James Brown
2000 Irrevocable Trust dated August 1, 2000

EXHIBIT 2A

10.3.13
Subs
Liz Garland
C.C.P. & G.S.
Anita Knoepfle 430
Deputy Clerk

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

ALAN M. WILSON, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONY BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: Estate of James Brown

IN THE PROBATE COURT

Case No. 2007-ES-02-0056

Case No. 2008-CP-02-1647

**PETITION FOR THE APPOINTMENT
OF LIMITED SPECIAL
ADMINISTRATOR**

COPY
ORIGINAL FILED
JUL 29 2013 *250*
AIKEN COUNTY
CLERK OF COURT

Petitioner, Russell Bauknight, in his capacity as Special Administrator of the Estate of James Brown (the "Estate"), by and through his undersigned counsel, hereby requests pursuant to applicable South Carolina law, including but not limited to, Sections 62-3-614 and 62-3-617 of the South Carolina Probate Code, that the Court issue its order appointing David C. Sojourner, Jr., as Limited Special Administrator for the Estate with specific and limited powers as hereinafter set forth, for the following reasons:

1. By Order of this Court dated June 13, 2013, Russell L. Bauknight's prior appointment as Special Administrator of the Estate was confirmed, pending further order of this Court. By its terms, this Order granted Bauknight the full, exclusive and absolute authority to carry out the administration of the Estate and all business related thereto with all of the authority of a general personal representative.

2. In order to avoid any appearance of impropriety, promote the efficient and speedy administration of the Estate and create an arm's length separation for Bauknight in matters relating to the various Will and Trust contests and other actions presently embodied in Case No. 2008-CP-02-01647 (the "1647 Cases"),¹ Petitioner requests that David C. Sojourner, Jr. be appointed as the new Limited Special Administrator solely, specifically and exclusively for the limited purpose of defending the Estate against the claims made in the 1647 Cases until final resolution thereof, with the specific authorization to retain his law firm, Adams and Reese LLP, to represent him as Limited Special Administrator in the 1647 Cases. *See, e.g.,* South Carolina Probate Code §62-3-715(19).

3. Bauknight will continue to serve in his capacity of sole Special Administrator of the Estate as previously ordered by this Court, with the full, exclusive and absolute authority of a general personal representative to represent the Estate in any and all matters other than the 1647 Cases, and will continue to be responsible for all Estate matters, except for the limited authority and duty of David C. Sojourner, Jr. as set forth herein.

4. Bauknight will have no involvement in, authority over, or responsibility for the 1647 Cases and Sojourner will have no involvement in, authority over, or responsibility for any matters other than the 1647 Cases.

5. Appointing a Limited Special Administrator to move the 1647 Cases forward provides structured and efficient administration of the 1647 Cases, complies with sound judicial economy, and allows Bauknight the ability to manage all other concerns of estate administration in an expeditious manner.

¹ The 1647 Cases consist of the Will and Trust challenges, the elective share matter, the omitted spouse matter, and the omitted child matter. Mr. Sojourner will have complete authority over, and be responsible for, these limited matters until final resolution of the listed matters.

6. David C. Sojourner, Jr. has acknowledged his acceptance of appointment by Affidavit filed herewith.

WHEREFORE, Petitioner prays that this Honorable Court issue its order appointing David C. Sojourner, Jr. as Limited Special Administrator of the Estate, for the limited purposes and duration as set forth above; and for such other relief as this Court deems necessary and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. David Black', is written over a horizontal line.

J. David Black
William G. Newsome III
Fred L. Kingsmore, Jr.
NEXSEN PRUET, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900

July 29, 2013

Columbia, South Carolina.

STATE OF SOUTH CAROLINA

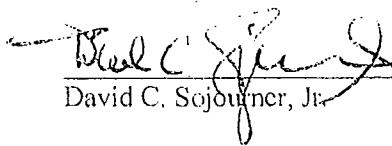
COUNTY OF RICHLAND

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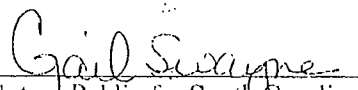
AFFIDAVIT

Personally appeared before me, David C. Sojourner, Jr., who being duly sworn hereby certifies that:

1. He is an attorney licensed to practice law in the State of South Carolina.
2. He is a partner in the firm of Adams and Reese LLP in the Columbia, South Carolina office.
3. He has reviewed Russell Bauknight's Petition for Appointment of Limited Special Administrator in the Estate of James Brown (Aiken County Case No. 2007-ES-02-0056 and 2008-CP-02-1647).
4. He agrees to accept the duties and discharge the duties of the office of Limited Special Administrator if he is so appointed by the Court.
5. He has attached to this Affidavit a detailed list of his credentials and qualifications for serving as Limited Special Administrator.
6. He believes that the authorization requested in the Petition for him to retain the firm of Adams and Reese LLP as his legal counsel in this matter would promote efficiencies in defending the claims presented in the referenced 1647 Cases.


David C. Sojourner, Jr.

Subscribed and Sworn to before me this
29th day of July, 2013.


Notary Public for South Carolina (SEAL)
My Commission Expires: 9-8-2020

David C. Sojourner, Jr., Esquire
Adams and Reese LLP
1501 Main Street – Fifth Floor
Columbia, South Carolina 29201

I. Education.

- A. Clemson University, B.S., Economics, 1983.
- B. University of South Carolina, Juris Doctor, 1986.
- C. New York University, LL.M., Taxation, 1987.

II. Professional Recognition.

- A. Listed in *The Best Lawyers in America* - Trusts and Estate (2003 – Present).
- B. Listed in *South Carolina Super Lawyers* - Estate Planning and Probate (2008 - Present).

IV. Specialty Certifications.

- A. Certified Taxation Specialist - South Carolina Supreme Court 1991 - Present.
- B. Certified Estate Planning and Probate Specialist - South Carolina Supreme Court 1992 - Present.

V. Professional Employment and Activities.

- A. Ellis Lawhorne & Sims, P.A., Columbia, South Carolina
(Attorney/Shareholder) - June 1987 to May 2013
- B. Adams and Reese LLP, Columbia, South Carolina
(Attorney/Partner) - June 2013 to Present.
- C. Fellow, American College of Trust and Estate Counsel (2001 – Present).

EXHIBIT 2B

10.3.13
Secretary
Liz Hordasch
cc: C.P. & G.S.
Anita Knoepfle 430
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

ALAN M. WILSON, in his capacity as Attorney General of the State of South Carolina; DARYL J. BROWN, individually and on behalf of his minor children, LINDSEY DELORES BROWN and JANISE VANISHA BROWN; DEANNA J. BROWN THOMAS, individually and on behalf of her minor children, JASON BROWN LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children, SYDNEY LUMAR, CARRINGTON LUMAR, and TONY BROWN; VANISHA BROWN; LARRY BROWN; TERRY BROWN; and TOMMIE RAE BROWN,

Petitioners,

In re: James Brown 2000 Irrevocable Trust
dated August 1, 2000

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

Case No. 2009-CP-02-1810
Case No. 2008-CP-02-1647

PETITION FOR THE APPOINTMENT
OF LIMITED SPECIAL TRUSTEE

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Goddard, 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

JUL 29 2013

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

Arita Knoepfle
Deputy Clerk

Petitioner, Russell Bauknight, in his capacity as Special Trustee of the James Brown 2000 Irrevocable Trust dated August 1, 2000 (the "Trust"), by and through his undersigned counsel, hereby requests pursuant to applicable South Carolina law, including but not limited to, certain provisions of the South Carolina Trust Code, that the Court issue its Order appointing David C. Sojourner, Jr. as Limited Special Trustee for the Trust with specific and limited powers as hereinafter set forth, for the following reasons:

1. By order of this Court dated June 13, 2013, Russell L. Bauknight's prior appointment as Special Trustee of the Trust was confirmed, pending further order of this Court. By its terms, this Order granted Bauknight the full, exclusive and absolute authority to carry out the administration of the Trust and all business related thereto, with all of the authority of a general trustee.

7-29-2013
Clerk of Probate
B. Bauknight

2. In order to avoid any appearance of impropriety, promote the efficient and speedy administration of the Trust and create an arm's length separation for Bauknight in matters relating to the various Will and Trust contests and other actions presently embodied in Case No. 2008-CP-02-01647 (the "1647 Cases"),¹ Petitioner requests that David C. Sojourner, Jr. be appointed as the new Limited Special Trustee solely, specifically and exclusively for the limited purpose of defending the Trust against the claims made in the 1647 Cases until final resolution thereof, with the specific authorization to retain his law firm, Adams and Reese LLP, to represent him as Limited Special Trustee in the 1647 Cases. *See, e.g.,* South Carolina Probate Code §62-3-715(19).

3. Bauknight will continue to serve in his capacity of sole Special Trustee of the Trust as previously ordered by this Court, with the full, exclusive and absolute authority of a general trustee to represent the Trust in any and all matters other than the 1647 Cases, and will continue to be responsible for all Trust matters, except for the limited authority and duty of David C. Sojourner, Jr. as set forth herein.

4. Bauknight will have no involvement in, authority over, or responsibility for the 1647 Cases and Sojourner will have no involvement in, authority over, or responsibility for any matters other than the 1647 Cases.

5. Appointing a Limited Special Trustee to move the 1647 Cases forward provides structured and efficient administration of the 1647 Cases, complies with sound judicial economy, and allows Bauknight the ability to manage all other concerns of trust

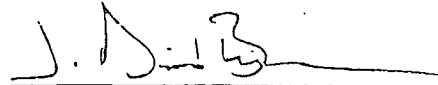
¹ The 1647 Cases consist of the Will and Trust challenges, the elective share matter, the omitted spouse matter, and the omitted child matter. Mr. Sojourner will have complete authority over, and be responsible for, these limited matters until final resolution of the listed matters.

administration in an expeditious manner.

6. David C. Sojourner, Jr. has acknowledged his acceptance of appointment by Affidavit filed herewith.

WHEREFORE, Petitioner prays that this Honorable Court issue its order appointing David C. Sojourner, Jr. as Limited Special Trustee of the Trust, for the limited purposes and duration as set forth above; and for such other relief as this Court deems necessary and proper.

Respectfully submitted,



J. David Black
William G. Newsome III
Fred L. Kingsmore, Jr.
NEXSEN PRUET, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900

July 29, 2013

Columbia, South Carolina

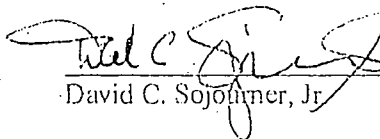
STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

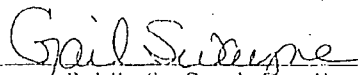
AFFIDAVIT

Personally appeared before me, David C. Sojourner, Jr., who being duly sworn hereby certifies that:

1. He is an attorney licensed to practice law in the State of South Carolina.
2. He is a partner in the firm of Adams and Reese LLP in the Columbia, South Carolina office.
3. He has reviewed Russell Bauknight's Petition for Appointment of Limited Special Trustee of the James Brown 2000 Irrevocable Trust dated August 1, 2000 (Aiken County Case No. 2009-CP-02-1810 and 2009-CP-02-1647).
4. He agrees to accept the duties and discharge the duties of the office of Limited Special Trustee if he is so appointed by the Court.
5. He has attached to this Affidavit a detailed list of his credentials and qualifications for serving as Limited Special Trustee.
6. He believes that the authorization requested in the Petition for him to retain the firm of Adams and Reese LLP as his legal counsel in this matter would promote efficiencies in defending the claims presented in the referenced 1647 Cases.


David C. Sojourner, Jr.

Subscribed and Sworn to before me this
29th day of July, 2013.

 (SEAL)
Notary Public for South Carolina
My Commission Expires: 9-8-2020

David C. Sojourner, Jr., Esquire
Adams and Reese LLP
1501 Main Street – Fifth Floor
Columbia, South Carolina 29201

III. Education.

- A. Clemson University, B.S., Economics, 1983.
- B. University of South Carolina, Juris Doctor, 1986.
- C. New York University, LL.M., Taxation, 1987.

IV. Professional Recognition.

- A. Listed in *The Best Lawyers in America* - Trusts and Estate (2003 – Present).
- B. Listed in *South Carolina Super Lawyers* - Estate Planning and Probate (2008 - Present).

IV. Specialty Certifications.

- A. Certified Taxation Specialist - South Carolina Supreme Court 1991 - Present.
- B. Certified Estate Planning and Probate Specialist - South Carolina Supreme Court 1992 - Present.

V. Professional Employment and Activities.

- A. Ellis Lawhorne & Sims, P.A., Columbia, South Carolina
(Attorney/Shareholder) - June 1987 to May 2013
- B. Adams and Reese LLP, Columbia, South Carolina
(Attorney/Partner) - June 2013 to Present.
- C. Fellow, American College of Trust and Estate Counsel (2001 - Present).

EXHIBIT 3

10.3.13
Luis Hernandez
U.S. CP & O.S. 430
Anita Knoepfle
Deputy Clerk Taff

LAW OFFICE OF
DAVID B. BELL

619 GREENE STREET
POST OFFICE BOX 1011
AUGUSTA, GEORGIA 30903-1011

DAVID B. BELL

SHARON BLAIR ENOCH

JOHN C. BELL
(1916-1967)

AREA CODE 706
TELEPHONE 724-1882
706-722-0222

FAX 706-722-2507

E-MAIL ADDRESS:
davidbell@davidbelllawfirm.com

2008CP0201647

July 17, 2013

The Hon. Doyet A. Early, III
Chief Administrative Judge
P. O. Box 90
Bamberg, SC 29003

9.12.13
Liz Hodard
CC, CP & OS
Arita Knoepfle / 30
Deputy Clerk

Re: *James Brown Estate*

Dear Judge Early:

At the conclusion of the July 9, 2013 hearing held in front of Your Honor, we were informed that Russell Bauknight will be stepping aside as the Personal Representative for the Estate of James Brown. This decision was made to avoid any appearance of conflict between his position as Trustee and that of Personal Representative.

After this announcement, you solicited recommendations for a new Personal Representative for the James Brown Estate. At this time, I am recommending Judge Neal Dickert be selected to serve as the Personal Representative for the James Brown Estate. Judge Dickert is a member of the South Carolina Bar. His law firm has an office in Aiken across the street from the courthouse. He is a retired Superior Court judge. No lawyer in the Central Savannah River Area is more respected than Neal Dickert. From his days as a student at Wofford College, to his military service which took him to Vietnam, through his law school career at the University of South Carolina, Neal Dickert has exemplified the best traits of our profession. He was law review in law school and has continued his scholarly pursuit with excellence.

Judge Dickert has the legal and judicial experience to properly oversee the critical issues that must be resolved in the James Brown Estate. It is for this reason that I

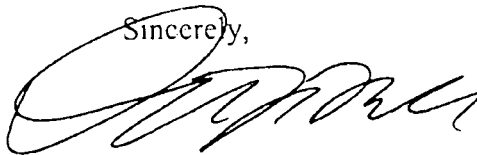
The Hon. Doyet A. Early, III
July 17, 2013
Page 2

recommend to Your Honor Neal Dickert as the replacement Personal Representative. Also, at this time, I am including a copy of Judge Dickert's resume.

I must bring to the court's attention that Bill Hammond, a former attorney in the Hull Barrett Law Firm, once advised the original James Brown Estate Trustee. However, Mr. Hammond is no longer connected with the Hull Barrett Law Firm.

I am,

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Bell", written in a cursive style.

David B. Bell

DBB:chm

cc: Mr. Russell Bauknight
Mr. Matt Bodman
Mr. Fred L. Kingsmore, Jr.
Mr. J. David Black
Mr. Robert N. Rosen
Mr. Louis Levenson
Mr. C. Havird Jones, Jr.

Enclosure: as stated

NEAL W. DICKERT

P. O. Box 1564
Augusta, Georgia 30903

SunTrust Bank Building, Suite 700
(706) 722-4481

PRESENT Hull, Barrett P.C. – January 2008 to present.

EMPLOYMENT Practice concentrated in general civil and commercial litigation, arbitration, and mediation.

PREVIOUS Judge of Superior Court, Augusta Judicial Circuit – January 1997 to November 2007.

EMPLOYMENT Presided over civil, criminal, and domestic cases, to include over 100 jury trials, in this three-county circuit. Also participated with the Georgia Supreme Court in the case of Mead v. Sheffield, 278 Ga. 268 (2004).

Hull Towill Norman & Barrett, P.C. – August 1974 to December 1996.

Practice concentrated in areas such as product liability, personal injury, commercial and construction litigation. Tried numerous jury and non-jury trials involving product liability, workers' compensation, F.E.L.A., construction litigation, personal injury negligence, NASD arbitration, contract disputes, and ERISA in the State and Federal courts of Georgia and South Carolina.

BAR South Carolina Bar (1974); Georgia Bar (1975).

ADMISSIONS United District Court for the District of South Carolina and for the Southern and Middle Districts of Georgia. Eleventh Circuit Court of Appeals.

MILITARY 1st Lieutenant, United States Army Medical Service Corps (1969-71).

SERVICE Served as Assistant S-4 for Medical Group Headquarters in Vietnam from July 1970 until July 1971. Received Bronze Star and Vietnam Service Medal.

EDUCATION J.D., University of South Carolina, 1974.
Member of the South Carolina Law Review.
Member of Wig and Robe Scholastic Honorary Society.
M.B.A., University of South Carolina, 1969.
B.A. in Economics, Wofford College, 1968.

**AWARDS/
COMMUNITY
SERVICE** Board of Governors, Georgia Bar Association (1986 – 1998).
President of the Augusta Bar Association (1997).
Chairman of the Board of Elections – Richmond County (1981 – 1990).
President of Augusta Rotary Club (1991 – 1992).
Paul Harris Fellow of Rotary International.
President of Wofford College Alumni Association (1996 – 1997).
Alumni Representative to Wofford College Board of Trustees (1996).
Board of Directors of the University of South Carolina Law School Assoc. (1992 – 1998).
Senior Warden, Church of the Good Shepherd (2004 – 2007).
Chairman, Board of Trustees, Institute of Continuing Judicial Education for the State of Georgia (2005 – 2007).

**PUBLICATIONS
AND
SEMINARS** Author of "From Bench to the Bar", *Georgia Bar Journal*, June, 1999. Published "Opening Statement" in *Verdict* magazine (Georgia Trial Lawyers' Association) in Fall, 2001. Author of Georgia Handbook on Foundations and Objections, Thomson-West, 2003, updated annually. Published "Avoiding Judicial Arrogance: a Personal Essay," *Judges' Journal*, Winter, 2005. Also lectured throughout the Southeast at numerous continuing legal education seminars on subjects such as insurance coverage, construction law, domestic relations, trial practice, evidence, trial advocacy, consumer litigation, alternative dispute resolution, and ethics. Graduate of National Judicial College General Jurisdiction Course (1998) and served as group facilitator and moderator at the NJC's General Jurisdiction Course in April, 2002.

**MEDIATION
EXPERIENCE** Trained as mediator in 40-hour course sponsored by Dispute Management in 1994. Successfully completed over 250 mediations in areas of personal injury, medical malpractice, consumer litigation, construction litigation, products liability, toxic torts, commercial disputes, contract litigation, domestic disputes and business dissolution. Registered as a mediator with Georgia Office of Dispute Resolution and certified as Circuit Court Mediator in South Carolina. Member of the National Academy of Distinguished Neutrals and the Georgia Academy of Arbitration and Mediation. Listed in Best Lawyers in America under category of Mediation.

PERSONAL Married to the former Floride Clarkson, June 4, 1969. One son, Dr. Neal W. Dickert, Jr., Assistant Professor, Division of Cardiology, Emory University School of Medicine.

EXHIBIT 4

FILED 10 3 13
Liz Anderson
cc, C.P. & G.S. 430
Anita Knoepfle 10/3
Deputy Clerk



KENILEY KUMAR, LLC

ATTORNEYS AT LAW

Two Ravinia Drive • Suite 500 • Atlanta, Georgia 30346

Office: 770.263.0000 | Fax 404.420.2260

www.k5law.com | info@k5law.com

2008CP0201047

July 14, 2013

Honorable Doyet A, Early III
Chief Administrative Judge, Second Judicial Circuit
P.O. Box 90
Bamberg, S.C. 29003

9.12.13
FILED
C.C.P. & C.S.
Arita Knoepfle
Deputy Clerk

Re: The Estate Of James Brown A/K/A: James Joseph Brown

Trustee/PR Applicant: Scott Keniley

Dear Judge Early:

Thank you for this opportunity to submit my candidacy for the position of trustee to the James Brown "I Feel Good" Irrevocable Trust ("Trust"). My career path and experience developed a unique set of skills that would most specifically apply to the supervision of an education focused trust financed by music industry intellectual property exploitation. (Curriculum Vitae attached hereto). Relevant career highlights include, but are not limited to serving as vice president & general counsel to a \$60M annual record company, college professor (Music Business, Copyright & Entertainment Law and Entrepreneurship), multi-campus college national advisory board, *Recording Academy* ("Grammy's") Board of Governors (Education Committee member), fifteen (15) year Educational Chairman, executive committee member and panelist for the North American Entertainment, Sports & IP Law Conference, counsel and/or board member to various nonprofit music associations, and criminal court judge. Additionally, I regularly lecture on music industry and/or intellectual property issues at various law schools, universities, continuing legal education courses, entertainment conferences and have been selected as the key note speaker to college graduating classes.

The Trust concept as James Brown envisioned is potentially a perpetual scholarship for his grandchildren and economically disadvantaged students in Georgia and South Carolina. To fulfill the James Brown Scholarships, preservation, maintenance and maximization of the Trust assets and value are paramount, taking into consideration, Trust operating cost and administration, IP exploitation related costs, litigation economy and intuitive investing. My career has been devoted to protecting IP rights whether by contract or the courts.

My experience as Vice President and General Counsel to Platinum Entertainment, Inc. (then NASDAQ:PTET) and later Compendia Media Group provided very relevant experience to the intellectual property and revenue needs of the Trust. In addition to the corporate and SEC responsibilities, my job was exploitation and protection of the companies' intellectual property rights. Not only was I in a supervisory role, but also was directly involved in litigation, acquisition and licensing intellectual property such as the House of Blues music, Royal Philharmonic master recordings, and artists including Joan Osborne, Pete Townshend and Roger

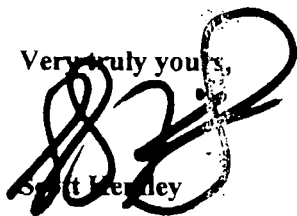
Daltrey (of The Who), Rick Springfield, Kansas, The Oak Ridge Boys, Donny Osmond, John Denver, Drivin n Cryin, Derek Trucks, Jim Belushi, The Blues Brothers, Might Clouds of Joy, Blind Boys from Alabama, Vicky Winans and many more. Intellectual Property exploitation also included establishing and documenting various alliances or co-branding opportunities as well such as with Coca-Cola, National Geographic, Sir George Martin (Beatles producer) and the film industry.

Additionally and unfortunately, what also comes with music industry related intellectual property, especially in this digital world, is asset protection. In my roles as general counsel and as a private practitioner, I have engaged in litigating, or supervising copyright and/or trademark infringement actions, both from the plaintiffs' and defendants' position. The value of James Brown's likeness licensing is directly related to controlling inappropriate uses while maintaining direct channels for appropriate licensing opportunities. The value and preservation of James Brown's Trust legacy is also directly related to maintaining the integrity of the Trust's intent.

This is where the Trust "needs" and my career experience in the music industry cross paths, resulting in the submission of this application. My involvement as a professor, frequent lecturer, college advisory board member and association with various non-profit organizations demonstrates my interest in mentoring and developing young minds and professional career paths. James Brown evidently had the same interest when he envisioned the concept behind the Trust. I would welcome the opportunity to further Mr. Brown's wishes and take good faith strides to develop one of the most respected and desired scholarships available to South Carolina and Georgia students. My experience as an attorney, corporate executive and judge will assist me in running and preserving the Trust as it was intended.

Although I am not a South Carolina resident, Pursuant to South Carolina Code § 62-7-202, It does not appear that my residency is required, but only that the out of state "*trustee submits personally to the jurisdiction of the courts of this State regarding any matter involving the trust.*" I would have no problem appearing when requested by your Honorable Court and fortunately it is an easy and beautiful drive. Should you wish to discuss my qualifications personally, I am willing to appear before you or the vetting personnel. **Professionally, I remain**

Very truly yours,



Scott Kenley

Cc: Honorable Liz Godard, Aiken County Clerk of Court, P.O. Box 583, Aiken, S.C. 29802

CURRICULUM VITAE

Scott Keniley, ESQ.

5475 Peachtree Parkway, Peachtree Corners, GA 30092/ (404) 933-1157 /scott@k5law.com

HIGHLIGHTS & EXPERIENCE

GENERAL COUNSEL	ACQUISITIONS	BRAND/IP LICENSING
GOVERNMENTAL COMPLIANCE	FREQUENT LECTURER	E-COMMERCE/PRIVACY
CORPORATE (RE)STRUCTURING	MUNICIPAL COURT JUDGE	LITIGATION

CAREER SUMMARY

Keniley-Kumar, LLC

(April 2009-Present)

Atlanta

➤ **Practice Areas:** Entrepreneurship, Intellectual Property, Corporate, Business & Commercial, Entertainment Actions, General Counsel & Consulting, Gambling, Lottery & Sweepstakes. General Litigation actions: Entertainment, Internet, Intellectual Property, UCC, Labor, Shareholder and Creditors' Rights. Arbitration and Mediation experienced.

SIGNIFICANT REPRESENTATIONS

- Represents Internet Video Gaming Companies and ISPs in content acquisitions, licensing, privacy and ecommerce policies, brand and revenue model development.
- Represents International Internet/Mobile Gambling and Lottery Conglomerate in all facets of USA and international gambling law including, but not limited to governmental compliance, IP protection and licensing, corporate structuring, Internet *Terms of Use* and *Privacy Rights*, e-commerce and foreign licensing.
- Acquisition of sports equipment entity, assets and associated IP, including due diligence and documentation. *Business Consulting, Business Plan development.*
- IP licensing to networks such as, Fox Sports, ESPN, CBS Sports, SI.com and Spike.
- Successfully represented Internet Service Providers (ISP) under Digital Millennium Copyright Act (DMCA).
- Represented Lifestyle and Business magazines in acquisitions, IP prosecution and protection, personal likeness and trademark licensing/clearances, litigation and litigation management.
- Represented artists and companies in negotiation of significant "branding" agreements with major spirits and beverage companies.

Professor, SAE Institute

(2009-2013)

Atlanta

- Copyright & Entertainment Law
- Music Business
- Entrepreneurship
- Graduation Keynote Speaker (2009, 2010, 2011).

Keniley Law Firm, PC

(October, 2004-April 2009)

Atlanta

- Predecessor entity to Keniley-Kumar, LLC.

Judge, Lithonia Municipal Court

(2004-2008)

Dekalb County, GA

- Governmental Compliance and Misdemeanor Criminal

Compendia Media Group, Inc./Platinum Entertainment, Inc. (NASDAQ PTET)

(1999-October 2004)

Atlanta/ Nashville

➤ **Executive Vice President & General Counsel:** Oversaw all aspects of operations and the intellectual property, corporate, business, licensing, litigation, acquisitions, joint ventures and labor legal needs for the \$60 M gross revenue, publicly traded media company.

SIGNIFICANT REPRESENTATIONS

- **New Fortune 100 Owner:** Senior Team Member. Instrumental in Platinum Entertainment, Inc. sale and asset transfer to Dominion Resource (DOW: D).
- **Digital Media/Digital Delivery initiative.**
- **Successful Chapter 11 Bankruptcy:** Responsible for all aspects of real, company & Intellectual Property cataloging and preservation. Internal liaison to bankruptcy court and steering committee.
- **"Go Forward" Business Plan:** Instrumental in creating new business model, negotiated senior personnel and new employee compensation packages, developed traditional & Internet marketing campaign & integrated advanced technology for more efficient business and legal operations.
- **BRANDING/IP LICENSING Deals:**
 - *House of Blues* Joint Venture trademark License and branded music series.
 - Coca-Cola Trademark and Copyright Licenses for multi/album/year holiday music series.
 - *Lion's Gate Films'* Oscar Winning "*Monster's Ball*" Soundtrack.
 - Sir George Martin (*Beatles'*) Executive Producer/Endorsement/Branding Agreement.
 - National Geographic multi/album/year brand license for music series.
- **IP Asset Acquisitions/Sales:** Valuation, negotiation, due diligence and documentation.
 - *Royal Philharmonic* Master Catalog
 - *House of Blues* Music Catalog
- **Industry Impact:** Developed and Negotiated "ground breaking" "No Recoup/No Deduction" Music Copyright License: Artist: *Kansas*. Topic at *various music industry conferences*.

Keniley Law Firm

(1996-1999)

Atlanta

➤ General Corporate, Contract, Commercial, Intellectual Property, Labor and Litigation.

SIGNIFICANT REPRESENTATIONS

- Negotiated several "New Horizon" catalog and individual copyright licenses with predominant New Media and digital distribution services.
- Successfully represented clients in royalty collection actions.
- Represented Business/IP Interests of Former World Heavy Weight Champion Boxer.
- Corporate Counsel to Business/IP Interests of former *WCW* World Heavy Weight Champion Wrestler and celebrity ultimate fighter.

Fox and Farmer, PC

(1992 - 1996)

Chattanooga

➤ **Associate:** Civil Litigation.

SIGNIFICANT REPRESENTATIONS

- Developed the initial Georgia practice for the three city midsize law firm.

EDUCATION, ADMISSIONS & ASSOCIATIONS

EDUCATION

- **Oklahoma City University, School of Law** **Juris Doctorate**
 - *Luther L. Bohanon Inn of Court CV.*
 - *Clerk: Federal Public Defender, Western District of Oklahoma (3 Years).*
 - *Intern: Oklahoma Indian Legal Affairs (2 Years).*
- **University of Oklahoma** **Bachelor of Arts**
 - *Communications (Business Negotiations & Kinesics).*
- **University of London, England**
 - *International Business & Economics.*
 - *Gaming & Gambling Statistics (Under William Eadington).*

ADMITTED TO PRACTICE

- Georgia:** *Member of the State Bar of Georgia (All courts).*
 United States District Court, Northern District of Georgia.
- Tennessee:** *United States District Court, Eastern District of Tennessee.*

PROFESSIONAL & PERSONAL ASSOCIATIONS

- **Recording Academy Board of Governors** 2013
- **Educational Chairman, North American Entertainment, Sports & IP Law Conference** 1998-2013
- **SAE Institute, U.S. National Program Advisory Committee** 2011-2013
- **Entertainment and Sports Law Section of the State Bar of Georgia** 1996-2013
- **Intellectual Property Law Section of the State Bar of Georgia** 2004-2013
- **Business Law Section of the State Bar of Georgia** 2004-2013
- **Immigration Law Section of the State Bar of Georgia** 2010-2013
- **ABA Forum on the Entertainment & Sports Industries** 1996-2004
- **Peachtree Corners Business Association (Founding Member)** 2012-2013
- **Louisville Music Industry Alliance ("LMIA") General Counsel** 2003-2006
- **Georgia Lawyers for the Arts** Board Member 2001-2002
- **Southern Entertainment & Art Law Center** Board Member 1999-2001
- **Guest Speaker and/or Panelist:** Including, but not limited to (University of Oklahoma, University of Georgia, University of Florida, Southern University, University of Miami, Emory University, Georgia State University, SAE Institute, Clark Atlanta University, Morehouse University, Spellman College, Fort Valley State University, Kennesaw State University, Georgia Music Hall of Fame, SXSW, Cutting Edge Music Conference, North American ESIP Law Conference)
- **Published:**
 - *Gwinnett Business Journal: New Georgia Law: blue pencil it in.* August 2011
 - *Copyright Magazine, Production Agreements,* June 2006
 - *Indie Magazine, Independent Artists,* April, 2003
 - *Indie Magazine, Are You Ready to Be Judged?* February, 2003
 - *Wing Chun Kung Fu Association Quarterly, R.E.S.P.E.C.T.* May, 2009

PUBLICATIONS AND PRESENTATIONS

Scheduled Future Speaking Engagements

- **July 2013:** Professor, Copyright & Entertainment Law, SAE Institute, Summer, 2013
- **August 2013:** Professor, *Entrepreneurship*, SAE Institute, Fall, 2013
- **September 2013:** Panelist: (topic TBD), Cutting Edge Music Conference, New Orleans, 2013
- **November 2013** Chairman, 25th Annual North American Entertainment, Sports & IP Law Conference, Montego Bay, Jamaica 2013
- **November 2013:** Panelist: *Digital Music Licensing From All Perspectives: Fair or Symbiotic?*, 25th Annual North American Entertainment, Sports & IP Law Conference, Montego Bay, Jamaica 2013

Past Speaking Engagements

- Professor, *Music Business*, SAE Institute, Summer, 2013
- Guest Speaker: : *Music, Technology and the Internet*, University of Oklahoma School of Law, 2013
- Professor, *Music Business*, SAE Institute, Spring, 2013
- Professor, *Entrepreneurship*, SAE Institute, Spring, 2013
- Guest Speaker: Entertainment and IP Law in Digital Licensing, Florida Coastal University College of Law, 2013
- Professor, *Copyright & Entertainment Law*, SAE Institute, Spring, 2013
- Professor, *Music Business*, SAE Institute, Fall, 2012
- Panelist: Content/IP Licensing To Digital Ventures, 24th Annual North American Entertainment, Sports & IP Law Conference, Cancun, Mexico, 2012
- Chairman, 24th Annual North American Entertainment, Sports & IP Law Conference, Cancun, Mexico, 2012
- Guest Speaker: Entertainment and IP Law/ Digital Licensing, University of Oklahoma School of Law, 2012
- Panelist: Patents, Trademark and Copyright Issues in Representing Entertainment New Technology Entrepreneurs, Cutting Edge Music Conference, New Orleans, 2012
- Panelist: Across All Platforms: Complexities of Licensing in the Digital Age, Cutting Edge Music Conference, New Orleans, 2012
- Professor, *Entrepreneurship*, SAE Institute, Summer, 2012
- Professor, *Copyright & Entertainment Law*, SAE Institute, Summer, 2012
- Professor, *Music Business*, SAE Institute, Summer, 2012
- Panelist, *DIY- Faction or Fiction? Working with Majors, Indies or Yourself*, SXSW, Austin, TX 2012
- Professor, *Music Business*, SAE Institute, Spring, 2012
- Professor, *Music Business(night)*, SAE Institute, Spring, 2012
- Professor, *Entrepreneurship*, SAE Institute, Spring, 2012
- Professor, *Copyright & Entertainment Law*, SAE Institute, Spring, 2012
- Panelist, *Representing the Entrepreneur, "Shareholder Chess,"* 23rd North American Entertainment, Sports & IP Law Conference, Cabo San Lucas, Mexico 2011
- Chairman, 23rd North American Entertainment, Sports & IP Law Conference, Cabo San Lucas, Mexico 2011

- **Panelist, *Publishing Payouts, Collections and New Legislation*, Cutting Edge Music Conference, New Orleans, 2011**
- **Panelist, *Transactional Issues deriving from Recording/Film Contracts and Artists Agreements*, Cutting Edge Music Conference, New Orleans**
- **Professor, *Entrepreneurship*, SAE Institute, Fall, 2011**
- **Professor, *Copyright & Entertainment Law*, SAE Institute, Fall, 2011**
- **Published, *Gwinnett Business Journal*, "New Georgia Law: blue pencil it in," August 2011**
- **Guest Speaker, *Introduction to the Music Industry*, Georgia State University, 2011**
- **Professor, *Entrepreneurship*, SAE Institute, Spring, 2011**
- **Guest Speaker, *Business of Intellectual Property*, Kennesaw State University, 2011**
- **Key Note Speaker, *Graduation Ceremonies*, SAE Institute, 2011**
- **Professor, *Copyright & Entertainment Law*, SAE Institute, Spring, 2011**
- **Guest Speaker, *Economics of Contract Drafting*, Georgia State University College of Law, 2010**
- **Chairman, 22nd North American Entertainment, Sports & IP Law Conference, Guanacasta, Costa Rica, 2010**
- **Panelist, *New Business to Patent to VC*, 22nd Annual North American Entertainment, Sports & IP Law Conference, Guanacasta, Costa Rica, 2010**
- **Guest Speaker, *Royalty Economics*, SAE Institute, 2010**
- **Panelist, *The New Producers' Agreements*, Cutting Edge Music Conference, New Orleans, 2010**
- **Panelist, *Publishing Agreements-Thinking Outside the Box*, Cutting Edge Music Conference, New Orleans, 2010**
- **Panelist, *Producer Agreements, the New 800 lb Gorilla Contract*, Cutting Edge Music Conference, New Orleans, 2010**
- **Key Note Speaker, *Graduation Ceremonies*, SAE Institute, 2010**
- **Guest Speaker, *Contracts*, Georgia State University College of Law, 2010**
- **Guest Speaker, *New Contract Paradigms*, University of Georgia, 2010**
- **Chairman, 21st North American Entertainment, Sports & IP Law Conference, Guanacasta, Costa Rica, 2010, Punta Cana, Dominican Republic 2009**
- **Panelist, "Gambling Sweepstakes & Advertising" 21st North American Entertainment, Sports & IP Law Conference, Guanacasta, Costa Rica, 2010, Punta Cana, Dominican Republic 2009**
- **Guest Speaker, *Business Issues in New Age Agreements*, University of Georgia, 2009**
- **Panelist, *Recording Contracts and Artists Agreements*, Cutting Edge Music Conference, New Orleans, 2009**
- **Panelist, *Licensing Opportunities and Revenue Streams*, Cutting Edge Music Conference, New Orleans, 2009**
- **Published, *R.E.S.P.E.C.T.*, Wing Chun Kung Fu Association Quarterly, 2009**
- **Guest Speaker, *Royalty Economics*, University of Georgia, 2009**
- **Chairman, 20th Annual Southern Regional Entertainment & Sports Law Seminar, Cabo San Lucas, Mexico 2008**
- **Panelist, *Indie Record Releases by Private Practice Lawyers*, 20th Annual Southern Regional Entertainment & Sports Law Seminar, Cabo San Lucas, Mexico 2008**
- **Guest Speaker, *Rate Next Hip Hop & R&B Conference*, Atlanta, 2008**
- **Panelist, *Copyright Infringement Issues*, Cutting Edge Music Conference, New Orleans, 2008**
- **Panelist, *Recording Contracts & Artist Agreements*, Cutting Edge Music Conference, New Orleans, 2008**
- **Panelist, *Independent Record Companies: How do They Get to the Top?* Cutting Edge Music Conference, New Orleans, 2008**
- **Panelist, *Strategic Artist Contracts*, Cutting Edge Music Conference, New Orleans, 2008**
- **Panelist, *What Part Does Law Play In DIY?* SXSW Music Conference, Austin, TX 2008**
- **Chairman, 19th Annual Southern Regional Entertainment & Sports Law Seminar, San Juan, Puerto Rico, 2007**

