

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM AIKEN COUNTY

Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge

Trial Court Case No. 2008-CP-02-01647

Appellate Case No. 2016-001373

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SC Court of Appeals

In Re: The Estate of James Brown a/k/a James Joseph Brown

The Estate of James Brown; James Brown Irrevocable Trust Agreement, u/a/d August 1, 2000, by and through its fiduciaries Russell L. Bauknight, Personal Representative and Trustee, and David C. Sojourner, Jr., Limited Special Administrator and Limited Special Trustee, Respondents, and

Tonya Brown a/k/a Sarah LaTonya Brown, Vanisha Brown, Larry Brown, Deanna J. Brown Thomas, Jason Brown Lewis and Yamma N. Brown Lumar, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar, Respondents, and

Daryl Brown and Terry Brown, Respondents below,

Of whom Terry Brown is the Appellant.

RECORD ON APPEAL, VOLUME I OF IV

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INDEX

VOLUME I

Index.....	1
Order appointing David C. Sojourner, Jr. as Limited Special Trustee entered October 3, 2013.....	4
Order appointing David C. Sojourner, Jr. as Limited Special Administrator entered October 10, 2013.....	136
Final Order granting Respondents' Joint Motion entered March 7, 2016.....	142
Final Order denying Motion to Alter, Amend or Reconsider entered May 31, 2016.....	168
Petition to Set Aside Informal Probate filed December 26, 2007.....	171
Petitioner to Set Aside Trust filed December 26, 2007.....	181
Amended Petition to Set Aside Trust Informal Probate and Amended Petition to Set Aside Trust and for Appointment of an Administrator in Intestacy filed January 23, 2008.....	191

VOLUME II

Index.....	235
January 14, 2016 Hearing Transcript.....	238
Narrative Testimony of Louis Levenson.....	279
Examination by Mr. Donsbach.....	311
Examination by Mr. Medlin.....	312
May 16, 2016 Hearing Transcript.....	344
Joint Motion to Authorize Settlement filed December 7, 2015.....	363
Appellant's Response to Joint Motion to Authorize Settlement filed December 28, 2015.....	433
Appellant's Amended Response to Joint Motion to Authorize Settlement filed December 30, 2015.....	446
Appellant's Motion to Alter, Amend and Reconsider filed March 4, 2016.....	462

VOLUME III

Index.....	506
Appellant's Motion to Alter, Amend and Reconsider re-filed March 8, 2016.....	509
LSA Memo in Opposition to Motion to Alter, Amend and Reconsider filed April 15, 2016.....	557
Deposition of Deanna Brown Thomas dated October 31, 2007.....	570
Examination by Mr. Bell.....	578
Examination by Mr. Harling.....	635
Examination by Ms. Lewis.....	636
Examination by Mr. Jackson.....	639
Examination by Mr. Richter.....	691
Examination by Mr. Rosen.....	697
Re-examination by Ms. Lewis.....	720
Re-examination by Mr. Jackson.....	729
Re-examination by Mr. Richter.....	746
Re-examination by Mr. Rosen.....	747
Re-examination by Mr. Harling.....	749

VOLUME IV

Index.....	753
Excerpts from the Volume I Deposition of H. Dewain Herring, Jr. and Exhibit 8 dated November 18, 2015	756
Examination by Mr. Beach.....	761
Excerpts from the Volume II Deposition of H. Dewain Herring, Jr. and Exhibit 8 dated December 9, 2015.....	775
Examination by Shahid.....	780
Examination by Mr. Donsbach.....	787

Examination by Mr. Beach.....	810
Yamma Brown's Responses to LSA's First Set of Interrogatories and Requests for Production of Documents dated May 23, 2014.....	827
Deanna Brown Thomas's Responses to LSA's First Set of Interrogatories and Requests for Production of Documents dated June 2, 2014.....	870
Larry Brown's Responses to LSA's First Set of Interrogatories and Requests for Production of Documents dated October 19, 2015.....	914
Last Will and Testament of James J. Brown dated August 1, 2000.....	958
James Brown Irrevocable Trust Agreement dated August 1, 2000.....	964
Certificate of Appellant.....	985

Order appointing David C. Sojourner, Jr. as Limited Special Trustee entered October 3, 2013,
Pages 4-135

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

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

IN RE:

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

INTERIM ORDER

10.3.13
L. J. Anderson
Accepted
Amita Knepper *4:30*
Deputy Clerk

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

BACKGROUND

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

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and estate documents.”

On May 29, 2013, this Court held a status conference concerning the Opinion and, by Order dated June 13, 2013, required all applications of those interested in serving as fiduciaries of the Estate and Trust to be made within 45 days of the date of that Order (July 29, 2013). Mr. Bauknight was ordered, in the interim, to continue to oversee the orderly administrative and fiduciary duties of the Estate and Trust as Special Administrator and Special Trustee, which he has done in a professional manner. Mr. Bauknight has continuously served in a fiduciary capacity for the Estate and Trust since May 26, 2009 and there has been no lapse in his authority or fiduciary service.

A. The Applicants

This Court received a total of six applications, each of varying form. The following identifies the Applicants and summarizes the form of the applications received:

- (1) **Mr. Russell L. Bauknight** – by Petition for Formal Appointment of Successor Personal Representative and Trustee filed with this Court on July 29, 2013 (attached as Exhibit 1)
- (2) **David C. Sojourner, Jr.** – by Petition for Formal Appointment as Limited Special Administrator filed with the Aiken County Probate Court and this Court on July 29, 2013, and Petition for Formal Appointment as Limited Special Trustee filed with this Court on July 29, 2013 (attached as Exhibits 2A and 2B)
- (3) **Judge Neal W. Dickert** – by letter of recommendation delivered on his behalf to this Court by David B. Bell on July 17, 2013 (attached as Exhibit 3)
- (4) **Mr. Scott Keniley** – by letter delivered to and filed with this Court on July 24, 2013 (attached as Exhibit 4)
- (5) **Dr. W.M. Grooms, CPA** – by letter filed with this Court on July 24, 2013 (attached as Exhibit 5)
- (6) **Rev. Larry Fryer** – by e-mail delivered on August 12, 2013 (attached as Exhibit 6).

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B. In Court Examination of the Applicants

On September 4, 2013, this Court conducted a hearing to receive testimony and answer questions posed by the Court from the Applicant parties. A transcript of the hearing is attached to this Order as **Exhibit 7**. All of the Applicants appeared at the September 4, 2013 hearing, except Rev. Fryer. On September 11, 2013, this Court reconvened the hearing to receive the testimony of Rev. Fryer. A transcript of that subsequent hearing is attached to this Order as **Exhibit 8**. At the conclusion of the September 4, 2013 hearing, this Court gave the Applicants ten (10) days to file written opposition to any of the Applicants.

FINDINGS OF FACT

As an initial matter, this Court wishes to express its gratitude to those Applicants who graciously volunteered to serve the Estate and Trust, as well as the State of South Carolina as a whole. Their willingness to assist the Estate and Trust in these matters is greatly appreciated by the Court.

As noted, the Supreme Court remanded the appointment of fiduciaries of the Estate and Trust to the sound discretion of this Court. This Court has carefully reviewed the Will and Trust, all applications and memoranda filed on behalf of, and in opposition to, the Applicants, and has considered the testimony provided by the Applicants. James Brown passed away nearly seven years ago on December 25, 2006. These factual findings and this Interim Order are made cognizant of the age of this matter and in an effort to expedite the efficient administration of the Estate and Trust. The overarching goal of this Court is to create an atmosphere where the prompt resolution of the various contested claims and a final resolution of Estate and Trust matters can occur without compromising the positive gains achieved since this Court issued its May 26, 2009 Order.

NOTE
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Based on the foregoing, this Court finds:

1. Russell L. Bauknight has continuously served as a fiduciary to the Estate and Trust, both in his roles as Personal Representative and Trustee, and his continuing roles as Special Administrator and Special Trustee, with general fiduciary powers, since May 26, 2009. In that time, he and his counsel have protected the interests of the Estate and Trust in an effective and skillful manner, to wit:

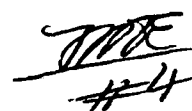
(a) Notwithstanding the fact that he inherited the Estate on the verge of insolvency, with less than \$13,000 in the Estate's bank account, Mr. Bauknight oversaw the repayment of over \$14 Million on the Pullman bond debt seven years ahead of schedule.

(b) Mr. Bauknight engaged Mr. Peter Afterman to lead the marketing of intellectual property of the Estate. The Court notes that Mr. Afterman is a widely-respected Grammy Award winning music manager who also markets the music of the Rolling Stones. Mr. Afterman has been instrumental in marketing the intellectual property of the Estate. Mr. Bauknight hired Mr. Afterman on a deferred-pay basis so that he received payment 15 months after he began work for the Estate.

(c) Mr. Bauknight negotiated an arrangement with Universal Music to set up a fully-staffed division to assist in the marketing of Mr. Brown's music without charge to the Estate or Trust.

(d) Mr. Bauknight secured a deal launching the James Brown YouTube channel.

(e) Mr. Bauknight has recovered the domain name JamesBrown.com, which, prior to its recovery, had been held by an unrelated party for at least a decade. The Court understands that securing this domain name is part of a larger plan to market merchandise related to James Brown and otherwise promote the Estate's business interests and Mr. Brown's legacy. Mr. Bauknight convinced Universal Music to build the JamesBrown.com website without charge to the Estate or

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Trust.

(f) Mr. Bauknight secured a deal for a documentary on the life of James Brown, to be directed and produced by the world renowned musician and entertainer Mick Jagger. The Court understands that this project has already received funding of over two million dollars, which is extraordinary for a documentary.

(g) Mr. Bauknight secured a deal with *Imagine Pictures* (the production company of Ron Howard and Brian Grazer) and *Jagged Productions* (the production company of Mick Jagger) for the production of a movie on the life of James Brown, to be released in late 2014, directed by Tate Taylor, most recently of the movie, *The Help*, and starring Chadwick Boseman, most recently of the Jackie Robinson biopic, *42*.

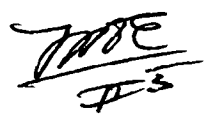
(h) Mr. Bauknight is in the process of negotiating a live tribute tour featuring the music of James Brown.

(i) Mr. Bauknight engaged Mr. Steve Gibson at the Grand Ole Opry in Nashville, Tennessee, to lead the digitization of video and audio tapes of James Brown so that it can be preserved for commercial purposes. This project began over a year ago, and will preserve valuable audio and video tapes of James Brown that are in danger of deterioration.

(j) Mr. Bauknight has initiated discussions with a renowned Broadway producer for the creation of a Broadway production based on the music of James Brown.

(k) Mr. Bauknight has overseen and continues to oversee the repair and restoration of Mr. Brown's iconic Beech Island home and the remaining personal property in the home, which was in a state of disrepair and deterioration when Mr. Bauknight first began his fiduciary service to the Estate and Trust.

(l) Mr. Bauknight has negotiated a deal to restore Mr. Brown's remaining personal



possessions found in a state of disrepair at his Beech Island home.

(m) Mr. Bauknight has resolved most of the creditor's claims against the Estate and has worked diligently with his counsel to move the remaining claim matters forward in an efficient and expeditious manner.

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

(o) Mr. Bauknight has successfully resolved a number of IRS audits, including the audit of the estate tax return, which resulted in a refund due from the IRS to the Estate.

(p) Mr. Bauknight hired an investment banking firm on a deferred-pay basis to value the intellectual property of the Estate. The IRS royalty valuation experts examined the valuation report during the audit of the estate tax return and agreed with it.

(q) Mr. Bauknight has established a reserve to fund scholarships for deserving students under James Brown's charitable education trust and created a reserve to pay the educational expenses of Mr. Brown's grandchildren. These reserves have presently grown to over \$1 Million due to the foresight and planning of Mr. Bauknight, and those and future funds will be immediately available when the current litigation is concluded.

(r) Mr. Bauknight successfully terminated engagements for royalty audits entered into by the prior personal representatives, which were based on a 20% contingency fee arrangement, and negotiated more financially favorable fixed-fee arrangements with new royalty auditors. These new agreements will save the Estate approximately \$140,000 on the first audit and significant sums in the future.

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(s) Mr. Bauknight has retained attorneys and accountants to represent the Estate and Trust on a deferred-pay basis, which has allowed the Estate and Trust to move forward with administration, while continuing to build and develop the capital required to administer an estate and trust of this size and complexity.

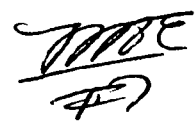
(t) Mr. Bauknight, through his professional contacts, retained other professionals necessary for administration on a deferred-pay or financially beneficial basis.

(u) Mr. Bauknight, in an effort to allow the Estate and Trust to meet all of its obligations and to provide reserves for scholarship funding, has agreed to defer his fiduciary fees and has not yet received any payment from the Estate and Trust for over four years of fiduciary service.

(v) Mr. Bauknight has overseen the successful review and approval of music clearances involving the commercial use of music, including a Super bowl commercial for Volkswagen using the song "*Get Up Offa That Thing*", a Chanel perfume commercial using the song "*It's a Man's Man's Man's World*", and multi-sport Gatorade commercials using the song "*Super Bad*."

(w) Mr. Bauknight and his representatives have successfully represented the Estate in the public arena in a professional manner, promoting James Brown's image and likeness, as well as the activities of the Estate through interviews and media opportunities.

2. When Mr. Bauknight was appointed to serve as Personal Representative there was less than \$13,000 in the Estate bank account and there was no consistent source of revenue to the Estate and Trust. Additionally, there were tens of thousands of dollars in bills due and owing as of the date of his appointment, and tens of millions of claims filed against the Estate. Since that time, Mr. Bauknight has assembled an outstanding team of advisors, attorneys, accountants, and other professionals to establish and secure sources of income, pay off debt, and settle claims, placing the Estate on solid financial footing. Additionally, those advisors and attorneys have



responded to both probate and non-probate claims against the Estate, in both state and federal court throughout the United States (the District Court of California, the Ninth Circuit Court of Appeals, the District Court of Illinois, and the Seventh Circuit Court of Appeals), and have successfully represented the Estate in a professional, efficient, and productive manner.

3. During the more than four years that he has overseen and managed the Estate and Trust, Mr. Bauknight has developed a unique and highly-specialized understanding of the business of the Estate and Trust, its litigation, revenue streams, and liabilities. Given the complexities of the Estate and Trust, there is a need for continuity in the knowledge base for all of the ongoing litigation and business of the Estate and Trust, and Mr. Bauknight and the team he has assembled provide that continuity.

4. The Estate is presently defending against \$10 Million in fee claims filed against it by the previous personal representatives. Adding more personal representatives and trustees, at this time, could detrimentally increase the personal representative and trustee fee burden to the Estate and Trust. The addition of more personal representatives and trustees (and their inevitable separate counsel) would require each to spend a significant amount of time to acquire the institutional knowledge that Mr. Bauknight has developed during his more than four years of service to the Estate and Trust.

5. This Court finds that Mr. Bauknight's significant fiduciary experience, including his prior professional administration of numerous estates and trusts, including a larger estate valued at over \$150 Million, uniquely qualifies him for the job of Personal Representative of the Estate and Trustee of the Trust.

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

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hired to help manage his music empire. Messrs. Few and Gilreath have already reached confidential settlements with certain defendants. The Court firmly believes that it is in the best interests of the Estate for that litigation to continue unimpeded. Mr. Bauknight has formed a positive working relationship with his counsel, understands and is deeply involved in the litigation. The Court is concerned that adding more personal representatives and trustees to manage the Estate and Trust (and its litigation) could increase the fiduciary fee burden (discussed above at Paragraph 4) and hamper, through multiple decision makers, the conduct of this litigation.

7. Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown are each devisees under the Will and each has nominated Mr. Bauknight to serve as Personal Representative of the Estate in their stead.

8. The Court is aware that certain Applicant parties have raised the issue of whether a conflict of interest exists with respect to Mr. Bauknight's continued role as fiduciary of the Estate and Trust in the ongoing spousal elective share matter, the omitted spouse matter, the omitted child matter, and the legal challenges to the validity of the will and trust that were involved in the settlement agreement (collectively, the "Will and Trust Challenges"). In reviewing the Applicant party challenges, it is important to pause and underscore that the Opinion unequivocally provided that Mr. Bauknight could be re-appointed as fiduciary. The Court does not believe that a conflict of interest exists. Mr. Bauknight was bound, as a fiduciary, to follow the prior settlement agreement. That settlement agreement has now been overturned. Accordingly, Mr. Bauknight has a fiduciary duty and must defend the Will and Trust against all challenges.

Mr. Bauknight has testified that he has no conflict of interest and that he is willing and

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capable of fully defending Mr. Brown's Estate plan. This Court has weighed that testimony and finds that neither Mr. Bauknight, nor his counsel, has any conflict of interest that would prevent them from vigorously defending or prosecuting actions on behalf of the Estate and Trust. Mr. Bauknight and his counsel have done an outstanding job prosecuting and defending dozens of legal actions throughout the past four and one-half years. This Court commends Mr. Bauknight and his counsel for the outstanding results they have obtained for the Estate and Trust.

While this Court finds that no conflict of interest exists, out of an abundance of caution and in order to avoid any appearance of impropriety, and to promote the efficient and speedy administration of the Estate and Trust, this Court finds that it is prudent to appoint an independent individual to serve as Limited Special Trustee and as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges.

9. David C. Sojourner, Jr. has been practicing in the area of estate and gift planning and probate administration for more than twenty-six years, and is certified as a specialist in estate planning and probate law and tax law by the South Carolina Supreme Court. Since 2001, Mr. Sojourner has been selected as a member of the American College of Trust and Estate Counsel, and has had specialty training in mediation of issues related to estates, including family disputes. Additionally, Mr. Sojourner has served as a fiduciary in the past and has counseled clients on their obligations and duties in a position as fiduciary. Mr. Sojourner has agreed to serve, so long as his role is limited to defending the Will and Trust Challenges on behalf of the Estate and Trust and his law firm of Adams and Reece LLP can represent him in that role. Given his experience, in addition to the resources of a 300-attorney law firm, Mr. Sojourner is well-suited to serve in the role as Limited Special Trustee and Limited Special Administrator.

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10. This Court appreciates the willingness of the Applicants who have offered to serve as Personal Representative of this Estate and commends them on their exemplary credentials. Specifically, this Court recognizes Judge Dickert's long and distinguished career both in civil practice and judicial service to the State of Georgia; Dr. Grooms' training as a Certified Public Accountant, in addition to his familiarity with bankruptcy issues and consistent service to the courts as expert witness in tax and accounting matters; Mr. Keniley's experience in the entertainment industry and familiarity with protection of intellectual property; and Rev. Fryer's longstanding service to the community both individually and as Pastor to Trinity C.M.E. Church.

11. This Court is mindful of the practical administrative problems the Estate and Trust have encountered as a result of the history of the prior and multiple fiduciary appointments. In an effort to avoid the recurrence of such problems, the Court finds that at this time, it is in the best interests of the Estate and Trust to leave Mr. Bauknight's appointments as Special Trustee and Special Administrator with general fiduciary authority undisturbed. Those appointments shall continue until further order of the Court.

12. The Court is mindful of the substantial claims, both satisfied and outstanding, of prior fiduciaries and their attorneys, accountants, and other advisors, as well as the fact that fees and commissions are still owed to the current fiduciary and his advisors. This Court is convinced that, given the extensive, complex and continuing litigation, including specifically the litigation involving allegations of fiduciary misconduct, the appointment of multiple fiduciaries at this time will inevitably involve the retention of multiple additional attorneys to advise the newly-appointed fiduciaries. I find that it is simply not practicable for the Estate and Trust to bear the additional cost and expense associated with multiple additional fiduciaries and their

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separate attorneys and other professional advisors at this important time. For these and other reasons this Court has noted, I find it is in the best interests of the Estate and Trust that a single fiduciary continue to administer and manage the business of the Estate and Trust until it is demonstrated that the Estate and Trust can satisfy the tremendous liabilities already created by the service of the many prior fiduciaries and their professional advisors.

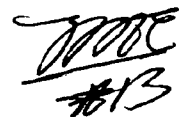
13. The tumultuous history of the Estate and Trust and the litigation surrounding the same, juxtaposed to the list of Mr. Bauknight's accomplishments detailed above, leaves this Court with the firm factual conclusion that it is in the best interests of the Estate and Trust for Mr. Bauknight to serve, in the interim, as the sole Personal Representative and sole Trustee. The Court's factual conclusion is also driven by recognition of the considerable expense that the Estate and Trust will incur from the appointment of additional personal representatives and trustees, at this time. Moreover, the Court notes the need for consistent and streamlined administration of the Estate and Trust during this critical time frame.

14. Mr. Brown passed away nearly seven years ago. The Court uses the language—*this critical time frame*—because that is where the Estate and Trust find themselves. As detailed above, under Mr. Bauknight's leadership, the Estate and Trust are poised to launch a series of public events (the documentary, the life story movie, etc.) that should re-catapult James Brown and his musical legacy onto the world stage. These actions should have a tremendous positive impact to the Estate and Trust, both in terms of good will and financial gain. In turn, these actions should greatly benefit Mr. Brown's testamentary plan for scholarships for children in financial need through increased funding of the scholarship reserves.

Because the Estate and Trust are at a critical time frame, the Court is reluctant to interrupt these gains. Overlaying the Court's concern is the existence of the Will and Trust Challenges.

Certain family members of James Brown are presently challenging the validity of the Will and Trust, and in doing so are, in part, challenging the validity of the requirement that three individuals serve as Personal Representative and Trustee. Since James Brown's death, the Estate and Trust have been overseen by only one set of three Personal Representatives and Trustees—Dallas (who sought to evade the jurisdiction of this Court by moving the situs of the Trust to Georgia and has since filed for bankruptcy), Cannon (who entered an *Alford* plea to felony indictments charging him with fraudulently taking over \$8 Million of James Brown's money), and Bradley (now deceased). Each of these men resigned from their positions, under a cloud, after information and documents were discovered that questioned the motive and faithfulness of their fiduciary service (these three fiduciaries also intended to charge Mr. Brown's Estate "administrative fees" up to 50% of the Estate's income). Because the Will and Trust are presently subject to litigation, I find that at this pivotal time, it is in the best interests of the Estate and Trust to maintain a single fiduciary to oversee the administration and management of the Estate and Trust. The Court underscores the point that this is an interim decision.

