

Burl F. Williams
Associate

December 2, 2011

RECEIVED

DEC 12 2011

VIA UNITED STATES MAIL

The S C Supreme Court
Office of the Clerk of Court
Attn Ms Debbie Hopkins
P O Box 11220
Columbia, S C 29211

S C Supreme Court

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

Dear Debbie

Charleston
Charlotte

Enclosed please find payment in the amount of \$20 00 for the audio from the
November 1, 2011 Oral Argument

Columbia

Greensboro

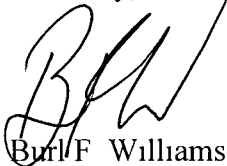
Greenville

Hilton Head

Myrtle Beach

Raleigh

Sincerely,



Burl F Williams

BFW/bn
Enclosure

November 3, 2011

RECEIVED

NOV 3 2011

VIA HAND DELIVERY

The South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201
ATTN Linda Allen

S C Supreme Court

Re Alan Wilson, in his capacity as Attorney general of the State of South Carolina, Daryl J Brown, on behalf of his minor children, et al v Albert H Dallas, Alfred A Bradley, et al
Our File No 5478/1503

Dear Ms Allen

Pursuant to our telephone conversation of today's date, please let this letter serve as our formal, written request for a copy of the oral argument held in the above-referenced matter on Tuesday, November 1, 2011. It is my understanding that there is no transcription available, but that the oral argument is contained on a CD which is available. If you will contact me at the number listed when the CD is available, I will arrange for pick up.

Our firm's check in the amount of Twenty and 00/100 Dollars (\$20.00) is enclosed.

Please let me know if you require anything further with respect to this request.

Sincerely,



Karen S Anders
Litigation Paralegal
KSA

Check # 27249
\$20.00

FORM 1
MEDIA COVERAGE OF COURT PROCEEDINGS

STATE OF SOUTH CAROLINA)

COUNTY OF _____)

Wilson)

IN THE COURT

Supreme Court

vs)

Dallas)

Request for Electronic and Photographic Coverage
Of Judicial Proceedings

Pursuant to Rule 605, South Carolina Appellate Court Rules, the undersigned hereby requests permission to use equipment in order to record photograph or televise all or portions of the proceedings in the above captioned case

Consistent with Rule 605, the undersigned desires to use the following equipment

Video camera, microphone, tripod

The proceedings that the undersigned desires to record photograph or televise commence on The James Brown Trust

The personnel who will be responsible for the operation of this equipment are

Mark Barber

The undersigned hereby certifies that the operation of the equipment and the conduct of the personnel will be in conformity with Rule 605

This 31st day of October 2011

Mark Barber

(Individual Signature)

Fox54

(Representing/Firm)

RECEIVED GRANTED

Date

10-31-11[Signature]
Presiding Judge

CHIEF JUSTICE

Multi Media Journalist

(Position)

3393 Washington Rd.

(Address)

(706) 832-1093

(Telephone Number)

Augusta, GA
30907

MEDIA COVERAGE OF COURT PROCEEDINGS

RECEIVED

OCT 31 2011

STATE OF SOUTH CAROLINA
SUPREME COURT
In Re The Estate of James Brown

SC SUPREME COURT

Request for Electronic and Photographic Coverage
Of Judicial Proceedings

Pursuant to Rule 605, South Carolina Appellate Court rules, the undersigned hereby requests permission to use equipment in order to record and photograph all portions of the proceedings in the above-captioned case

Consistent with Rule 605, the undersigned desires to use the following equipment
1 Olympus DS-40 Digital Voice Recorder
Digital camera

The proceedings that the undersigned desires to record, photograph or televise
commence on
Nov 2 2011 at 9 30 a m

The personnel responsible for operation of the equipment are
Meg Kinnard
Brett Flashnick

The undersigned hereby certifies that the operation of the equipment and the conduct of the personnel will be in conformity with Rule 605

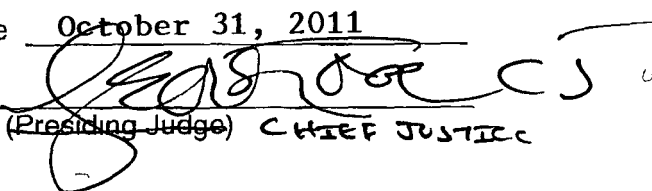
This 31 day of October 2011



Meg Kinnard
Reporter
Associated Press
1311 Marion St
Columbia, SC 29201
Ofc 803-799 5510
Fax 803 252-2913
Mobile 803-634-9078

~~Received~~ **Approved**

Date October 31, 2011

By 

(Presiding Judge) **CHIEF JUSTICE**



1311 Marion St
Columbia SC 29201
803 799 5510 bureau
800-922 1565 toll free
803 252 2913 fax

FAX

Date Monday, October 31, 2011

To South Carolina Supreme Court

Dept.

Fax number. (803) 734-1499

From Meg Kinnard, AP

Contact 803-799-5510 (ofc)/803-634-9078 (cell)
mkinnard@ap.org

Pages 2

Comments

Attached please find a cameras in the courtroom request for the James Brown case being heard by the court on Tuesday, Nov 2, 2011

Thank you --

Meg Kinnard

A handwritten signature in black ink, appearing to be 'MK' with a long horizontal stroke extending to the right.

FORM 1
MEDIA COVERAGE OF COURT PROCEEDINGS

STATE OF SOUTH CAROLINA)

COUNTY OF Richland)

Alan Wilson et al)

IN THE COURT Supreme

vs)

Re James Brown)

RECEIVED

NOV 1 2011

SC SUPREME COURT

Request for Electronic and Photographic Coverage
Of Judicial Proceedings

Pursuant to Rule 605, South Carolina Appellate Court Rules, the undersigned hereby requests permission to use equipment in order to record, photograph or televise all or portions of the proceedings in the above captioned case

Consistent with Rule 605, the undersigned desires to use the following equipment

The proceedings that the undersigned desires to record, photograph or televise commence on _____

The personnel who will be responsible for the operation of this equipment are _____

The undersigned hereby certifies that the operation of the equipment and the conduct of the personnel will be in conformity with Rule 605

This 18th day of Nov, 2011

Sue Summer

(Individual Signature)

Newberry Observer

(Representing/Firm)

RECEIVED Approved

(Position)

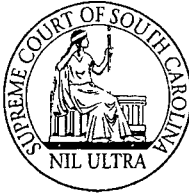
Date November 1, 2011

(Address)

[Signature]

Presiding Judge

(Telephone Number)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

October 25, 2011

James B. Richardson, Jr., Esquire
James B. Richardson, PC
1229 Lincoln St.
Columbia, SC 29201

Tressa T. H. Hayes, Esquire
P.O. Box 5329
Columbia, SC 29250

Attorney General Alan Wilson
Senior Assistant Attorney General C. Havird Jones
Assistant Deputy Attorney General Robert D. Cook
Assistant Attorney General J. C. Nicholson, III
Assistant Attorney General Mary Frances Jowers
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Louis Levenson, Esquire
Levenson & Assoc.
125 Broad St., SW
Atlanta, GA 30303

Matthew Day Bodman, Esquire
Matt Bodman, PA
1500 Calhoun St.
Columbia, SC 29201

Robert N Rosen, Esquire
T Heyward Carter, Jr ,Esquire
S Alan Medlin, Esquire
David L Michel, Esquire
Rosen Law Firm, LLC
The Peoples Building
18 Broad Street, Suite 201
Charleston, SC 29401

William W Wilkins, Esquire
J David Black, Esquire
Fred L Kingsmore, Jr , Esquire
Nexsen Pruet, LLC
P O Drawer 10648
Greenville, SC 29603-0648

Albert P Shahid, Jr , Esquire
Shahid Law Office, LLC
89 Broad St
Charleston, SC 29401

Re Wilson, Alan v Dallas, Albert

Dear Counsel

The record in the above case has been reviewed and the time allotment for oral argument for this case is as follows

Appellants	20 minutes
Respondents	20 minutes
Appellants in Reply	5 minutes

This case is scheduled for hearing on Tuesday, November 1, 2011 at 9 30 a m

Very truly yours,

Daniel E Shearouse, Clerk

By Debbie M Hopkins

Administrative Assistant

DES/dmh

William W Wilkins
Member
Admitted in SC

October 20, 2011

VIA FAX AND US MAIL

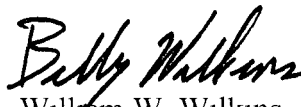
Daniel E Shearouse
Clerk of Court
Supreme Court of South Carolina
P O Box 11330
Columbia, SC 29211
Fax (803) 734-1499