- **Panelist, Distribution Deals, Outlets & Options** 19th Annual Southern Regional Entertainment & Sports Law Seminar, San Juan, Puerto Rico, 2007
- **Panelist, Deal or No Deal-Major, Indie, or DIY?** University of Georgia, Athens, 2007
- **Panelist, Current Recording Agreement Concerns, Cutting Edge Music Conference,** New Orleans, 2007
- **Panelist, Artist Agreements that Artists may Face Alone Cutting Edge Music Conference,** New Orleans, 2007
- **Panelist, Building the Successful Music Company Cutting Edge Music Conference,** New Orleans, 2007
- **Panelist, JD Empowerment in Entertainment Law Southern University and Louisiana State University Schools of Law,** In association with United States Supreme Court Justice Clarence Thomas, Baton Rouge, LA 2007
- **Panelist, The Indie Company Takeover- Creating The Beast** 18th Annual Southern Regional Entertainment & Sports Law Seminar, Cancun, Mexico, 2006
- **Chairman, 18th Annual Southern Regional Entertainment & Sports Law Seminar,** Cancun, Mexico, 2006
- **Panelist, Breaking In & Staying in the Business Cutting Edge Music Conference,** New Orleans, 2006
- **Panelist, Artist Contract Agreements Cutting Edge Music Conference,** New Orleans, 2006
- **Panelist, Copyrights & Publishing-Infringement Issues Cutting Edge Music Conference,** New Orleans, 2006
- **Panelist, Recording Agreements Cutting Edge Music Conference,** New Orleans, 2006
- **Guest Speaker, Running Your Record Company,** Music Therapy 101, World Congress Center, Atlanta, 2005
- **Guest Speaker, Music Biz 2006 On Stage Live Revue,** Atlanta
- **Published, Copyright Magazine, "Production Agreements,"** June 2006
- **Guest Speaker, Setting Up A Record Company,** Music Therapy 101, Atlanta, 2006
- **Guest Speaker, What You Need to Know Entering The Music Industry,** Gateway Music Conference, Macon, 2006
- **Chairman, 17th Annual Southern Regional Entertainment & Sports Law Seminar,** San Juan, Puerto Rico, 2005
- **Panelist, Where's The Money In Music? 2005 New Deal Frontiers** 17th Annual Southern Regional Entertainment & Sports Law Seminar, San Juan, Puerto Rico, 2005
- **Panelist, Record Company Economics Cutting Edge Music Conference,** New Orleans, 2005
- **Panelist, Entertainment Basic Contracts Cutting Edge Music Conference,** New Orleans, 2005
- **Panelist, Breaking into and Staying in the Music Industry Cutting Edge Music Conference,** New Orleans, 2005
- **Panelist, Where's The Money? A Breakdown of Music Money Sources,** Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, So You Want to Start a Record Company? Its More Than Just Making Music,** Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, Management Deals & Responsibilities,** Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, Legal Issues that Affect Your Music Careers,** Thirsty Melon Music Festival, Louisville, 2005
- **Guest Speaker, Where's The Money, On Stage Live Revue,** Atlanta, 2005
- **Guest Speaker, The recording, management, publishing and production deal: What to know before you sign,** University of Florida School of Law, Gainesville, 2005
- **Guest Speaker, New Market Schemes: Thinking Outside the Box to Get Your Music Heard,** University of Florida School of Law, Gainesville, 2005
- **Chairman, 15th Annual Southern Regional Entertainment & Sports Law Seminar,** Cabo San Lucas, Mexico 2004

- **Panelist**, So You Want To Start A Record Company, Everyone Else Has 16th *Annual Southern Regional Entertainment & Sports Law Seminar*, Cabo San Lucas, Mexico 2004
- **Panelist**, Entertainment and Publishing Law For The IP Lawyer 16th *Annual Southern Regional Entertainment & Sports Law Seminar*, Cabo San Lucas, Mexico 2004
- **Guest Speaker**, Entertainment Law, Emory University School of Law, 2004
- **Panelist**, Music Publishing 101" Entertainment Law Basic Boot Camp, Omni Hotel, Atlanta 2004
- **Guest Speaker**, Sony Music Urban Showcase, Louisville, KY, 2004
- **Special Guest**, Industry Lounge T.V. Show, June 1, 2004
- **Special Guest**, Industry Lounge T.V. Show, May 25, 2004
- **Panelist**, Music Agreements and Transactions, *M.A.P. Series*, Louisville, KY, 2004
- **Guest Speaker**, Copyright & Trademark Explained, *M.A.P. Series*, Louisville, KY, 2004
- **Guest Speaker**, Business Entity Purpose and Creation, *M.A.P. Series*, Louisville, KY, 2004
- **Guest Speaker**, The Business of Music, *On Stage Live Revue*, Atlanta, 2004
- **Guest Speaker**, Production Deals Explained, *Emory University Law School*, Atlanta, GA, 2004
- **Panelist**, Exploiting Your Intellectual Property, *M.A.P. Series*, Louisville, KY, 2004
- **Entertainment Attorney Q&A**, *Imiacentral.com*, *Louisville Music Industry Alliance*
- **Chairman**, 15th *Annual Southern Regional Entertainment & Sports Law Seminar*, Montego Bay, Jamaica, 2003
- **Moderator/Panelist**, Modern Recording Deal Deductions Explained, 15th *Annual Southern Regional Entertainment & Sports Law Seminar*, Montego Bay, Jamaica, 2003
- **Lecturer**, Recording Agreement Economics, *M.A.P. Series*, Louisville, KY, 2003
- **Host/Founder**, *M.A.P. Series* (Musician's Action Plan), Louisville, KY, 2003
- **Panelist**, Internet Distribution-Dollars & Sense. Good for the Artist or Not? *Cutting Edge Music Conference*, New Orleans, 2003
- **Panelist**, CD Dollars: From Consumers to ? A Close Up View of Record Company Economics, *Cutting Edge Music Conference*, New Orleans, 2003
- **Panelist**, Developing an Entertainment Practice in Today's Economy, *Cutting Edge Music Conference*, New Orleans, 2003
- **Entertainment Attorney Q&A**, *Internationallonghairs.com*
- **Host/Sponsor**, *Mom's Music Festival Party*, *Caesar's Palace*, Louisville, KY, 2003
- **Panelist**, Independent Artists: Career or Farm Team for the Majors, *Mom's Music Festival*, Louisville, KY, 2003
- **Panelist**, The Label Deal- Major, Independent & Production Deals Explained. *Mom's Music Festival*, Louisville, KY, 2003
- **Guest Speaker**, New Media and its Effect on the Entertainment Industry: The Real Deal," University of Miami, Florida, College of Law, 2003
- **Published**: *Indie Magazine*, "Independent Artists" April, 2003
- **Published**: *Indie Magazine*, "Are You Ready to Be Judged?" February, 2003
- **Panelist**, Emerging Issues in The Music Industry, *Hot for Fire Thursday Urban Music Showcase*, Atlanta, 2002
- **Guest Speaker**, *Music Therapy 101*, Atlanta, 2002
- **Chairman**, 14th *Annual Southern Regional Entertainment & Sports Law Seminar*, Puerto Vallarta, 2002
- **Panelist**, Music Deals: Thinking Outside the Box, 14th *Annual Southern Regional Entertainment & Sports Law Seminar*, Puerto Vallarta, 2002
- **Panelist**, Artists Assets, Lost Royalties and Masters, *Cutting Edge Music Conference*, New Orleans, 2002
- **Moderator**, Entertainment Contracts: Real World Music Biz-Contracts You Will See, *Cutting Edge Music Conference*, New Orleans 2002
- **Moderator**, Let's Make a Deal: A Review of Today's Music Industry Options, *Athfest Music Festival*, Athens, GA, 2002

- **Chairman**, 13th Annual Southern Regional Entertainment & Sports Law Seminar, Puerto Vallarta, 2001
- **Panelist**, Licensing Intellectual Trademarks to the Entertainment Industry, 13th Annual Southern Regional Entertainment & Sports Law Seminar, Puerto Vallarta, 2001
- **Moderator**, Basics of Music Licensing, *State Bar of Georgia & Georgia Lawyers for the Arts*, Basics Boot Camp, Atlanta, 2001
- **Panelist**, Do I Need a Manager and What Can They Do For Me? *Cutting Edge Music Conference*, New Orleans, 2001
- **Panelist**, Recording Contracts: A Comparative Review of Traditional and Digital Agreements, *Cutting Edge Music Conference*, New Orleans, 2001
- **Moderator**, Artist, Manager, Producer and Booking Agreements, *Cutting Edge Music Conference*, New Orleans, 2001
- **Speaker**, *Georgia Music Hall of Fame*, Macon, Georgia, 2001
- **Panelist**, Atlantis Music Festival, 2001
- **Panelist**, Anatomy of a Press Kit, *Athfest Music Festival*, Athens, GA, 2001
- **Panelist**, Recording Contracts Explained, *Georgia Lawyers for the Arts*, Atlanta, 2001
- **Chairman**, 12th Annual Southern Regional Entertainment & Sports Law Seminar, Costa Rica, 2000
- **Panelist**, City Beat: Urban Music and its Representation, 12th Annual Southern Regional Entertainment & Sports Law Seminar, Costa Rica, 2000
- **Panelist**, Annual State of Music Industry, 12th Annual Southern Regional Entertainment & Sports Law Seminar, Costa Rica, 2000
- **Guest Speaker**, *Music Therapy 101*, held at *Spellman University*, 2000
- **Panelist**, Band Membership, Management & Booking Agreements, *Cutting Edge Music Conference*, New Orleans 2000
- **Panelist**, Evaluating Distribution Agreements-Traditional and Digital. And What About Napster, *Cutting Edge Music Conference*, New Orleans, 2000
- **Panelist**, The Internet-The Future of Music, *Athfest Music Festival*, Athens, GA, 2000
- **Guest Speaker**, *Georgia Lawyers for the Arts*, 2000
- **Chairman**, 11th Annual Southern Regional Entertainment & Sports Law Seminar, Curacao, 1999
- **Moderator**, Back to the Basics-Entertainment Agreements for the Novice, 11th Annual Southern Regional Entertainment & Sports Law Seminar, Curacao, 1999
- **Panelist**, Ethics in Artist Representation, 11th Annual Southern Regional Entertainment & Sports Law Seminar, Curacao, 1999
- **Guest Speaker**, *Georgia Lawyers for the Arts*, 1999
- **Guest Speaker**, *Music Therapy 101*, held at *Morehouse University*, 1999
- **Panelist**, Innovative Deals, *Cutting Edge Music Conference*, New Orleans, 1999
- **Speaker**, *Black Radio Music Coalition Annual Conference*, *Fort Valley State University*, Georgia, 1999
- **Chairman**, 10th Annual Southern Regional Entertainment & Sports Law Seminar, *Acapulco*, 1998
- **Guest Speaker**, *Georgia Lawyers for the Arts*, 1998
- **Guest Speaker**, *Music Therapy 101*, held at *Clark Atlanta University*, 1998



KENLEY KUMAR, LLC

ATTORNEYS AT LAW

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July 14, 2013

Honorable Liz Godard
Aiken County Clerk of Court
P.O. Box 583
Aiken, S.C. 29802

Re: The Estate Of James Brown A/K/A: James Joseph Brown

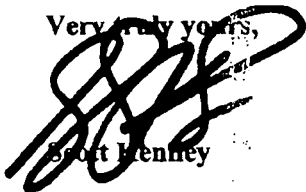
**Case Numbers: 2008-CP-02-1647, 2007-CP-02-0122, 2008-CP-02-0872, 2008-CP-02-0322,
2010-CP-02-0721, 2012-CP-02-1059, 2008-CP-02-1426, 2008-CP-02-1712, 2008-CP-02-2127,
2008-CP-02-1556, 2008-CP-02-1557, 2008-CP-02-1758, 2008-CP-02-1759.**

Trustee/PR Applicant: Scott Kenley

Dear Ms. Liz Godard:

Thank you in advance for your assistance in this filing. Please file the enclosed application in the aforementioned matter. I have submitted an original of this as well to Honorable Doyet A, Early III directly. **Professionally, I remain**

Very truly yours,



Scott Kenley

Cc: Honorable Doyet A, Early III, Chief Administrative Judge, Second Judicial Circuit, P.O.
Box 90, Bamberg, S.C. 29003

EXHIBIT 5

103.13
Liz Holand
cc.c.p. & G.S.
Arita Knoepfle 430
Deputy Clerk ash

2008CP0201647

DR. W. M. GROOMS, CPA
PO BOX 23607
COLUMBIA, SC, 29224

PHONE & FAX 803-790-4400

e-mail: wmgcpa@aol.com

24 July 24, 2013

9.12.13
L. J. Ladd
C.C.P. & G.S.
Anita Knoepfle 130
Deputy Clerk

Judge Jack Early
Via email

Re: Estate James Brown et. al.

Dear Judge Early:

I am interested in being considered as a successor PR/Trustee in the above matter.

I am attaching my CV. In addition to it I would respectively point out that I served as the "lead partner" for my firm in the SC Bankruptcy case of Hilton Head Holding vs. "the World." There I testified before Judge Blatt on many occasions relative to the accounting and tax issues before that Court. I occupied a similar role in the PTL bankruptcy cases. In both of those issues I worked with diverse parties in complicated matters in which the representatives were all quite knowledgeable, quite capable, and quite adversely as to their clients. In the Hilton Head matter I was retained by the late Gov./Ambassador John West and serve to this date as a member of the Foundation that was formed by him to benefit children of SC.

I have served as an expert witness for the Nelson Mullins and McNair firms of SC and other firms and been qualified as an expert witness in both the Federal and SC Courts of this State.

I had the pleasure of working with Chief Justice Toal while she was a practicing attorney in Columbia and have appeared before her as an expert witness in her present position.

I do have some understanding of the SC judicial system.

As a matter of disclosure, I wish to point out that I supervised Mr. Russell Bauknight prior to my retirement from Ernst & Young.

In addition to the above phone number I will supply my cell number which is 803 730 2655.

Sincerely,

W. M. Grooms

W. M. GROOMS

W. M. GROOMS, Ph.D.

CERTIFIED PUBLIC ACCOUNTANT

P.O. Box 23607 ♦ Columbia, South Carolina 29224 ♦ Office / Fax # (803) 790-4400

CURRICULUM VITAE

PROFESSIONAL EXPERIENCE:

Internal Revenue Service 1957-1965

Clarkson, Harden & Gantt 1965-1985

Arthur Young 1985-1989

Ernst & Young 1989-1990

Self Employed 1990-Present

PROFESSIONAL OFFICES HELD:

Past President of the Central Chapter of the SC Assoc. of CPAs

Past President of the Tax Committee of the SC Assoc. of CPAs

Past Member of the Executive Committee of the Tax Division of the AICPA

Member of the Executive Committee of the Tax Division of the AICPA

Past President of the Columbia Estate Planning Council

PROFESSIONAL MEMBERSHIPS:

SC Assoc. of Certified Public Accountants

American Institute of Certified Public Accountants

SC Assoc. of Public Accountants

Columbia Estate Planning Council

Columbia Tax Study Group

SPEAKING ENGAGEMENTS:

Lectured in all 50 states plus the District of Columbia on tax, accounting or business matters.

Spoken at numerous civic meetings across the United States

Lectured at the annual tax meeting of the AICPA

Lectured at the annual meeting of the Ga. Enrolled Agents Society

South Carolina Trial Lawyers Assoc. (on two different occasions.)

Re: Role of an Expert Witness (Last in 2007)

COLLEGE SPEAKING ENGAGEMENTS:

University of Maryland

University of Michigan

University of Illinois

University of Tennessee

University of Kansas

University of South Carolina

TV APPEARANCES:

Appeared with Sidney Kess on a video taped program for national distribution Re: tax planning.

Have appeared frequently on SC ETV and other programs on behalf of the SC Assoc. of CPAs.

While employed by the IRS appeared frequently as technical speaker on their behalf.

AUTHORED:

ARTICLES FOR:

Money Magazine, Inc. Magazine, Knight-Ridder Newspaper Chain, The Corporate Tax Clinic, Wall Street Journal, The Tax Advisor (The Tax Advisor is

the monthly tax publication of the American Institute of Certified Public Accountants.)

Bobbin, A trade magazine for the sewing industry with a circulation of > 100,000.

Sole Author of *Corporate Taxation*—Published by the AICPA

CO-AUTHORED:

Textbook for IRS

Textbook for Arthur Young

HAS SERVED AS BOARD MEMBER OR OTHER OFFICER OF:

President, American Business Club

Panelist, American Arbitration Association

Boy Scout Troop Master

Executive Sertoma Club

West Foundation Board of Trustees

Columbia, SC Town Theater

Columbia, SC Workshop Theater

Columbia Art Museum

South Carolina Youth Challenge Board Member

South Carolina Military History Foundation Board Member

South Carolina Youth Challenge Foundation Board Member

Spring Wood Lake (Columbia, SC) Home Owners Assn.

RELIGION:

Member and Deacon of North Trenholm Baptist Church
Sunday School Teacher—North Trenholm Baptist Church

MILITARY:

Formerly USAF active duty and U. S. Air Force Reserve.

Last assignment preceding retirement was with the Office of the SC Adjutant General as Maj. General, Commander Joint Services Detachment.

EDUCATION:

B. S. University of South Carolina

M. S. Pepperdine University

Ph. D. LaSalle University

USAF Air War College (completion is a matter of public record—contents of study are classified).

EXHIBIT 6

10.3.13
~~William~~
Liz Godard
U.C.P. & G.S. 430
Anita Knoepfle 6
Deputy Clerk

From: Larry Fryer [mailto:fryer1235@gmail.com]

Sent: Monday, August 12, 2013 6:45 PM

To: Early, Doyet A. Secretary (Karin Coker)

Subject: Executive Trustee

2008 CP02 01647 DAE

Judge Early,

Your Honor. I have known the Late Legendary James Brown for almost 20 years. I have had the opportunity to serve as his pastor when I appointed to Trinity C. M. E. Church. Also I have been a personal friend to him as well. His father, Mr Joseph Brown was also a part of my congregation whom I communed and participated in his funeral. I also provided pastoral care for his daughter Vanesha Brown when she was sick and during her brush with the law. I traveled with Mr. Brown within and outside of the country.

I know how much he cared for children, the poor and education. Therefore, I would love to offer my services as an Executive Trustee to work diligently to carry out his desired with heartfelt humility and unwavering trust.

Thank you.

706-399-1292.

References upon request.

FILED 9.12.13
L. J. Gadsden
U.C.P. & G.S.
Anita Knoepfle / 30
Deputy Clerk

EXHIBIT 7

10.3.13
L. J. Hedges
cc. C.P. & G.S. 1/30
Anita Knoepfle
Deputy Clerk

In Re: The Estate of James)
Earl Brown, a/k/a James)
Joseph Brown) Transcript of Record
)
_____)

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
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1 THE COURT: Good afternoon, gentlemen, ladies. All
2 right.

3 Pursuant to *Wilson vs. Dallas*, the Supreme Court
4 ordered that I accept applications for the position of
5 special administrator/trustee, etc., etc., I issued an
6 administrative order recently, and -- wherein I requested
7 that any of those applications needed to be done within 45
8 days from the date of that order. I think that was June
9 13, 2013.

10 In response to that, I have received two official
11 applications -- I guess "official" would be the correct
12 word -- that were filed with the Court from Mr. Bauknight
13 and Mr. David Sojourner.

14 I received a letter of recommendation for Judge
15 Dickert from Mr. Bell, who is former judge -- Judge, good
16 to see you.

17 JUDGE DICKERT: Good to see you, Judge.

18 THE COURT: -- from Augusta.

19 I received a written letter from Mr. Scott Keniley.
20 Is he here today?

21 MR. KENILEY: Keniley, sir.

22 THE COURT: Keniley. Good -- nice to have you with
23 us, sir.

24 MR. KENILEY: And I also filed that letter with the
25 clerk as well.

1 THE COURT: All right. Got a letter from Mr. Grooms,
2 Mr. W. -- W. M. Grooms. Is he with us today?

3 MR. GROOMS: Yes, sir.

4 THE COURT: Nice to have you with us, sir.

5 Mr. Larry Frier? Is he with us today?

6 MR. BELL: He is not here, Your Honor.

7 THE COURT: All right. I got an e-mail from Mr. Frier
8 this morning saying he may not be here. So anyway,
9 received some type of e-mail application from him.

10 I sent out a notice of today's hearing, and in that
11 notice I said I would give each applicant 15 minutes to
12 present their credentials, request to serve, and if I had
13 any questions, I would ask them the questions.

14 So I will go in this order: I'll start with Judge
15 Dickert.

16 And for those of you who do not know Neal Dickert, he
17 and I went to law school together. He is -- at one time
18 served as a judge in the State of Georgia, now a
19 practicing lawyer in Augusta.

20 And Mr. Bell, anything you want to ask him of Mr. --
21 Judge Dickert?

22 MR. BELL: Thank you, Your Honor.

23 THE COURT: Judge Dickert, you want to --

24 MR. BELL: And I -- I'll just point him in some
25 direction.

1 THE COURT: That's -- I'm sure he needs some pointing.

2 (Courtroom laughter.)

3 (Judge Dickert takes the stand.)

4 JUDGE DICKERT: I used -- I've sat out there and I've
5 sat up there, but I haven't sat here.

6 THE COURT: Well, you know, there's a lot of guys in
7 here I suspect would love to be able to cross-examine you.
8 So I may go against my protocol and just open it up to
9 everybody in here.

10 (Courtroom laughter.)

11 MR. BELL: Judge Dickert, if you will just briefly.
12 tell us your background, any experience in the courtroom,
13 and ---

14 JUDGE DICKERT: Well, I -- I do live in Augusta, but I
15 was born and raised in Newberry. Went to law school at
16 South Carolina; went to Wofford before that. Judge Early
17 alluded to, we were -- graduated in 1974. Admitted to the
18 Bar in South Carolina in 1974; Georgia in 1975. Practiced
19 for 22 years with the firm of -- what's now Hull Barrett;
20 it was then known as "Hull, Towill, Norman, Barrett, and
21 Johnson."

22 In 1997, the first of January, I assumed the position
23 of superior court judge in Augusta Judicial Circuit.
24 Georgia has -- the Superior Court is a court of general
25 jurisdiction, tries -- unlike South Carolina, we don't --

1 they don't split circuit court from the family court. So
2 a superior court judge does everything from felony murder
3 death penalty case down to -- to divorce cases, custody --
4 trial custody, as well as all general jurisdiction civil
5 cases.

6 I served for 11 years as a superior court judge. In
7 that capacity, I tried a number of civil -- I -- I
8 wouldn't mention the number. I didn't keep count of jury
9 trials. And unlike South Carolina, I think Georgia may be
10 the only state that you can have a jury trial in a divorce
11 case. Tried a few -- handful of those, but not too many.

12 After 11 years -- I had a great experience, did have
13 some consideration for positions in other courts -- but I
14 decided at that stage that I was ready to come back to
15 private life. And so I retired from the bench at the end
16 of 2007, and went back to my former law firm.

17 I've been back since January 1, 2008. I do mostly
18 civil practice, although I had one or two criminal cases;
19 involved now in a criminal appeal on a matter.

20 I do work in South Carolina as well as Georgia, and
21 have a pretty significant ADR practice. I mediate
22 probably 40/50 cases a year. I've done some arbitrations,
23 including some triple A arbitrations, as well as just
24 general civil arbitrations. And so I've been back now
25 almost six years.

1 So that's kind of a little bit about my background,
2 experience, and where I am.

3 I do -- I have -- I do a good bit of speaking, CLE
4 speaking. I wrote an evidence book a few years ago called
5 "The Georgia Handbook of Foundations and Objections." So
6 I -- I do enjoy doing that every year -- up -- updating
7 that as long as I can.

8 MR. BELL: And I believe your firm has an office in
9 Aiken.

10 JUDGE DICKERT: We do. We have presently four lawyers
11 in the Aiken office: Bill Tucker, Rand Hannah, Paul
12 Simons, and recently Paul Timmerman joined us -- with the
13 firm as well. So we have four lawyers in Aiken.

14 MR. BELL: An active Aiken County practice.

15 JUDGE DICKERT: Active Aiken County practice, yes.

16 MR. BELL: Now, tell Judge Early your familiarity with
17 the Supreme Court decision in this case, and your
18 understanding of the issues that ---

19 JUDGE DICKERT: Well, I -- I have read the opinion and
20 intrigued by the opinion. I -- I did -- I -- I see that
21 their issues going forward principally dealing with the
22 question of the validity of the will, as well as the
23 contest. I know there's an action pending relating to the
24 validity of the will and with regard to possible influence
25 or competency; issue of the marriage; and also a paternity

1 question with regard to one -- one child, the child that -

2

3 MR. BELL: Okay.

4 JUDGE DICKERT: So I think those are the three

5 principal issues that would have to be addressed and

6 decided at a fairly early stage. Anyway, not necessarily

7 in that order, but certainly those -- those are the three.

8 MR. BELL: And how do you see those issues

9 progressing? How speedily could they be pursued and --

10 and --

11 JUDGE DICKERT: Well, as many lawyers as we have in

12 this room, that would probably be a challenge, but -- if

13 everyone's involved. But I mean, I think they do need to

14 move quickly. Obviously, this -- this case has been

15 around for a long time, and -- and noone is served by

16 continuing.

17 I think some -- some would be -- you know, my -- my

18 approach -- and I use this recently -- when I try to

19 mediate cases, there's some -- some things that are -- if

20 you get the easier cases out -- easier issues out of the

21 way first, then the others sort of fall into place. It

22 seems to me that the paternity issue would be one that

23 would have to be decided. That ought to -- ought to be

24 fairly easy to address.

25 MR. BELL: DNA test.

1 JUDGE DICKERT: Yes. Through -- through testing. Be
2 Court supervised so they're sure.

3 And -- and -- and the -- and irrespective of what
4 happened with the will, you -- you would have an issue
5 about the validity of the marriage. And so there are a
6 number of issues -- a number of legal issues that have to
7 be addressed with regard to that.

8 So I think that might be -- my thought would be the
9 next issue, and then ultimately -- and that -- that --
10 because that would affect the outcome irrespective of what
11 happens with the will.

12 But -- and then ultimately, I think the issue of the -
13 - the will might be a little more involved and
14 complicated.

15 MR. BELL: Now, Judge Dickert, do you see the trustees
16 working as the same as the estate representatives, or do
17 you see a conflict between ---

18 JUDGE DICKERT: Well, I think there could be a
19 conflict if you had the trustee -- I mean, depending upon
20 the issue with regard to -- to the issues concerning the
21 marriage and -- and some of the issues surrounding that,
22 as to whether the estate might have interests that may be
23 different from that of the trust. Obviously, the trustee
24 would -- would be interested in maximizing all the
25 benefits for the trust; whereas, depending upon what

1 happened with the other issues with the estate, might have
2 different positions. So I mean, that's potentially.

3 But I -- I -- and so I -- I'd be a little
4 uncomfortable in both -- wearing both hats.

5 MR. BELL: Because of potential conflict between the -
6 --

7 JUDGE DICKERT: Possibly.

8 THE COURT: Which hat would you prefer?

9 JUDGE DICKERT: Well, Judge, I -- I'm here -- I -- I
10 do whatever the Court thinks. If -- if I can assist in
11 this case, I'll do whatever the Court would -- would --
12 would ask me to do. I have -- don't have a preferency. I
13 think the only -- I really -- really don't.

14 MR. BELL: And you would hire independent counsel.

15 JUDGE DICKERT: I -- I would, yes.

16 MR. BELL: Outside of your own law firm.

17 JUDGE DICKERT: I -- I would.

18 MR. BELL: There's been some talk about whether each -
19 - the will talks about three estate representatives and
20 three trustees. Do you see that as a problem, having a
21 team rather than individuals?

22 JUDGE DICKERT: Well, you know, any time you have a
23 committee making the decision -- I always talk about if
24 you represent a committee, that's difficult. But I -- but
25 I think you have to accomplish the -- the wishes of the

1 estate, and -- and the estate set forth -- at least, as of
2 now, that will is creating more than one. I think more
3 than one can certainly work. I don't think it has to be
4 one.

5 MR. BELL: If you had multiple personal
6 representatives, would you have to have multiple
7 attorneys, or could one ---

8 JUDGE DICKERT: No. I think one could -- one could
9 handle the matters for all -- all three. Just as if --
10 any sort of partnership or organization where you have a
11 number of people involved, you know, you have one -- one
12 attorney representing an entity and not the individual.
13 So I think that could be handled by one attorney.

14 MR. BELL: Judge Early, do you have any questions you
15 would like to ask of Judge Dickert?

16 MR. NEWSOME: Your Honor --

17 THE COURT: Yes.

18 MR. NEWSOME: -- may I -- we have an objection to the
19 lack of formality of the application to Mr. Dickert and
20 the other applications. I don't know if you want to hear
21 that now or at the end of -- at the conclusion ---

22 THE COURT: No. I'll hear it later.

23 MR. NEWSOME: Okay.

24 THE COURT: I'm interested in ---

25 MR. NEWSOME: Thanks.

1 JUDGE DICKERT: The only thing I would -- I do think -
2 - I don't know whether -- I -- I haven't seen -- Mr. Bell
3 asked me if I would be interested or willing to serve.
4 And after some reflection, I told him if I thought the
5 Court thought I could help, that I would be available.
6 And so I haven't seen the letter that he wrote.

7 I -- I do think that -- my -- my law firm at one time,
8 or my former partners who are not with us any more -- but
9 Mr. Tucker, who is within our Aiken office, and another
10 lawyer, were involved, I think probably when I was on the
11 bench.

12 MR. BELL: You -- you were.

13 JUDGE DICKERT: I was on the bench at the time -- were
14 involved in -- in giving some legal advice to the original
15 trustees.

16 MR. BELL: Mr. Hammond has totally severed his ---

17 JUDGE DICKERT: Mr. Hammond -- you know, so I -- I
18 wasn't involved, but I mean, I think, you know, everybody
19 needs to be aware that -- that that -- I don't think
20 that's a conflict. But certainly that's up to the judge
21 to decide and you all to make any objections.

22 But that was -- during my time on the bench, there was
23 some involvement there; and even after I came, there had
24 been some effort to make sure that that didn't continue
25 from -- Ms. Pope was involved.

1 MR. BELL: And when you ---

2 JUDGE DICKERT: I know Ms. Pope, too. I mean, Ms.
3 Pope was in the class with Judge Early and I in law school
4 as well.

5 MR. BELL: And I think you grew up with her husband.

6 JUDGE DICKERT: I did. Tom was a dear -- he was a
7 good friend of mine til he died.

8 MR. BELL: Now, when -- during your 11 years on the
9 Superior Court bench in Georgia, you served -- you handled
10 many domestic cases, will contests, and things of that
11 nature, did you not?

12 JUDGE DICKERT: I -- I did. Sure.

13 MR. BELL: Your Honor, I have a few more minutes of
14 the 15. I have no more questions, unless the Court does.

15 THE COURT: How -- how familiar are you with the other
16 aspects of the estate, i.e., all the claims against the
17 estate, various predators, the on-going day-to-day
18 operation of the estate or the administration of the
19 estate that Mr. Bauknight's been doing? Have you
20 familiarized yourself with any of that?

21 JUDGE DICKERT: No, sir. I have not, Your Honor. I
22 mean, I do know that there has been some claims. I know
23 there was claims by Ms. Pope as well as Mr. Buchanan. I
24 knew that that was -- that was outstanding, or at least I
25 understood that the Buchanan matter had been resolved, but

1 Mr. Bell tells me there are some other issues in regard to
2 that.

3 But no. There's -- there's a lot, Judge, I do not
4 know. I mean, I ---

5 THE COURT: Well, I assume so.

6 JUDGE DICKERT: I have not -- other than my limited
7 knowledge of -- of the matter and -- and -- and reading
8 the opinion and acquiring the information I've acquired
9 from Mr. Bell, that's -- I haven't done any further
10 investigation or analysis.

11 THE COURT: Well, it sounds like, if you were to come
12 on board, if I were to appoint you, it would -- we could
13 best use your experience and your background as a judge
14 and lawyer to help bring to as early a conclusion as we
15 can, obviously, the three main issues -- the validity of
16 the will, the marriage claim, and the child's claim --
17 separate and apart from the administration of the estate.
18 And that seems to me would be the best utilization of your
19 talents.

20 Would you be willing to -- if I appointed you to -- to
21 participate in -- obviously, before we settled it and the
22 settlements was overturned by the Supreme Court, a lot of
23 effort and time went into those three issues; and
24 obviously, they got to get back on the front burner. And
25 I think once we can get all of that done, then we'll be in

1 a position to fund the trust and all, and see what exactly
2 we have in it.

3 But until those issues are resolved, we're sort of at
4 a standstill with exactly what goes in the trust, and then
5 being able to take care of the -- of the needy children as
6 set forth under the -- in the documents.

7 So as I -- as I sort of listen to you, it sounds as if
8 that would be your best -- highest and best use of your
9 talent, would be ---

10 JUDGE DICKERT: I'd be willing to do that, Judge.

11 THE COURT: All right. Thank you.

12 MR. BELL: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (Judge Dickert exits the stand.)

15 JUDGE DICKERT: Should I leave the room, or should --
16 should I stay here?

17 THE COURT: No. You can stay. That'd be fine. Or
18 you're welcome to leave. I mean --

19 JUDGE DICKERT: No. I mean, that's fine. I didn't
20 know whether --

21 THE COURT: No. I'm just going just sort of take
22 general information from everybody, and then I've got to
23 make the call on it, and --

24 JUDGE DICKERT: Okay.

25 THE COURT: -- I'm going to try to do it rather -- in

1 an expeditious manner so we can get some scheduling orders
2 where these -- the validity of the will -- the will
3 contest, the marriage contest, and the James Brown child
4 contest. So that's where we stand.

5 JUDGE DICKERT: Thank you, Judge.

6 THE COURT: Thank you. All right. I have next -- how
7 about Mr. Grooms.

8 (Mr. Grooms comes forward.)

9 THE COURT: Mr. Grooms, if you'd place your left hand
10 on the Bible and raise your right.

11 Wm. M. Grooms, having been first duly
12 sworn, testifies as follows:

13 THE COURT REPORTER: Could I have your first name,
14 please. Your first name.

15 MR. GROOMS: My name is William M. Grooms. I'm
16 colloquially known as Bill Grooms; a resident of Columbia,
17 South Carolina.

18 THE COURT: All right. Mr. Grooms, I don't think
19 there's anybody here to ask you questions. So why don't
20 you -- first of all, identify yourself for us and tell us
21 -- I've got your CV, but tell us on the record a little
22 bit about your background and your current status and why
23 you want to -- or why you've made application and what you
24 can offer us.

25 MR. GROOMS: Thank you, Your Honor.

1 THE COURT: Thank you.

2 MR. GROOMS: My name is Bill Grooms. I'm educated in
3 the State of South Carolina, born and raised in this
4 state. All my education -- grammar school, high school,
5 and up to the baccalaureate level -- has been in the State
6 of South Carolina, to include by baccalaureate degree from
7 the University of South Carolina. I've been a native of
8 Columbia since the fourth grade forward.

9 Beyond my high school education, my baccalaureate
10 degree's University of South Carolina, I have a masters
11 degree from Pepperdine on the West Coast, and a PhD from
12 LaSalle.

13 My professional background is after the University of
14 South Carolina, I commenced my professional career with
15 the Internal Revenue Service as an Internal Revenue agent.
16 I left the IRS to go with the Columbia, South Carolina
17 firm -- accounting firm of Clarkson, Harden and Gantt,
18 where I served as a tax partner. That firm eventually
19 merged with Arthur Young, which in turn merged with Ernst
20 & Young; and I took advantage of an early retirement
21 opportunity from Ernst & Young.

22 Since that time I have had my own practice in which I
23 do essentially three things: I travel around the United
24 States typically 30 days/35 days a year conducting
25 continuing -- continuing professional education programs

1 for CPAs and frequently tax lawyers who will be sitting in
2 the audience as a part of their CLE requirement; I'm also
3 serving as an expert witness with attorneys in various
4 matters and have testified and -- and qualified in both
5 the Federal and state courts; and beyond that, I'm
6 available to CPAs and attorneys where they have a client
7 with a tax problem or a business problem that they would
8 associate myself.

9 And that's something of my background, Your Honor.

10 THE COURT: All right, sir. Tell me why you want to
11 get involved in this situation.

12 MR. GROOMS: I believe as a result of the experiences
13 that I've been through and the course of my practice
14 background and my education, that I could serve this
15 estate very well. And I see it as a challenge to myself
16 and I see it as, therefore, an opportunity to serve the
17 State of South Carolina and to serve this estate. And
18 from that background and that perspective, I would be
19 pleased to serve if I were selected.

20 THE COURT: What would you -- what -- what do you see
21 your role as being. I mean --

22 MR. GROOMS: That of the personal representative to
23 work with the problems and challenges that this estate
24 would pose.

25 THE COURT: Are you familiar with the on-going

1 litigation that's been -- now sent back to me through the
2 Supreme Court: the contest of the wills, litigation
3 concerning the validity of marriages, and the legitimacy
4 of a child?

5 MR. GROOMS: No, sir, I am not. I made it a point not
6 to try to review anything that's gone on before, because I
7 did not want to be prejudiced by that which has happened
8 in the past.

9 THE COURT: Mr. Brown died in December of 2006, on
10 Christmas Day. Obviously, notwithstanding all of the
11 litigation that has come up after his death, and they've
12 done a lot of claims and a lot of just day-to-day
13 administration of the estate, are you familiar with any of
14 -- any of that?

15 MR. GROOMS: No, sir. I'm not, for the reasons I've
16 stated.

17 THE COURT: Do you understand that there will be some
18 need for continuity between; obviously, what has been
19 going on since December of 2006 and today, notwithstanding
20 the Supreme Court's decision?

21 MR. GROOMS: Yes, sir. I understand there will be a
22 learning curve to -- to be mastered there. But I see that
23 as one more challenge in the event of this.