15. During this crucial time frame, the Court firmly believes that it is in the best interests of the Estate and Trust for Mr. Bauknight to continue to oversee the administration and management of the Estate and Trust, while Mr. Sojourner defends the Estate plan. Upon the conclusion of all Estate litigation, this Court will revisit this interim determination. Accordingly, I find that it is in the best interests of the Estate and Trust that, on an interim basis, Mr. Bauknight be appointed as the Personal Representative of the Estate and Trustee of the Trust, and that Mr. Sojourner be appointed as the Limited Special Trustee and Limited Special Administrator to oversee the Will and Trust Challenges. Mr. Sojourner is hereby ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed

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discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

CONCLUSIONS OF LAW

1. I find that this Court has jurisdiction to hear this matter and that venue is proper. All of the interested parties have been notified of the request for applications to serve as Personal Representative of the Estate and Trustee of the Trust, and have been given an opportunity both to nominate a candidate and oppose the applications filed by the Applicants.

2. The Opinion, which is the law governing this case, requires this Court to, “upon proper application, appoint fiduciaries to oversee . . . matters in accordance with the provisions for succession outlined in Brown’s trust and estate documents.” *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013). Furthermore, this Court “may consider . . . whether [Mr.] Bauknight should be appointed to fill a fiduciary position.” *Id.* at 449, 743 S.E.2d at 767.

3. The South Carolina Probate Code provides that in order to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person first must be appointed by order of the court. S.C. Code Ann. § 62-3-103 (1976). S.C. Code Ann. § 62-3-203(a) delineates the order of priority with respect to the appointment of a successor personal representative:

- (1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;
- (2) the surviving spouse of the decedent who is a devisee of the decedent;
- (3) other devisees of the decedent;
- (4) the surviving spouse of the decedent;
- (5) other heirs of the decedent regardless of whether the decedent died intestate and determined as if the decedent died intestate;
- (6) forty-five days after the death of the decedent, any creditor; and
- (7) four months after the death of the decedent, upon application by the South Carolina Department of Revenue, a person suitable to the court.

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Unless a contrary intent is expressed in the will, subsection (a)(8) allows "a person with priority under subsection (a) [to] nominate another" person. That nominee "shall have the same priority as the person making the nomination." *Id.* Additionally, although lack of priority is not a bar to appointment, according to S.C. Code Ann. § 62-3-203(d), before appointing one without priority, the Court must determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

In this case, subsection (a)(1) does not apply because the personal representatives named in the Will all have resigned and have not named successor personal representatives. Moreover, there is no "advisory board" currently in effect, as referenced in the Will and Trust. Subsection (a)(2) is inapplicable because, notwithstanding her claim to be surviving spouse, Tommie Rae Hynie Brown is not a devisee under the Will. Therefore, the highest priority of appointment rests with other devisees of the decedent under subsection (a)(3). Respondents Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown and Larry Brown each are devisees under the Will, and each are allowed to nominate an individual to serve as Personal Representative of the Estate under subsection (a)(8). Because those devisees have nominated Mr. Bauknight for appointment, and there have been no other nominations by any other devisee, Mr. Bauknight has the highest priority under the terms of S.C. Code Ann. § 62-3-203. Because this Court is appointing the Applicant with the highest statutory priority for appointment as Personal Representative of the Estate, S.C. Code Ann. § 62-3-203(d) is inapplicable to the case at bar.

Based on the foregoing, I find and conclude that among all the applications filed in this matter, Mr. Bauknight has the highest statutory priority to serve as Personal Representative of the Estate under S.C. Code Ann. § 62-3-203.

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4. S.C. Code Ann. § 62-3-414(a) outlines the fourteen requirements of a formal and proper application for appointment. According to that section, a petition must provide (1) a description of the question relating to qualification of the personal representative which is to be resolved, and also must contain the statements required by S.C. Code Ann. § 62-3-301(a)(1). Those statements, which (2) *must be certified* by the applicant to be accurate and complete to the best of his knowledge and belief, S.C. Code Ann. § 62-3-301(a), may either be incorporated into the petition or adopted from a prior filing, and shall include: (3) A statement of the interest of the applicant; (4) Decedent's name; (5) Decedent's date of death; (6) Decedent's age; (7) Decedent's county and state of domicile at time of death; (8) Names and addresses of the spouse, children, heirs and devisees; (9) The ages of any children, heirs, or devisees who are minors so far as known or ascertainable with reasonable diligence; (10) A statement showing venue, if the decedent was not domiciled in the State at the time of his death; (11) A statement identifying and indicating the address of any personal representative of the decedent appointed in this State or elsewhere whose appointment has not been terminated; (12) a statement indicating whether the applicant has received a demand for notice, or is aware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this State or elsewhere; and (13) A statement that the time limit for appointment has not expired. S.C. Code Ann. § 62-3-301(a)(1).

Additionally, in 2010, S.C. Code Ann. § 62-3-414(b) was amended to clarify that *both* "a summons and petition are required to commence a formal proceeding, including a formal proceeding concerning appointment of a personal representative as referred to in [S.C. Code Ann. § 62-3-414]." South Carolina Reporter's Comments (2010 Revision), S.C. Code Ann. § 62-3-414. Thus, the applicant also must (14) serve the petition, *along with a summons*, on all

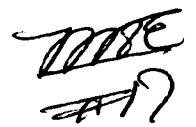
WBE
#16

interested persons, including all persons interested in the administration of the estate as successors, any previously appointed personal representative, and any person having or claiming priority for appointment as a personal representative. S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Dickert is defective because it was filed not by him, but by letter of recommendation from Mr. Bell. Therefore, it was not certified by Mr. Dickert to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-414(b). Additionally, while the application of Mr. Dickert did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b).

The application filed by Mr. Grooms is defective because, while it did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, his application was not served, along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not certified by Mr. Grooms to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

The application filed by Mr. Keniley is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, although the application was served on this Court, it was not served along with a summons, on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b). Additionally, it was not

Handwritten signature and initials, possibly "MRE" and "AF", in dark ink.

certified by Mr. Keniley to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Finally, the application filed by Rev. Fryer is defective because, while the application did contain the decedent's name, it did not contain any of the other information required, either in the application or by adoption, under S.C. Code Ann. § 62-3-301(a). Moreover, the application was not served along with a summons on all interested parties of the Estate, as required by S.C. Code Ann. § 62-3-414(b), but instead was e-mailed after the July 29, 2013 deadline set by this Court. Additionally, it was not certified by Rev. Fryer to be accurate and complete to the best of his knowledge and belief, as required by S.C. Code Ann. § 62-3-301(a). Finally, the application did not contain a description of the question relating to qualification of the personal representative which is to be resolved, as required by S.C. Code Ann. § 62-3-414(a).

Based on the foregoing, I find and conclude that only Mr. Bauknight has met the statutory requirements of filing a "proper application" for appointment of Personal Representative of the Estate and Trustee of the Trust as required by the Opinion and this Court's June 13, 2013 Order.

5. Based upon the applications filed and testimony received in the hearings held on September 4 and 11, 2013, I find that no applicant for Personal Representative and Trustee had any previous experience serving as a fiduciary of any Estate or Trust, other than Mr. Bauknight and Mr. Grooms. In addition, no applicant other than Mr. Bauknight has experience serving as a fiduciary in any matter as complex as the James Brown Estate and Trust, or in any matter involving the music industry. Additionally, this Court takes note that Mr. Grooms has filed with

this Court, subsequent to his testimony, a letter supporting the appointment of Mr. Bauknight as Personal Representative and Trustee.

6. Based upon my nearly seven years of experience with these matters as they have appeared before this Court, and after careful review of the Will and Trust, all applications filed by the Applicants, the testimony proffered by all Applicants, and the party objections filed in opposition to the Applicants, I find, as a matter of law and fact, that it is in the best interests of the Estate and Trust at this time to appoint Russell L. Bauknight as Personal Representative of the Estate and Trustee of the Trust. Moreover, given the considerable expense to the Estate and Trust that the appointment at this time, of additional personal representatives and trustees would entail, as well as the need for consistent and streamlined administration of the Estate and Trust during this critical time frame, I find that it is in the best interests of the Estate and Trust to appoint Mr. Bauknight as the sole Personal Representative of the Estate and sole Trustee of the Trust on an interim basis. Mr. Bauknight is well-qualified and willing to serve in these fiduciary capacities. At this pivotal time, I find that to interrupt Mr. Bauknight's continuing professional administration of the Estate and Trust would not be in the best interests of the Estate, the Trust, or the beneficiaries and potential beneficiaries. I find that it is simply not practicable to appoint additional fiduciaries at this time when the Estate lacks the funds to pay the claims of prior fiduciaries and their legal counsel and is currently unable to pay the current fiduciary and his legal counsel. However, as noted above, this interim appointment will be revisited by this Court at the conclusion of all Estate litigation.

7. In addition, and in order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds that it is in the best interests of the Estate and Trust for Mr. David C. Sojourner, Jr. to be appointed as Limited Special

DAE
#19

Trustee and Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Trust and the Estate against the claims made in the Will and Trust Challenges until final resolution thereof. This interim appointment is made with the requirement that Mr. Sojourner, in his limited capacity, shall remain independent from Mr. Bauknight, shall act with sole and absolute authority in his limited capacity, and will retain Adams and Reese LLP to represent him in the Will and Trust Challenges.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. Russell L. Bauknight is hereby appointed as the Personal Representative of the Estate and Trustee of the Trust effective immediately, with full, absolute, and exclusive authority to carry out the Estate's administration and the Trust's administration, and all business and matters related thereto, and shall specifically have the authority and power to act on behalf of, and bind, the Estate and the Trust for all purposes, except as limited by the appointment of the Limited Special Trustee and Limited Special Administrator described below.

2. David C. Sojourner is appointed as Limited Special Trustee for the sole, exclusive, and specific purpose of defending the Trust in the Will and Trust Challenges, until final resolution thereof, and is authorized to retain Adams and Reese LLP to represent him in such matters.

3. Mr. Sojourner is ordered to draft and present a scheduling order to this Court within the next fourteen days setting forth proposed discovery, deposition, and dispositive motion deadlines so that the Will and Trust Challenges may be expeditiously set for trial.

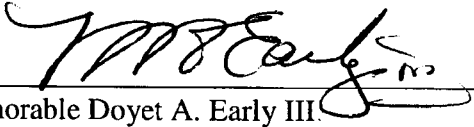
4. Mr. Bauknight's prior appointments as Special Trustee and Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the Court.

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

DAE
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6. This Interim Order is temporary. The Court will revisit the appointment of fiduciaries upon the conclusion of all Estate litigation.

IT IS SO ORDERED.


The Honorable Doyet A. Early III


~~September~~ 1, 2013.

Bamberg, South Carolina

EXHIBIT LIST

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

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

EXHIBIT 1

FILED 10.3 20013
Lij Hadard
C.C.P.&G.S.
Anita Knoepke 430
Deputy Clerk

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN RE:

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

IN THE CIRCUIT COURT

APPLICATION/PETITION FOR SUCCESSOR
PERSONAL REPRESENTATIVE AND TRUSTEE

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



INFORMAL



FORMAL

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

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

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

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

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

VERIFICATION

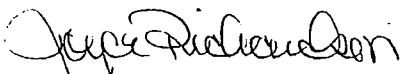
The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

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

Signature: _____

Name: Russell L. Bauknight

Address: 1517 Gervais Street
Columbia, SC 29202


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

ORDER FOR HEARING

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

DATE:
TIME:
PLACE:

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

Executed this _____ day of _____, 2013.

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

ORDER OF APPOINTMENT

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

☐ GRANTED ☐ DENIED

Executed this _____ day of _____, 2013.

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

QUALIFICATION AND STATEMENT OF ACCEPTANCE

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

Signature: _____

Name: Russell L. Bauknight

Address: 1517 Gervais Street
Columbia, SC 29201

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE CIRCUIT COURT

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

IN RE:

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

SUMMONS

C O P Y
ORIGINAL FILED

JUL 29 2013 *250*

AIKEN COUNTY
CLERK OF COURT

TO: ALL NECESSARY PARTIES:

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



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

Columbia, South Carolina,

July 29, 2013.

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

EXHIBIT 2A

10.3.13
Luis Godard
CC, C.P. & G.S.
Anita Knoepfle 430
Deputy Clerk

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Petitioners,

In re: Estate of James Brown

IN THE PROBATE COURT

Case No. 2007-ES-02-0056

Case No. 2008-CP-02-1647

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

COPY
ORIGINAL FILED
JUL 29 2013 *750*
AIKEN COUNTY
CLERK OF COURT

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

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

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

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

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

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

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

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

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

Respectfully submitted,

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

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

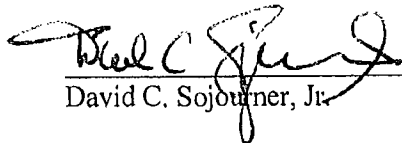
July 29, 2013

Columbia, South Carolina.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) AFFIDAVIT

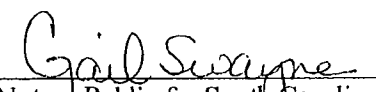
Personally appeared before me, David C. Sojourner, Jr., who being duly sworn hereby certifies that:

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



David C. Sojourner, Jr.

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



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

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

I. Education.

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

II. Professional Recognition.

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

IV. Specialty Certifications.

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

V. Professional Employment and Activities.

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

EXHIBIT 2B

10.3.13
Luis Hadas
CC.C.P.&G.S.
Anita Knoepfle 430
Deputy Clerk

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

Petitioners,

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

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

Case No. 2009-CP-02-1810

Case No. 2008-CP-02-1647

PETITION FOR THE APPOINTMENT
OF LIMITED SPECIAL TRUSTEE

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

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

JUL 29 2013

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Zab

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

Deputy Clerk

Arita Knoepfle

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

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

7-29-2013

clerk of Probate
Arita Knoepfle

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

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

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

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

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

administration in an expeditious manner.

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

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

Respectfully submitted,



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

July 29, 2013

Columbia, South Carolina

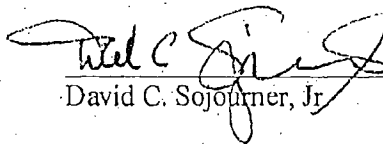
STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

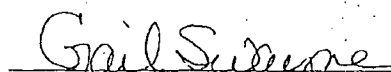
AFFIDAVIT

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

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


David C. Sojourner, Jr.

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

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

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

III. Education.

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

IV. Professional Recognition.

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

IV. Specialty Certifications.

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

V. Professional Employment and Activities.

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

EXHIBIT 3

10.3 and 13
Liz Gledhill
cc, CP & S. 130
Anita Knoepfle Fall
Deputy Clerk

LAW OFFICE OF
DAVID B. BELL

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

DAVID B. BELL

SHARON BLAIR ENOCH

JOHN C. BELL
(1916-1967)

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

FAX 706-722-2507
E-MAIL ADDRESS:
davidbell@davidbelllawfirm.com

2008CP0201647

July 17, 2013

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

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

Re: *James Brown Estate*

Dear Judge Early:

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

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

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

The Hon. Doyet A. Early, III

July 17, 2013

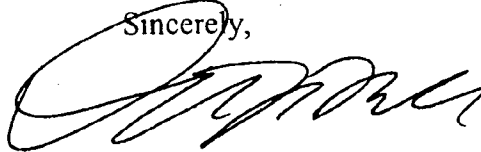
Page 2

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

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

I am,

Sincerely,

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

David B. Bell

DBB:chm

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

Enclosure: as stated

NEAL W. DICKERT

P. O. Box 1564
Augusta, Georgia 30903

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

PRESENT

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

EMPLOYMENT

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

PREVIOUS

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

EMPLOYMENT

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

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

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

BAR

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

ADMISSIONS

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

MILITARY

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

SERVICE

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

EDUCATION

J.D., University of South Carolina, 1974.

Member of the South Carolina Law Review.

Member of Wig and Robe Scholastic Honorary Society.

M.B.A., University of South Carolina, 1969.

B.A. in Economics, Wofford College, 1968.

AWARDS/

COMMUNITY

SERVICE

Board of Governors, Georgia Bar Association (1986 – 1998).

President of the Augusta Bar Association (1997).

Chairman of the Board of Elections – Richmond County (1981 – 1990).

President of Augusta Rotary Club (1991 – 1992).

Paul Harris Fellow of Rotary International.

President of Wofford College Alumni Association (1996 – 1997).

Alumni Representative to Wofford College Board of Trustees (1996).

Board of Directors of the University of South Carolina Law School Assoc. (1992 – 1998).

Senior Warden, Church of the Good Shepherd (2004 – 2007).

Chairman, Board of Trustees, Institute of Continuing Judicial Education for the State of Georgia (2005 – 2007).

PUBLICATIONS

AND

SEMINARS

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

MEDIATION

EXPERIENCE

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

PERSONAL

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

EXHIBIT 4

10 3 13
FILED
L. J. Godard
C. P. & G. S.
Anita Knoepfle 430
Deputy Clerk



KENILEY KUMAR, LLC

ATTORNEYS AT LAW

Two Ravinia Drive • Suite 500 • Atlanta, Georgia 30346

Office: 770.263.0000 | Fax 404.420.2260

www.k5law.com | info@k5law.com

2008CPO 201047

July 14, 2013

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

9.12.13
[Signature]
D.C.P. & G.S.
[Signature]
Deputy Clerk

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

Trustee/PR Applicant: Scott Keniley

Dear Judge Early:

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

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

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

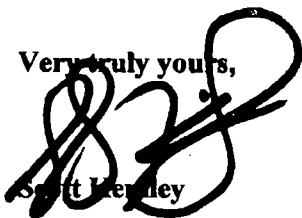
Daltrey (of The Who), Rick Springfield, Kansas, The Oak Ridge Boys, Donny Osmond, John Denver, Drivin n Cryin, Derek Trucks, Jim Belushi, The Blues Brothers, Might Clouds of Joy, Blind Boys from Alabama, Vicky Winans and many more. Intellectual Property exploitation also included establishing and documenting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

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

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

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

Very truly yours,



Scott Kennedy

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

CURRICULUM VITAE

Scott Keniley, ESQ.

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

HIGHLIGHTS & EXPERIENCE

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

CAREER SUMMARY

Keniley-Kumar, LLC

(April 2009-Present)

Atlanta

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

SIGNIFICANT REPRESENTATIONS

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

Professor, SAE Institute

(2009-2013)

Atlanta

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

Keniley Law Firm, PC

(October, 2004-April 2009)

Atlanta

- Predecessor entity to Keniley-Kumar, LLC.

Judge, Lithonia Municipal Court

(2004-2008)

Dekalb County, GA

- Governmental Compliance and Misdemeanor Criminal.

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

(1999-October 2004)

Atlanta/ Nashville

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

SIGNIFICANT REPRESENTATIONS

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

Keniley Law Firm

(1996-1999)

Atlanta

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

SIGNIFICANT REPRESENTATIONS

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

Fox and Farmer, PC

(1992 – 1996)

Chattanooga

➤ **Associate:** Civil Litigation.

SIGNIFICANT REPRESENTATIONS

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

EDUCATION, ADMISSIONS & ASSOCIATIONS

EDUCATION

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

ADMITTED TO PRACTICE

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

PROFESSIONAL & PERSONAL ASSOCIATIONS

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

PUBLICATIONS AND PRESENTATIONS

Scheduled Future Speaking Engagements

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

Past Speaking Engagements

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

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

- **Panelist, Distribution Deals, Outlets & Options** 19th Annual Southern Regional Entertainment & Sports Law Seminar, San Juan, Puerto Rico, 2007
- **Panelist, Deal or No Deal-Major, Indie, or DIY?** University of Georgia, Athens, 2007
- **Panelist, Current Recording Agreement Concerns, Cutting Edge Music Conference**, New Orleans, 2007
- **Panelist, Artist Agreements that Artists may Face Alone Cutting Edge Music Conference**, New Orleans, 2007
- **Panelist, Building the Successful Music Company Cutting Edge Music Conference**, New Orleans, 2007
- **Panelist, JD Empowerment in Entertainment Law Southern University and Louisiana State University Schools of Law**, In association with United States Supreme Court Justice Clarence Thomas, Baton Rouge, LA 2007
- **Panelist, The Indie Company Takeover- Creating The Beast** 18th Annual Southern Regional Entertainment & Sports Law Seminar, Cancun, Mexico, 2006
- **Chairman, 18th Annual Southern Regional Entertainment & Sports Law Seminar**, Cancun, Mexico, 2006
- **Panelist, Breaking In & Staying in the Business Cutting Edge Music Conference**, New Orleans, 2006
- **Panelist, Artist Contract Agreements Cutting Edge Music Conference**, New Orleans, 2006
- **Panelist, Copyrights & Publishing-Infringement Issues Cutting Edge Music Conference**, New Orleans, 2006
- **Panelist, Recording Agreements Cutting Edge Music Conference**, New Orleans, 2006
- **Guest Speaker, Running Your Record Company**, Music Therapy 101, World Congress Center, Atlanta, 2006
- **Guest Speaker, Music Biz 2006 On Stage Live Revue**, Atlanta
- **Published, Copyright Magazine, "Production Agreements,"** June 2006
- **Guest Speaker, Setting Up A Record Company**, Music Therapy 101, Atlanta, 2006
- **Guest Speaker, What You Need to Know Entering The Music Industry**, Gateway Music Conference, Macon, 2006
- **Chairman, 17th Annual Southern Regional Entertainment & Sports Law Seminar**, San Juan, Puerto Rico, 2005
- **Panelist, Where's The Money In Music? 2005 New Deal Frontiers** 17th Annual Southern Regional Entertainment & Sports Law Seminar, San Juan, Puerto Rico, 2005
- **Panelist, Record Company Economics Cutting Edge Music Conference**, New Orleans, 2005
- **Panelist, Entertainment Basic Contracts Cutting Edge Music Conference**, New Orleans, 2005
- **Panelist, Breaking into and Staying in the Music Industry Cutting Edge Music Conference**, New Orleans, 2005
- **Panelist, Where's The Money? A Breakdown of Music Money Sources**, Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, So You Want to Start a Record Company? Its More Than Just Making Music**, Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, Management Deals & Responsibilities**, Thirsty Melon Music Festival, Louisville, 2005
- **Panelist, Legal Issues that Affect Your Music Careers**, Thirsty Melon Music Festival, Louisville, 2005
- **Guest Speaker, Where's The Money, On Stage Live Revue**, Atlanta, 2005
- **Guest Speaker, The recording, management, publishing and production deal: What to know before you sign**, University of Florida School of Law, Gainesville, 2005
- **Guest Speaker, New Market Schemes: Thinking Outside the Box to Get Your Music Heard**, University of Florida School of Law, Gainesville, 2005
- **Chairman, 16th Annual Southern Regional Entertainment & Sports Law Seminar**, Cabo San Lucas, Mexico 2004

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

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



KENILEY KUMAR, LLC

ATTORNEYS AT LAW

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July 14, 2013

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

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

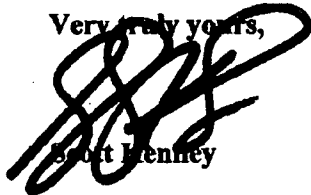
**Case Numbers: 2008-CP-02-1647, 2007-CP-02-0122, 2008-CP-02-0872, 2008-CP-02-0322,
2010-CP-02-0721, 2012-CP-02-1059, 2008-CP-02-1426, 2008-CP-02-1712, 2008-CP-02-2127,
2008-CP-02-1556, 2008-CP-02-1557, 2008-CP-02-1758, 2008-CP-02-1759.**

Trustee/PR Applicant: Scott Keniley

Dear Ms. Liz Godard:

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

Very truly yours,



Scott Keniley

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

EXHIBIT 5

103-13
L. J. Leland
cc. C.P. & O.S.
Anita Knoepfle 430
Deputy Clerk ash

2008CP0201647

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

PHONE & FAX 803-790-4400

e-mail: wmgcpa@aol.com

24 July 24, 2013

9.12.13
Luis Gades
D.C.P. & C.S.
Anita Knoepfle 30
Deputy Clerk

Judge Jack Early
Via email

Re: Estate James Brown et. al.