Re In re The Estate of James Brown

Dear Mr Shearouse

The above-referenced matter is to be argued at 9 30 a m on November 1, 2011 It is my understanding that the typical time allotment for oral argument is 15 minutes for Appellants, 15 minutes for Respondents, and 5 minutes for rebuttal Due to the complexity of issues presented in this case and because Respondent Estate will be sharing time with the Attorney General, we respectfully request that this Court allot more than the typical amount of time allowed I suggest that each party have 30 minutes to argue its case-in-chief and that Petitioner have such time for rebuttal as the Court deems appropriate

Very truly yours,


William W Wilkins

RECEIVED

OCT 24 2011

SC SUPREME COURT

55 East Camperdown Way
Suite 400 (29601)
PO Drawer 10648
Greenville SC 29603 0648
www.nexsenpruet.com

T 864 282 1199
F 864 477 2699
E BWilkins@nexsenpruet.com
Nexsen Pruet LLC

Attorneys and Counselors at Law

NEXSEN|PRUET

William W Wilkins
Member
Admitted in SC

October 20, 2011

VIA FAX AND US MAIL

Daniel E Shearouse
Clerk of Court
Supreme Court of South Carolina
P O Box 11330
Columbia, SC 29211
Fax (803) 734-1499

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OCT 20 2011

SC Supreme Court

Re *In re The Estate of James Brown*

Dear Mr Shearouse

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Very truly yours,


William W Wilkins

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

55 East Camperdown Way
Suite 400 (29601)
PO Drawer 10648
Greenville SC 29603 0648
www.nexsenpruet.com

T 864 282 1199
F 864 477 2899
E BWilkins@nexsenpruet.com
Nexsen Pruet LLC
Attorneys and Counselors at Law

NEXSEN|PRUET

FAX TRANSMISSION

To.

Daniel E Shearouse
South Carolina Supreme Court

FAX No..

803-734-1499

PHONE No..

RECEIVED
OCT 20 2011
S C SUPREME COURT

FROM. William W Wilkins

PHONE

864 282 1199

RE• The Estate of James Brown

DATE

October 20, 2011

NUMBER OF PAGES WITH COVER PAGE• 2

Message•**NEXSEN PRUET, LLC**

ATTORNEYS AND COUNSELORS AT LAW
55 EAST CAMPERDOWN WAY
SUITE 400 (29601)
PO DRAWER 10648
GREENVILLE SC 29603 0648
864 370 2211• FAX 864 477 2699

USER NUMBER

2204

CONFIDENTIALITY NOTE

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION DISTRIBUTION OR DUPLICATION OF THIS TELECOPY IS STRICTLY PROHIBITED IF YOU HAVE RECEIVED THIS TELECOPY IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE UNITED STATES POSTAL SERVICE THANK YOU

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL AS SOON AS POSSIBLE



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To William W. Wilkins Esquire
J. David Black Esquire
Fred L. Kingsmore Jr. Esquire
From Daniel E. Shearouse
Date August 29, 2011
RE November Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the November 2011 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of November 1, 2, 3, 15, and 16. Please notify this office in writing prior to September 6, 2011, as to any scheduling conflicts for the November term and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Wilson, Alan v. Dallas, Albert



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To William Joseph Barr Esquire
From Daniel E. Shearouse
Date August 29, 2011
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BRENDA F. SHEALY
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P.O. BOX 11330
COLUMBIA, S.C. 29211
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To Tressa T. H. Hayes Esquire
From Daniel E. Shearouse
Date August 29, 2011
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COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Robert N. Rosen, Esquire
T. Heyward Carter, Jr., Esquire
S. Alan Medlin, Esquire
David L. Michel, Esquire

From Daniel E. Shearouse

Date August 29, 2011

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Wilson, Alan v. Dallas, Albert



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To R. Wayne Byrd, Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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BRENDA F. SHEALY
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COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Max N. Pickelsimer, Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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To Matthew Day Bodman Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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DEPUTY CLERK

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COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Louis Levenson Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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BRENDA F. SHEALY
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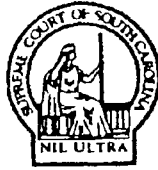
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To James Mixon Griffin Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To James B. Richardson, Jr., Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



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DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To H. Wesley Kirkland, Jr., Esquire
From Daniel E. Shearouse
Date August 29, 2011
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Wilson, Alan v. Dallas, Albert



The South Carolina Supreme Court

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CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To Atty Gen Alan Wilson
Senior Assistant Atty Gen C. Havird Jones
Assistant Deputy Atty Gen Robert D. Cook
Assistant Atty Gen J. C. Nicholson III
Assistant Atty Gen Mary Frances Jowers

From Daniel E. Shearouse

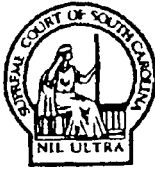
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Wilson, Alan v. Dallas, Albert



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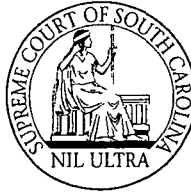
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734 1080

To: Albert P. Shahid, Jr., Esquire
From: Daniel E. Shearouse
Date: August 29, 2011
RE: November Preliminary List

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Wilson, Alan v. Dallas, Albert



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

July 7, 2011

Attorney General Alan Wilson
Senior Assistant Attorney General C. Havird Jones
Assistant Deputy Attorney General Robert D. Cook
Assistant Attorney General J. C. Nicholson, III
Assistant Attorney General Mary Frances Jowers
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

William W. Wilkins, Esquire
J. David Black, Esquire
Fred L. Kingsmore, Jr., Esquire
Nexsen Pruet, LLC
P.O. Drawer 10648
Greenville, SC 29603-0648

Re: Wilson, Alan v. Dallas, Albert

Dear Counsel:

The following Order has been endorsed on your Motion to Supplement the Record Pursuant to Rule 212(b), SCACR, or in the Alternative, to Take Judicial Notice of Records Filed in a Related Proceeding in the above entitled case on appeal.

“Motion denied

s/ Jean H. Toal C.J.
For the Court

July 7, 2011 ”

Wilson, Alan v Dallas, Albert
Page Two
July 7, 2011

By copy of this letter we are advising all interested parties of the action of the
Court in this matter

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

DES/dmh

cc James B Richardson, Jr , Esquire
Tressa T H Hayes, Esquire
H Wesley Kirkland, Jr , Esquire
James Mixon Griffin, Esquire
Louis Levenson, Esquire
Matthew Day Bodman, Esquire
Max N Pickelsimer, Esquire
R Wayne Byrd, Esquire
Robert N Rosen, Esquire
T Heyward Carter, Jr , Esquire
S Alan Medlin, Esquire
David L Michel, Esquire
William Joseph Barr, Esquire
Albert P Shahid, Jr , Esquire

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

RECEIVED

MAY - 6 2011

S.C. Supreme Court

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

v

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

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

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

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

**MOTION TO SUPPLEMENT THE RECORD PURSUANT TO
RULE 212(b), SCACR, OR IN THE ALTERNATIVE, TO TAKE JUDICIAL
NOTICE OF RECORDS FILED IN A RELATED PROCEEDING**

TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE
SOUTH CAROLINA SUPREME COURT

Respondents respectfully request that this Court supplement the record of this appeal to include (1) Internal Revenue Service (“IRS”) Federal Estate tax records that were received by Respondents after filing their initial brief on December 22, 2010, and that are related to the date of death valuation of the estate and the tax consequences of the settlement agreement and (2) the Supplemental Inventory and Appraisal of the James Brown Estate (“Estate”) related to the date of death valuation and appraisal of assets for the Estate. In the alternative, this Court may take judicial notice of these documents as they were filed in the probate court or issued by the IRS in related proceedings.

FACTUAL BACKGROUND

This appeal presents a unique situation: it concerns an ongoing estate and trust that are continuing to be administered in the normal course of estate and trust administration, and matters relating to their ongoing administration are relevant to this appeal. Although the documents that Respondents seek to include in the record had not been prepared and were thus not available when the circuit court issued its May 26, 2009 Order approving the Settlement Agreement, the Supplemental Inventory and Appraisal should properly be considered in this appeal as it was filed as required by the South Carolina Probate Code in the ongoing probate proceeding, and the IRS tax records should properly be considered because they were created as a result of an independent IRS audit of the Estate.