24 I also see this as an opportunity to bring to bear the
25 skills that I have in working with others who have diverse

1 interests as it relates to this. And hopefully, those
2 skills that I have in working with diverse parties would
3 enable me to render a service.

4 THE COURT: I see that Mr. Bauknight was working with
5 you at one time; is that correct?

6 MR. GROOMS: Yes, sir. I had the pleasure of working
7 with Mr. Bauknight for several years. And I will also add
8 that I have a very high opinion of Mr. Bauknight and his
9 skills.

10 THE COURT: And if you were brought onboard, could you
11 continue to work with Mr. Bauknight or ---

12 MR. GROOMS: It would be my pleasure to work with Mr.
13 Bauknight if I were so selected.

14 THE COURT: Any -- anything else you want to tell me
15 in connection with your desire to serve as a trustee
16 and/or administrator of this estate?

17 MR. GROOMS: I have worked with many estates, and I
18 see this simply being one more challenge. I see this
19 being also a situation that I could utilize the skills
20 that I have developed in working with other matters, and
21 the familiarity that I have with the South Carolina
22 Judicial System, and the Federal Judicial System I might
23 add. And I would envision bringing those skills to bear
24 as I meet this challenge.

25 THE COURT: Thank you very much. Anything else you

1 want to add, if not I'm going to move forward.

2 MR. GROOMS: No, sir. But I would be happy to answer
3 any questions that anyone might have.

4 THE COURT: Well, I tried to purposely not open this
5 up to questions, because that could lead us being here way
6 into the night. So I'm going to just ask the questions
7 myself. Thank you for coming. You may step down.

8 (Mr. Grooms exits the stand.)

9 THE COURT: All right. Let's do -- I'm sorry. Is it
10 Kenally [phonetic] or Keniley?

11 MR. KENILEY: Keniley, sir.

12 THE COURT: Keniley. If you'd come around for me,
13 please.

14 Scott Keniley, having been first
15 duly sworn, testifies as follows:

16 THE COURT: All right. For the record, Mr. Keniley,
17 on July 14, 2013, sent me a letter and thanked me for the
18 opportunity to apply for the position of trustee. And in
19 that letter, he gave me some background and sent a CV as
20 well.

21 But Mr. Keniley, why don't you just tell us -- first
22 of all, start off with your background and tell us a
23 little bit about you, your professional standing and what
24 you do and why are you wanting to become involved in this
25 situation.

1 MR. KENILEY: Thank you, Your Honor. My name's Scott
2 Keniley. I'm a partner at the entertainment business law
3 firm Keniley Kumar in Atlanta, Georgia. Our primary
4 offices are in Dunwoody and we have -- and my home's in
5 Peachtree Corners.

6 At the law firm -- we're an entertainment practice is
7 what we do. It's an -- what people refer to as a
8 "boutique practice." We represent artists from baby-act
9 level to Grammy-act level. We represent record companies
10 from indy record companies to major record companies.
11 We've been involved this -- in all different levels.

12 In this dealing we do recording contracts. We
13 negotiate these. We negotiate publishing deals. We
14 negotiate distribution deals. We negotiate strategic
15 alliances and other strategic partnerships for the artists
16 or indy labels.

17 We -- we also engage in litigation defending and
18 protecting the intellectual property for the different
19 artists and different record companies, including trade
20 marks and copyrights. We don't get involved in the patent
21 area at all, as I'm not a licensed patent attorney.

22 But in terms of intellectual property, we -- we're
23 pretty submerged in the business of protecting and
24 exploiting intellectual property.

25 In addition to that, we also represent gaming

1 companies with -- gaming and gambling companies with US
2 and foreign compliance -- legal compliances. We represent
3 video game companies and digital content acquisitions,
4 such as non-interactive performance publishing, non-
5 interactive master-use licenses, interactive publishing
6 with -- directly with the publishing -- major publishing
7 companies and with independent publishing companies. We
8 also do interactive publishing mechanical licenses with
9 Harry Fox Agency. We do Cloud and locker content,
10 acquisition, and licensing deals as well.

11 And in addition to that, we also perform other
12 services for our clients, including some estate work, some
13 criminal work. I'm directly involved in that, supervising
14 most those matters.

15 I'm also employed by the SAE Institute as a professor,
16 an adjunct professor, where I teach music business; I
17 teach copyright entertainment law; I teach music
18 entrepreneurship.

19 And if some of y'all aren't familiar, SAE Institute is
20 a 57 campus, world-wide university that is an audio
21 engineering school. I teach at the Atlanta campus. I'm
22 also on their national advisory board.

23 I also -- at this time, I'm in my fifth year being the
24 Education Chairman for the North American Entertainment
25 Sports and Intellectual Property Law Conference. This

1 year it will in Jamaica. It's a conference just with the
2 topic as it is. We have, you know, a lot of music related
3 panels, film related panels, patent related panels,
4 digital licensing panels. And this -- in Jamaica, we'll
5 have 26 panels, we'll have over 100 speakers, 250 or more
6 people will attend each year. Last year we were in
7 Mexico. It's just -- we transfer each year to a new
8 location.

9 And I also am an elected Board of Governor for the
10 Recording Academy. And for some of you who aren't aware
11 and some may be aware, but the Recording Academy is the
12 issuing body for the Grammy Awards. And at the Recording
13 Academy I serve on their Education Committee as well.

14 On a former sense, I am formerly the -- formerly a
15 board of directors member for the Georgia Lawyers for the
16 Arts, board of directors member for the Southern
17 Entertainment Art Law Center; and a former board of
18 directors for the Louisville Music Industry Alliance,
19 where I also served as general counsel.

20 And with -- and I also served as vice-president and
21 general counsel for Platinum Entertainment, which at the
22 time was a -- the largest independent record company in
23 the United States, with a sixty million dollar gross
24 revenue, NASDAQ traded under the sign PTET at the time.

25 And with that job, I served many roles, you know, of

1 course, as the general counsel. I served the role of, you
2 know, SEC compliance, and corporate supervision,
3 employment and labor issues. But mostly my job was
4 directly involved with licensing and exploiting and
5 protecting the intellectual property this company had or
6 desired to have.

7 And in that we did strategic alliances and co-branding
8 deals. Some of the co-branding and strategic alliance
9 deals we did, you know, House of Blues, we distributed --
10 put out all their music, did deals with Coca-Cola, and
11 National Geographic.

12 We did special publicity, license deals for Sir George
13 Martin, who was the producer for the Beatles -- people
14 thought he was the fifth Beatle -- for a -- an album
15 series, where he didn't perform. He basically just used
16 his face to put on the album.

17 And we also put out an album for Duke Ellington, which
18 we secured all the proper licenses through his family and
19 his estate.

20 And the company later became Compendia Media Group,
21 and I was involved in the -- the sale of the assets and
22 the transfer of the assets from Platinum Entertainment,
23 which rolled into a Chapter 11 bankruptcy and eventually
24 transferred all their assets. So I was on the developing
25 committee and the go-forward plan development committee

1 for the new entity Compendia Media Group.

2 THE COURT: What do you see your role in -- in the
3 James Brown estate? What can -- what can you offer us?
4 What can you help us with?

5 MR. KENILEY: I think I can help a lot. I -- I like
6 the concept. I like that this was left to education. I
7 see that this could be the greatest education donation
8 bequeathing of all time. It could possibly be a lead into
9 other people donating and bequeathing their assets to
10 this.

11 The income that could be derived from this -- the
12 estate needs intellectual property protection and
13 intellectual property exploitation. This is a self-
14 funding charity scholarship program, and it sits there --
15 it -- its only value is as the money keeps coming in. So
16 the -- the intellectual property has to be exploited.

17 But the first thing to do when you're exploiting
18 intellectual property, you have to protect it. People out
19 on the internet, you can -- you can go out there and surf
20 around. And people are going to grab James Brown
21 likenesses and use his name, and they're going to exploit
22 him the best they can and hopefully they won't get caught.
23 That's their game plan. But they need people to look
24 after it, because if you don't stop them from doing that,
25 the value of James Brown's intellectual property is going

1 to go down; and therefore, we can't get as much when
2 licensing.

3 In exploiting the -- the -- the property, the
4 intellectual property, and it's -- really, it's his right
5 of publicity, is what would be exploited -- I think you
6 need to, you know, go out into market and find those
7 opportunities. And the best thing I've got are my -- my
8 friends.

9 I work in this entertainment industry. I chair this
10 educational event with -- with, you know, over a hundred
11 speakers coming from around the country and I can meet
12 with all these people. Between my friends and my friends
13 of friends, that somehow we can get this into the right
14 hands, the right people either to assist in exploiting it
15 or directly exploit it for them.

16 And in terms of protecting it, my litigation
17 background, my supervisory litigation with Platinum
18 Entertainment, and even my litigation now, I certainly
19 think I can get involved in making sure that people aren't
20 going to be stealing the property, which would be drowning
21 out its value.

22 THE COURT: So as Judge Dickert could help us with the
23 litigation concerning the validity of the will and the
24 marriage and the children's issues, your forte would be
25 helping us maximize the James Brown music catalogue and

1 his ---

2 MR. KENILEY: I -- I think ---

3 THE COURT: --- James Brown ---

4 MR. KENILEY: Yes, sir, that's correct. And I think I
5 could also be very helpful in the scholarship program.

6 And even with the Grammy -- the group right now at the
7 Grammy Foundation, I'm on their educational committee and
8 -- and it's involved in giving out scholarships to
9 children, to send them to what they call "Grammy Camp."
10 And they also help with the schools.

11 And it's where that -- as you can see, my passion is
12 education. My passion is music, and fortunately, I get to
13 do both. So I think I can help on both the scholarship
14 part, and the asset protection and exploitation.

15 And I'm very impressed with the judges credentials and
16 -- and what you're saying is -- is absolutely correct.

17 THE COURT: Give us a little bit about your
18 educational background and your -- and your work
19 experience.

20 MR. KENILEY: Well, I'm not an SEC guy. I went to
21 school at University of Oklahoma, and -- and while I was
22 at University of Oklahoma -- I graduated OU -- in
23 undergrad, I acquired a job at the Federal Public
24 Defender's Office, Oklahoma, City. So I went to law
25 school in Oklahoma City, at Oklahoma City University,

1 where I served as a three-year clerk for the Federal
2 Public Defender's Office, and also served for the Oklahoma
3 Indian Legal Services. I was there.

4 THE COURT: And from there?

5 MR. KENILEY: From there, I sold my soul to a
6 Tennessee fan, and they talked me into coming out here to
7 the Southeast. And I'd never been to this part of the
8 country, and that was 21 years ago and I'm still here.
9 Love it.

10 THE COURT: Thank you. Anything else you want to
11 share with us about your ambitions to be part of this
12 team?

13 MR. KENILEY: No, sir.

14 THE COURT: Thank you very much for coming.

15 MR. FEW: Your Honor, we -- we have one question that
16 we'd like to pass up to the Court, for the Court to ask
17 this question of the witness.

18 THE COURT: You can hand it to the bailiff, or you can
19 bring it up.

20 (Mr. Few hands a note to the court clerk.)

21 MR. FEW: Thank you, ma'am.

22 (Court clerk hands the note to the Court.)

23 THE COURT: Do you have a business relationship with
24 Joel Katz?

25 MR. KENILEY: No, sir, I do not. But I do know Joel,

1 and I know most of the lawyers that work directly with
2 him. But no, I've never worked with him personally, never
3 had dinner with him, never had lunch with him.

4 THE COURT: Never represented him?

5 MR. KENILEY: No, sir.

6 THE COURT: Thank you. Anything else?

7 (No audible response.)

8 THE COURT: Thank you for coming.

9 MR. KENILEY: Thank you, sir.

10 (Mr. Keniley exits the stand.)

11 THE COURT: All right. On behalf of Mr. Russell
12 Bauknight.

13 (Mr. Bauknight takes the stand.)

14 MR. NEWSOME: Your Honor, if I could just real
15 quickly. One question, you said 15 ---

16 THE COURT: Just -- Madam Court Reporter, do you know
17 -- identify -- you okay?

18 MR. NEWSOME: I'm sorry. I gave her my card.

19 Just real quickly, I -- you indicted everybody has 15
20 minutes, and of course, Mr. Bauknight's filed two
21 petitions, both a petition to appoint him as personal
22 Representative and trustee, and then a separate petition
23 to appoint Mr. Sojourner as limited special trustee.

24 And if we could, I ask for 15 minutes on his PR
25 appointment; and then, less than five on why he thinks

1 it's in the best interest of the estate trust ---

2 THE COURT: I'll give you 15 on both.

3 MR. NEWSOME: All right. Thank you, Judge.

4 THE COURT: Mr. Bauknight, has he been sworn?

5 CLERK OF COURT: No.

6 RUSSELL BAUKNIGHT, having been
7 first duly sworn, testifies as follows:

8 CLERK OF COURT: Have a seat. State your name,
9 please.

10 THE COURT: Mr. Bauknight, give us your full name for
11 the record, spelling your last.

12 MR. BAUKNIGHT: My name's Russell Bauknight; B-a-u-k-
13 n-i-g-h-t.

14 MR. NEWSOME: Your Honor, could I also hand up -- I
15 was given today nominations from three of the designees,
16 nominating Mr. Bauknight to serve as PR.

17 THE COURT: Well, I think we probably need to make
18 those part of the record. Have they been filed somewhere?

19 MR. NEWSOME: They have not. We were just given those
20 right before the hearing.

21 THE COURT: Well, I think I'll take those, you know,
22 just as -- receive them. But I think those need to be
23 filed ---

24 MR. NEWSOME: We certainly will file them if you'd
25 like. I'll ---

1 THE COURT: Yeah. Okay. I'll get them later.

2 MR. NEWSOME: --- leave a copy with you.

3 THE COURT: Thank you. Mr. Newsome.

4 MR. NEWSOME: Thank you, Your Honor. Mr. Bauknight,
5 can you please tell the Court your educational background.

6 MR. BAUKNIGHT: I'm a 1980 graduate of Towson
7 University, Baltimore, Maryland.

8 MR. NEWSOME: Okay. And can you also tell the Court
9 your professional background and work experience.

10 MR. BAUKNIGHT: Sure. I'm a certified public
11 accountant. I began my career with a Washington, D.C.-
12 based accounting firm --

13 THE COURT: Mr. Newsome, how bout move back so these
14 gentlemen can see.

15 MR. NEWSOME: All right. Sorry.

16 MR. BAUKNIGHT: I worked with that firm for
17 approximately a year and a half before deciding to make a
18 move back to Columbia, my home town. And when I came to
19 Columbia in June of 1981, I began working with the
20 predecessor accounting firms to Ernst & Young. I worked
21 with Ernst & Young, with Bill Grooms, until 1991.

22 In September of '91, I left Ernst & Young to form my
23 own firm, Bauknight, Beatrice, and Stormer. We are a
24 nine-partner, approximately 50-person Columbia-based firm.
25 We work all over country.

1 MR. NEWSOME: Okay. And can you also describe for the
2 Court your experience as a fiduciary prior to being
3 appointed personal representative in this estate.

4 MR. BAUKNIGHT: Sure. In the early 1990s, I've had
5 clients approach me about serving in a fiduciary capacity,
6 as a part of their estate planning process.

7 Since that time I've served and currently serve in
8 excess of 50 trusts as trustee. Total value of those
9 trusts is approximately 200 million dollars. In addition,
10 I serve as personal representative in many, many estates.

11 MR. NEWSOME: Okay. And is this the largest estate
12 you've ever administered as personal representative?

13 MR. BAUKNIGHT: This estate, while it's large and
14 complex, is not close to the largest. I've served as
15 personal representative of an estate that was valued at
16 approximately 150 million dollars.

17 MR. NEWSOME: Okay. And now, if you could, could you
18 describe for the Court your accomplishments during your
19 tenure as PR of the estate.

20 MR. BAUKNIGHT: Sure. And if you don't mind, I'm
21 going to refer to some notes. I ---

22 THE COURT: What was the date of your appointment, Mr.
23 Bauknight?

24 MR. BAUKNIGHT: Your Honor, I was appointed May 26,
25 2009. It's a long time, sir.

1 THE COURT: Yes, sir.

2 MR. BAUKNIGHT: Since that time -- I -- I would like
3 to just say this is not a complete list of
4 accomplishments, but I did pick 27 highlights, I'd like to
5 bring to the attention of the Court.

6 First and foremost, when I took this position in May
7 of 2009, the Pullman bond was -- had a balance in excess
8 of 14 million dollars. I -- I took the steps required to
9 pay that bond off. I paid it off seven years ahead of
10 schedule, Your Honor.

11 That -- that was as scheduled, according to the
12 documents, it would still be owed today. But I've gotten
13 that paid off.

14 I hired Mr. Peter Afterman, who is a two-time Grammy
15 award winner. He is noted in the industry as a "top
16 person," marketing music for the estate. Mr. Afterman
17 markets the music for the Rolling Stones. I hired Peter
18 shortly after taking this position, and I was able to
19 convince Peter to take this job on a deferred-pay basis.
20 He worked for this estate for 15 months before we paid him
21 the first dime.

22 Peter has been instrumental in leading the charge
23 marketing the intellectual property of this estate.

24 THE COURT REPORTER: Could you spell his last name for
25 me, please.

1 MR. BAUKNIGHT: Afterman; A-f-t-e-r-m-a-n.

2 I partnered with Universal Music.

3 THE COURT: Tell me some of the stuff that Mr.
4 Afterman's done.

5 MR. BAUKNIGHT: Your Honor, I've got that in this
6 list, and I'd be happy to share that with you.

7 THE COURT: Just go ahead.

8 MR. BAUKNIGHT: I partnered with Universal Music and
9 this is something Peter assisted me with. We met with
10 lead internal counsel, actually brought him here to
11 Columbia, South Carolina. He thought it was this
12 important.

13 We had many, many unlicensed samples that you've heard
14 referred to earlier by Mr. Keniley, for which Mr. Brown
15 was not paid for during his lifetime nor did the estate
16 get money. But I was able to secure a deal with Universal
17 Music to bring in a large sum of money to this estate,
18 paying us for those unlicensed samples.

19 In addition, we convinced Universal Music to set up a
20 separate division that is fully staffed, assisting us with
21 the marketing of -- of Mr. Brown's music and they do not
22 charge us for that.

23 I launched and was able to secure the deal launching
24 the James Brown YouTube channel. As you're probably
25 aware, YouTube is the biggest listening audience -- has

1 the biggest listening audience of any media out there. We
2 -- we have accomplished that in the last 12 months, Your
3 Honor.

4 I recovered the critical domain name jamesbrown.com.
5 That domain name had been held by an unrelated party for
6 decades, at least a decade. We were able to secure that,
7 bring that back under the ownership of the estate. And
8 along with securing that, I was able to convince Universal
9 Music to build our website free of charge. So we now have
10 an operating jamesbrown.com website, which you'll hear in
11 just a moment, we're going to use for marketing
12 merchandise, as well as Universal already uses it to
13 market music of Mr. Brown. I've launched that website.
14 It is open now.

15 I have secured a deal for a documentary on the life of
16 James Brown. This documentary's going to be directed and
17 produced by Mick Jagger. It's already secured two million
18 dollars funding for ---

19 THE COURT: Is that the one we saw all the publicity
20 last week about?

21 MR. BAUKNIGHT: No, sir. This is separate and apart
22 from that. This is a totally separate deal. Two million
23 dollars for a documentary on -- on the life of James Brown
24 is a lot of money, and we've already been able to put that
25 together.

1 The deal you just referred to, I've secured a deal --
2 an option with Ron Howard/Brian Grazer -- that's Imagine
3 Pictures -- and Jagged Productions, which is Mick Jagger's
4 production company, for the production of a movie on the
5 life of James Brown.

6 As you all have probably read, Universal Pictures will
7 be the funding for that movie, and it is scheduled to
8 begin production shortly. It will be directed by Tate
9 Taylor who directed the movie "The Help," and will have as
10 it's star Chad Boseman, who recently starred as Jackie
11 Robinson in the movie "42."

12 I believe they've released a release date for the
13 movie of November 14, 2014, Your Honor.

14 I'm currently negotiating a deal on a live tribute
15 tour featuring the music of James Brown.

16 I've initiated -- as you've heard testimony in your
17 courts in earlier hearings, there -- there was quite a bit
18 of video and audio tape at the home of Mr. Brown. It was
19 secured at Iron Mountain Facility in Nashville. I've
20 hired the director, the -- the curator of the music
21 archives of the Grand Ole Opry, Mr. Steve Gibson, to head
22 up the digitization of all of that material so that it can
23 be used for commercial purposes. Quite a bit of that will
24 be used in the documentary.

25 These are tapes, audio and video, that are in danger

1 of deteriorating so much that they'll never be able to be
2 used if we don't go through this process. So we began
3 that actually well over a year ago.

4 I began discussions and -- and -- and continuing today
5 on a Broadway production. This would be produced by Mr.
6 Bill T. Jones, a renowned Broadway producer.

7 I've spent nearly \$400,000 on the Beech Island home.
8 As -- as you all may have heard in testimony in earlier
9 hearings, the Beech Island home was in terrible disrepair
10 when I took this position. The roof was leaking
11 everywhere, the pipes were broken, water was draining to
12 the house instead of away from the house, gutters led to
13 nowhere, and the heating and air system was not in use in
14 any way.

15 So what little of the assets -- and there's still
16 significant assets remaining today after the Christie sale
17 -- but those assets that are in this home need to be
18 protected.

19 I've spent \$400,000 doing just that: Replacing every
20 roof on every building there; I've put in new gutter
21 systems; I've put in over a mile of PVC drains, taking
22 water away from this home; and I've put in all new heating
23 and air units for this entire facility.

24 In addition, since the place was in such disrepair,
25 the personal property contained therein, the uniforms of

1 the band, the -- all the personal affects of Mr. Brown
2 that were not sold, need to be restored and -- and made --
3 made whole from the state they were in before. So I --
4 I've got a service that's going to begin working on that
5 shortly. I've already negotiated the deal for that, and I
6 was just waiting for my heating and air to be finished
7 before I began that process.

8 I've resolved most of the claims against the estate,
9 except primarily the prior fiduciaries, Your Honor. I've
10 been working diligently on that, particularly since the
11 Supreme Court opinion came down. And as you've seen,
12 we've had scheduling orders filed on all those claims.

13 THE COURT: And one of the fiduciary's is -- has been
14 settled, has it not?

15 MR. BAUKNIGHT: We've settled out Mr. Bradley and Mr.
16 Cannon. We still have -- and -- and we've settled out Mr.
17 Buchanan. We still have 10 million dollars in claims from
18 Buddy Dallas and Adele Pope.

19 We still have hundreds of thousands of dollars of
20 claims from legal counsel involved with the prior
21 fiduciaries.

22 THE COURT: But Mr. Newsome has been working
23 diligently, along with you, on that. I -- daily I -- not
24 daily, but periodically I see things coming in that those
25 -- some of those are being resolved.

1 MR. BAUKNIGHT: We're resolving them ---

2 THE COURT: Even as we speak today.

3 MR. BAUKNIGHT: Yes. Yes, sir.

4 THE COURT: And those that aren't resolved, we've got
5 a pretty good handle on, and those that aren't resolved,
6 we have scheduling orders in --

7 MR. BAUKNIGHT: That's correct, sir.

8 THE COURT: -- I think in all of them, except for the
9 three litigation claims.

10 MR. NEWSOME: That's right.

11 MR. BAUKNIGHT: That's correct.

12 I -- I've resolved the IRS matters.

13 THE COURT: And the reason we haven't gotten the
14 litigation claims scheduling order because we hadn't had
15 this resolved --

16 MR. BAUKNIGHT: That -- that's ---

17 THE COURT: Right?

18 MR. BAUKNIGHT: That's right, Your Honor.

19 THE COURT: I didn't mean to interrupt you.

20 MR. BAUKNIGHT: That's all right. It's your court.

21 THE COURT: No. It's everybody's court.

22 MR. BAUKNIGHT: I've resolved the IRS matters that I
23 inherited when I took over in May of 2009. I'm the only
24 person to file income tax returns for this estate and
25 trust. I filed every return that's required to be filed,

1 both during my tenure and that of the other fiduciaries.

2 In fact, I filed Mr. Brown's final personal income tax
3 return for the year he passed away.

4 I've successfully resolved multiple IRS audits with
5 respect to those returns, to include the estate tax return
6 Form 706.

7 I was able to hire, on a deferred-pay basis, a -- an
8 investment banking firm to come in and value the
9 intellectual property of this estate. That valuation was
10 performed with the understanding that that firm would not
11 be paid until I had the cash available to pay it over a
12 year later.

13 In fact, during the audit of the Form 706 for which
14 that valuation was performed, the IRS brought in their
15 royalty valuation experts from Kansas City, Missouri, they
16 examined our valuation as well as the rest of the Form 706
17 that we submitted, and they agreed with the valuation work
18 we had prepared. And we -- we received actually a refund
19 of tax that had been paid on that return, and other than
20 that, there was no significant change made by the IRS.

21 THE COURT: So there's no outstanding tax liens,
22 there's no outstanding tax returns that are due?

23 MR. BAUKNIGHT: There are no outstanding tax returns
24 due. We have no tax liens, although the IRS did file
25 claims against the estate, which I believe we should have

1 lifted shortly.

2 Those claims relate to Forms 1040 for two years while
3 Mr. Brown was still alive. I believe we'll be able to
4 resolve those shortly. It's a very simple process. We've
5 got to provide them basis information for some stock ---

6 THE COURT REPORTER: Say that one more time. Someone
7 coughed.

8 MR. BAUKNIGHT: I'm sorry. We -- we have to provide
9 the IRS basis information for stock sales that was not
10 included in the original returns as filed.

11 Your Honor, I've set aside money. I did not put this
12 in a separate account, but I have set aside cash to pay
13 out charitable trust scholarships; and I've set aside
14 cash, not in a separate account, but I've earmarked it
15 should -- to pay out grandchildren's education expenses,
16 should we work out a situation that the Court would
17 approve where those expenditures would become payable.

18 I -- I believe very strongly that the lack of funds
19 should never be the reason we can't pay scholarships.
20 Once we resolve the legal issues surrounding those issues,
21 I want to be able to pay out money right away. I have in
22 the bank today over a million dollars that I've
23 accumulated, and I don't want to see it paid out, leaving
24 this estate in the situation I inherited.

25 When I took over, it was less than \$13,000 in the

1 bank, and I had tens of thousands of bills due, and I had
2 tens of millions of claims filed against this estate.

3 I've cleaned up and renegotiated, hired new auditors
4 for the royalty audits of Universal Music, Carlin America,
5 and Warner/Chapell. The previous personal representatives
6 hired auditors that were related to Gary Haber -- I -- I'm
7 sorry -- to -- to the Pullman people, Mr. Pullman himself,
8 and they hired them on a contingent basis, paying out 20
9 percent of everything found.

10 I was able to negotiate fixed-fee arrangements with a
11 reputable royalty audit firm, and I'm expecting to make a
12 claim against the first of the ones that they've
13 completed, against Universal, for over a million dollars,
14 and I will have paid \$60,000 for that audit, which is far
15 less than the 200,000 that would have been due under
16 previous arrangements.

17 That is not our firm, by the way. That's a reputable
18 royalty audit firm.

19 I'm currently negotiating a merchandise deal with a
20 New York firm. This deal will promote merchandise on our
21 website as -- as well as selling it through other outlets.

22 I've retained attorneys, Mr. Newsome's firm being one
23 of many, to represent this estate on a deferred pay basis.
24 Your Honor, that's significant. We've incurred millions
25 of dollars of legal fees, as you can imagine, with the

1 litigation in this estate. And I've been able to do that
2 on a deferred pay basis.

3 I've been interviewed by the "Rolling Stone Magazine,"
4 quoted therein; I've provided interviews and photo
5 opportunities about the estate to other notable news
6 organizations.

7 I've successfully defended this estate against Jackie
8 Hollander, not once, not twice, but seven times in several
9 Federal courts as well as state courts; and have another
10 appeal pending in your court as of Monday of this week --
11 or Tuesday of this week when it was filed. That should be
12 our last one.

13 I've settled multiple lawsuits favorably for the
14 estate with the help of attorneys who are in this room
15 today.

16 I want to bring up what I call "clearances," which are
17 clearing the use -- the commercial use of music by Mr.
18 Brown for commercials and -- and the like. There are
19 three of them I think that are very significant that I
20 want to bring to the Court's attention.

21 If you recall the Superbowl two years ago, there was a
22 Volkswagen commercial where a fat dog was chasing the
23 Volkswagen. That was James Brown's "Get Up Off of This
24 Thing" -- "Get Up Off of That Thing," and that generated a
25 million dollars of music royalties from Mr. Brown's music.

1 Peter Afterman was able to get that deal going.

2 Peter also worked with Channel perfume, and if you've
3 seen it, it's Josh Stone doing a re-record of "It's a
4 Man's World." That generated a million dollars of music
5 royalties on Mr. Brown's music.

6 And of course, the -- the Gatorade commercial, which
7 is a multi-sport commercial. Serena Williams pops out in
8 my mind as one of the -- the people. But we had a
9 basketball version, we have a football version. Gatorade
10 used the song "Super Bad." That generated a million
11 dollars of music royalties on Mr. Brown's music.

12 I deal with many, many clearance requests each and
13 every week on the commercial use of Mr. Brown's music. I
14 appreciate Peter's hard work in promoting this, and I -- I
15 think we've done a very good job with that.

16 That's not all of what we've done, but that's a lot of
17 the significant items.

18 MR. NEWSOME: Thank you. Do you have an opinion --
19 just changing. You've heard some discussion about the
20 possibility of multiple fiduciaries. Do you have an
21 opinion as to whether the Court should appoint co-
22 fiduciaries for the estate and trust on this estate?

23 MR. BAUKNIGHT: I do. I have a strong opinion on
24 that. I -- I do not believe the Court should currently
25 appoint multiple fiduciaries. This estate simply cannot

1 afford it.

2 MR. NEWSOME: Okay. Can you explain ---

3 MR. BAUKNIGHT: Sure.

4 MR. NEWSOME: --- why that ---

5 MR. BAUKNIGHT: Sure. As I've -- as I've testified --

6 THE COURT: And when you're talking about "multiple
7 fiduciaries," you're talking about more or less in the
8 administration that you've been doing, not in the defense
9 of these lawsuits that -- the claims against -- not -- not
10 the claims, but the -- the contest concerning the will and
11 the wife and the -- and the child.

12 MR. BAUKNIGHT: Sure. And I'm happy to testify about
13 that issue as well. But ---

14 THE COURT: But what you're talking about now is just
15 what you've been doing basically.

16 MR. BAUKNIGHT: For the administration of this estate,
17 for all that entails, Your Honor, putting three people in
18 this position will more than triple the cost to this
19 estate and trust.

20 We -- as I testified, we have 10 million dollars in
21 claims from prior fiduciaries, just two prior fiduciaries.
22 And we have hundreds of thousands of dollars of claims
23 from legal counsel who worked with those fiduciaries.

24 In addition, I testified that I've hired my attorneys,
25 who represent me here today, on a deferred pay basis.

1 I've -- I've hired many people to assist with this estate
2 on a deferred pay basis. We simply cannot afford the
3 triple redundancy of three people running this estate.

4 MR. NEWSOME: Now, the -- the ---

5 THE COURT: Well, have you had any trouble doing it by
6 yourself for the last four or five years?

7 MR. BAUKNIGHT: Your Honor, I -- I'm not going to sit
8 here and brag, but I think we -- I've done a very good
9 job, so -- and I -- I will tell you this is one of the
10 most complicated jobs I've had. I've enjoyed it, but I
11 think we have done a very good job with the team I've put
12 together.

13 THE COURT: And I assume it took awhile for the
14 learning curve to catch up, and for somebody new coming
15 in, it would be a huge task.

16 MR. BAUKNIGHT: Your Honor, I think that would cost --
17 unnecessarily cost hundreds and hundreds of thousands of
18 dollars for someone to come in and get up to speed to
19 where they could deal with these issues the way I have.

20 I'm not the only person. I will not sit here, as
21 others have, and say that I'm the only person who can run
22 this estate. I am not, absolutely not. There are plenty.

23 The people you heard -- heard from today are fine
24 qualified people, I'm sure, for what they do. But for
25 this estate and trust, I do not believe it's appropriate

1 to appoint additional fiduciaries at this time.

2 THE COURT: And particularly with the history of this
3 estate.

4 MR. BAUKNIGHT: Particularly with the history of this
5 estate. I would ---

6 MR. NEWSOME: You mention "at this time." Can you
7 explain to Judge Early what you mean by that?

8 MR. BAUKNIGHT: Yes, I can. I -- I believe that this
9 estate and trust, once the litigation is complete, once
10 we're ready to close out this estate, I believe that's an
11 appropriate time for the Court to revisit the fiduciary
12 situation for the charitable scholarship awarding trust
13 moving forward.

14 And I'll take it a step further, Your Honor. As I
15 have operated this entire time since May 26, 2009, at that
16 time, I can assure the Court -- I'll assure you, Mr.
17 Newsome, I'll assure you, Judge Early -- I'll bring you a
18 plan and a recommendation that I believe is appropriate
19 for moving forward.

20 I -- I regularly put a great deal of thought into the
21 future of this. I will bring you a plan, and hope that
22 Your Honor will see fit to take a good look at the plan I
23 bring to you at that time. But I believe we're very
24 premature at this point.

25 MR. NEWSOME: And last question: Would -- would you

1 be willing to serve as a co-fiduciary in this estate and
2 trust?

3 MR. BAUKNIGHT: As much as I want to finish this job,
4 I would tell you "no." And that is because I do not
5 believe it's the right thing to do for this estate. I
6 feel like what I do each and every day, whether it's this
7 estate or other business or personal endeavors I take, I'm
8 not going to do something I don't believe is right. And
9 for that reason, I would tell you "no."

10 MR. NEWSOME: Please answer any other questions Judge
11 Early has.

12 THE COURT: I don't have any.

13 MR. NEWSOME: Would you like to hear from him on the -
14 -

15 THE COURT: Please.

16 MR. NEWSOME: -- petition for appointment of limited
17 special administrator/special trustee?

18 I'll ask you, Mr. Bauknight, do you have a conflict of
19 interest that prevents you from representing this estate
20 as personal representative?

21 MR. BAUKNIGHT: Absolutely not.

22 MR. NEWSOME: Okay.

23 MR. BAUKNIGHT: I would tell you that I am very
24 capable, ready, and willing to represent this estate in
25 every capacity, including vigorously defending this estate

1 against any and all claims made against it.

2 MR. NEWSOME: Okay. Can you explain why you're
3 recommending the appointment of Mr. Sojourner?

4 MR. BAUKNIGHT: Sure. Dave Sojourner is a man who
5 I've known for probably 30 years; worked with him my
6 entire career once coming back to Columbia. He has
7 impeccable credentials. He is very knowledgeable in the
8 estate and trust area. He's a lawyer. He is with a fine,
9 reputable law firm. He has defended clients in -- in will
10 contests. He's represented clients filing the other side
11 of those contests. He's also served as a fiduciary.

12 That's his background from my viewpoint. But the
13 reason I've asked the Court to consider him in that very
14 limited capacity is I was advised by my counsel, shortly
15 after the Supreme Court opinion, that people were ready to
16 raise the conflict of interest claim that I was tied too
17 closely to beneficiaries because of the settle -- their
18 settlement agreement. I did not create that settlement
19 agreement. It was their settlement agreement. That was
20 the road map I operated under.

21 But the fact that somebody wanted to raise the
22 conflict of interest claim, with me defending the estate
23 against those will contests, bothered me greatly in that I
24 thought that was going to be an appealable issue at some
25 point, and that would just be one issue off the table that

1 hopefully would save this estate and trust some money.

2 For that reason, I've asked the Court to consider Dave
3 Sojourner in that very limited role.

4 MR. NEWSOME: Okay.

5 THE COURT: What would your relationship be with him
6 if we did that? Would you just completely divorce
7 yourself from him and let him handle the litigation, and
8 you continue on with the administration if this all bears
9 out, or how would you work with Mr. Sojourner?

10 MR. BAUKNIGHT: Your Honor, I think that's a great
11 question. I -- I don't believe that I can divorce myself
12 from him in that situation. I have tremendous
13 institutional knowledge of this estate and trust.

14 I -- I believe -- I also would have the checkbook,
15 Your Honor, and I'm sure that we need to consult on how
16 money is spent in that litigation and -- and the timing of
17 those expenditures. We -- we're going to have to work
18 closely on that.

19 But beyond the money, I -- I have too much inside
20 knowledge of this estate and trust for him not to use that
21 knowledge in defending this estate and trust. We don't
22 have different interests here. My interest is this estate
23 and trust. I will vigorously defend it; I will assist Mr.
24 Sojourner in that endeavor.

25 THE COURT: Thank you. Anything else?

1 MR. NEWSOME: No, Your Honor.

2 THE COURT: All right, sir. Thank you very much, Mr.
3 Bauknight.

4 MR. BAUKNIGHT: You're welcome.

5 (Mr. Bauknight exits the stand.)

6 THE COURT: Mr. Sojourner.

7 MR. SOJOURNER: Yes, Your Honor.

8 THE COURT: Gentlemen, identify your -- this is for
9 the court reporter. Identify yourselves for the record.

10 MR. SOJOURNER: David C. Sojourner, Jr.

11 David C. Sojourner, Jr. having
12 been first duly sworn, testifies as follows:

13 MR. BEACH: And I've identified myself as John Beach
14 already. Okay.

15 If you'd state your name for the record.

16 MR. SOJOURNER: David C. Sojourner, Jr.

17 MR. BEACH: Okay. And where are you employed?

18 MR. SOJOURNER: I'm a partner at Adams and Reese, a
19 law firm here in Columbia.

20 MR. BEACH: Okay. And would you describe your law
21 practice there at Adams and Reese.

22 MR. SOJOURNER: Sure. The predecessor firm was Ellis,
23 Lawhorne, and Sims. Before that Nauful and Ellis. We
24 recently merged with Adams and Reese June 1st.

25 I've been practicing in that firm for 26 or 27 years,

1 primarily estate and gift tax planning, estate
2 administration. Included within that the occasional
3 estate litigation matter.

4 I'm a tax attorney in -- in primarily estate and gift
5 tax planning. There are five of us at the firm that are
6 focused on this area of law.

7 MR. BEACH: Okay. And you mentioned Ellis Lawhorne,
8 backing up from the June merger of Ellis Lawhorne into
9 Adams and Reese, what was your experience and history with
10 Ellis Lawhorne?