Dear Judge Early:

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

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

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

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

I do have some understanding of the SC judicial system.

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "W. M. Grooms", written in dark ink.

W. M. GROOMS

W. M. GROOMS, Ph.D.
CERTIFIED PUBLIC ACCOUNTANT

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

CURRICULUM VITAE

PROFESSIONAL EXPERIENCE:

Internal Revenue Service 1957-1965

Clarkson, Harden & Gantt 1965-1985

Arthur Young 1985-1989

Ernst & Young 1989-1990

Self Employed 1990-Present

PROFESSIONAL OFFICES HELD:

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

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

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

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

Past President of the Columbia Estate Planning Council

PROFESSIONAL MEMBERSHIPS:

SC Assoc. of Certified Public Accountants

American Institute of Certified Public Accountants

SC Assoc. of Public Accountants

Columbia Estate Planning Council

Columbia Tax Study Group

SPEAKING ENGAGEMENTS:

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

Spoken at numerous civic meetings across the United States

Lectured at the annual tax meeting of the AICPA

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

South Carolina Trial Lawyers Assoc. (on two different occasions.)
Re: Role of an Expert Witness (Last in 2007)

COLLEGE SPEAKING ENGAGEMENTS:

University of Maryland

University of Michigan

University of Illinois

University of Tennessee

University of Kansas

University of South Carolina

TV APPEARANCES:

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

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

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

AUTHORED:

ARTICLES FOR:

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

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

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

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

CO-AUTHORED:

Textbook for IRS

Textbook for Arthur Young

HAS SERVED AS BOARD MEMBER OR OTHER OFFICER OF:

President, American Business Club

Panelist, American Arbitration Association

Boy Scout Troop Master

Executive Sertoma Club

West Foundation Board of Trustees

Columbia, SC Town Theater

Columbia, SC Workshop Theater

Columbia Art Museum

South Carolina Youth Challenge Board Member

South Carolina Military History Foundation Board Member

South Carolina Youth Challenge Foundation Board Member

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

RELIGION:

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

MILITARY:

Formerly USAF active duty and U. S. Air Force Reserve.
Last assignment preceding retirement was with the Office of the SC Adjutant General as
Maj. General, Commander Joint Services Detachment.

EDUCATION:

B. S. University of South Carolina

M. S. Pepperdine University

Ph. D. LaSalle University

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

EXHIBIT 6

103.13
Luis Adard
D.C.P. & G.S. 430
Anita Knoepfle
Deputy Clerk 6

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

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

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

Subject: Executive Trustee

2008 CP0201647 DAE

Judge Early,

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

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

Thank you.

706-399-1292.

References upon request.

9.12.13
FILED
Lij Gadsden
C.C.P. & G.S.
Amita Knoepfle
Deputy Clerk

EXHIBIT 7

10.3.13
Liz Gadsden
U.C.P. & G.S. 430
Anita Knoepfle
Deputy Clerk

State of South Carolina) In the Court of Common Pleas
County Of Aiken) Second Judicial Circuit
2009-CP-02-01810
2008-CP-02-01647
2007-CP-02-00056

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

September 4, 2013
Columbia, South Carolina

B e f o r e:

The Honorable Doyet A. Early III, Judge

A p p e a r a n c e s:

William G. Newsome III, Esquire
J. David Black, Esquire
James R. Gilreath, Esquire
J. Kendall Few, Esquire
John Beach, Esquire
Kenneth B. Wingate, Esquire
Mary Frances G. Jowers, Esquire
Daryl L. Williams, Esquire
David B. Bell, Esquire
Robert N. Rosen, Esquire

Bonnie H. Kelly, CVR
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NO.</u>
Case Called/The Court	4
Testimony of Judge Neal W. Dickert	6
Testimony of W. M. Grooms	17
Testimony of Scott Keniley	22
Testimony of Russell Bauknight	32
Testimony of David C. Sojourner, Jr.	53
Decision by the Court	60
Certificate Page	62

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EV.</u>
C-1	Petitioner's Nomination by Yamma Brown 1-page document		61
C-2	Petitioner's Nomination by Vanishia Brown 1-page document		61
C-3	Petitioner's Nomination by Deanna Brown Thomas 1-page document		61

1 THE COURT: Good afternoon, gentlemen, ladies. All
2 right.

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

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

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

17 JUDGE DICKERT: Good to see you, Judge.

18 THE COURT: -- from Augusta.

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

21 MR. KENILEY: Keniley, sir.

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

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

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

3 MR. GROOMS: Yes, sir.

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

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

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

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

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

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

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

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

22 MR. BELL: Thank you, Your Honor.

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

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

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

2 (Courtroom laughter.)

3 (Judge Dickert takes the stand.)

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

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

10 (Courtroom laughter.)

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

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

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

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

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

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

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

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

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

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

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

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

14 MR. BELL: An active Aiken County practice.

15 JUDGE DICKERT: Active Aiken County practice, yes.

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

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

1 question with regard to one -- one child, the child that -
2 -

3 MR. BELL: Okay.

4 JUDGE DICKERT: So I think those are the three
5 principal issues that would have to be addressed and
6 decided at a fairly early stage. Anyway, not necessarily
7 in that order, but certainly those -- those are the three.

8 MR. BELL: And how do you see those issues
9 progressing? How speedily could they be pursued and --
10 and --

11 JUDGE DICKERT: Well, as many lawyers as we have in
12 this room, that would probably be a challenge, but -- if
13 everyone's involved. But I mean, I think they do need to
14 move quickly. Obviously, this -- this case has been
15 around for a long time, and -- and noone is served by
16 continuing.

17 I think some -- some would be -- you know, my -- my
18 approach -- and I use this recently -- when I try to
19 mediate cases, there's some -- some things that are -- if
20 you get the easier cases out -- easier issues out of the
21 way first, then the others sort of fall into place. It
22 seems to me that the paternity issue would be one that
23 would have to be decided. That ought to -- ought to be
24 fairly easy to address.

25 MR. BELL: DNA test.

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

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

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

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

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

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

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

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

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

7 JUDGE DICKERT: Possibly.

8 THE COURT: Which hat would you prefer?

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

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

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

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

17 JUDGE DICKERT: I -- I would.

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

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

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

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

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

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

16 MR. NEWSOME: Your Honor --

17 THE COURT: Yes.

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

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

23 MR. NEWSOME: Okay.

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

25 MR. NEWSOME: Thanks.

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

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

12 MR. BELL: You -- you were.

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

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

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

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

1 MR. BELL: And when you ---

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

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

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

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

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

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

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

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

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

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

5 THE COURT: Well, I assume so.

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

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

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

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

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

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

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

11 THE COURT: All right. Thank you.

12 MR. BELL: Thank you, Your Honor.

13 THE COURT: Thank you.

14 (Judge Dickert exits the stand.)

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

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

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

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

24 JUDGE DICKERT: Okay.

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

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

5 JUDGE DICKERT: Thank you, Judge.

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

8 (Mr. Grooms comes forward.)

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

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

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

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

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

25 MR. GROOMS: Thank you, Your Honor.

1 THE COURT: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (Mr. Grooms exits the stand.)

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

11 MR. KENILEY: Keniley, sir.

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

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

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

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

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

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

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

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

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

25 In addition to that, we also represent gaming

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 for the new entity Compendia Media Group.

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

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

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

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

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

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

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

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

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

1 his ---

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

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

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

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

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

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

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

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

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

4 THE COURT: And from there?

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

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

13 MR. KENILEY: No, sir.

14 THE COURT: Thank you very much for coming.

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

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

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

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

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

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

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

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

4 THE COURT: Never represented him?

5 MR. KENILEY: No, sir.

6 THE COURT: Thank you. Anything else?

7 (No audible response.)

8 THE COURT: Thank you for coming.

9 MR. KENILEY: Thank you, sir.

10 (Mr. Keniley exits the stand.)

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

13 (Mr. Bauknight takes the stand.)

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

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

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

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

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

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

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

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

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

5 CLERK OF COURT: No.

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

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

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

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

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

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

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

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

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

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

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

3 THE COURT: Thank you. Mr. Newsome.

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

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

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

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

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

15 MR. NEWSOME: All right. Sorry.

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

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

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

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

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

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

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

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

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

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

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

1 THE COURT: Yes, sir.

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

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

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

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

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

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

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

2 I partnered with Universal Music.

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

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

7 THE COURT: Just go ahead.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 THE COURT: Even as we speak today.

3 MR. BAUKNIGHT: Yes. Yes, sir.

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

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

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

10 MR. NEWSOME: That's right.

11 MR. BAUKNIGHT: That's correct.

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

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

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

17 THE COURT: Right?

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

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

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

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

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

1 both during my tenure and that of the other fiduciaries.
2 In fact, I filed Mr. Brown's final personal income tax
3 return for the year he passed away.

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

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

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

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

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

1 lifted shortly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Peter Afterman was able to get that deal going.

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

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

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

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

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

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

1 afford it.

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

3 MR. BAUKNIGHT: Sure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to appoint additional fiduciaries at this time.

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

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

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

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

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

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

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

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

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

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

12 THE COURT: I don't have any.

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

15 THE COURT: Please.

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

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

21 MR. BAUKNIGHT: Absolutely not.

22 MR. NEWSOME: Okay.

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

1 against any and all claims made against it.

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

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

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

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

1 hopefully would save this estate and trust some money.

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

4 MR. NEWSOME: Okay.

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

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

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

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

25 THE COURT: Thank you. Anything else?

1 MR. NEWSOME: No, Your Honor.

2 THE COURT: All right, sir. Thank you very much, Mr.
3 Bauknight.

4 MR. BAUKNIGHT: You're welcome.

5 (Mr. Bauknight exits the stand.)

6 THE COURT: Mr. Sojourner.

7 MR. SOJOURNER: Yes, Your Honor.

8 THE COURT: Gentlemen, identify your -- this is for
9 the court reporter. Identify yourselves for the record.

10 MR. SOJOURNER: David C. Sojourner, Jr.

11 David C. Sojourner, Jr. having
12 been first duly sworn, testifies as follows:

13 MR. BEACH: And I've identified myself as John Beach
14 already. Okay.

15 If you'd state your name for the record.

16 MR. SOJOURNER: David C. Sojourner, Jr.

17 MR. BEACH: Okay. And where are you employed?

18 MR. SOJOURNER: I'm a partner at Adams and Reese, a
19 law firm here in Columbia.

20 MR. BEACH: Okay. And would you describe your law
21 practice there at Adams and Reese.

22 MR. SOJOURNER: Sure. The predecessor firm was Ellis,
23 Lawhorne, and Sims. Before that Nauful and Ellis. We
24 recently merged with Adams and Reese June 1st.

25 I've been practicing in that firm for 26 or 27 years,

1 primarily estate and gift tax planning, estate
2 administration. Included within that the occasional
3 estate litigation matter.

4 I'm a tax attorney in -- in primarily estate and gift
5 tax planning. There are five of us at the firm that are
6 focused on this area of law.

7 MR. BEACH: Okay. And you mentioned Ellis Lawhorne,
8 backing up from the June merger of Ellis Lawhorne into
9 Adams and Reese, what was your experience and history with
10 Ellis Lawhorne?

11 MR. SOJOURNER: I've been a shareholder there for 20
12 years, and -- and again the practice was the same there,
13 same group of people.

14 MR. BEACH: All right. Did you go work for Ellis
15 Lawhorne directly out of law school?

16 MR. SOJOURNER: I did -- well, after I -- I -- my -- I
17 went to Clemson University for my undergrad. I went to
18 the University of South Carolina Law School. While there,
19 I -- I was working as a law clerk for then Nauful and
20 Ellis. I went to New York University and got a masters
21 degree in tax law immediately after law school, and have
22 been back working for the same law firm ever since then.

23 MR. BEACH: Okay. And what was your degree in at
24 Clemson?

25 MR. SOJOURNER: Economics.

1 MR. BEACH: Okay. What courts -- in what courts are
2 you admitted to practice?

3 MR. SOJOURNER: All South Carolina Federal Court, Tax
4 Court.

5 MR. BEACH: Okay. Have you received any specialty
6 certifications from the South Carolina Supreme Court?

7 MR. SOJOURNER: I'm a certified specialist in tax law,
8 and have been since 1991. I'm a certified specialist in
9 estate planning and probate, and have been since 1992.

10 MR. BEACH: Okay. Do you hold any professional
11 distinctions or recognitions?

12 MR. SOJOURNER: Am a A-rated Martindale attorney. I'm
13 a member of Best Lawyers in America, South Carolina Super
14 Lawyers, both of those in trust and estates matters.

15 MR. BEACH: Uh-huh.

16 MR. SOJOURNER: I'm a member of the American College
17 Trust and Estate Counsel.

18 MR. BEACH: Tell me about the American College of
19 Trust and Estates Counsel. Is that something that you
20 just join up or ...

21 MR. SOJOURNER: It's a -- it's an invitation-only
22 organization, approximately 1800 attorneys throughout the
23 country. Have to be A rated; have to have practiced for
24 at least 10 years; and have to have your practice
25 substantially devoted to estate and gift tax planning or

1 administration.

2 MR. BEACH: Okay.

3 MR. SOJOURNER: As part of that process with that
4 organization, I was also trained in -- in mediation. I'm
5 not a certified mediator, but -- by the South Carolina
6 Rules, but I've had specialty training in mediation of
7 issues related to estates, family disputes.

8 MR. BEACH: And when did you become a fellow in the
9 American College of Trust and Estates Counsel?

10 MR. SOJOURNER: 2001.

11 MR. BEACH: Have you ever served on any boards or --
12 or positions such as that for local or corporate entities
13 in South Carolina?

14 MR. SOJOURNER: I'm the former chairman of the
15 Community Foundation here in Columbia, Heathwood Hall
16 Episcopal School I -- that organization as well.

17 MR. BEACH: Okay. And have you ever served as the
18 fiduciary for a trust or an estate?

19 MR. SOJOURNER: I have. I've served as a personal
20 representative in the past.

21 MR. BEACH: Have you ever counseled clients on their
22 obligations and duties as they served in the -- a position
23 as trustee or personal representative?

24 MR. SOJOURNER: Certainly.

25 MR. BEACH: Have you ever represented parties in

1 litigation that involved trust and estates in actions
2 involving trusts and estates?

3 MR. SOJOURNER: I have. Will contests, elective share
4 claims, a number of those types of issues over the years.

5 MR. BEACH: Okay. Have you represented trustees in
6 those actions?

7 MR. SOJOURNER: I have.

8 MR. BEACH: Have you represented beneficiaries or
9 people claiming interest in those actions?

10 MR. SOJOURNER: I have.

11 MR. BEACH: How did you come to be before the Court
12 here today in this matter?

13 MR. SOJOURNER: Probably in June or July, Freddie
14 Kingsmore called me and I went over and met with Freddie
15 and Russell Bauknight. And they discussed for me the
16 issues that were related here and the idea of carving out
17 a special limited administrator and trustee role,
18 exclusively for the purpose of defending these particular
19 claims that we've talked about earlier today.

20 And they --- they thought that it was appropriate to
21 petition the Court for that, and I told them, based on our
22 conversations, that I would -- I -- I would agree to serve
23 in that capacity.

24 MR. BEACH: Okay.

25 MR. SOJOURNER: But only that capacity.

1 MR. BEACH: Okay.

2 MR. SOJOURNER: I don't have any interest in being the
3 -- the full personal representative or trustee in this
4 case.

5 MR. BEACH: Okay. What -- under what circumstances
6 have you agreed to serve?

7 MR. SOJOURNER: Well, first, that it be limited to
8 defending these particular claims; second, that I be
9 allowed to -- to retain my law firm Adams and Reese to --
10 to represent me in that matter. That -- those are really
11 the primary --

12 MR. BEACH: Okay.

13 MR. SOJOURNER: -- conditions.

14 MR. BEACH: Your Honor, I ---

15 MR. SOJOURNER: That's all.

16 MR. BEACH: Oh. You want ---

17 MR. SOJOURNER: No. Go Ahead.

18 MR. BEACH: Okay. Your Honor, I don't have any other
19 questions for Mr. Sojourner, but certainly he is available
20 to answer any questions that the Court might have.

21 THE COURT: What resources does your firm have to
22 become immediately involved in -- in this litigation,
23 because obviously, once I make this appointment, this
24 thing has had a tortious past. We're going to put it on a
25 -- not a fast, fast track, but it's going to be on a

1 rather quick track to bring it to a head to -- so it would
2 be in a position that it would be resolved one way or the
3 other, i.e., by trial or some other way.

4 I mean, do you have the resources to devote to it, to
5 participate in a scheduling order and to comply with that;
6 and to go ahead and complete discovery on all three
7 issues; and in a position where we can either dispose of
8 it by way of dispositive motions and/or trial?

9 MR. SOJOURNER: Yes, sir, Your Honor. I believe that
10 we do. The law firm has over 300 attorneys. Mr. Beach
11 would probably be the -- the attorney that was most
12 closely involved with me on this.

13 We have a number of other attorneys that are available
14 to assist in this matter, not only attorneys that have
15 experience in trusts and estate litigation, but we also
16 have a music law office in Nashville.

17 We got intellectual property lawyers to the extent
18 that that might be helpful in -- in dealing with some of
19 the issues that are involved here. We've got domestic
20 relations lawyers. I know that there's a -- some marital
21 issues. So I believe that our firm has the resources to
22 handle all these matters.

23 THE COURT: All right. Thank you. Anything else?

24 MR. BEACH: No, Your Honor. I have nothing else right
25 now. Thank you.

1 THE COURT: Thank you. Thank you for coming.

2 MR. SOJOURNER: Thank you, Your Honor.

3 THE COURT: Ladies and gentlemen, I am obviously going
4 to take what I've heard here today under advisement. If
5 anyone has any opposition to any of the particular people
6 who have applied, I will allow you 10 days to give me
7 written -- opposition written, however you want to send it
8 to me, by filing with the Court any opposition to any of
9 the particular people.

10 Within the next 20 days, I will make a decision and
11 obviously, once I make the decision, depending on how I do
12 it, I will require status conferences on the three
13 contests, i.e., the validity of the will, the marriage,
14 and the child, to immediately get scheduling orders in
15 place, complete discovery, dispositive motions, so we can
16 move forward to get those matters concluded concomitantly
17 with the administration of the estate.

18 I want to thank everyone for coming today, and if
19 anyone else has any matters that need immediate attention,
20 please contact my new law clerk, and we will see that
21 you're hear -- heard immediately. Thank you very much.
22 Have a nice day.

23 MR. GILREATH: Your Honor. Your Honor, could I make -
24 - I don't know whether this is the appropriate time to
25 make a comment or either you want --

1 THE COURT: I said that I -- by written, but if I open
2 it up to one comment, then I've got the whole room ---

3 MR. GILREATH: I understand. I just wanted to -- you
4 know, Mr. Few and I are in a -- kind of a unique position
5 that I wanted the Court to kind of have our opinion on how
6 we see how this may affect us as we go forward.

7 THE COURT: You can certainly send me any written, but
8 send it to everybody, a copy to everybody.

9 MR. GILREATH: We'll be glad -- we'll be glad to do
10 that. Thank you.

11 THE COURT: Y'all got the Katz litigation going on,
12 and --

13 MR. GILREATH: Right.

14 THE COURT: And obviously, that's ---

15 MR. GILREATH: Yes, we've got --

16 THE COURT: I'm -- I'm aware of that.

17 MR. GILREATH: Okay.

18 THE COURT: Thank you.

19 (Marked Court's Exhibit 1, Petitioner's Nomination
20 from Yamma Brown, 1-page document.)

21 (Marked Court's Exhibit 2, Petitioner's Nomination
22 from Vanishia Brown, 1-page document.)

23 (Marked Court's Exhibit 3, Petitioner's Nomination
24 from Deanna Brown Thomas, 1-page document.)

25 -- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record to the best of my ability of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Second Circuit Court, for Aiken County, South Carolina, on the 4th day of September, 2013.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

September 14, 2013

EXHIBIT 8

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647**

Henry Dargan McMaster

**Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney Lumar**

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

10/3/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on **10-3-13**, and a copy mailed first class or placed in the appropriate attorney's box on **10-4-13**, to attorneys of record or to parties (when appearing pro se) as follows:

Clyde H. Jones Jr. PO Box 11549 Columbia, SC 29211
Matthew Day Bodman 1500 Calhoun St. Columbia, SC 29201

William W. Wilkins PO Drawer 10648 Greenville, SC 29603-0648
J. David Black PO Drawer 2426 Columbia, SC 29202-2426
Fred Lewis Kingsmore Jr. PO Drawer 2426 Columbia, SC 29202-2426

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W. Kingsmore Jr.