The Supplemental Inventory and Appraisal and IRS tax records refute factual assertions that the Appellants make to support their legal positions before this Court. Because these documents provide *support* to the circuit court’s decision to approve the settlement agreement, their inclusion in the record would neither undercut the circuit court’s decision, nor hamper appellate review of it. *Cf. Queen’s Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*,

368 S C 342, 373, 628 S E 2d 902, 919 (Ct App 2006) (“Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide [the Court] with a platform for meaningful appellate review ”)

ANALYSIS

In their brief, Appellants argue (1) that the settlement will cause serious tax problems for the James Brown Estate and Trust (the “Estate and Trust”), and (2) without the aid of a professional appraisal, Appellants contend that the combined Estate and Trust are worth roughly \$100 Million. Specifically, Appellants make the following misleading representations to this Court

Tax Consequences

- On page seven (7) of their brief, Appellants state that “the settlement would cause the loss of the estate tax deduction, resulting in about 50% taxes and interest ”
- On pages thirty-eight to thirty-nine (38–39), Appellants devote a section of their brief to argue that the settlement will cause serious tax problems. They note that the “settling parties offered no evidence to refute the evidence of a likely tax disaster. Instead, their counsel reassured the court that they were ‘dedicated’ to preventing it ” *Id.* at 39

Valuation

- On page five (5), footnote five (5), of their brief, despite never having obtained a professional appraisal, Appellants state that the late James Brown’s assets have been valued at roughly \$80–120 Million
- On page thirty-two (32) of their brief, Appellants note that the trust could be funded with \$100 Million

See Final Brief of Appellants at pp 5, 7, 32, 38-39

Following the circuit court’s approval of the Settlement Agreement and after Appellants entered their notice of appeal, Russell L. Bauknight (“Mr. Bauknight”) engaged a nationally recognized firm to conduct the valuation and appraisal of the Estate and Trust. This is the first

professional valuation and appraisal of the James Brown music assets since James Brown passed away on Christmas Day 2006. The valuation and appraisal work is now complete. As required by S.C. Code Ann. § 62-3-706, Mr. Bauknight filed the Supplemental Inventory and Appraisal at the Aiken County Probate Court (Supplemental Inventory and Appraisal, Appendix R pp. 1-6). To protect the Estate and Trust, Mr. Bauknight filed the Supplemental Inventory and Appraisal under seal.

Furthermore, following the circuit court's approval of the Settlement Agreement and after Appellants entered their notice of appeal, the IRS continued to conduct an independent audit involving the valuation of the James Brown Estate and Trust. The IRS Auditors reviewed all estate tax issues surrounding the James Brown Estate and Trust, including the tax consequences of the subject Settlement Agreement. The Respondents received the IRS Proposed Estate Audit Examination Report ("IRS Audit") on December 27, 2010. (IRS Proposed Estate Audit Examination Report, Appendix R pp. 7-11). Respondents and the IRS agreed to all adjustments concerning the IRS Audit, and the Respondents received the Final IRS Estate Closing Letter ("Closing Letter") on January 31, 2011.¹ (Final IRS Estate Closing Letter, Appendix R pp. 12-15). As noted above, the Respondents received each of these documents *after* filing their initial brief on December 22, 2010.

As noted in the IRS Audit, after reviewing the settlement agreement, the IRS specifically concluded that, pursuant to the Internal Revenue Code, the charitable deduction applied and that "[t]he charitable deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009." (Appendix R p. 11). Further, the IRS

¹ Because Appellants filed the initial tax return that was subject to the audit, the IRS as a matter of course separately notified the prior fiduciaries that the incorrect estate valuation had been corrected and that the audited return had been accepted. (Appendix R pp. 13-14). Appellants have since informed Respondents that they disagree with the IRS Final Closing Letter.

Audit found that the marital deduction applied “[t]he marital deduction has been calculated in accordance with the Settlement Agreement dated August 10, 2008, as amended March 3, 2009 ” (Appendix R p 10) Respondents argued in their brief that this deduction would apply and that it favored a finding that the Settlement Agreement was *just and reasonable* Final Brief of Respondents, at 35-36 (The tax return previously filed by Appellants did not seek the marital deduction) Finally, as noted in the Closing Letter, the Settlement Agreement resulted in zero tax liability to the Estate (Appendix R pp 13-14)

The IRS Audit and Closing Letter show that the IRS rejected Appellants’ contention that the settlement agreement will cause additional tax liability, but instead, that the Estate is owed a \$10,000 federal tax refund due to Appellants’ overpayment (R p 2760 (Estate Accounting filed by Appellants, first entry on the page “US Treasury – payment towards Estate Taxes \$10,000”), (Appendix R p 7 (“The report, though not final, shows that the estate is entitled to a refund ”), (Appendix R pp 12-15 (adopting audit, accepting return, and making final determination that no estate taxes are owed “0 00 ”)) Additionally, these documents further underscore Respondents position that the Appellants are not professional fiduciaries and are ill-equipped to manage the Estate and Trust

The Supplemental Inventory and Appraisal, the IRS Audit, and the Closing Letter reveal that on the date of death, the James Brown Estate and Trust were actually valued at roughly \$6.5 Million² Referring to the intellectual property—royalty interests, reversion rights, etc —the IRS Audit revealed that, “[v]aluation of these interests was corrected to fair market value based

² The Supplemental Inventory and Appraisal accounts for only probate assets, it does not include the home of the late James Brown that is valued at roughly \$1.2 Million That is the case because at the date of his death, the Trust owned the home and trust assets are not considered probate assets (The Trust still owns the home) The date of death, gross estate value reported to the IRS included the home, as both probate and non-probate assets must be reported for tax return purposes Accordingly, the Estate and Trust were valued at roughly \$6.5 Million (Appendix R p 10)

upon expert opinion and financial analysis”—that is, the independent professional appraisal authorized by Mr. Bauknight, as audited and accepted by the IRS (Appendix R p. 9). Consequently, the IRS rejected Appellants’ prior inexperienced notion that James Brown’s royalty interests and reversion rights were worth approximately \$84 Million dollars. Accordingly, the date of death valuation of these taxable interests was corrected from \$84 Million to \$4,697 Million³ (Appendix R p. 9). This IRS finding, based upon its own independent review and valuation, directly and incontrovertibly refutes Appellants’ contention that (1) the Settlement Agreement will cause the Estate to lose the charitable deduction, (2) that the Settlement Agreement creates additional tax liability, and (3) that on the date of death the Estate was worth \$80-120 Million dollars. Absent the inclusion of the Supplemental Inventory and Appraisal, the IRS Audit, and the Closing Letter, the Court is left with a factual and legally inaccurate probate and circuit court record.

Although these documents were not presented (could not be presented) to the circuit court because they did not exist at that time, this Court should consider the evidence. *See CSX Transp. Inc. v. City of Garden City*, 235 F.3d 1325, 1330 (11th Cir. 2000) (noting “the inherent equitable power to allow supplementation of the appellate record if it is in the interests of justice”), *see also In re AOV Indus. Inc.*, 797 F.2d 1004, 1012 (D.C. Cir. 1986) (“Normally, of course, [courts] are not required to consider evidence presented for the first time on appeal [but] [i]t is within the discretion of the court, however, to make limited exceptions to this

³ While this figure may appear low, it is the date-of-death value that controls for purposes of the Federal estate tax return and the probate inventory and appraisal. Furthermore, this final figure accurately accounts for the debts of James Brown including the outstanding bond executed by Mr. Brown during his lifetime whereby he exchanged the rights to his royalty stream for a lump sum payment of \$26 Million. Once the bond debt is retired, the royalty stream will flow to the Settlement Entity where it will be apportioned among the settling parties—which includes the charitable trust that will fund scholarships to needy children attending schools in South Carolina and Georgia.

rule when ‘injustice might otherwise result ’’ (citing and quoting *Singleton v Wulff*, 428 U S 106, 121 (1976)) Here it would appear unjust for this Court to rely on Appellants’ assertion that the Settlement Agreement will cause additional tax liability to the Estate when the IRS has clearly rejected that contention Accordingly, these documents are relevant to the current appeal, as they are official records of the Estate that contradict Appellants’ misleading valuation and tax assertions contained within their brief

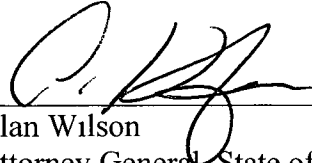
CONCLUSION

As the IRS has independently concluded, the Settlement Agreement does not create additional tax liability to the James Brown Estate In fact, the Settlement Agreement has reduced the tax liability to the James Brown Estate Due to the nature of the underlying proceedings, the ongoing probate record on which Appellants’ base their appeal must be considered Absent a complete record, this Court does not have an accurate picture of the underlying probate proceeding As a result, Appellants may inequitably benefit through their own fiduciary inaction in failing to properly value the Estate and in turn claiming a right to receive a \$5 Million dollar commission⁴ based upon their prior unsubstantiated position that the Estate was worth \$80-120 Million

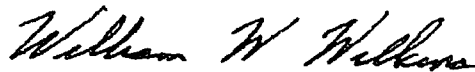
Alternatively, Respondents would respectfully request that this Court take judicial notice of these records for they were filed in a lower court or issued by the IRS in a related proceeding *See Ins Comm n of S C v New S Life Ins Co* , 270 S C 612, 635–36, 244 S E 2d 289, 301 (1978) Furthermore, pursuant to Rule 208(b)(7), SCACR, because the IRS Audit and Closing Letter were received after Respondents filed their initial brief, it would appear appropriate for this Court to recognize the IRS records as supplemental authority to Respondents’ brief