11 MR. SOJOURNER: I've been a shareholder there for 20
12 years, and -- and again the practice was the same there,
13 same group of people.

14 MR. BEACH: All right. Did you go work for Ellis
15 Lawhorne directly out of law school?

16 MR. SOJOURNER: I did -- well, after I -- I -- my -- I
17 went to Clemson University for my undergrad. I went to
18 the University of South Carolina Law School. While there,
19 I -- I was working as a law clerk for then Nauful and
20 Ellis. I went to New York University and got a masters
21 degree in tax law immediately after law school, and have
22 been back working for the same law firm ever since then.

23 MR. BEACH: Okay. And what was your degree in at
24 Clemson?

25 MR. SOJOURNER: Economics.

1 MR. BEACH: Okay. What courts -- in what courts are
2 you admitted to practice?

3 MR. SOJOURNER: All South Carolina Federal Court, Tax
4 Court.

5 MR. BEACH: Okay. Have you received any specialty
6 certifications from the South Carolina Supreme Court?

7 MR. SOJOURNER: I'm a certified specialist in tax law,
8 and have been since 1991. I'm a certified specialist in
9 estate planning and probate, and have been since 1992.

10 MR. BEACH: Okay. Do you hold any professional
11 distinctions or recognitions?

12 MR. SOJOURNER: Am a A-rated Martindale attorney. I'm
13 a member of Best Lawyers in America, South Carolina Super
14 Lawyers, both of those in trust and estates matters.

15 MR. BEACH: Uh-huh.

16 MR. SOJOURNER: I'm a member of the American College
17 Trust and Estate Counsel.

18 MR. BEACH: Tell me about the American College of
19 Trust and Estates Counsel. Is that something that you
20 just join up or ...

21 MR. SOJOURNER: It's a -- it's an invitation-only
22 organization, approximately 1800 attorneys throughout the
23 country. Have to be A rated; have to have practiced for
24 at least 10 years; and have to have your practice
25 substantially devoted to estate and gift tax planning or

1 administration.

2 MR. BEACH: Okay.

3 MR. SOJOURNER: As part of that process with that
4 organization, I was also trained in -- in mediation. I'm
5 not a certified mediator, but -- by the South Carolina
6 Rules, but I've had specialty training in mediation of
7 issues related to estates, family disputes.

8 MR. BEACH: And when did you become a fellow in the
9 American College of Trust and Estates Counsel?

10 MR. SOJOURNER: 2001.

11 MR. BEACH: Have you ever served on any boards or --
12 or positions such as that for local or corporate entities
13 in South Carolina?

14 MR. SOJOURNER: I'm the former chairman of the
15 Community Foundation here in Columbia, Heathwood Hall
16 Episcopal School I -- that organization as well.

17 MR. BEACH: Okay. And have you ever served as the
18 fiduciary for a trust or an estate?

19 MR. SOJOURNER: I have. I've served as a personal
20 representative in the past.

21 MR. BEACH: Have you ever counseled clients on their
22 obligations and duties as they served in the -- a position
23 as trustee or personal representative?

24 MR. SOJOURNER: Certainly.

25 MR. BEACH: Have you ever represented parties in

1 litigation that involved trust and estates in actions
2 involving trusts and estates?

3 MR. SOJOURNER: I have. Will contests, elective share
4 claims, a number of those types of issues over the years.

5 MR. BEACH: Okay. Have you represented trustees in
6 those actions?

7 MR. SOJOURNER: I have.

8 MR. BEACH: Have you represented beneficiaries or
9 people claiming interest in those actions?

10 MR. SOJOURNER: I have.

11 MR. BEACH: How did you come to be before the Court
12 here today in this matter?

13 MR. SOJOURNER: Probably in June or July, Freddie
14 Kingsmore called me and I went over and met with Freddie
15 and Russell Bauknight. And they discussed for me the
16 issues that were related here and the idea of carving out
17 a special limited administrator and trustee role,
18 exclusively for the purpose of defending these particular
19 claims that we've talked about earlier today.

20 And they --- they thought that it was appropriate to
21 petition the Court for that, and I told them, based on our
22 conversations, that I would -- I -- I would agree to serve
23 in that capacity.

24 MR. BEACH: Okay.

25 MR. SOJOURNER: But only that capacity.

1 MR. BEACH: Okay.

2 MR. SOJOURNER: I don't have any interest in being the
3 -- the full personal representative or trustee in this
4 case.

5 MR. BEACH: Okay. What -- under what circumstances
6 have you agreed to serve?

7 MR. SOJOURNER: Well, first, that it be limited to
8 defending these particular claims; second, that I be
9 allowed to -- to retain my law firm Adams and Reese to --
10 to represent me in that matter. That -- those are really
11 the primary --

12 MR. BEACH: Okay.

13 MR. SOJOURNER: -- conditions.

14 MR. BEACH: Your Honor, I ---

15 MR. SOJOURNER: That's all.

16 MR. BEACH: Oh. You want ---

17 MR. SOJOURNER: No. Go Ahead.

18 MR. BEACH: Okay. Your Honor, I don't have any other
19 questions for Mr. Sojourner, but certainly he is available
20 to answer any questions that the Court might have.

21 THE COURT: What resources does your firm have to
22 become immediately involved in -- in this litigation,
23 because obviously, once I make this appointment, this
24 thing has had a tortious past. We're going to put it on a
25 -- not a fast, fast track, but it's going to be on a

1 rather quick track to bring it to a head to -- so it would
2 be in a position that it would be resolved one way or the
3 other, i.e., by trial or some other way.

4 I mean, do you have the resources to devote to it, to
5 participate in a scheduling order and to comply with that;
6 and to go ahead and complete discovery on all three
7 issues; and in a position where we can either dispose of
8 it by way of dispositive motions and/or trial?

9 MR. SOJOURNER: Yes, sir, Your Honor. I believe that
10 we do. The law firm has over 300 attorneys. Mr. Beach
11 would probably be the -- the attorney that was most
12 closely involved with me on this.

13 We have a number of other attorneys that are available
14 to assist in this matter, not only attorneys that have
15 experience in trusts and estate litigation, but we also
16 have a music law office in Nashville.

17 We got intellectual property lawyers to the extent
18 that that might be helpful in -- in dealing with some of
19 the issues that are involved here. We've got domestic
20 relations lawyers. I know that there's a -- some marital
21 issues. So I believe that our firm has the resources to
22 handle all these matters.

23 THE COURT: All right. Thank you. Anything else?

24 MR. BEACH: No, Your Honor. I have nothing else right
25 now. Thank you.

1 THE COURT: Thank you. Thank you for coming.

2 MR. SOJOURNER: Thank you, Your Honor.

3 THE COURT: Ladies and gentlemen, I am obviously going
4 to take what I've heard here today under advisement. If
5 anyone has any opposition to any of the particular people
6 who have applied, I will allow you 10 days to give me
7 written -- opposition written, however you want to send it
8 to me, by filing with the Court any opposition to any of
9 the particular people.

10 Within the next 20 days, I will make a decision and
11 obviously, once I make the decision, depending on how I do
12 it, I will require status conferences on the three
13 contests, i.e., the validity of the will, the marriage,
14 and the child, to immediately get scheduling orders in
15 place, complete discovery, dispositive motions, so we can
16 move forward to get those matters concluded concomitantly
17 with the administration of the estate.

18 I want to thank everyone for coming today, and if
19 anyone else has any matters that need immediate attention,
20 please contact my new law clerk, and we will see that
21 you're hear -- heard immediately. Thank you very much.
22 Have a nice day.

23 MR. GILREATH: Your Honor. Your Honor, could I make -
24 - I don't know whether this is the appropriate time to
25 make a comment or either you want --

1 THE COURT: I said that I -- by written, but if I open
2 it up to one comment, then I've got the whole room ---

3 MR. GILREATH: I understand. I just wanted to -- you
4 know, Mr. Few and I are in a -- kind of a unique position
5 that I wanted the Court to kind of have our opinion on how
6 we see how this may affect us as we go forward.

7 THE COURT: You can certainly send me any written, but
8 send it to everybody, a copy to everybody.

9 MR. GILREATH: We'll be glad -- we'll be glad to do
10 that. Thank you.

11 THE COURT: Y'all got the Katz litigation going on,
12 and --

13 MR. GILREATH: Right.

14 THE COURT: And obviously, that's ---

15 MR. GILREATH: Yes, we've got --

16 THE COURT: I'm -- I'm aware of that.

17 MR. GILREATH: Okay.

18 THE COURT: Thank you.

19 (Marked Court's Exhibit 1, Petitioner's Nomination
20 from Yamma Brown, 1-page document.)

21 (Marked Court's Exhibit 2, Petitioner's Nomination
22 from Vanishia Brown, 1-page document.)

23 (Marked Court's Exhibit 3, Petitioner's Nomination
24 from Deanna Brown Thomas, 1-page document.)

25 -- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record to the best of my ability of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Second Circuit Court, for Aiken County, South Carolina, on the 4th day of September, 2013.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

September 14, 2013

EXHIBIT 8

10.3.13
L. Hedland
U.C.P. & G.S. 430
Arita Knoepfle al
Deputy Clerk

rcv'd Exhibit 8 from
Court Reporter
10.31.13 ASK

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2008-CP-02-1647

2 COUNTY OF AIKEN

3
4 HENRY DARGAN McMASTER,
Plaintiff,

5 -vs-

TRANSCRIPT OF RECORD

6
7 ALBERT H. DALLAS, et al,
Defendant.

8
9 Heard on Wednesday, September 11, 2013

10 Aiken, South Carolina

11
12 BEFORE:

13 THE HONORABLE DOYET A. EARLY, III

14
15 APPEARANCES:

16 On Behalf of the Plaintiff:

17 Mary Frances G. Jowers, Esq.

18 On Behalf of the Defendant:

19 William G. Newsome, III, Esq.

Louis Levenson, Esq.

20 Timothy M. McKissock, Esq.

21
22
23 Cheri L. Young, RPR
Circuit Court Reporter
24 P O Box 3252
Aiken, SC 29804-5232
25

1 ON WEDNESDAY, SEPTEMBER 11, 2013 AT 11:59 A.M.:

2 THE COURT: We'll move forward, please -- if y'all
3 will come forward on the James Brown.

4 Is Mr. Fryer in the courtroom? Good morning,
5 Mr. Fryer.

6 MR. FRYER: Good morning, sir.

7 THE COURT: If you would come up right up here for me,
8 please. How are you today?

9 MR. FRYER: I'm fine, Your Honor. How are you?

10 THE COURT: Doing well. Doing well.

11 If you would, please, sir, place your right hand on
12 the Bible and raise your left.

13 LARRY FRYER, having been duly sworn, testified as
14 follows:

15 THE COURT: If you'd come have a seat on the witness
16 stand for me, please. Good morning, Brown family.

17 UNIDENTIFIED SPEAKERS: Good morning, Judge.

18 THE COURT: For the record, Madam Court Reporter, we
19 are reconvening a hearing that we had in Columbia last
20 week on September 4th. I had sent out a notice previously
21 on August 22nd, advising that I had had several people who
22 had applied for the position of Trustee and/or Special
23 Administrator representative as pursuant to the Supreme
24 Court's order in the Wilson -v- -- Dallas versus Wilson.

25 Last week we listened to presentations from a number

1 of people. I don't have my notes here in front of me, but
2 we had presentations from everybody who had sent in either
3 a formal application or an e-mail request or a letter
4 request or whatever type of request.

5 Included in the requests that I got was Mr. Larry
6 Fryer, F-R-Y.

7 MR. FRYER: E-R.

8 THE COURT: E-R. And we had sent Mr. Fryer a notice
9 of the hearing in Columbia by the same the way we sent to
10 everybody, by e-mail.

11 I think on the day of the hearing or perhaps a day
12 before the hearing we got a note from Mr. Fryer advising
13 us that somehow or another he did not get that, and
14 perhaps we had your wrong e-mail --

15 MR. FRYER: Some --

16 THE COURT: -- or some misunderstanding.

17 MR. FRYER: Right.

18 THE COURT: And he was concerned about that. And I
19 said that is exactly correct. You ought to be concerned.

20 So I just reconvened that hearing here today to get
21 the testimony from Mr. Fryer so we'll have a completed
22 record of everyone who had made application pursuant to
23 the order.

24 Now, Mr. Fryer, here's the way I conducted it last
25 week in Columbia.

1 MR. FRYER: Yes, sir.

2 THE COURT: If you had a representative, some of them
3 last week had lawyers, some of them didn't.

4 MR. FRYER: Right.

5 THE COURT: I assume you do not.

6 MR. FRYER: Yes, sir.

7 THE COURT: And what I did was I asked each person who
8 had applied to, under oath, take the witness stand and
9 tell me their general qualifications and why they wanted
10 to take this position in the James Brown, either Estate
11 and/or Trust. And so, I limited it to 15 minutes --

12 MR. FRYER: Yes, sir.

13 THE COURT: -- with no cross-examination. If
14 anybody -- I was the one who had asked the questions, if I
15 had any. I did allow last week, I think, one person to
16 pass up a question. But we're not going to get into a
17 protracted cross-examination today.

18 So I welcome you here.

19 MR. FRYER: Thank you, sir.

20 THE COURT: And I thank you for your application. And
21 I'm going to turn it over to you to tell me why you want
22 to do this and what your qualifications are and what you
23 have to offer us to assist us in bringing this Estate to
24 an efficient and orderly close, and so the Trust can be
25 funded and we can move forward.

1 MR. FRYER: Thank you, Your Honor.

2 THE COURT: Thank you.

3 MR. FRYER: Good afternoon. I want to say thank you,
4 Judge, for allowing me this opportunity to come before you
5 and this body. I apologize for any inconveniences that I
6 may have --

7 THE COURT: No, sir. That may have been my fault.
8 You don't have to apologize.

9 MR. FRYER: Okay. I am a pastor in the Christian
10 Methodist Episcopal Church. And I'm also an employee with
11 the Richland County Board of Education School System. I
12 work at the alternative school there at the Lamar Building
13 in Augusta, Georgia.

14 Having served at the oldest CME Church in America,
15 which was -- which is the Trinity CME Church that was
16 founded in 1840, is where I begun my friendship with
17 Mr. James Brown some 15 or more years ago.

18 We had a very lasting friendship and I enjoyed the
19 times I shared with he and members of his family.
20 Mr. Brown was very instrumental in helping Trinity CME
21 Church by providing robes for our youth, helping to
22 renovate the church, and also was one of the foremore
23 (verbatim) leaders in the prevention of nonviolence
24 (verbatim) in our community by supporting or taking lead
25 in a lot of the demonstrations that were to bring peace in

1 the City of Augusta.

2 Mr. Brown, through our knowing each other, grew
3 spiritually. I was amazed at the love and the care that
4 he had and his humanity for others. During my 15 years or
5 more, he and I of course became close. And I had numerous
6 of opportunities to hear Mr. Brown during his rehearsals,
7 in his concerts, at his residence, and have the
8 opportunity to travel with him around the US and various
9 parts of the world.

10 I too, like he is a singer but of course I bow to him
11 and his great ability. Having had an opportunity to sing
12 with, in a chorale lineup with the renown Jessye Norman,
13 also to be a part of the Paine College Concert Choir, and
14 of course to do other kinds of concerts but not on the
15 level of the musical abilities that he has and maybe some
16 others.

17 Mr. Brown has entertained the world. I've seen him on
18 stage, sat in his office, even counseled him when there
19 were times he needed spiritual advice. He also was a
20 person who became one of consolation to others. Also he
21 was there for the desperate and the dying. These things I
22 know of him personally myself.

23 This is a side of him that I'm wishing to close on
24 today. Mr. Brown has been there for the poor, and the
25 disenfranchised. His music abilities has given him an

1 open door to see about those who maybe could not see about
2 themselves.

3 I've witnessed his humanity on the streets of
4 Augusta. When others were longing for help, Mr. Brown
5 would stop and get out of his car and help many that were
6 in need along the highways when we were traveling.

7 Children benefited from his giving. As I stood with
8 him and supported him and his family and others as I saw
9 the smiles on countless of children faces during Christmas
10 who otherwise would not have received anything had it not
11 been for him.

12 I saw those who were hungry, who needed this musical
13 giant to be of support to them. But I saw something else
14 about him. He was, in my eyes, an humble man. He
15 encouraged the lives of many. Also he was very firm on
16 education. He was very -- that was very important to him
17 as he supported the institution-ality of Paine College and
18 did a lot to help them there.

19 Mr. Brown, yes, has a musical ability but he was also
20 about saving lives. Saving lives, young people from jail
21 and despair and other acts of violence and criminal
22 activity. I saw this with my own eyes.

23 His music was great. I shared with him. As a matter
24 of fact, he did a recording of me in one of the studios.
25 But although he was a music giant I saw something even

1 greater. I saw a side of the humanity that comes from one
2 who does have the ability to sing and to travel.

3 I was there at his request, because I didn't know him
4 at the time, to visit with his father which was in the
5 Blue Goose in Augusta, a veteran's facility, to take care
6 of his father's spiritual needs. And also to take care of
7 one of his daughter's spiritual needs that he called upon
8 me to do.

9 Yes, Mr. Brown was a larger-than-life musical legend
10 but to know him personally was better than just seeing him
11 on TV and hearing him on the radio. You get a better
12 understanding when you're with and around someone.

13 And having been with him for 15 years, certainly I got
14 to know more than the man who was a musical genius. I got
15 to know the heart of a man. He cried, laughed, even
16 sought help to make his own life better. He did not want
17 to just leave a legacy of music. He wanted to leave a
18 legacy of helping others.

19 So, Your Honor, I know that this is important. I do
20 know that various qualifications could go into this but I
21 saw another side. I know the burden, Your Honor, to be
22 just, to be fair, and to make positive decisions and how
23 they can weigh on a person when you want to try to do the
24 best that you can.

25 I feel that I'm strong, I have the courage, I try my

1 best to be fair and want to be just. Not looking at
2 myself, not only looking at Mr. James Brown, but trying to
3 look at the whole picture and try to come to decisions
4 along with others so that, as you said earlier, that this
5 particular experience can be dealt with fairly and handled
6 properly.

7 And that is why I feel I would love to share with the
8 others because I want to make important decisions. I want
9 to see the life and legacy of James Brown even be more
10 than what it is now. I feel he deserves it. And I want
11 to try to do my best if chosen to work with others which I
12 have done so many years.

13 So, Your Honor, in closing, I want to share this
14 cause. This is my goal. This is what I can -- the last
15 thing I can do for a man I know whose life and legacy
16 needs to remain in history as one of our greatest
17 musicians, servants, leaders, father, and friend.

18 Yes, there are abilities I have. There are abilities
19 I don't have, but I think we can bring all of the various
20 qualities we have together and do the best that we can in
21 making sure that Mr. Brown's life and legacy lives on.

22 THE COURT: Thank you very much.

23 MR. FRYER: Thank you, sir.

24 THE COURT: Any questions? Thank you for coming.

25 MR. FRYER: Yes.

1 THE COURT: And I've enjoyed meeting you.

2 MR. FRYER: Yes, sir. I'm fine. I'm a little small.

3 Thank you, Your Honor.

4 THE COURT: We'll get the decision on this. We'll do
5 it in two ways. We're trying to get the other lawsuits
6 out of the way. Once I get all the lawsuits out of the
7 way, we'll fund the trust.

8 MR. FRYER: Yes.

9 THE COURT: Thank you for coming in.

10 MR. FRYER: Thank you, Judge.

11 (Off-the-record discussion.)

12 MR. FRYER: Thank you, Your Honor. Thank you.

13 THE COURT: All right. Mr. Levenson, pleasure to see
14 you all, as always.

15 MR. LEVENSON: Thank you, Judge.

16 THE COURT: It's the quietest I've ever seen you in
17 one of these proceedings.

18 MR. LEVENSON: Please don't alert the media, but I
19 didn't have anything to say.

20 Judge, may I -- purely an administrative matter.

21 THE COURT: Mr. Newsome, I knew he couldn't stand it.

22 MR. NEWSOME: Spoke too soon, didn't you?

23 MR. LEVENSON: Larry Brown, one of my clients, has a
24 nomination to accept the nomination of Russell Bauknight
25 that we previously heard last Wednesday. And this is a,

1 just a document I filed in the clerk's office.

2 Additionally, Judge, I asked the clerk if the actual
3 petitions of the various applicants, Judge Dickert and
4 others, have been filed and evidently they have not been
5 filed. Are those matters that we could in any way get a
6 copy of so we could make a more appropriate return by the
7 10th day which you've given us, I believe until Monday
8 coming up.

9 THE COURT: Well --

10 MR. LEVENSON: We can do it -- I can do it without it.

11 THE COURT: -- I can obviously make the letters that
12 were sent to me -- I can send to Madam Clerk the letters.
13 They weren't formal applications. I'll send whatever I
14 got and make that part of the record. And you can get it
15 from her. I'll do that.

16 MR. LEVENSON: That will be --

17 THE COURT: We'll bring those tomorrow. And I'll
18 file -- some of them were e-mailed, some of them were just
19 letters, some of them were formal applications.

20 MR. LEVENSON: I just thought it would be easier to
21 track a response when we have the specific language of the
22 applications, but I can do it without it if Your Honor
23 wanted.

24 THE COURT: No, sir. I'll have those filed tomorrow.

25 MR. LEVENSON: Okay. Thank you.

1 THE COURT: And you can just call Anita down there and
2 they'll get them to you.

3 MR. LEVENSON: Okay.

4 THE COURT: You ordered the transcript from the last
5 hearing; did you not, Mr. Newsome?

6 MR. NEWSOME: Yes, sir. I don't know that we have it
7 yet.

8 THE COURT: I got an e-mail from the court reporter --
9 we're off the record.

10 (Off-the-record discussion.)

11 END OF PROCEEDINGS: 12:19 P.M.

12 ***

13 CERTIFICATE OF REPORTER

14 STATE OF SOUTH CAROLINA)

15 COUNTY OF AIKEN)

16 I, Cheri L. Young, Registered Professional Reporter
17 and Official Court Reporter for the State of South
18 Carolina, Second Circuit-At Large, do hereby certify that
19 the foregoing proceedings were written stenographically by
20 me using computer-aided translation; further, that the
21 foregoing is a true, accurate and complete record, to the
22 best of my skill and ability, of all the proceedings had
23 and evidence introduced in the hearing of the captioned
24 case, relative to appeal, in the Court of Common Pleas for
25 Aiken County, on the 11th day of September, 2013.

1 I do further certify that I am neither of kin,
2 counsel, nor interest to any party hereto.

3 I have hereunder set my hand this 19th day of October,
4 2013.

5 
6

7 Cheri L. Young, RPR
8 Official Court Reporter
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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 Lumar	Lindsey Delores Brown Vanisha Brown Deanna J. brow Thomas Yamma N Brown

PLAINTIFF(S)

DEFENDANT(S)

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

10/3/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on **10-3-13**, and a copy mailed first class or placed in the appropriate attorney's box on **10-4-13**, to attorneys of record or to parties (when appearing pro se) as follows:

Clyde H. Jones Jr. PO Box 11549 Columbia, SC 29211
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648

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

Fred Lewis Kingsmore Jr. PO Drawer 2426 Columbia, SC 29202-2426

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

To Godard by Albrecht

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.

[illegible]

For Clerk of Court Office Use Only

This judgment was entered on **10-3-13**, and a copy mailed first class or placed in the appropriate attorney's box on **10-4-13**, to attorneys of record or to parties (when appearing pro se) as follows:

C Harvid Jones Jr.

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by [Signature]

Court Reporter

Liz Godard - Clerk of Court

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

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

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

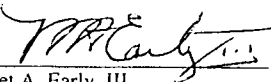
ORDER WITHDRAWING ATTORNEY GENERAL

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

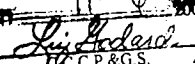
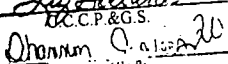
This Court finds that allowing the Attorney General to withdraw is appropriate, in light of the Supreme Court's opinion in Wilson v. Dallas, Op. No. 27227 (SC. Sup. Ct. refilled may 8, 2013); the appointment of Russell Bauknight as Special Trustee by Order dated June 13, 2013; the appointment of Russell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

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

AND IT IS SO ORDERED.

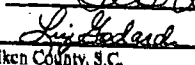
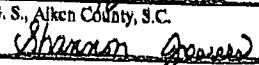

Doyet A. Early, III
Presiding Judge

CEL
July 3, 2013

11-6-13

Liz Godard
C.C.P. & G.S.

Shannon G. Gossard
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of February 2015

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

Shannon G. Gossard
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN RE:

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

10.11.2013
Liz Godard
C.C.P. & G.S.
Anita Knoepfle
Deputy Clerk

IN THE PROBATE COURT

CASE NO. 2007-ES-02-005

CASE NO. 2008-CP-02-164

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 16th
DAY OF OCTOBER, A.D. 2013

Sue H. Rice
JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.
BY D. Lewis
CLERK

INTERIM ORDER
APPOINTING LIMITED
SPECIAL ADMINISTRATOR

This matter comes before the Probate Court on Petition for the Appointment of Limited Special Administrator, whereby this Court is requested pursuant to applicable South Carolina law, including but not limited to S.C. Code Ann. § 62-3-614 and S.C. Code Ann. § 62-3-617, to appoint David C. Sojourner, Jr. as Limited Special Administrator of the Estate of James Brown (the "Estate"). Mr. Sojourner has been appointed by Order of the Aiken County Circuit Court dated October 1, 2013 (hereafter the "Circuit Court Order") as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (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 the Circuit Court's May 26, 2009 Order regarding the Estate and Trust. On May 29, 2013, the Circuit 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). On September 4 and 11, 2013, the Circuit Court conducted a hearing to receive testimony from all applicants for fiduciary positions in the Estate and the Trust. Mr. Sojourner appeared at the September 4, 2013 hearing before the Circuit Court

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SHE
STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this
20 day of September 2013
Liz Godard
C.C.C.P. & G.S., Aiken County, S.C.
Sharon Grouss
Deputy Clerk

Filed: 10-10-2013

Sue H. Rice
Judge of Probate

By: D. Lewis

and provided testimony. Russell L. Bauknight, having filed the Petition of Appointment of Limited Special Administrator, also provided testimony at the September 4, 2013 hearing.

After conducting the hearing, the Circuit Court appointed Russell L. Bauknight as Personal Representative of the Estate and Trustee of the Trust by its Order dated October 1, 2013. The Circuit Court, by the same Order, appointed David C. Sojourner, Jr. as Limited Special Trustee of the Trust.

This Court takes Judicial Notice of the proceedings before the Circuit Court, as provided in the transcripts of record, along with the record of testimony, and hereby adopts and incorporates the findings and conclusions of the Circuit Court. All proper parties were provided the opportunity to object and be heard at the Circuit Court hearing. This Court incorporates the record of the Circuit Court hearing in this Order and relies thereon in order to further promote judicial economy and to avoid the cost and inefficiencies of conducting a second hearing with the same parties and the same issues.

FINDINGS OF FACT

This Court has carefully reviewed the Will, the Petition for Appointment of Limited Special Administrator filed on behalf of Mr. Sojourner, all related filings, and has considered the testimony provided by Mr. Sojourner, Mr. Bauknight and others in the hearing on September 4, 2013. James Brown passed away nearly seven years ago on December 25, 2006. These factual findings and this Interim Order are all made in an effort to expedite the efficient administration of the Estate, based on the overarching goal of creating an atmosphere in which a prompt resolution of the various contested claims and a final resolution of Estate matters can occur.

This Court incorporates and adopts the findings of fact of the Circuit Court's Order dated October 1, 2013, and specifically finds:

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SAR

1. Russell L. Bauknight has continuously served as a fiduciary to the Estate, both in his role as Personal Representative since May 26, 2009 and his continuing role as Special Administrator, with general fiduciary powers, since August 6, 2009, and there has been no lapse in his authority or fiduciary service since appointment.

2. This Court is aware that certain 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 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"). This Court does not believe that a conflict of interest exists. Mr. Bauknight has testified that he has no conflict of interest and that he is willing and capable of fully defending Mr. Brown's Estate plan. This Court has weighed that testimony and finds along with the Circuit Court 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. 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, this Court finds that it is prudent to appoint an individual to serve as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Estate against the claims made in the Will and Trust Challenges until final resolution thereof.

3. 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 in 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.

3 of 6
JWR

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 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 Administrator.

4. Appointing a Limited Special Administrator to defend the Estate against the claims made in the Will and Trust Challenges provides structured and efficient administration, complies with sound judicial economy, and allows Mr. Bauknight the ability to manage all other aspects of estate administration.

5. At this time, this Court finds that it is in the best interests of the Estate, while Mr. Bauknight continues to serve as Personal Representative and oversees the Estate administration, that Mr. Sojourner be appointed as the Limited Special Administrator to oversee the Will and Trust Challenges and to defend the Estate plan against the claims made in the Will and Trust Challenges, and that he serve in such capacity until the conclusion of the litigation involved in the Will and Trust Challenges.

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

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CONCLUSIONS OF LAW

This Court incorporates and adopts the conclusions of law contained in the Circuit Court's Order dated October 1, 2013, and specifically concludes as follows:

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 Petition for Appointment of Limited Special Administrator of the Estate and have been given an opportunity to oppose the petition filed on behalf of Mr. Sojourner.

2. S.C. Code Ann. § 62-3-614 provides that a special administrator may be appointed upon a finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration. S.C. Code Ann. § 62-3-617 provides that a special administrator so appointed has the power of a general personal representative except as limited in the order and specifically states that the appointment may be for a specified time, to perform particular acts, or on any other terms as the court may direct.

3. After careful review of the Will and Trust, the Petition for Appointment of Limited Special Administrator, the testimony proffered by Mr. Sojourner and others in the hearing on September 4, 2013, I find that the appointment of a Limited Special Administrator of the Estate at this time is necessary in order to adequately protect and preserve the Estate, and secure the Estate's proper administration.

4. In order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds it in the best interests of the Estate for Mr. David C. Sojourner, Jr. to be appointed as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Estate against the claims made in the Will and Trust Challenges until final resolution thereof. This interim appointment is made with the requirement

5 6 JMR

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. Mr. Sojourner is well-qualified and willing to serve as Limited Special Administrator of the Estate.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. David C. Sojourner, Jr. is appointed as Limited Special Administrator for the Estate for the sole, exclusive, and specific purpose of defending the Estate 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.

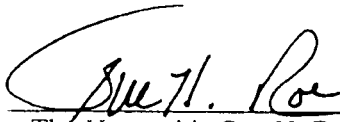
2. Russell L. Bauknight's prior appointment as Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the court.

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

4. This interim Order is temporary. The Court's appointment of David C. Sojourner, Jr. as Limited Special Administrator will be revisited upon conclusion of all Estate litigation involved in the Will and Trust Challenges.

AND IT IS SO ORDERED.

October 10th, 2013.
Aiken, South Carolina



The Honorable Sue H. Roe
Aiken County Probate Judge

#6
of 6

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF AIKEN

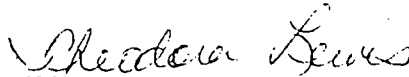
IN RE: THE ESTATE OF
JAMES BROWN

CASE NO.: 2007ES02-0056

CERTIFICATE OF MAILING

I, Theodora Lewis, Clerk of Probate Court, certify that on the 16th day of October, 2013 a
certified copy of the foregoing Order was hand delivered to the following attorney, to be served
on all interested parties:

Fred L. Kingsmore, Esq.
Attorney at Law
P.O. Box 2426
Columbia, SC 29202-2426



THEODORA LEWIS

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

**ORDER SEVERING OMITTED
 SPOUSE CLAIM, ELECTIVE
 SHARE CLAIM, AND
 PRETERMITTED CHILD CLAIM**

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

Case No. 2008-CP-02-1647

Filed Copy 12.16.13
 L. Godard
 C.C.P. & G.S.
 Anita Knepper 1045
 Deputy Clerk

This matter comes before the Court on the Motions of Petitioner Tommie Rae Brown and Stephen M. Slotchiver as Guardian *ad Litem* for Petitioner James Brown II to sever their respective claims as contemplated by the Court's Administrative Order dated June 13, 2013. Ms. Brown entered a Motion to sever her claims to an omitted spouse's share of the Estate pursuant to S.C. Code Ann. § 62-2-301 and to an elective share of the Estate pursuant to S.C. Code Ann. § 62-2-201 et seq. James Brown II entered a Motion to sever his claim seeking a share of the Estate as a pretermitted child pursuant to S.C. Code Ann. § 62-2-302. After considering Petitioners' Motions and supporting Memorandums of Law, it is hereby:

ORDERED that Petitioner Tommie Rae Brown's claim for an omitted spouse's share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an omitted spouse's share; (2013 CP 0202849)

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN
 I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 20 day of December 2013.
 Liz Godard
 C.C.P. & G. S., Aiken County, S.C.
 Shannon Grouse
 Deputy Clerk

ORDERED that Petitioner Tommie Rae Brown's claim for an elective share, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an elective share; (2013 CP0202850)

ORDERED that Petitioner James Brown II's claim for a pretermitted child share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Petitioner James Brown II's claim to a pretermitted child's share of the Estate; (2013 CP0202851)

ORDERED that each claim severed by this Order shall be deemed a continuation of each respective pending claim for all purposes, and under no circumstances shall any severed claim be treated as having been filed on the date the respective new case numbers are established; and further, it is

ORDERED that the discovery in the severed cases shall proceed on a consolidated basis with each other and also with the claims remaining as part of Case No. 2008-CP-02-1647; and all cases shall be subject to scheduling orders that will be issued by the Court.

IT IS SO ORDERED!

Dec 16, 2013
Columbia South Carolina

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

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202849

Tommie Rae Hynie-Brown

James Estate Of Brown

Russell Special
Administrato Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

12/16/2013

Circuit Court Judge

Judge Code

Date

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202850

Tommie Rae Hynie-Brown

James Estate Of Brown

Russell Special
Administrato Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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12/16/2013

Circuit Court Judge

Judge Code

Date

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851**

James Brown II

James Estate Of Brown

**Russell Special
Administrato Bauknight**

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
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☐ 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

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12/16/2013

Circuit Court Judge

Judge Code

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 Lumar**

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
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☐ 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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12/16/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

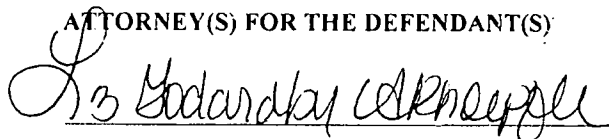
This judgment was entered on **12-16-13**, and a copy mailed first class or placed in the appropriate attorney's box on **12-16-13**, to attorneys of record or to parties (when appearing pro se) as follows:

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

John F. Beach
Stephen M. Slotchiver
Clyde H. Jones Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

**ORDER SEVERING OMITTED
 SPOUSE CLAIM, ELECTIVE
 SHARE CLAIM, AND
 PRETERMITTED CHILD CLAIM**

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

Case No. 2008-CP-02-1647

Filed Copy 12.16.13
 PHD
 Liz Godard
 C.C.P. & G.S.
 Anita Knoppe 1045
 Deputy Clerk

This matter comes before the Court on the Motions of Petitioner Tommie Rae Brown and Stephen M. Slotchiver as Guardian *ad Litem* for Petitioner James Brown II to sever their respective claims as contemplated by the Court's Administrative Order dated June 13, 2013. Ms. Brown entered a Motion to sever her claims to an omitted spouse's share of the Estate pursuant to S.C. Code Ann. § 62-2-301 and to an elective share of the Estate pursuant to S.C. Code Ann. § 62-2-201 et seq. James Brown II entered a Motion to sever his claim seeking a share of the Estate as a pretermitted child pursuant to S.C. Code Ann. § 62-2-302. After considering Petitioners' Motions and supporting Memorandums of Law, it is hereby:

ORDERED that Petitioner Tommie Rae Brown's claim for an omitted spouse's share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an omitted spouse's share; (2013 CP 0202849)

me
#1

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN

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

20 day of February 2013

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

Deputy Clerk

ORDERED that Petitioner Tommie Rae Brown's claim for an elective share, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Ms. Brown's claim for an elective share; (2013 CP0202850)

ORDERED that Petitioner James Brown II's claim for a pretermitted child share of the Estate, now part of Case No. 2008-CP-02-1647 pursuant to the Court's Administrative Order filed June 13, 2013, shall be severed from the actions in which it is currently pending;

ORDERED that the Clerk of Court shall assign a new case number to Petitioner James Brown II's claim to a pretermitted child's share of the Estate; (2013 CP0202851)

ORDERED that each claim severed by this Order shall be deemed a continuation of each respective pending claim for all purposes, and under no circumstances shall any severed claim be treated as having been filed on the date the respective new case numbers are established; and further, it is

ORDERED that the discovery in the severed cases shall proceed on a consolidated basis with each other and also with the claims remaining as part of Case No. 2008-CP-02-1647; and all cases shall be subject to scheduling orders that will be issued by the Court.

IT IS SO ORDERED!

Dec 16, 2013
Columbia South Carolina

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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202849

Tommie Rae Hynie-Brown

James Estate Of Brown

Russell Special
Administrato Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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12/16/2013

Circuit Court Judge

Judge Code

Date

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202850

Tommie Rae Hynie-Brown

James Estate Of Brown

Russell Special
Administrato Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ☐ **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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

12/16/2013

Circuit Court Judge

Judge Code

Date

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851**

James Brown II

James Estate Of Brown

**Russell Special
Administrato Bauknight**

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
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☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
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☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

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

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12/16/2013

Circuit Court Judge

Judge Code

Date

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan McMaster

Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney LumarLindsey Delores Brown
Vanisha Brown
Deanna J. brow Thomas
Yamma N Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
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- ☐ **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

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INFORMATION FOR THE JUDGMENT INDEX

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12/16/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

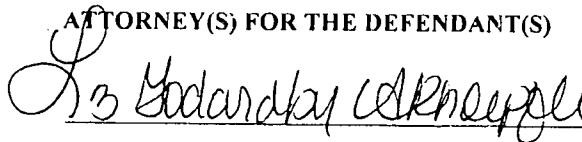
This judgment was entered on **12-16-13**, and a copy mailed first class or placed in the appropriate attorney's box on **12-16-13**, to attorneys of record or to parties (when appearing pro se) as follows:

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

John F. Beach
Stephen M. Slotchiver
Clyde H. Jones Jr.