Court Reporter

Liz Godard - Clerk of Court

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

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

For Clerk of Court Office Use Only

This judgment was entered on **10-3-13**, and a copy mailed first class or placed in the appropriate attorney's box on **10-4-13**, to attorneys of record or to parties (when appearing pro se) as follows:

C Harvid Jones Jr.

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC 29603-0648

William Joseph Barr 108 N. Academy St. Kingstree, SC 29556-3422

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

Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401

Matthew Day Bodman 1500 Calhoun St. Columbia, SC 29201

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

David Bell 619 Greene Street Augusta, GA 30901

James ~~Mixon Griffin~~ PO Box 11208 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Liz Godard by W. Knapp

Court Reporter

Liz Godard - Clerk of Court

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

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

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF: AIKEN

PROOF OF DELIVERY

IN THE MATTER OF: JAMES BROWN

CASE NUMBER: 2007-ES02-0056 and 2008-CP02-01647

On the 17th day of October 2013, I caused to be mailed or delivered the following document: Interim Order Appointing Limited Special Administrator dated October 10, 2013,

- ☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the court and incorporated herein,

Delivery was accomplished by the following method (check appropriate box):

- ☐ personal delivery ☒ ordinary first class mail
☐ certified mail ☐ registered mail

to each of the following persons at the address shown:

NAME

ADDRESS

See Attachment A

See Attachment A

SWORN to before me this 17th day of
October, 20 13

Brenda M. Anderson

Notary Public for South Carolina

My Commission Expires: 4/3/23

Signature: Kay Keefe Mullinax

Name: Kaye Keefe Mullinax, AACP, RP®

Address: P.O. Drawer 2426

Columbia, SC 29202

Telephone (O): 803.540.2178

(H):

Email: Kmullinax@nexsenpruet.com

Received

OCT 17 2013

Adams and Reese LLP

**ATTACHMENT A TO PROOF OF DELIVERY
DATED OCTOBER 17, 2013**

**FOR
ORDER IN RE: INTERIM ORDER APPOINTING LIMITED SPECIAL
ADMINISTRATOR DATED OCTOBER 10, 2013**

CASE NOS. 2008-CP02-01647 AND 2007-ES02-0056

Matthew D. Bodman, Esquire 1500 Calhoun Street Columbia, SC 29201	A. Peter Shahid, Esquire 89 Broad Street Charleston, SC 29401
Louis Levenson, Esquire Levenson & Associates 125 Broad Street, SW Atlanta, GA 30303	Robert N. Rosen, Esquire T. Heyward Carter, Jr., Esquire S. Alan Medlin, Esquire David L. Michel, Esquire Thornton Morris, Esquire Rosen Law Firm, LLC PO Box 1840 Charleston, SC 29402
James M. Griffin, Esquire P. O. Box 999 Columbia, SC 29202	John F. Beach, Esquire Adams and Reese LLP 1501 Main Street, 5th Floor Columbia, SC 29201
C. Havird Jones, Jr., Esquire Mary Francis Jowers, Esquire Assistant Deputy Attorney General SC Attorney General's Office 1000 Assembly Street, Room 519 Columbia, SC 29201	William J. Barr, Esquire Barr Law, LLC 108 N. Academy Street Kingstree, SC 29556-3422
David B. Bell, Esquire 619 Greene St PO Box 1011 Augusta, GA 30903-1011	

Order appointing David C. Sojourner, Jr. as Limited Special Administrator entered
October 10, 2013
Pages 136-141

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN RE:

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

IN THE PROBATE COURT

CASE NO. 2007-ES-02-005

CASE NO. 2008-CP-02-164

INTERIM ORDER
APPOINTING LIMITED
SPECIAL ADMINISTRATOR

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND
CORRECT COPY OF THE ORIGINAL ON FILE IN THIS COURT
WITNESSED BY HAND AND SEAL OF THE COURT THIS THE
16th DAY OF October A.D. 2013

Sue H. Roe
JUDGE OF PROBATE FOR AIKEN COUNTY, S.C.
BY [Signature] CLERK

This matter comes before the Probate Court on Petition for the Appointment of Limited Special Administrator, whereby this Court is requested pursuant to applicable South Carolina law, including but not limited to S.C. Code Ann. § 62-3-614 and S.C. Code Ann. § 62-3-617, to appoint David C. Sojourner, Jr. as Limited Special Administrator of the Estate of James Brown (the "Estate"). Mr. Sojourner has been appointed by Order of the Aiken County Circuit Court dated October 1, 2013 (hereafter the "Circuit Court Order") as Limited Special Trustee of the James Brown August 1, 2000 Irrevocable Trust Agreement (the "Trust").

BACKGROUND

In *Wilson v. Dallas*, 403 S.C. 411, 450, 743 S.E.2d 746, 768 (2013) (the "Opinion"), the South Carolina Supreme Court affirmed in part, reversed in part, and remanded the Circuit Court's May 26, 2009 Order regarding the Estate and Trust. On May 29, 2013, the Circuit Court held a status conference concerning the Opinion and, by Order dated June 13, 2013, required all applications of those interested in serving as fiduciaries of the Estate and Trust to be made within 45 days of the date of that Order (July 29, 2013). On September 4 and 11, 2013, the Circuit Court conducted a hearing to receive testimony from all applicants for fiduciary positions in the Estate and the Trust. Mr. Sojourner appeared at the September 4, 2013 hearing before the Circuit Court

Filed: 10-10-2013

Sue H. Roe
Judge of Probate

Record on Appeal, Volume I, Page 136

By: [Signature]

196
SME

and provided testimony. Russell L. Bauknight, having filed the Petition of Appointment of Limited Special Administrator, also provided testimony at the September 4, 2013 hearing.

After conducting the hearing, the Circuit Court appointed Russell L. Bauknight as Personal Representative of the Estate and Trustee of the Trust by its Order dated October 1, 2013. The Circuit Court, by the same Order, appointed David C. Sojourner, Jr. as Limited Special Trustee of the Trust.

This Court takes Judicial Notice of the proceedings before the Circuit Court, as provided in the transcripts of record, along with the record of testimony, and hereby adopts and incorporates the findings and conclusions of the Circuit Court. All proper parties were provided the opportunity to object and be heard at the Circuit Court hearing. This Court incorporates the record of the Circuit Court hearing in this Order and relies thereon in order to further promote judicial economy and to avoid the cost and inefficiencies of conducting a second hearing with the same parties and the same issues.

FINDINGS OF FACT

This Court has carefully reviewed the Will, the Petition for Appointment of Limited Special Administrator filed on behalf of Mr. Sojourner, all related filings, and has considered the testimony provided by Mr. Sojourner, Mr. Bauknight and others in the hearing on September 4, 2013. James Brown passed away nearly seven years ago on December 25, 2006. These factual findings and this Interim Order are all made in an effort to expedite the efficient administration of the Estate, based on the overarching goal of creating an atmosphere in which a prompt resolution of the various contested claims and a final resolution of Estate matters can occur.

This Court incorporates and adopts the findings of fact of the Circuit Court's Order dated October 1, 2013, and specifically finds:

2 of 6
SMR

1. Russell L. Bauknight has continuously served as a fiduciary to the Estate, both in his role as Personal Representative since May 26, 2009 and his continuing role as Special Administrator, with general fiduciary powers, since August 6, 2009, and there has been no lapse in his authority or fiduciary service since appointment.

2. This Court is aware that certain parties have raised the issue of whether a conflict of interest exists with respect to Mr. Bauknight's continued role as fiduciary of the Estate in the ongoing spousal elective share matter, the omitted spouse matter, the omitted child matter, and the legal challenges to the validity of the Will and Trust that were involved in the settlement agreement (collectively, the "Will and Trust Challenges"). This Court does not believe that a conflict of interest exists. Mr. Bauknight has testified that he has no conflict of interest and that he is willing and capable of fully defending Mr. Brown's Estate plan. This Court has weighed that testimony and finds along with the Circuit Court that neither Mr. Bauknight, nor his counsel, has any conflict of interest that would prevent them from vigorously defending or prosecuting actions on behalf of the Estate and Trust. While this Court finds that no conflict of interest exists, out of an abundance of caution and in order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds that it is prudent to appoint an individual to serve as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Estate against the claims made in the Will and Trust Challenges until final resolution thereof.

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

3 of 6
JMR

and has had specialty training in mediation of issues related to estates, including family disputes. Additionally, Mr. Sojourner has served as a fiduciary in the past and has counseled clients on their obligations and duties in a position as fiduciary. Mr. Sojourner has agreed to serve, so long as his role is limited to defending the Will and Trust Challenges on behalf of the Estate and his law firm of Adams and Reece LLP can represent him in that role. Given his experience, in addition to the resources of a 300-attorney law firm, Mr. Sojourner is well-suited to serve in the role as Limited Special Administrator.

4. Appointing a Limited Special Administrator to defend the Estate against the claims made in the Will and Trust Challenges provides structured and efficient administration, complies with sound judicial economy, and allows Mr. Bauknight the ability to manage all other aspects of estate administration.

5. At this time, this Court finds that it is in the best interests of the Estate, while Mr. Bauknight continues to serve as Personal Representative and oversees the Estate administration, that Mr. Sojourner be appointed as the Limited Special Administrator to oversee the Will and Trust Challenges and to defend the Estate plan against the claims made in the Will and Trust Challenges, and that he serve in such capacity until the conclusion of the litigation involved in the Will and Trust Challenges.

6. This Court is mindful of the practical administration problems the Estate has encountered as a result of the history of the prior and multiple fiduciary appointments. In an effort to avoid the recurrence of such problems, this Court finds, at this time, it in the best interests of the Estate to leave Mr. Bauknight's appointment as Special Administrator with general fiduciary authority undisturbed. That appointment shall continue until further order of the Court.

4 6
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JMR

CONCLUSIONS OF LAW

This Court incorporates and adopts the conclusions of law contained in the Circuit Court's Order dated October 1, 2013, and specifically concludes as follows:

1. I find that this Court has jurisdiction to hear this matter and that venue is proper. All of the interested parties have been notified of the Petition for Appointment of Limited Special Administrator of the Estate and have been given an opportunity to oppose the petition filed on behalf of Mr. Sojourner.

2. S.C. Code Ann. § 62-3-614 provides that a special administrator may be appointed upon a finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration. S.C. Code Ann. § 62-3-617 provides that a special administrator so appointed has the power of a general personal representative except as limited in the order and specifically states that the appointment may be for a specified time, to perform particular acts, or on any other terms as the court may direct.

3. After careful review of the Will and Trust, the Petition for Appointment of Limited Special Administrator, the testimony proffered by Mr. Sojourner and others in the hearing on September 4, 2013, I find that the appointment of a Limited Special Administrator of the Estate at this time is necessary in order to adequately protect and preserve the Estate, and secure the Estate's proper administration.

4. In order to avoid any appearance of impropriety and to promote the efficient and speedy administration of the Estate, this Court finds it in the best interests of the Estate for Mr. David C. Sojourner, Jr. to be appointed as Limited Special Administrator solely, specifically, and exclusively for the purpose of defending the Estate against the claims made in the Will and Trust Challenges until final resolution thereof. This interim appointment is made with the requirement

5
of 6
SJR

that Mr. Sojourner, in his limited capacity, shall remain independent from Mr. Bauknight, shall act with sole and absolute authority in his limited capacity, and will retain Adams and Reese LLP to represent him in the Will and Trust Challenges. Mr. Sojourner is well-qualified and willing to serve as Limited Special Administrator of the Estate.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. David C. Sojourner, Jr. is appointed as Limited Special Administrator for the Estate for the sole, exclusive, and specific purpose of defending the Estate in the Will and Trust Challenges, until final resolution thereof, and is authorized to retain Adams and Reese LLP to represent him in such matters.

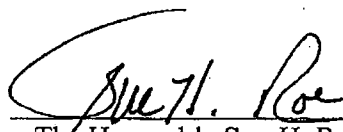
2. Russell L. Bauknight's prior appointment as Special Administrator, with general fiduciary authority, shall remain undisturbed until further order of the court.

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

4. This interim Order is temporary. The Court's appointment of David C. Sojourner, Jr. as Limited Special Administrator will be revisited upon conclusion of all Estate litigation involved in the Will and Trust Challenges.

AND IT IS SO ORDERED.

October 10th, 2013.
Aiken, South Carolina



The Honorable Sue H. Roe
Aiken County Probate Judge

#6
of 6

Final Order granting Respondents' Joint Motion entered March 7, 2016
Pages 142-167

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	
	)	CASE NO. 2008-CP-02-1647
	)	
IN RE:	)	ORDER AUTHORIZING SETTLEMENT OF
	)	THE BROWN CHILDREN'S UNDUE
THE ESTATE OF JAMES BROWN	)	INFLUENCE CASES AND DISMISSING
A/K/A JAMES JOSEPH BROWN	)	CASES WITH PREJUDICE
	)	

This matter is before the Court on a joint motion filed by the Estate of James Brown ("Estate") and James Brown Irrevocable Trust Agreement, u/a/d August 1, 2000 ("Trust"), by and through its fiduciaries, Russell L. Bauknight, Personal Representative and Trustee ("Bauknight"), and David C. Sojourner, Jr., Limited Special Administrator and Limited Special Trustee ("Sojourner") (collectively, the "Fiduciaries"), and Petitioners Tonya Brown, a/k/a Sarah LaTonya Brown, Vanisha Brown, Larry Brown, Deanna J. Brown Thomas, Jason Brown Lewis, and Yamma N. Brown Lumar, individually and on behalf of her minor children, Sydney Lumar and Carrington Lumar ("Petitioners") (collectively the "Moving Parties").

The Moving Parties request an order confirming the authority of the Estate and Trust to enter into two settlement agreements with Petitioners which would dispose of Petitioners' challenges to the Will and Trust (the "Settlement Agreements"); entering the Settlement Agreements into the record, in satisfaction of Rule 43(k), SCRCP; dismissing with prejudice all challenges to the Will and Trust filed by Petitioners, as amended, pursuant to Rule 41(a)(2), SCRCP; and dismissing Petitioners as parties to the above-captioned action.

FILED 3.7.16
 [Signature]
 1245

¹ This Order does not dispose of all claims to set aside the Will and Trust, as Tommie Rae Brown also has Petitions to Set Aside Informal Probate and to Set Aside the Trust Agreement, filed on December 20, 2007, which are not resolved by the Settlement Agreements and will continue under this case caption.

OAE*1

Daryl Brown and Terry Brown were the only parties who filed oppositions to the Joint Motion. See Opposition to Joint Motion filed by Daryl Brown on or about December 29, 2015, and Amended Response of Terry Brown, filed on or about December 30, 2015.

The Court conducted a hearing on the Joint Motion on January 14, 2016 in Aiken, South Carolina. During the hearing, the Court heard oral argument from counsel for all parties and received sworn testimony from counsel for Petitioners, Mr. Louis Levenson.

DISCUSSION

I. BAUKNIGHT AND SOJOURNER, AS REPRESENTATIVES OF THE ESTATE AND TRUST, HAVE AUTHORITY TO ENTER INTO THE SETTLEMENT AGREEMENTS.

The Moving Parties sought confirmation pursuant to S.C. Code Ann. Section 62-3-105² that Mr. Bauknight, as Personal Representative and Trustee, and Mr. Sojourner, as Limited Special Administrator and Limited Special Trustee, had authority to enter into the Settlement Agreements on behalf of the Estate and Trust.

On October 1, 2013, the Court appointed Messrs. Bauknight and Sojourner as fiduciaries of the Estate and Trust (the "Appointment Order"). The Appointment Order does not expressly list a power to settle claims; however, the Court finds such power is inherent in both the Appointment Order and applicable legal authority.³ In addition, Decedent's Irrevocable Trust Agreement, Article X(19), authorizes the trustee, in his fiduciary discretion, to "compromise,

² This statutory provision enables estate representatives, including personal representatives and trustees, to request rulings which assist in the administration of estates and trusts. The Court finds the Joint Motion is appropriately asserted under this statute.

³ See S.C. Code Ann. § 62-3-715(8) (authorizing a personal representative to "settle claims" against the estate); S.C. Code Ann. § 15-51-42(A) ("Only a duly appointed personal representative, as defined in Section 62-1-201(30), shall have the authority to settle wrongful death or survival actions"); and S.C. Code Ann. § 62-7-816(14) (granting trustees with the power to "pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust").

adjust, mediate, arbitrate, sue on or defend, abandon, or otherwise deal with and settle claims in favor of or against the Trust Estate as the Trustee shall deem best.” The Court finds there are no other fiduciaries or representatives with capacity to enter into agreements on behalf of the Estate and Trust. Therefore, the Court confirms that Messrs. Bauknight and Sojourner are duly authorized to enter into the Settlement Agreements on behalf of the Estate and Trust.⁴

This Court confirms that Messrs. Bauknight and/or Sojourner are empowered to bind the Estate and Trust to the subject Settlement Agreements, as well as resolve, in whole or in part, other Will and Trust Challenges, so long as the fiduciary determines such agreements to be appropriate and in the best interests of the Estate and Trust.⁵

II. THE SETTLEMENT AGREEMENTS ARE IN THE BEST INTERESTS OF THE ESTATE AND TRUST.

Based on the Court’s review of the pleadings, affidavits of record, transcripts of depositions, and discovery submitted by the parties, and after considering the testimony of Louis Levenson, Esquire, counsel for Petitioners, the Court finds the Settlement Agreements to be appropriate and in the best interests of the Estate and Trust.

As a preliminary matter, the Settlement Agreements fully resolve pending claims that, if successful, would significantly alter or invalidate Decedent’s 2000 estate plan. The Court is informed that discovery is ongoing—limited written discovery has been conducted between the parties and certain depositions have been taken with others being scheduled. The Parties have informed the Court that additional discovery will be time-consuming and extremely expensive.

⁴ The Court notes that because the Joint Motion was not filed pursuant to Section 62-3-1101 of the Probate Code, and the Court is not being asked to “approve” the Settlement Agreements, the Settlement Agreements are not binding on parties other than the Moving Parties.

⁵ Messrs. Bauknight and Sojourner are free to seek guidance from the Court pursuant to S.C. Code Ann. § 62-3-105 with regard to future settlement agreements, but are not required to do so.

In addition, the LSA pointed out during the hearing that if Petitioners were successful on their claims, and Decedent's 2000 Will and Irrevocable Trust Agreement were set aside or invalidated, the Court would then have to consider the enforceability and validity of Decedent's prior estate plans, such as the 1999 estate plan consisting of a will and revocable trust agreement. Trying the current undue influence cases, seeking to set aside the 2000 estate plan of Decedent, and if successful, subsequently seeking to enforce the in terrorem clauses against Petitioners, will cost the Estate and Trust substantial legal fees, will require lengthy discovery, and will involve at least a week, if not more, of judicial resources for trial. If the 2000 Will and Trust are overturned, additional estate litigation involving Decedent's prior estate plans will result. Undoubtedly, additional trials on the enforceability and validity of prior estate plans, such as Decedent's 1999 estate plan, will be as costly if not more so. Settlement at this stage saves substantial estate and trust assets and eliminates all risks to the Estate and Trust that Petitioners might succeed in setting aside Decedent's estate plan.

The Settlement Agreements also have the beneficial effect of eliminating challenges asserted by Petitioners, Decedent's children, who have intimate and deep personal knowledge of Decedent, his testamentary intentions, and the manner in which he operated his businesses. The Estate and Trust's settlements with these Petitioners are also valuable because of Petitioners' close connection to the local community and personal relationships with key witnesses. Furthermore, Petitioners have agreed, through the express terms of their Settlement Agreements, to support the LSA in his ongoing defense of the Estate and Trust in other still-pending Will and

Trust Challenge actions.⁶ Petitioners' support is in addition to the already-existing, and acknowledged,⁷ support of the Estate and Trust by Terry Brown and Daryl Brown.

For these reasons, the Court finds the Settlement Agreements are in the best interests of the Estate and Trust to the extent they secure a prompt, certain, and favorable resolution of the Petitioners' challenges to the validity of the Will and Trust, save potential time, expenses, and resources of the Estate and Trust, and reduce the expenditure of judicial time and resources. The Estate and Trust's one-time payment of \$37,500 to each Petitioner, while undisputedly valuable to Petitioners, is easily justified when compared to the foreseeable litigation costs and risk to the Estate and Trust if these actions were tried before a jury.

Daryl Brown argued in his opposition to the Joint Motion that the Settlement Agreements are unfair because they purportedly reward children of Decedent who opposed Decedent's will and trust instrument whereas Daryl "gets nothing" in spite of his "support" for these instruments and aide to the Estate and Trust since Decedent's death.⁸ Daryl Brown asked "[a]t a minimum," for "payment equal to that given to [Petitioners]."⁹ Because this Court does not have authority in the context of the Joint Motion before the Court to order the Estate and Trust to compensate Daryl Brown for his alleged support¹⁰ of Decedent's testamentary instruments, the Court

⁶ See Tommie Rae Brown's undue influence action (C/A No. 2008-CP-02-01647); Tommie Rae Brown's elective share and omitted spouse actions (C/A Nos. 2013-CP-02-02849 and -02850); and James Brown II's omitted child claim (C/A No. 2013-CP-02-02851).

⁷ See Transcript of Hearing, January 14, 2016, at p. 16, lines 5-11, p. 24, line 24 – p. 25, line 3, p. 26, lines 11-19; p. 27, lines 7-15; p. 29, lines 3-15

⁸ See Opposition to Joint Motion filed by Daryl Brown on or about December 29, 2015 ("[T]he proposed settlement rewards bad behavior and punishes those named in the will who supported the will.").

⁹ *Id.*

¹⁰ The Court notes that Daryl Brown contested the validity of the 2000 Will and Trust in this litigation as a named plaintiff. Daryl and Terry Brown were both parties to the 2009 settlement agreement, which purported to overturn the 2000 Will and Trust and replace that estate plan with a different one. Daryl and Terry Brown also advocated

declines to address Daryl's request for compensation as it appears improper. For that same reason, Terry Brown's arguments, to the extent they seek compensation for his past support of the Will and Trust, are improper and the Court declines to address those requests for compensation. The Estate and Trust's failure to compensate Terry Brown and Daryl Brown does not constitute reasonable grounds to prohibit the Moving Parties from entering into the Settlement Agreements.