⁴ Appellants are presently pursuing a \$5 Million dollar fee petition against the Estate and Trust based upon their incorrect representation that the Estate and Trust was worth approximately \$80-120 Million (R pp 2879 80)

Respectfully submitted,



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as the Special Administrator and Special Trustee
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Motion denied



In the Court

July 7, 2011

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May 6, 2011

Columbia, South Carolina

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May 6, 2011

Columbia, South Carolina

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

RECEIVED

MAY - 6 2011

S C Supreme Court

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

v

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

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

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

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

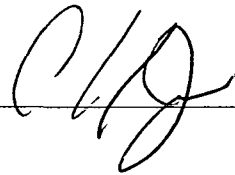
PROOF OF SERVICE

The undersigned certifies that a copy of **RESPONDENTS' MOTION TO SUPPLEMENT THE RECORD** has been served upon counsel of record by depositing a copy of the same, first-class postage prepaid, in the United States Mail, on the 6 day of May, 2011, to the address shown below

James B Richardson, Jr , Esquire
1229 Lincoln Street
Columbia, SC 29201
(803) 799-9412

Tressa T H Hayes, Esquire
Post Office Box 7346
Asheville, North Carolina 28802

May 6, 2011



A handwritten signature in black ink, appearing to read "T.H. Hayes", is written over a horizontal line.

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

RECEIVED

MAY 27 2011

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

S C Supreme Court

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

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

v

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

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

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

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

**APPELLANTS' RETURN AND OPPOSITION TO RESPONDENTS' MOTION
TO SUPPLEMENT THE RECORD**

Appellants oppose the motion of some of the respondents to supplement the record. The proposed supplement is forbidden by Rule 210(c), SCACR,¹ since the proposed content not only was not presented to the lower court but did not exist when the matter was heard. Additionally, the proposed supplement contains material which is irrelevant to this appeal. Moreover, this material should not be included in the record because it indicates a sensational revelation regarding the value of the assets of James Brown's Estate and 2000 Trust which has not been tested in any Court or supported by any sworn testimony. Further, the assertions made in these materials regarding the value of James Brown's assets conflict with all evidence before Judge Early on May 26, 2009, which evidence was uncontradicted by anything these respondents had to offer the court at that pertinent time.

Included in the material presented by the respondents for late inclusion in the Record is a proposed estate tax return adjustment issued by the IRS on December 23, 2010. Respondents served their initial brief and designation of matter one day earlier. Obviously, the respondents had proffered to the IRS the purported valuation on which the adjustment is based but failed to propose its inclusion in the Record. The IRS's final adjustment, also included in respondents' proposed supplement to the record, bears a date of January 27, 2011. This was several days before the appellants served their reply brief and more than two months before the completion of the record on appeal. The respondents should not be allowed to sandbag these sensational

¹ "The Record shall not, however, include matter which was not presented to the lower court or tribunal." See, e.g., *Norris v. Ferre*, 315 S.C. 178, 432 S.E.2d 491 (Ct. App. 1993).

assertions until after the final briefs and Record on Appeal have been filed

The moving respondents assert that a closing letter obtained by respondent Bauknight based on a still-undisclosed 2010 appraisal will show that the value of Brown's assets was previously overstated by a factor of roughly fifteen ²

They suggest that respondent Bauknight's inventory filed on May 4, 2011 — four years and four months after Mr. Brown's death — will prove that all of the decedent's former fiduciaries and many others who valued Brown's music empire at \$84,000,000 or more were overstating its value by roughly fifteen times [Proposed Appendix, p. 9]

They assert that an IRS closing letter based on respondent Bauknight's appraisal and representations, none of which has been aired in any court, prove that the assets in Brown's estate and the James Brown 2000 Irrevocable Trust are worth only about \$6.5 million.

They suggest that these documents will refute the formerly undisputed record which shows the settlement approved by the circuit court will transfer roughly fifty million dollars from Mr. Brown's intended beneficiaries to persons he intentionally disinherited from his music empire ³

They suggest that the new documents will render meaningless respondent Terry

² An IRS closing letter states only that it is evidence that the Federal Estate Tax Return, either as filed or after adjustment, has been accepted, and that the case will not be reopened or examined unless you notify us of changes to the return or there is (1) evidence of fraud, malfeasance, collusion, concealment, or misrepresentation of a material fact, (2) a clearly defined substantial error based upon established Internal Revenue Service position, or (3) a serious administrative error. (See Revenue Procedure 2005-32, 2005-1 Cumulative Bulletin 1206) [Proposed Appendix pp. 13–14]

³ See, for example, R. pp. 2109, 2110, 2135, 2136, 2575, 2629 n. 1, 2633, and 2634.

Brown's own offers along with others, to purchase the Brown assets for \$92– \$102 million ⁴ [R pp 487, 492]

They ask this Court to accept a still-undisclosed appraisal never presented to or tested in any court, and its product — the closing letter — as proof that fiduciaries family members, investors and advisors have all been wrong for four years about the value of the Brown assets, and that the following assets are worth less than \$5 million

- 1 Brown's Publicity Rights (Image/Persona),
- 2 Browns' royalties related to more than 800 published and unpublished songs,
- 3 Brown's 51% interest in Geronimo, LLC, and in other publishers of his songs,
- 4 Brown's \$12+ million claim against Albert Dallas, David Cannon and others for misappropriations between 1999 and 2007 [Proposed Appendix, pp 4, 9, R pp 2137, 2624, 2637]

They suggest that these documents will negate the more than one hundred references in the record which support the following facts about Brown's assets and income

- 1 Brown's music has been valued at between \$80 million and \$150 million

⁴ The moving respondents include Terry Brown, who has a first right of refusal to purchase James Brown's assets Respondent Brown asks the Court to supplement the record with documents which he asserts will prove that James Brown's worldwide music empire was worth \$4,679,738 at his death [Respondents' Proposed Appendix, p 9] Terry Brown was a joint venturer in two of the three offers made by the Cox investor group and TJBL LLC Terry is represented by Atlanta law firm Powell Goldstein (now Bryan Cave) which, since Brown's death, has represented Dallas, Cannon, Forlando, TJBL, and Terry [R p 262] In one of the extraordinary twists and turns of the James Brown cases David Bell, Esquire, a Georgia lawyer, actively participated in this case at the trial level without being admitted *pro hac vice*, simultaneously representing Forlando — who values the assets at \$150 million — and Terry, who now asserts they were only worth \$6.5 million

by Brown's fiduciaries, family members, experts and investors ⁵

5

- a In June 2007, and again in November 2007 under oath, branding expert Dr Terry Cox set the value of the James Brown assets at between \$86 million and \$110 million. He broke those down into
- | | |
|-----------------|--|
| Image/Likeness | \$40 million – \$50 million |
| Music Catalogue | \$36 million – \$ 45 million (Industry standard is 12–15 times annual revenue) |
| Property | \$10 million – \$15 million |
| TOTAL | \$86 million – \$110 million [R p 466] |
- b In October 2007, Dr Cox was part of the investment entity to be formed (later TJBL, LLC) which made a \$90 million – \$100 million offer to former PR/Trustees Dallas and Bradley to purchase the Brown assets
- c On November 15, 2007, former PRs Dallas and Bradley, represented by Stan Jackson, a business professor, filed their Inventory and Appraisement, setting the value of Brown's assets at \$85,663,562.99 [R p 2672]
- d In November 2007, appellants moved the circuit court to approve the valuation of Brown's royalties [Music Catalogue] on the estate tax return under a formula based on about twelve times annual royalties of about \$3 million
- e On November 20, 2007, Judge Early asked AG McMaster and others to present any objection to the proposed royalty valuation method [Tr Hg 11/15–20/07, pp 307–08]. No objection was made.
- f On November 20, 2007, Dr Cox testified about his \$100 million offer. No question was made about its *bona fides*. The only objection raised was the investors' perceived willingness to give Cannon and Dallas the options or 'kickback' they were demanding. Dr Cox testified that the valuation of royalties was easy, and based on a multiple of earnings [R pp 2038–40]
- g In February and March 2008, Cox/Terry made additional offers [R pp 484, 487, 2176]

See also, for example, R pp 1414, 1417, 1420, 1424, 1458, 1759, 2147, 2176, 2672, and 2502

- 2 Brown earned about \$8 million per year for the 3 years before he died ⁶
- 3 Three proposals to purchase Brown's assets for \$90 – \$102 million meet the IRS definition of "fair market value" as what a willing buyer would pay a willing seller, neither under compulsion to buy or sell, and both with knowledge of relevant facts