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO. 2008-CP-02-1647

IN RE:

THE ESTATE OF JAMES BROWN a/k/a
JAMES JOSEPH BROWN

ORDER DISMISSING
CROSS-CLAIMS OF
CINNAMON NICOLE PARRIS AND
LARHONDA PETTIT
(Without Prejudice)

This matter comes before the Court by way of the December 18, 2013 Motion ("Motion") of David C. Sojourner Jr. (the "LSA"), as Limited Special Administrator of the Estate of James Brown a/k/a James Joseph Brown (the "Estate") and as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust") to dismiss the defenses, cross-claims, and requests for relief asserted by Cinnamon Nicole Mernieckle Parris ("Parris") and LaRhonda Pettit a/k/a LaRhonda Waller ("Pettit") through three pleadings they jointly filed in this matter dated February 1, 2008, April 25, 2008, and April 25, 2008, as attached to the LSA's Motion. The LSA, Parris, and Pettit hereby consent to resolve this Motion through dismissal of Parris and Pettit as parties, and dismissal of their defenses, cross-claims, and requests for relief, all without prejudice.

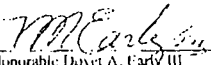
NOW THEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED that Parris and Pettit, along with their said defenses, cross-claims, and requests for relief, are hereby dismissed without prejudice.

AND IT IS SO ORDERED.

Aiken, South Carolina

January 8, 2014


The Honorable Dayet A. Early III
Second Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

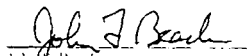
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

20 day of February 2015

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

Deputy Clerk

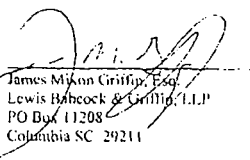
WE CONSENT:


John F. Beach
Adams and Reese LLP
1501 Main Street, 5th Floor (29201)
Columbia, SC 29202

Date: Jan 8, 2014

Attorneys for David C. Sojourner, Jr., as Limited Special Representative of the Estate of James Brown and Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement

WE CONSENT:


James Milton Griffin, Esq.
Lewis Babcock & Griffin, LLP
PO Box 11208
Columbia SC 29211

Date: Jan 8, 2014

Attorney for Cinnamon Nicole Mernickle Parris and LaRhonda Pettit

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201547

Henry Dargan McMaster

Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
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- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
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- ☐ 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 (format order to follow) [] Statement of Judgment by the Court

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk

INFORMATION FOR THE JUDGMENT INDEX

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Circuit Court Judge

Judge Code

1/9/2014
Date

For Clerk of Court Office Use Only

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

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 19648 Greenville, SC
29607-2648
Adele Pope
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-1222
Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401
Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
Matthew Day Hodman 1500 Calhoun St. Columbia, SC
29201
Louis E. Evenson 125 Broad St. SW Atlanta, GA 30303
David Bell 619 Greene Street Augusta, GA 30901

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard
Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, Individually, as former Executor de son tort, and in every current and former fiduciary status claimed or held as to the Estate of James Brown and The James Brown 2000 Irrevocable Trust,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

IN THE CIRCUIT COURT

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

ORDER

1.17.14
Liz Gaskard
C.C.P. & G.S.
Anita Knoepfle 12:20
Deputy Clerk

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Gaskard, 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
20 day of September 2013
Liz Gaskard
C.C.P. & G.S., Aiken County, S.C.
Deputy Clerk

PROCEDURAL HISTORY

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

STANDARD OF REVIEW

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

DISCUSSION & ANALYSIS

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

MAE
#2

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

a. Voiding Appointment as Special Administrator or Special Trustee

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

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

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

Handwritten signature and the number 3.

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

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

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



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

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

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

(Compl. ¶ 220.)

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

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

b. Voiding Settlement Agreement

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

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

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

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

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

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

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

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

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

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

c. Voiding of Notice

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

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

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

d. Granting of Claim

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

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

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

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

MAC
#8

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

YMC
#11

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

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

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

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

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

WAC
#12

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

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

4. Fourth Cause of Action: Attorney's Fees

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

CONCLUSION

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

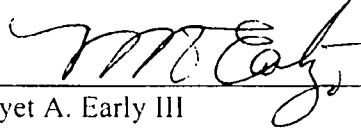
The Court notes that the Complaint contains no allegations bringing causes of action against Defendant Bauknight as general personal representative of the Estate or general trustee of the Trust, and as such the Court grants Defendant's Bauknight's motion to be dismissed as a party to the action in those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

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

JAC
WTS

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

IT IS SO ORDERED.



The Honorable Doyet A. Early III
Second Judicial Circuit

Aiken, South Carolina

7-7, 2014.

NEXSEN|PRUET

Kaye K. Mullinax, AACP, RP®
Paralegal

January 15, 2014

Aiken County Clerk of Court
Attn: Anita Knoepfle
109 Park Avenue SE
P.O. Box 583
Aiken, South Carolina 29802-0583

Re: Adele J. Pope v. Estate of James Brown
Civil Action No. 2013-CP02-1337
Estate No.: 2007 ES02 00056

Dear Anita:

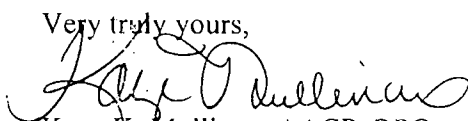
Enclosed please find the original and one copy of Judge Early's Order dated January 7, 2014, in the above-referenced matter. Please file the original and return the clocked copy in the enclosed, self-addressed envelope.

Also enclosed is our client's Answer to the Petition for Allowance of Claim in this matter. Likewise, please file the original and return the clocked copy in the enclosed, self-addressed envelope.

By copy of this letter, I am serving a copy of both Judge Early's 1/7/14 Order and our Answer to the Plaintiff by mail.

Thank you for your assistance in this matter.

Very truly yours,


Kaye K. Mullinax, AACP, RP®

Enclosures

cc: Russell Bauknight (via email)
Beth Bauknight (via email)
Adele J. Pope, Esq. via US Mail

1230 Main Street
Suite 700 (29201)
PO Drawer 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2178
F 803.727.1488
E KMullinax@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0201337**

Adele Pope	James Estate Of Brown Russell L Indiv Bauknight

PLAINTIFF(S)

DEFENDANT(S)

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

1/17/2014

Date

For Clerk of Court Office Use Only

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

Adele Pope ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

Williams G Newsome

Frederick A. Crawford PO Box 7788 Columbia, SC 29202

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

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W. Newsome

Court Reporter

Liz Godard - Clerk of Court

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

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

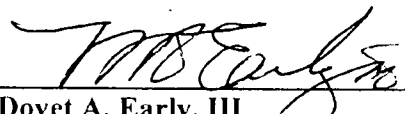
STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
IN RE:)
THE ESTATE OF JAMES)
BROWN A/K/A JAMES JOSEPH)
BROWN)
_____)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT
CASE NO. 2013-CP-02-02849 *Orig*
CASE NO. 2013-CP-02-02850 *wrt copy*
CASE NO. 2013-CP-02-02851 *wrt copy*
ORDER GRANTING JEANETTE
MITCHELL'S MOTION TO INTERVENE

This matter comes before the court on Jeanette Mitchell's Motion to Intervene, pursuant to Rule 24 (a) (2) SCRCP.

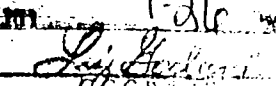
ACCORDINGLY, having reviewed the file and considered evidence it is,
ORDERED AND ADJUGED:

Jeanette Mitchell's Motion to Intervene in the above-referenced cases is hereby Granted.
IT IS SO ORDERED.


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


November 22, 2014
Aiken, SC

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this
20 day of September 2015
Liz Godard
C.C.P. & G. S., Aiken County, S.C.
Shannon Gannon
Deputy Clerk

1-26-15

Shannon Gannon
Deputy Clerk

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202849

Tommie Rae Hynie-Brown

David Special
Administrato Soujourner
Deanna Brown Thomas
Vanisha Brown
Daryl Brown
Michael Deon Brown

Terry Brown
Yamma Brown
Larry Brown
Jeanette Mitchell

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

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Circuit Court Judge

Judge Code

1/26/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on **26th day of January, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **26th day of January, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC
29201

Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

John Andrew Donsbach Sr. PO Box 212139 Martinez, GA
30917-2139

ATTORNEY(S) FOR THE PLAINTIFF(S)

pro se

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Sherry J. ...
Liz Godard - Clerk of Court

Court Reporter

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

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FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202850**

Tommie Rae Hynie-Brown

David Soujourner

Terry Brown

Deanna Brown Thomas

Yamma Brown

Vanisha Brown

Larry Brown

Daryl Brown

Jeanette Mitchell

Michael Dean Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

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1/26/2015

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William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

John Andrew Donsbach Sr. PO Box 212139 Martinez, GA
30917-2139

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by [Signature]

Court Reporter

Liz Godard - Clerk of Court

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851

James Brown II

Jeanette Mitchell

David Sojourner
Yanma Brown
Larry Brown
Daryl BrownDeanna Brown Thomas
Vanisha Brown
Terry Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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1/26/2015

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC
29201

John Andrew Donsbach Sr. PO Box 212139 Martinez, GA
30917-2139

ATTORNEY(S) FOR THE PLAINTIFF(S)

Probate

ATTORNEY(S) FOR THE DEFENDANT(S)

As Directed by [Signature]
Liz Godard - Clerk of Court

Court Reporter

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

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013 CP-02-02849 & 02850

In re The Estate of James Brown a/k/a James
Joseph Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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- ☐ **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: Tommie Rae Brown's Motion to Reconsider the Determination of Parties for the Omitted Spouse Share Claim is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Date

SCRCP Form 4C (03/2013)

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Oswald, 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 20 day of February 2015

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

Deputy Clerk

For Clerk of Court Office Use Only

This judgment was entered on the 26 day of Jul, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 26 day of Jul, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Robert Reim

ATTORNEY(S) FOR THE PLAINTIFF(S)

Probate

Court Reporter:

David J. Black

John Beach

Matthew Beaman

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Shuler by Sharon J. Shuler

CLERK OF COURT

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

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

Deputy Clerk *Shannon Gorman*

On January 8, 2014 the Court heard oral arguments on the Motions to Determine Parties. At that time the Parties agreed that, although James Brown II has not filed a motion to determine parties to his pretermitted child claim, the Court's ruling on these motions will govern all of the Severed Actions. After carefully considering the Motions to Determine Parties, the supporting and opposing Memoranda filed with this Court, and the oral arguments made by all counsel, the Court rules as follows.

Tommie Rae Brown asserts that the Court must exclude from the Severed Actions all Parties to the underlying case except David C. Sojourner, Jr., and then only in Mr. Sojourner's capacity as Limited Special Administrator of the Estate (LSA)¹. In support, Ms. Brown cites, among other authorities, Sections 62-1-403(2)(ii) and 62-7-303 of the South Carolina Probate and Trust Codes, respectively, for the proposition that the LSA is the only party to the Severed Actions other than the Petitioners in those actions. Those statutory provisions read in relevant part:

§62-1-403 Pleadings, when parties bound by others; notice

...

(2) Persons are bound by order binding others in the following cases:

...

(ii) *To the extent there is no conflict of interest between them or among persons represented,*

...

orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and

orders binding a personal representative² bind persons interested in the undistributed assets of a decedant's estate in actions or proceedings by or against the estate.

[emphasis added]

¹ Indeed, Tommie Rae Brown asserts that the Court should exclude Mr. Sojourner, in his capacity as Limited Special Trustee ("LST") of the James Brown August 1, 2000 Irrevocable Trust Agreement ("Trust"). See, Memorandum of Tommie Rae Brown re Motion for Determination of Parties: Omitted Spouse Share Matter, pp. 3-4.

² Because Mr. Sojourner has been appointed as LSA instead of personal representative, references in the SCPC to the personal representative apply here to the LSA.

TRE
#2

§62-7-303 Representation by fiduciaries and parents.

(a) *To the extent there is no conflict of interest between the following beneficiary representatives and the person represented or among those being represented with respect to a particular question or dispute:*

...

(4) A trustee may represent and bind the beneficiaries of the trust with respect to questions or disputes involving the trust;

(5) a personal representative of a decedent's estate *may* represent and bind persons interested in the estate with respect to questions or disputes involving the decedent's estate

[emphasis added]

In accordance with §62-1-403, if the devisees of the Will ("Devisees") are not made parties to the Severed Actions, then orders issued in the Severed Actions would only bind the Devisees where there are no conflicts of interest among them or between them and the LSA. Likewise, under §62-7-303, the LSA *may* represent and bind non-party Devisees, but, again, only if there is no conflict among them or between them and the LSA.

There are patent conflicts among certain Devisees, between certain Devisees and Tommie Rae Brown, and between certain Devisees, Tommie Rae Brown on the one hand and the LSA and LST on the other. Among others, four of the devisees, Deanna Brown Thomas, Yamma Brown, Vanisha Brown, and Larry Brown (the "Contesting Devisees"), along with Tommie Rae Brown, assert claims against the LSA and LST to set aside the Will and Trust, alleging undue influence, fraud, lack of intent, and illusory trust. Devisee Terry Brown expressly opposes these claims, supports the Will and Trust, and affirmatively seeks the Court's enforcement of the Will's uncontestability (*in terrorem*) clause against the Contesting Devisees. Devisee Daryl Brown also appears to support the Will and Trust.

Given the existence of these undeniable conflicts, Sections 62-1-403 and 62-7-303 suggest that orders issued in the Severed Actions will not bind the Devisees if they are not made



parties. Likewise, because of these conflicts, Section 62-7-303 may or may not give the LSA the authority to "represent and bind" the Devises in relation to the Severed Actions.

If the Devises, Tommie Rae Brown, and James Brown II are made parties to all Severed Actions, then orders issued in those actions will bind them, removing the uncertainty caused by Section 62-1-403 if they are not made parties.

Likewise, making the Devises, Tommie Rae Brown, and James Brown II parties to the Severed Actions also removes the uncertainty placed upon the LSA and LST by Section 62-7-303. Making the Devises, James Brown II, and Tommie Rae Brown parties to all Severed Actions, in turn, allows the LSA and LST to more effectively satisfy his fiduciary obligation to defend the Estate and Trust against the Will and Trust Challenges, as established in this Court's October 1, 2013 Interim Order and the Probate Court's October 10, 2013 Interim Order Appointing Limited Special Administrator.

Tommie Rae Brown argues that, because she has waived her right to any personal and household effects of every kind as described in the Will, only she, the Estate and the Trust are "interested persons," under Section 62-1-201(2). As such, Ms. Brown argues that only she and the LSA can be parties to the elective share or omitted spouse claims. The definition of "interested person" does not support this assertion:

(23) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. *The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.* [emphasis added]

The Devises meet this definition in several ways. They are "heirs." They are also "devises." They are also "children." They are also "beneficiaries." In these capacities, they also have certain "priority for appointment as personal representative" under Section 62-3-203.

Moreover, the Devises have "a property right in or claim against [the Estate]...which may be affected by the proceeding." A threshold determination that must be made in both the elective share and omitted spouse claims is whether Tommie Rae Brown is James Brown's surviving spouse. This determination could have a profound effect upon the Devises' property rights in or claims against both the Estate and the Trust.

As a child of James Brown and a named Devisee of the Will, Terry Brown has an interest in seeing that his father's estate plan is carried out.

As children and intestate heirs of James Brown, Terry Brown and the other Devises have potential property interests and/or claims against the Estate that "may be affected" by the Severed Actions. The Contesting Devises and Tommie Rae Brown each seek to set aside the Will on grounds of undue influence, fraud, lack of intent, and illusory trust. They request that the Court set aside the Will and order that the Estate pass by the laws of intestate succession. See, for example, Tommie Rae Brown's December 19, 2007 Petition to Set Aside Informal Probate filed in a direct predecessor to this case. If Tommie Rae Brown is finally adjudged to be James Brown's surviving spouse, then she could take fully 50% of the Estate under the laws of intestate succession, reducing by half any claim that Terry Brown and the other Devises might have under those laws.

The LSA's primary duty is defined by the Court's October 1 and 10, 2013 Appointment Orders, which is to defend James Brown's Estate against the claims made in the Will and Trust Challenges. In executing this duty, the LSA must act in the best interest of the Estate and

TBC
#5

successors to the Estate. Section 62-3-703(a). The LSA must execute his duty as a prudent person would, by considering the purposes, terms, distributional requirements and other circumstances of the Estate and Trust, exercising reasonable care, skill, and caution. Sections 62-3-703(a) and 62-7-804.

In light of these obligations and the uncertainty that would be created by excluding the Devises from the Severed Actions, in an abundance of caution, the Court believes it should resolve that uncertainty by allowing the Devises to the Will, Tommie Rae Brown, and James Brown II to participate fully as named parties in each of the Severed Actions. The Court sees no legal impediment to exercising its discretion in this fashion and finds that such action is in the best interests of the parties, while serving the goal of judicial economy.

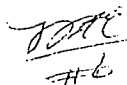
For the reasons outlined above, it is hereby:

ORDERED that Tommie Rae Brown be designated as the Petitioner in the Severed Actions for her omitted spouse, 2013-CP-02-02849, and elective share, 2013-CP-02-02850, claims:

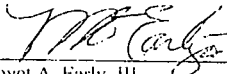
ORDERED that James Brown II be designated as the Petitioner in the severed Action for his pretermitted child claim: 2013-CP-02-02851;

ORDERED that David C. Sojourner, Jr., in his capacity as Limited Special Administrator and Limited Special Trustee, be designated as a Respondent in each of the Severed Actions: 2013-CP-02-02849, 2013-CP-02-02850, and 2013-CP-02-02851; and

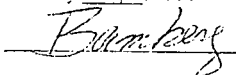
ORDERED that all Devises of the Will, who are Deanna Brown Thomas, Yamma Brown, Vanisha Brown, Larry Brown, Terry Brown, and Daryl Brown, be designated as Respondents in each of the Severed Actions: 2013-CP-02-02849, 2013-CP-02-02850, and 2013-CP-02-02851.

Handwritten signature and initials, possibly "JMC" and "H.C.", in black ink.

IT IS SO ORDERED.



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

February 7, 2014
 South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202849

Tommye Rae Hynie-Brown

David Special
Administrato Soujourner
Deanna Brown Thomas
Vanisha Brown
Daryl Brown

Terry Brown
Yamma Brown
Larry Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

2/7/2014

Circuit Court Judge

Judge Code

Date

CPFORM43Cm
SCCA SCRPC Form 4C (Revised 3/2013)

For Clerk of Court Office Use Only

This judgment was entered on 7th day of February, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 7th day of February, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach PO Box 2285 Columbia, SC 29202
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard - Clerk of Court

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

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

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202850

Tommie Rae Hynie-Brown

David Soujourner
Deanna Brown Thomas
Vanisha Brown
Daryl Brown

Terry Brown
Yamma Brown
Larry Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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Circuit Court Judge

Judge Code

2/7/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on 7th day of February, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 7th day of February, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach PO Box 2285 Columbia, SC 29202
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard - Clerk of Court

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

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

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851

James Brown II

David Sojourner
Yamma Brown
Larry Brown
Daryl Brown

Deanna Brown Thomas
Vanisha Brown
Terry Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ☐ **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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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2/7/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 7th day of February, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 7th day of February, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

ATTORNEY(S) FOR THE PLAINTIFF(S)

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach PO Box 2285 Columbia, SC 29202

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE PROBATE COURT

Adele J. Pope,

Estate File No. 2007-ES-02-0056

Plaintiff,

2013-CP-02-1337

vs.

**ORDER DISMISSING CASE WITH
PREJUDICE**

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, Individually, as former Executor de son tort, and in every current and former fiduciary status claimed or held as to the Estate of James Brown and The James Brown 2000 Irrevocable Trust,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

FILED

3.10.14

Liz Anderson
C.C.P. & G.S.

Anita Knoepfle 820
Deputy Clerk

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

FINDINGS OF FACT

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

"Estate") and the James Brown 2000 Irrevocable Trust (the "Trust").

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

I, *Sharon Brown*, Clerk of Court, do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

20 day of *September* 2013

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

Deputy Clerk

WME
#1

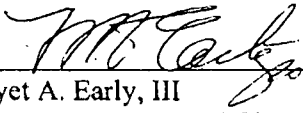
3. The only allegations against Defendant Bauknight, in his **individual** capacity, deal with the Plaintiff's desire for Mr. Bauknight to pay both his and Plaintiff's attorney's fees, incurred in the defense of this action, from his personal assets and not from the assets of the Estate or the Trust.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

CONCLUSIONS OF LAW

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

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

AND IT IS SO ORDERED.



Doyet A. Early, III
Judge, Second Judicial Circuit

Aiken, South Carolina

March 4, 2014.

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER

Adele Pope

James Estate Of Brown Russell L Trustee
Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
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- ☐ 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

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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.

3/10/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 3-10-14, and a copy mailed first class or placed in the appropriate attorney's box on 3-10-14, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Pope ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

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

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W Knapp

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT
)

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

) Case No.: 2007-ES-02-0056
) Case No.: 2008-CP-02-1647
)
)

ORDER

4.29.14
FILED
Liz Godard
C.C.P. & G.S.
Anita Knoepfle 12⁵⁵ ah
Deputy Clerk

Before the Court came the parties to the captioned case to decide the motion of Michael Deon Brown to be determined a son and heir of James Brown a/k/a James Joseph Brown. Counsel for Michael Deon Brown defended the motion. The attorney for David Sojourner, as the Limited Special Administrator, opposed the motion and filed a motion to dismiss. A hearing was held on Monday, March 31, 2014. The Court has considered the arguments of counsel, the briefs submitted by each side, and certified copies of court proceedings filed with the Clerk. These Court pleadings include copies of orders and judgments involving James Brown and Michael Deon Brown.

A Certificate of Live Birth issued by Sacramento County, California shows that Michael Deon Brown was born on September 7, 1968. The Certificate lists as his parents Mary Florence Brown, a resident of Sacramento and James Brown, an Entertainer born in Georgia.

By judgment dated November 24, 1969, the Superior Court of the State of California, Sacramento County, decreed that James Brown had a duty to support Michael Deon Brown. That judgment further ordered James Brown to pay monthly support and maintenance for Michael Deon Brown. The records of the California Superior Court leading to the November 24, 1969 decree, particularly records of discovery in the case, show that James Brown had a full and fair opportunity

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of September 2015

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

Shannon Gowers
Deputy Clerk

MAC
#1

On August 22, 1979 the California Superior Court issued an Order granting a writ of execution to enforce its previous Order that James Brown pay, "support and maintenance for Michael Deon Brown."

Then on August 17, 1983 the California Superior Court issued a writ of execution whereby Mary Brown requested that, "James Brown (be) ordered to pay the sum of \$500.00 per month child support for our son, Michael."

By court order dated December 23, 1983, James Brown was found to have failed to pay child support for a period of fifteen months. The California Superior Court ordered that James Brown be remanded to the Sacramento County Jail for a period of 75 days for 15 counts of contempt for failing to pay child support. James Brown was further required to pay the accrued arrearages for child support as well as the attorney's fees of Mary Florence Brown.

By Stipulation and Order dated December 13, 1984, the California Superior Court permitted James Brown to settle arrearages of child support and future claims for child support for Michael Deon Brown.

In addition to the above, this Court recognizes that Michael Deon Brown underwent a DNA test performed by Laboratory Corporation of America ("LabCorp"). LabCorp's report dated January 22, 2014 assessed the probability that James Brown is the father of Michael Deon Brown at a 99.99% probability.

Movant Michael Deon Brown brought his motion pursuant S.C. Code §62-2-109(2)(ii) which provides that a person born out of wedlock is the child of the alleged father if, "paternity is established by an adjudication commenced before the death of the father." In Neely v. Thomasson,

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365 S.C. 345, 618 S.E.2d 884 (2005), the Supreme Court of South Carolina held that a person born out-of-wedlock may inherit from a father who dies intestate if it is determined in an adjudication commenced before the father's death that the person is the father's child. The Neely court went on to hold that a family court proceeding in which child custody, support and visitation rights are determined may constitute an adjudication of paternity. Id. at 365 S.C. 352, 618 S.E.2d 888. *See also* Eichman v. Eichman, 285 S.C. 378, (1985) (order of support in separation agreement was adjudication of paternity); Beyer v. Metze, 362 S.C. 356, 359, 482 S.E.2d 789, 791 (1997) (provision of divorce decree allowing visitation and requiring payment of support clearly implies paternity).

It is clear to this Court that the repeated court orders from the Superior Court of Sacramento County, California ordering James Brown to pay child support and finding him in contempt when those payments were not made constituted an adjudication of paternity commenced during the lifetime of James Brown. These Court orders were vindicated when the DNA test established James Brown as the biological father.

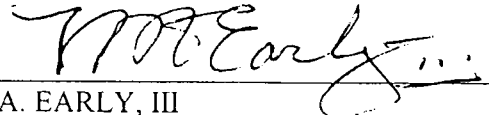
I find that James Brown, during his life, had many opportunities to contest the paternity of Michael Deon Brown. When considering the totality of the pleadings, it is clear that the California Superior Court adjudicated the issue of paternity and found Michael Deon Brown to be the son of James Brown.

Pursuant to South Carolina Code Annotated, §62-2-109(2), I find that Michael Deon Brown's paternity was established by adjudication commenced during the life of James Brown. It

ONE
/ 2

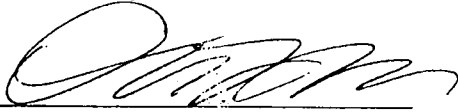
is further the finding of this Court that James Brown fathered Michael Deon Brown and that Michael Deon Brown is hereby found to be an heir and son of James Brown.

This 23 day of April, 2014, at Spartanburg, South Carolina.



DOYET A. EARLY, III
JUDGE, SECOND JUDICIAL CIRCUIT

Presented by:



DAVID B. BELL
Georgia State Bar No. 047750
619 Greene St.
Augusta, GA 30901
(706) 724-1882

Counsel for Michael Deon Brown

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on opposing counsel by placing a copy of same in the United States mail with appropriate postage affixed thereon and being addressed as follows:

Mr. Clyde H. Jones, Jr.
Senior Asst Attorney General
State of South Carolina
P. O. Box 11549
Columbia SC 29211-1549

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

Mr. Louis Levenson
Levenson and Associates
125 Broad Street, SW
Atlanta, GA 30303

Mr. A. Peter Shahid, Jr.
Shahid Law Office, LLC
89 Broad Street
Charleston SC 29401

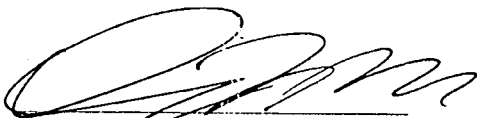
Mr. William J. Barr
108 N. Academy St.
Kingstree, SC 29556

Mr. John Fisher Beach
1501 Main Street, Fifth Floor
Columbia SC 29202

Mr. David J. Black
P.O. Drawer 2426
Columbia SC 29202

Mr. S. Alan Medlin
1713 Phelps Street
Columbia, SC 29205

This 29th day of April, 2014.



DAVID B. BELL
Georgia State Bar No. 047750
619 Greene St.
Augusta, GA 30901
(706) 724-1882

Counsel for Michael Deon Brown



MATTHEW BODMAN
South Carolina Bar No. 11143
1500 Calloun Street
Columbia, SC 29201
(803) 806-8605

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan Memaster

Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney LumarLindsey Delores Brown
Vanisha Brown
Deanna J. brow Thomas
Yamma N Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

4/29/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 4-29-14, and a copy mailed first class or placed in the appropriate attorney's box on 4-29-14, to attorneys of record or to parties (when appearing pro se) as follows:

Probate

Mary F Jowers – PO Box 11549 Columbia SC 29211

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648

Adele Pope

William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

Louis Levenson 125 Broad St., SW Atlanta, GA 30303

David Bell 619 Greene Street Augusta, GA 30901

James M Griffin – PO Box 11208 Columbia SC 29210

John F Beach PO Box 2285 Columbia SC 29202

Stephen M Slotchiver 44 State St Charleston SC 29401

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

James Brown, II,)

Petitioner,)

v.)

David C. Sojourner, Jr., in his capacity as)
Limited Special Administrator and)
Limited Special Trustee, Deanna Brown)
Thomas, Yamma Brown, Vanisha)
Brown, Larry Brown, Terry Brown and)
Daryl Brown,)

Respondents,)

IN RE:)

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

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

CASE NO. 2013-CP-02-02851
(Pretermitted Child Claim)

CONSENT ORDER ON LSA'S MOTION TO
ACQUIRE DNA SAMPLES
FROM JAMES BROWN, II

FILED 5.14.14
Liz Godard
C.C.P. & G.S.
Anita Knoepfle 1230
Deputy Clerk

THIS MATTER COMES before me on the Notice of Motion and Motion to Acquire DNA Samples from James Brown, II, by the Limited Special Administrator of the Estate of James J. Brown, David C. Sojourner, Jr. It appears that the *Guardian ad Litem* of James Joseph Brown, II, Stephen Slotchiver, hereinafter referred to as "GAL", by and through his undersigned counsel, A. Peter Shahid, Jr., and the Limited Special Administrator, hereinafter referred to as "LSA", by and through his undersigned attorney, John F. Beach, have reached an agreement regarding the DNA test as to the paternity of the decedent James Joseph Brown, Jr. The parties have agreed:

I. That the chain of custody of the Decedent's DNA sample in the possession, control and custody of Laboratory Corporation of America ("LabCorp"), will be accessible to the GAL, the LSA, and Tommie Rae Brown. They LSA represents to all parties that this sample is a valid sample, subject, however, to verification.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 14th day of February 2015.
Liz Godard
C.C.P. & G. S., Aiken County, S.C.
Shannon Gorman
Deputy Clerk

2. That the minor child, James Joseph Brown, II, shall, within thirty (30) days of the date of this Order, appear at a LabCorp office in the vicinity of the minor child's residence, in the presence of his mother, Tommie Rae Brown. Ms. Brown shall present to the LabCorp office at that time a copy of the minor child's Birth Certificate (if she has a copy of same), Ms. Brown's driver license or passport. If Ms. Brown does not possess the minor child's birth certificate at the time of the appointment, she will submit the birth certificate to LabCorp, with a copy to all parties, within sixty (60) days of the date of the appointment. Ms. Brown shall sign all authorizations, verifications of identity, and chain of custody documents which LabCorp normally requires for DNA testing of a minor child and LabCorp shall photograph and obtain the fingerprints of the child. LabCorp shall provide to the GAL, the LSA and Tommie Rae Brown a copy of all documents relating to the chain of custody.

3. All documents, photographs, and other materials related to the DNA testing ordered herein, including the results of the DNA test, shall be disclosed and available only to the Parties to this action and Tommie Rae Brown, their counsel, consultants, and experts, and then only under the protection of a Protective Order issued by the Court that expressly limits the use of such documents, photographs, and other materials to this action, unless otherwise ordered by the Court.

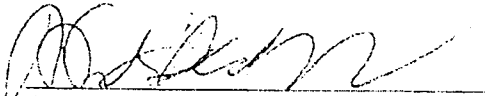
4. That the costs associated with this DNA test shall be borne by the Estate. IT IS SO ORDERED.

Bamberg South Carolina
5.8, 2014

[signatures of counsel on the following page]

The Honorable Doyet A. Early III

I CONSENT:


A. Peter Shahid, Jr.
Attorney for Stephen Slotchiver (GAL.)

I CONSENT:

John F. Beach
Attorney for David C. Sojourner, Jr. (LSA)

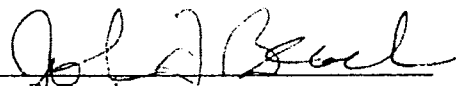
I CONSENT:

Robert N. Rosen
Attorney for Tommie Rae Brown

I CONSENT:

A. Peter Shahid, Jr.
Attorney for Stephen Slotchiver (GAL)

I CONSENT:

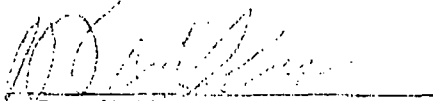


John F. Beach
Attorney for David C. Sojourner, Jr. (LSA)

I CONSENT:

Robert N. Rosen
Attorney for Tommie Rae Brown

I CONSENT:



A. Peter Shahid, Jr.
Attorney for Stephen Slotchiver (GAL)

I CONSENT:

John F. Beach
Attorney for David C. Sojourner, Jr. (LSA)

I CONSENT:



Robert N. Rosen
Attorney for Tommie Rae Brown

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851**

James Brown II

**David Sojourner
Yamma Brown
Larry Brown
Daryl Brown**

**Deanna Brown Thomas
Vanisha Brown
Terry Brown**

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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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.**

5/14/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

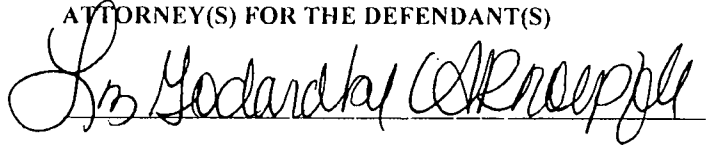
This judgment was entered on **5-14-14**, and a copy mailed first class or placed in the appropriate attorney's box on **5-14-14**, to attorneys of record or to parties (when appearing pro se) as follows:

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach PO Box 2285 Columbia, SC 29202
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

James Brown, II,

Petitioner,

v.

David C. Sojourner, Jr., in his capacity
as Limited Special Administrator and
Limited Special Trustee, Deanna Brown
Thomas, Yamma Brown, Vanisha
Brown, Larry Brown, Terry Brown and
Daryl Brown,

Respondents,

IN RE:

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

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

CASE NO.: 2013-CP-02-02851

PROTECTIVE ORDER

5-23-14
Liz Godard
C.C.P. & G.S.
Shannon Jones
Deputy Clerk

Whereas, on or about May 8, 2014 the Court issued a Consent Order on LSA's Motion to Acquire DNA Samples from James Brown, II, with the written consent of David C. Sojourner Jr. (the "LSA"), as Limited Special Administrator of the Estate of James Brown: a/k/a James Joseph Brown (the "Estate") and as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust"), James Brown II, and Tommie Rae Brown, and verbal consent in open court on March 31, 2014 by counsel for the remaining Respondents, and, whereas the Court has determined that the terms set forth herein are appropriate to protect the respective interests of the parties, the public, and the court; accordingly, it is ORDERED:

I. Scope. All documents produced in the course of discovery, all responses to discovery requests and all deposition testimony and deposition exhibits and any other materials

MRE

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of February 2015

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

Shannon Jones
Deputy Clerk

which may be subject to discovery (hereinafter collectively "documents") shall be subject to this Order concerning confidential information as set forth below.

2. **Form and Timing of Designation.** Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document and which will permit complete removal of the Confidential designation. Documents shall be designated CONFIDENTIAL prior to, or contemporaneously with, the production or disclosure of the documents. Inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential as otherwise allowed by this Order.

3. **Documents Which May be Designated Confidential.** Any party may designate documents as confidential but only after review of the documents by an attorney¹ who has, in good faith, determined that the documents contain information protected from disclosure by statute, sensitive personal information, trade secrets, or confidential research, development, or commercial information. The certification shall be made concurrently with the disclosure of the documents, using the form attached hereto at Attachment A which shall be executed subject to the standards of Rule 11 of the South Carolina Rules of Civil Procedure. Information or documents which are available in the public sector may not be designated as confidential.

4. **Depositions.** Portions of depositions shall be deemed confidential only if designated as such when the deposition is taken or within seven business days after receipt of the transcript. Such designation shall be specific as to the portions to be protected.

¹ The attorney who reviews the documents and certifies them to be CONFIDENTIAL must be admitted to the Bar of South Carolina. By signing the certification, counsel submits to the jurisdiction of this court in regard to the certification.

Handwritten signature and initials, possibly "MPC" with a checkmark or similar mark below it.

5. **Protection of Confidential Material.**

a. **General Protections.** Documents designated CONFIDENTIAL under this Order shall not be used or disclosed by the parties or counsel for the parties or any other persons identified below (§ 5.b.) for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of that litigation).

b. **Limited Third-Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated CONFIDENTIAL under the terms of this Order to any other person or entity except as set forth in subparagraphs (1)-(5) below, and then, with regard to persons described in subparagraphs (2), (4) and (5) below, only after the person to whom disclosure is to be made has executed an acknowledgment (in the form set forth at Attachment B hereto), that he or she has read and understands the terms of this Order and is bound by it. Subject to these requirements, the following categories of persons may be allowed to review documents which have been designated CONFIDENTIAL pursuant to this Order:

- (1) the LSA and counsel for the Parties, together with employees of the LSA and such counsel who have responsibility for the preparation and trial of the lawsuit;
- (2) other parties and employees of such parties, but only to the extent counsel shall certify that the specifically named individual party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed²;

² At or prior to the time such party or employee completes his or her acknowledgment of review of this Order and agreement to be bound by it (Attachment B hereto), counsel shall complete a certification in the form shown at Attachment C hereto. Counsel shall retain the certification together with the form signed by the party or employee.

(3) court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;

(4) consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit; and

(5) other persons only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.

c. **Control of Documents.** Counsel for the parties shall take reasonable efforts to prevent unauthorized disclosure of documents designated as Confidential pursuant to the terms of this order. Counsel shall maintain a record of those persons, including employees of counsel, who have reviewed or been given access to the documents along with, where applicable, the originals of the forms signed by those persons acknowledging their obligations under this Order.

d. **Copies.** All copies, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as "copies"), of documents designated as Confidential under this Order or any portion of such a document, shall be immediately affixed with the designation "CONFIDENTIAL" if the word does not already appear on the copy. All such copies shall be afforded the full protection of this Order.

6. **Filing of Confidential Materials.** In the event a party seeks to file any material that is subject to protection under this Order with the court, that party shall take appropriate action to insure that the documents receive proper protection from public disclosure including:

(1) filing a redacted document with the consent of the party who designated the document as confidential; (2) where appropriate (e.g. in relation to discovery and evidentiary motions),

A handwritten signature in black ink, appearing to be "M.E." with a stylized flourish underneath.

submitting the documents solely for *in camera* review; or (3) where the preceding measures are not adequate, seeking permission to file the document under seal pursuant to the procedural steps set forth in Rule 41.1, SCRCP, or such other rule or procedure as may apply in the relevant jurisdiction. Absent extraordinary circumstances making prior consultation impractical or inappropriate, the party seeking to submit the document to the court shall first consult with counsel for the party who designated the document as confidential to determine if some measure less restrictive than filing the document under seal may serve to provide adequate protection. This duty exists irrespective of the duty to consult on the underlying motion. Nothing in this Order shall be construed as a prior directive to the Clerk of Court to allow any document be filed under seal. The parties understand that documents may be filed under seal only with the permission of the court after proper motion.