Terry Brown asserted during the hearing the South Carolina Supreme Court would reverse the Settlement Agreements for the same reasons it reversed the 2009 Compromise Agreement in 2013. *See Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). The Settlement Agreements presently before the Court are substantively and materially different from the 2009 Compromise Agreement and therefore the Supreme Court's concerns about the 2009 Compromise Agreement are not a concern here. First, in 2009, the moving parties asked the Court to approve the Compromise Agreement pursuant to S.C. Code Ann. § 62-3-1101. Here, the Moving Parties have not asked the Court to "approve" the Settlement Agreements and, in fact, the Settlement Agreements bind only the Moving Parties.

Second, and more importantly, the 2009 Compromise Agreement materially changed, and effectively rewrote, Mr. Brown's estate plan and therefore strayed from the testamentary intentions of Decedent. For example, the 2009 Compromise Agreement (a) purported to settle all will and trust challenges, including those filed by alleged heirs of Decedent who were not acknowledged in the Will or Trust, (b) acknowledged Tommie Rae Brown as Decedent's

approval of the Settlement Agreement as parties in *Wilson v. Dallas*. Daryl and Terry were either adverse parties in a proceeding for the probate of the Decedent's Will and Trust and/or contested the validity of the Decedent's Will and Trust. Their own insistence that the in terrorem clause be exercised against anyone challenging the Will and Trust, if accepted by the Court, would place a similar duty upon the Estate and Trust to enforce the in terrorem clause against Daryl and Terry Brown.

“surviving spouse,” and (c) awarded Tommie Rae Brown and the six children named in the Will a significant portion of Decedent’s Estate. In addition, the 2009 Compromise Agreement called for the creation of a new trust to be known as the James Brown Legacy Trust designed to “receive, hold, manage and be authorized to sell the James Brown Assets.”

The Settlement Agreements presently before the Court do not in any way alter, modify, or amend the terms or distribution scheme of Decedent’s Will or Trust. They do not purport to resolve all pending Will and Trust Challenge cases and do not alter the testamentary intentions of Decedent. Rather, they resolve pending challenges to set aside Decedent’s estate plan brought only by Petitioners through the Estate and Trust’s payment of what the Court considers to be a “nuisance value” settlement. The Settlement Agreements leave intact Decedent’s express intention to devise all of his tangible personal property to certain named heirs. The Settlement Agreements do not disturb Decedent’s express intention of pouring over all remaining Estate assets into an irrevocable trust designed to benefit the education of his grandchildren and qualified poor and financially needy children seeking education in Georgia and South Carolina.

Rule 43(k), SCRPC, enables the Court to bind parties to a private settlement agreement by entering the settlement in the record. In Section XVIII of the Brown Children Settlement Agreement and Section XVII of the Fegan Settlement Agreement, Petitioners consented to submit the Settlement Agreements to the Court pursuant to the procedures set forth in Rule 43(k), SCRPC. Accordingly, the Court confirms that (i) Messrs. Bauknight and Sojourner have authority to enter into the Settlement Agreements, and further finds that (ii) the Settlement Agreements are appropriate and in the best interests of the Estate and Trust, and (iii) based on the consent of all Moving Parties, the Court hereby incorporates the Settlement Agreements into the

record in the above-captioned action. These Settlement Agreements are therefore binding on all Moving Parties pursuant to Rule 43(k), SCRCP.

III. SETTLEMENT IS NOT BARRED BY THE FIDUCIARIES' FAILURE TO ENFORCE THE IN TERRORÈM CLAUSES BECAUSE THERE IS RECORD EVIDENCE THAT PETITIONERS HAD PROBABLE CAUSE TO FILE THE UNDUE INFLUENCE ACTIONS.

The Moving Parties' Joint Motion was opposed by only Daryl Brown and Terry Brown, both of whom are acknowledged children of Decedent and are specifically named in Decedent's testamentary instruments. Both oppositions center around an argument that settlements with challenging parties contradict the *in terrorem* clauses, or "no contest" clauses, contained in Will (see 2000 Last Will and Testament at Item X) and Trust (see 2000 Trust at Article XXI) and therefore should not be permitted by this Court.¹¹ Terry Brown also goes as far as to say the Estate and Trust's failure to enforce the *in terrorem* clauses may amount to a breach of fiduciary duty.¹²

There is no dispute by any of the parties that *in terrorem* clauses are enforceable in the State of South Carolina. See *Russell v. Wachovia Bank, N.A.*, 370 S.C. 5, 12, 633 S.E.2d 722, 725 (2006). However, such clauses need not be invoked and cannot act as a bar to a petitioner's recovery where the petitioner has probable cause to contest the testamentary instruments. See S.C. Code Ann. § 62-3-905, 62-7-605.

As established above, the Court has already concluded the Fiduciaries have authority to enter into the Settlement Agreements and, further, the Settlement Agreements are in the best

¹¹ See Opposition to Joint Motion filed by Daryl Brown on or about December 29, 2015 ("Th[e] proposed settlement is in contradiction of the In Terrorem clause contained in the will."), and Amended Response of Terry Brown to Joint Motion filed on or about December 30, 2015 at pp. 3-11 (arguing the personal representative and trustee have a duty to enforce the *in terrorem* clauses).

¹² See Amended Response of Terry Brown to the Joint Motion at § 3.

interests of the Estate and Trust. In addition, sufficient evidence exists in the record which would have enabled Messrs. Bauknight and Sojourner to reasonably conclude probable cause existed in relation to Petitioner's Will and Trust Challenges.

In *Wilson v. Dallas*, the Supreme Court addressed what it perceived as a lack of evidence in the matter as it related to the ability of Petitioners to invoke the good faith, probable cause exception to enforcement of in terrorem clauses in Decedent's Will and Trust. *Wilson v. Dallas*, 403 S.C. at 437-440, 743 S.E.2d at 760-762. The Supreme Court stated:

Although proof of a claim is not required, we believe something more than a subjective belief or a mere allegation is necessary to avoid the potential for collusion among disinherited or disgruntled family members who wish to dispose of the testator's estate plan and substitute it with one more to their liking.

Id. at 436, 743 S.E.2d at 760.

The Supreme Court further defined its analysis as follows:

However, it is universally acknowledged that full proof of the asserted claims is not required because the *reason d'etre* for the [family settlement] statute is to dispense with the necessity of litigating the case on the merits. The circuit court's duty was not to decide the ultimate question of the merits of the undue influence and other claims; rather, the statutory standard is whether the proposed compromise agreement resolves a good faith controversy and whether the agreement is just and reasonable. (citations omitted).

Id.

The Supreme Court's analysis in *Wilson v. Dallas* focused on whether a good faith controversy existed sufficient to justify a settlement "that seeks to vitiate the decedent's entire estate plan." *Id.* at 440, 743 S.E.2d at 762 (citations omitted). The standard necessary for approval of the May 26, 2009 Compromise Agreement, as addressed in *Wilson v. Dallas*, is higher than the one necessary for the Court to grant the present motion. In contrast to the May 26, 2009 Compromise Agreement addressed by the Supreme Court, the settlements presently before the Court do not rewrite or modify any term of the 2000 Will and Trust. Rather, the

settlement agreements simply allow the Petitioners to drop their Will and Trust challenges against the Estate and Trust in exchange for monetary payments from the Estate and Trust. Requiring the Moving Parties to litigate this matter into perpetuity would serve no useful purpose other than to unnecessarily prolong costly litigation. Such result would be unjust and harmful to the Estate and Trust.

At oral argument on the Moving Parties' Joint Motion, Mr. Louis Levenson, counsel for Petitioners,¹³ testified regarding his efforts to investigate Petitioners' claims prior to their filing of the Petitions in the undue influence actions in order to establish probable cause to challenge the estate plan. His testimony is sufficient to establish the existence of a good faith controversy as to whether Petitioners had probable cause to initiate the above-captioned legal actions and helps to establish that the Settlement Agreements are just and reasonable.

Mr. Levenson testified he conducted an extensive investigation before he filed the claims at issue.¹⁴ As a part of that investigation, Mr. Levenson interviewed the following persons: Elif Crawford, one of Decedent's secretaries¹⁵; Jeff Allen, Decedent's booking agent for shows and tours on behalf of Universal Attractions¹⁶; Tommie Rae Brown, Decedent's alleged surviving spouse¹⁷; Loic Yanel, a European tour promoter¹⁸; Dr. Tommy Richardson, a physician in

¹³ Mr. Levenson testified that his original clients included Deanna Brown Thomas, Yamma Brown Lumar, Vanisha Brown, Larry Brown, Daryl Brown, Terry Brown, Tonya Brown, Romunzo Brown, and Forlando Brown. See Hearing Transcript, January 14, 2016, at p. 43, lines 5-16.

¹⁴ *Id.* at p. 43, lines 17-24, p. 71, line 20 – p. 72, line 5.

¹⁵ *Id.* at p. 48, lines 2-4, p. 63, lines 7-19.

¹⁶ *Id.* at p. 48, lines 4-11, p. 64, lines 3-13.

¹⁷ *Id.* at p. 49, lines 1-8, p. 62, line 16 – p. 63, line 19.

¹⁸ *Id.* at p. 49, lines 9-16, p. 59, lines 16-23.

Atlanta, Georgia¹⁹; Reverend Al Sharpton, a close friend and confidante of Decedent²⁰; and Joseph Lizzio of Morgan Stanley in New York, New York, who acted as an agent or broker for Decedent.²¹ Mr. Levenson also discussed the factual foundation of Petitioners' claims with his clients, including Terry Brown and Daryl Brown.²²

Mr. Levenson testified it became apparent to his clients in December 2007 that certain people who were close to Decedent, and who also held confidential relationships with him,²³ were involved in preparing documents for Decedent to sign.²⁴ These persons included David Cannon, Albert Bradley, and Buddy Dallas.²⁵ One such purported document, allegedly prepared by Messrs. Cannon, Bradley and Dallas, was a blank deed.²⁶ Mr. Levenson testified that some of the witnesses he interviewed were also aware of contracts, some oral and some written, prepared by Messrs. Cannon, Dallas, and Bradley which purported to give them each five percent of Decedent's gross revenue.²⁷ Mr. Levenson was informed there was a pattern of Messrs. Cannon, Dallas, and Bradley asking Decedent to sign blank documents without reading them.²⁸ This pattern appears to be indirectly corroborated by claims of alleged wrongdoing brought on behalf

¹⁹ *Id.* at p. 49, lines 17-20, p. 53, line 23; p. 72, line 9.

²⁰ *Id.* at p. 53, line 24 – p. 25, line 11.

²¹ *Id.* at p. 57, lines 3-7, p. 59, lines 8-13.

²² *Id.* at p. 54, lines 22-25.

²³ *Id.* at p. 81, lines 5-10 (testifying Messrs. Cannon, Dallas, and Bradley had “great control over [Decedent] during the later years of his life ... in various – each in different areas....”).

²⁴ *Id.* at p. 55, lines 2-16.

²⁵ *Id.* at p. 58, lines 15-21.

²⁶ *Id.*

²⁷ *Id.* at p. 56, lines 10-15.

²⁸ *Id.* at p. 55, line 23 – p. 56, line 1.

of the Estate against Messrs. Dallas, Cannon, and Bradley through the Estate and Trust's legal counsel.²⁹

From Mr. Levenson's discussions with Tommie Rae Brown, he was informed Ms. Brown had allegedly observed Decedent signing documents during instances when he was under the influence of certain controlled substances.³⁰ Ms. Brown also told Mr. Levenson that Messrs. Cannon, Dallas, and Bradley would visit Decedent at home during times of the day when they allegedly knew he was under the influence of substances in order to get him to sign documents.³¹ This information was purportedly corroborated by Ms. Elif Crawford, Decedent's personal assistant or secretary.³² Based on such information, Mr. Levenson testified his clients were informed and believed at the time they filed the subject Petitions that Decedent did not read many of the documents he signed and/or was incapable of understanding or reading the documents due to his altered condition.

Such information, when set alongside information Mr. Levenson obtained from Dr. Richardson and Loric Yanel, painted a troubling picture from the perspective of Mr. Levenson's clients in 2007. Dr. Richardson informed Mr. Levenson about Decedent's commitment to a facility in Atlanta, Georgia for alleged substance dependence.³³ Mr. Yanel further indicated Decedent's European tour ended prematurely in July 2000 because of Decedent's behavior

²⁹ *Id.* at p. 82, line 13 – p. 83, line 17.

³⁰ *Id.* at p. 63, lines 7-19.

³¹ *Id.*

³² *Id.*

³³ *Id.* at p. 49, lines 17-20.

during the tour caused by his alleged substance dependence.³⁴ This European tour allegedly ended only weeks, if not days, before he executed the August 1, 2000 Will and Trust which are the subject of the undue influence claims.³⁵

Mr. Levenson took Mr. Joseph Lizzio's deposition on or about September 21, 2007.³⁶ Based on the deposition testimony, an entity allegedly incorporated by Mr. Cannon during Decedent's lifetime, Seventh Decade, purportedly transferred approximately \$2.5 million dollars from Decedent's Morgan Stanley account into Seventh Decade's corporate account.³⁷ It was during this same time period that a \$5 million check, signed by Decedent, disappeared.³⁸ Mr. Levenson testified that after 1999, but before approximately 2002 or 2003, large sums of money were being transferred from Decedent's Morgan Stanley account upon the sole authorization of Mr. Cannon.³⁹ Mr. Levenson stated that by 2002, Decedent's Morgan Stanley account had lost significant value due to transfers by Mr. Cannon.⁴⁰ These transactions were believed by Mr. Levenson and his clients, to have all occurred under the direction of Mr. Cannon and without the direct knowledge of Decedent.⁴¹

³⁴ *Id.* at p. 49, lines 9-16.

³⁵ *See id.*

³⁶ This sworn testimony led to a claim being made by the Estate's Trustee and Personal Representative against Morgan Stanley for breaches of fiduciary duty. *Id.* at p. 58, lines 4-6.

³⁷ *See* Hearing Transcript, January 14, 2016, at p. 57, line 3 – p. 60, line 16. Mr. Levenson testified as to additional transfers from Decedent's Morgan Stanley account, totaling upwards of \$10-15 million dollars. *Id.* at p. 58, line 8 – p. 59, line 7.

³⁸ *Id.* at p. 58, lines 1-3.

³⁹ *Id.* at p. 58, lines 16-24.

⁴⁰ *Id.* at p. 58, line 25 – p. 59, line 7.

⁴¹ *Id.* at p. 59, lines 8-13.

Mr. Levenson also recounted details regarding alleged substituted and/or altered documents.⁴² For example, Mr. Dallas testified during a hearing on February 8, 2008 before this Court that a document attached as Exhibit B to Decedent's 2000 Irrevocable Trust was a document Mr. Dallas himself substituted *after* Decedent's death.⁴³ This testimony corroborated the belief by Mr. Levenson's clients that Decedent's "confidantes" were substituting their judgment for that of Decedent and that Decedent had been unduly influenced.

Mr. Levenson further testified regarding discussions he had with his own clients, including, in 2007, Terry Brown and Daryl Brown.⁴⁴ His clients allegedly informed Mr. Levenson their father was pathologically afraid of going to jail for tax evasion.⁴⁵ Decedent's alleged fear of going to jail for tax evasion was purportedly encouraged or unnecessarily emphasized by Messrs. Cannon, Dallas, and Bradley.⁴⁶ Mr. Levenson stated his clients believed Messrs. Cannon, Dallas, and Bradley were, on the one hand, informing Decedent he would likely go to jail for tax evasion while, at the same time, allegedly stealing money from him, and not reporting it on their own taxes.⁴⁷

Mr. Levenson further testified regarding his clients' concern about Decedent's engagement of Mr. H. Dwaine Herring, Esquire, for the purpose of preparing Decedent's 1999 and 2000 Will and Trust.⁴⁸ Mr. Levenson testified his clients' were concerned because Mr.

⁴² *Id.* at p. 60, line 22 – p. 61, line 20.

⁴³ *Id.* at p. 60, line 25 – p. 61, line 4.

⁴⁴ *Id.* at p. 54, lines 22-25.

⁴⁵ *Id.* at p. 61, line 21 – p. 63, line 6.

⁴⁶ *See id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at p. 69, lines 10-14.

Herring had not been a lawyer their father had traditionally used with respect to the management of his business or legal affairs.⁴⁹ Mr. Levenson testified his clients believed Mr. Herring was an attorney who had been referred to Decedent through Messrs. Dallas or Cannon and therefore the circumstances of his employment by Decedent were suspicious to Petitioners.⁵⁰ Mr. Levenson testified he interviewed Mr. Herring in 2007⁵¹ and learned that although Mr. Herring had communicated with Decedent himself on a few occasions, Messrs. Cannon, Dallas, and/or Bradley were present when those conversations took place, further corroborating Petitioners' belief that their father had been unduly influenced with respect to signing the 1999 and 2000 Wills and Trust Agreements.⁵²

Mr. Levenson also testified about an alleged provision in Decedent's 2000 Irrevocable Trust Agreement which provided an unusual compensation package for the trustees, including, Messrs. Dallas, Cannon, and Bradley, after Decedent's death.⁵³ Mr. Levenson indicated he had never seen such a high compensation provision in any trust or charitable trust he has ever been involved with, despite his extensive experience handling fiduciary cases during his career.⁵⁴

⁴⁹ *Id.* at p. 71, lines 7-19; p. 69, line 16 – p. 70, line 18 (stating Decedent had previously retained Joel Katz, Jay Ross, and Leon Friedman and testifying: "there's nothing wrong with a person getting their own lawyer totally different from any lawyer they've ever used. But from the perspective of the reasonable suspicion and belief, that was an additional concern."); *id.* at p. 88, line 20 – p. 89, line 5.

⁵⁰ *Id.* at p. 70, lines 18-21.

⁵¹ *Id.* at p. 75, lines 12-13.

⁵² *Id.* at p. 84, lines 5-18; p. 86, line 10 – p. 88, line 18.

⁵³ *Id.* at p. 85, lines 3-11; p. 90, lines 5-24, p. 91, lines 13-21.

⁵⁴ *Id.* at p. 76, line 2 – p. 77, line 9 (testifying he served as the Fulton County, Georgia, guardian and administrator, a "public fiduciary" position for approximately 10 years; tried probate and estate contests to a jury four or five times, etc.).

Based on the foregoing evidence and testimony, the Court finds sufficient evidence and issues of fact exist in the record to support the Fiduciaries' conclusion that a genuine dispute existed regarding Petitioner's good faith and/or probable cause to initiate the actions challenging the Will and Trust. Accordingly, this Court finds the existence of a good faith controversy as to whether Petitioners had probable cause to initiate the above-captioned legal actions and the Settlement Agreements are just and reasonable.

Terry Brown has asserted the Petitioners did not have probable cause to challenge the validity of the Will and Trust, and, therefore, the Court must deny the Joint Motion and find the Fiduciaries have breached their fiduciary duties by entering into the Settlements and not seeking to enforce the in terrorem clauses. Terry Brown has submitted evidence, including sworn deposition testimony, in support of his assertions and has explained at length, in written submissions to the Court and his counsel's arguments on January 14, 2016, why he contends the evidence before the Court establishes Petitioners' challenges to the Will and Trust were not supported by probable cause.

As explained above, a finding by the Court on the merits of the issue of probable cause is unnecessary to support the Court's conclusion that the Settlements are just, reasonable, and in the best interests of the Estate and Trust, or the Court's decision to grant the present motion. The Court's findings set forth in other parts of this Order fully support and justify the Court's ruling. However, because Terry Brown has placed the merits of this issue squarely before the Court and because he has asserted grave allegations of wrongdoing by the Fiduciaries, the Court has spent considerable time reviewing the evidence and considering the arguments of the Parties with regard to the issues Terry Brown has raised.

Based upon the Court's review of the evidence submitted by the Parties, which include discovery responses, several hundred pages of sworn deposition testimony, and sworn testimony presented by Mr. Levenson at the January 14, 2016 hearing, the Court finds Petitioners had probable cause to bring their challenges against the Will and Trust.⁵⁵ The Court further finds the Fiduciaries, in negotiating the Settlements and submitting them to the Court, have not violated any fiduciary duties to the Estate, Trust, or beneficiaries. Indeed, the Court finds these Settlements constitute an appropriate exercise of discretion by Messrs. Bauknight and Sojourner for the reasons explained elsewhere in this order.

The LSA also argued that enforcement of the in terrorem clauses, while potentially benefiting Terry Brown and Daryl Brown, would have resulted in a significant financial detriment to the beneficiaries of Decedent's Irrevocable Trust. It is undisputed that fiduciaries of an estate and trust are under a duty of loyalty to act in the best interests of the beneficiaries. *See* S.C. Code Ann. §§ 62-1-201, 62-7-703, 62-7-802; *Yates v. Yates*, 292 S.C. 49, 354 S.E.2d 800 (Ct. App. 1987) (citing *Ramage v. Ramage*, 283 S.C. 239, 322 S.E.2d 22 (Ct. App. 1984) (trustees are under duty of loyalty to administer trust property solely in beneficiary's interest)). "That a fiduciary relationship exists between each heir or beneficiary of an estate and the administratrix thereof is fundamental." *Witherspoon v. Stogner*, 182 S.C. 413, 414, 189 S.E.2d 758, 759 (1937). This duty includes the duty to administer the trust expeditiously for the benefit of the beneficiaries and a continuing duty to administer the trust according to the objectives of the trustor. *See id.* at §§ 62-7-301, 62-7-305; *see also Ex parte Wheeler v. Estate of Green*, 381

⁵⁵ Counsel for the opposing parties, Terry Brown and Daryl Brown, had an adequate opportunity to cross-examine Mr. Levenson during the January 14, 2016 hearing on this Joint Motion. *See generally* Hearing Transcript, January 14, 2016. Counsel for Terry Brown availed himself of this opportunity by asking Mr. Levenson a series of questions pertaining to his involvement during the deposition of H. Dewain Herring in November and December 2015. *Id.* at p. 74, line 16 – p. 75, line 8.

S.C. 548, 673 S.E.2d 836 (Ct. App. 2009). The South Carolina Probate and Trust Codes require a fiduciary to act impartially. See S.C. Code Ann. § 62-7-803 ("If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.")

The LSA argued, pursuant to these statutory provisions and jurisprudence, the Fiduciaries had an obligation to consider *all beneficiaries* of Decedent's Estate and Trust in determining whether a potential settlement with Petitioners was appropriate and in the best interests of the Estate and Trust. In coming to their conclusion, the Fiduciaries determined that should the Estate and Trust be forced to continue to litigate against Petitioners, the costs of defense would be placed directly upon the shoulders of the residual beneficiary of Decedent's Estate and Trust, the James Brown "I Feel Good" Charitable Trust.