Had the respondents disclosed the appraisal when they received it, appellants would have had the opportunity to discuss the valuation in their briefs. They could have argued that respondent Bauknight's actions, coupled with respondent Terry Brown's right to purchase the Brown assets, threaten to reduce the "I Feel Good" Trust from the \$80 million Brown set aside for needy and deserving students to less than \$1 million, as follows

a	To Brown's disinherited companion (18.96%)	\$1,128,775
b	To children and claimed children Brown specifically excluded from his music empire (4.79% x 7)	\$2,000,390
c	To the Family Education Trust, as rewritten by AG McMaster	\$2,000,000
d	To The James Brown "I Feel Good" private foundation (47.5% LESS \$2 Million) [Proposed Appendix, p 10, R pp 2364, 2390]	\$827,292 ⁷

Moving Respondents Failed Timely to Produce the Documents

In August 2010 certain respondents notified the Court that respondent Bauknight

⁶ From 2003 to 2006, Brown earned \$18 million in revenues from his road shows and about \$3 million per year in royalties from his more than 800 published and unpublished songs. [R p 141]

⁷ These documents reveal that the IRS allowed a charitable deduction of \$2,827,292, but do not reveal whether respondent Bauknight disclosed that \$2 million of that 47.5% is paid from the "I Feel Good" Trust to the private, non-charitable education Trust.

had reviewed a draft appraisal which would demonstrate that the James Brown assets were worth less than \$12 million at his death. These respondents stated that the final appraisal was expected within a few weeks. The appraisal to which respondents alluded in August 2010 has never been disclosed.

Over the next three months final briefs were filed and the record assembled, including a supplemental record requested by respondents. Respondents made no reference to the 2010 appraisal, the December IRS adjustment proposal, or the January 2011 closing letter as pertinent to the record.⁸

On May 3, 2011 — one day after the final briefs were filed — respondent Bauknight prepared a sworn inventory, to be filed in the Probate Court for Aiken County, asserting that Brown's royalty interests, persona, image, likeness, and other intangibles, etc., were worth only \$4,697,736.60 [Proposed Appendix, p. 4].

This information is not new, it proves none of the assertions contained in the motion to supplement the Record, and it is prejudicial in that it seeks to deprive

⁸ Respondents, with the under-\$5 million appraisal of Brown's music empire in hand for three months or more, failed in their initial brief filed December 22, 2010, to challenge appellants' assertion that it appeared Brown had created possibly South Carolina's largest individual private foundation dedicated solely to educating the needy, or the accompanying footnote 5, which stated

The Estate/Trust's original tax counsel valued James Brown's assets at \$80 – \$120 million, with at least \$20 million already in the 2000 Trust [E-mail from Hammond to Jones, dtd 11/27/07]. On June 15, 2008 Atlanta investor and branding executive Dr. Terry Cox estimated the total value at about \$100 million, with \$40 – \$50 million assigned to publicity rights (image/likeness) and \$36 – \$45 million to royalties for Brown's more than 800 published and unpublished songs [R pp. 462-70].

Appellants' Brief, p. 5 n. 5

appellants of the opportunity to explore the origin, procurement, accuracy, and effect of this shocking valuation

If subsequent valuation information is required, the case should be remanded

The previously undisputed record on appeal shows that the value of Brown's assets is between \$80 and \$150 million

Should the Court decide that consideration of this appeal requires evidence outside the record before the circuit court, appellants respectfully request that the matter be remanded to the circuit court for a full evidentiary determination of the value of the James Brown assets and the impact thereof upon the proposed settlement

Respectfully submitted,

James B Richardson, Jr
1229 Lincoln Street
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(803) 799-9412

Tressa T H Hayes
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(803) 603-8583

by James B. Richardson, Jr.
Attorneys for Appellants

May 26, 2011

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

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

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

v

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

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

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

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

CERTIFICATE OF SERVICE

The undersigned certifies that he served a copy of the appellants' return to the
respondents motion to supplement record upon the respondents by first class mail
postage prepaid addressed to their respective attorneys signing the motion, namely

Attorney General Alan Wilson
Deputy Attorney General Robert D Cook

RECEIVED

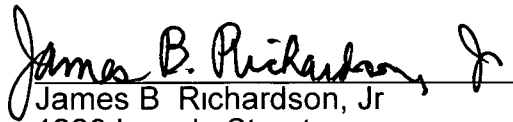
MAY 27 2011

SC SUPREME COURT

Senior Assistant Attorney General C Havird Jones
Assistant Attorney General J C Nicholson, III
Assistant Attorney General Mary Frances Jowers

William W Wilkins, Esq
J David Black, Esq
Fred L Kingsmore Jr Esq

addressed to them at their respective addresses of record, on May 26, 2011


James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

May 26, 2011

Attorney for Appellants

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

RECEIVED

JUN - 3 2011

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

S C Supreme Court

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

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

v

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

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

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

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

RESPONDENTS' REPLY TO THE MOTION TO SUPPLEMENT THE RECORD

Respondents respectfully submit the following Reply to the Appellants' Return in Opposition to the Motion to Supplement the Record Appellants oppose Respondents' Motion to

Supplement the Record arguing that the documents Respondents seek to include in the record are neither relevant nor reliable. For the reasons stated below, they are incorrect in both respects.

In their Return, Appellants took the opportunity to make arguments that are not relevant to the issue presented by Respondents' Motion. Those arguments are countered in this Return so that the record in this appeal is complete and correct.

I

RELEVANCE OF IRS RECORDS

Appellants contend that "the proposed supplement contains material which is irrelevant to this appeal" (Appellants' Return, at 2). They make this assertion even though they argue in their final brief that the Settlement Agreement is not just and reasonable, as contemplated by S.C. Code Ann. § 62-3-1102, because it would create "disastrous" and "catastrophic" tax consequences for the Estate. (Final Brief of Appellants, at 38-39). The IRS records tell a different story¹, they show that the Settlement Agreement does not negatively impact the Estate. In fact, the IRS tax records reveal that the Settlement Agreement benefited the Estate in that it no longer owes any federal estate taxes. Moreover, the IRS records show that the Estate's charitable deduction was not impacted by the Settlement Agreement and further, that the Estate was able to favorably utilize the marital deduction because of the Settlement Agreement. All of this reveals that Appellants' assertions in their brief regarding the alleged negative tax consequences that would flow from the Settlement Agreement are patently incorrect. These official IRS documents are relevant to the current appeal, as they are records of the Estate that contradict Appellants' misleading valuation and tax assertions contained within their brief.

¹ Appellants assert they were "sandbag[ged]" with these documents, and suggest that if they had received the information they could have included it in their brief. The IRS mailed its closing letter to Appellants on January 27, 2011 (they received a copy because they filed the initial tax return) (Appendix R pp. 13-14). Respondents received the closing letter on January 31, 2011. Appellants mailed their reply brief on February 1, 2011 (it was signed on February 2). Appellants chose not to respond. Regardless, they have used their Return to respond.

RELIABILITY OF IRS RECORDS

Appellants challenge the reliability of the appraisal upon which the tax records were based, stating that it has not been “tested in any court ” (Appellants Return, at 4) Appellants intimate that the appraisal is not legitimate This intimation, however, rests upon two false premises (1) that the IRS would accept an illegitimate appraisal that reduced the tax liability of the Estate, and (2) that the negotiation of tax liability with the IRS is not an adversarial proceeding The IRS has accepted the date of death valuation of the assets, it has the final word in this matter

The Court should supplement the record on appeal to include the IRS tax records, and the Supplemental Inventory and Appraisement These documents were generated in the ongoing course of the Estate administration They speak directly to Appellants’ argument that the Settlement Agreement was not just and reasonable In the alternative, the Court may take judicial notice of these documents as they were filed in a related proceeding

II

The Respondents moved to supplement the record on appeal, in part, to clarify that the asset valuation figures tossed around by the Appellants were not based upon a due diligence analysis of the assets—such as an appraisal, for example In their Return, Appellants do not dispute that they never conducted an appraisal but instead seek to convince this Court that their asset valuation was credible While asset valuation has little if any bearing upon the question presented in this appeal—whether the Settlement Agreement was just and reasonable pursuant to S C Code Ann § 62-3-1102—the remainder of Respondents’ Reply will nevertheless address Appellants’ irrelevant valuation argument in order to set the record straight

VALUATION OF THE ASSETS

Appellants argue that “the assertion made in these materials regarding the value of James Brown’s assets conflict with all evidence before [the circuit court] on May 26, 2009 ” (Appellants Return, at 2) This line of argument leads the reader to believe that asset valuation was a central feature of the circuit court’s decision to approve the Settlement Agreement It was not