7. **Greater Protection of Specific Documents.** No party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order unless the party moves for an Order providing such special protection.

8. **Challenges to Designation as Confidential.** Any CONFIDENTIAL designation is subject to challenge. The following procedures shall apply to any such challenge.

- a. The burden of proving the necessity of a Confidential designation remains with the party asserting confidentiality.
- b. A party who contends that documents designated CONFIDENTIAL are not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if



the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the Confidential designation.

c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

- (1) the party who claims that the documents are confidential withdraws such designation in writing;
- (2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 8.b. above; or
- (3) the court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

9. **Treatment on Conclusion of Litigation.**

a. **Order Remains in Effect.** All provisions of this Order restricting the use of documents designated CONFIDENTIAL shall continue to be binding after the conclusion of the litigation unless otherwise agreed or ordered.

b. **Return of CONFIDENTIAL Documents.** Within thirty (30) days after the conclusion of the litigation, including conclusion of any appeal, all documents treated as confidential under this Order, including copies as defined above (§5.d.) shall be returned to the producing party unless: (1) the document has been entered as evidence or filed

none
#10

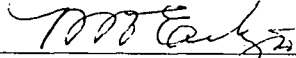
(unless introduced or filed under seal); (2) the parties stipulate to destruction in lieu of return; or (3) as to documents containing the notations, summations, or other mental impressions of the receiving party, that party elects destruction. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product including an index which refers or relates to information designated CONFIDENTIAL so long as that work product does not duplicate verbatim substantial portions of the text of confidential documents. This work product continues to be Confidential under the terms of this Order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose the confidential documents.

10. **Order Subject to Modification.** This Order shall be subject to modification on motion of any party or any other person who may show an adequate interest in the matter to intervene for purposes of addressing the scope and terms of this Order. The Order shall not, however, be modified until the parties shall have been given notice and an opportunity to be heard on the proposed modification.

11. **No Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any specific document or item of information designated as CONFIDENTIAL by counsel is subject to protection under Rule 26(c) of the South Carolina Rules of Civil Procedure or otherwise until such time as a document-specific ruling shall have been made.

12. **Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel in this action and their respective law firms and clients.

IT IS SO ORDERED.



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

May 21, 2014.
Barnwell, South Carolina

ATTACHMENT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
	)	
James Brown, II,	)	CASE NOS.: 2013-CP-02-02851
	)	
Petitioner,	)	
	)	
v.	)	
	)	
David C. Sojourner, Jr., in his capacity	)	CERTIFICATION BY COUNSEL OF
as Limited Special Administrator and	)	DESIGNATION
Limited Special Trustee, Deanna Brown	)	OF INFORMATION AS
Thomas, Yamma Brown, Vanisha	)	CONFIDENTIAL
Brown, Larry Brown, Terry Brown and	)	
Daryl Brown,	)	
	)	
Respondents,	)	
	)	
IN RE:	)	
THE ESTATE OF JAMES BROWN	)	
A/K/A JAMES JOSEPH BROWN	)	
	)	

Documents produced herewith [whose bates numbers are listed below (or) which are listed on the attached index] have been marked as CONFIDENTIAL subject to the Confidentiality Order entered in this action which Order is dated _____.

By signing below, I am certifying that I have personally reviewed the marked documents and believe, based on that review, that they are properly subject to protection under the terms of this Confidentiality Order.

Date: _____

Signature of Counsel

Printed Name of Counsel

ATTACHMENT B

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
	)	
James Brown, II,	)	CASE NOS.: 2013-CP-02-02851
	)	
Petitioner,	)	
	)	
v.	)	
	)	
David C. Sojourner, Jr., in his capacity	)	ACKNOWLEDGMENT OF
as Limited Special Administrator and	)	UNDERSTANDING
Limited Special Trustee, Deanna Brown	)	AND
Thomas, Yamma Brown, Vanisha	)	AGREEMENT TO BE BOUND
Brown, Larry Brown, Terry Brown and	)	
Daryl Brown,	)	
	)	
Respondents,	)	
	)	
IN RE:	)	
THE ESTATE OF JAMES BROWN	)	
A/K/A JAMES JOSEPH BROWN	)	
	)	

The undersigned hereby acknowledges that he or she has read the Confidentiality Order dated _____, in the above captioned action, understands the terms thereof, and agrees to be bound by such terms. The undersigned submits to the jurisdiction of the Greenville County Court of Common Pleas in matters relating to the Confidentiality Order and understands that the terms of said Order obligate him/her to use discovery materials designated CONFIDENTIAL solely for the purposes of the above-captioned action, and not to disclose any such confidential information to any other person, firm or concern.

The undersigned acknowledges that violation of the Stipulated Confidentiality Order may result in penalties for contempt of court.

Name: _____
Job Title: _____
Employer: _____
Business Address: _____

Date: _____

Signature

ATTACHMENT C

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
James Brown, II,	)	CASE NOS.: 2013-CP-02-02851
Petitioner,	)	
v.	)	
David C. Sojourner, Jr., in his capacity	)	CERTIFICATION OF COUNSEL OF
as Limited Special Administrator and	)	NEED
Limited Special Trustee, Deanna Brown	)	FOR ASSISTANCE OF
Thomas, Yamma Brown, Vanisha	)	PARTY/EMPLOYEE
Brown, Larry Brown, Terry Brown and	)	
Daryl Brown,	)	
Respondents,	)	
IN RE:	)	
THE ESTATE OF JAMES BROWN	)	
A/K/A JAMES JOSEPH BROWN	)	

Pursuant to the Confidentiality Order entered in this action, I certify that the assistance of _____ is reasonably necessary to the conduct of this litigation and that this assistance requires the disclosure to this individual of information which has been designated as CONFIDENTIAL.

I have explained the terms of the Confidentiality Order to the individual named above and will obtain his or her signature on an "Acknowledgment of Understanding and Agreement to be Bound" prior to releasing any confidential documents to the named individual and I will release only such confidential documents as are reasonably necessary to the conduct of the litigation.

The individual named above is:

- ☐ A named party;
- ☐ An employee of named party _____. This employee's job title is _____ and work address is _____.

Date: _____

Signature

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202851

James Brown II

David Sojourner
Yamma Brown
Larry Brown
Daryl Brown

Deanna Brown Thomas
Vanisha Brown
Terry Brown

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

5/23/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on 23rd day of May, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 23rd day of May, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach PO Box 2285 Columbia, SC 29202
Matthew Day Bodman 1500 Calhoun St. Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

Probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Matthew Bodman

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Adele J. Pope,

Plaintiff,

vs.

Estate of James Brown, Deceased; The James Brown 2000 Irrevocable Trust; Russell L. Bauknight, Individually, as former Executor de son tort, and in every current and former fiduciary status claimed or held as to the Estate of James Brown and The James Brown 2000 Irrevocable Trust,

Defendants.

AND:

Robert L. Buchanan, Jr.,

Interested Party.

IN THE CIRCUIT COURT

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

**ORDER DENYING PLAINTIFF'S
MOTION TO STRIKE**

9.8.14
Liz Godard
C.C.P. & G.S.
Anita Knoepfle / 30
Deputy Clerk

THIS MATTER IS BEFORE THE COURT upon the Plaintiff's Motion to Strike, which was filed July 8, 2014 in response to the Affidavit of Russell L. Bauknight, filed July 3, 2014, in support of Defendants' Return to Plaintiff's Motion for Partial Summary Judgment.

This Court received filings and conducted a hearing with respect to Plaintiff's Motion on August 25, 2014, whereby Plaintiff alleged that the above-referenced Affidavit was a sham and was not based on the personal knowledge of the affiant.

Having carefully considered the Motion and related filings, including the Supplemental Affidavit of Russell L. Bauknight, dated August 19, 2014, and the Affidavit of Michelle M. Baker, dated August 20, 2014, as well as the arguments of counsel, I find Plaintiff's Motion is

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

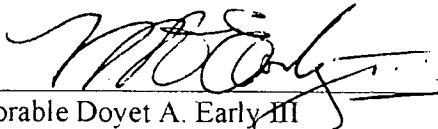
20 day of September 2015

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

Shannon Grooms
Deputy Clerk

without merit. Based on the foregoing, and for good cause shown, Plaintiff's Motion to Strike is hereby DENIED.

IT IS SO ORDERED.



The Honorable Doyet A. Early III
Second Judicial Circuit

Aiken, South Carolina

9-8, 2014.

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0201337

Adele Pope

James Estate Of Brown Russell L Trustee
Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

9/8/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 9-8-14, and a copy mailed first class or placed in the appropriate attorney's box on 9-8-14, to attorneys of record or to parties (when appearing pro se) as follows:

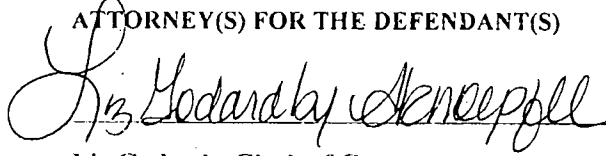
Adele Pope ,

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter

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

ATTORNEY(S) FOR THE DEFENDANT(S)



Liz Godard - Clerk of Court

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

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

**IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT**

CASE NO. 2008-CP-02-01647

IN RE:

**ORDER GRANTING JEANETTE
MITCHELL'S MOTION TO BE DECLARED
AN HEIR OF THE ESTATE OF JAMES
BROWN**

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

This matter is before the court on Jeanette Mitchell's ("Mitchell") Motion to Be Declared an Heir of the Estate of James Brown. Mitchell's Motion to be Declared an Heir of the Estate of James Brown was filed on April 21, 2008. A hearing on this motion was held on November 10, 2014. For the following reasons the Court GRANTS Mitchell's motion pursuant to Parker v. Parker, 443 S.E. 2d 388 (1994).

BACKGROUND

On or about January 11, 2007, Jeanette Mitchell ("Mitchell") submitted and Albert Dallas ("Dallas") received Notice of her Claim as an heir of the Estate of James Brown. Subsequently, Dallas filed an informal petition to probate the Estate of James Brown. Jeanette Mitchell's name was not listed in Section 4 b, which requested the names of intestate heirs who were not devisees. The petition defined an intestate heir as persons who would inherit if the decedent left no will. Thereafter, Mitchell's attorneys filed a demand for information, submitted the results of Mitchell's DNA test which reflected a 99.9% probability that Mitchell was the daughter of James Brown, and made a motion to have Mitchell Declared an Heir of the Estate of James Brown, without any objection. For seven years Mitchell's name was included in the caption of ~~her~~ ¹²⁶¹³

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

COUNTY OF AIKEN, 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 20th day of June 2018.

original documents which are
20 day of September 2015
Deirdre
 C.C.C.P. & G. S., Aiken County, S.C.
Shannon
 Deputy Clerk

1 of 4

1 of April 1964
R.C.C.P. & S.
Shannon J. [Signature]
Deputy Clerk

Carolina Supreme Court. In addition, Mitchell's claim was considered and discussed in settlement negotiations and court hearings between the estate and other claiming parties. Furthermore, Mitchell's attorneys participated in legal proceedings with no objection to her claim as an heir of the Estate. For a period of six years, Mitchell was recognized as a DNA heir in settlement discussions, all without objection to Mitchell's claim. On December 6, 2013, David C. Sojourner Jr. as Limited Special Administrator of the Estate of James Brown a/k/a James Joseph Brown filed a Motion to Dismiss Mitchell's Motion to be Declared an Heir. After considering legal memorandums filed by both parties, at a hearing held on July 8, 2014, this Court denied the Motion to Dismiss Jeanette Mitchell's claim as an Heir of James Brown.

DISCUSSION

On November 10, 2014, this Court heard oral arguments on Jeanette Mitchell's Motion to be Declared an Heir of the Estate of James Brown. Mitchell maintained that because the Estate and no heir contested her claim as an heir for a period of six years and acknowledged her participation in legal proceedings, pursuant to Parker v Parker, 443 SE 2d 388 (1994), the paternity requirement of SC Code Ann. § 62-2-109 were not challenged.

Alan Medlin, who did not object at the July 8, 2014 hearing maintained at the November 10, 2008 hearing that Mitchell's Motion to Be Declared an Heir was improper procedurally and maintained that a separate proceeding was required to bring the matter before the Court. Medlin also questioned whether the Motion was timely. Mitchell's response acknowledged that in Parker v Parker, the proceeding was commenced through a similar motion filed after the parties had entertained settlement negotiations.


#2

In Parker v. Parker, 443 S.E. 2d 388, (1994), the claim to be an heir of the estate was very similar to Mitchell's claim to be an heir in the Estate of James Brown. In both cases after the Informal Application was filed, a dispute arose to remove the personal representative. The dispute arose in both cases in the same year that the probate was filed. A year after the Petition for Probate was filed in Parker and in Mitchell's case, the parties reached an agreement. Ultimately, in both cases an agreement was reduced to an order of the Probate Court. After the settlement, Parker came forward and filed a Motion asking to be declared a natural child and heir of the decedent. Mitchell came forward before the Offer in Compromise with a Motion to be declared an heir of the decedent.

When the Estate in Parker sought to exclude the Parker as an heir, the probate court in Parker denied this motion on the grounds that the motion to exclude Parker was filed outside the statutory limit and also because the personal representative was the proper party to raise the defense against the claim.

The South Carolina Appellate and Supreme Courts affirmed the Probate Court's denial of an effort to exclude Parker's claim as an heir after four years with no objection. The court in Parker said SC code Ann § 62-2-109 did not apply to Parker's uncontested claim. Mitchell maintained that over six years passed with no objection from the Estate of James Brown. Through settlement discussions and legal proceedings Mitchell was lured into a position where her time for filing a timely claim had passed.

CONCLUSION

For the foregoing reasons the Court GRANTS Mitchell's Motion to Be Declared an Heir of the Estate of James Brown. Henceforth, Mitchell shall be recognized as the natural and biological daughter of James Brown

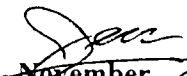

to 3

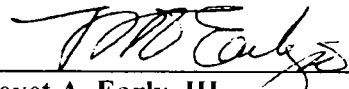
ACCORDINGLY, having reviewed the file, heard oral argument and considered the evidence and the law, pursuant to Parker v Parker, 443 SE 2d 388 (1994), and finding that this court has jurisdiction to hear this matter, it is,

ORDERED AND ADJUGED:

That Jeanette Mitchell's Motion to Be Declared an Heir of the Estate of James Brown is hereby Granted. Jeanette Mitchell is hereby declared the legal and biological daughter of James Brown entitled to receive a share of the estate equal in value to that which she would have received if Decedent had died intestate.

IT IS SO ORDERED.


~~November~~ 22, 2014
Aiken, SC



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

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 Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

1/26/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on 26th day of January, 2015, and a copy mailed first class or placed in the appropriate attorney's box on 26th day of January, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Mary Frances G. Jowers PO Box 11549 Columbia, SC
29211

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648

Adele Pope ,

William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

Louis Levenson 125 Broad St., SW Atlanta, GA 30303

James Milson Griffin PO Box 11208 Columbia, SC 29211

John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC
29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

pro date

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by [Signature]

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.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN RE: THE ESTATE OF JAMES BROWN

a/k/a JAMES JOSEPH BROWN

FILED

11-25-14

Liz Godard
C.C.P. & G.S.

Anita Knoepfle
Deputy Clerk

THE COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

Case No.: 2007-ES-02-0056

Case No.: 2008-CP-02-1647

ORDER

At a hearing held on Monday, November 10, 2014, Counsel for Lisa Marie Brown Sims a/k/a Lisa B. Sims brought on before this court a motion to be established as an intestate heir of James Brown. No written objection to the motion was filed with the Court.

Counsel for movant filed with the Court a certified copy of the Final Judgment and Decree of Total Divorce between Velma Warren Brown as the wife and mother and the late James Brown as the husband and father. On August 26, 1969, the Superior Court of Richmond County made the Property Settlement and Support Agreement entered into by and between Velma Warren Brown as wife and James Brown as husband, the Order of the Court. In the Agreement, the parties signed a settlement agreement that was made an order of the court which found Lisa Brown to be a child of the marriage and a child of James Brown. Furthermore, the court ordered James Brown to pay child support. Based upon the prior court order that found Lisa Marie Brown Sims to have been a child of James Brown,

It is hereby ORDERED, DECREED and ADJUDGED that Lisa Marie Brown Sims a/k/a Lisa B. Sims is an intestate heir of James Brown. The adjudication during the life of James Brown is conclusive and establishes his paternity of Lisa Marie Brown Sims a/k/a Lisa B. Sims.

This 18 day of Nov, 2014, at Barnwell South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of February, 2015

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

Deputy Clerk

DOYET A. EARLY, III
DOYET A. EARLY, III
JUDGE, SECOND JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on opposing counsel by placing a copy of same in the United States mail with appropriate postage affixed thereon and being addressed as follows:

Mr. Clyde H. Jones, Jr.
Senior Asst Attorney General
State of South Carolina
P. O. Box 11549
Columbia SC 29211-1549

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

Mr. Louis Levenson
Levenson and Associates
125 Broad Street, SW
Atlanta, GA 30303

Mr. A. Peter Shahid, Jr.
Shahid Law Office, LLC
89 Broad Street
Charleston SC 29401

Mr. James M. Griffin
P.O. Box 11208
Columbia SC 29211

Mr. William J. Barr
108 N. Academy St.
Kingstree, SC 29556

Mr. John Fisher Beach
1501 Main Street, Fifth Floor
Columbia SC 29202

Mr. David J. Black
P.O. Drawer 2426
Columbia SC 29202

Mr. S. Alan Medlin
1713 Phelps Street
Columbia, SC 29205

This 24th day of Nov, 2014.



DAVID B. BELL
Georgia State Bar No. 047750
619 Greene St.
Augusta, GA 30901
(706) 724-1882

MATT BODMAN
South Carolina Bar No. 11143
1500 Calhoun Street
Columbia, SC 29201
(803)806-8605
Counsel for Lisa Marie Brown Sims

LAW OFFICE OF
DAVID B. BELL, P.C.

619 GREENE STREET
POST OFFICE BOX 1011
AUGUSTA, GEORGIA 30903-1011

DAVID B. BELL

SHARON BLAIR ENOCH

November 24, 2014

JOHN C. BELL
(1916-1967)

AREA CODE 706
TELEPHONE 724-1882
706-722-0222
FAX 706-722-2507
E-MAIL ADDRESS:
davidbell@davidbelllawfirm.com

Ms. Liz Godard
Aiken County Clerk of Court
109 Park Avenue SE
Aiken SC 29802-0583

Re: The Estate of James Brown a/k/a James Joseph Brown
C/A No. 2008-CP-02-1647

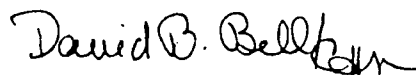
Dear Ms. Godard:

I enclose an original and one copy of the Order signed by Judge Early in the captioned case. Please file the original and return a filed stamped copy to me in the enclosed self-addressed stamped envelope.

Thank you for your attention to this matter.

I am,

Sincerely,



David B. Bell

DBB:chm

Enclosures: as stated

cc: All Counsel of Record

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 Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

11/25/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **11-25-14**, and a copy mailed first class or placed in the appropriate attorney's box on **11-25-14**, to attorneys of record or to parties (when appearing pro se) as follows:

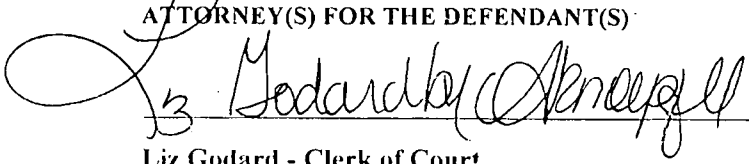
Mary Frances G. Jowers PO Box 11549 Columbia, SC
29211

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648
Adele Pope
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422
Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401
Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
Louis Levenson 125 Broad St., SW Atlanta, GA 30303
James Mixon Griffin PO Box 11208 Columbia, SC 29211
John Fisher Beach PO Box 2285 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter


Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN) SECOND JUDICIAL CIRCUIT
) CASE NO. 2008-CP-02-01647
)
IN RE:) ORDER GRANTING SARAH LATONYA
) BROWN FEGAN'S MOTION TO BE
) DECLARED AN HEIR OF JAMES BROWN
THE ESTATE OF JAMES)
BROWN A/K/A JAMES JOSEPH)
BROWN)

This matter comes before the Court on Sarah LaTonya Brown Fegan's ("Tonya Brown")
Motion to Be Declared an Heir of James Brown.

The Motion was heard by the Court on November 10, 2014 and it appearing that Tonya
Brown was acknowledged as the daughter of Teddy Brown, the son of James Brown, and that
Tonya Brown has passed a DNA test with a result of 99.9% probability that she is the
granddaughter of James Brown.

ACCORDINGLY, having reviewed the file and further evidence it is.

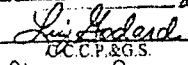
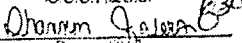
ORDERED AND ADJUGED:

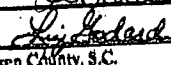
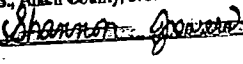
The Motion of Sarah LaTonya Brown Fegan (Tonya Brown) to be declared an Heir of
James Brown is hereby Granted. ~~Tonya Brown is hereby declared the legal and biological~~
~~granddaughter of James Brown entitled to receive a share of the estate equal in value to that~~
~~which she would have received if Decedent had died intestate.~~

IT IS SO ORDERED.


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

December 19, 2014
Aiken, SC

FILED 12-29-14

Liz Godard
C.C.P. & G.S.

Shannon Godard
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this
20 day of September 2015

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

Shannon Godard
Deputy Clerk

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 Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

12/29/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on 29th day of December, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 29th day of December, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Mary Frances G. Jowers PO Box 11549 Columbia, SC 29211

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC 29603-0648
Adele Pope
William Joseph Barr 108 N. Academy St. Kingstree, SC 29556-3422
Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC 29401
Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
Louis Levenson 125 Broad St., SW Atlanta, GA 30303
James Mixon Griffin PO Box 11208 Columbia, SC 29211
John Fisher Beach 1501 Main St., 5th Floor Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Sharon J. J. J. J. J.
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.

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
) FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN)
)
) CASE NO. 2008-CP-02-1758
)
IN RE:)
)
)
THE ESTATE OF JAMES BROWN)
A/K/A JAMES JOSEPH BROWN)

ORDER

This matter is before the Court on LaRhonda Pettit's ("Petitioner") Motion to Vacate Order of Dismissal, dated August 29, 2013. Petitioner's motion was filed on or about August 27, 2014. A hearing on this motion was held on November 10, 2014. For the following reasons, the Court GRANTS IN PART the Petitioner's motion pursuant to Rule 60(b), SCRPC.

BACKGROUND

Petitioner filed two sets of claims in this action. The first, filed on August 23 and August 24, 2007, consisted of a Statement of Creditor's Claim ("Creditor's Claim") and a Summons and Complaint ("Petition"). The second, filed September 12 and September 14, 2008, also consisted of a Creditor's Claim and Petition, and asserted virtually identical allegations as the previous set of Claims (both sets collectively referred to as "Petitioner's Claims"). Petitioner asserted that she is a natural daughter of Decedent; that she is entitled to an intestate share of Decedent's Estate pursuant to S.C. Code Ann. § 62-2-302; and that she is entitled to a right to "reimbursement of all expenses incurred for her support until she reached the age of 18" Petitioner asserted a right to be declared an heir of Decedent's Estate.

A letter from Petitioner, dated August 9, 2013, was submitted to this Court, in which Petitioner wrote: "Please accept this as formal notification of my withdrawal from the creditor claim for child support against the Estate of James Brown." On August 29, 2013, this Court

Liz Godard
CCCP & G.S.
Shannon J. Pinner
Deputy Clerk

ME
11/1

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office, this
20 day of February 2015
Liz Godard
CCCP & G.S., Aiken County, S.C.
Shannon J. Pinner
Deputy Clerk

issued an order dismissing without prejudice the Petition for Allowance of Claim in its entirety. Petitioner filed a Motion to Vacate Order of Dismissal on August 27, 2014. In the motion, Petitioner alleges that she was mistakenly led to believe that she was dismissing only her creditor's claim for child support through the August 29, 2013 order and that she never intended to dismiss her claim to be declared an heir to the Estate of James Brown.

DISCUSSION

Rule 60(b), provides, that a "court may relieve a party or his legal representative from a[n] ... order ... for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect;" "The decision to deny or grant a motion made pursuant to Rule 60(b) is within the sound discretion of the trial judge." *Ware v. Ware*, 404 S.C. 1, 10, 743 S.E.2d 817, 822 (2013) (citation omitted). In determining whether to grant relief under Rule 60(b), the court must consider the following factors: (1) the timing of the motion for relief, (2) whether the party has a meritorious defense, and (3) the degree of prejudice to the opposing parties if relief is granted. *Richardson v. P.V., Inc.*, 383 S.C. 10, 682 S.E.2d 263 (2009).

A motion based on Rule 60(b)(1) "shall be made within a reasonable time, and . . . not more than one year after the judgment, order or proceeding was entered or taken." The Order of Dismissal was filed by the Court on August 29, 2013. Petitioner's Motion to Vacate was filed on August 27, 2014. The Court therefore finds that Petitioner's motion was timely filed.

The Court further finds that Petitioner appears to have a meritorious defense. In support of her Claims, Petitioner submitted a LabCorp paternity test revealing a 99.99% likelihood of paternity by Decedent.

Additionally, the Court also finds that Petitioner never intended to dismiss her claim to be declared an heir to the Estate. In her letter dated August 9, 2013, Petitioner clearly and

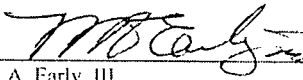
unambiguously stated that she "d[id] not want to pursue [her] creditor claim regarding child support any further, but if there [are] any other claims that are still active . . . she [did] not wish to withdraw from th[ose] claim[s]." The Court hereby finds that Petitioner only intended to dismiss her claim for child support.

CONCLUSION

For the foregoing reasons the Court GRANTS IN PART Petitioner's Motion to Vacate the Order of Dismissal dated August 29, 2013. To the extent that the Order of Dismissal, dated August 29, 2013, dismissed Petitioner's Claims in their entirety, the Court hereby amends that order to only dismiss Petitioner's claim for child support.

The remaining Claims made by Petitioner, which include (i) that she be recognized as the natural daughter of Decedent (*see* Creditor's Claims and Petitions), (ii) to declare Decedent the legal and biological father of Petitioner (*see* Creditor's Claims), and (iii) to receive a share of the Estate equal in value to that which she would have received if Decedent had died intestate as provided in S.C. Code Ann. § 62-2-302 (*see id.*) shall be reinstated as if never dismissed.¹

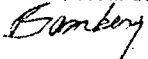
IT IS SO ORDERED.



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

December 18, 2014

Aiken, South Carolina.



¹ This Order is in no way reinstating Petitioner's defenses, cross-claims, and requests for relief asserted through three pleadings filed on February 1, 2008, April 25, 2008, and April 25, 2008, as all of those claims were dismissed by this Court's Order filed January 8, 2014.

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201758

Larhonda Pettit	Russell Pr/Trustee Bauknight

PLAINTIFF(S)

DEFENDANT(S)

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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Circuit Court Judge _____ Judge Code _____ Date 12/29/2014

For Clerk of Court Office Use Only

This judgment was entered on 29th day of December, 2014, and a copy mailed first class or placed in the appropriate attorney's box on 29th day of December, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

James Mixon Griffin PO Box 11208 Columbia, SC 29211
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

David Shuler Black PO Box 40 Beaufort, SC 29901-0040

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Shannon J. Givens
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.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

) IN THE COURT OF COMMON PLEAS
) SECOND JUDICIAL CIRCUIT

) Case Nos.: ~~2013-CP-02-02849-0000~~
) 2013-CP-02-02850 *cert. copy*

) **ORDER RE PETITIONER TOMMIE RAE**
) **BROWN'S MOTION FOR SUMMARY**
) **JUDGMENT AND THE LIMITED**
) **SPECIAL ADMINISTRATOR'S MOTION**
) **FOR SUMMARY JUDGMENT**

This matter came before the court on November 24, 2014 on Petitioner Tommie Rae Brown's Motions for Summary Judgment filed October 30, 2007, November 26, 2007, and April 28, 2014, and the Limited Special Administrator's (LSA's) Motion for Summary Judgment dated May 29, 2014. Each of these Motions requests summary judgment determining whether Mrs. Brown is the surviving spouse of James Joseph Brown. All parties have submitted detailed memoranda in support of their respective positions as well as responsive memoranda, and all parties have consented to a Joint Stipulation of Facts filed September 5, 2014.

The following counsel appeared at the hearing: (1) Robert N. Rosen, S. Alan Medlin, M. Jean Lee, David L. Michel, and Corey T. L. Smith, counsel for Tommie Rae Brown; (2) John F. Beach, counsel for the LSA David C. Sojourner; (3) A. Peter Shahid, Jr., counsel for Guardian ad Litem Stephen M. Slotchiver; (4) Stephen M. Slotchiver, Guardian ad Litem for James Joseph Brown, II; (5) David B. Bell and Matthew D. Bodman, counsel for Daryl Brown; (6) John A. Donsbach and Scott Keniley, counsel for Terry Brown; (7) Louis Levenson, counsel for Deanna Brown Thomas, Yamma N. Brown, Venisha Brown, and Larry Brown; and (8) William Barr and Vera Gilford, counsel for amicus curiae Jeanette Mitchell.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this
20 day of September 2014.
Liz Godard
C.C.P. & G.S., Aiken County, S.C.
Shannon Jones
Deputy Clerk

~~FILED~~
Liz Godard
C.C.P. & G.S.
Shannon Jones
Deputy Clerk
#1

I. SUMMARY JUDGMENT STANDARD.

The standard for granting summary judgment is clear:

Rule 56(c) of the South Carolina Rules of Civil Procedure provides a motion for summary judgment shall be granted 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.' In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment. *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 534 S.E.2d 688 (2000).

Progressive Max Ins. Co. v. Floating Caps, Inc., 405 S.C. 35, 42, 747 S.E.2d 178, 181-82 (2013).

II. HISTORY OF THE CASE AND STATEMENT OF FACTS.

A. These Proceedings.

Mrs. Brown filed a petition for Elective Share or Omitted Spouse's share on February 1, 2007, asserting she is the surviving spouse of Mr. Brown. She filed a Motion for Summary Judgment on October 30, 2007 on the issue of her ceremonial marriage to Mr. Brown and the legality of said marriage. Mrs. Brown filed the same motion along with the Affidavit of Tommie Rae Brown in Support of Her Motion for Summary Judgment on November 26, 2007.

On December 20, 2007, Mrs. Brown filed Petitions to Set Aside the Will and Trust. Similarly, on December 26, 2007, five of the six Devisees from the 2000 will filed Petitions to Set Aside the Will and Trust. Before these Petitions were heard, Mrs. Brown and other parties to the estate litigation participated in mediation which resulted in a private settlement agreement. In the settlement agreement, Mrs. Brown was recognized by all parties thereto as the surviving spouse of Mr. Brown. The settlement agreement provided that it was a binding private agreement, regardless of court approval, and provided that it bound personal representatives and trustees, as allowed by law. The settlement agreement expressly provided that the provision

MPE
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recognizing Mrs. Brown as the surviving spouse survived regardless of whether the agreement was approved by a court.

On May 26, 2009, this Court issued an Order that, inter alia, approved the settlement agreement and found that the contest or controversy was in good faith and that the effect of the agreement on interested parties was just and reasonable in satisfaction with S.C. Code Ann. § 62-3-1102(3). This Court issued another Order which removed the then Personal Representatives and Trustees (Pope and Buchanan), and at the request of the settling parties, this Court appointed Russell Bauknight as Personal Representative and Trustee.

Pope and Buchanan appealed the order approving the settlement agreement and the order removing them from their fiduciary positions to the Court of Appeals, and at the request of the Court of Appeals the consolidated appeals were certified to the Supreme Court pursuant to Rule 204(b), SCACR. In reviewing this Court's finding that there was a good faith controversy under S.C. Code Ann. § 62-3-1102, the Supreme Court determined that the settlement failed the second element of the S.C. Code Ann. § 62-3-1102 test, *i.e.*, that the effect of the agreement on interested parties is just and reasonable. *Wilson v. Dallas*, 403 S.C. 411, 447, 2013 S.C. LEXIS 240, *64 (2013). The Supreme Court upheld the removal of the prior fiduciaries, finding that they had irreconcilable differences with the estate and trust beneficiaries, but reversed and remanded the approval of the settlement because of a lack of evidence showing a fair and reasonable settlement of a good faith controversy. The Supreme Court also vacated Mr. Bauknight's appointments and remanded the case to this Court.

This Court held a status conference on May 29, 2013 concerning the Supreme Court Opinion and issued an Order on June 13, 2013 requiring all interested persons to submit applications to serve as fiduciaries of the Estate and Trust by July 29, 2013. Mr. Bauknight was

ordered to continue serving in a fiduciary capacity as Special Administrator and Special Trustee in the interim. This Court conducted a hearing to receive testimony from all applicants on September 4 and 11, 2013. This Court then issued its October 1, 2013 Order appointing Mr. Bauknight as the Personal Representative of the Estate and Trustee of the Trust and David C. Sojourner as Limited Special Trustee of the Trust. The Probate Court of Aiken County appointed Mr. Sojourner as the Limited Special Administrator (LSA) of the Estate by its Order filed October 10, 2013.

On March 10, 2014 the LSA served a Motion to Modify Protective Orders Related to Diaries of Tommie Rae Hynie Brown asking this Court to lift the Court's protective orders and to require Mrs. Brown to produce her diaries. Mrs. Brown filed a Return to Motion to Modify Protective Orders Related to Diaries of Tommie Rae Brown and Motion for Protective Order or Order of Confidentiality along with her supporting Affidavit on March 27, 2014, and a hearing was held on March 31, 2014. This Court determined that the LSA's Motion to Modify Protective Orders and all discovery would be held in abeyance pending resolution of Mrs. Brown's Motion for Summary Judgment and later indicated the parties should negotiate a scheduling order.

Mrs. Brown filed another Motion for Summary Judgment and supporting Affidavit on April 28, 2014. She filed a Motion for Protective Order and the Affidavit of Robert N. Rosen on May 12, 2014 requesting that, other than answering the LSA's First Requests to Admit, all discovery be stayed pending resolution of her Motion for Summary Judgment. Petitioner and the LSA subsequently entered an Agreement Resolving Petitioner's Motion for Protective Order dated May 16, 2014, and this Court issued a Scheduling Order filed June 10, 2014 staying all discovery (other than the LSA's April 23, 2014 1st Requests for Admission, 2nd Interrogatories,

and 2nd Requests for Production) pending resolution of Mrs. Brown's April 24, 2014 Motion for Summary Judgment. The LSA subsequently served his own Motion for Summary Judgment on May 29, 2014.

The parties have served memoranda in support of their respective positions and responsive memoranda in accordance with the Scheduling Order, and a hearing was held on the aforementioned Motions for Summary Judgment at the Bamberg County Courthouse on November 24, 2014.

B. Stipulated Facts.

Petitioner Tommie Rae Brown ("Mrs. Brown") and James Joseph Brown ("Mr. Brown") were married by ceremonial marriage on December 14, 2001 at Beech Island in Aiken County, South Carolina.¹ Prior to their marriage, Mrs. Brown gave birth to Mr. Brown's biological son, James Brown, II on June 11, 2001.² Following their marriage, Mr. Brown learned that Mrs. Brown had participated in a putative marriage ceremony with another man, Javed Ahmed ("Ahmed") in February of 1997 in Texas, where both Mrs. Brown and Ahmed resided at the time. In December 2003, with Mr. Brown paying her attorney's fees, Mrs. Brown filed an action against Ahmed in the Family Court of South Carolina for an annulment on the grounds of bigamy, among other grounds.³

Mrs. Brown's counsel hired a licensed private investigator, Mr. Ronald Pannell, to locate Ahmed, and he was unable to do so. Mr. Pannell submitted an Affidavit of Attempted Service,

¹ See Joint Stipulation of Facts, p. 3, ¶¶ 4-5 and Exhibit 4 at 000005-6 (License and Certificate for Marriage).

² See Joint Stipulation of Facts, p. 2, ¶ 3 along with Exhibit 2 (birth certificate) at 000003 and Exhibit 3 (LabCorp DNA Test Results) at 000004.

³ *Id.* at 3, ¶ 7 and Exhibit 5 at 000007-9 (Summons and Complaint for Annulment). James Brown paid for Mrs. Brown's annulment, and Mrs. Brown's attorney kept Mr. Brown's attorney informed of the proceedings. *See id.* at 4, ¶¶ 13-14 and Exhibit 14 at 000050-64; Personal Representatives' Responses to Petitioner Tommie Rae Brown's Second Request for Admission, dated January 11, 2008, pp. 3-4, Request and Response Nos. 9 and 10.

filed in the Family Court on February 4, 2004, stating he conducted numerous searches in national databases in an attempt to locate Ahmed, and he found two addresses.⁴ One address was 14403 Ella Blvd., #314, Houston, Texas, 77014. Mr. Pannell stated in his affidavit that Ahmed no longer resided at that address. The other address was 14365 Cornerstone Drive, #617, Houston, Texas, 77014, which Mr. Pannell stated in his affidavit was the address on Mr. Ahmed's driver's license issued in 1999. As a result, this address (14365 Cornerstone Drive, #617, Houston Texas, 77014) was Ahmed's last known address. Mr. Pannell stated in his affidavit that Ahmed no longer resided at that address either.

Mrs. Brown filed an Affidavit in the Family Court on February 4, 2004, with Mr. Pannell's Affidavit of Attempted Service, requesting an Order of Publication.⁵ In her affidavit, Mrs. Brown stated that Mr. Pannell conducted a full skip trace report and was unable to locate Ahmed. She also said Mr. Pannell found an address where Ahmed apparently had resided since she last knew of his whereabouts. Judge Jocelyn B. Cate of the Family Court issued an Order of Publication on February 3, 2004 finding that Mrs. Brown had made a diligent effort to locate Ahmed and that it appeared to the satisfaction of the Family Court that Ahmed's current address and whereabouts were unknown.⁶ The Order of Publication scheduled a Final Hearing for March 26, 2004 at 9:30 A.M. Mrs. Brown properly published the Summons and notice of the hearing in the Houston Chronicle, a newspaper of general circulation in the area, and filed an Affidavit of Publication as directed by the Order of Publication.⁷ Ahmed was served by publication.