The Court agrees with the LSA's arguments. Under these circumstances, continuing litigation, including defending the Estate and Trust against the undue influence actions and then, separately, seeking to enforce the in terrorem clauses, would be extraordinarily costly to the Estate and Trust. These costs would be disproportionately borne by the charitable trust and would, under Daryl Brown's and Terry Brown's own arguments, benefit only two named beneficiaries, Daryl Brown and Terry Brown, who apparently seek to gain a windfall from their father's estate.⁵⁶ Under their counsel's own analysis the in terrorem clause should be enforced against them as well. The Court finds that such unbalance and inconsistent legal positions are not in the best interests of the Estate and Trust and that it would be inequitable to require the Estate and Trust to continue to defend these actions in such an unbalanced and partial manner.

⁵⁶ As discussed in footnote 10, above, both Daryl and Terry Brown have served the role of "adverse parties in a proceeding for the probate of Grantor's Will" or beneficiaries who "in any manner contest the validity of Grantor's Irrevocable Trust." See, 2000 Will, Article X and 2000 Trust, Article XXI.

IV. GROUNDS EXIST FOR DISMISSAL OF THESE ACTIONS WITH PREJUDICE.

The Moving Parties provided the Court consent orders signed by Petitioners in which Petitioners consent to dismissal of their claims with prejudice.⁵⁷ Based on the foregoing findings, including that the Settlement Agreements are appropriate and in the best interests of the Estate and Trust, the Court finds a complete dismissal with prejudice of all challenges to the validity of the Will and Trust filed by Petitioners, including without limitation those set forth in the Petitions filed on December 26, 2007, as amended on January 24, 2008, is just and proper. Pursuant to Rule 41(a)(2), SCRCP, Petitioner's challenges shall be dismissed with prejudice and Petitioners shall be dismissed as parties to the Undue Influence Case.

CONCLUSIONS

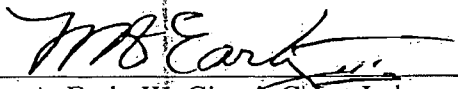
The Court hereby grants the Moving Parties' motion in its entirety and orders as follows:

- (1) The Court confirms that Russell L. Bauknight, as Personal Representative of the Estate and Trustee of the Trust, and Dave C. Sojourner, Jr., as Limited Special Administrator of the Estate and Limited Special Trustee of the Trust, are authorized and empowered to enter into the Settlement Agreements with Petitioners;
- (2) The Settlement Agreements are in the best interests of the Estate and Trust;
- (3) The Settlement Agreements shall be and hereby are expressly incorporated into the record, in satisfaction of Rule 43(k), SCRCP; and
- (4) All challenges to the Will and Trust filed by Petitioners, including those filed on December 26, 2007, as amended on January 24, 2008, are hereby dismissed with prejudice

⁵⁷ The Moving Parties' federal termination rights and interests under the Copyright Act are expressly excluded from the Settlement Agreement, as are any claims regarding the disposition of educational funds and personal property under the Will and Trust.

pursuant to Rule 41(a)(2), SCRCP, and Petitioners are hereby dismissed as parties to Civil
Action No. 2008-CP-02-1647.

IT IS SO ORDERED.



Doyet A. Early III, Circuit Court Judge

Bamberg, South Carolina
February 24, 2016.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

CASE NO. 2008-CP-02-1647

IN RE:)

CERTIFICATE OF SERVICE

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

This is to certify that I have caused to be served on March 3, 2016, a copy of the signed Order Authorizing Settlement of the Brown Children's Undue Influence Cases and Dismissing Cases with Prejudice, Order Cover Sheet and this Certificate of Service by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows to:

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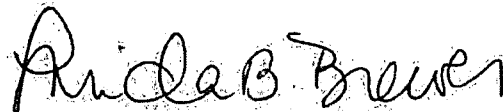
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Linda B. Brewer, Paralegal

March 3, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

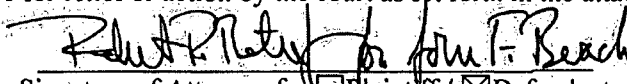
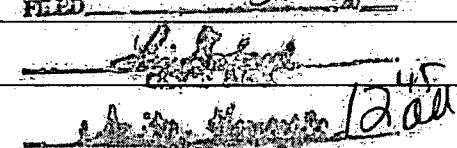
IN RE:

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

IN THE COURT OF COMMON PLEAS

CASE NO.
2008-CP-02-1647

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Mary Frances G. Jowers, Bar No. Address: PO Box 11549, Columbia, SC 29211 phone: 803-734-3996 fax: e-mail: other:		Defendant's Attorney: John F. Beach, Bar No. 595 Address: 1501 Main St., 5 th Floor, Columbia, SC 29201 phone: 803-343-1269 fax: 803-799-8479 e-mail: john.beach@arlaw.com other:	
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
 Signature of Attorney for ☐ Plaintiff / ☒ Defendant		March 3, 2016 Date submitted	
SECTION III: Motion Fee			
☐ PAID – AMOUNT: \$25.00 ☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☒ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:			
JUDGE'S SECTION		FILED 3 7 16	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:		JUDGE  CODE: Date:	
CLERK'S VERIFICATION			
Collected by: _____ ☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED – AMOUNT DUE: _____		Date Filed:	



Attorneys at Law
Alabama
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March 2, 2016

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The Honorable Liz Godard
Aiken County Clerk of Court
109 Park Avenue SE
Aiken, SC 29802

RE: Estate of James Brown a/k/a James Joseph Brown
Case Numbers: 2008-CP-02-1647
A&R File No. 022853-000001

Dear Ms. Godard:

Enclosed herewith for filing are the original and one copy of the executed Order Authorizing Settlement of the Brown Children's Undue Influence Cases and Dismissing Cases with Prejudice, Order Cover Sheet and Certificate of Service in the referenced matter. Please file these documents and return a clocked in copy to me in the enclosed envelope.

By copy of this letter, I am serving a copy of these documents on all attorneys of record.

Thank you for your assistance in this matter. Please contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "John F. Beach". The signature is fluid and cursive, with the first name "John" and last name "Beach" clearly distinguishable.

John F. Beach

JFB/lbb

Enclosures

cc: David C. Sojourner
All parties of Record

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP0201647

Henry Dargan McMaster

Daryl J Brown
Janise Vanisha Brown
Larry Brown
Jason Brown Lewis
Sydney Lumar

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge

Judge Code

3/7/2016

Date

For Clerk of Court Office Use Only

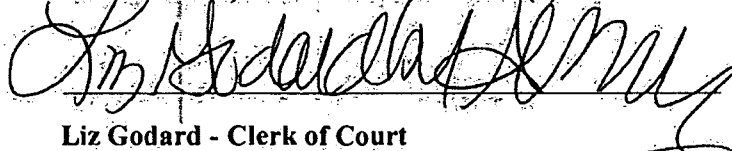
This judgment was entered on 3-7-16, and a copy mailed first class or placed in the appropriate attorney's box on 3-7-16, to attorneys of record or to parties (when appearing pro se) as follows:

Mary Frances G. Jowers PO Box 11549 Columbia, SC
29211

J. David Black PO Drawer 2426 Columbia, SC 29202-2426
William W. Wilkins PO Drawer 10648 Greenville, SC
29603-0648
Adele Pope ,
William Joseph Barr 108 N. Academy St. Kingstree, SC
29556-3422
Robert N. Rosen 18 Broad Street Suite 201 Charleston, SC
29401
Albert P. Shahid Jr. 89 Broad St. Charleston, SC 29401
Matthew Day Bodman 1500 Calhoun St. Columbia, SC
29201
Louis Levenson 125 Broad St., SW Atlanta, GA 30303
James Mixon Griffin PO Box 999 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)


Liz Godard - Clerk of Court

Court Reporter

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

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

Final Order denying Motion to Alter, Amend or Reconsider entered May 31, 2016
Pages 168-170

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2008 CP-02-01647

IN RE:

The Estate of James Brown a/k/a James
Joseph Brown
PLAINTIFF(S)
DEFENDANT(S)

Submitted by:

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

DISPOSITION TYPE (CHECK ONE)

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

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: After full consideration, Respondent Terry Brown's Motion to Alter, Amend, and Reconsider is DENIED.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

FILED 5.31.16

Chris Badland
JCCP & GS
Walter Murphy
Bobby Smith

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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


Circuit Court Judge

0136

Judge Code

05/24/2016

Date

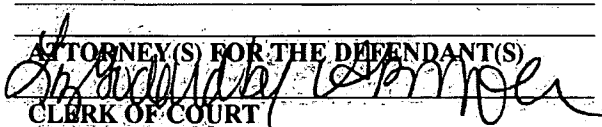
For Clerk of Court Office Use Only

This judgment was entered on the 31 day of May, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 31 day of May, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

See List

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)


CLERK OF COURT

Court Reporter:

Members:

Albert P Shahid Jr
Arnold S Goodstein
Burl F Williams
David Bell
David L Michel
dbblack@nexsenpruet.com
Deirdre McCool (deirdre.mccool@nelsonmullins.com)

Erin Richardson Stuckey
Eugene C Covington Jr
G Mark Phillips
Itiss
J Kendall Few
James R Gilreath
James T Irvin III (jim.irvin@nelsonmullins.com)

John Beach
John Donsbach
Levenson, Louis
Matt Bodman
Rosen, Robert
S Alan Medlin
Stephen M Slotchiver
T Heyward Carter Jr (carter@eckb.com)

Timothy Michael McKissock
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david@michellawoffice.com
dbblack@nexsenpruet.com
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amedlin@sc.rr.com
steve@slotchiverlaw.com

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barrlaw@ftc-i.net
bnewsome@nexsenpruet.com
bwilkins@nexsenpruet.com

Petition to Set Aside Informal Probate filed December 26, 2007
Pages 171-180

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE PROBATE COURT

1. DARYL J. BROWN, individually and on behalf)
of his minor children, LINDSEY DELORES)
BROWN and JANISE VANISHA BROWN, 2.)
VANISHA BROWN, 3. LARRY BROWN, 4.)
DEANNA J. BROWN THOMAS, individually)
and on behalf of her minor children SYDNEY)
LUMAR and CARRINGTON LUMAR and 5.)
TONYA BROWN)

vs

CIVIL ACTION COVERSHEET

ADELE POPE as Personal Representative and
as Trustee of the Estate and Trust of James
Brown, ROBERT L. BUCHANAN as Personal
Representative and as Trustee of the Estate of
James Brown, TOMMIE RAE HYNIE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN III as the potential
heir of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of
James Brown, LARHONDA PETITT as the
potential heir of James Brown, JEANETTE
MITCHELL, as the potential heir of James
Brown, JANE DOE and JOHN DOE numbers
I, II, III, IV as potential heirs of James Brown
and all other persons known or unknown
claiming to be an heir of James Brown

Please Print)
Submitted By: Louis Levenson, ESQUIRE
Address: 125 Broad St, SW, Atlanta, GA 30303

SC Bar #: 7935
Telephone #: 404-659-5000
Fax #: 404-659-1355
Other:
E-mail: louis@levensonlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☐ Notice/ File Med Mal (230) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | ☐ Other (299) | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Personal Injury (350) | ☐ Possession (450) |
| | | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |

12/26/07
(264)

Inmate Petitions ☐ PCR (500) ☐ Sexual Predator (510) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Other (799)	Administrative Law/Relief ☐ Reinstate Driver's License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture (840) ☐ Other (899)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Administrative Law Judge (980) ☐ Public Service Commission (990) ☐ Employment Security Comm (991) ☐ Other (999)
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Special/Complex /Other	
☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) X Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650)

☐ Petition -Demand

Submitting Party Signature: _____

Date: December 26, 2007

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY
Florence, Horry, Lexington, Richland, Greenville and Anderson

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

CASE NO.: _____

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

SUMMONS

v.

ADELE POPE as Personal Representative and as
Trustee of the Estate and Trust of James Brown,
ROBERT L. BUCHANAN as Personal
Representative and as Trustee of the Estate of James
Brown, TOMMIE RAE HYNIE BROWN, as the
potential heir of James Brown, JAMES JOSEPH
BROWN III as the potential heir of James Brown,
CINNAMON NICOLE MERNICKLE PARIS
as the potential heir of James Brown,
LARHONDA PETITT as the potential heir of
James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, JANE DOE and
JOHN DOE numbers I, II, III, IV as potential
heirs of James Brown and all other persons known
or unknown claiming to be an heir of James Brown

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this
action, a copy of which is herewith served upon you, and serve a copy of your Answer to
the said Complaint upon the subscribers, Levenson & Associates, at their offices at 125
Broad St, SW, Atlanta, GA 30303, within thirty (30) days after the service hereof,
exclusive of the day of such service.

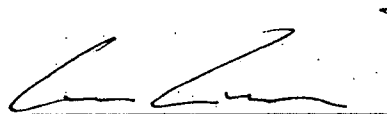
Filed: 12-26-2007

Sue H. Roe
Judge of Probate

By: [Signature]

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after service hereof, judgment by default will be rendered against you for the relief demanded in the Complaint.

This 26th day of DECEMBER 2007


LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7935

*By Dylan Littlejohn
w/ express permission*

LEVENSON AND ASSOCIATES
125 Broad Street, SW
Atlanta, GA 30303

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE PROBATE COURT

CASE NO.: _____

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

v.)

ADELE POPE as Personal Representative and as)
Trustee of the Estate and Trust of James Brown,)
ROBERT L. BUCHANAN as Personal)
Representative and as Trustee of the Estate of James)
Brown, TOMMIE RAE HYNIE BROWN, as the)
potential heir of James Brown, JAMES JOSEPH)
BROWN III as the potential heir of James Brown,)
CINNAMON NICOLE MERNICKLE PARIS)
as the potential heir of James Brown,)
LARHONDA PETITT as the potential heir of)
James Brown, JEANETTE MITCHELL, as the)
potential heir of James Brown, JANE DOE and)
JOHN DOE numbers I, II, III, IV as potential)
heirs of James Brown and all other persons known)
or unknown claiming to be an heir of James Brown)

PETITION TO SET ASIDE
INFORMAL PROBATE

Filed: 12-26-2007

Sue H. Roe

Judge of Probate

By: H. D. Jeff

PETITION TO SET ASIDE INFORMAL PROBATE

YOUR PETITIONERS HEREBY RESPECTFULLY ALLEGE AS FOLLOWS:

1. That James Brown (the "Decedent"), died on December 25, 2006, a resident of Aiken County, South Carolina.

2. That Petitioners Deana Brown Thomas (natural child of the deceased), individually and on behalf of her minor child Jason Brown Lewis (age 17), Vanisha Brown (natural child of the deceased), Darryl Brown (natural child of the deceased), individually and on behalf of his minor children minor children Lindsey Delores Brown (age 17) and Janise Vanisha Brown (age 12), Yamma N. Brown Lumar (natural child of the deceased), individually and on behalf of her minor children Sydney Lumar (age 8) and Carrington Lumar (age 6), and Larry Brown (natural child of the deceased), are five surviving children of the Decedent, and that Petitioner Tonya Brown is a surviving grandchild of the Decedent.

3. That the Decedent executed a purported Last Will and Testament ("2000 Will") and a purported Irrevocable Trust ("2000 Trust") on August 1, 2000 (collectively, "Estate Documents").

4. That the 2000 Will of the Decedent was admitted for informal probate in the Aiken County Probate.

5. That said 2000 Will of the Decedent nominated David G. Cannon ("Cannon"), Albert H. Dallas ("Dallas"), and Alford A. Bradley ("Bradley") as Co-Personal Representatives of the Estate, and said individuals were informally appointed as such Co-Personal Representatives by the Aiken County Probate Court. Each said Co-Personal Representative has since resigned.

6. That the original Trustees named in the 2000 Trust dated August 1, 2000, also were Cannon, Dallas, and Bradley. Each said Co-Trustee has since voluntarily resigned as a trustee or a co trustee though no accounting has ever been filed by any or all of the trustees.

7. That, under the provisions of the 2000 Will, six (6) named children are to receive the Decedent's personal and household effects, and the residue of the estate passes to the 2000 Trust and, ultimately, to one or more subtrusts thereunder.

8. That, on December 24, 2007 Petitioners named above first discovered the existence of what are purported to be estate planning documents of Decedent executed in or around June 1999, purportedly signed by Decedent and various other individuals (including some of the Trustees named in the 2000 Trust and 2000 Will) but never disclosed to Petitioners or this Court or to the current Personal Representatives and the Current Successor Trustees.

FOR A FIRST CAUSE OF ACTION
UNDUE INFLUENCE

9. Petitioners incorporate paragraphs 1 through 8 as if fully restated herein.

10. That, upon information and belief, one or more of Cannon, Dallas and Bradley initiated and facilitated the contact between the Decedent/alleged Trustor/Settlor

James Brown and H. Dewain Herring, attorney at law, for purposes of preparing the Estate Documents that the Decedent purportedly executed August 1, 2000, and were present at all times that the Decedent met with or consulted with Mr. Herring.

11. That upon information and belief, Cannon, Dallas, and Bradley were in various fiduciary positions of trust and confidence with the Decedent at the time the Estate Documents were created and/or operating under a Power of Attorney in favor of Cannon and/or were integrated into the Decedent's business, financial affairs and personal management, all of which created confidential relationships recognized by law and by the circumstances of the facts of this case.

12. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to create the Estate Documents in order to allow such persons in a position of trust to personally profit from the Decedent's estate plan (this paragraph references generally both the time frame relative to the August 1, 2000 documents being signed and also the alleged estate documents allegedly signed on or about June 15, 1999, which latter documents were unknown to the undersigned until on or about Dec. 24, 2007).

13. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to include provisions in said documents that would allow Cannon, Dallas, and Bradley, as Personal Representatives and Trustees to profit from said trust including but not limited to paying themselves abnormally large administrative and/or management fees each year from the income from the Trust, in addition to regular commissions.

14. That because the undue influence exerted by one or more of Cannon, Dallas, and Bradley over the Decedent resulted in the execution of the Estate Documents and that such undue influence was operating on the mind of the Trustor/Settlor James Brown at or around the time of the execution, the 2000 Will (as well as the 2000 Trust) should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession.

FOR A SECOND CAUSE OF ACTION FRAUD

15. Petitioners incorporate paragraphs 1 through 14 as if fully restated herein.

16. That, upon information and belief, Cannon, Dallas and Bradley practiced fraud upon the Decedent, resulting in the preparation of execution of the Estate Documents.

17. That, because of said fraud, the 2000 Will (as well as the 2000 Trust) should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession.

FOR A THIRD CAUSE OF ACTION
LACK OF INTENT

18. Petitioners incorporate paragraphs 1 through 17 as if fully restated herein.

19. That, upon information and belief, the Decedent lacked the requisite intent to execute the Estate Documents, and because of said lack of intent, the 2000 Will (as well as the 2000 Trust) should be set aside and be found to be void, and the Decedent's estate should pass by the laws of intestate succession.

FOR A FOURTH CAUSE OF ACTION
ILLUSORY TRUST

20. Petitioners incorporate paragraphs 1 through 19 as if fully restated herein.

21. That, as an alternative cause of action from the First Cause of Action for Undue Influence set forth above, upon information and belief, Petitioners allege that the purported Trust was treated during the Decedent's lifetime as a revocable trust and not as an irrevocable trust.

22. That upon information and belief, even though the 2000 Trust document declares itself to be "irrevocable" and designates persons other than the Decedent as Co-Trustees, in fact the Decedent during his lifetime maintained such complete and continuing control over all entities and other assets purportedly owned by the 2000 Trust that he had until his death the same rights in the assets after the creation of the 2000 Trust that he had before its creation. These allegations are further supported by the existence of the alleged estate planning documents referenced above dated June 15, 1999 which purport to create a fully executed will and a revocable trust to which trust is transferred certain property by deed from James Brown, including the 430 Douglas Drive, Beech Isl SC property, which is the same property allegedly transferred again by James Brown to the trust by deed on or about Aug. 1, 2000.

23. That upon information and belief, while the 2000 Trust document purports to give discretion to the Trustees to make distributions to the Decedent during his lifetime, in reality the Decedent had full and unfettered access to the assets purportedly owned by the 2000 Trust and did in fact own and/or control said assets during his lifetime which actions are inconsistent with an intent to create an irrevocable trust on or about August 1, 2000.

WHEREFORE, Petitioners prays as follows:

(a) That the Court find that the Decedent's 2000 Last Will and Testament and 2000 Irrevocable Trust, both dated August 1, 2000, should be set aside and rendered of no effect and that the Court determine that the Decedent's estate passes by the laws of

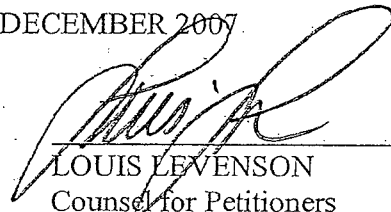
intestate succession to the heirs at law of the Decedent at such time as the heirs at law of the decedent are determined by this Court;

(b) That, in the alternative, the Court determines that the Decedent's purported irrevocable Trust dated August 1, 2000, is illusory

(c) That, this Court serve by publication or by South Carolina law notice to all known and unknown heirs of James Brown of this Petition;

(d) For such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 26 day of DECEMBER 2007.



LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7395

LEVENSON & ASSOCIATES
125 Broad Street, SW
Atlanta, Georgia 30303
(404) 659-5000
(404) 659-1355 *facsimile*

Petition to Set Aside Trust filed December 26, 2007
Pages 181-190

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

1. DARYL J. BROWN, individually and on behalf
of his minor children, LINDSEY DELORES
BROWN and JANISE VANISHA BROWN, 2.
VANISHA BROWN, 3. LARRY BROWN, 4.
DEANNA J. BROWN THOMAS, individually
and on behalf of her minor children SYDNEY
LUMAR and CARRINGTON LUMAR and 5.
TONYA BROWN

vs

CIVIL ACTION COVERSHEET

ADELE POPE as Personal Representative and
as Trustee of the Estate and Trust of James
Brown, ROBERT L. BUCHANAN as Personal
Representative and as Trustee of the Estate of
James Brown, TOMMIE RAE HYNIE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN III as the potential
heir of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of
James Brown, LARHONDA PETITT as the
potential heir of James Brown, JEANETTE
MITCHELL, as the potential heir of James
Brown, JANE DOE and JOHN DOE numbers
I, II, III, IV as potential heirs of James Brown
and all other persons known or unknown
claiming to be an heir of James Brown

Please Print)
Submitted By: Louis Levenson, ESQUIRE
Address: 125 Broad St, SW, Atlanta, GA 30303

SC Bar #: 7935
Telephone #: 404-659-5000
Fax #: 404-659-1355
Other:
E-mail: louis@levensonlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| ☐ Contracts | ☐ Torts - Professional Malpractice | ☐ Torts - Personal Injury | ☐ Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | ☐ Notice/ File Med Mal (230) | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | ☐ Other (299) | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | | ☐ Personal Injury (350) | ☐ Possession (450) |
| | | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |

12/26/07
265

- | | | | |
|--|--|---|--|
| ☐ Inmate Petitions | ☐ Judgments/Settlements | ☐ Administrative Law/Relief | ☐ Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Sexual Predator (510) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Mandamus (520) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Habeas Corpus (530) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| ☐ Other (599) | ☐ Transcript Judgment (740) | ☐ Forfeiture (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Other (899) | ☐ SCDOT (950) |
| | ☐ Other (799) | | ☐ Worker's Comp (960) |
| | | | ☐ Zoning Board (970) |
| | | | ☐ Administrative Law Judge (980) |
| | | | ☐ Public Service Commission (990) |
| | | | ☐ Employment Security Comm (991) |
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- | | | |
|--|---|---|
| ☐ Environmental (600) | ☐ Special/Complex /Other | ☐ Pharmaceuticals (630) |
| ☐ Automobile Arb. (610) | ☐ | ☐ Unfair Trade Practices (640) |
| ☐ Medical (620) | ☐ | ☐ Out-of State Depositions (650) |
| X Other (699) | | |
| Petition -Demand | | |

Submitting Party Signature: _____

Date: December 26, 2007

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Florence, Horry, Lexington, Richland, Greenville and Anderson

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE PROBATE COURT

CASE NO.: _____

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

SUMMONS

v.)

ADELE POPE as Personal Representative and as)
Trustee of the Estate and Trust of James Brown,)
ROBERT L. BUCHANAN as Personal)
Representative and as Trustee of the Estate of James)
Brown, TOMMIE RAE HYNIE BROWN, as the)
potential heir of James Brown, JAMES JOSEPH)
BROWN III as the potential heir of James Brown,)
CINNAMON NICOLE MERNICKLE PARIS)
as the potential heir of James Brown,)
LARHONDA PETITT as the potential heir of)
James Brown, JEANETTE MITCHELL, as the)
potential heir of James Brown, JANE DOE and)
JOHN DOE numbers I, II, III, IV as potential)
heirs of James Brown and all other persons known)
or unknown claiming to be an heir of James Brown)

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this
action, a copy of which is herewith served upon you, and serve a copy of your Answer to
the said Complaint upon the subscribers, Levenson & Associates, at their offices at 125
Broad St, SW, Atlanta, GA 30303, within thirty (30) days after the service hereof,
exclusive of the day of such service.

Filed: 12-26-2007

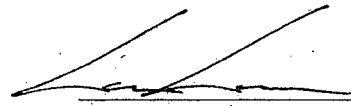
Sue H. Roe

Judge of Probate

By: [Signature]

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after service hereof, judgment by default will be rendered against you for the relief demanded in the Complaint.

This 26th day of DECEMBER 2007


LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7935
*By Dylan Littlejohn
w/ Express Permission*

LEVENSON AND ASSOCIATES
125 Broad Street, SW
Atlanta, GA 30303

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

CASE NO.: _____

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

v.

PETITION TO SET ASIDE
TRUST

ADELE POPE as Personal Representative and as
Trustee of the Estate and Trust of James Brown,
ROBERT L. BUCHANAN as Personal
Representative and as Trustee of the Estate of James
Brown, TOMMIE RAE HYNIE BROWN, as the
potential heir of James Brown, JAMES JOSEPH
BROWN III as the potential heir of James Brown,
CINNAMON NICOLE MERNICKLE PARIS
as the potential heir of James Brown,
LARHONDA PETITT as the potential heir of
James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, JANE DOE and
JOHN DOE numbers I, II, III, IV as potential
heirs of James Brown and all other persons known
or unknown claiming to be an heir of James Brown

Filed: 12-26-2007

Sue H. Rice

Judge of Probate

By: [Signature]

PETITION TO SET ASIDE TRUST

YOUR PETITIONERS HEREBY RESPECTFULLY ALLEGE AS FOLLOWS:

1. That James Brown (the "Decedent"), died on December 25, 2006, a resident of Aiken County, South Carolina.

2. That Petitioners Deana Brown Thomas (natural child of the deceased), individually and on behalf of her minor child Jason Brown Lewis (age 17), Vanisha

Brown (natural child of the deceased), Darryl Brown (natural child of the deceased), individually and on behalf of his minor children Lindsey Delores Brown (age 17) and Janise Vanisha Brown (age 12), Yamma N. Brown Lumar (natural child of the deceased), individually and on behalf of her minor children Sydney Lumar (age 8) and Carrington Lumar (age 6), and Larry Brown (natural child of the deceased), are five surviving children of the Decedent, and that Petitioner Tonya Brown is a surviving grandchild of the Decedent.

3. That the Decedent executed a purported Last Will and Testament ("2000 Will") and a purported Irrevocable Trust ("2000 Trust") on August 1, 2000 (collectively, "Estate Documents").

4. That the 2000 Will of the Decedent was admitted for informal probate in the Aiken County Probate.

5. That said 2000 Will of the Decedent nominated David G. Cannon ("Cannon"), Albert H. Dallas ("Dallas"), and Alford A. Bradley ("Bradley") as Co-Personal Representatives of the Estate, and said individuals were informally appointed as such Co-Personal Representatives by the Aiken County Probate Court. Each said Co-Personal Representative has since resigned.

6. That the original Trustees named in the 2000 Trust dated August 1, 2000, also were Cannon, Dallas, and Bradley. Each said Co-Trustee has since voluntarily resigned as a trustee or a co trustee though no accounting has ever been filed by any or all of the trustees.

7. That, under the provisions of the 2000 Will, six (6) named children are to receive the Decedent's personal and household effects, and the residue of the estate passes to the 2000 Trust and, ultimately, to one or more subtrusts thereunder.

8. That, on December 24, 2007 Petitioners named above first discovered the existence of what are purported to be estate planning documents of Decedent executed in or around June 1999, purportedly signed by Decedent and various other individuals (including some of the Trustees named in the 2000 Trust and 2000 Will) but never disclosed to Petitioners or this Court or to the current Personal Representatives and the Current Successor Trustees.

FOR A FIRST CAUSE OF ACTION UNDUE INFLUENCE

9. Petitioners incorporate paragraphs 1 through 8 as if fully restated herein.

10. That, upon information and belief, one or more of Cannon, Dallas and Bradley initiated and facilitated the contact between the Decedent/alleged Trustor/Settlor James Brown and H. Dewain Herring, attorney at law, for purposes of preparing the

Estate Documents that the Decedent purportedly executed August 1, 2000, and were present at all times that the Decedent met with or consulted with Mr. Herring.

11. That upon information and belief, Cannon, Dallas, and Bradley were in various fiduciary positions of trust and confidence with the Decedent at the time the Estate Documents were created and/or operating under a Power of Attorney in favor of Cannon and/or were integrated into the Decedent's business, financial affairs and personal management, all of which created confidential relationships recognized by law and by the circumstances of the facts of this case.

12. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to create the Estate Documents in order to allow such persons in a position of trust to personally profit from the Decedent's estate plan (this paragraph references generally both the time frame relative to the August 1, 2000 documents being signed and also the alleged estate documents allegedly signed on or about June 15, 1999, which latter documents were unknown to the undersigned until on or about Dec. 24, 2007).

13. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to include provisions in said documents that would allow Cannon, Dallas, and Bradley, as Personal Representatives and Trustees to profit from said trust including but not limited to paying themselves abnormally large administrative and/or management fees each year from the income from the Trust, in addition to regular commissions.

14. That because the undue influence exerted by one or more of Cannon, Dallas, and Bradley over the Decedent resulted in the execution of the Estate Documents and that such undue influence was operating on the mind of the Trustor/Settlor James Brown at or around the time of the execution, the 2000 Trust (as well as the 2000 Will) should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession.

FOR A SECOND CAUSE OF ACTION FRAUD

15. Petitioners incorporate paragraphs 1 through 14 as if fully restated herein.

16. That, upon information and belief, Cannon, Dallas and Bradley practiced fraud upon the Decedent, resulting in the preparation of execution of the Estate Documents.

17. That, because of said fraud, the 2000 Trust (as well as the 2000 Will) should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession.

FOR A THIRD CAUSE OF ACTION
LACK OF INTENT

18. Petitioners incorporate paragraphs 1 through 17 as if fully restated herein.

19. That, upon information and belief, the Decedent lacked the requisite intent to execute the Estate Documents, and because of said lack of intent, the 2000 Trust (as well as the 2000 Will) should be set aside and be found to be void, and the Decedent's estate should pass by the laws of intestate succession.

FOR A FOURTH CAUSE OF ACTION
ILLUSORY TRUST

20. Petitioners incorporate paragraphs 1 through 19 as if fully restated herein.

21. That, as an alternative cause of action from the First Cause of Action for Undue Influence set forth above, upon information and belief, Petitioners allege that the purported Trust was treated during the Decedent's lifetime as a revocable trust and not as an irrevocable trust.

22. That upon information and belief, even though the 2000 Trust document declares itself to be "irrevocable" and designates persons other than the Decedent as Co-Trustees, in fact the Decedent during his lifetime maintained such complete and continuing control over all entities and other assets purportedly owned by the 2000 Trust that he had until his death the same rights in the assets after the creation of the 2000 Trust that he had before its creation. These allegations are further supported by the existence of the alleged estate planning documents referenced above dated June 15, 1999 which purport to create a fully executed will and a revocable trust to which trust is transferred certain property by deed from James Brown, including the 430 Douglas Drive, Beech Isl SC property, which is the same property allegedly transferred again by James Brown to the trust by deed on or about Aug. 1, 2000.

23. That upon information and belief, while the 2000 Trust document purports to give discretion to the Trustees to make distributions to the Decedent during his lifetime, in reality the Decedent had full and unfettered access to the assets purportedly owned by the 2000 Trust and did in fact own and/or control said assets during his lifetime which actions are inconsistent with an intent to create an irrevocable trust on or about August 1, 2000.

WHEREFORE, Petitioners prays as follows:

(a) That the Court find that the Decedent's 2000 Last Will and Testament and 2000 Irrevocable Trust, both dated August 1, 2000, should be set aside and rendered of no effect and that the Court determine that the Decedent's estate passes by the laws of

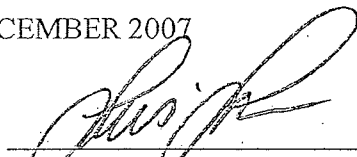
intestate succession to the heirs at law of the Decedent at such time as the heirs at law of the decedent are determined by this Court;

(b) That, in the alternative, the Court determines that the Decedent's purported irrevocable Trust dated August 1, 2000, is illusory;

(c) That, this Court serve by publication or by South Carolina law notice to all known and unknown heirs of James Brown of this Petition;

(d) For such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 26 day of DECEMBER 2007



LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7395

LEVENSON & ASSOCIATES
125 Broad Street, SW
Atlanta, Georgia 30303
(404) 659-5000
(404) 659-1355 *facsimile*

Amended Petition to Set Aside Trust Informal Probate and Amended Petition to Set Aside Trust
and for Appointment of an Administration in Intestacy filed January 23, 2008

Pages 191-234

11/23/08

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)

IN THE PROBATE COURT
CASE NO.: _____

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

CIVIL ACTION COVERSHEET

Plaintiffs

vs

**AMENDED PETITION TO SET ASIDE
INFORMAL PROBATE AND AMENDED
PETITION TO SET ASIDE TRUST AND
FOR APPOINTMENT OF AN
ADMINISTRATOR IN INTESTACY**

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

Defendants

Please Print
Submitted By: Louis Levenson, ESQUIRE
Address: 125 Broad St, SW, Atlanta, GA 30303

SC Bar #: 7935
Telephone #: 404-659-5000
Fax #: 404-659-1355
Other: _____

11/23/08
346A

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|---|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
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☐ Dental Malpractice (200)
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| Inmate Petitions
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☐ Death Settlement (700)
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☐ Transcript Judgment (740)
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☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
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☐ Relief (820)
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☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
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☐ Environmental (600)
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☐ Medical (620)
☒ Other (699)
Petition - Demand | | | |
| ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650) | | | |

Submitting Party Signature: _____

Date: January 24, 2008

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

CASE NO.: _____

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

Plaintiffs

v.

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
AND AMENDED
PETITION TO SET
ASIDE TRUST AND FOR
APPOINTMENT OF AN
ADMINISTRATOR IN
INTESTACY

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

FORLANDO BROWN, as the potential heir of	)
JAMES BROWN, HENRY DARGAN	)
MCMASTER in his capacity as ATTORNEY	)
GENERAL OF THE STATE OF	)
SOUTH CAROLINA, JANE DOE and	)
JOHN DOE numbers I, II, III, IV as potential	)
heirs and/or devisee and/or beneficiaries of James	)
Brown and as representatives of all other persons	)
known or unknown claiming to be an heir and/or	)
devisee and/or beneficiary of James Brown.	)
	)
Defendants	)

AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND
AMENDED PETITION TO SET ASIDE TRUST AND FOR APPOINTMENT OF
AN ADMINISTRATOR IN INTESTACY

YOUR PETITIONERS HEREBY RESPECTFULLY AMEND THEIR PETITIONS
FILED DECEMBER 26, 2006 AND FURTHER ALLEGE AS FOLLOWS:

1. That James Brown (the "Decedent"), died on December 25, 2006, at the age of 73, a resident of Aiken County, South Carolina. The time limit for informal probate or appointment has not passed nor has it expired pursuant to South Carolina Code 62-3-108.
2. That Petitioners Deana Brown Thomas (natural child of the deceased), individually and on behalf of her minor child Jason Brown Lewis (age 17), Vanisha Brown (natural child of the deceased), Darryl Brown (natural child of the deceased), individually and on behalf of his minor children minor children Lindsey Delores Brown (age 17) and Janise Vanisha Brown (age 12), Yamma N. Brown (natural child of the deceased), individually and on behalf of her minor children Sydney Lumar (age 8) and Carrington Lumar (age 6), and Larry Brown (natural child of the deceased), are five surviving children of the Decedent, and that Petitioner Tonya Brown is a surviving grandchild of the Decedent.
3. The names and addresses of the Decedent's known or potential heirs so far as ascertainable by Petitioners with reasonable diligence at the time of his death are attached hereto as Exhibit A.
4. That the Decedent executed a purported Last Will and Testament ("2000 Will") and a purported Irrevocable Trust ("2000 Trust") on August 1, 2000 (collectively, "Estate Documents").

5. That the purported 2000 Will of the Decedent was admitted for informal probate in the Aiken County Probate.

6. That said purported 2000 Will of the Decedent nominated David G. Cannon ("Cannon"), Albert H. Dallas ("Dallas"), and Alford A. Bradley ("Bradley") as Co-Personal Representatives of the Estate, and said individuals were informally appointed as such Co-Personal Representatives by the Aiken County Probate Court. Each said Co-Personal Representative has since resigned and this Court has appointed Adele J. Pope and Robert L. Buchanan as co-personal representatives and co-trustees. The names and addresses of all Personal Representatives and Trustees (past and present) are attached hereto as Exhibit B.

7. That the original Trustees named in the purported 2000 Trust dated August 1, 2000, also were Cannon, Dallas, and Bradley. Each said Co-Trustee has since voluntarily resigned as a trustee or a co trustee though no accounting has ever been filed by any or all of the trustees.

8. That, under the provisions of the purported 2000 Will, six (6) named children are to receive the Decedent's personal and household effects, and the residue of the estate passes to the purported 2000 Trust and, ultimately, to one or more subtrusts thereunder.

9. That, on December 24, 2007 Petitioners named above first discovered the existence of what are purported to be estate planning documents of Decedent executed in or around June 1999, purportedly signed by Decedent and various other individuals (including some of the Trustees named in the purported 2000 Trust and purported 2000 Will) but never disclosed to Petitioners or this Court or to the current Personal Representatives and the Current Successor Trustees by Mr. Cannon, Mr. Dallas, and/or Mr. Bradley. Whether these 1999 documents are valid or enforceable is not known.

10. That Petitioners seek appointment of Administrators in Intestacy; to wit Deanna Brown Thomas, Yamma N. Brown, Vanisha Brown, Darryl Brown, and Larry Brown, all heirs of the Deceased.

FOR A FIRST CAUSE OF ACTION
UNDUE INFLUENCE

11. Petitioners incorporate paragraphs 1 through 10 as if fully restated herein.

12. That, upon information and belief, one or more of Cannon, Dallas and Bradley (who had an extreme amount of control over James Brown and who maintained confidential relationships with James Brown as such is defined by law) initiated and facilitated the contact between the Decedent/alleged Trustor/Settlor James Brown and H. Dewain Herring, attorney at law, for purposes of preparing the Estate Documents that the Decedent purportedly executed August 1, 2000, and were present at all times that the Decedent met with or consulted with Mr. Herring.

13. That upon information and belief, Cannon, Dallas, and Bradley were in various different fiduciary positions of trust and confidence with the Decedent at the time the Estate Documents were created and/or operating under a Power of Attorney in favor of Cannon and/or were integrated into the Decedent's business, financial affairs and personal management, all of which created confidential relationships recognized by law and by the circumstances of the facts of this case.

14. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to have Dewain Herring create the Estate Documents in order to allow such persons in a position of trust and confidence to personally profit from the Decedent's estate plan (this paragraph references generally both the time frame relative to the purported August 1, 2000 documents being signed and also the alleged estate documents allegedly signed on or about June 15, 1999, which latter documents were unknown to the undersigned until on or about Dec. 24, 2007).

15. That upon information and belief, Cannon, Dallas and Bradley used their positions of trust and confidence to unduly influence the Decedent to have Dewaine Herring include provisions in said documents that would allow Cannon, Dallas, and Bradley, as Personal Representatives and Trustees to operate the purported 2000 Trust from the year 2000 forward without the appropriate qualification of Bradley and without appropriate controls, reporting, accounting, etc. and to allow said persons to profit from said 2000 Trust from 2000 to 2006 including but not limited to paying themselves abnormally large administrative and/or management fees each year from the income from the Trust, in addition to regular commissions based on James Brown's income and profits.

16. That because the undue influence exerted by one or more of Cannon, Dallas, and Bradley (and possibly by others unknown) over the Decedent resulted in the execution of the Estate Documents and that such undue influence was operating on the mind of the Trustor/Settlor James Brown at or around the time of the execution, the purported 2000 Will and as the purported 2000 Trust should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession and that an Administrator(s) should be appointed.

FOR A SECOND CAUSE OF ACTION
FRAUD

17. Petitioners incorporate paragraphs 1 through 16 as if fully restated herein.

18. That, upon information and belief, Cannon, Dallas and Bradley practiced fraud upon the Decedent, resulting in the preparation of execution of the purported Estate Documents.

19. That, because of said fraud, the purported 2000 Will and the purported 2000 Trust should be set aside and be found to be void, and that the Decedent's estate should pass by the laws of intestate succession.

FOR A THIRD CAUSE OF ACTION
LACK OF INTENT

20. Petitioners incorporate paragraphs 1 through 19 as if fully restated herein.

21. That, upon information and belief, the Decedent lacked the requisite intent to execute the Estate Documents, and because of said lack of intent, owing to mental and physical conditions of the decedent known to many persons familiar with and around decedent on or about August 1, 2000, the purported 2000 Will and the purported 2000 Trust should be set aside and be found to be void, and the Decedent's estate should pass by the laws of intestate succession.

FOR A FOURTH CAUSE OF ACTION
ILLUSORY TRUST

22. Petitioners incorporate paragraphs 1 through 21 as if fully restated herein.

23. That, as an alternative cause of action from the First Cause of Action for Undue Influence set forth above, upon information and belief, Petitioners allege that the purported Trust was treated during the Decedent's lifetime as a revocable trust and not as an irrevocable trust.

24. That upon information and belief, even though the purported 2000 Trust document declares itself to be "irrevocable" and designates persons other than the Decedent as Co-Trustees, in fact the Decedent was unaware of or unconcerned with same during his lifetime and he maintained such complete and continuing control over entities and other assets purportedly owned by the 2000 Trust that he had until his death the same rights in the assets after the creation of the purported 2000 Trust that he had before its creation. These allegations are further supported by the existence of the alleged estate planning documents referenced above dated June 15, 1999 which purport to create a fully executed will and a revocable trust to which 1999 Trust is to transfer certain property by deed from James Brown, including the 430 Douglas Drive, Beech Isl SC property, which is the same property allegedly transferred again by James Brown to the trust by deed on or about Aug. 1, 2000, and furthermore, those designated as Trustees did not treat the corpus of the Trust as a separate entity nor did they protect the trust property, if any, from commingling.

25. That upon information and belief, while the purported 2000 Trust document purports to give discretion to the Trustees to make distributions to the Decedent during his lifetime, in reality the Decedent had full and unfettered access to the assets purportedly owned by the 2000 Trust and did in fact own and/or control said assets during his lifetime which actions are inconsistent with an intent to create an irrevocable

trust on or about August 1, 2000. No income distributions to James Brown by any trustees are known to have occurred from 2000-2006.

WHEREFORE, Petitioners pray as follows:

(a) That the Court find that the Decedent's purported 2000 Last Will and Testament and purported 2000 Irrevocable Trust, both dated August 1, 2000, should be set aside and rendered of no effect and that the Court determine that the Decedent's estate passes by the laws of intestate succession to the heirs at law of the Decedent at such time as the heirs at law of the decedent are determined by this Court;

(b) That this Court enter a judicial finding and Order determining the lawful heirs of the Decedent;

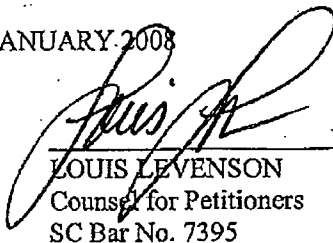
(b) That, in the alternative, the Court determine that the Decedent's purported irrevocable Trust dated August 1, 2000, is illusory and void;

(c) That, this Court serve by appropriate publication or by South Carolina law notice to all known and unknown heirs of James Brown of this Petition;

(d) That the Court determine the August 1, 2000 Will to be invalid and void and that the Court appoint Administrators in Intestacy, to wit Deanna Brown Thomas, Yamma Brown, Vanisha Brown, Darryl Brown and Larry Brown, heirs of the Deceased, or as many Administrators as this Court sees fit;

(e) For such other and further relief as this Court deems just and proper.