Not once did the circuit court order approving the Settlement Agreement address asset valuation (R pp 9-53) Rather, the circuit court was interested in the percent allocation of the assets² among the parties to determine whether the allocation was just and reasonable—which the circuit court concluded it was (R pp 22-23, 43-45) Appellants’ myopic focus on asset valuation can only be explained, then, by one fact their nearly \$5 Million personal representative fee petition (R pp 2879-80) If the valuation of the assets asserted by the Appellants falls, then their fee petition and credibility falls with it As explained below, the valuation asserted by the Appellants is based upon pure speculation and unsupported by their own citations to the record

DATE OF DEATH VALUATION

Appellants never acknowledge the distinction between the date of death value of the assets and the unencumbered value of the assets This distinction is critical The Internal Revenue Code requires that the executor of a decedent’s estate determine the value, at the time of the decedent’s death, of all of his assets wherever situated This valuation, which is commonly known as the date of death value or estate tax value, is a snap-shot value of the decedent’s assets as of the date of death, it is determined by taking into account all factors that impact the value of the decedent’s assets, including, but not limited to, transfer restrictions, debt,

² Pursuant to the Settlement Agreement each settling party owns a percent interest in the Settlement Entity that holds and manages all of the late James Brown’s assets (R pp 22-23 (order approving settlement agreement))

illiquidity, income amounts, and current market conditions

The date of death value should not be considered a static value, as the assets could increase or decrease in value with the passage of time, changing market conditions, the marketing of the assets, and many other factors, including as in this case, paying off the \$26 Million loan given to James Brown during his lifetime in exchange for his royalty stream. Accordingly, Appellants claim that the charitable trust will receive less than \$1 Million is grossly misleading (Appellants Return, at 6). Over the past two years, under Russell Bauknight's watch, the current value of the Estate and Trust has increased significantly. The charitable trust will not be funded by a sale of the assets based upon their date of death value, because no such sale will take place. The vast majority of monies that will flow to the charitable trust will come from the revenue stream generated by the intellectual property assets, and that revenue stream will last until the assets have no commercial value.

The charitable trust will receive roughly half of the income that can be generated by the trustee and individuals he hires to market the assets in perpetuity. Make no mistake, James Brown created a lasting legacy to the education of underprivileged children and young adults attending schools in South Carolina and Georgia. And that lasting legacy will endure.

NO ONE EVER MADE AN OFFER

In an attempt to defend their valuation of the assets, Appellants state that "offers" (in the contract law meaning of that term) were made to them for the purchase of the assets. Their argument is that any offer made by a willing buyer in the open market is strong evidence for what an asset is worth because no buyer would make an offer to purchase an asset unless he had previously evaluated its worth—that is, having already conducted his own due diligence. The argument is inapplicable here, however, because no one ever made an offer. To be clear, from the date of James Brown's death until Russell Bauknight was appointed PR/Trustee no one

conducted any due diligence to determine the value of the assets. Every valuation Appellants rely upon is nothing more than speculation.

Appellants have misrepresented to this Court that “offers” were made to the Estate and Trust to buy its assets. “[O]ffers [were made] to purchase the Brown assets for \$92-\$102 million” (Appellants Return, at 4), “In October 2007, Dr. Cox was part of the investment entity to be formed which made a \$90 million - \$100 million offer to purchase Brown’s assets” (Appellants Return, at 5 n 5 b), “On November 20, 2007, Dr. Cox testified about his \$100 million offer” (Appellants Return, at 5 n 5 f), “In February and March 2008 additional offers [were made]” (Appellants Return, at 5 n 5 g).

Dr. Terry Cox is a branding strategy specialist. Cox testified that he is “someone who develops business and branding strategies and has the ability to take those strategies and implement them” (R. p. 2038, lines 10-12). Cox was a member of a group that initially expressed an interest in exploring the purchase of James Brown’s assets following his death.

The first example of Cox’s purported offers may be found at record page 2175-76. This is an October 12, 2007 letter of intent from Cox’s group to the original trustees. The letter states that it is their intent to “purchase the assets, in their entirety, to include the writer’s share of the music, the songbook, all intellectual property, real estate, personal property such as costumes, etc., Mr. Brown’s image and persona, individually and as an entertainer to include all indicia, stage names as ‘Godfather of soul’, ‘The hardest working man in show business’, etc.” (R. p. 2176, (1st full paragraph)). They go on to speculate that the purchase price will be \$100 Million.

Cox’s group explicitly required a due diligence period, however. “By the end of the first 90 days following tentative approval, if [the] due diligence warrants proceeding further, [we] will make a payment of \$5 million to be credited toward the purchase price at closing” (R. p.

2176 (4th full paragraph)) The letter goes on to state that, “this letter of intent is subject to due diligence by us and our agents ” (R p 2176 (6th full paragraph)) That was as far as the Cox group went with the original trustees No due diligence occurred, and no offer was ever tendered

The next example of his purported offers may be found at record page 487 This is a letter of intent from Terry Cox to Appellants dated March 27, 2008 In his letter of intent he speculates that the “purchase price of the assets will be between \$90,000,000 and \$100,000,000

[but that] all depend[s] on the outcome of our due diligence described below ” (R p 487 (3d paragraph)) He further states that the “purchase price assumes clear title to the Assets and that the sale will be on a debt free and lien free basis ” *Id* As noted above, the assets were not debt free and remain encumbered today

Cox goes on to outline the due diligence process “We anticipate we will need a period of 90 days for due diligence, if all required information and people who have had influence on the assets are available Our due diligence will focus on a review of all of the Assets, including, but not limited to, a legal review of all intellectual property and rights, all contracts and agreements, all litigation and an accounting review of the financial statements of JBE^[3] for the last 3 complete fiscal years ” (R p 488) Finally, Cox states that this “letter of intent shall not create any binding obligation on the part of any of the parties hereto to enter into the Definitive Agreement or to effect the proposed acquisition or any other transaction regarding the assets ” (R p 489) Again, no due diligence occurred, and no offer was ever tendered

The 2007 and 2008 letters of intent are not “offers” to purchase James Brown’s assets Further, these letters are as far as Cox’s group ever proceeded in seeking to purchase the assets

³ JBE stands for James Brown Enterprises, Inc , that company owns the vast majority of his copyrights James Brown was the controlling shareholder of the company, now his Estate is the controlling shareholder

No one ever engaged in the due diligence process outlined above to determine a proper purchase price

Appellants' contend that the assets are worth between \$90 and \$102 Million, despite Cox's speculative estimate of \$90-\$100 Million. The \$2 Million discrepancy is Cox's inaccurate estimate of the personal and household effects of James Brown—his capes and other regalia. At record page 492 there is a letter from Cox to Appellants dated April 15, 2008. It addressed the sale of the late James Brown's personal and household effects. Appellants petitioned the circuit court for permission to sell this iconic property because the Estate and Trust were (in their words) in "jeopardy" and needed funds. (R. p. 983 ¶ 13 ("Complaint for Declaratory Judgment and Related Relief Including Expedited Emergency Relief" wherein Appellants sought permission to sell the iconic property)). The circuit court granted the petition. (R. pp. 149-56). It is true that Cox used the term "offer" in the April 15, 2008, letter found at record page 492. But the context of the letter was his disappointment that Appellants had already decided to split up and sell the iconic property through an auction at Christie's in New York City and not to him. Further, Cox referenced the basis for the offer as previous letters of intent.

One of the previous letters of intent is found at record page 484. It is a March 27, 2008 letter of intent wherein Cox states that the "purchase price of the Assets will be \$2 million." (R. p. 484). Like Cox's companion March 27, 2008 letter to purchase the intellectual property assets, this letter of intent contained language making clear that it was not an offer. For example, "This letter of intent shall not create any binding obligation on the part of any of the parties hereto to enter into the Definitive Agreement or to effect the proposed acquisition or any other transaction regarding the Assets." (R. p. 485 (3d full paragraph)).

Ultimately the Christie's sale produced only \$554,077.87. (R. pp. 2758-59, 2761, 2763).