⁴ Joint Stipulation of Facts at 000010 (Affidavit of Ronald Pannell).

⁵ *Id.* at 000016 (Affidavit of Tommie Rae Hynie, a/k/a Tommie Rae Brown).

⁶ *Id.* at 000017 (Order of Publication).

An Order of Continuance was filed by the Family Court on March 24, 2004, rescheduling the Final Hearing to April 15, 2004 at 9:00 A.M.⁸ Mrs. Brown's counsel sent Ahmed notice of the rescheduled hearing by regular mail *and* certified mail, return receipt requested, to both of the addresses found by Mr. Pannell, which included Ahmed's last known address at 14365 Cornerstone Drive, #617, Houston, Texas, 77014, the address he had given to the Texas Department of Motor Vehicles.⁹ Mrs. Brown's counsel therefore properly gave written notice of the rescheduled hearing pursuant to Rule 17, SCRFC as determined by Judge Segars-Andrews' April 15, 2004 Order.

At the trial in Family Court, Mrs. Brown testified that Ahmed told her he was married to several other women at the time of their purported marriage ceremony and that none of those marriages had been dissolved.¹⁰ A final judgment was entered on April 15, 2014 annulling the purported marriage between Mrs. Brown and Ahmed ("the annulment order").¹¹ Judge Segars-Andrews found that Ahmed was already married at the time of his putative marriage ceremony to Mrs. Brown, that Ahmed lacked capacity to marry Mrs. Brown, and that the purported marriage between Mrs. Brown and Ahmed was "wholly null and void *ab initio*."¹²

The stipulated facts show that Mr. Brown was aware of the litigation between Mrs. Brown and Ahmed because (1) Mr. Brown paid Mrs. Brown's legal fees, (2) Mrs. Brown's

⁷ *Id.* at 000026-27 (Affidavit of Publication); *see also id.* at 000017-18 (Order of Publication).

⁸ *Id.* at 000028 (Order of Continuance).

⁹ *Id.* at 000019-25 (Affidavit of Marcia F. Jones); 000010 (Affidavit of Ronald Pannell).

¹⁰ *Id.* at 000040, lines 16-20; 00004, lines 13-15 (April 15, 2004 Transcript of Record).

¹¹ *Id.* at 000029-32 (April 15, 2004 Final Order).

¹² *Id.* at 000030-32 (April 15, 2004 Final Order).

counsel sent Mr. Brown's attorney a copy of the Summons and Complaint in February, 2004, and (3) Mrs. Brown's counsel sent Mr. Brown's attorney the Final Order in April, 2004.¹³

Mr. Brown filed an annulment action of his own against Mrs. Brown on January 29, 2004 in the Family Court of Aiken County.¹⁴ Just weeks after the April 15, 2004 Final Order was filed, Mr. Brown filed an Amended Complaint for Annulment in the Family Court requesting the Court to issue a judgment that the "Findings of Facts of the Charleston Family Courts are binding on [the Aiken County Family Court]..." and that "[p]ursuant to the Order of the Charleston Family Court, Defendant is collaterally and judicially estopped from denying the allegations in [Mr. Brown's annulment action]."¹⁵ Mrs. Brown counterclaimed for a divorce and other relief.¹⁶ Mr. and Mrs. Brown reconciled in July 2004 and signed a Consent Order on August 16, 2014 dismissing Mr. Brown's action.¹⁷

Mr. Brown died on December 25, 2006, and his will, dated August 1, 2000 was filed with the Aiken County Probate Court on January 18, 2007.

C. The Annulment Action.

Mrs. Brown properly brought the annulment action in South Carolina, properly served Ahmed, and properly notified him of the date of rehearing. The Family Court concluded that Ahmed "was married at the time he entered into his marriage with [Mrs. Brown] and therefore he lacked the capacity to marry [Mrs. Brown]."¹⁸

¹³ *Id.* at 4, ¶¶ 13-14 and Exhibit 14 at 000050-64 (Correspondence with James B. Huff, Esquire).

¹⁴ *Id.* at 000065-67 (Mr. Brown's Summons and Complaint for Annulment).

¹⁵ *Id.* at 000070, ¶¶ 10-11 (Mr. Brown's Amended Complaint for Annulment).

¹⁶ *Id.* at 5, ¶ 19 and Exhibit 17 at 000072-82.

¹⁷ *Id.* at 000085-86 (Consent Order of Dismissal).

¹⁸ *Id.* at 000031, ¶ 4 (April 15, 2004 Final Order).

The Respondents have argued that the annulment order was improper because the summons and complaint were not properly served and notice of the final hearing was not given. The Court has already found that service and notice were proper. Mrs. Brown's counsel hired a licensed private investigator to locate the Defendant. That investigator's affidavit was found to be sufficient by the Family Court.

South Carolina law does not permit direct or collateral attacks upon an order authorizing service by publication:

An order for service by publication may be issued pursuant to S.C. Code Ann. § 15-9-710 (Supp.1999) when an affidavit, satisfactory to the issuing officer, is made stating that the defendant, a resident of the state, cannot, after the exercise of due diligence, be found, and that a cause of action exists against him. § 15-9-710(3). *When the issuing officer is satisfied by the affidavit, his decision to order service by publication is final absent fraud or collusion.*

Wachovia Bank of S.C., N.A. v. Player, 341 S.C. 424, 428-29, 535 S.E.2d 128, 130 (2000) (emphasis added); *see also Hendrix v. Hendrix*, 296 S.C. 200, 203, 371 S.E.2d 528, 530 (1988).

The Respondents do not contend there was fraud in the procurement of the annulment. The order authorizing service by publication therefore cannot be attacked. *See also Schleicher v. Schleicher*, 310 S.C. 275, 277, 423 S.E.2d 147, 148-49 (Ct. App. 1992) (holding that service of the notice of the time and date for a merits hearing is effective upon mailing when sent by certified mail, return receipt requested and that Rule 5(b)(1), SCRCF, rather than Rule 4(d)(8), SCRCF, is the applicable rule).

Some of the Respondents object that the annulment action should have been filed in Aiken County not Charleston County. This is a mere matter of venue, which has no effect on the validity of the judgment. In *Lillard v. Searson*, 170 S.C. 304, 170 S.E. 449 (1933), the court held that a defect in venue cannot be used to attack a final judgment:

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Since it clearly appears that the defendant named in the case was not a resident of Richland county, at the time the action was instituted against him, but was a resident of Allendale county, the action was instituted in the wrong county, and the proper course to have pursued was for the defendant to have moved to have the case transferred to Allendale county: . . . However, the defendant did not do this, and waited until judgment had been rendered in the cause before taking any steps in the matter. *Therefore the defendant waived the jurisdictional question, and, in effect, gave to the court of Richland County authority to hear the said case on its merits*, and judgment was thereafter rendered in said court against the defendant as in any other default case.

170 S.E. at 450-51 (1933) (emphasis added). Note that the judgment in *Lillard*, like the annulment in this case, was entered without entry of an appearance by the defendant.

"The failure to bring the proceedings within the proper venue, when such is determined by the place of residence, does not render them void, the error being in practice and not jurisdictional." *In re Lemack's Estate*, 207 S.C. 137, 144, 35 S.E.2d 34, 37 (1945) (quoting 32 C.J. 633). "The irregularity [in venue] complained of is not jurisdictional." *State v. Richardson*, 149 S.C. 121, 124, 146 S.E. 676, 677 (1928).

Under the above authority, venue is clearly not jurisdictional, and it is therefore not a sufficient basis for attacking a final judgment. The Family Court has statewide jurisdiction. *See* S.C. Code Ann. § 14-2-10 (establishing "the statewide family court system").

III. BECAUSE MRS. BROWN HAD NO IMPEDIMENT, HER MARRIAGE TO MR. BROWN IS VALID.

A. The Bigamy Statute.

The South Carolina General Assembly has clearly spoken through S.C. Code Ann. § 20-1-80 that a bigamous marriage is "void" — i.e., never a marriage and never valid from the beginning.¹⁹ This section reads as follows:

¹⁹ For more than a century, that statute has provided that bigamous marriages are void. This is consistent with the public policy against bigamous marriages. For example, entering into a bigamous marriage is a crime. Note, however, that *State v. Sellers*, 140 S.C. 66, 134 S.E. 873 (S.C. 1926), recognizes, as do all the other bigamy cases,

All marriages contracted while either of the parties has a former wife or husband living shall be void. But this section shall not extend to a person whose husband or wife shall be absent for the space of five years, the one not knowing the other to be living during that time, not to any person who shall be divorced or whose first marriage shall be declared void by the sentence of a competent court.

S.C. Code Ann. § 20-1-80. A void marriage is treated differently from a voidable marriage. A voidable marriage is valid unless and until a court rules that such a marriage is invalid, but a void marriage is never valid for any purpose. *Lukich v. Lukich*, 368 S.C. 47, 627 S.E.2d 754 (Ct. App. 2006), *aff'd*, 379 S.C. 589, 666 S.E.2d 906 (2008), confirms the difference between a void marriage — void ab initio because of bigamy — and a merely voidable marriage — valid unless and until a court invalidates it, such as for intoxication. *Lukich* annulled two marriages: a bigamous marriage, held void ab initio, and a marriage annulled for intoxication, held voidable.

The South Carolina General Assembly demonstrates that it understands the difference between void and voidable. For example, S.C. Code Ann. § 62-3-713, governing self-dealing transactions by a personal representative, provides that such a transaction is “voidable” and can be invalidated at the request of an interested person.

Consequently, when the General Assembly uses the term “void” in the bigamy statute, the meaning is clear: a bigamous marriage is void ab initio and never valid.

B. Case Precedent.

1. A Bigamous Marriage Is Void Ab Initio And Never A Marriage.

The annulment order in this case was granted on the most serious and substantial of all grounds for rendering a marriage void: bigamy. It is against public policy and a crime to commit bigamy. A long line of South Carolina cases, including *Lukich*, holds that a bigamous marriage is not a marriage at all, at any point in time. In

that a bigamous marriage is void ab initio, so that a void first marriage is not an impediment to a valid second marriage, and thus the second marriage is not bigamous and not a crime.

fact, every South Carolina case considering the issue has concluded that a bigamous marriage is void ab initio, and thus never a marriage:

At the time the parties began residing together in September 1983, and throughout their cohabitation, the respondent was legally married to another woman. Thus, any marriage between the parties while respondent had a subsisting marriage was void as a matter of public policy. S.C. Code Ann. § 20-1-80 (1985) ("All marriages contracted while either of the parties has a former wife or husband living shall be void"). It was void from its inception, not merely voidable, and, therefore, *cannot be ratified or confirmed and thereby made valid.*

Johns, 309 S.C. at 201, 420 S.E.2d at 858 (emphasis added).

A mere marriage ceremony between a man and a woman, where one of them has a living wife or husband, *is not a marriage at all.* Such a marriage is absolutely void, and not merely voidable.

Day v. Day, 216 S.C. 334, 338, 58 S.E.2d 83, 85 (1950) (emphasis added).

There could not have been a valid marriage between the appellant, Maggie (Craft) Blizzard, and William Blizzard, as William Blizzard had a lawful living wife at the time of the claimed marriage.

Ex parte Blizzard, 185 S.C. 131, 193 S.E. 633, 634 (1937).

When, however, there is an impediment to marriage, such as one party's existing marriage to a third person, *no common-law marriage may be formed*, regardless whether mutual assent is present.

Callen v. Callen, 365 S.C. 618, 624, 620 S.E.2d 59, 62 (2005) (emphasis added). *See also*

Splawn v. Splawn, 311 S.C. 423, 425, 429 S.E.2d 805, 806 (1993); 52 Am. Jur. 2d, *supra*, § 57

("A marriage that occurs while one party is still legally married to another is void from its inception and cannot be retroactively validated by estoppel, by mutual agreement, or by the parties' conduct in holding themselves out as husband and wife.").²⁰ This is hardly surprising as

²⁰ Every South Carolina case, as required by § 20-1-80, has concluded that the status of someone entering into a bigamous marriage is that of never having been married. It is Mrs. Brown's status that is critical here. At the time she married Mr. Brown, she had no impediment to their marriage because she had never been married before. Respondents cite several cases that deal with ancillary matters, but all of these cases follow the required rule about status: someone having entered into a bigamous marriage was never married. To the extent these cases also deal

the courts are required to follow the mandate from the legislature that bigamous marriages are void ab initio.

2. *Lukich v. Lukich.*

Both the Court of Appeals and Supreme Court decisions in *Lukich v. Lukich*²¹ are in accord with § 20-1-80, case precedent, and Mrs. Brown's position. *Lukich* held that a bigamous marriage is void ab initio. *Lukich* also held that a marriage, annulled for intoxication rather than bigamy, could be treated as voidable.²²

Lukich annulled two marriages: one void ab initio for bigamy and another voidable for intoxication. In *Lukich*, the wife sought alimony during a divorce from her second husband (Marriage 2). During the divorce proceeding, the second husband learned that the woman had previously been married (Marriage 1) and had never obtained a divorce or an annulment from the first husband. During the divorce case, the wife quickly obtained an annulment for Marriage 1, without her husband's knowledge and in another venue, on the ground of intoxication.²³ Both appellate courts concluded that Marriage 1 was voidable and refused to apply the annulment of Marriage 1 retroactively so that her status would allow her to enter Marriage 2. Marriage 1 in *Lukich* was properly voidable, rather than void, because the annulment was based on intoxication

with ancillary matters, they are inapposite. See *Splawn v. Splawn*, 311 S.C. 423, 429 S.E.2d 805 (S.C. 1993) (bigamous marriage void ab initio but court had to deal with ancillary equitable apportionment of property issues); *Rodman v. Rodman*, 361 S.C. 291, 604 S.E.2d 399 (S.C. App. 2004) (similar, citing *White v. White*, 283 S.C. 348, 323 S.E.2d 521 (S.C. 1984); *Joye v. Yon*, 355 S.C. 452, 586 S.E.2d 131 (2003) (second marriage bigamous and void ab initio — court had to decide impact on first husband's obligation to pay alimony, which had ostensibly ended if second marriage was valid, which it was not).

²¹ 368 S.C. 47, 627 S.E.2d 754 (Ct. App. 2006); 379 S.C. 589, 666 S.E.2d 906 (2008).

²² "An annulment declares that a marriage never occurred because of some defect. Defective marriages may be either void or voidable. In a void marriage, the circumstances are such that the marriage could never have come into being. A voidable marriage is recognized under the law as a valid marriage until an action is brought to prove it invalid." Stuckey, *Marital Litigation in South Carolina*, Ch. 3.A. A bigamous marriage is void. In fact, "a void [bigamous] marriage technically needs no judicial action to declare that it is void." *Id.*

²³ The annulment at issue in *Lukich* was granted on the ground of intoxication. *Lukich*, 368 S.C. at 51, 627 S.E.2d at 756 ("[S]he and Havron were married during a night of heavy drinking, [and] had never lived together as husband and wife[.]").

rather than bigamy. One consequence of the *Lukich* court treating Marriage 2, the bigamous marriage, as void ab initio, is that the husband in Marriage 2 owed no alimony because Marriage 2 was "never a marriage." If *Lukich* had not treated Marriage 2 as void ab initio because it was bigamous, as required by statute and precedent, the Court would have had to conclude that the husband of Marriage 2 would have owed alimony from the time of Marriage 2 until the annulment of Marriage 2.²⁴

In short, a marriage entered into by intoxicated persons is not invalid until the parties decide to attack the marriage and not to waive the defect. Therefore, it is logical, as the *Lukich* Court held, that a voidable marriage is invalid only prospectively from the date of the annulment.

A void marriage, however, is different. A void marriage is never a valid marriage. The parties are not permitted to waive the defect; the marriage is automatically invalid. Both *Lukich* appellate courts concluded that Marriage 2 was void ab initio because it was bigamous. Consequently, Marriage 2 was never a marriage so that the divorce was unnecessary and the second husband could not owe alimony.

Lukich does not change, but is instead consistent with, S.C. Code Ann. § 20-1-80 and all South Carolina case precedent: a bigamous marriage (Marriage 2 in *Lukich*) is void ab initio and never a marriage. Respondents, in particular Terry Brown, cite the following language from the Supreme Court opinion in *Lukich* as somehow changing the treatment of bigamous marriages in this state:

²⁴ The holding in *Lukich* as to Marriage 1 makes perfect sense, as a voidable marriage is invalid only if it is attacked. The parties to a voidable marriage always have the option of waiving the defect and ratifying the marriage. The annulment of Marriage 1 in *Lukich* was granted on the ground of intoxication. Intoxication is one of the classic grounds that render a marriage voidable, but not void. See 52 Am. Jur. 2d Marriage § 23 (Westlaw database updated Nov. 2014); *Abel v. Waters*, 373 So. 2d 1125, 1128 (Ala. Civ. App.), writ denied, 373 So. 2d 1129 (Ala. 1979); *Barber v. People*, 203 Ill. 543, 546, 68 N.E. 93, 94 (1903).

Under the statute's terms, Wife's 'marriage' to Husband # 2 was 'void' from the inception since at the time of that marriage she had a living spouse *and that* marriage had not been 'declared void.' § 20-1-80.

Lukich, 373 S.C. at 592, 666 S.E.2d at 907 (Emphasis added).

Respondents contend that *Lukich* creates new law with respect to bigamous marriages. Respondents claim *Lukich* disregards the clear requirement of the bigamy statute and ignores or reverses all case precedent that bigamous marriages are void ab initio. Respondents base their contention on the words "and that" emphasized in the above quote. These words, Respondents argue, indicate that regardless of whether a marriage is void or voidable, one has an impediment to marriage and must obtain an annulment before remarriage. Contrary to Respondents' contention, however, the words "and that" do not refer to the bigamous marriage (Marriage 2 in *Lukich*); the words "and that" clearly refer to the intoxication marriage (Marriage 1 in *Lukich*). Thus, *Lukich* cannot be read to change a substantive rule of law, namely that a bigamous marriage is void only from the date of the annulment order. This would render a bigamous marriage voidable rather than void. *Lukich* does no such thing. Rather, *Lukich* confirms that a bigamous marriage is void ab initio and never a marriage because it treated Marriage 2 (the bigamous marriage in *Lukich*) as never having been a marriage, so that the second husband did not need a divorce and did not owe alimony to a wife he never married.

If Respondents were correct that *Lukich* created a new rule, then the *Lukich* court would instead have held that the second husband owed alimony until an annulment order for Marriage 2 was obtained. Moreover, if Respondents are correct, then the *Lukich* appellate courts favorably cite cases holding that bigamous marriages are void ab initio while somehow overturning those cases and ignoring § 20-1-80. The clear meaning of *Lukich* is that, as required by § 20-1-80 and all case precedent, bigamous marriages are void ab initio and never a marriage.

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Moreover, even if Respondents were correct in their position about *Lukich*, i.e., that even a bigamous marriage is valid unless and until an annulment order is obtained, they could still not prevail. Under their theory, *Lukich* changed the law about bigamous marriages so that a bigamous marriage remains valid unless and until an order of annulment is obtained. If that were correct, then under their theory Mrs. Brown had an impediment to marrying Mr. Brown and that marriage was therefore bigamous. But under Respondents' position, Mr. Brown's bigamous marriage to Mrs. Brown would be valid unless and until Mr. Brown obtained an order annulling their marriage, which he did not obtain during his lifetime. It is now too late for Mr. Brown to obtain an annulment.²⁵ So, even under Respondents' theory, the marriage between Mrs. Brown and Mr. Brown was valid at his death and cannot be invalidated because it is too late.

In this case, unlike *Lukich*, it is the first marriage (Marriage 1), rather than Marriage 2 in *Lukich*, that is bigamous and thus void. Consequently, Mrs. Brown's attempted marriage to Ahmed (Marriage 1) was void ab initio and never a marriage. Therefore Mrs. Brown had no impediment to her marriage to Mr. Brown, and that marriage (Marriage 2) is valid.

Despite the contentions of Respondents, *Lukich* is consistent with the bigamy statute and all precedent involving bigamous marriages: bigamous marriages are void ab initio and never have any effect --- they are "never a marriage." The only difference with respect to bigamous marriages between *Lukich* and this case is that, in *Lukich*, the bigamous marriage was the second marriage, while in this case, the bigamous marriage is the first marriage. That difference has no impact on the treatment of bigamous marriages. The bigamous second marriage in *Lukich* was void ab initio and never had effect. The bigamous first marriage in this case was void ab initio and never had effect, so that Mrs. Brown had no impediment to her marriage to Mr. Brown.

Were this Court to give only prospective effect to the annulment in this case, it

²⁵ See the discussion at IV.C. below.

would be holding that a bigamous marriage was not invalid from its inception. Rather, it would be holding that a bigamous marriage was valid from the date of its inception until the date of the annulment.

This Court is unwilling to hold that a bigamous marriage, as determined by a family court of this state, was ever legal. There is no precedent for such a holding. South Carolina law precludes this Court from giving any effect whatsoever to a bigamous marriage. Because the Court cannot give any effect to a bigamous marriage, it is required to hold that the bigamous marriage was never a marriage.

Mrs. Brown and Ahmed never had a valid marriage at any point in time, and Mrs. Brown had no impediment to her valid marriage to Mr. Brown.

3. *Hallums v. Hallums.*

The LSA argued that *Hallums v. Hallums*, 74 S.C. 407, 54 S.E. 613 (S.C. 1906), was exactly on point and reached a different result. The LSA misses a critical factual distinction between *Hallums* and the current case: in *Hallums*, there was never a court determination that the first marriage (Marriage 1) was bigamous and, in fact, the court found that the Marriage 1 was not bigamous. By contrast, in the current case, there is a valid annulment order finding that the first marriage was bigamous.

The Hallums paradigm actually supports Mrs. Brown's position. If the *Hallums* court had determined that Marriage 1 was bigamous, then the *Hallums* opinion indicates that the second marriage (Marriage 2) would have been valid because there would have been no impediment to the wife entering into the second marriage (Marriage 2) with the decedent.

More specifically, in *Hallums*, a woman attempted to get a distributive share from

the decedent's estate, claiming to be his surviving spouse. However, the estate contended that she was already married when she attempted to marry the decedent, and thus had an impediment to the attempted marriage to the decedent. The woman then contended that her attempted first marriage was invalid because her putative first husband was already married when they attempted to get married. So far, the LSA is correct: absent the critical distinction missed by the LSA's analysis, the *Hallums* paradigm is the same as the paradigm in the current case because in *Hallums*, the woman argues that she had no impediment to marrying the decedent (Marriage 2) because she was never married to her first husband (Marriage 1) as the first husband himself was already married.

In the current case, Mrs. Brown argues that she had no impediment to marrying the decedent (Marriage 2) because she was never married to her first husband (Marriage 1) as the first husband himself was already married. The *critical* difference between the two cases is that in *Hallums*, the woman *did not* have a separate annulment order invalidating Marriage 1 void ab initio and did not get one because the court concluded her first marriage was not bigamous. In the current case, Mrs. Brown *does* have an annulment order invalidating Marriage 1. In *Hallums*, the court was asked to consider the validity of both Marriage 1 and Marriage 2 at the same time. The *Hallums* court determined that Marriage 1 was valid because there was insufficient evidence that the husband in Marriage 1 was already married: consequently, Marriage 1 in *Hallums* was *not bigamous* and therefore was valid. Thus, the woman in *Hallums* had an impediment to Marriage 2. That is the critical factual difference between the facts in *Hallums* and the current case. In the current case, Marriage 1 was determined by a court to be bigamous and thus never valid. In the current case, Mrs. Brown thus had no impediment to Marriage 2 (her valid marriage to Mr.

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Brown).

Hallums actually supports Mrs. Brown's position. *Hallums* stands for the proposition that, if Marriage 1 had been bigamous and thus void ab initio, Marriage 2 to the decedent would have been valid and the woman would be entitled to her distributive share from the decedent's estate. That is exactly Mrs. Brown's position. Because she has an order confirming that Marriage 1 was void ab initio as bigamous, Marriage 2 is valid and she qualifies as a surviving spouse.²⁶

4. All Bigamous Marriages Are Void.

Every bigamous marriage is void ab initio. A bigamous marriage is never valid — “never a marriage.” In S.C. Code Ann. § 20-1-80, the bigamy statute, the South Carolina General Assembly requires that a bigamous marriage is void ab initio. In accordance with this legislative mandate, every South Carolina case dealing with bigamous marriages, including *Lukich* and *Hallums*, holds that a bigamous marriage is void ab initio and never has effect. Although Respondents contend that *Lukich* somehow changes that rule and instead provides that a bigamous marriage is valid until an annulment order is obtained, that is not the holding in *Lukich* as to bigamous marriages. In *Lukich*, it is the second marriage that is bigamous and both appellate courts treat that second marriage as void ab initio, in accordance with the bigamy statute and all case precedent. In Mrs. Brown's case, it is the first marriage that is bigamous, and that first marriage is therefore void ab initio, meaning that Mrs. Brown had no impediment to her marriage to Mr. Brown.

Despite the contention of the LSA, *Hallums* is in accord with the bigamy statute,

²⁶ Unlike this case, the court in *Hallums* looked at the first marriage after the decedent's death because: (1) there was no pre-existing annulment order from a court with exclusive jurisdiction over annulments, as there is today; (2) this was prior to the family court having exclusive jurisdiction over annulments — in fact, this was prior to the existence of family courts in South Carolina; (3) this was prior to § 62-2-802 defining surviving spouse for estate purposes and case law precluding postmortem annulments. See IV.C below.

Lukich, and all other case precedent in treating bigamous marriages as void ab initio. Unlike Mrs. Brown's first marriage, which was *found to be bigamous and void*, the first marriage in *Hallums* was *found not to be bigamous and was therefore valid*. However, if the first marriage in *Hallums* had been found to be bigamous and void, the opinion indicates that the second marriage would have consequently been valid because the wife would have had no impediment to her second marriage and thus could inherit. That is exactly Mrs. Brown's case: her first marriage has been found to be bigamous and void, so that she had no impediment to her marriage to Mr. Brown: their marriage is valid and she is his surviving spouse.

IV. THE ANNULMENT ORDER IS FINAL AND BINDING.

A. Introduction.

Because the bigamy statute and case law, including *Lukich*, hold that a bigamous marriage is void ab initio, the annulment order confirms that Mrs. Brown had no impediment to her marriage to Mr. Brown.

Respondents contend that the annulment order is not valid and that this Court should refuse to recognize the annulment order or alternatively disregard the findings of fact of the annulment order. For a number of reasons, this Court concludes that the annulment order is final and binding. Nor will this Court re-open or re-litigate the underlying findings of fact of the annulment order, which in this case would have the same effect as disregarding the annulment order. All of these reasons are explained in greater detail below at IV.B-G, but generally the reasons are as follows:

First, only the family court has jurisdiction over annulments. This Court does not have jurisdiction over annulments. If this Court failed to recognize the annulment order as valid, then

the result would be to re-litigate the annulment in this Court. If this Court does not have jurisdiction to hear an annulment action, it does not have jurisdiction to re-litigate an annulment action. Nor can this Court re-open or review the findings of fact underlying the annulment order. Even if this court had jurisdiction to do so, doing so would lead to only two possible results: (1) this Court's determination that the family court was correct or (2) that the family court reached an incorrect conclusion. This, presumably, would mean that the annulment order, which was not appealed, is rendered invalid by this Court. This Court simply does not have such jurisdiction.

Second, even if this Court had jurisdiction to not recognize or to re-litigate the annulment order, the appropriate parties would not be available. Mrs. Brown and Ahmed would be the necessary parties, and Ahmed is not a party to this action nor should he be. If this Court allowed Ahmed to participate as a party in the re-litigation of the order, this would allow him to collaterally attack a family court order he cannot now directly attack. The only way to invalidate a marriage in South Carolina is to bring an annulment action. Mr. Brown obviously knew that because he brought an annulment action, which he eventually dismissed. Annulment actions cannot be brought postmortem. Nor can Respondents do so. Any right they may have is derived from Mr. Brown, and they cannot have greater rights than he did.

Third, a court has to have a reason to refuse to recognize an order, and the only reason is the failure of due process, either by failure to obtain personal jurisdiction or a lack of subject matter jurisdiction. Even if this Court had jurisdiction concerning the annulment order, it finds that there is no defect in personal jurisdiction —i.e., the service was proper — and the family court had subject matter jurisdiction. There is no failure of due process and so there is no reason to refuse to recognize the order.

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Fourth, even if this Court had jurisdiction, the issue of the finality of the annulment order — i.e., whether it is binding on those not parties to the action — in this case applies only to Mr. Brown because, as noted, Respondents at best stand in his shoes. The Respondents concede that an annulment is an in rem action, and in rem actions are binding on non-parties as to status. Even if Mr. Brown was not precluded by the reasons stated above, and for other reasons, he would be bound by the status determination of an in rem action. The status determination of the annulment order was that Mrs. Brown was never married to Ahmed and thus her status at the time of her marriage to Mr. Brown was that she had no impediment to that marriage. Mrs. Brown's status is the only relevant issue here.

Finally, to disregard or relitigate the annulment order would create a chaotic precedent. No marital determination of status — validation of marriage, invalidation of marriage (annulment) or termination of marriage (divorce) — would ever be final and binding. Families are critically affected by the status of family court actions and their status determinations must be sacrosanct. To allow any third party to attack a status determination would permit endless litigation over family matters and continuing uncertainty over such critical relationship matters as paternity and legitimacy, as well as a person's ability to enter into valid marriages. Some examples of unacceptable problems which would result in this case are as follows:

1. Mr. Brown brought and dismissed an annulment action attacking his marriage to Mrs. Brown. This Court takes judicial notice that Mr. Brown did not thereafter attempt to file an action in court to invalidate their marriage, which he obviously knew how to do if he wished. Mr. Brown did not annul his marriage to Mrs. Brown before his death, but Respondents now wish to do so.
2. The annulment order legitimizes James Brown II. Because the annulment action confirmed that Mrs. Brown had no impediment to her marriage to Mr. Brown, their marriage makes James II, born before the marriage, legitimate. Effectively overturning the annulment order would render James II illegitimate, affecting critical rights of his.

3. If Ahmed is not a party to relitigation of the annulment order, an overturning or disregard of that order could impact his family status. According to the sworn affidavit of Daryl Brown's attorney in this matter, David Bell, Ahmed has known for at least six years that his marriage to Mrs. Brown was annulled. This Court takes judicial notice that Mr. Ahmed has taken no judicial action to attack the annulment order. Relying on the validity of the annulment order, Ahmed may have married subsequently and had children; if the annulment order is overturned, then his marriage would be invalidated and his children rendered illegitimate.

B. This Court Lacks Subject Matter Jurisdiction To Relitigate Or Disregard The Annulment Order.

Respondents would have this Court relitigate or disregard the annulment order issued by the family court. However, this Court does not have jurisdiction over annulments. *Only* the family court has jurisdiction over actions for annulments. S.C. Code Ann. § 63-3-530(A)(6)²⁷ provides that the family court has *exclusive* jurisdiction over annulments.

The only way for Mr. Brown to have invalidated his marriage to Mrs. Brown would have been through an annulment of their ceremonial marriage. "Annulments are actions to establish the invalidity of marriages." See Stuckey, *Marital Litigation*, Ch. 3.A. Mr. Brown obviously understood that an annulment action is the method to seek an invalidation of a marriage because he brought an action to annul his marriage to Mrs. Brown. As discussed above, Mr. Brown dismissed that action through a consent order. It is now too late for Mr. Brown, or anyone acting for or through him, to bring an annulment action to invalidate his marriage to Mrs. Brown. See the discussion at IV.C below.

Consequently, if this Court lacks subject matter jurisdiction over annulments, it cannot relitigate or disregard the family court annulment order. Redetermining the underlying facts of

²⁷ Formerly S.C. Code § 20-7-140.

the annulment order would be engaging in an annulment action, which this Court lacks jurisdiction to do.

Having this Court relitigate or disregard an existing valid family court order would create a precedent resulting in chaos.²⁸ If a third party is allowed to attack an order of annulment or divorce obtained during a decedent's lifetime, relationships relied on by the decedent during his lifetime and taken to his grave could be undone, and great damage would be done to the public policy of stability of marriage.

S.C. Code Ann. § 63-3-530(A)(6) grants the family court exclusive jurisdiction over annulments. To allow the Respondents to challenge Mrs. Brown's annulment from Ahmed in this Court would subvert the exclusive authority granted to the family court by the South Carolina General Assembly.²⁹ According to the plain language of the statute, the General Assembly granted exclusive jurisdiction over annulments to the family court.³⁰ In so doing, the General Assembly prohibited all other courts from going behind the family court's annulment orders.

Lukich fits this statutory scheme because it involved an appeal from the family court, which had jurisdiction over annulments. *Lukich* did not allow an annulment order to be challenged in a court outside of the family court. Unlike Mr. Lukich, Mr. Brown withdrew his family court action for annulment during his lifetime. The legislative scheme did not give Mr.

²⁸ See, e.g., *Neely*, discussed below.

²⁹ "The canon of construction '*expressio unius est exclusio alterius*' or '*inclusio unius est exclusio alterius*' holds that 'to express or include one thing implies the exclusion of another, or of the alternative.' Black's Law Dictionary 602 (7th ed. 1999)." *Hodges v. Rainey*, 533 S.E.2d 578, 582, 341 S.C. 79, 86 (2000).

³⁰ In S.C. Code § 63-3-530(A)(6), the Legislature says that "[t]he Family Court has exclusive jurisdiction...to hear and determine actions for annulment of marriage".

Brown the ability to challenge the annulment order outside of the family court during his lifetime, and his heirs likewise cannot go behind a family court order in this Court.

C. Even If This Court Had Jurisdiction, A Postmortem Annulment Action Is Not Possible.

The issue before this Court on summary judgment is whether Mrs. Brown is the surviving spouse of Mr. Brown. South Carolina Probate Code § 62-2-802 is the statute governing the determination of surviving spouse qualification. Section 62-2-802 specifically addresses annulment in this context. It provides that a surviving spouse is someone from whom the decedent did not get a divorce or an annulment:

Section 62-2-802. Effect of divorce, annulment, decree of separate maintenance, or order terminating marital property rights.

(a) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A decree of separate maintenance that does not terminate the status of husband and wife is not a divorce for purposes of this section.

Section 62-2-802(c) requires that any divorce decree or annulment be signed by the court and filed in the office of the clerk of court. It is too late for Mr. Brown, or those acting for or through him, to bring such an annulment action. In *Hatchell-Freeman v. Freeman*, 340 S.C. 552, 532 S.E.2d 299 (Ct. App. 2000), the Court of Appeals, addressing S.C. Code § 62-2-802, held that a divorce decree was invalid when it was filed three days after the husband's death, although his death occurred more than a week after the final divorce hearing. In *Bayne v. Bass*, 302 S.C. 208, 394 S.E.2d 726 (Ct. App. 1990), the wife committed suicide after the trial judge orally granted her request for divorce but before he signed a divorce decree. The judge signed the decree two days after she died but vacated it on motion by the husband's counsel. The Court of Appeals held that the order granting the divorce was void and that the court properly vacated its own order. Mr. Brown neither divorced nor had his marriage to Mrs. Brown annulled during his

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lifetime. Therefore, under the Probate Code Mrs. Brown was still his wife at the time of Mr. Brown's death, and she is his surviving spouse.

Respondents – in privity with Mr. Brown and deriving any rights they have through him - are attempting to do after his death what he chose not to do in life. The exclusive method to invalidate a marriage is to bring an annulment action in the Family Court. Mr. Brown obviously knew that because he brought an annulment action in the Family Court, which he dismissed.³¹ Again, this Court has no jurisdiction over annulment actions, but even if it did, it is too late for Mr. Brown to collaterally attack an annulment order. Annulment actions cannot be brought postmortem. Nor can Respondents do so.

D. Even If This Court Had Jurisdiction Over Annulments And Did Not Lack Necessary Parties, There Is No Reason To Disregard The Annulment Order.

A court has to have a reason to refuse to recognize an order, and the only reason is the failure of due process, either by failure to obtain personal jurisdiction or a lack of subject matter jurisdiction. *Yarbrough v. Collins*, 293 S.C. 290, 360 S.E.2d 300 (S.C. 1987) (“A judgment may be collaterally attacked if the court lacked jurisdiction and the lack of jurisdiction appears on the face of the record. *Turner v. Malone*, 24 S.C. 398 (1886).”); *Miles v. Lee*, 319 S.C. 271, 460 S.E.2d 423 (S.C. App. 1995) (similar); *Henry v. Cottingham*, 253 S.C. 286, 170 S.E.2d 387 (S.C. 1969) (“The decree of a Probate Court admitting a will to probate is final and conclusive if not reversed by the appellate court, or set aside and revoked by direct proceeding, and cannot be questioned collaterally. *Weinberg v. Weinberg*, 208 S.C. 157, 37 S.E.2d 507; *Reed v. Lemacks*, 204 S.C. 26, S.E.2d 441; *Davis v. Davis*, 204 S.C. 26, 28 S.E.2d 441.” “In *Wilkinson v. Wilkinson*, 178 S.C. 194, 182 S.E. 640, this court said: ‘As a proceeding to probate a will is a

³¹ Notably, even in Mr. Brown's short-lived annulment action, he did not attack the annulment order but rather insisted that it was binding on Mrs. Brown.

judicial one, a judgment or decree admitting a will to probate stands on the same footing as a judgment of any other Court of competent jurisdiction; and while it is not conclusive in the sense that a person having a requisite interest may not attack it by a direct proceeding within the period of time allowed by statute, without a statute conferring the right to contest, the order admitting the will to probate would be final on all parties.”) *McCampbell v. Warrich Corporation*, 109 F.2d 115 (7th Cir. 1940) (a collateral attack “is not permissible if the court had jurisdiction over the parties and the subject matter.”); *Burlington Data Processing, Inc. v. Automated Medical Systems, Inc., Clinical Management Systems, Inc., and William Carlson*, 492 F.Supp. 821 (D. Vermont 1980) (“A final, valid judgment, though erroneous, is not subject to collateral attack unless it can be shown that the court rendering it was without jurisdiction. See *Midissa Television Co. v. Motion Pictures for Televisions, Inc.*, 290 F.2d 203 (5th Cir. 1961), cert. denied 368 U.S. 827, 82 S.Ct. 47, 7 L.Ed.2d 30 (1961). *Anderson v. Tucker*, 68 F.R.D. 461 (D.Conn.1975). *1B J. Moore, Federal Practice*, s .407.”); *Popp Telcom v. American Sharecom, Inc.*, 210 F.3d 928 (8th Cir. 2000) (“When a judgment is alleged to be simply erroneous or attacked on the basis of anomalies unrelated to the court's jurisdiction, collateral attack is not an option.”). See also *Fouche v. Royal Indemnity Company*, 217 S.C. 147, 60 S.E.2d 73 (S.C. 1950) (“The probate court of Orangeburg County which rendered the judgment in this case is a court of record, and had full jurisdiction over the administration proceedings. It has been held in many cases in this state that a judgment is not open to successful collateral attack unless void on its face, or upon an inspection of the judgment roll. This principle seems to be self evident, and the authority of adjudged cases support it.”....“As heretofore stated, the record in the probate court of Orangeburg County does not affirmatively disclose that the court was without jurisdiction of these appellants, hence their collateral attack on the judgment cannot succeed, and the order of

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discharge is binding upon them.”)