Respectfully submitted this 23 day of JANUARY 2008


LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7395

LEVENSON & ASSOCIATES
125 Broad Street, SW
Atlanta, Georgia 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

CASE NO.: _____

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

Plaintiffs

v.

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
AND AMENDED
PETITION TO SET
ASIDE TRUST AND FOR
APPOINTMENT OF AN
ADMINISTRATOR IN
INTESTACY

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
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BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,
FORLANDO BROWN, as the potential heir of

JAMES BROWN, HENRY DARGAN)
MCMASTER in his capacity as ATTORNEY)
GENERAL OF THE STATE OF)
SOUTH CAROLINA, JANE DOE and)
JOHN DOE numbers I, II, III, IV as potential)
heirs and/or devisee and/or beneficiaries of James)
Brown and as representatives of all other persons)
known or unknown claiming to be an heir and/or)
devisee and/or beneficiary of James Brown.)
Defendants)

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing

AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND

AMENDED PETITION TO SET ASIDE THE TRUST AND FOR AN

APPOINTMENT OF ADMINISTRATOR IN INTESTACY upon the attorneys for

the other parties by depositing a true and correct copy of same in the U.S. Mail, proper

postage prepaid, addressed as follows:

Robert Rosen, Esq.
Rosen Law Firm
P.O. Box 1510
Charleston, SC 29402

Robert L. Buchanan, Jr., Esq.
212 Newberry Street NW
P.O. Box 463
Aiken, South Carolina 29802-0463

Adele J. Pope, Esq.
Law Office of Adele J. Pope, PC
1218 Taylor Street
P.O. Drawer 7125
Columbia, South Carolina 29202-7125

David Bell, Esq.
Bell & Bell Associates

P.O. Box 1011
Augusta, Georgia 30903-1011

Ronnie A. Maxwell, Esq.
P.O. Box 1115
Aiken, South Carolina 29802

Eric S. Bland, Esq.
Ronald L. Richter, Esq.
Bland Richter, LLP
1500 Calhoun Street
Columbia, South Carolina 29201

A. Peter Shahid, Jr., Esq.
Shahid Law Office
15 State Street
P.O. Box 591
Charleston, SC 29402

C. Harvid Jones, Jr., Esq.
Office of the SC Attorney General
P.O. Box 11549
Columbia, South Carolina 29211

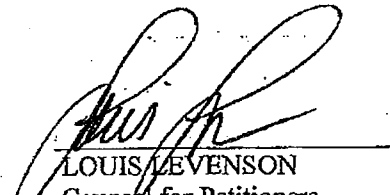
James Mixon Griffin, Esq.
The Law Offices of James Mixon Griffin
P.O. Box 999
Columbia, SC 29202

H. Wesley Kirkland, Jr., Esq.
P.O. Box 8012
Columbia, SC 29202

Robert A. Young, Esq.
3576 Charles Ave
Miami, Florida 33133-5714

This 23 day of JANUARY 2008

LEVENSON AND ASSOCIATES
125 Broad Street, SW
Atlanta, GA 30303



LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7935

EXHIBIT A

**NAMES AND ADDRESSES OF DECEDENT JAMES BROWN'S KNOWN OR
POTENTIAL HEIRS**

1. Mr. Larry Brown (child of Decedent):
110 Dresden Drive
Martinez, Georgia 30907
SEND ALL CORRESPONDENCE TO:
Mr. Larry Brown
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

2. Mr. Daryl J. Brown (child of Decedent)
3031 Silverwood Drive
Augusta, Georgia 30907
SEND ALL CORRESPONDENCE TO:
Mr. Daryl J. Brown
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

Minor children of Daryl J. Brown: Lindsey Delores Brown and Janise Vanisha Brown

3. Ms. Vanisha Brown (child of Decedent)
PO Box 652
Clearwater, SC 29822
SEND ALL CORRESPONDENCE TO:
Ms. Vanisha Brown
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

4. Ms. Deanna J. Brown-Thomas (child of Decedent)
PO Box 652
Clearwater, SC 29822
SEND ALL CORRESPONDENCE TO:
Ms. Deanna J. Brown-Thomas
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

Minor children of Deanna Brown-Thomas: Jason Brown Lewis

5. Ms. Yamma N. Brown (child of Decedent)

EXHIBIT A

908 Wynnes Ridge Circle
Marietta, GA 30067
SEND ALL CORRESPONDENCE TO:
Ms. Yamma N. Brown
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

Minor children of Yamma Brown: Sydney Lumar and Carrington Lumar

6. Ms. Tonya Brown (grandchild of Decedent)
2417 Castlewood Drive
Augusta, Georgia 30904
SEND ALL CORRESPONDENCE TO:
Ms. Tonya Brown
c/o Levenson & Associates
125 Broad Street SW
Atlanta, GA 30303

7. Ms. Tommie Rae Brown (alleged spouse of Decedent)
c/o
Robert N. Rosen
Post Office Box 1510
Charleston, SC 29402

8. James Brown II (alleged child of Decedent)
c/o
Guardian Ad Litem - Stephen M. Slotchiyer, Esq.
44 State Street
Charleston, SC 29401
Counsel for the Guardian Ad Litem - A. Peter Shahid, Jr., Esq.
Shahid Law Office
15 State Street
P.O. Box 591
Charleston, SC 29402

9. Mr. Terry Brown (child of Decedent)
156 Liberty Hill Road
Eastanollee, GA 30538
CURRENTLY REPRESENTED BY:
DAVID BELL, ESQ.
Bell & Bell Associates
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1011

EXHIBIT A

10. Romunzo G. Brown (grandchild of Decedent)
156 Liberty Hill Road
Eastanollee, GA 30538
CURRENTLY REPRESENTED BY:
DAVID BELL, ESQ.
Bell & Bell Associates
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1011

11. Forlando J. Brown (grandchild of Decedent)
156 Liberty Hill Road
Eastanollee, GA 30538
CURRENTLY REPRESENTED BY:
DAVID BELL, ESQ.
Bell & Bell Associates
619 Greene Street
Post Office Box 1011
Augusta, Georgia 30903-1011

12. LaRhonda Pettit (alleged child of Decedent)
CURRENTLY REPRESENTED BY:
JAMES MIXON GRIFFIN, ESQ.
The Law Offices of James Mixon Griffin
P.O. Box 999
Columbia, SC 29202

11. Cinnamon Nicole Paris (alleged child of Decedent)
CURRENTLY REPRESENTED BY:
JAMES MIXON GRIFFIN, ESQ.
The Law Offices of James Mixon Griffin
P.O. Box 999
Columbia, SC 29202

12. Jeanette Mitchell (alleged child of Decedent)
CURRENTLY REPRESENTED BY:
ROBERT A. YOUNG, ESQ.
3576 Charles Ave
Miami, Florida 33133-5714

EXHIBIT B

**NAMES AND ADDRESSES OF ALL PAST AND PRESENT PERSONAL
REPRESENTATIVES AND TRUSTEES OF THE ESTATE OF JAMES BROWN
AND THE PURPORTED 2000 JAMES BROWN IRREVOCABLE TRUST**

1. Albert H. Dallas (former Personal Representative and Trustee)
c/o
R. Wayne Byrd
Turner Padgett Graham & Laney
Founders Centre
2411 North Oak Street
Suite 301
Myrtle Beach, SC 29577
2. Alfred A. Bradley (former Personal Representative and Trustee)
c/o
R. Wayne Byrd
Turner Padgett Graham & Laney
Founders Centre
2411 North Oak Street
Suite 301
Myrtle Beach, SC 29577
3. David G. Cannon (former Personal Representative and Trustee)
c/o
Eric S. Bland
Ronald L. Richter
Bland Richter, LLP
1500 Calhoun Street
Columbia, South Carolina 29201
4. Adele J. Pope (current Personal Representative and Trustee)
c/o
James D. Bailey
Law Office of James D. Bailey
100 Park Avenue SW
PO Box 2376
Aiken, SC 29802
5. Robert L. Buchanan (current Personal Representative and Trustee)
c/o
James D. Bailey
Law Office of James D. Bailey
100 Park Avenue SW
PO Box 2376
Aiken, SC 29802

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE PROBATE COURT

CASE NO.: 2007-CP-02-0122

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

Plaintiffs

SUMMONS

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
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Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
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the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,
FORLANDO BROWN, as the potential heir of
JAMES BROWN, HENRY DARGAN
MCMASTER in his capacity as ATTORNEY
GENERAL OF THE STATE OF
SOUTH CAROLINA, JANE DOE and
JOHN DOE numbers I, II, III, IV as potential
heirs and/or devisee and/or beneficiaries of James
Brown and as representatives of all other persons
known or unknown claiming to be an heir and/or

Filed: 2-7-2008Sue H. Roe
Judge of ProbateBy: S. Ready

devisee and/or beneficiary of James Brown.)
)
Defendants)

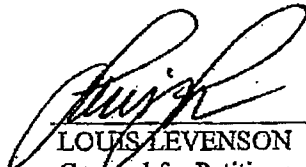
TO THE DEFENDANTS ABOVE NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and serve a copy of your Answer to the said Complaint upon the subscribers, Levenson & Associates, at their offices at 125 Broad St, SW, Atlanta, GA 30303, within thirty (30) days after the service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after service hereof, judgment by default will be rendered against you for the relief demanded in the Complaint.

This 23 day of JANUARY 2008

LEVENSON AND ASSOCIATES
125 Broad Street, SW
Atlanta, GA 30303



LOUIS LEVENSON
Counsel for Petitioners
SC Bar No. 7935

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

1. DARYL J. BROWN, individually and
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DELORES BROWN and JANISE VANISHA
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v.

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the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: 2007 CP-02-0122

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
AND AMENDED
PETITION TO SET
ASIDE TRUST AND FOR
APPOINTMENT OF AN
ADMINISTRATOR IN
INTESTACY

ACKNOWLEDGEMENT
OF SERVICE.

FORLANDO BROWN, as the potential heir of)
JAMES BROWN, HENRY DARGAN)
MCMASTER in his capacity as ATTORNEY)
GENERAL OF THE STATE OF)
SOUTH CAROLINA, JANE DOE and)
JOHN DOE numbers I, II, III, IV as potential)
heirs and/or devisee and/or beneficiaries of James)
Brown and as representatives of all other persons.)
known or unknown claiming to be an heir and/or)
devisee and/or beneficiary of James Brown.)
Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW David Bell, Attorney at Law, and on behalf of Terry Brown, Forlando Brown, and Romunzo Brown, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

This action is intended to relate back to the date of service of the original Petition.

The undersigned warrants that he has acknowledged the service of process of the AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY.

This 7th day of February 2008.

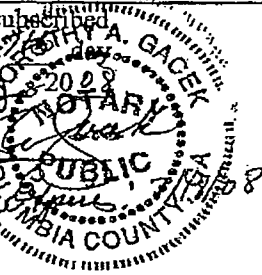
[signatures on following page]

Filed: 2-12-2008
Sue H. Roe
Judge of Probate
By: [Signature]

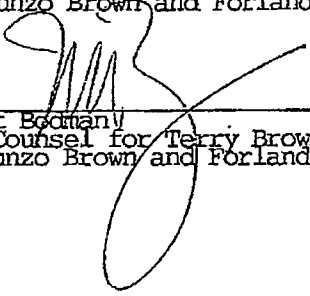
Sworn to and subscribed
before me this 13th day
of February, 2008

Notary Public

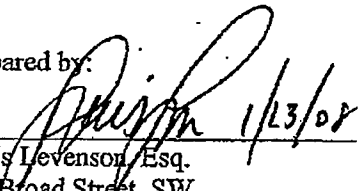
Commission Expires 1/13/10




David Bell
Co-Counsel for Terry Brown,
Romunzo Brown and Forlando Brown


Matt Bottom
Co-Counsel for Terry Brown,
Romunzo Brown and Forlando Brown

Prepared by:


Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

1. DARYL J. BROWN, individually and
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DELORES BROWN and JANISE VANISHA
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BROWN, individually and on behalf of her minor
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LUMAR and 6. TONYA BROWN

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)
 Defendants)

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COMES NOW James D. Bailey, Attorney at Law, on behalf of Adele J. Pope and Robert L. Buchanan, Jr., and hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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This ____ day of _____ 2008.

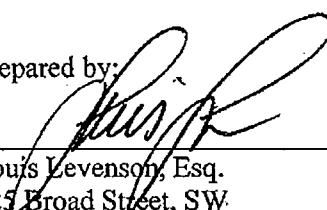
[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

A. Peter Shahid, Jr.

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
 JOHN DOE numbers I, II, III, IV as potential)
 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW Adele Pope and Robert Buchanan, Attorneys at Law, and on behalf of the Estate of James Brown as Personal Representatives and on behalf of any purported Trusts of James Brown as Trustees, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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The undersigned warrants that he has acknowledged the service of process of the AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY.

This ____ day of _____ 2008.

Sworn to and subscribed
before me this ____ day
of _____, 20__

Adele Pope
Personal Representative for the
Estate of James Brown and Trustee
of the purported James Brown
Irrevocable Trust

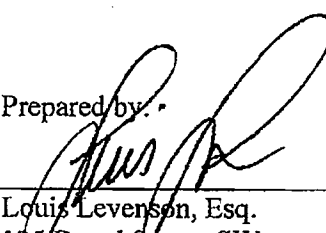
Notary Public

Sworn to and subscribed
before me this ____ day
of _____, 20__

Robert Buchanan
Personal Representative for the
Estate of James Brown and Trustee
of the purported James Brown
Irrevocable Trust

Notary Public

Prepared by: •



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Plaintiffs

v.

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: _____

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
AND AMENDED
PETITION TO SET
ASIDE TRUST AND FOR
APPOINTMENT OF AN
ADMINISTRATOR IN
INTESTACY

ACKNOWLEDGEMENT
OF SERVICE

FORLANDO BROWN, as the potential heir of)
JAMES BROWN, HENRY DARGAN)
MCMASTER in his capacity as ATTORNEY)
GENERAL OF THE STATE OF)
SOUTH CAROLINA, JANE DOE and)
JOHN DOE numbers I, II, III, IV as potential)
heirs and/or devisee and/or beneficiaries of James)
Brown and as representatives of all other persons)
known or unknown claiming to be an heir and/or)
devisee and/or beneficiary of James Brown.)
Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW C. Harvid Jones, Jr., Attorney at Law, and on behalf of the Office of the South Carolina Attorney General, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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This _____ day of _____ 2008.

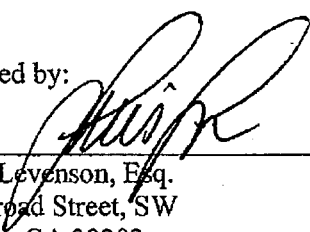
[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

C. Harvid Jones, Jr.

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Plaintiffs

v.

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: _____

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
AND AMENDED
PETITION TO SET
ASIDE TRUST AND FOR
APPOINTMENT OF AN
ADMINISTRATOR IN
INTESTACY

ACKNOWLEDGEMENT
OF SERVICE

FORLANDO BROWN, as the potential heir of)
 JAMES BROWN, HENRY DARGAN)
 MCMASTER in his capacity as ATTORNEY)
 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
 JOHN DOE numbers I, II, III, IV as potential)
 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW Robert Rosen, Attorney at Law, and on behalf of Tommie Rae
 Hynie Brown, hereby acknowledges personal service of the SUMMONS and
 AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED
 PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF
 ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and
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This ____ day of _____ 2008.

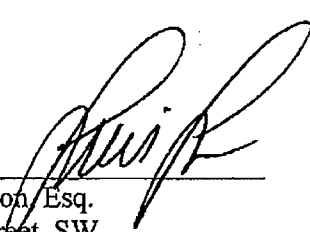
[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

Robert Rosen

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Plaintiffs

v.

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: _____

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ACKNOWLEDGEMENT
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FORLANDO BROWN, as the potential heir of)
 JAMES BROWN, HENRY DARGAN)
 MCMASTER in his capacity as ATTORNEY)
 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
 JOHN DOE numbers I, II, III, IV as potential)
 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW Robert Young, Attorney at Law, and on behalf of Jeanette Mitchell, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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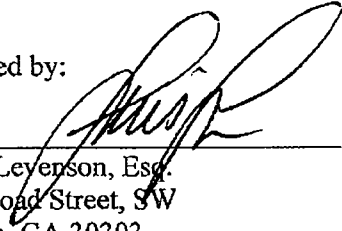
[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

Robert Young

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Plaintiffs

v.

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: _____

AMENDED PETITION TO
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INTESTACY

ACKNOWLEDGEMENT
OF SERVICE

FORLANDO BROWN, as the potential heir of)
 JAMES BROWN, HENRY DARGAN)
 MCMASTER in his capacity as ATTORNEY)
 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
 JOHN DOE numbers I, II, III, IV as potential)
 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW James Griffin and H. Wesley Kirkland, Jr., Esq, Attorneys at Law, and on behalf of Cinnamon Nicole Mernickle Paris and Larhonda Petitt, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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This ____ day of _____ 2008.

[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

James Griffin

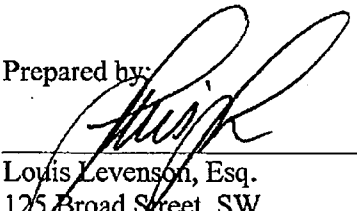
Notary Public

Sworn to and subscribed
before me this ____ day
of _____, 20__

H. Wesley Kirkland, Jr.

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

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

Plaintiffs

v.

ADELE POPE as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, ROBERT L.
BUCHANAN as Personal Representative of the
Estate of James Brown and as Trustee of the
purported Irrevocable Trust of James Brown by
Agreement dated August 1, 2000, TOMMIE RAE
BROWN, as the potential heir of James Brown,
JAMES JOSEPH BROWN II, as the potential heir
of James Brown, CINNAMON NICOLE
MERNICKLE PARIS as the potential heir of James
Brown, LARHONDA PETITT as the potential heir
of James Brown, JEANETTE MITCHELL, as the
potential heir of James Brown, TERRY BROWN as
the potential heir of James Brown, ROMUNZO
BROWN as the potential heir of James Brown,

IN THE PROBATE COURT

CASE NO.: _____

AMENDED PETITION TO
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AND AMENDED
PETITION TO SET
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ADMINISTRATOR IN
INTESTACY

ACKNOWLEDGEMENT
OF SERVICE

FORLANDO BROWN, as the potential heir of)
 JAMES BROWN, HENRY DARGAN)
 MCMASTER in his capacity as ATTORNEY)
 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
 JOHN DOE numbers I, II, III, IV as potential)
 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW David Bell and Matt Bodman, Attorneys at Law, and on behalf of Terry Brown, Forlando Brown, and Romunzo Brown, hereby acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the above-styled case. All other form and sufficiency of summons, process and service are being expressly waived.

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This ____ day of _____ 2008.

[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

David Bell

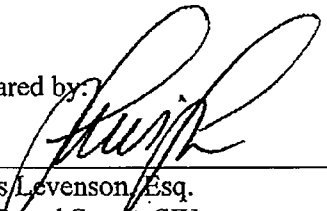
Notary Public

Sworn to and subscribed
before me this ____ day
of _____, 20__

Matt Bodman

Notary Public

Prepared by:



Louis Levenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

IN THE PROBATE COURT

CASE NO.: _____

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

Plaintiffs)

v.)

AMENDED PETITION TO
SET ASIDE
INFORMAL PROBATE
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PETITION TO SET
ASIDE TRUST AND FOR
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ADMINISTRATOR IN
INTESTACY

ADELE POPE as Personal Representative of the)
Estate of James Brown and as Trustee of the)
purported Irrevocable Trust of James Brown by)
Agreement dated August 1, 2000, ROBERT L.)
BUCHANAN as Personal Representative of the)
Estate of James Brown and as Trustee of the)
purported Irrevocable Trust of James Brown by)
Agreement dated August 1, 2000, TOMMIE RAE)
BROWN, as the potential heir of James Brown,)
JAMES JOSEPH BROWN II, as the potential heir)
of James Brown, CINNAMON NICOLE)
MERNICKLE PARIS as the potential heir of James)
Brown, LARHONDA PETITT as the potential heir)
of James Brown, JEANETTE MITCHELL, as the)
potential heir of James Brown, TERRY BROWN as)
the potential heir of James Brown, ROMUNZO)
BROWN as the potential heir of James Brown,)

ACKNOWLEDGEMENT
OF SERVICE

FORLANDO BROWN, as the potential heir of)
 JAMES BROWN, HENRY DARGAN)
 MCMASTER in his capacity as ATTORNEY)
 GENERAL OF THE STATE OF)
 SOUTH CAROLINA, JANE DOE and)
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 heirs and/or devisee and/or beneficiaries of James)
 Brown and as representatives of all other persons)
 known or unknown claiming to be an heir and/or)
 devisee and/or beneficiary of James Brown.)
)
 Defendants)

ACKNOWLEDGEMENT OF SERVICE

COMES NOW A. Peter Shahid, Jr., Attorney at Law, on behalf of Stephen M.
 Slotchiver, Guardian Ad Litem for the minor child James Joseph Brown, III, and hereby
 acknowledges personal service of the SUMMONS and AMENDED PETITION TO SET
 ASIDE INFORMAL PROBATE AND AMENDED PETITION TO SET ASIDE THE
 TRUST AND FOR APPOINTMENT OF ADMINISTRATOR IN INTESTACY in the
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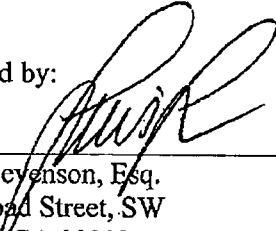
[signatures on following page]

Sworn to and subscribed
before me this ____ day
of _____, 20__

A. Peter Shahid, Jr.

Notary Public

Prepared by:



Louis Leyenson, Esq.
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000