(note entry of “receipts,” *e g* , 8/25/08 \$463,326 12)) Accordingly, the actual fair market value of the iconic property turned out to be roughly 25% of what Cox stated in his letter of intent Cox’s overvaluation by a factor of four undermines any reliance on the estimates he placed in his letters of intent Appellants’ insistence that these letters represent the proper valuation is simply not credible

Appellants finally contend that “[t]hree proposals to purchase Brown’s assets for \$90-\$102 Million meet the IRS definition of ‘fair market value’ as what a willing buyer would pay a willing seller, neither under compulsion to buy or sell, and both with knowledge of relevant facts” (Appellants Return, at 6 (emphasis added)) In their brief, appellants do not cite examples of the three proposals But it is safe to say that their reference to \$90-\$102 Million is a reference to the “offers” discussed above And as noted above, those purported offers expressly required a due diligence review of the assets—that is, due diligence to gain “knowledge of relevant facts”—and therefore do not qualify under Appellants own definition of “fair market value” The bottom line is that no one ever conducted any due diligence to determine the value of the assets

At the date of James Brown’s death, the intellectual property assets of his Estate were worth roughly \$4 7 Million As noted, this figure accounted for the huge debt burden Once the debt is repaid, the royalty stream from James Brown’s intellectual property will begin to fund the education of underprivileged children and young adults all over South Carolina and Georgia

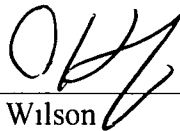
III

CONCLUSION

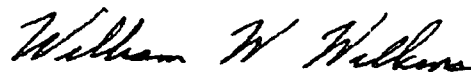
The proposed supplement to the record on appeal contains relevant information that will help this Court determine that the circuit court approved Settlement Agreement comports with S C Code Ann § 62-3-1102 Appellants’ opposition to the supplement is simply an attempt to

appear credible regarding their fee petition. The basis for their valuation argument has been shown to be groundless. The documents addressing the positive tax consequences from the Settlement Agreement and the date of death valuation should be considered by this Court.

Respectfully submitted,



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Senior Assistant Attorney General
Robert D. Cook
Assistant Deputy Attorney General
J. C. Nicholson, III
Assistant Attorney General
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the Court-Appointed Trustee of the James Brown
2000 Irrevocable Trust and Personal
Representative for the Estate of James Brown and
as the Special Administrator and Special Trustee*

*for the Estate of James Brown and the James Brown
2000 Irrevocable Trust*

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*Attorneys for James Brown Children and
Grandchildren Daryl J Brown Individually and on
Behalf of His Minor Children Lindsey Delores
Brown and Janise Vanisha Brrown, Deanna J
Brown Thomas Individually and on Behalf of her
Minor Child 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*

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*Attorney for Stephen M Slotchiver, Guardian ad
Litem for James Brown II*

June 3, 2011

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

RECEIVED

JUN - 3 2011

S.C. Supreme Court

The Honorable Doyet A Early, III, Circuit Court Judge

Case No 2008-CP-02-1647

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

v

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

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

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

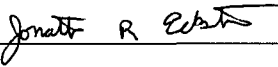
In re The Estate of James Brown and The James Brown 2000 Irrevocable Trust u/a/d/
August 1, 2000

Certificate of Service

I hereby certify that this 3 day of June, 2011, I served a copy of the within Respondents' Reply to the Motion to Supplement the Record on all counsel of record by depositing a copy in the U S Mail and addressed as follows

James B Richardson, Esquire
1229 Lincoln Street
Columbia, South Carolina 29201

Tressa T H Hayes, Esquire
Post Office Box 7346
Asheville, North Carolina 28802





ALAN WILSON
ATTORNEY GENERAL

RECEIVED

JUN 3 2011

SC Supreme Court

June 3, 2011

The Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE The Estate of James Brown and the James Brown 2000 Irrevocable
Trust dated August 1, 2000

Dear Mr Shearouse

Enclosed for filing are the original and 6 copies of Respondents' Reply to the Motion to
Supplement the Record Also enclosed is the Certificate of Service

Very truly yours,

C H Jones, Jr
Senior Assistant Attorney General

cc
See attached Certificate of Service

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

May 26, 2011

Hon Daniel E Shearouse
Clerk of the Supreme Court
of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

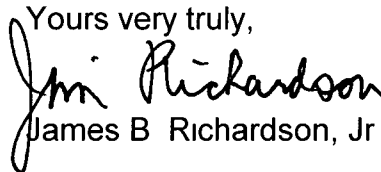
Re Wilson, Alan v Dallas, William
2008-CP-02-1647

Dear Mr Shearouse

Enclosed for filing is appellants' return to respondents' motion to supplement the record

Thanking you, I remain

Yours very truly,


James B Richardson, Jr

cc Senior Assistant Attorney General C Havird Jones
William W Wilkins, Esq
J David Black, Esq

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MAY 27 2011

SC SUPREME COURT
pm 5-26-11

The Supreme Court of South Carolina

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

Respondents,

v

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

Administrator and Special
Trustee for The Estate of James
Brown and The James Brown
2000 Irrevocable Trust, of
whom Robert L Buchanan, Jr
and Adele J Pope, as Personal
Representatives of the Estate of
James Brown and Trustees of
the James Brown 2000
Irrevocable Trust are,

Appellants,

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

Respondents

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

The Honorable Doyet A Early, III
Aiken County
Trial Court Case No 2008-CP-02-01647

ORDER

The request for an extension to serve and file the Reply to Return to Motion to Supplement the Record is granted and extended until June 3, 2011

IT IS SO ORDERED

JEAN H TOAL, CHIEF JUSTICE

BY Brenda L. Shealy
CLERK
Chief Deputy

Columbia, South Carolina

May 31, 2011

cc James B Richardson, Jr , Esquire
Tressa T H Hayes, Esquire
Senior Assistant Attorney General C Havird Jones
Assistant Deputy Attorney General Robert D Cook
Assistant Attorney General J C Nicholson, III
Assistant Attorney General Mary Frances Jowers
H Wesley Kirkland, Jr , Esquire
James Mixon Griffin, Esquire
Louis Levenson, Esquire
Matthew Day Bodman, Esquire
Max N Pickelsimer, Esquire
R Wayne Byrd, Esquire
Robert N Rosen, Esquire

T Heyward Carter, Jr , Esquire
S Alan Medlin, Esquire
David L Michel, Esquire
William Joseph Barr, Esquire
William W Wilkins, Esquire
Albert P Shahid, Jr , Esquire

J David Black
Member
Admitted in SC

May 27, 2011

VIA HAND DELIVERY

The Honorable Daniel E Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

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MAY 27 2011

SC Supreme Court

RE Alan Wilson, et al v Albert H Dallas, et al
Case No 2008-CP-02-1647

Dear Mr Shearouse

On May 6, 2011, the Respondents in the above captioned matter filed a motion to supplement the record on appeal. Because opposing counsel was out of the country, the time for filing a return was extended until May 26, 2011. Under Rule 240(f), SCACR, the Respondents are currently required to file their reply on May 31, 2010. In light of the upcoming Memorial Day weekend, the Respondents respectfully request an extension of time until June 3, 2011 in which to file their reply.

Thank you for your consideration of this request.

With kind regards, I remain

Very truly yours,



J David Black

JDB/hjr
Enclosure

cc

James B Richardson, Jr, Esquire
Tressa T H Hayes, Esquire

The Supreme Court of South Carolina

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

Respondents,

v

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

Administrator and Special
Trustee for The Estate of James
Brown and The James Brown
2000 Irrevocable Trust, of
whom Robert L Buchanan, Jr
and Adele J Pope, as Personal
Representatives of the Estate of
James Brown and Trustees of
the James Brown 2000
Irrevocable Trust are,

Appellants,

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

Respondents

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

The Honorable Doyet A Early, III
Aiken County
Trial Court Case No 2008-CP-02-01647

ORDER

The request for an extension to serve and file the Return to Motion to Supplement the Record is granted and extended until May 26, 2011

IT IS SO ORDERED

JEAN H TOAL, CHIEF JUSTICE

BY *Brenda J. Shealy*
Chief Deputy CLERK

Columbia, South Carolina

May 11, 2011

cc James B Richardson, Jr , Esquire
Tressa T H Hayes, Esquire
Attorney General Alan Wilson
Senior Assistant Attorney General C Havird Jones
Assistant Deputy Attorney General Robert D Cook
Assistant Attorney General J C Nicholson, III
Assistant Attorney General Mary Frances Jowers
H Wesley Kirkland, Jr , Esquire
James Mixon Griffin, Esquire
Louis Levenson, Esquire
Matthew Day Bodman, Esquire
Max N Pickelsimer, Esquire
R Wayne Byrd, Esquire

Robert N Rosen, Esquire
T Heyward Carter, Jr , Esquire
S Alan Medlin, Esquire
David L Michel, Esquire
William Joseph Barr, Esquire
William W Wilkins, Esquire
Albert P Shahid, Jr , Esquire

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

May 9, 2011

Hon Daniel E Shearouse
Clerk of the Supreme Court
of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RECEIVED

MAY 11 2011

Re Wilson, Alan v Dallas, William
2008-CP-02-1647

S.C SUPREME COURT

Dear Mr Shearouse

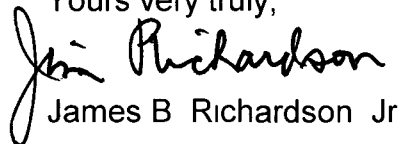
On May 6th the respondents served by mail a motion, received today, to supplement the record. The motion was filed by Mr Jones, Mr Wilkins, and Mr Black on behalf of the respondents.