Even if this Court had jurisdiction concerning the annulment order, it finds that there is no defect in personal jurisdiction — i.e., the service was proper — and the family court had subject matter jurisdiction. There is no failure of due process and so there is no reason to refuse to recognize the order.

E. The Annulment Order Is Binding On All Parties.

The annulment order is binding on all parties. South Carolina provides:

All marriages contracted while either of the parties has a former wife or husband living shall be void. But this section shall not extend to a person whose husband or wife shall be absent for the space of five years, the one not knowing the other to be living during that time, not [sic] to any person who shall be divorced or whose first marriage shall be declared void by the sentence of a competent court.

S.C. Code Ann. § 20-1-80.

The validity of the attempted marriage between Mrs. Brown and Ahmed has already been addressed by the South Carolina court with jurisdiction. That court issued a final judgment invalidating the attempted marriage between Mrs. Brown and Ahmed, on the ground of bigamy. This annulment order is binding on Mr. Brown, and consequently is binding on Respondents.

In addition to *Lukich v. Lukich*, other South Carolina case law confirms this rule. In *Joye v. Yon*, 345 S.C. 264, 547 S.E.2d 888 (Ct. App. 2001), a husband and wife were divorced, and the husband was ordered to pay alimony. Some years later, the wife remarried. Six months later, her remarriage was annulled for bigamy, as the second husband had never divorced his prior wife. The first husband refused to resume paying alimony after the annulment, and the wife filed a contempt action to enforce the original decree. The husband then argued that the wife's remarriage, bigamous though it may have been, still terminated his ability to pay support.

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The court of appeals resolved the main issue in the case by holding that a bigamous remarriage, which is void ab initio, does not terminate a prior spousal support obligation. The husband then argued in the alternative that the wife's remarriage could not be treated as bigamous *against him*, as he was not a party to the annulment action in which the remarriage was declared void. This is the same argument that Respondents make in the present case. But the court of appeals rejected this argument. It held directly that the annulment was binding upon the first husband even though he was not a party to the action:

Yon also argues the court erred in reinstating his alimony obligation because he was not a party to Joye's annulment action. He asserts that he should have been made a party to the annulment action because its outcome directly affected him. We disagree.

Generally, a person must be joined as a party to an action if his absence precludes complete relief among those already parties or his interest in the subject matter is so intertwined that he would not receive complete relief or resolution without his participation. Rule 19(a), SCRCP; see *First Citizens Bank & Trust Co. v. Strable*, 292 S.C. 146, 148, 355 S.E.2d 278, 279 (Ct. App. 1987).

Since Yon had no standing to challenge the granting of the annulment, it was not necessary for Joye to include him as a party to the action. Moreover, Yon suffered no prejudice by not being made a party to the action. Under South Carolina law, Joye's marriage to Vance was void ab initio and Yon's presence as a party to the action could not have altered the decision to grant the annulment.

Id. at 276, 547 S.E.2d at 894 (emphasis added). For exactly the same reasons, Respondents have no standing to question the invalidation of Mrs. Brown's previous attempted marriage to Ahmed because of Ahmed's bigamy.³² That order can be questioned only in a direct attack by those who

³² A leading authority on family law supports this South Carolina rule. "[A]nnulment decrees are binding upon nonparties as well as parties respecting the validity of the marriages involved." 1 Homer H. Clark Jr., *The Law of Domestic Relations in the United States* § 3.6 (2d ed. 1987). Professor Clark recognizes that this issue highlights the tension between the opportunity to be heard, on the one side, and the need for finality on the other. Although he recognizes that the rights of third persons may be affected by whether or not a marriage exists, he concludes: "No matter how clearly these [third-party] rights may depend on the existence of a marriage, they are not of the same degree of importance, seriousness or consequence as the interests of the spouses themselves in the marriage. It is perhaps this factor that has led to the well-established rule that a decree of divorce is conclusive on third parties with respect to the termination of the marriage. It is the writer's view that a decree of annulment should have the same effect."

were party to it, and only if that direct attack was timely and properly brought. Just as the first husband in *Joye* was bound by the annulment of the marriage between the wife and her second husband, so is the estate of Mr. Brown bound by the order invalidating ab initio the attempted marriage between Mrs. Brown and Ahmed.

In *Joye v. Yon*, 355 S.C. 452, 586 S.E.2d 131 (2003), the Supreme Court necessarily agreed with the court of appeals regarding the husband's standing to attack the annulment. The Court of Appeals was reversed as to the *effect* of the annulment upon the prior support obligation, and not as to the *existence* or *validity* of the annulment.³³

The result reached in *Joye* is further consistent with S.C. Code § 20-1-520, which provides that third parties were generally bound by a court's determination that a marriage is valid:

When the validity of a marriage shall be denied or doubted by either of the parties, the other may institute a suit for affirming the marriage and, upon due proof of the validity thereof, it shall be decreed to be valid and *such decree shall be conclusive upon all persons concerned*.

S.C. Code Ann. § 20-1-520 (emphasis added).³⁴

³³ The effect of the final and binding Family Court order invalidating the attempted marriage between Mrs. Brown and Ahmed is that the Brown-Brown marriage is valid, per the *Lukich* case, as discussed below.

³⁴ If third parties were able to contest family court orders, the order would never be final and chaos in family relations would ensue. See *Neely v. Thomasson*, 365 S.C. 345, 618 S.E.2d 884 (2005). As to precedent regarding finality, the Court of Appeals in *Neely* cited cases as follows:

Adickes v. Allison & Bratton, 21 S.C. 245, 259 (1884) (alteration and emphasis added) (quoting *Freeman's Judgments* § 12), cited with approval in *Mid-State Distribs., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993). A decree of divorce is generally a final judgment of the court. *Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996); cf. *Corbin v. Kohler Co.*, 351 S.C. 613, 621, 571 S.E.2d 92, 97 (Ct. App. 2002) ("The final written order contains the binding instructions which are to be followed by the parties.")...See *ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche*, 327 S.C. 238, 241, 489 S.E.2d 470, 472 (1997) (*holding an unappealed ruling is the law of the case and cannot be later challenged*).

Neely v. Thomasson, 355 S.C. 521, 536, 586 S.E.2d 141, 144 (Ct. App. 2003) (emphasis added).

An annulment action and an action to validate a marriage, as described in § 20-1-520, are symmetrical: one brings an action to validate a marriage to confirm a marriage's validity while one brings an annulment action to confirm a marriage's invalidity. See Stuckey, *Marital Litigation in South Carolina*, Ch. 3-A. Thus, because "all persons concerned" are bound by a court determination that a marriage is valid, "all persons concerned" are likewise bound by a court's finding that a marriage is invalid. If third parties were able to contest final family court orders, the order would never be final and chaos in family relations would ensue.

Other states have held that annulments cannot be collaterally attacked by those who are not parties to the action. See, e.g., *Johnson County National Bank & Trust Co. v. Bach*, 189 Kan. 291, 369 P.2d 231 (1962) (certain beneficiaries made exactly the same argument that Respondents make—that the annulment was not binding on third parties — and the Kansas Supreme Court agreed with the wife that the annulment was dispositive and that it could not be questioned by third parties).

Just as the annulment decree in *Bach* was conclusive on the validity of the alleged marriage in that case, so is the annulment in this case likewise dispositive. The annulment can be attacked only in a prior direct attack filed by the parties to the action—Mrs. Brown and Ahmed.

A New York court stated the fundamental principle of law that underlies South Carolina's position:

It is ancient law that a judgment in rem is res judicata to all the world with regard to the res or status that is determined therein. In a matrimonial action the condition of marriage or non-marriage is involved. An essential issue is, therefore, one of status—or, put another way, there is a marital res subject to in rem jurisdiction. As a consequence, in ordinary circumstances a judgment determining marital status is binding on the whole world, and it is not confined in effect to the immediate parties to the action in which the

judgment determining status was rendered.

Presbrey v. Presbrey, 6 A.D.2d 477, 480, 179 N.Y.S.2d 788, 792 (1958) (emphasis added), *aff'd*, 8 N.Y.2d 797, 168 N.E.2d 135, 201 N.Y.S.2d 807 (1960); *see also Luke v. Hill*, 137 Ga. 159, 73 S.E. 345, 346 (1911) ("So far as the adjudication fixes the status of the parties, the judgment concludes both parties and strangers[.]").

The *Restatement (Second) of Judgments* states the rule as follows:

A status determination is ordinarily binding on non-parties because it effects a transformation of the legal status of the person involved which others have no legal authority to challenge. In this respect it is similar to status changes that parties are free to make without adjudicative proceedings, such as entry into marriage, renunciation of citizenship, or voluntary surrender of one's property to a conservator or trustee.

Restatement (Second) § 31 cmt. *f* (emphasis added); *see also id.* § 31 cmt. *a* ("Proceedings for the determination of status include divorce and annulment actions[.]").

The annulment order involves Mrs. Brown's status, and this status cannot be collaterally attacked by any third party. Because Mrs. Brown's putative marriage to Ahmed was void ab initio for bigamy, Mrs. Brown's status at the time of her marriage to Mr. Brown was that she had no impediment to that marriage.

Therefore, the Respondents have no legal authority to challenge the Family Court Order of annulment.

F. The Family Court Order Is Binding On Respondents Who Are in Privity with Mr. Brown.

Respondents are bound by the Family Court order. Heirs are in privity with their ancestors. *Thompson v. Hudgens*, 161 S.C. 450, 463, 159 S.E. 807, 812 (1931). Consequently, heirs are barred from asserting claims that their ancestors would have been barred from asserting. *Watson v. Watson*, 172 S.C. 362, 369-71, 174 S.E. 33, 36 (1934). In *Watson*, the decedent was

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barred from attacking a divorce; the Court held that those in privity with him, such as his children, were likewise barred. These rulings are obvious because heirs and devisees of a decedent cannot acquire any greater rights through the decedent than the decedent had himself. Similarly, a personal representative's relationship with the decedent exemplifies the classic case of privity with the decedent. It would be illogical for a personal representative, representing the decedent, or Respondents, claiming through the decedent, to have greater rights than the decedent had himself.

More generally, "[t]he term 'privity' when applied to a judgment or decree, means one so identified in interest with another that he represents the same legal right." *H.G. Hall Constr. Co. v. J.E.P. Enters.*, 283 S.C. 196, 204, 321 S.E.2d 267, 271 (Ct. App. 1984). *Carolina Baking Co. v. Geilfuss*, 169 S.C. 348, 168 S.E. 849, 852 (1933), held that a judgment is binding upon nonparties who "sought, consented to, or acquiesced in" the judgment. *Id.* To similar effect is *Tillman v. Tillman*, 93 S.C. 281, 76 S.E. 559 (1912). There, a father executed a deed giving custody of his children to his parents. A custody action then followed between the father's parents and the mother, in which the mother prevailed. The court held that the father was bound by the judgment:

It is true that [the father] was not a formal party to that proceeding, but he submitted an affidavit therein making no claim on his own behalf, but insisting on the claim of his father and mother, to whom he had solemnly conveyed all his rights of custody. *It is clear that by this action he became bound by the decree rendered in the former proceeding.*

Id. (emphasis added). By supporting his parents in the custody case, therefore, the father became bound by the result.

In *Neely v. Thomasson*, 365 S.C. 345, 618 S.E.2d 884 (2005), the decedent was divorced from his wife during his lifetime, and the divorce decree held that a daughter was born during the

marriage. After the decedent's death, the decedent's heirs argued that they were not parties to the divorce case, that they were not bound by the court's decision, and that the daughter was actually not the child of the decedent. The South Carolina Supreme Court held that the decedent was bound by the judgment, and that the heirs were likewise bound:

Because the issue of paternity was raised and ruled upon in a prior action, Decedent, if alive, would have been barred from challenging paternity at a later date. *See Eichman*, 285 S.C. at 380, 329 S.E.2d at 766. As a result, Decedent's heirs are likewise barred from asserting claims that Decedent himself would have been barred from asserting. *See Watson*, 172 S.C. at 370-71, 174 S.E. at 36. Moreover, we find that it would be unjust to allow Decedent's siblings to assert a claim that Decedent himself never chose to assert during his lifetime. In fact, there is no evidence in the record that Decedent took any steps whatsoever during his lifetime to disclaim Nancy as his daughter. To the contrary, Decedent acknowledged, on more than one occasion, that Nancy was his child. Therefore, we hold that Decedent's siblings should not have been permitted to challenge the prior paternity determination.

Id. at 354-55, 618 S.E.2d at 889 (emphasis added). The stipulated facts show that Mr. Brown supported the annulment litigation by paying Mrs. Brown's legal fees. After signing the Consent Order of Dismissal concerning his own annulment action, Mr. Brown never again sought to annul his marriage to Mrs. Brown. As such, the Respondents, in privity with Mr. Brown, are bound by the Family Court's order.

G. Binding Effect Of In Rem Judgments.

1. General Rule.

The LSA and other Respondents argue that this Court is not bound by the factual findings set forth in the judgment annulling Mrs. Brown's marriage to Ahmed. The Court respectfully disagrees.

The LSA expressly cites section 73 of the Restatement (First) of Judgments. That section applies on its face only to "Proceedings with Respect to Property." This case is governed by section 74, which applies to "Proceedings with Respect to Status." The validity

of the marriage between Mrs. Brown and Ahmed is a matter of status, not a matter of property. There is no question that a judgment annulling a marriage is a judgment in rem.

Section 74 of the Restatement provides:

- (1) In a proceeding in rem with respect to a status the judgment is conclusive upon all persons as to the existence of the status.
- (2) A judgment in such a proceeding will not bind anyone personally unless the court has jurisdiction over him, and it is not conclusive as to a fact upon which the judgment is based except between persons who have actually litigated the question of the existence of the fact.

Restatement § 74.

2. Section 74(1).

The above language states two competing rules. The first rule provides that an in rem judgment is binding upon "all persons" when the issue is the existence of the status. The drafters elaborate:

Effect of judgment on the status. Where in a proceeding for the creation or termination or judicial determination of a status a competent court has after proper notice given a valid and final judgment, the judgment is binding on all persons in the world as to the existence of the status. The judgment is not subject to collateral attack by anyone. . . . *As far as the status is concerned, the judgment is binding not only on persons who were subject to the jurisdiction of the court which rendered the judgment, but also on persons not personally subject to the jurisdiction of the court.*

Restatement § 74 cmt. a. As regards the existence of the status itself, therefore, a judgment of annulment binds everyone, including persons not parties to the action or otherwise not subject to personal jurisdiction.

Mrs. Brown provides compelling authority in support of section 74(1). "[A]nnulment decrees are binding upon non-parties as well as parties respecting the validity of the marriages involved." 1 Homer H. Clark Jr., *The Law of Domestic Relations in the United States* § 3.6 (2d ed. 1987) (emphasis added). Professor Clark

MRE
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continues:

No matter how clearly these [third-party] rights may depend on the existence of a marriage, they are not of the same degree of importance, seriousness or consequence as the interests of the spouses themselves in the marriage. It is perhaps this factor that has led to the well-established rule that a decree of divorce is conclusive on third parties with respect to the termination of the marriage. It is the writer's view that a decree of annulment should have the same effect.

Id.

Clark's rule has been followed in South Carolina. *See Joye v. Yon*, discussed above.

The holding of a New York decision is squarely on point:

It is ancient law that a judgment in rem is res judicata as to all the world with regard to the res or status that is determined therein. In a matrimonial action the condition of marriage or non-marriage is involved. An essential issue is, therefore, one of status—or, put another way, there is a marital res subject to in rem jurisdiction. As a consequence, in ordinary circumstances *a judgment determining marital status is binding on the whole world*, and it is not confined in effect to the immediate parties to the action in which the judgment determining status was rendered.

Presbrey v. Presbrey, 6 A.D.2d 477, 480, 179 N.Y.S.2d 788, 792 (1958) (emphasis added), *aff'd*, 8 N.Y.2d 797, 168 N.E.2d 135, 201 N.Y.S.2d 807 (1960).

In *Johnson County Nat. Bank & Trust Co. v. Bach*, 189 Kan. 291, 369 P.2d 231 (1962) and *Michelli v. Michelli*, 527 So.2d 359, 361 (La. Ct. App. 1988), courts directly held that annulments were binding upon third parties. These decisions did not draw any distinction between the facts and the law. They held, consistently with § 74(1) of the first Restatement, that in rem judgments of status bind all parties on the issue of status itself.

Another similar case is *Headen v. Pope & Talbot, Inc.*, 252 F.2d 739, 744 (3d Cir. 1958), where the court, dealing with South Carolina facts, expressly acknowledged the exception of § 74(2), but held that the case was controlled by the general rule of § 74(1). An in rem judgment of status binds the world on the question of status itself. Third parties are not bound only as to

questions collateral to status. As to status, and necessarily the facts determining status, all parties are bound. *See also Bair v. Bair*, 91 Idaho 30, 31, 415 P.2d 673, 674 (1966) (denying decedent's heirs' attempt to attack a divorce decree obtained by decedent's widow and stating that the heirs "as strangers to the divorce decree, have no right to attack its validity. To hold otherwise could cause chaos and uncertainty in the lives of thousands of persons" and that "[o]nce a divorce decree is final, it should not be disturbed by strangers who had no preexisting rights or interests adversely affected by such judgment); *Brown v. United States*, 196 F.2d 777, 777-78 (D.C. Cir. 1952) ("Appellant was a stranger to the divorce proceedings. She had no interest in the same; no right or standing to qualify as a party to the proceedings and oppose a divorce").

The rule was applied to an annulment in *Deyette v. Deyette*, 92 Vt. 305, 104 A. 232 (1918). That case was a Vermont divorce action. The wife had been previously married, but the marriage had been annulled in New York on grounds that the parties were underage. The husband attempted to collaterally attack the judgment on grounds that the wife and her first husband were not actually underage, but the court held that he lacked standing. 104 A. at 234.

The Court further finds that the rule of section 74(1) is good policy. If annulment judgments are not binding upon third parties, then there would be no such thing as a final judgment of annulment. Persons whose marriages are annulled would never have any security, because the judgment would always be subject to collateral attack by persons not parties to the original action. For example, if a woman's first marriage is dissolved by annulment, and she then marries again, the facts of the annulment would not be binding on third parties. She would be required to prove the merits of her annulment every time the validity of her second marriage becomes a contested issue. That would happen not only in her divorce action after the second marriage, but also when she takes title to property with

her second husband or files a joint federal or state income tax return. The LSA's argument boils down to an assertion that a decree of annulment is itself a nullity if the facts are contested.

There are strong reasons why annulments should be binding upon all third parties on issues of status—that is, as to the invalidity of the marriage annulled. The Court finds that on the issue of status, the judgment annulling Mrs. Brown's marriage to Ahmed is binding on all third persons, regardless of whether they were parties to the proceedings. Specifically, on the issue of status, the judgment is binding on Mr. Brown and his heirs.

3. Section 74(2).

The LSA recognizes the rule of section 74(1), but argues that this case is controlled by another rule. The LSA at points cites section 73 for this rule, but section 73 applies only to property judgments and not to status judgments. But the LSA also cites section 74(2), and as noted above, that section clearly does apply to status judgments.

The LSA argues under section 74(2) that the annulment does not bind James Brown on issues of fact. The LSA misconstrues section 74(2). That subsection again provides:

A judgment in such a proceeding will not *bind anyone personally* unless the court has jurisdiction over him, and it is not conclusive as to a fact upon which the judgment is based except between persons who have actually litigated the question of the existence of the fact.

Restatement § 74(2) (emphasis added). The LSA construes this section to hold that an in rem judgment does not bind anyone on questions of fact. This position sweeps too broadly.

The Restatement provides, in section 74(1), that judgments of annulment are binding on all third parties *as to the existence of the status itself*. But if a judgment is binding on the issue of status, both its findings and its conclusions are necessarily binding. Indeed the

LSA and Respondents claim that they are not disputing Mrs. Brown's status. It is nonsensical to say that a person is bound only by a court's conclusions, and not by the factual findings that lead inevitably to those conclusions. If the factual findings are not binding, then the court in a future action is free to find different facts and reach a different result, and nothing is binding at all.

The LSA's position uses section 74(2) to functionally destroy section 74(1). The Court rejects that position. The Court holds that where the issue is the existence (or necessarily, the nonexistence) of a status itself, an in rem judgment regarding status binds all third parties. It is binding not only as to its conclusions, but also as to its factual findings.

This result is completely consistent with section 74(2). The key phrase in that section is highlighted in the quotation above. A judgment does not "bind anyone personally" unless the court has jurisdiction over him. That is, a judgment in rem cannot have the binding effect of a judgment in personam unless the court has personal jurisdiction over the defendant. But a judgment that cannot be binding in personam can still be binding in rem. The status change itself is clearly an in rem action, so as regards the issue of status itself, the judgment binds anyone. But as to issues *other than status*, which may require in personam jurisdiction, the judgment is not binding.

Comment *b* to section 74 sheds considerable light upon the relationship between section 74(1) and (2). That comment states:

Personal liabilities. Although a valid judgment in rem is binding on all the world as to the existence of a status which is the subject of the action, it will not bind anyone personally over whom the court does not have jurisdiction. The court cannot impose a personal liability upon a person who is not subject to the power of the court. *The question of the power of the court to impose a personal liability in a proceeding in rem to affect a status arises most frequently in a suit for divorce with respect to a judgment for alimony.*

Id. § 74 cmt. *b* (emphasis added).

The emphasized last sentence gives a direct example of the distinction between section 74(1) and (2). The drafters had in mind the well-known rule that a divorce binds everyone as to the validity of the divorce itself (and necessarily the grounds of the divorce). But when the issue is not the existence of a status, but rather personal liability for alimony, the judgment does not even bind the named defendant unless the court had personal jurisdiction over him. See *Estin v. Estin*, 334 U.S. 541, 548-49 (1948); *Kreiger v. Kreiger*, 334 U.S. 555 (1948) (companion case to *Estin* reaching the same result); *Vanderbilt v. Vanderbilt*, 354 U.S. 416 (1957).

Section 74(2), therefore, is aimed only at issues other than the status change itself. Section 74(2) says that on issues collateral to status, the judgment is binding only on persons who appear, and over whom the court has jurisdiction. Likewise, factual findings in a status change judgment cannot be binding on issues other than status, because those issues require personal jurisdiction and not merely in rem jurisdiction.

This rule makes perfect sense. In rem jurisdiction allows the court to adjudicate only the question of status. The status here is Mrs. Brown's marital or non-marital status when she married Mr. Brown. If the order is binding, her status was unmarried. It cannot be used as a jurisdictional piggyback to allow the court to decide issues other than the question of status, which are not properly a basis for in rem jurisdiction. The effect of section 74(2) is that in rem judgments bind third parties only as to issues that are proper subjects for in rem jurisdiction, such as status. An in rem judgment cannot be used to bind third parties on an issue that is not subject to personal jurisdiction.

But the LSA seeks to give a broader effect to section 74(2). The LSA argues under

section 74(2) that the factual findings in an in rem judgment do not bind third parties on the central issue of the status change itself. That is going too far. If the factual findings do not bind third parties on issues of status, the third parties are necessarily not bound by the entire judgment, and section 74(1) is pointless. If section 74(1) is to have any effect at all, an in rem judgment must be functionally binding on all issues regarding the status change itself. The judgment is not functionally binding unless both its factual findings and its conclusions are binding. To say that the latter is binding, but the former is not, is to reject the entire premise of section 74(1).

The Court therefore holds that the annulment order in this case binds all third parties on the question of status itself. Third parties are bound on status issues by both the judgment's factual findings and its conclusion. On issues other than the status change itself, however, the annulment does not bind third parties unless they were subject to the personal jurisdiction of the court.

The cases cited by the LSA are consistent with this discussion. For example, in *Gratiot County State Bank v. Johnson*, 249 U.S. 246 (1919), the Supreme Court held:

The [bankruptcy] adjudication is, for the purpose of administering the debtor's property, that is, in its legislative effect, conclusive upon all the world. Compare *Shawham v. Wherritt*, 7 How. 627, 643, 12 L. Ed. 847. So far as is [sic] declares the status of the debtor, even strangers to the decree may not attack it collaterally. *Michaels v. Post*, 21 Wall. 398, 428, 22 L. Ed. 520; *New Lamp Chimney Co. v. Ansonia Brass & Copper Co.*, 91 U. S. 656, 661, 662, 23 L. Ed. 336. Compare *Hebert v. Crawford*, 228 U. S. 204, 208, 209, 33 Sup. Ct. 484, 57 L. Ed. 800. But an adjudication in bankruptcy, like other judgments in rem, is not res judicata as to the facts or as to the subsidiary questions of law on which it is based, except as between parties to the proceeding or privies thereto.

Id. at 248.

The LSA cites the last sentence and argues that the Court held that the factual findings

in the bankruptcy case were not binding anywhere. But the Supreme Court expressly held, in the first two sentences, that the bankruptcy judgment was "conclusive upon all the world," *id.*, as regards the issue of status. If the factual findings in the bankruptcy judgment were not likewise binding against the world, *on the issue of status*, then the Court's third sentence completely destroyed its first two sentences. That was not the Court's intent. *Gratiot County* recognizes the same two competing rules as section 74(1) and (2). It simply held on the facts that the issue in the later action was not one of status.

In *Hunter v. Hunter*, 111 Cal. 261, 43 P. 756 (1896), the issue was the effect of a divorce judgment. The court held that the judgment "was conclusive against all the world that the plaintiff in that suit was no longer the wife of Joseph Milam, and it was an adjudication of nothing else." *Id.* at 265, 43 P. at 757. Likewise, the present annulment is conclusive against all the world that Mrs. Brown was never validly married to Ahmed.

In *Becher v. Contoure Laboratories*, 279 U.S. 388 (1929), the first case was a state court action to declare a party trustee of a patent, while the second case was a federal court action for patent infringement. The Supreme Court very emphatically pointed out that these were different cases, presenting different issues. Whether the patent was placed in a trust said nothing about whether the patent was infringed. *Becher* therefore involved a collateral right, not a direct question of status.

In *Hendrick v. Biggar*, 209 N.Y. 440, 442, 103 N.E. 763, 764 (1913), the issue was whether a judgment in a divorce case finding that a spouse committed adultery was binding in a later action for alienation of affections. The issue in the alienation of affections case was not the validity of the divorce; it was whether the defendant had alienated the affections of a spouse. The second action was therefore a question collateral to status, on which personal

jurisdiction was required.

Fromm v. Glueck, 161 Misc. 502, 293 N.Y.S. 530 (Sup. Ct. 1937), involved an in rem judgment from another state. The case involved jurisdictional issues not present here, where both the former and present actions arise in South Carolina. The court also recognized that the judgment was binding on direct questions of status. "[I]t must be conceded that, even though personal jurisdiction of the defendant had not been obtained, the Court of Chancery had the full power to decree the foreclosure of the mortgage and the sale of the property." *Id.* at 504, 293 N.Y.S. at 533.

Finally, *In re Rowe's Estate*, 172 Or. 293, 141 P.2d 832 (1943), is distinguishable on several grounds. To begin with, the case involved a decree of divorce, not a decree of annulment. The issue was whether a finding of desertion in the divorce decree conclusively established lack of access for the purpose of paternity. The fact at issue was therefore again not the status of marriage itself, but rather a fact collateral to status. The court expressly held that the divorce was binding on issues of status. "[T]he decree in a divorce suit as a decree in rem binds the whole world as to the status of the parties, to the extent that their status is the res adjudicated[.]" *Id.* at 302, 141 P.2d at 836.

In short, all of the cases cited by the LSA recognize the same basic two rules stated in section 74(1) and (2). An in rem judgment binds the world on the direct question of status. It does not bind any nonparty on collateral issues, which are not subject to in rem jurisdiction, and which require that the court have personal jurisdiction over the defendant. The textbook example, cited expressly in the *Restatement* comments, is alimony in a divorce case.

Having stated the competing rules of section 74(1) and (2), the Court must now decide which of those two competing rules applies here. The issue presented here is whether Mrs.

Brown is Mr. Brown's surviving spouse. Mrs. Brown has presented a valid marriage certificate, placing upon the Respondents the burden of proving that her most recent marriage is invalid. They seek to defeat Mrs. Brown's claim by proving that her marriage to Mr. Brown was bigamous. But it is bigamous only if Mrs. Brown had a valid marriage to someone else at the time she married Mr. Brown. To prove that Mrs. Brown's marriage to Mr. Brown was bigamous, the Respondents must prove that Mrs. Brown's marriage to Ahmed was valid.

The issue here is therefore directly one of status: Was Mrs. Brown's marriage to Ahmed valid? The judgment of annulment held that it was not. The Respondents argue that the judgment of annulment was wrong. If the judgment of annulment was wrong, it would obviously affect Mrs. Brown's status. The entire issue turns upon whether the annulment judgment correctly held that Mrs. Brown's status had been that of a single person all along, because her marriage to Ahmed was void from its inception.

Because the central issue in this case is the effect of the annulment judgment upon Mrs. Brown's status, this case falls squarely under section 74(1). Section 74(2) states that the factual findings in an in rem judgment are not binding, but only on issues other than the status change itself, which turn upon jurisdiction in personam and not upon jurisdiction in rem. *Section 74(2) cannot be used to attack the factual findings of an in rem judgment on the question of status itself.* To permit that is to allow section 74(2) to completely destroy section 74(1). Regarding the issue of status itself, the judgment annulling Mrs. Brown's marriage to Ahmed is binding upon all third parties, including Mr. Brown and his heirs.

The LSA and most, if not all, of the Respondents agreed in their arguments before

the Court that Mrs. Brown's marriage to Ahmed was legally annulled. They stated that they were not questioning her status. They agreed that the annulment order is binding "on all the world." Their disagreement is on the facts underlying the annulment. However, this Court cannot separate the judgment from the facts. If Mrs. Brown's marriage to Ahmed was annulled, it was annulled on the grounds set forth in the Order. It could not be annulled for no reason. The factual findings are binding on direct questions of status, although, arguably, factual findings on collateral matters are not binding.

To that end, the Respondents have cited no case holding that the factual findings of an annulment or divorce are not binding when the issue being raised in the second action is the direct question of status itself, and not a collateral issue. For the foregoing reasons, the Family Court Order of annulment is binding on the Respondents.

V. CONCLUSION.

This Court finds that the conclusion it has reached is not unfair or inequitable to Mr. Brown or the estate. Mr. Brown was well aware of Mrs. Brown's annulment action. He paid Mrs. Brown's legal fees. He was copied on pleadings. He sought to have the findings of fact set forth in the annulment order adopted in his own later annulment case. It has long been settled that a person who accepts the benefits of even a void order is estopped to question its validity. *Edwards v. Edwards*, 254 S.C. 466, 176 S.E.2d 123 (1970) ("Since [husband] proposed the transfer of the property and has accepted the benefits accruing to him therefrom, he is now estopped to assert the invalidity of the judgment."); *Scheper v. Scheper*, 125 S.C. 89, 118 S.E. 178 (1923) ("Even where one who did not procure it accepts the benefits of a void judgment, he is estopped to assert its invalidity.").

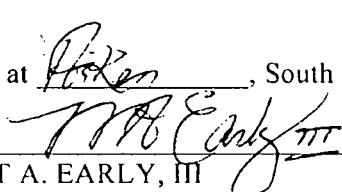
Mr. Brown knew he could pursue an annulment from Mrs. Brown as he initiated such an action himself. If he wanted to annul his marriage, he could have proceeded with the action he commenced. But he decided not to proceed with it. As he never obtained an annulment during his lifetime, his marriage was never annulled and he was married to Mrs. Brown at the time of his death, certainly for the purposes of surviving spouse pursuant to S.C. Code Ann. § 62-2-802, which required him to take action. Further, in this case, Mr. Brown affirmatively sought to benefit specifically from the Findings of Fact in the annulment order. These are the very Findings of Fact the LSA now wants this Court to ignore. He alleged in his own short-lived annulment action that the "Findings of Facts of the Charleston Family Courts" were binding.³⁵

Therefore, it is hereby ORDERED, DECREED and ADJUDGED that Tommie Rae Brown is the surviving spouse of James Joseph Brown. The Family Court's April 15, 2004 Final Order is binding on James Joseph Brown and his heirs and must be respected by this Court.

It is further ORDERED, DECREED and ADJUDGED that the Petitioner Tommie Rae Brown's Motion for Summary Judgment on her status as James Joseph Brown's wife and surviving spouse is granted, and the Limited Special Administrator's Motion for Summary Judgment is denied.

It is further ORDERED, DECREED and ADJUDGED that all other issues, including the validity of the prenuptial agreement between Tommie Rae Brown and James Joseph Brown are reserved for a future determination.

This 13 day of January 2015, at Pike, South Carolina.


DOYET A. EARLY, III
JUDGE, SECOND JUDICIAL CIRCUIT

³⁵ Joint Stipulation of Facts at 000070, ¶ 10 (Mr. Brown's Amended Complaint for Annulment).

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202850**

Tommie Rae Hynie-Brown	David Soujourner Deanna Brown Thomas Vanisha Brown Daryl Brown Michael Deon Brown
Terry Brown Yamma Brown Larry Brown Jeanette Mitchell	
PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

1/14/2015

Date

For Clerk of Court Office Use Only

This judgment was entered on **14th day of January, 2015**, and a copy mailed first class or placed in the appropriate attorney's box on **14th day of January, 2015**, to attorneys of record or to parties (when appearing pro se) as follows:

Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
John Fisher Beach 1501 Main St., 5Th Floor Columbia, SC
29201

Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

John Andrew Donsbach Sr. PO Box 212139 Martinez, GA
30917-2139

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

Court Reporter

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Shannon Jowers
Liz Godard - Clerk of Court

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

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

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0202849**

Tommie Rae Hynie-Brown	David Special Administrato Soujourner Deanna Brown Thomas Vanisha Brown Daryl Brown Michael Deon Brown	Terry Brown Yamma Brown Larry Brown Jeanette Mitchell
PLAINTIFF(S)	DEFENDANT(S)	

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
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☐ 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

This order ☐ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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Circuit Court Judge

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Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201

William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422

John Andrew Donsbach Sr. PO Box 212139 Martinez, GA
30917-2139

ATTORNEY(S) FOR THE PLAINTIFF(S)

probate

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Sherron Jones
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.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Case No. 2010-CP-40-4900 - *cert copy*

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 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., Carrington L., and
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 DELOREST BROWN;
DEANNA J. BROWN THOMAS; JASON
BROWN-LEWIS; YAMMA N. BROWN,
individually and on behalf of her minor
children, SYDNEY L., CARRINGTON L.,
and TONYA BROWN; VENISHA
BROWN; LARRY BROWN; and TERRY
BROWN,

Plaintiffs.

v.

Adele Pope,

Defendant.

ORDER

1.20 2015
Liz Godard
C.C.P. & G.S.
Anita Knoepfle *10/20/15*
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

20 day of *September* *2015*

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

Sharon Gowan
Deputy Clerk

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.

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
IN THE COURT OF COMMON PLEAS
Case No. 2013-CP-02-1337

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

Deputy Clerk

ORDER

on 1-20-15
Liz Godard
C.C.P. & G.S.
Arita Knoepke 10¹⁰
Deputy Clerk

The Court after conferring with counsel, Judge Manning, and I have determined that judicial economy would be served by a joint, Court-ordered mediation of the of Aiken County Case 2013-CP-02-1337 ("Case 1337") and Richland County Case 2010-CP-40-4900 ("Case 4900").

IT IS, THEREFORE, ORDERED:

1. That Karl Folkens, Esquire, is here by appointed as the mediator and shall choose the time, place, and date of the mediation as soon as possible.
2. All parties and counsel of record are directed to participate in and attend the mediation in person.
3. Counsel must ensure full compliance with Rule 6(b), SCRADR, regarding attendance at the mediation settlement conference.
4. Counsel must certify to the mediator that each has disseminated the mediators "Frequently Asked Questions" to their respective clients within ten (10) days of the scheduled mediation settlement conference.

[Signature]
#

5. The Estate shall advance the cost and expenses of the mediation but will be allowed to deduct said advancements once a distribution is made.

6. Regarding the allocation of the costs of the mediation, the mediator shall have authority to group parties with common interests as one.

7. Within twenty (20) days, counsel shall participate in a pre-mediation telephone conference with the mediator for the purpose of scheduling the mediation and addressing location, timing, and procedure of the mediation settlement conference.

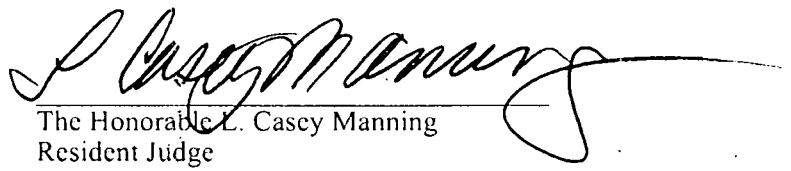
8. The parties shall provide the mediator with a memorandum setting forth their respective positions regarding the issues that need to be resolved within twenty-five (25) days of the date of this order.

AND IT IS SO ORDERED.



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

January 17, 2015
Aiken, South Carolina



The Honorable L. Casey Manning
Resident Judge
Fifth Judicial Circuit

January 6, 2015
Columbia, South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP0201337

Adele Pope

James Estate Of Brown Russell L Trustee
Bauknight

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), 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

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

1/20/2015

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **1-20-15**, and a copy mailed first class or placed in the appropriate attorney's box on **1-20-15**, to attorneys of record or to parties (when appearing pro se) as follows:

Adele Jeffords Pope 1228 Walnut St. Newberry, SC 29108

ATTORNEY(S) FOR THE PLAINTIFF(S)

Frederick A. Crawford PO Box 7788 Columbia, SC 29202

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

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by Skeneffle

Court Reporter

Liz Godard - Clerk of Court

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

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