I will be out of the country until May 24th. The purpose of this letter is to request an extension of time, to and including May 26th, to file a return to the motion.

Your consideration of this request is much appreciated.

Thanking you, I remain

Yours very truly,


James B Richardson Jr

cc Senior Assistant Attorney General C Havird Jones
William W Wilkins, Esq
J David Black Esq



ALAN WILSON
ATTORNEY GENERAL

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MAY - 6 2011

May 6, 2011

S C. Supreme Court

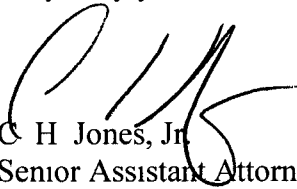
The Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE The Estate of James Brown and the James Brown 2000 Irrevocable
Trust dated August 1, 2000

Dear Mr Shearouse

Enclosed for filing are the original and 6 copies of Respondents' Motion to Supplement
the Record Also enclosed is the Proof of Service

Very truly yours,


C H Jones, Jr.
Senior Assistant Attorney General

cc
See attached Certificate of Service



ALAN WILSON
ATTORNEY GENERAL

RECEIVED

MAY - 2 2011

May 2, 2011

SC Supreme Court

The Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
P O Box 11330
Columbia, SC 29211

RE The Estate of James Brown and the James Brown 2000 Irrevocable
Trust dated August 1, 2000

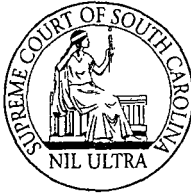
Dear Mr Shearouse

Enclosed for filing are the original and 15 copies of Respondents' Final Brief Also
enclosed are the Certificate of Counsel and Proof of Service

Very truly yours,

C H Jones, Jr
Senior Assistant Attorney General

cc
See attached Certificate of Service



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734 1080

FAX (803) 734 1499

March 30, 2011

James B. Richardson, Jr., Esquire
1229 Lincoln St.
Columbia, SC 29201

Tressa T. H. Hayes, Esquire
P.O. Box 5329
Columbia, SC 29250

Re: Wilson, Alan v. Dallas, Albert

Dear Counsel:

The following Order has been endorsed on your Motion for Leave to File Supplemental Record on Appeal in the above entitled case on appeal.

“Granted

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 30, 2011 ”

Please be advised the Supplemental Record on Appeal should be served and filed on or before April 12, 2011 and all final briefs should be served and filed on or before May 2, 2011.

Wilson, Alan v Dallas, Albert
Page Two
March 30, 2011

Very truly yours,

Daniel E. Shearouse
35

CLERK

DES/dmh

cc Senior Assistant Attorney General C Havird Jones
Assistant Deputy Attorney General Robert D Cook
Assistant Attorney General J C Nicholson, III
Assistant Attorney General Mary Frances Jowers
H Wesley Kirkland, Jr , Esquire
James Mixon Griffin, Esquire
Louis Levenson, Esquire
Matthew Day Bodman, Esquire
Max N Pickelsimer, Esquire
R Wayne Byrd, Esquire
Robert N Rosen, Esquire
T Heyward Carter, Jr , Esquire
S Alan Medlin, Esquire
David L Michel, Esquire
William Joseph Barr, Esquire
William W Wilkins, Esquire
J David Black, Esquire
Fred L Kingsmore, Jr , Esquire
Albert P Shahid, Jr , Esquire

**Law Office of
James B Richardson, Jr**

1229 LINCOLN STREET
COLUMBIA SOUTH CAROLINA 29201

TELEPHONE 803/799 9412
FAX 803/799 9628

March 23, 2011

RECEIVED
MAR 24 2011
SOUTH CAROLINA SUPREME COURT

Hon Daniel E Shearouse
Clerk of the Supreme Court
of South Carolina
Post Office Box 11330
Columbia South Carolina 29211

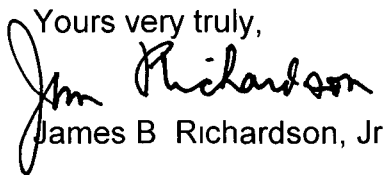
Re McMaster, Henry v Bauknight, Russell

Dear Mr Shearouse

Enclosed for filing is appellants' motion for leave to file a Supplemental Record on Appeal, and for an extension of time to file the final briefs of all parties

My belief is that the filing of this motion will, itself, extend the due-date for filing the final briefs If I am mistaken, kindly advise

Thanking you, I remain

Yours very truly,

James B Richardson, Jr

cc Senior Assistant Attorney General C Havird Jones
William W Wilkins, Esq
J David Black, Esq
Fred L Kingsmore, Jr , Esq
H Wesley Kirkland, Jr Esq
James M Griffin, Esq
William J Barr, Esq
Louis D Levenson, Esq
Matthew D Bodman, Esq
Max N Pickelsimer, Esq
R Wayne Byrd, Esq
Robert N Rosen Esq
T Heyward Carter, Jr , Esq
S Alan Medlin, Esq
David L Michel Esq

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

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

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

Respondents,

v

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

RECEIVED

MAR 24 2011

S C SUPREME COURT

of whom Robert L Buchanan, Jr ,
and Adele J Pope, as Personal Repre-
sentatives of the Estate of James
Brown and Trustees of the James
Brown 2000 Irrevocable Trust are ,

Appellants,

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

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MAR 24 2011

S C Supreme Court

Respondents

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

**MOTION FOR LEAVE TO FILE
SUPPLEMENTAL RECORD ON APPEAL**

Appellants move for leave to file a Supplemental Record on Appeal, and for an extension of time for service and filing of the final briefs of all parties As grounds for the motion, appellants would show as follows

1 Portions of hearing transcripts and certain other material, duly designated by parties to the appeal for inclusion in the Record, were inadvertently omitted from the Record on Appeal as filed

4 Final briefs are presently due for service and filing by March 29, 2011

5 Final briefs cannot be prepared until the omitted materials have been included in a Supplemental Record on Appeal

6 The appellants move for leave to file a Supplemental Record on Appeal

containing the omitted material by April 12 2011, and meanwhile to extend the time for service and filing of the final briefs of all parties until May 2, 2011

Respectfully submitted,

James B Richardson, Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

Tressa T H Hayes
Post Office Box 5329
Columbia, South Carolina 29250
(803) 603-8583

by James B Richardson, Jr
Attorneys for Appellants

March 23, 2011

GRANTED
Jean H. Toal CJ
For the Court
By [Signature]
Clerk

March 30, 2011

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

**APPEAL FROM AIKEN COUNTY
Court of Common Pleas**

**Doyet A Early, III, Circuit Court Judge
Case No 2008-CP-2-1647**

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

Respondents,

v

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

**of whom Robert L Buchanan, Jr ,
and Adele J Pope, as Personal Repre-
sentatives of the Estate of James
Brown and Trustees of the James**

Brown 2000 Irrevocable Trust are ,

Appellants,

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

Respondents

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

CERTIFICATE OF SERVICE

The undersigned certifies that he served a copy of appellants' motion to file a Supplemental Record on Appeal upon the respondents by first class mail, postage prepaid, addressed to their respective attorneys, namely

Attorney General Henry Dargan McMaster
Assistant Deputy Attorney General Robert D Cook
Senior Assistant Attorney General C Havird Jones
Assistant Attorney General J C Nicholson, III
Assistant Attorney General Mary Frances Jowers
Fred L Kingsmore, Jr , Esq
H Wesley Kirkland, Jr , Esq
James M Griffin, Esq
William Joseph Barr, Esq

Louis Levenson, Esq
Matthew Day Bodman, Esq
Max N Pickelsimer, Esq
R Wayne Byrd, Esq
Robert N Rosen, Esq
T Heyward Carter, Jr , Esq
S Alan Medlin, Esq
David L Michel, Esq
Albert P Shahid, Jr Esq

addressed to them at their respective addresses of record, on March 23, 2011


James B Richardson Jr
1229 Lincoln Street
Columbia, South Carolina 29201
(803) 799-9412

March 23, 2011

Attorney for Appellants

Hopkins, Debbie

From Williams Burl F <BWilliams@nexsenpruet.com>
Sent Monday March 28 2011 2 04 PM
To Hopkins Debbie
Subject James Brown Appeal Motion for Extension of Time to File Supplemental Record

Dear Debbie

Last week opposing counsel--Jim Richardson--filed a motion seeking an extension of time to file a supplemental record. On behalf of all Respondents we consent to this motion.

Thanks

Burl

*** CONFIDENTIAL COMMUNICATION *** The information contained in this message may contain legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or duplication of this transmission is strictly prohibited. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Nothing in this transmission is intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated. Intentional interception or dissemination of electronic mail not belonging to you may violate federal or state law.

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MAR 28 2011

S C Supreme Court